

Impact of GEF Support on National Environmental Laws and Policies in Selected Countries



This evaluation examines how GEF-funded projects in six different countries led to changes in national legislative statutes and regulations.

FINDINGS

1. Recognition in GEF strategies. The need for strong environmental laws is clearly recognized in GEF strategies. Laws are needed to regulate the behavior of individuals, private institutions, and government in order to accomplish specific public aims. In this regard, international conventions, including those for which the GEF serves as the financing mechanism—i.e., the United Nations Framework Convention on Climate Change (UNFCCC), the United Nations Convention to Combat Desertification (UNCCD), and the Convention on Biological Diversity (CBD)—oblige parties to enact the laws needed to accomplish stated objectives.

2. GEF supports countries in the law-making process. Activities range from research on environmental conditions and reviews of existing laws to providing justification for proposed legal reform, as well as facilitation of a consultative process and political advocacy work. In some cases, projects also include assistance with technical drafting of laws, regulations, and policies and in designing national strategies adopted by resolution.

3. The GEF has contributed to enactment of environmental laws. GEF-funded projects have contributed to the enactment of statutes and implementing regulations across various focal areas. While there are examples of projects having led to the establishment of wholly new statutes, most reforms have been in the form of amendments to existing statutes or the enactment of regulations under a standing statutory authority.

4. Many factors influence reforms. The ability to enact laws is affected by a number of factors, including the scope of the proposed law, political sensitivities, competing interests of different constituencies within government and the general population, government budgetary implications, the stability of government structures, continuity among key officials, and the technical capacity of government institutions. With respect to the latter, governments have finite—often limited—resources that can be used to advance their legislative and regulatory agendas; institutions are often spread thin.

5. Legal reforms are necessary, but not always sufficient to achieve aims.

PURPOSE AND METHODS: This study looks at how Global Environment Facility (GEF) support has helped strengthen policy and legal frameworks around the world. It examines the role GEF projects have played in the legislative/rule-making process, the purpose and content of laws, and the process and status of implementation; it also assesses results against stated aims. The study focused on Belarus, Brazil, Kazakhstan, Namibia, the Philippines, and Vietnam and projects in biodiversity (six), climate change (four), land degradation (one), and multifocal areas (two). While the evaluation enabled results to be tracked over time, government and consultant staff turnover made data gathering a challenge.

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Effectiveness of the law depends on many factors, including the specific content and wording of provisions in the law, the degree of awareness and understanding of the law among those directly affected, and the strength of administrative or judicial enforcement.

6. There is room for improvement in project design and evaluation. GEF Agencies and implementing partners are often overly optimistic about the likelihood and pace of legal reform. Documents generally do not describe the specific role of projects in advancing legal reforms; the content and wording of laws as proposed or enacted; or the extent to which laws, once enacted, achieve stated aims. In general, the data needed to assess the effectiveness of legislation or regulations are not available.

HISTORY

Efforts to work with countries on the establishment of laws take place within the context of international conventions, particularly those classified as multilateral environmental agreements. These agreements include, but are not limited to, those for which the GEF serves as a financing mechanism—i.e., the CBD, the

UNFCCC, the UNCCD, the Stockholm Convention on Persistent Organic Pollutants, and the Minamata Convention on Mercury. Each convention obliges the parties to put needed legal frameworks in place. However, the conventions are generally silent on the specific content of such legislation, and—with some exceptions—there are no procedures in place to assess whether the legal framework is sufficient to meet the aims of the conventions.

For example, the preamble to the UNFCCC recognizes that “states should enact effective environmental legislation...” However, it does not require the parties to adopt specific legal provisions. And Article 5.e of the UNCCD requires countries to “provide an enabling environment by strengthening, as appropriate relevant existing legislation and, when they do not exist, enacting new laws and establishing long-term policies as action programmes.” However, it is silent on the content of such legislation, and legislative guidelines have not yet been developed.

All of the GEF strategies developed over the last three cycles include efforts to strengthen legislative and/or regulatory frameworks. The strategies recognize that countries need strong rules founded in law to establish protected areas, prohibit trade in endangered species, control

water use, reduce reliance on fossil fuels, ban or restrict the use of certain chemicals, and regulate other behavior that has a negative impact on the environment and well-being of their citizens.

RESULTS

The GEF supports governments in the law-making process. The bulk of GEF-funded projects in the countries analyzed in this study have included activities that aim at the passage of laws at the national level. Generally, these activities were included as small components of much larger projects. Recognizing the importance of the harmonization of national laws, projects sometimes addressed a set of laws that had a bearing on a particular policy aim.

For example, the effort to protect wetlands in Kazakhstan required changes in the Law on Specially Protected Natural Areas; the Law on Protection, Reproduction and Use of Wildlife; and the Water Code. The specific activities ranged from research on environmental conditions and reviews of existing laws to providing the justification for proposed legal reform as well as facilitation of a consultative process and political advocacy work. In some cases, projects also included assistance in

REFERENCES TO LEGAL AND REGULATORY REFORM IN GEF FOCAL STRATEGIES

Focal area	GEF 2014–18
Biodiversity	“GEF will support the development, adoption and enforcement of <i>policy and regulatory frameworks and legislation</i> to mitigate marine-based pollution and damage to coral reef ecosystems.”
Land degradation	“GEF recognizes that successful SLM [sustainable land management] investment requires appropriate enabling environments, such as effective policies, <i>legal and regulatory frameworks</i> , capable institutions, and mechanisms for monitoring and knowledge sharing.”
Climate change	“Five key Programs of GEF-6 interventions support the three objectives... The programs...aim to achieve the following three outcomes... <i>Policy, planning and regulatory frameworks</i> to foster accelerated low GHG [greenhouse gas] development and emissions mitigation...”
Chemicals, including persistent organic pollutants	“This objective [CW1] will develop <i>policy, legislative</i> , financial, economic, technical and technological tools that will remove barriers to scaling up interventions, including access to finance.”
International waters	“The development and reform of supportive <i>policy and legislative frameworks</i> and institutional capacity building is at the heart of the GEF’s international waters portfolio approach for the improved management of transboundary waters.”

Sources: “Focal Area Strategies and Strategic Programming for GEF-4,” GEF Policy Paper, 2007; GEF-5 Focal Area Strategies; “GEF-6 Programming Directions,” GEF Assembly Document GEF/A.5/07/Rev.01, 2014.

the technical drafting of laws. While GEF-funded projects informed deliberations on drafted laws, decisions on the final form and content of laws lay solely with the legislature and authorized regulatory bodies.

Mixed results. GEF-funded projects contributed to the enactment of statutes and implementing regulations across different focal areas. While there are examples where projects led to the establishment of wholly new statutes, most reforms have been in the form of amendments to existing statutes or the enactment of regulations under a standing statutory authority.

In Kazakhstan, a series of related biodiversity and land degradation projects contributed to the new Law on Specially Protected Natural Areas (2006) and subsequent amendments in 2011 and 2012; amendments to the Water Code (2009); amendments to the Forestry Code (2009, 2011 and 2012); amendments to the Land Code (2011); and amendments to the Law on the Protection, Reproduction and Use of Wildlife (2010).

In Namibia, legal reform has been more challenging. It was envisioned that projects would lead to passage of the Parks and Wildlife Act, the Integrated Coastal Zone Act, the Renewable Energy

Act, and the Energy Conservation Act. While regulations and administrative directives based on standing statutory authority have been put in place, none of the intended statutes has been enacted. Proponents of the Parks and Wildlife Bill have been unable to win passage of the law despite years of effort. The Integrated Coastal Zone Bill is still under cabinet review four years after the underlying policy was approved and one year after the GEF-funded project came to a close.

Many factors influence success in the reform process.

Regardless of whether a project was eventually successful, in all cases, governments had an appreciation of the challenges faced by the state in addressing environmental concerns and lead ministries were predisposed to legal reform at the time projects were approved. In fact, projects were approved, in part, specifically because government officials acknowledged the need for legal reform and committed to specific actions as detailed in agreed project documents.

The ability to enact laws is affected by a number of factors, including the scope of the proposed law, political sensitivities, competing interests of different constituencies within government and the general population, government budgetary

implications, the stability of government structures, continuity of key officials, and the technical capacity of government institutions. With respect to the latter, governments have finite, and often limited, resources that can be used to advance their legislative and regulatory agendas; institutions are often spread thin. For example, in the Philippines, while policy reforms at the local level are being sustained by local stakeholders, the gains are limited—in the absence of a congressional act—to setting aside protected areas.

Legal reforms are necessary but not always sufficient to achieve aims.

In general, the laws established with the support of GEF-funded projects are intended to achieve environmental aims by regulating the behavior of individuals or institutions, allowing for the provision of public or private services, and establishing requisite conditions for legal arrangements among parties. However, the country studies demonstrate that the effectiveness of the law is dependent on many factors, including the specific content and wording of provisions in the law, the degree of awareness and understanding of the law among those directly affected, and the strength of administrative or judicial enforcement.

SUMMARY OF LAWS AND RESULTS BY COUNTRY

Country	Law drafted or amended with GEF support	Results
Belarus	National Strategy for Peatlands and the scheme for wise use of peat deposits and sustainable management of peatlands to 2030	Twenty-four project sites have been restored for a total area of more than 51,000 ha (10% of the area of degraded peatlands). A significant decrease in the square ha of fires with a high of 18,500 ha in the early 2000s to only 184 ha in 2015.
Brazil	Law on Payment for Environmental Services	Until 2016, program served about 1,939 farms, enabling restoration of at least 6,492.29 ha. It restored 1,807.37 ha with planting of seedlings, 2,434.63 ha in natural regeneration, 1,186.22 ha in agroforestry systems, 573.05 ha in silvo-pastoral systems, and 491.02 ha in managed forests.
Kazakhstan	Law on Energy Saving and Energy Efficiency Improvements	Government allocated \$62 million to improve energy efficiency in residential buildings between 2011 and 2014. Heating systems were renovated in 1,000 residential buildings.
Namibia	Development of a Regulatory Framework for Renewable Energy and Government Directive	Power purchase agreements signed with 13 solar photovoltaic projects and 1 wind project. An 800m MW gas-fired power station will come online this year.
Philippines	Administrative reforms to promote energy efficiency lighting systems	Aggregate energy savings through the project are 7,684 GWh; total greenhouse gas emissions reductions are 3.4 million tonnes of carbon dioxide.
Vietnam	National Strategy for Urban Lighting	Twenty-five provinces have developed regulations on public lighting, and electricity consumption for public lighting has declined from 6.71% per year in 2010 to 4.8% in 2014–2016 (estimated).

Capacity-building and enabling activities play a role.

Capacity building facilitated through GEF foundational support is likely to enhance progress in legislative action. In Nicaragua, building institutional capacity facilitated the development of an adaptation strategy for hydrological resources and watershed agricultural systems. Enabling activities have facilitated the development of national implementation plans (NIPs) and have influenced regulation concerning persistent organic pollutants (POPs) in Costa Rica, Nicaragua, and Turkey.

Unrealistic expectations. Project documents often conflate policy statements, legislative statutes, regulations issued by authorized bodies, and administrative directives. These are very different in terms of their legal authority and development process. With respect to statutes and regulations, the case studies reveal a tendency among stakeholders to misjudge the ability of governments to enact laws within the time frame of the project. Specifically, GEF Agencies and implementing partners are often overly optimistic about the likelihood and pace of legal reform.

Limited follow-up. Statements made at the outset of projects that reforms are imminent are often repeated in annual progress implementation reports (PIRs) and final evaluations. With respect to evaluations, documents generally do not describe the specific role of projects in advancing legal reforms, the content and wording of laws as proposed or enacted, or the extent to which laws once enacted achieved stated aims. In general, data needed to assess the effectiveness of legislation or regulations are not available.

LOOKING AHEAD

- **Paving the way for the private sector through greater focus on legal and regulatory reform.** There is broad recognition among private sector players, as reflected in a survey of the private sector, that inconsistent regulatory frameworks hamper the environmental finance landscape. This is a particular issue in developing countries, where the need for environmental finance is higher, and consistent government regulation is scarce. Government regulation can also act to provide opportunities or can act as collateral and reduce risk, or can transform the environmental benefits of investments from externalities into monetary returns. The private sector sees a greater role for the GEF in helping governments and financial regulatory bodies put in place policies, regulations, or particular incentives that allow financial instruments aimed at environmental benefits (e.g., green bonds) to thrive.
- **Undertake medium-size projects that focus solely on legal reforms.** Rather than embedding work on legal reforms in a component of a project, the GEF should consider structuring some entire projects around advancing a specific set of legal reforms, particularly in countries with limited institutional capacity. This should focus on putting laws in place that are needed to meet goals defined in international conventions for which the GEF serves as the designated financing mechanism. Where applicable, legislation should follow guidelines established by the conference of the parties (COP). Implementing Agencies should work with government to determine legislative priorities and establish a coherent legislative strategy, including the development of legislation, cabinet reviews, briefings for members of the legislature, legislative hearings, committee and floor amendments, and conference considerations, if applicable.
- **Strengthen plans presented in project documents.** When reforms are contemplated, the GEF should ensure that project documents are more realistic about the likelihood and timing of potential law reforms. If the need for a specific environmental law or policy reform is identified, the document should describe how it fits into the government's legislative/regulatory agenda with specific details on the extent of support from key stakeholders, including government officials, parties directly affected, and the general population.
- **Improve monitoring and evaluation.** Legal and policy reforms have the potential for large-scale impacts. The GEF should consider modifying the Project Management Information System (PMIS) to enable project components that deal with legal reforms to be identified and tracked in the system. Evaluations should be more rigorous, including an assessment of project activities undertaken to advance legal reforms, resulting changes in the laws and policies, and the extent to which laws achieved stated aims. ■