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IMPLEMENTATION OF THE RIO CONVENTIONS IN FRAMEWORK OF NATIONAL SUSTAINABLE DEVELOPMENT POLICY IN UKRAINE

National regulatory and legal framework for environmental economics and various bylaws and regulations in the area of environmental protection and sustainable management of natural resources were analyzed in the article. The analysis of gaps allowed to mark out gaps threatening the implementation process; gaps undermining the efficiency of sectoral policy; options to overcome these obstacles; progress achieved to address the identified gaps. The researchers underlined that legislative reform should involve systemic changes in the legislation including general and specialized measures. Summarized, that the Environmental Law Development Concept in Ukraine is needed.

Keywords: sustainable development, environmental policy, environmental laws, regulatory policy, sectoral policy, Rio Conventions.

Problem statement. Sustainable development of Ukraine is still discussable and actual theme for scientific researches, practical implementation and political cooperation. Besides significant progress on the way to sustainable development there are wide range of problems should be solved and numerous steps should be done. Ukraine is an active player in the international environmental cooperation interrelations. One of the main targets of Ukrainian environmental policy is reduction the adverse impact of global environmental issues, expanding participation in the international cooperation in this sphere. In the framework of represented research we are focused on the environmental economics and regulatory and legal aspects of implementation of the Rio Conventions key positions.

Analysis of the recent research and publications. Mentioned problems were investigated by many economists, such as Balatskyj O. [1], Bystriakov I. [2], Hryniv L. [3], Mischenko V., Vyhovska H. [5] and others; lawyers (the most significant works belong to

Shemshuchenko Yu. [6], Hetman A. [7] and Malysheva N. [8]); environmentalists (here is appropriate to mention Xepapadeas A. Ecological economics [9], Soderbaum P. and Ropke I. [10]. The early history of modern ecological economics [11]), and other researchers. Otherwise these results were received in rather stable situation, but political and economic crises persuade to indicate principal problems and choose measures according to modern situation. Proposed study is grounded on continuation of previous authors' researches devoted to institutional, law and macroeconomic aspects of environmental policy [12-14].

The aim of proposed research is critical review of environmental, regulatory and sectoral policies and environmental laws for gap-analysis of their adequacy of up-to-date challenges in the framework of the Rio Conventions demands.

Main material. The national regulatory and legal framework for environmental economics comprises the Constitution of Ukraine, Law of Ukraine on the Environmental Protection, Land Code of Ukraine, Forest Code of Ukraine, Water Code of Ukraine, Code of Ukraine on Subsoil Resources, and specialized laws governing the management of various types of natural resources (Laws of Ukraine on the Ambient Air Protection, and on the Nature Reserves and Protected Areas of Ukraine), specialized integrated laws (Laws of Ukraine on the State Review and the Environmental Emergency Zone) and various bylaws and regulations in the area of environmental protection and sustainable management of natural resources. These laws and regulations also delineate powers and responsibilities between the central and regional authorities in order to ensure environmental safety. The Law of Ukraine on the Fundamental Principles (Strategy) of the State Environmental Policy Until 2020 along with the 2011-2015 National Environmental Action Plan developed in line with the Strategy constitute a comprehensive strategic document designed to support the implementation of the national environmental policy within the framework of the sustainable development concept.

According to the Law of Ukraine on the Fundamental Principles of the National Security of Ukraine (Article 8), implementing measures aiming to reduce the adverse impact of global environmental issues on the environmental safety of Ukraine; expanding participation in the international cooperation on these issues; introducing modern environmentally safe resource- and energy-saving technologies are considered among the key priorities of the national security policy. Ukraine is an active participant in the international environmental cooperation, being a sovereign party to 26 multilateral international treaties and 3 protocols concerning the environment, including three conventions known as the Rio Conventions adopted during the Earth Summit on Sustainable Development held in 1992 in Rio de Janeiro (Brazil). However, it has become obvious in the 21st century that existing agreements are no longer sufficient and that implementation is the main issue affecting the efficient operation of international standards in concerning the global environment. In other words, if the main focus of the international community before 2000 was to adopt the international conventions, after 2000 it shifted to ensuring their implementation [15; 26].

A suite of the Rio Conventions comprises the UN Convention on Biological Diversity (CBD), United Nations Convention to Combat Desertification (UNCCD), United Nations Framework Convention on Climate Change (UNFCCC). The analysis of the regulatory system maintained by the Ministry of Economic Development and Trade of Ukraine becomes particularly relevant in the context of approaching toward the implementation of the Rio Conventions within the framework of the national sustainable development policy. This analysis of laws and regulations concerning the environmental economics was aligned along the following main axes representing key activity areas: strategic planning; technical regulation; economic situation and macroeconomic forecasting; trade development; financial policy; cooperation between Ukraine and European Union.

The UN Convention on Biological Diversity (Rio de Janeiro, 1992) ratified by Ukraine in 1994 is an international treaty concerning the conservation of biological diversity, sustainable management and fair and equitable sharing of benefits arising from genetic resources. This objective should be achieved through research and development of instruments, incentives and processes, transfer of technologies and practices, and full and active engagement of relevant stakeholders including local communities, youth, NGOs, women and business. The obligations of the parties regarding the protection of biological diversity against potential risks caused by the genetically modified organisms resulting from modern biotechnology are set out in the Cartagena Protocol on Biosafety. As regards the implementation of the UN Convention on Biological Diversity in Ukraine, one of important national policy strengths in the strategic planning area is passing the Law on the Fundamental Principles (Strategy) of the State Environmental Policy until 2020. However, the lack of the implementation action plan that takes account of current critical situation and budget cuts reducing the policy implementation budget is a significant weakness.

A major strength in the technical and financial regulation area is the presence of a suite of regulations concerning the nature reserves and protected areas (NRPA) and natural resource cadastres that can be adapted to meet modern needs, as well as legislated sanctions that are in place to prosecute environmental law offenders. The following weaknesses in the implementation area include inadequacy of national legislation on protected areas and regulations on nature resource cadastres in terms of their ability to respond to modern challenges; lack of proper consideration of the ecological status of protected areas and sites and insufficient economic assessment of costs entailed in improving the environmental situation; lack of incentives encouraging the sustainable management of biological diversity in the sectoral programmes and plans; inadequate rates used to evaluate damage arising from the breach of environmental legislation and compensations; lack of tax incentives encouraging the biodiversity conservation initiatives.

As a positive step forward in developing cooperation between Ukraine and European Union in this area we can mention the launch of the national implementation process for the Biodiversity Convention and Nagoya Protocol. That said, the international cooperation mainly focuses on the conservation of biological diversity in the Ukrainian Carpathians. Delays with establishing the transboundary ecological networks for ensuring the conservation of biological diversity are seen as a major gap. The UN Framework Convention on Climate Change (New York, USA, 1992) ratified by Ukraine on 29 October 1996 has had a profound influence on the development of our country and its performance of international obligations. The objective of the Convention and all related laws and regulations is stabilizing the greenhouse gas concentrations in the ambient air at the levels that prevent and avoid any hazardous anthropogenic impact on the climate system [16]. Key strengths and achievements in the area of implementing the provisions of the Convention in the national sustainable development policy include the adoption of the National Action Plan on the Implementation of the Provisions of Kyoto Protocol to the UN Framework Convention on Climate Change (2005) and laws and regulations setting out the application procedures for the Joint Implementation and emission trading mechanisms; establishment and annual update of the national inventory of anthropogenic emissions; establishment of the automated information management system on greenhouse gas emissions and sinks (national inventory); experience in using financial mechanisms provided in the Protocol; establishment of the environmental tax system including pollutant emission taxes; and bilateral cooperation with the EU member countries at the intergovernmental and sectoral levels.

At the same time, the major weaknesses in the state policy that may impede its efficient implementation are associated with the following challenges and regulatory deficiencies: the lack of the national climate protection strategy and regional plans; lack of legislation governing the implementation of the Convention – this issue is only addressed in bylaws and regulations; unfinalised national greenhouse gas emission inventory and permitting system for industries and sectors; lack of economic assessment of greening opportunities for the national economy; the fact that greenhouse gas emission reductions are not taken into account in the social and economic development forecasts and programmes; lack of domestic emission trading system; lack of incentives encouraging initiatives aiming to mitigate the consequences of climate change. The main weakness in the implementation of the national policy for environmental cooperation in this area is the lack of agreements and treaties concerning the implementation of the clean development projects within the framework of the Kyoto Protocol (Article 12); uneven distribution of the joint implementation projects across the regions of the country.

The United Nations Convention to Combat Desertification (Paris, 1994) aims at consolidating global efforts taken to combat various types of land degradation due to both natural and anthropogenic factors. The desertification is currently considered as one of the most dangerous environmental degradation processes on the global scale. It poses a threat to health and subsistence of over 1 billion people. Annual loss of agricultural crops due to desertification and drought is estimated at 42 billion USD. Drought is understood as an extended period when a region suffers from a deficiency in precipitation which is exacerbated by the elevated air temperature and low moisture levels and results in the soil moisture deficit causing, in its turn, damage to or loss of harvest. According to information released by the UN General Assembly, desertification and drought affect one third of the planet's area with over one billion of people facing a threat of having to live in a desert [17].

The key strengths that may support the efficient implementation of this Convention in the national policy of Ukraine include the fact that the National Environmental Policy Strategy until 2020 addresses the land degradation issues by setting the sustainable land management objectives; and that the system of laws and regulations designed to combat land degradation and achieve the sustainable land management objectives is in place including a specialized Law of Ukraine on the Conservation of Land. The land degradation issues are reflected in the 2011-2015 National Environmental Action Plan. Another positive moment relates to the practice of bilateral cooperation to combat desertification with various countries (e.g. Argentina). On the other hand, key weaknesses that may impede the implementation process include the lack of the national soil conservation and restoration programme; the fact that legal provisions concerning the prevention of land degradation are scattered throughout numerous regulations that have different legal force and subject matter; and the lack of legally defined land value and quality criteria. Another important deficiency relates to the lack of established permitting procedures for those activities that may cause the degradation of land including a system of mandatory minimum requirements to be included in the permits. A technique for evaluating and setting adequate sanctions for actions that cause the deterioration of valuable land is similarly lacking. Ukraine needs to establish stronger cooperative relations with other countries in the area of combating desertification.

The strengths and opportunities for enhancing the capacity for implementing the Rio Conventions are summarized below. The first part concerns the Biodiversity Convention and includes the identification of the Action Plan priorities for the state environmental policy strategy; development of provisions enabling the adaptation of the Convention provisions to

existing conditions at the national level in a manner that takes account of opportunities offered under the public-private partnership mechanism and cooperation between Ukraine and EU. It is also required to legislate incentives encouraging investment and innovation in the area of sustainable biodiversity management including, for example, zero income tax rates for activities aiming to support and enhance the biological diversity; optimizing funding arrangements for the regional natural resource inventories through the attraction of those funding sources that are eligible under the existing legislation; setting tax rates in a manner that takes account any disturbances to the protected ecosystems; developing regional socio-economic development forecasts and programmes on the basis of a comprehensive environmental analysis of sites and facilities that pose threat to the environment; and strengthening bilateral and multilateral cooperation for financing the biodiversity conservation initiatives.

The second part concerns the Framework Convention on Climate Change and includes establishing a green investment management mechanism to include the identification of investment priorities and mechanisms ensuring the appropriate use of investment funds; developing and adopting the National and regional plans for adapting the greenhouse gas emission reduction plans to the climate change; mainstreaming climate change in the sectoral and ministerial programmes, plans and strategies; adopting a law regulating legal relations in the area of climate change and providing relevant legal and institutional arrangements, greenhouse gas emission rules and regulations; maintaining the national greenhouse gas emission trading market; and establishing a system of tax incentives encouraging emission reduction measures.

The third part concerns the Convention to Combat Desertification and includes the development of the State Target Programme to Combat Desertification and Land Degradation; introduction of economic incentives encouraging the sustainable management and conservation of land including tax and loan preferences for those who implement actions identified in the state and regional land management and conservation programmes, and develop, transfer and introduce technologies design to combat land degradation; exempting from tax those land areas that are used for agricultural purposes or undergo rehabilitation in line with the state or regional programmes; establishing an environmental insurance system; introducing the 'polluter pays' principle for those land users who cause environmental damage or risk thereof to ensure that they bear all associated damage prevention or restoration costs; introducing a procedure for assessing environmental damage or likelihood thereof.

We can also identify those threats and obstacles that may impede the efficient implementation of the above mentioned Conventions in the relevant areas of the national policy of Ukraine. As regards of the Biodiversity Convention, these threats and obstacles include budget cuts affecting spending for the implementation of the national environmental policy strategy; premature termination of the 2015-2020 State Target Biosafety and Biological Protection Programme; the fact that the regional inventories are only maintained for certain types of natural resources and take no account of resources concentrated in the biotic corridors; insufficient funding for the regional natural resource inventories; inadequate tax rates used to evaluate compensation for damage caused by the breach of the environmental legislation and Convention provisions pertaining to the ecosystem integrity; lack of incentives for businesses to maintain and enhance biodiversity when doing business; and lack of complete data for those sites and facilities that pose a threat to the protected areas.

The following factors may impede the implementation of the Framework Convention on Climate Change: the majority of actions identified in the National Plan remain

unimplemented; lack of legislative framework for the implementation of the Convention; implementation priorities are largely limited to the joint implementation projects and emission trading; lack of incentives encouraging initiatives designed to mitigate the consequences of climate change by addressing the issue of greenhouse gas emissions and sinks.

As regards the Convention to Combat Desertification, the implementation process may be impeded by the following factors: lack of application of incentives designed to promote the sustainable management and conservation of land; lack of economic mechanisms and legislative framework for developing the environmentally sustainable agricultural landscapes and land use systems; lack of regular monitoring of soil quality and fertility; flawed material liability system for remedying damage caused by the breach of the sustainable land management standards.

Summarizing the analysis of gaps, the following conclusions can be drawn:

Gaps threatening the implementation process:

1. Reduced budget spending for the implementation of the National Action Plan for the State Environmental Policy Strategy of Ukraine.
2. Businesses are not interested in maintaining routine compliance with the sustainable land management regulations in the course of doing business due to the lack of economic mechanisms and legislative framework for developing the environmentally sustainable agricultural landscapes and land use systems;
3. Lack of comprehensive data about those sites and facilities that may pose threat to the environment.
4. Flawed material liability system for remedying damage caused by the breach of the sustainable land management standards. Inadequate tax rates used to evaluate compensation for damage caused by the breach of the environmental legislation and ecosystem integrity provisions of the Convention to Combat Desertification.
5. Lack of comprehensive legislative framework for implementing the provisions of the Framework Convention on Climate Change;
6. Implementation priorities are largely limited to the joint implementation projects and emission trading; lack of incentives encouraging initiatives designed to mitigate the consequences of climate change by addressing the issue of greenhouse gas emissions and sinks.
7. Lack of regular monitoring of soil quality and fertility.

Gaps undermining the efficiency of sectoral policy:

1. Lack of the implementation action plan that takes account of current critical situation and budget cuts reducing the policy implementation budget; lack of economic assessment of greening opportunities for the national economy.
2. Lack of proper consideration of the ecological status of protected areas and sites and insufficient economic assessment of costs entailed in improving the environmental situation.
3. Existing legislation on maintaining the natural resource inventories is inadequate to meet current challenges.
4. Unfinalised national greenhouse gas emission inventory and permitting system for industries and sectors.
5. Lack of agreements and treaties concerning the implementation of the clean development projects within the framework of the Kyoto Protocol (Article 12); and uneven distribution of the joint implementation projects across the regions of the country;
6. Inadequate and inefficient permitting procedures for those activities that may cause the degradation of land including a system of mandatory minimum requirements to be included in the permits.

Options to overcome these obstacles:

1. Identify priorities to be addressed in the Action Plan for the State Environmental Policy Strategy; develop regulations enabling the Convention provisions to existing conditions at the national level in a manner that takes account of opportunities offered under the public-private partnership mechanism and cooperation between Ukraine and EU;
2. Legislate incentives encouraging investment and innovation in the area of sustainable biodiversity management;
3. Optimize funding arrangements for the regional natural resource inventories through the attraction of those funding sources that are eligible under the existing legislation;
4. Developing regional socio-economic development forecasts and programmes on the basis of a comprehensive environmental analysis of sites and facilities that pose threat to the environment;
5. Adopt a law regulating legal relations in the area of climate change and providing relevant legal and institutional arrangements, greenhouse gas emission rules and regulations; maintaining the national greenhouse gas emission trading market;;
6. Establish a national environmental insurance system;
7. Ensure that tax rates are set taking into account the disturbances to the ecosystem integrity of protected areas. Introduce the 'polluter pays' principle for those land users who cause environmental damage or risk thereof to ensure that they bear all associated damage prevention or restoration costs; introduce a procedure for assessing environmental damage or likelihood thereof; ensure the restoration of the ecosystem integrity of protected areas.
8. Strengthen bilateral and multilateral cooperation for financing the biodiversity conservation initiatives;
9. Develop and adopt the National and regional plans for adapting the greenhouse gas emission reduction plans to the climate change; mainstream climate change in the sectoral and ministerial programmes, plans and strategies;
10. Adopt a law regulating legal relations in the area of climate change and provide relevant legal and institutional arrangements, greenhouse gas emission rules and regulations; maintain the national greenhouse gas emission trading market;
11. Establish a system of tax incentives encouraging emission reduction measures and green investment management mechanism including the identification of investment priorities and provision of tools to monitor progress toward achieving them;
12. Develop the State Target Programme to Combat Desertification and Land Degradation. Progress achieved to address the identified gaps:
 1. The law approving the Fundamental Principles of the State Environmental Policy (Strategy) until 2020 passed. A suite of regulations on protected areas and natural resource inventories that can be adapted to meet current needs are in place.
 2. The National Action Plan on the Implementation of the Kyoto Protocol to the UN Framework Convention on Climate Change (2005 p.) and regulations governing the use of the joint implementation and emission trading mechanisms are in place.
 3. A suite of regulations on protected areas and natural resource inventories that can be adapted to meet current needs are in place.
 4. A system of regulations designed to ensure progress toward achieving the sustainable resource management objectives is in place and can be adapted to meet current needs. Economic sanctions adopted to prosecute environmental law offenders.
 5. The national inventory of greenhouse gas emissions and sinks established.
 6. Experience in using the Kyoto Protocol financial mechanisms available.
 7. A system of environmental taxes including air emission taxes is in place.
 8. Bilateral cooperation agreements with the EU member countries at the intergovernmental and sectoral level are available and implemented.

The following conclusions can be drawn from the foregoing: Ukraine has an extensive suite of environmental laws and regulations. At the same time, the level of implementation of the Conventions considered above can be described as insufficient due to objective and subjective factors. The former include the political and economical situation in the countries and the latter relate to the lack of strategic planning in the area and weak control of the implementation process by the state. As a consequence, the insufficient financial support provided by the government for the implementation process is exacerbated by a poor and inefficient use of alternative funding sources. It is also worth to note that the local self-governance authorities and state administration play a minor role in the preparation of the state target environmental programmes. The efficiency of the environmental legislation development process is affected by a lack of the integrated pollution prevention and control mechanism. The existing regulatory framework is based on the emission inventory system and emission permitting and resource use licensing procedure. There is no regulatory framework for using pollution prevention incentives including those encouraging the use of clean technologies and replacement of toxic components. There are no laws or regulations where the land conservation, air quality, water quality, waste management, physical impacts (noise, vibration, odour), sustainable use of raw materials and resources and occupational safety issues are addressed in an integrated manner. The legislative reform should involve systemic changes in legislation including general and specialized measures. General measures are those that aim to change system of environmental legislation in general, while specialized measures focus on the improvement of specific laws and regulations that form part of this system.

Conclusions and perspectives for further research. In connection with the above, it can be concluded that there is an urgent need in formulating the Environmental Law Development Concept in Ukraine. This Concept should include proposals regarding the fundamentals of the environmental legislation based on the socio-economic development forecasts and programmes; justified systemic framework and principles underlying the design, application and development of legislation; justified proposals regarding an appropriate mix of laws, regulations and international treaties and internal linkages among various branches of the legislative framework (sectors, subsectors, legislative and regulatory systems and legal institutions); clearly identified regulation criteria; and law enforcement mechanisms.

A range of general measures may include:

- developing a plan of actions designed to address the urgent issues associated with the implementation of conventions ratified by Ukraine;
- creating a codified piece of legislation by adopting the Environmental Code or amending the Law of Ukraine on the Environmental Protection that would integrate various environmental media, rules for protecting them in the course of doing business, rules, regulations, standards, permits and limits, and sustainable resource management mechanisms;
- developing a procedure and methodology for undertaking the Strategic Environmental Assessment of various sectoral, spatial and site-specific plans, projects and programmes within the framework of implementing the provisions of the Rio Conventions in the national policy of Ukraine.

The identification of specialized measures requires further study which will be represented in further researches.

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Імплементация положень конвенцій Ріо до національної політики сталого розвитку України

У статті проаналізовано національну регуляторну політику та чинне законодавство у сфері природокористування та охорони навколишнього природного середовища з позицій забезпечення сталого розвитку та імплементатії положень конвенцій Ріо. На основі аналізу прогалин було виокремлено прогалини, що носять характер загроз; прогалини, що гальмують процес

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імплементації положень конвенцій; положення, що мають характер можливостей та такі, що можуть бути визначені, як прогрес чи сильні сторони при оцінці рівня імплементації конвенцій. Запропоновано заходів загального характеру щодо імплементації положень конвенцій Ріо до національної політики сталого розвитку України.

Ключові слова: сталий розвиток, екологічна політика, екологічне право, регуляторна політика, секторальна політика, конвенції Ріо.

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Імплементація положень конвенцій Ріо в національну політику сталого розвитку України

В статті проаналізовані національна регуляторна політика і діюче законодавство в сфері природопольовання і охорони навколишнього середовища з позицій забезпечення сталого розвитку і впровадження положень конвенцій Ріо. На основі аналізу пробелів були виділені пробіли, що мають характер загроз; пробіли, що затримують процес імплементації положень конвенцій; пробіли, які можна використовувати як можливості і позиції, які характеризують прогрес або можуть стати основою для подальшого впровадження положень конвенцій. Сформульовані заходи загального характеру по впровадженню конвенцій Ріо в національну політику сталого розвитку України.

Ключевые слова: устойчивое развитие, экологическая политика, экологическое право, регуляторная политика, секторальная политика, конвенции Рио.

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