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Implementing Global Nature Protection Agreements in Russia

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Abstract

The article discusses Russian implementation of the Ramsar Convention, the World Heritage Convention, CITES and the Convention on Biological Diversity. The country's international obligations are part of Russian law, but little has been done by Russian authorities to implement the agreements on the ground. Compliance with the international agreements is the result of Russian protection measures that exist independently of the conventions. Environmental concerns have been given reduced priority since the early 1990s. An independent environmental protection agency no longer exists, and the number of inspectors has been drastically reduced. Implementation activities are undertaken primarily by international NGOs, and partly by regional authorities.

1. Introduction

The growing literature on the implementation of international environmental agreements gives only limited space to implementation in the Russian Federation. The few articles and books that have been published on the topic tend to focus on agreements concerning atmospheric pollution and nuclear safety.¹ This article aims to fill a gap in the existing

¹ See, e.g., Vladimir Kotov & Elena Nikitina, *Russia and Environmental Co-operation*, in Green Globe Yearbook 1995 (Helge O. Bergesen & Gunnar Parmann eds., 1995); Vladimir Kotov & Elena Nikitina, *Implementation and Effectiveness of the Acid Rain Regime in Russia*, in The Implementation and Effectiveness of International Environmental Commitments. Theory and Practice (David G. Victor, Kal Raustiala & Eugene B. Skolnikoff, eds., 1998); Vladimir Kotov & Elena Nikitina, *Regime and Enterprise: Norilsk Nickel and Transboundary Air Pollution*, in The Implementation and Effectiveness of International Environmental Commitments. Theory and Practice (David G. Victor, Kal Raustiala & Eugene B. Skolnikoff, eds., 1998); Geir Hønneland & Anne-Kristin Jørgensen, *Implementing International Environmental Agreements in Russia* (2003); Geir Hønneland & Anne-Kristin Jørgensen, *Implementing International Environmental Agreements in Russia: Lessons from Fisheries Management, Nuclear Safety and Air Pollution Control*, 3 *Global Environmental Politics* 72 (2003); Olav S. Stokke, *Nuclear Dumping in Arctic Seas: Russian Implementation of the London Convention*, in The Implementation and Effectiveness of International Environmental Commitments. Theory and Practice (David G. Victor, Kal Raustiala & Eugene B. Skolnikoff, eds., 1998); Olav S. Stokke, *Radioactive Waste in the Barents and Kara Seas: Russian Implementation of the Global Dumping Regime*, in *Protecting the Polar Marine Environment. Law and Policy for Pollution Prevention* (Davor Vidas ed., 2000). Russian responses to the accords that came from the 1992 Rio Summit and, in particular, the concept of "sustainable development" are

literature by discussing Russian implementation of the “softer” international environmental accords: the agreements to protect species of flora and fauna. We focus particularly on the three global nature conservation treaties that came about around the time of the 1972 UN Conference on the Human Environment Conference in Stockholm: the 1971 Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention); the 1972 Convention for the Protection of the World Cultural and Natural Heritage (World Heritage Convention); and the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES Convention). We also discuss Russian implementation of the wider and more comprehensive Convention on Biological Diversity that came in 1992.

Following the “greening” of international politics in the 1970s, a body of literature on international environmental politics emerged in the 1980s and grew substantially during the 1990s. Initially focusing on the conditions for regime formation, it has since given more attention to regime effectiveness, implementation and compliance.² Implementation usually refers to the steps taken by national governments to induce actors to effect whatever measures are needed to bring the state in conformity with its international obligations. This process includes the translation of international commitments into national legislation and administrative measures by relevant state authorities to induce target group compliance. Implementation may be a more trustworthy measure of regime effectiveness than compliance. Where commitments are less ambitious, states may achieve perfect compliance with the formal provisions of a given agreement with very little behavioural adaptation. Compliance may also be accidental, while implementation is by definition instrumental.

Studies indicate that failure on the part of states to implement environmental commitments is often unintentional, a result of difficulties encountered during the implementation process rather than a conscious choice to refrain from implementation.³ Successful implementation is contingent upon both the will and the ability (“capacity to govern”) of states to influence activities at home.

discussed in Jonathan D. Oldfield, Anna Kouzmina & Denis J.B. Shaw, *Russia's Involvement in the International Environmental Process: A Research Report*, 44 *Eurasian Geography and Economics* 157 (2003). A discussion of Russian compliance with two of the nature protection regimes under scrutiny here, CITES and the World Heritage Convention, is found in William Zimmermann, Elena Nikitina & James Clem, *The Soviet Union and the Russian Federation: A Natural Experiment in Environmental Compliance*, in *Engaging Countries. Strengthening Compliance with International Environmental Accords* (Edith B. Weiss & Harold K. Jacobson, eds., 1998).

² For studies of regime formation, see, e.g., Oran R. Young, *The Politics of International Regime Formation: Managing Natural Resources and the Environment*, 43 *International Organization*, 349 (1989); Oran R. Young, *Political Leadership and Regime Formation: On the Development of Institutions in International Society*, 45 *International Organization* 281 (1991); Oran R. Young & Gail Osherenko, *Polar Politics: Creating International Environmental Regimes* (eds., 1993). Regime effectiveness is discussed in Ed L. Miles *et al.*, *Environmental Regime Effectiveness. Confronting Theory with Evidence* (2002) and Arild Underdal & Oran R. Young, *Regime Consequences. Methodological Challenges and Research Strategies* (eds., 2004). For analyses of implementation, see Arild Underdal, *The Politics of International Environmental Management* (ed., 1998); David G. Victor, Kal Raustiala & Eugene B. Skolnikoff, *The Implementation and Effectiveness of International Environmental Commitments. Theory and Practice* (eds., 1998) and Arild Underdal & Kenneth Hanf, *International Environmental Agreements and Domestic Politics. The Case of Acid Rain* (eds., 2000). Compliance is studied by Ronald B. Mitchell, *Intentional Oil Pollution at Sea: Environmental Policy and Treaty Compliance* (1994); Abram Chayes & Antonia H. Chayes, *The New Sovereignty. Compliance with International Regulatory Agreements* (1995); Edith B. Weiss & Harold K. Jacobson, *Engaging Countries. Strengthening Compliance with International Environmental Accords* (eds., 1998) and Olav S. Stokke, Jon Hovi & Geir Ulfstein, *Implementing the Climate Regime: International Compliance* (eds., 2005).

³ Mitchell, *supra* note 2; Chayes & Chayes, *supra* note 2; Weiss & Jacobson, *supra* note 2; and Victor, Raustiala & Skolnikoff, *supra* note 2.

This article investigates to what extent Russian authorities possess the will and/or the capacity to implement the following conventions: CITES, the World Heritage Convention, the Ramsar Convention and the Convention on Biological Diversity. After describing the accords in question, we give an account of Russian status on each agreement in terms of steps Russia has taken as a result of the agreement and the extent to which Russia is in compliance with its obligations under the agreement. We then move on to discuss possible explanations for the observed status. We investigate the actions taken by the Russian government (federal authorities), non-governmental organisations (NGOs), and regional authorities or federal agencies located in the region.

In addition to written documentation, the study builds methodologically on 37 semi-structured in-depth interviews with civil servants and NGOs in Moscow, north-western Russia and western Siberia, conducted from November 2003 to September 2004.⁴ Our main focus was on federal Russian politics. Since we do not cover the entire Russian Federation, our material from north-western Russia and western Siberia should be regarded as examples of developments at the regional level. Unless indicated, the material presented builds on our interviews.

2. The Global Nature Protection Regimes

The CITES Convention was the first accord aimed at the global protection of endangered species. Although a treaty of this kind had been negotiated for years, agreement was reached only in the aftermath of the Stockholm Conference. The Convention seeks to protect endangered species from over-exploitation through a system of import and export permits issued by national management authorities. Appendix I of the Convention offers the highest protection, prohibiting the commercial international trade in species threatened with extinction. It includes nearly 600 animal species and more than 300 plant species. Appendix II assigns the responsibility to exporting states of regulating trade in endangered species, and covers nearly 4,100 animal species and more than 22,000 plant species. As of September 2004, 166 States were party to the CITES Convention. The secretariat, which is part of the United Nations Environmental Programme (UNEP) in Geneva, reviews national reports, assists member States in the implementation of the Convention, and organises training activities for officials in developing countries.

The World Heritage Convention was drafted at the same time as countries prepared for the Stockholm Conference, deriving from different initiatives to conserve cultural and natural sites for future generations. The centrepiece of the Convention is the World Heritage List, to which parties can nominate natural and cultural sites. Parties to the Convention are obliged to protect sites on their own territory and refrain from damaging those of other countries. As of May 2004, 178 states were party to the Convention, 788 properties were inscribed on the list, with 611 cultural, 154 natural and 23 mixed properties in 134 state parties. The secretariat of the Convention is located with the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in Paris. The World Heritage Fund provides means for enabling countries (mainly developing countries) to prepare applications, maintain properties and restore them in case of damage. Monitoring is the responsibility of the state on whose territory the listed site is located.

The Ramsar Convention encourages the conservation and wise use of wetlands, in particular those serving as bird habitats, through local, regional and national action as well as international collaboration. The List of Wetlands of International Importance is the core of the

⁴ Eleven interviews were conducted in Moscow, four in Murmansk, six in Petrozavodsk, eight in Syktyvkar, five in Khanty-Mansiysk and three in Tyumen'. All interviews took place in Russian without interpreter.

Convention. Parties to the Convention shall work to establish wetland nature reserves, cooperate in the exchange of information and train personnel for wetlands management. There are 141 contracting parties to the Ramsar Convention, and 1,387 sites on the list, as of September 2004. As with CITES and the World Heritage Convention, monitoring is based on national reports. The Ramsar Convention's Small Grants Fund offers financial assistance to developing countries to help them comply with their obligations under the Convention.

The CITES Convention, the World Heritage Convention and the Ramsar Convention are cornerstones in the international regime for nature conservation. The two former are integrated in the UN system, and they all enjoy virtual global coverage. In terms of monitoring and compliance, they rely mainly on national reports and, to some extent, on financial assistance and capacity-building initiatives. There is a certain coercive element in the threat to remove a site from the World Heritage List or ban international trade with a species. Compliance has been unsatisfactory, and there have been flaws in reporting to the secretariats. However, the situation has generally improved since the early 1990s as monitoring and compliance were placed higher on the agenda. The secretariats have paid special attention to strengthening field management in member states.

A more far-reaching global accord in nature conservation came with the Convention on Biological Diversity in 1992. The objective of the Convention is threefold: conservation of world's biological diversity; the sustainable use of its components; and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources. The Convention opened for signature at the Rio Summit in 1992. There are currently 188 parties to the Convention as per September 2004. The contracting parties are obliged to develop national strategies for the conservation and sustainable use of biological diversity, and integrate biodiversity considerations in all relevant sectors. Further, they shall monitor biological diversity on their territory and take action when it is threatened. As with the other nature conservation accords, the monitoring of the Convention on Biological Diversity is based on national reports. The Global Environment Facility (GEF) channels support from the World Bank, UNEP, the United Nations Development Programme (UNDP) and others to assist developing countries in complying with their obligations under the Convention. The GEF had allocated more than USD 1.7 billion towards this end through 2003. Finally, the Convention on Biological Diversity incorporates the precautionary principle, which has become a leading device in international environmental politics since the Rio Summit. In short, the precautionary principle demands that states take regulatory action even in the absence of incontrovertible scientific evidence of environmental degradation.

3. Implementation of the Agreements in Russia

The four international conventions looked at in this article are only partially incorporated into Russian law, but the Russian Constitution gives a high priority to international agreements in general: "The universally-recognized norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system." Furthermore, it underlines that "[i]f an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied."⁵ In principle, then, the international environmental agreements are legally implemented into Russian law. In the following, we describe Russia's actions in relation to the four conventions in more detail.

⁵ *Constitution of the Russian Federation* (1993), URL: <http://www.constitution.ru/en>, Article 15.4.

3.1. World Heritage Convention

Although the World Heritage Convention was adopted in 1972 and came into effect in December 1975, it took another 13 years before the Soviet Union signed and ratified it in 1988. Some believe the Soviet hesitated so long because it was ill-inclined to take on the obligations that came with designating sites as “global treasures”; others suggest it might have sprung from a fear that “non-Russian nationalists might use designation of sites for their own purposes rather than as a way of celebrating the Soviet Union.”⁶ With the coming of *glasnost*, this fear was transformed into a positive motivation to use that same Convention to promote natural and cultural sites in the Union. Starting in 1990 with the inclusion on the World Heritage List of the Moscow Kremlin, the historic centre of St. Petersburg and the Kizhi Pogost in Lake Onega, a number of new sites were added by the Russian Federation throughout the 1990s. The first *natural* monument to be included was the Virgin Komi Forests in 1995. Eight natural sites have later been added, and make, if the listing of sites is any indicator of willingness to protect the natural environment, Russia one of the most conservation-minded countries in the world. Two sites are shared with other states: the Uvs Nuur Basin with Mongolia and the Curonian Spit with Lithuania. In addition, at least eight sites are currently being prepared for inclusion in the World Heritage List.⁷

Since 2000, the Russian leadership has increasingly seen the list of natural sites – as opposed to cultural sites – as a burden, and thus not in accordance with Russia’s national interests. As Russia’s economic recovery is primarily based on the extraction of natural resources, nature conservation is under pressure from economic actors, both private and state, and efforts have been made to change current site borders. For example, in the Virgin Komi Forests in northern Russia, extraction of gold was initiated with the blessing of the head of the Komi Republic. Other examples include the building of a recreational skiing complex within the borders of the Western Caucasus site and mining on the territory of the Kamchatka volcano site. Remarkably, none of these initiatives have been reported to the World Heritage Convention secretariat, in clear violation of both the Convention and the federal law on protected natural territories, which requires the reporting and assessment of any activity likely to affect the environment in the prescribed area. In Lake Baikal, which was included on the Heritage List on the precondition that five nature-protection steps were taken to ensure better conservation, discharges rose between 1998 and 2002, mostly due to the operations of Baikalsk Pulp and Paper Mill. Another concern is a projected oil pipeline that will traverse the water storage basin of Lake Baikal. Again, the Russian Government has failed to inform the secretariat about the potentially critical environmental impact that might follow. Due to the environmental threats, Lake Baikal is considered for inclusion on the World Heritage in Danger List.

Major problems remain regarding the management of the sites. Their borders in several cases are still under question, and work on management plans and the legal status of the sites is progressing slowly, if at all. Management of most sites is therefore conducted through the already existing system of protected natural territories, which, despite financial shortages, continues to function. It should be noted, though, that the borders of the protected natural territories do not necessarily coincide with heritage site borders, and a single site may thus include a number of protected territories of various status. For instance, the Lake Baikal World Heritage site includes two biosphere reserves, one nature reserve and two national parks. The lack of management plans for World Heritage sites does not necessarily mean

⁶ Zimmermann, Nikitina & Clem, *supra* note 1, at 293.

⁷ The inclusion of these sites on the list might be time consuming, however, as new World Heritage Convention rules prescribe the addition of one site only – cultural or natural – in any one country year on year.

there is no protection, but rather that it follows pre-existing protection regimes. In addition, because new rules permit the inclusion of only one new site each year, there may be more time and resources to attend to the proper management of existing sites.

3.2. CITES

CITES is a convention closely related to West–East détente in the 1970s, and the Soviet Union signed it at the time of its adoption in 1974.⁸ In the purview of the USSR, CITES was in line with a Soviet tradition of conservation and concern for species preservation. The USSR Red Book, describing declining and endangered flora and fauna species, was first published in 1974, that is the same year CITES was signed. Trade or utilisation of any species listed in the Red Book is illegal in Russian law, unless under a special permit. As such the Red Book helps ensure compliance with CITES. The Red Book follows the system of categorisation employed by the World Conservation Union (IUCN).⁹

Compliance with CITES was a rather easy task for the authoritarian Soviet system with only a marginal private sector. For Russia, compliance has proven much more complicated. First, political authority and state control was severely diminished with the collapse of the USSR. Second, the number of actors multiplied overnight. And third, what used to be of purely domestic concern within the Soviet Union, became a matter of international relations in 1992, and thus liable to CITES rules. Adding to the problem are the still partly open borders between Russia and other Commonwealth republics, many of which still are not party to CITES and thus have no CITES authority. Russia is therefore in the unique position of being obliged to issue permits for trade in endangered species in parts of the former USSR that are now outside Russian territory.¹⁰

The Soviet Union had developed a detailed system for issuing trade permits, on which Russia still relies. In order to obtain a trade permit, a declaration must be sent to the management authority, with a copy to the scientific authority. For import from a non-party State, permission from the scientific authority *in Russia* is required. To catch up with the changes since the Soviet days, the Russian government issued a Resolution on 13 September 1994 “[o]n measures to ensure implementation of the obligations of the Russian side, following from CITES”, amended in 1998, 1999 and 2001. The Resolution’s provisions were given detailed expression in a 1995 governmental decree.¹¹ The Ministry of Natural Resources (until 2000 the State Committee for Environmental Protection) is the responsible administrative CITES organ – that is, it issues certificates and permits, except for sturgeon, which is the responsibility of the State Fishery Agency.¹² The data provided by the Ministry of Natural Resources to the CITES secretariat are detailed and conform to CITES standards, though frequently reported in an untimely manner.

⁸ *Id.*, at 292.

⁹ That is until 1990, the International Union for the Conservation of Nature and Natural Resources. Work on the Russian Red Book is now the responsibility of the Ministry of Natural Resources. Information on species, their localities and level of threat is updated continuously, and the Red Book is issued at least every 10 years; Aleksandr S. Shestakov, *Zakonodatel'stvo Rossi ob ispol'zovanii i okhrane biologicheskogo raznoobraziya* 277–278 (ed., 2001).

¹⁰ Zimmermann, Nikitina & Clem, *supra* note 1, at 294. Belarus became a Convention party in 1995; others followed later: Georgia (1996), Uzbekistan (1997), Azerbaijan (1999), Ukraine (2000) and Moldova (2001). Other CIS republics are still not registered as Convention parties. (See the CITES secretariats web-site for updated information: <http://www.cites.org/eng/disc/parties/chronolo.shtml>.)

¹¹ Shestakov, *supra* note 9, at 283.

¹² Until spring 2004: the State Fishery Committee. For an overview of recent reorganisations in Russian management of fisheries, see Geir Hønneland, *Fisheries Management in Post-Soviet Russia: Legislation, Principles, and Structure*, 36 *Ocean Development & International Law* 179 (2005).

The primary problem is thus not Russian regulations regarding trade with endangered species, but rather that legislative practice does not correlate with reality. For example, although export permits for non-commercial use are being issued with increasing regularity, such statistics should be treated with care, as supposedly scientific permits often cover illegal commercial activities. Poaching has increased dramatically since Moscow lost its near total control, and in many cases state agencies and officials participate in illegal trade. Leaking borders and economic realities create enormous incentives for smuggling. According to Zimmerman et al.,¹³ in 1992 a game warden would have earned the equivalent of \$15 a month in salary doing his ordinary job. Offered as much as \$15,000 for a tiger skin, the results are predictable. Corruption has increased dramatically, and poaching of various endangered species has attracted the attention of organised crime. The growing affluence of East Asian states has increased the demand for exotic pelts, horns, and parts of endangered animals and plants enormously, contributing to a rapid growth of illegal trade in flora and fauna between Russia and China and Russia and Taiwan.¹⁴ In the Caspian Sea area, which before 1991 accounted for 95 per cent of world caviar production, illegal sea harvest is believed to be 10 to 12 times higher than official quotas allow. As a consequence, recorded sturgeon catches in the Caspian Sea dropped from 22,000 tons in the late 1970s to 1,100 tons in the late 1990s.¹⁵ Crime is pervasive, with wardens and border guards being killed on duty while trying to prevent illegal harvesting. CITES parties responded by listing all sturgeon species in CITES appendix II in 1997, going so far as to halt trade in sturgeon products altogether in June 2001. Russia and the other post-Soviet Caspian Sea states agreed to co-operate on a scientific survey of stocks and a common management plan within one year. Although the situation is still critical, the CITES resolutions have, at least, induced cooperation between Russia and the other Caspian Sea States. Trade has subsequently been resumed.¹⁶

Functioning law enforcement at the borders is essential for the implementation of CITES. There is still a long way to go here too: customs officers are often unaware of how to deal with endangered species, what to look out for, and how to recognise and identify the various species. Modern identification equipment is in serious shortage. A few training schemes for customs officers have been conducted in a pilot phrase. It is hoped that indicator booklets will help customs officials do a better job. Training of dogs to search for species has been tried in the Far East, apparently with impressive results.

Another question is how to deal with internal trade in endangered species within Russia. There is still no law regulating commerce in CITES-listed species within the country, which means that endangered species may, for instance, easily and legally be sold at any pet market in Russia. Only the city of Moscow and the Jewish Autonomous Region have passed regional laws regulating internal trade with endangered species, and outside Moscow a centre for confiscated species has been founded. Efforts to draft a federal law in this context have purportedly commenced.

3.3. Ramsar Convention

The Soviet Union became a party to the Ramsar Convention in 1975, and thereafter designated 12 wetland sites of international importance within its territory. After the

¹³ Zimmermann, Nikitina & Clem, *supra* note 1, at 312.

¹⁴ *Id.*, at 310.

¹⁵ *Caviar Crisis Spurs Caspian Sea Summit*, National Geographic News (2001), URL: http://news.nationalgeographic.com/news/2001/06/0613_caviar.html.

¹⁶ *Caspian Sea States to Resume Caviar Trade*. CITES Press Release, 06. March 2002, URL: http://www.cites.org/eng/news/press/020306_caviar_resumption.shtml.

disintegration of the USSR, only three sites were left within the borders of the Russian Federation. Federal policy on nature protection in the early 1990s was committed to improving that picture, and on 13 September 1994, the Russian government passed Decree No 1050 which reconfirmed the remaining three sites and designated 32 new sites, bringing the total area of protected wetlands of international importance up to 10.7 million hectares.¹⁷ The implementation of the Decree required the enactment of special wetlands legislation to be enacted to ensure adequate protection of the sites, including the development of management plans for each site. A strategy for wetland conservation was developed under the Ecology for Russia programme. In addition, a shadow list of wetlands has been prepared, listing 77 sites; the goal is to eventually include these sites in the Ramsar list proper.

The wetland strategy seemed unrealistically ambitious. Due to financial constraints, implementation of the strategy has only partially been fulfilled. Regulations determining the borders and protection regimes are not provided for most sites, and financing under the federal budget for wetland conservation has shrunk to a minimum. The strategy has been restricted to a few limited capacity building actions and local projects. Most sites are on the map only. In Khanty-Mansi Autonomous Okrug, no directives or recommendations from Moscow have ever reached the regional environmental bureaucrats and wardens from Moscow regarding their Ramsar sites, let alone financial support. Consequently, no actions on the implementation of the Convention have been taken on behalf of the regional authorities. Others have enjoyed some attention, such as the lower Volga delta, where certain conservation and restoration measures have been put in place.

When it comes to formal procedures, that is, documentation and reporting to the Ramsar secretariat, Russia is complying reasonably well. Russia submitted its national reports to the secretariat for the meetings of the Conference of the Contracting Parties in 1995, 1997 and 2002, and sent representatives to each of the meetings. It should, however, be noted that Russian participation in RAMSAR meetings is rather passive. The Russian Federation has never put forward any resolutions for consideration at the meetings of the Contracting Parties; Russia's only international Ramsar initiative was the CIS Agreement on Conservation and Wise Use of Migratory Birds and Mammals and their Habitats (1994). The agreement has never been implemented.¹⁸

3.4. Convention on Biological Diversity

The Russian Federation signed and ratified the Convention on Biological Diversity in 1992 and 1995, respectively. As far as reporting is concerned, Russia submitted detailed, though belated, national reports in 1997 and 2003. In addition, Russia has voluntarily sent to the Convention secretariat the Russian National Biodiversity Strategy and Action Plan. The objectives of the Convention on Biological Diversity are, as noted above, threefold: conservation of the world's biological diversity; the sustainable use of its components; and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources. One of the requirements is to establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity. In this respect, Russia had, with its comprehensive system of protected natural territories, complied well with the convention half a century before its signing.

Detailed plans on biodiversity conservation have been developed, among them the Russian National Biodiversity Strategy and its Action Plan. However, whereas the former does an excellent job in describing the state of biodiversity in Russia, as a strategy it is weak

¹⁷ Decree of the Government of the Russian Federation No 1050, 13 September 1994.

¹⁸ Wetlands International, *Strategy for Wetland Conservation in Russia* (2000).

and unclear as to what is to be done. The latter is better in terms of actions to be taken, but does not prescribe any time frame. Russia's Red Book of endangered species, though not a result of the Convention, is a central tool for conserving biological diversity. The Red Book is legally binding, and species listed enjoy protection on the basis of five different levels of threat. Any species in the International Red Book or the Red Book of CIS, as well as species protected by international agreements, is automatically included in the Russian Red Book. Utilisation of Red Book species is strictly forbidden without special permission of the Ministry of Natural Resources, and is accorded only in the most exceptional cases.

Russia's system of protected areas is central to the country's biodiversity strategy. Scientific research and maintenance of breeding, reproduction, and reintroduction of endangered and rare species of wildlife clearly have a direct link to biological diversity. Ninety per cent of the amphibians, 55 per cent of the birds and fish, and 40 per cent of the mammals listed in the USSR Red Book were conserved and reproduced in the national parks. This has resulted in the recovery of certain endangered species and populations of many valuable types of wild animals, including sable, river beaver, elk, and wild boar, all of which increased during the 1980s.¹⁹ Although constantly strapped financially, the Russian natural reserves play a vital role in conserving endangered species, often in co-operation with environmental NGOs. An encouraging, though hardly typical, example is the Amur tiger. In the 1990s, this species was in danger of extinction from poaching and, more seriously, uncontrolled logging, which decreased the tiger's habitat dramatically. The Federal government issued several – apparently insufficient – decrees on the conservation of the tiger in the 1990s, and in 1997 launched a federal strategy programme for the conservation of the Amur Tiger. However, the crucial element in the recovery of the species was the involvement of other actors. Through the joint efforts of the natural reserves, environmental NGOs, and, not the least, zoological parks worldwide, the tiger population is currently increasing.

Despite some effective projects, Russia's record on the implementation of the Convention of Biological Diversity is not that encouraging. As mentioned above, budget allocations to nature protection are hardly sufficient for staff salaries, and the environmental protection authorities lack both the financial resources and personnel to counter the pressures from economic actors. The Convention on Biological Diversity institutionalised the precautionary principle, giving the benefit of the doubt to the environment: no actions shall be undertaken unless the actor has proved that his actions will not bring harm to the environment. There still seems to be a long way to go before this principle governs all areas of practice in Russia. For example, deforestation is considered an urgent priority by environmentalists in Russia, but hardly by the authorities. Forty-five per cent of Siberia is forestland, ranging from tundra forest in the north to rich mixed forests in the south. These diverse forests provide a home to many species of plants and animals, including the Amur tiger, Far Eastern leopard, the Himalayan bear, and the musk deer. The Amur-Sakhalin region shelters more types of plants and animals than any other temperate forest in the world, and many of these species exist only here. Illegal logging by both Russian and international companies is a primary contributor to deforestation, endangering not only the species mentioned above, but myriad others. At the same time, no new national parks or natural reserves that could help save the forests have been introduced since 2000. This is the first four-year period for several decades without new protected territories coming on line.

¹⁹ Zimmermann, Nikitina & Clem, *supra* note 1, at 308.

4. Domestic implementation activities

4.1. Government

The late 1980s and early 1990s witnessed increasing awareness about nature conservation and environmental issues in Russia. The newly founded Ministry of Environmental and Natural Resources Protection worked actively to create new nature reserves and national parks, and the Russian government was eager to co-operate with foreign countries on issues affecting the environment. From its inception, the Russian Federation insisted on meeting Soviet obligations to international environmental agreements, and was among the first to sign the Convention on Biological Diversity in 1992. In 1993, the number of wetlands of international importance multiplied more than tenfold, from 3 to 35, and over the following two to three years the Government issued a number of decrees and resolutions concerning CITES and the Convention on Biological Diversity. Comprehensive plans and strategies for the conservation of biological diversity were developed in the following years, and in 1995 the first Russian natural site, the Virgin Komi forests, was added to the World Heritage List, with eight additional sites designated in the interim.

The willingness of the Russian leadership to comply with Russia's international obligations was not matched by financial investment. For example, the real value of the budget on Russia's system of protected nature reserves had fallen by about 90 per cent from 1989 to 1992, deteriorating even further in the 1990s.²⁰ Russia's 1994 federal budget allocated about 0.6 per cent to the environment, or about 0.15 per cent of GNP. At that time, only about one tenth of the environmental programmes of the Ministry of the Environment received funding.²¹ Ten years later, the situation had not improved: in 2004, spending on the environment accounted for 0.7 per cent of federal budget planned expenditures.²² As a result, most environmental programmes are plans on paper only, and the management of many natural reserves is on the verge of collapse. Conservation activities inside the reserves have fallen sharply or halted altogether. Poaching and illegal logging are on the increase, frequently with the direct participation of wardens, who see no other means of making a living. Clearly, this has a devastating effect on Russia's capacity to comply with environmental agreements. Our interviews with environmental protection authorities in Moscow demonstrated that there was no shortage of will to implement the agreements. The problem was financial.

In Soviet times, international environmental obligations were generally met by including the commitments in the sector ministries' five-year production plans. There was no one governmental body in charge of the country's environmental policy as a whole. The first step in designing an independent, though strictly technical, environmental body was the establishment of the State Committee for Hydrometeorology and Environmental Monitoring (Goskomgidromet) in 1978. During the years of *perestroika*, as environmental issues attracted wider attention, one response was the appointment of the State Committee for Environmental Protection in 1988. In 1992, it was turned into the Ministry of Environmental and Natural Resources Protection. This period marked the apex of environmental awareness and action in Russia. By 1996, however, the Ministry again saw its status reduced to that of a state committee. Although enjoying independence from other ministries and the right to propose

²⁰ M.P. Wells & M.D. Williams, *Russia's Protected Areas in Transition: The Impacts of Perestroika, Economic Reform and the Move Towards Democracy*, 27 *Ambio* 198 (1998).

²¹ Vladimir Kotov & Elena Nikitina, *To Reduce, or to Produce? Problems of Implementation of the Climate Convention in Russia*, in *Verification Yearbook 1996* (J.B. Poole & R. Guthrie eds., 1996).

²² See the State Duma's web site: http://www.duma.gov.ru/cgi-bin/yandmarkup?HndlQuery=1782572560&PageNum=0&g=2&d=0#YANDEX_42

bills, its chair had no seat in the Government. And things got worse. In 2000, shortly after being elected president, Putin disbanded the State Committee for Environmental Protection altogether. The ever-smaller remnants of the environmental protection authorities were absorbed into the Ministry of Natural Resources (formerly the Ministry of Geology) as the Department for Environmental Protection. This reshuffling was a serious blow, as the Ministry's main task, and source of income, is the licensing of natural resources. Indeed, it was like letting the fox guard the hen house. For the ministry as a whole, utilisation, not protection, is the main pillar of natural resources policy. The economic situation has not improved either. Despite poor budget allocations, environmental protection investments in the 1990s were secured through the so-called ecological funds, financed by pollution fees. Since 2000, the federal fund and most regional funds have been closed down, seriously limiting new ecological investments.

In 2004, President Putin reshuffled the federal executive again.²³ Most ministries, of those remaining, were now partitioned into a ministry proper, responsible for policy forming, a service (*sluzhba*), responsible for monitoring and control, and an agency (*agenstvo*), responsible for technical implementation of ministry decisions. A new Federal Service for Surveillance in Ecology and Resource Use was organised, supposedly independent in its day-to-day work but politically under the thumb of the Ministry of Natural Resources. Further, a Federal Service for Ecological, Technological and Nuclear Surveillance was established on the basis of the former Radiation Protection Agency, *Gosatomnadzor*. This organisation is directly subordinate to the Russian Government. It remains to be seen how these structures will work, but staff numbers and finance have shrunk even more. There is great uncertainty as to who is responsible for what, although it seems that the former service (under the Ministry of Natural Resources) will remain responsible for nature protection, while the latter (directly under the Government) will monitor pollution. Some suggest that all these reorganisations are the real reason for the absence of a coherent and viable environmental protection policy in Russia.²⁴

As a consequence of the continuing reorganisation of the Ministry's structure, many of its specialist workforce have left in indignation, and others have been fired. According to some sources, only 25 per cent of the original staff remain, others put the figure at only one in ten. For example, the ministerial section for international environmental co-operation has only five or six civil servants left, down from more than forty. At the ministerial All-Russian Scientific Research Institute for Nature Protection, which is responsible for scientific questions related to the agreements, the situation is no better.

When it comes to international forums, such as conferences of the conventions' parties, Russian participation is low. Standard operational procedures limit official travel to a minimum. As one of our interviewees put it, "civil servants should not spend their time going on shopping trips abroad." Following this principle, the Russian delegation arrived late to the meeting of the parties of the World Heritage Convention in June 2004, and left early, even before the questions dealing with the Russian sites were raised.

According to our interviewees, the rationale behind this is economic. President Putin's aim is to double Russia's GNP by 2010. It is believed that the costs associated with environment protection will interfere with this objective. President Putin has therefore

²³ For details, see presidential decree no. 314 of 09.03.2004, *O sisteme i strukture federal'nykh organov ispolnitel'noy vlasti*, URL: http://www.pravitelstvo.gov.ru/data/static_text.html?st_id=7637&he_id=783. The reorganisation is discussed in greater detail in Geir Hønneland & Jørgen Holten Jørgensen, *Federal Environmental Governance and the Russian North*, 29 *Polar Geography* 42 (2005) and Geir Hønneland & Jørgen Holten Jørgensen, *The Ups and Downs of Environmental Governance*, in *Takling Space: Federal Politics and the Russian North* (Geir Hønneland & Helge Blakkisrud eds., 2005).

²⁴ See, for instance, Shestakov, *supra* note 9, at 363.

deprioritised environmental issues and censured environmental activists. In his 2004 address to the Federal Assembly, President Putin attacked the country's NGOs, claiming that "[f]or some of them, the priority is to receive financing from influential foreign foundations."²⁵ Five years earlier, as head of the FSB, he justified crackdowns on environmentalists, saying to the daily *Komsomol'skaya Pravda* that "[s]adly, foreign secret services [...] very actively use all sorts of ecological [...] organizations [for espionage against Russia]".²⁶ Indeed, some activists were brought before the courts on various charges and given long prison sentences in cases strongly criticised by human rights activists and foreign governments.²⁷ In October 2004, the State Duma adopted new amendments to the Federal Tax Code, further complicating the granting system.

That said, President Putin admitted on World Environment Day in June 2003 that the elimination of the State Committee for Environmental Protection had been a mistake: "We've had a lot of reorganisations lately, but a system based on assigning the same department both the functions of official environmental control and the management of the economic use of those natural resources is disadvantageous."²⁸ The establishment of two new federal supervisory services may be an attempt to improve the relationship between control and management of natural resources. And the small remaining staff at the Department of Environmental Protection at the Ministry of Natural Resources have retained some optimism. As some of them confessed in informal conversations with the authors, "of course things could be better, of course the reorganisations have not been for the better, and of course we would prefer a more generous budget, but we are doing what we can, and we still haven't lost hope for a better future."

4.2. Social pressure and NGOs

On occasion, social pressure for action to be taken to ensure a better environment has been strong in Russia. In fact, the first mass protests against the Soviet authorities were the result of a growing concern for the state of the environment. The first concerned Lake Baikal. That was followed by protests in the Baltic republics, and the organisation of mass movements throughout the USSR. These movements would eventually topple the entire Soviet Union.

Environmental NGOs sprang up like mushrooms following *perestroika*, and for some time they were able to keep up the pressure on the government. Some NGOs were purely regional or local, concerned primarily with issues such as the pollution from local factories, drinking water quality, the conservation of certain natural territories, and the like. Others had a national agenda. For example, the All-Russian Association of Nature Protection, an organisation from the Soviet times, is primarily engaged in environmental education and other issues that are not perceived of as threatening by government authorities. Another national NGO is the Socio-Ecological Union, an umbrella organisation covering most regional NGOs. It is possibly the strongest environmental NGO in Russia today. A few Moscow-based NGOs have managed to stay active throughout the country. One is the Biodiversity Conservation Centre, conducting applied projects on environmental protection and biodiversity. Another is

²⁵ President Putin's Address to the Federal Assembly of the Russian Federation, 26 June 2004. URL: http://president.kremlin.ru/eng/text/speeches/2004/05/26/1309_type70029_71650.shtml

²⁶ Waller, J. Michael, *Portrait of Putin's Past*, in *10 Perspective* (2000), URL: <http://www.bu.edu/jscip/vol10/Waller.html>.

²⁷ See <http://www.bellona.no/en/international/russia/envirorights/index.html> for an updated overview of cases against environmentalists.

²⁸ Cited from Bellona foundation, 05.06.2003, URL: http://www.bellona.no/en/international/russia/envirorights/info_access/29815.html

the Centre for Russian Environmental Policy, headed by former President Yeltsin's environmental adviser Aleksey Yablokov.

Most of the other NGOs are rather weak, and it has to be said that the environmental movement has lost what it once had in terms of influence. For most people, questions of personal economy and even surviving have become much more important than nature conservation or pollution control. Still, the number of environmental NGOs in Russia is impressively high. According to the Ministry of Natural Resources, Russia has more than 630 environmental NGOs of various sizes and levels of activity (July 2004).²⁹ This is, however, more a sign of weakness than of strength. The extreme fragmentation means that most environmental NGOs are hopelessly small; many have only a few members and are in constant lack of everything from pencils to offices.

The Russian branches of international organisations constitute a distinctive group of environmental NGOs. A few of them have been very active with respect to the agreements discussed here. In fact, Greenpeace (in Russia since 1989) under a special agreement with the environment authorities, has been responsible since 1994 for the planning and establishment of natural sites for the World Heritage List. Likewise, the Russian branches of the World Wildlife Fund (WWF, in Russia since 1994) and IUCN work actively with the conservation of natural territories, endangered species and biological diversity. TRAFFIC³⁰ does a great deal in relation to CITES, and Wetland International has an important role in the implementation of the Ramsar Convention.

The impact of branches of international environmental NGOs in Russia has increased steadily. The international NGOs enjoy two important advantages that most Russian NGOs lack: money and the backing of strong parent organisations. As the authors learned during conversations with officers in the various organisations, they are mostly financed from abroad – by their parent organisations, and, to a lesser degree, by foreign governments, the World Bank, the European Union, and other international bodies, and under some of the conventions.

NGOs tend to work closely with, and with the blessing of, the Ministry of Natural Resources and other government bodies, especially in terms of capacity building. For example, WWF is engaged in training personnel of the Russian Custom Service, and has issued indicator booklets helping to identify endangered species under CITES. TRAFFIC has, in relation to the same agreement, founded and financed a centre outside Moscow for confiscated species. Greenpeace, as mentioned above, has been in charge of preparing the inclusion of new sites on the World Heritage List. Only a few projects come under the rubric of the Convention on Biological Diversity. Still, as one WWF employee pointed out, most environment projects are more or less in line with the Convention on Biological Diversity. For example, WWF has a global programme for the development of so-called ecology regions, capturing (or so is it claimed) 95 per cent of the Earth's species. Nineteen of these regions are located, partly or wholly, in Russia, and project plans are developed for two of them.³¹ It is hoped that these regions will facilitate better management of the environment and thus ensure the conservation of biological diversity. IUCN has been engaged in projects to protect endangered species. Finally, Wetland Internationals, financed by the Dutch Ministry of Agriculture, is engaged in capacity building in the management of the Ramsar sites. Management plans have already been developed for some selected sites, and are to be developed for the remaining territories.

²⁹ See The Ministry of National Resources, <http://www.mnr.gov.ru/part/?act=more&id=1874&pid=1237>

³⁰ A global wildlife trade monitoring network, it is a joint program of WWF and IUCN.

³¹ Shestakov, *supra* note 9, at 17.

In addition, the NGOs are constantly calling the government to task. Greenpeace has been the most confrontational of the international NGOs in this respect, in line with its activist profile. In a number of cases, Greenpeace has sued state authorities, including the Government, for alleged violations of federal law as well as the World Heritage Convention. For example, they won a case against the Russian Government in the Russian High Court in 2004, where the Court stated that a governmental decree to transfer parts of the Sochi *zapovednik* (nature reserve), a part of the Western Caucasus World Heritage Convention site, to the less protected Sochi *zakaznik*, was illegal and should be annulled.

4.3. Regional authorities and agencies of the state

After the dissolution of the State Committee for Environmental Protection in 2000 its branches at the regional level became departments of environmental protection under the regional offices of the Ministry of Natural Resources, directly under Moscow's control. For two reasons, not all regions were happy with this reform. First, according to the constitution, utilisation of natural resources is a common responsibility of the Federation and the federal subjects. For regions rich in natural resources, it was important to establish a counterweight to the influence of the federal authorities. Second, it soon became clear that the new Ministry of Natural Resources would not, from the point of view of the regions, be paying sufficient attention to the protection of the environment – if at all. Even regional ministry officials admit that their budgets for environmental protection are far from adequate, and that they therefore are unable to fulfil their duties properly.

Remarkably, some Russian regions have chosen to establish structures paralleling the federal authorities. In Khanty-Mansi Autonomous Okrug, a region rich in oil, the administration set up a regional nature conservation department that is responsible, among other things, for the management of regionally established protected natural reserves. It also allocated some resources to the poorly financed federal reserves in the region. There are two Ramsar sites in the region – Upper and Lower Dvuob'ye. Neither the federal nor the regional authorities have taken any practical steps to manage them, apart from the issuing of maps indicating their borders. However, the federal Yelizarovskiy *zakaznik* is situated within the Upper Dvuob'ye wetland and is strongly protected by federal law and the ten wardens working there. With only marginal financing from the federal budget,³² the *zakaznik* receives some additional funds from the regional department of natural protection. Thus, within the *zakaznik* borders, one could claim that the Ramsar Convention is being implemented, though not as a result of the Convention.

One could easily assume that regions in general tend to be more responsive to environmental concerns than central authorities, simply because most people have a natural wish to live in a clean environment. In Khanty-Mansi, the regional authorities were clearly more environmentally active in the region than their federal colleagues. However, as our study has shown, other regions may have other priorities. In the Komi Republic, the head of the regional department of natural protection expressed anger about the federal environmental laws: “In the 1990s, our euphoric environmentalists had the initiative. As a result, 14 per cent of the Republic's territory is protected by federal law. And we have no legal means to start logging there!” The head of the republic tried to legalise gold extraction inside the Komi Virgin Forests World Heritage site in the late 1990s, and only desisted after loud protests from Greenpeace and others, and a judicial review. The reversal was a tactical move, however, and gold extraction on the site has now resumed. In the Caucasus, the Adygea Republics authorities were eager to change the status of parts of the Caucasus *zapovednik* to

³² As the warden said, “we don't live on the salaries, we survive!”.

attract investors in the tourist industry. The fact that this would violate both federal law and the World Heritage Convention did not seem to bother the authorities.

These examples show that regional authorities do not necessarily pay greater attention to environmental protection and that their attitude has less to do with geographic proximity, and more to do with who is likely to benefit from the use of natural resources. Oil is regarded as federal property and most revenues from oil extraction consequently go to Moscow, which might explain the Khanty-Mansi regional authorities' concern for the state of the environment. Forestry, which is the main source of income in the Komi Republic, is regarded primarily as a regional asset, under the authority of the republic; consequently republic authorities are at best reluctant to protect valuable resources under their jurisdiction.

In some cases, regions have taken action under international conventions even without an economic reason to do so, and without being legally bound by federal law. CITES states that every party shall take steps to ensure the confiscation of endangered species in illegal trade within their borders. As mentioned, Russia has so far no federal laws to effectuate this, but the city of Moscow and the Jewish Autonomous Region have both passed laws.³³

Other regional branches of government seem at best unaware or uninterested in international environmental agreements; at worst they are obstructing their implementation. The Customs Service, though not too actively engaged, does accept capacity building help from WWF to train its officials with regard to CITES, but at the same time it has prohibited its regional branches from providing premises for the storage of endangered species. In Kalmykia in southern Russia, the population of the Saiga antelope, whose horns are highly valued in oriental medicine, was once a hundred thousand strong. The population has decreased to around 20,000 individuals due to illegal poaching. Due to resistance from the hunting department of the Ministry of Agriculture, the Saiga has not been included in the Russian Red Book and thus is under no protection.

5. Conclusions

Implementation of the four "soft" environmental agreements discussed in this article is not a priority of the Russian leadership. Apart from the issuing of some resolutions for implementation of the respective conventions, only very modest steps have been taken by the government. In some cases, government actions have actually violated its commitments.

Implementation of international agreements depends on at least two factors: will and ability.³⁴ There was a good deal of political will to implement environmental commitments in the Russian government in the early 1990s. Russia accepted from the very beginning all international obligations undertaken by the Soviet Union, and was first in line to sign the Convention on Biological Diversity. For all conventions, governmental resolutions and decrees have been issued with detailed guidance as to what should be done by federal and regional authorities in order to comply. However, federal resolutions are far less concrete in prescribing specific measures to be taken to comply with and implement the agreements. And due to the severe economic crises Russia underwent throughout the 1990s, initial ambitions

³³ Shestakov, *supra* note 9, at 283.

³⁴ Coercion may also be a factor, but does not seem to be of importance in the case of the four agreements discussed here. There is some potential to impose sanctions under the World Heritage Convention, which may take decisions of removing a site from the list in case the site has suffered grave violations of convention rules. CITES may ask member states to ban trade with specific species. For species of high value, e.g. the Caspian sturgeon, this might be perceived as coercion.

were never backed by adequate funding. Lack of ability, rather than will, hampered implementation during those years. For that reason, international environmental NGOs proved important in that they had the will and resources to assist the progress of a wide selection of tasks. They were therefore embraced for the most part by governments during that period. Some of them, e.g. Greenpeace, entered into official agreements with the State Committee for Environmental Protection.

The reforms of 2000 were a blow to Russia's environmental management in general, and nature protection in particular. Without an independent environmental protection body in the government, the Ministry of Natural Resources could easily ignore environmental concerns. Lip service is still being paid, and there are still environmentalists working in the ministerial Department for Environmental Protection, but their chances of winning an argument with the much stronger "geologists" at the Ministry are slim at best. With President Putin's exclusive prioritising of economic growth, there is little or no room for environmental concerns. If Russia earlier had the will, but lacked the capacity to govern, now the country also lacks the will. What is more, the main violator of the four conventions is the state itself. Without an independent state organisation for the protection of the environment, this is, indeed, not particularly surprising.

Having said all this, the picture is not totally discouraging. Russia is next only to Canada in terms of total area protected under the Ramsar Convention. If the sites of the so-called shadow list are added, Russia will be the leading Ramsar partner in terms of km² protected land. Russia is also in the front line in terms of listing natural sites on the World Heritage List. Between 1995 and 2004, nine sites were listed, with others in the pipeline. Important work on capacity building has been conducted under CITES, and there are many projects supporting, in one way or another, the Convention on Biological Diversity. Yet little of this is attributable to government efforts; the government appears happy for others to foot the bills, and is in some ways sceptical and distrustful of international NGOs, arguing that they are serving foreign interests. With or without Moscow's support, and sometimes with Moscow's participation, regional authorities have violated internationally protected environmental sites.

Elsewhere, regional authorities work to strengthen the protection of environmental sites, but also endangered species. In Khanty-Mansi, regional authorities were eager to emphasize that they were solely responsible for environmental protection in the region. They had no illusions about either the federal government or the Moscow-based international environmental NGOs. After all, there are limits to the NGOs' capacities. Crucially, however, we find at the core of environmental protection activity in Russia neither the NGOs nor the regional authorities, and certainly not the international conventions. Most sites on the World Heritage list and the Ramsar Convention are in territories already protected, partly or wholly, by federal law. The federal nature reserves are better protected under Russian law than the sites covered by the conventions discussed in this article. The protection of the environment is by and large the result of Russian environmental standards rather than international ones. In fact, to the extent that Russia does comply with the conventions, it can mostly be explained by Russia's own traditions. There is little in Russia that has changed because of the conventions. On the other hand, the agreements, despite all of their shortcomings, do make a difference to Russian policy. When conflicts related to environmental protection arise, it is easier to argue against the government if you are backed by a legally binding international convention. And the agreements have, needless to say, increased the attention given to environmental issues. Finally, the international conventions help justify the work of the environmental NGOs, helping them to build their capacity and credibility in civil society.