

Internalization of the Multilateral Environmental Agreements signed at Rio-92

Why TCU performed this audit

The International Organization of Supreme Audit Institutions (Intosai) argues that environmental audits have an important role in relation to the implementation of Multilateral Environmental Agreements (MEAs) and can evaluate if the instruments used by governments to manage and protect the environment and implementation of MEAs are achieving the expected results.

In order to contribute to the discussions related to the Rio+20 Conference, an audit was carried out to evaluate how commitments made at Rio 92 are being internalized in national public policy, specifically the ones under the Conventions on Climate Change, Biological Diversity, Combat Desertification and Agenda 21.

The aim of this audit is to present a general diagnosis of the state of implementation of these agreements, identifying the legal and institutional framework created in the country to fulfill to the commitments, as well as the main challenges ahead.

Main TCU findings

The audit found that the implementation of the Rio 92 treaties was a key driver of the country's advances in the environmental area. The relationship between the fulfillment of international commitments and the strengthening of internal policy is easily seen in the case of the Convention on Biological Diversity (CBD).

To implement the national commitments under the CBD, the Ministry of the Environment developed a robust structure, a Secretariat for Biodiversity and Forests, as well as a National Strategy for Biodiversity.

A broad legal framework was complied and new legislation was created specifically for the implementation of the Convention in the country. Many initiatives were adopted by the Brazilian Government are credited exclusively to the Convention, like the creation of the Research on Biodiversity Program (PPBio), the creation of the Chico Mendes Institute for Biodiversity Conservation (ICMBio), the Program for Protected Areas (ARPA), among others.

However, some challenges remain, particularly regarding deficiencies in legislation or difficulty applying existing norms. It is important to emphasize a problem with the legislation on access and benefit sharing of genetic resources and protection of traditional knowledge that are regulated only through a provisional executive order, that is considered hard to implement. There is no definite legislation that establishes mechanisms for the fair and equitable sharing of benefits arising out of the utilization of genetic resources.

In the case of the Convention on Climate Change, it was verified that the prominent role that Brazil has achieved on the international negotiations induced the strengthening of the internal structures responsible for implementing the Convention. Among important measures taken by Brazil is the voluntary commitment for mitigation of greenhouse gas emission to be achieved through public policy on renewable energy, energy efficiency and/or conservation, substitution of fossil fuels and the fight against deforestation.

Brazil has also used market mechanisms to contribute to developed countries' effort to reach their quantitative targets on greenhouse gas emissions placed by the Kyoto Protocol through the Clean Development Mechanism (CDM). Currently Brazil is placed 3rd in number of MDL projects (7%), China being the 1st (38%) followed by India (27%).

Over the last few years, the government has put in place programs to foster the development of knowledge on the area of climate change, with the creation and strengthening of research centers. Nevertheless, only a few concrete adaptation actions were identified. A good example is the recent creation (in 2011) of the National Center for Alerts and Monitoring of Natural Disasters (Cemadem), with the objective of issuing preventive alerts that allow for actions to minimize material and human losses caused by natural disasters.

Now in relation to the Convention to Combat Desertification (UNCCD), a large disparity in the level of internalization of commitments was noted in relation to the other two Conventions above. There is no consistent legal and institutional framework in place to base the implementation of the Convention. The national policy to combat desertification is still not formally instituted in the country and the coordination of desertification matters is the responsibility of a Department on the Ministry of the Environment, which is not formally constituted in the structure of the Ministry.

Brazil has fulfilled one of the main obligations of the Convention, which is the development of the Action Plan to Combat Desertification, the PAN-Brasil. However, the implementation of PAN-Brasil is well below expectations. The plan is not used as an instrument to guide governmental and non-governmental actions to combat desertification.

The monitoring and evaluation of commitments under the Convention to Combat Desertification, differently to the other two Conventions where national reports are widely publicized to the general public, easy to comprehend and allow for the monitoring of the commitments, the reports of the Convention to Combat Desertification do not represent an instrument of government transparency. Three of the four national reports to the Convention are not readily available to the Brazilian Society. They are only accessible through the UNCCD website in its English version.

In relation to Agenda 21, it was noted that this agreement has a different nature than the other three agreements in this audit. The agreement is considered “soft law” not being subject to the ratification process and its subsequent internalization in the country’s legislation. Nevertheless, Brazil considers it an international commitment and has invested resources in the elaboration of a National Agenda 21 and incentives to local actions.

Brazilian National Agenda 21 was launched in 2002, as an important planning instrument for public policy in sustainable development. Yet, the document has not achieved this objective, not being widely known to society and by policy-makers.

The Commission for Sustainable Development Policy and Agenda 21 (CPDS) was created in 2004, as the main arena for discussions regarding sustainable development in the federal government and the instance responsible for promoting the transversalization of sustainable development policies in other sectors of the public administration. However, the Commission was not able to fulfill this institutional role. The CPDS has never completed and evaluation on the implementation of the National Agenda 21.

Regarding local Agenda 21s, the support of the federal government in the initial steps of development of the initiatives was found to be fundamental to mobilize and significant number of municipalities in the formulation of theirs Local Plans for Sustainable Development (PLDS), mainly through the transfer of financial resources from the National Environment Fund. Despite this, only a few of the initiatives were able to continue the process and actually implement their local plans. It was noted that shifts in local politics had a large role on the discontinuance of the Agenda 21 Forums.

TCU Deliberations

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