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2007-007

The Dnipro Agreement: Negotiations and Technical Cooperation Surpassing Expectations



Abstract: The concept for the Dnipro Basin Environment Programme (DBEP) was approved in December 1999. The project was established by the three riparian countries to develop a Transboundary Diagnostic Analysis (TDA) for the Basin and to achieve agreement on a Strategic Action Programme (SAP) for protection and recovery of the river and its tributaries. The DBEP project was implemented during a time of considerable change in the region. In particular, the political and economic relationships between the three former Soviet republics changed dramatically. A decision was reached prior to project launch that the effort should proceed despite there being no legal basis in place for joint development and implementation of a Dnipro Strategic Action Plan. Even without a formal legal basis, the DBEP created and maintained strong country buy-in and ownership. The DBEP experience provides valuable lessons for managing transboundary projects in areas facing political upheaval and shifting alliances. The TDA/SAP development approach taken, including the gradual introduction of a legal framework, can be replicated in cases where agreements at project commencement are not achievable. The Dnipro project has demonstrated how GEF projects can proceed to build acceptance for TDA/SAP processes in the absence of a convention or other legal structures in place, enabling a common understanding to be forged concerning water quality issues, and paving the way towards negotiations on binding agreements.

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The Dnipro Agreement: Negotiations and Technical Cooperation Surpassing Expectations

Experience of the GEF - sponsored

GEF/UNDP: Preparation of a Strategic Action Programme (SAP) for the Dnipro River Basin and Development of SAP Implementation Mechanisms

GEFID: 460

PROJECT DESCRIPTION

The Dnipro programme addresses significant transboundary environmental concerns in the Dnipro Basin, a water-body shared by the Republic of Belarus, the Russian Federation and Ukraine. The UNDP/GEF involvement in the Dnipro Basin is part of a wider involvement in the region, centred on enhancement of water quality in the Black Sea.

Progressive degradation of the Dnipro Basin ecosystem became apparent by the early 1990s, especially in the middle and lower reaches of the Dnipro River. The key factors leading to this degradation include large-scale industrialization, uneven development of heavy and chemical industries, and unsustainable resource uses and practices. The extent of disturbance to natural ecosystems in the Basin has been profound, and in many cases irreversible. Pollution and ill-conceived development have also taken their toll on habitats and living conditions of the region's human population.

The concept for the Dnipro Basin Environment Programme (DBEP) was approved in December 1999. The project was established by the three riparian countries to develop a Transboundary Diagnostic Analysis (TDA) for the Basin and to achieve agreement on a Strategic Action Programme (SAP) for protection and recovery of the river and its tributaries. The focus of the DBEP was on information gathering, strategic planning and capacity building. Expectations were that the project would aid in understanding the status, causes and impacts of pollution along the Dnipro and would achieve agreement on the steps to be taken to better manage the river system, ensure long term human and ecosystem health, and sustainable use of the resource. Success was to be measured through the achievement of multi-country agreements, enhanced information sharing on the condition and stresses of the river basin, and an improved

capacity in the riparian countries to jointly monitor and control pollution discharges into the river.

Conceived by the riparian countries in 1995, the UNDP/GEF support project commenced in early 2000. The period from conception to inception was spent in negotiations on project scope, activities and coordination between the three riparian governments together with supporting agencies. The DBEP is notable for the substantial contribution and coordinated effort of a wide array of supporting agencies, including the UNDP, UN Industrial Development Organization (UNIDO), the International Atomic Energy Agency (IAEA), and the Canadian International Development Research Centre (IDRC). The IDRC participation built from Canadian efforts, since 1994, to assist Ukraine with rehabilitation of the Dnipro River. During the 6 yrs from 1994 – 2000, the IDRC invested \$10 million in support of 70 research projects carried out by local Ukrainian scientific institutions. The involvement of multiple international sponsors increased project complexity and presented management challenges, but also brought significant regional knowledge and technical expertise to the project effort.

THE EXPERIENCE

Addressing the Issue

The DBEP project was implemented during a time of considerable change in the region. In particular, the political and economic relationships between the three former Soviet republics changed dramatically. The redefinition of regional relationships heightened the challenge of achieving transboundary agreements for the clean up and protection of the Dnipro.

A decision was reached prior to project launch that the effort should proceed despite there

being no legal basis in place for joint development and implementation of a Dnipro Strategic Action Plan. Expectations were that such an agreement could be negotiated during project implementation. More than 3 years after project commencement, the *Kyiv Declaration on Cooperation in the Dnipro Basin* was signed at the 5th Pan-European meeting of European Environment Ministers in Kyiv (May 2003). The Kyiv declaration signalled a “readiness” to prepare an international agreement to serve as the main organisational mechanism for ensuring “stable international cooperation” amongst the Dnipro Basin countries, and to define “general principles, goals, objectives and commitments of the signatories in the sphere of Dnipro basin environmental rehabilitation”. 4 years later, and 2 years beyond project completion, the Dnipro countries are still discussing how to proceed with the international agreement. Initially, Russia indicated its interest to delay the agreement pending further consideration of the financial implications. Then, during June, 2007, the three environmental ministers from Russia, Belarus and Ukraine planned to sign a “*Ministerial Declaration on Further Development of Cooperation on the Protection of the Dnipro River Basin*”, including joint Ministerial approval of the Dnipro SAP. Unfortunately, the signing of the Declaration has been refused by the Russian government, therefore new Declaration was signed on 17 July 2007 by Ministers on environmental protection of Ukraine and Belarus. This event couldn't be overestimated with achieving the main result: Ukraine and Belarus officially adopted SAP and confirmed their joint course on establishment of Dnipro basin international institutional management mechanisms. Belarusian and Ukrainian Ministers have invited Russian Federation to be a party to the mentioned Declaration as well as perspective Agreement too.

RESULTS AND LEARNING

The lack of a formal legal basis made information sharing and inter-ministerial coordination difficult during the first several years of the DBEP, until the Kyiv Declaration on Cooperation in 2003. Nevertheless, the decision to proceed has paid dividends, as imminent bilateral SAP approval sets the stage for a new era in environmental cooperation in the Basin, serving to invigorate ongoing negotiations towards a future agreement on the creation of a Basin Commission for the Dnipro River. The

Dnipro River Declaration of 2007 is the best evidence of the mentioned above. The formal joint approval of the SAP by Ukrainian and Belarus Governments is a significant achievement for the countries and UNDP/GEF, and a validation of the project strategy.

Even without a formal legal basis, the DBEP created and maintained strong country buy-in and ownership. Local beneficiaries and experts have indicated they viewed it to be one the most successful internationally funded projects they were aware of, especially because of its strong emphasis on using and developing expertise within the Basin countries. As a direct result of the DBEP findings and recommendations, the Basin countries have been expanding their national budgets to improve Dnipro river water quality. In particular, Ukraine's budget for water quality related investments and control measures along the Dnipro and its tributaries increased threefold from 2001 - 2005. Ukrainian Cabinet of Ministers has adopted (at the end of 2007) the principally new Conception on Ukrainian Environmental Policy and at present initiated the development of the same name programmed National Strategy.

The project had a modest impact on national environmental legislation. Belarus drafted a new law for Environmental Impact Assessment (EIA) in the aftermath of an EIA review conducted through the DBEP. In addition the main elements of the Programme of Transboundary Monitoring developed during the DBEP have now been adopted by the Belarus Programme on Development of National Monitoring System. And while the legal reforms underway in Ukraine may be as much a result of its EU harmonisation focus, it too benefited from the DBEP environmental policy review and recommendations, especially after entering of Ukraine into the WTO. In Russia, progress on environmental legislation remains slowed by continuing structural changes. However an important milestone was recently achieved when the Russian Federation adopted its new Water Code in January of 2007 which specifically adopted the underlying principles of basin management advocated during the term of the DBEP.

There is more work to be done, as legislation and regulatory controls in all three countries remain unclear with respect to environmental liability, and the implementation of

environmental impact assessment requirements remains inconsistent. One of the future tasks currently being developed for a subsequent phase of the DBEP is to monitor changes in environmental legislation leading to its harmonization among the three countries and with that of the EU.

The Dnipro SAP includes a well-developed set of expectations for regional action. While the timetables are imprecise, the expected actions are appropriate to the water resource and region. The SAP document includes a Priority Investment Portfolio, together with the framework for a regional monitoring programme and environmental database, the latter of which is expected to be approved by separate ministerial initiatives. In addition the SAP specifically identifies the need to address industrial chemical pollution as a high regional priority.

Within the industrial pollution sector, there are a variety of national and international organizations focusing on major pollution sources and large scale industrial complexes. Still to be addressed within the Basin, however, are the many smaller industries that discharge effluents through the municipal waste facilities (Vodokanals). A PDF B Project development phase is nearing completion for a follow-on Full-Size Project, addressing the problems of cleaner production and effluent pre-treatment for smaller and in many cases privatized industries that discharge into the Dnipro through the Vodokanals. This new project, entitled: Implementation of the Dnipro Basin Action Program for the reduction of persistent toxic pollution will also address issues of sustainable financing mechanisms and legal and regulatory requirements.

REPLICATION

The DBEP experience provides valuable lessons for managing transboundary projects in areas facing political upheaval and shifting alliances. The TDA/SAP development approach taken, including the gradual introduction of a legal framework, can be replicated in cases where agreements at project commencement are not achievable. The key is to ensure that country buy-in and ownership of the project are maintained throughout. Flexibility will also need to be built into project time schedules,

recognizing the often slow process of achieving high level government approvals.

SIGNIFICANCE

The Dnipro SAP presents a milestone in cooperation amongst the Dnipro countries in the post-soviet era. The river is central to the Ukrainian and Byelorussia societies, and to the southwest Russian region. Its cleanup will remain important for national and regional environmental protection programmes, and suggests that the regional coordination measures established through DBEP can be sustainable.

The desire of the Dnipro countries to continue expanding their joint efforts to improve the quality of the Dnipro river, and to focus on industrial pollution sources, is significant during this period of slow economic recovery. There is now a window of opportunity to establish regional institutions and put in place environmental controls and incentive programmes that can ensure long-term recovery and protection of basin water quality and biodiversity.

The Dnipro effort has wider significance with respect to the continuing international efforts to restore the water quality in the Black Sea. In tandem with the legal structures in place for managing Danube water quality, the Dnipro Agreement will set the stage for coordinated protection efforts on both of the major rivers flowing into the Black Sea.

The Dnipro project has demonstrated how GEF projects can proceed to build acceptance for TDA/SAP processes in the absence of a convention or other legal structures in place, enabling a common understanding to be forged concerning water quality issues, and paving the way towards negotiations on binding agreements.

REFERENCES

Additional information on the Dnipro Project is available at the project web site:
<http://www.dnipro-gef.net>

KEYWORDS

◆ Dnipro River

- ◆ Strategic Action Programme
- ◆ Transboundary Diagnostic Analysis
- ◆ Persistent Toxic Pollution

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