

Review of the possible options for legal instruments

I. Introduction

1. This document is intended to facilitate discussions and brainstorming, at the twenty-first session (Geneva, 23–25 October 2023) of the Steering Committee of the Transport, Health and Environment Pan-European Programme (THE PEP), on a mandate given by the Vienna Declaration of the Fifth High-Level Meeting on Transport, Health and Environment.

2. The mandate from the Fifth High-level Meeting (Vienna, 17–18 May 2021), as included in the Vienna Declaration, is to:

Establish an ad hoc working group to analyse different legal options to give effect to our vision and strategy, and elaborate draft proposals for possible legal instruments and present them for consideration by the Steering Committee, which will agree on a proposal for adoption at the Sixth High-level Meeting on Transport, Health and Environment.¹

3. In this document, the terms “agreement”, “treaty” and “convention” will be used as synonyms.

4. The aim of this document is to provide the mechanical process necessary for a legal instrument to be elaborated. However, the different options in this document depend on what the actual problem is that THE PEP would like to resolve with a legal instrument as any such legal instrument is a tool to meet an end, not an end in itself. Therefore, the Steering Committee is encouraged to identify first the topic of a potential legal instrument and the problem that might be solved by such before reviewing the options for possible legal instruments. Some possibilities are identified below in section III.B.4.

II. Overview of decisions taken on the work on possible legal instruments by the Steering Committee, the Bureau and the Working Group

5. This chapter summarizes discussions and decisions taken by the Steering Committee and subordinate bodies (including the ad hoc Working Group on Possible Legal Instruments – Working Group) on the implementation of the above-mentioned mandate since the adoption of the Vienna Declaration.

6. The Steering Committee, at its nineteenth session (Geneva 27–28 October 2021), agreed the following:²

(a) The need to develop proposals on possible legal instruments for THE PEP was felt more urgently in 2021 than at the beginning of THE PEP;

(b) It was important to look at gaps in transport, health and environment policies and legislation before starting to prepare proposals for possible legal instruments; therefore, the work to assess the status, was important also in view of identifying possible solutions;

¹ THE PEP, Vienna Declaration, Fifth High-Level Meeting on Transport, Health and Environment (Online, Geneva, 17 May 2021), ECE/AC.21/2021/3–EUCHP2018924/4.3.3, para. 4.

² See ECE/AC.21/SC/2021/2–EUCHP2018924/4.1/2, paras. 23–25.

(c) The work on the strategy and on proposals for legal instruments should be coherent and consistent. To that end, the same group would deal with both issues. Work on the strategy would start in 2022, while work on the legal framework could start once a preliminary assessment had been completed;

(d) It was important to involve one or more legal experts. Their involvement would also be important in convincing member States of the outcome of the assessment and ensuring that the proposal was of added value at the international level;

(e) The terms of reference for the ad-hoc working group as contained in annex II were also to be used for the ad-hoc group when working on the strategy.

7. At its twentieth session (Geneva, 17–19 October 2022) the Steering Committee:

(a) Decided to modify the timeline for developing the strategy and agreed to the following schedule: (i) the presentation of an advanced draft strategy in autumn 2023; (ii) the initiation of work on possible legal instruments in autumn 2023, and the finalization of work on the strategy by autumn 2024; and (iii) to only work on possible legal instruments thereafter for finalization in 2025;³

(b) Asked the working group to start work on the possible legal instrument once the first draft of the strategy was ready, and to continue working on both documents in parallel.⁴

8. The Working Group, at its seventh meeting, highlighted that there should be a link between the strategy and the possible legal instrument that would be proposed.

9. At the same meeting, members of the Working Group also agreed that:

(a) Bureau members were to investigate with their capitals on the possibility of providing in-kind or financial contributions for the work on possible legal instruments;

(b) The consultant on legal instruments should ideally come from academia and have experience in international law, especially linked to transport, health and environment areas.

III. Consideration of possible legal instruments concerning THE PEP

10. THE PEP is a programme in which member States participate on a voluntary basis. Having reached 20 years of existence, this could be the right time to review strategic and long-term developments. The possible creation of a legal instrument has been discussed since the start of THE PEP and in declarations from its High-level Meetings.⁵

11. Despite progress in this field, filling gaps in existing policy responses has not been sufficient to reach sustainable and healthy transport.⁶ All declarations by the High-level Meetings have generated non-

³ See ECE/AC.21/SC/2022/2 EUCHP2219536/1.1/2, para. 24 (b).

⁴ Ibid. para. 24 (f).

⁵ For reference, please see annex I to this document.

⁶ Please see Vienna Declaration, Fifth High-Level Meeting on Transport, Health and Environment (Online, Vienna, 17-18 May 2021), ECE/AC.21/2021/3–EUCHP2018924/4.3.3, annex I, for an overview. For more details, please see National Institute for Public Health and the Environment, Road Transport Facts and Figures: How Health and Environmentally Friendly is our Transport Today? (2021) <https://thepep.unece.org/sites/default/files/2021-05/eMagazine%20Road%20transport%20facts%20%20figures_updated%2017%20May%202021_1.pdf> accessed 3 August 2021.

binding commitments. A legal instrument might be an enabling condition to solve the issues that THE PEP has been trying to address since its inception.

12. Member States would need to consider that a legally binding document typically requires a parliamentary approval process and represents a significant commitment.

13. Highlighting the benefits of a possible legal instrument on THE PEP would be important to ensure that a critical number of member States takes part in negotiations and with a view to its adoption and eventual ratification. This would be possible by demonstrating that, despite potential costs from the implementation of the instrument, member States will benefit from it. One element to consider is that, for instance, pollution reduction from cleaner and sustainable transport and mobility would be beneficial across borders, therefore member States might want to act together with neighbours and harmonize adoption of measures reducing such pollution. Equally, a member State could consider the savings in health costs derived from a healthier lifestyle and decide to join a legal instrument that helps it to promote healthier transport and mobility also at national level.

14. Negotiating (and adopting) a legal instrument on THE PEP would signal more serious intent and a stronger commitment and increase the programme's credibility. In countries in which approval of international treaties and conventions requires legislative approval, there is greater domestic buy-in.⁷

15. When discussing possible legal instruments for THE PEP, the Steering Committee might consider different issues as indicated in the table below and explored in the subsequent sections.

Table: issues to be considered

Type of instrument	Scope of the instrument
<ul style="list-style-type: none">• Framework convention• Narrowly focused convention• Protocol to an existing convention	<ul style="list-style-type: none">• Depth of the instrument• Sectors to be covered• Geographical scope• Thematic scope

A. Type of instrument

16. One of the issues to be considered is whether a possible legal instrument would be a “framework” convention, or a more narrowly focused agreement.

1. Framework convention

17. Examples of framework conventions are the United Nations Framework Convention to Combat Climate Change, and the UNECE Convention on the Long-range Transboundary Air Pollution. This kind of conventions establishes broad commitments for its parties and a general system of governance, while leaving detailed rules and targets either to subsequent agreement in the form of a protocol, or to national legislation. If the parties are not able to conclude a detailed treaty at a given time, for whatever reason,

⁷ <https://opil.ouplaw.com/display/10.1093/law/9780198849155.001.0001/law-9780198849155-chapter-24>

agreement on a framework convention can be used to maintain momentum.⁸ However, this approach may also significantly delay concrete action.

2. Narrowly focused convention

18. On the one hand, narrowly focused agreements allow states to target specific problems and develop specific, meaningful responses. On the other hand, narrowly focused agreements create the potential for fragmentation, duplication of effort and even conflict. They may not take into account the interdependent nature of environmental problems and address them in a holistic manner, making appropriate trade-offs and linkages between issues.⁹

3. Protocol to an existing convention

19. Member States could also consider that the matter that they want to be covered by a legal agreement would not be wide enough for a self-standing convention and, rather, negotiate the text so that it could become a protocol to an existing convention. For illustration only, a protocol including the health dimension in environmental impact assessment could be added to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention). However, a “parent” convention would need to be identified.

20. The step-by-step approach of first negotiating a framework convention and then a protocol with more stringent commitments allows starting negotiations without creating fears in member States that too stringent commitments would be negative for them. Starting the negotiations can create a “positive feedback loop” by creating an ongoing forum for negotiations.¹⁰

21. Indeed, framework conventions are a frequent form for international environmental agreements. They provide flexibility to take into account developments in the scientific understanding of environmental problems.

22. An additional type of agreement that could be considered is an outline convention, which is an international agreement that provides standards and guidelines for signatory nations to implement on a national level.¹¹

B. Scope of the instrument

1. Depth of the instrument

23. In considering a possible legal framework member States should reflect on its stringency and strength. The stringency is the “extent to which an agreement requires states to depart from what they would have done in its absence”.¹² Strength measures the intensity of a commitment. The more stringent a commitment, the bigger the required changes in behaviour and the more costly compliance becomes. The more intense the commitment, the bigger the limits to sovereignty and the higher the costs if a state fails to comply.

⁸ <https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e703> “Framework Agreement” Oxford Public International Law

⁹ <https://opil.ouplaw.com/display/10.1093/law/9780198849155.001.0001/law-9780198849155-chapter-24>

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

24. The more flexible the commitments are, the lower will be sovereignty and compliance costs for a prospective party. Some agreements contain commitments with qualifiers like “as far as possible”, “as appropriate”, or “taking into account national circumstances”, which give parties discretion in deciding the appropriate level of protection.¹³ Other agreements, such as the Paris Agreement on climate change, allow parties to self-determine certain commitments (in the example of the Paris Agreement, the mitigation commitments).

25. Differences in the stringency of the commitments can be included in conventions on the basis of different categories of countries, establishing more stringent commitments for some countries than others.¹⁴ Lastly, a treaty can allow states to differentiate their obligations through reservations or exemptions, for instance, some treaties allow states to exempt themselves from particular regulatory requirements.¹⁵

2. Sectors to be covered by the instrument

26. THE PEP is a tripartite agreement, promoting synergies and harmonious work among the transport, health and environment sectors and constituencies. At the same time, in negotiating a legal instrument, member States would also reflect on whether the agreement would relate to the links between any two of the sectors, or all three sectors together. Alternatively, it could relate to the links between transport, on the one hand, and health and/or environment, on the other.

3. Geographical scope

27. As considered in many meetings under THE PEP, member States in the UNECE and WHO/Europe areas are different and, when it comes to transport, health and environment, they can have different realities. An agreement not considering such differences would have difficulties in its implementation from the onset.

28. Such differences could be taken into account in different ways:

(a) By creating an agreement limited to some countries having similar situations on transport, health and environment, as for the Alpine Convention, for instance;

(b) By recognizing different categories of countries inside one same agreement (as mentioned in section B.1)

(c) By allowing a certain category of countries to use reservations to exempt themselves from a certain commitment.

4. Thematic scope

29. Among the themes or topics that could be considered for the scope of a legal instrument on THE PEP are:

(a) Cycling network. The Partnership on Active Mobility (working on cycling) proposed to the Working Group considering the possibility of a convention on a UNECE cycling network that would incorporate reference cycling routes and the provisions for minimum standard parameters for the routes;

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

(b) Reducing transport and mobility demand. This could be connected to the topic of transport planning and land-use planning, the subject of a THE PEP partnership. This agreement could have a specific section on transport and mobility in rural areas;

(c) Transport and mobility in rural areas. This issue could also be considered on its own. In many meetings of THE PEP and in other forums, the dependence of rural areas on cars has been raised strongly. Solutions are different according to the situations in member States, but the topic is not addressed consistently and often relegated to a lower level, while policymakers focus on urban areas;

(d) Including a “health” aspect in environmental impact assessment procedures. This topic is also recurrent and not solved in practice;

(e) Technology development and transfer. Be it at the level of engineering or on demand management, the transfer of technology could support member States currently behind and support in the path towards a cleaner transport and mobility pattern;

(f) Data development, collection and sharing. This topic is quite sensitive, especially when it relates to walking and cycling, as there is no consistency across the UNECE region in data collection in these areas. In many countries no data at all is available on walking and cycling. In some other countries data collection (also of car use) is the domain of local authorities, with difficulties in sharing data within a member State;

(g) Capacity-building. A specific framework to provide capacity-building activities to member States within THE PEP could make sharing of knowledge and capacities more efficient and effective;

(h) Education, training and public awareness. A lot of the issues dealt with in THE PEP are implemented at local level. Buy-in from local authorities and from the public is essential for the implementation of THE PEP.

IV. Way forward

30. The Steering Committee might wish to:

(a) Adopt the terms of reference for a consultant on international legal matters (as included in annex III);

(b) Mandate the Working Group, with the support of one or more consultants, to identify what is the problem that needs to be addressed and then subsequently which legal options give effect to the Vienna Declaration’s vision and strategy. The Working Group would also need to provide a timeline for the development of the options;

(c) Request member States to provide in-kind and/or financial contribution to support the work of the Working Group.

31. The Working Group, before starting its work should consider:

(a) What challenges would be addressed by a legal instrument and how such an instrument could ensure the implementation of policies in transport, health and environment and tackling emissions of the transport sector;

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(b) How the work on the strategy and the work on legal proposals are connected, since the aims of the potential legal instrument must align with the goals and visions of the strategy;

(c) How many draft proposals should be presented by the working group to the Steering Committee. The support of a senior lawyer, specialized in international law and with knowledge of national law-making processes, could be beneficial to the work of the group, especially when drafting initial working documents, as well as the support of a consultant with more substantive knowledge of transport, health and environment issues;

(d) What legal options should be produced: a framework convention with protocols; a fully-fledged convention; a simpler agreement; or a protocol to an already existing convention;

(e) Whether the aim would be to adopt a treaty with a governance structure that would replace the High-level Meeting and the Steering Committee once the treaty comes into force.

Annex I:

Development of the mandate and negotiations for a legal binding instrument

The ambition to develop a legal binding instrument on transport, health and environment is not new. In situating this mandate, it is important to clarify what forms this ambition has taken in the past.

- 16 – 18 June 1999:
 - o At the Third Ministerial Conference on Environment and Health in London, Ministers judged it appropriate to consider the possibility of new non-legally binding actions and the feasibility, necessity and content of a new legally binding instrument relation to environment and health problems caused by transport. It invited the WHO and UNECE to provide an overview of existing agreements and legal instruments.¹⁶
- 8 May 2000:
 - o A Joint WHO/UNECE meeting, having considered documents presented by consultants and support from Danish, French, and Swiss Ministries, as well as UNEP, agreed to create a synthesis report which would include information on existing legal instruments, the identification of priority areas for action, the analysis of gaps in the international legislation with respect to the priority areas, and recommendations for further action.¹⁷
- 17 January 2001:
 - o A report was drawn up to provide an overview of relevant existing agreements and legal instruments.
 - o In the same report, it was recommended to negotiate a process for a framework convention on transport sustainable for health and the environment.¹⁸ Indeed, it was deemed at the time that current policies were not sufficient to achieve sustainable transport for health and the environment.
- 15 June 2001:
 - o The Joint UNECE – WHO Ad hoc expert group was given the mandate to, inter alia, ‘carry out further preparatory work to facilitate a decision on whether to start negotiations on a framework convention, including the specific task of identifying the possible elements of such an instrument for further decisions to be taken at the second High-Level Meeting on Transport, Environment and Health’.¹⁹
- 4 May 2001:
 - o Decisions and Recommendations Adopted by the High-level Meeting on Transport, Environment and Health included this provision:
 - Decides that further preparatory work to be able to decide whether to start negotiations of a Framework Convention, including the specific task of identifying the possible elements of such an instrument, shall be carried out at the international

¹⁶ WHO, London Declaration on Action in Partnership, Third Ministerial Conference on Environment and Health (London, 16–18 June 1999), EUR/ICP/EHCO 02 02 05/18 Rev.5, para. 18.

¹⁷ ECE, Other International Activities on Transport and the Environment Relevant to the Implementation of the Programme of Joint Action Joint Meeting on Transport and the Environment (Third session, 6 June 2000), JMTE/2000/6, point I.(e)(iii).

¹⁸ ECE, World Health Organization Regional Office for Europe, Overview of Instruments Relevant to Transport, Environment and Health and Recommendations for Further Steps, ECE/AC.21/2001/1-EUR/00/5026094/1, pp. 5 and 49.

¹⁹ WHO, Follow-up and Implementation of the Charter on Transport, Environment and Health, Report on the Fourth Meeting of the Steering Group held in Geneva, 7 June 2001, annex III, p.12.

level by a tripartite task force to be established within the framework of the London and Vienna follow-up processes, as soon as possible.²⁰

- 14 June 2002:
 - o Options Available for Addressing the Priority Issues:²¹
 - Developed detailed arguments and explanations for legally and non-legally binding instruments. Among the non-legally binding options to be considered for implementation was the possibility of establishing the Pan-European Programme on Transport, Environment and Health.
- 5 July 2002:
 - o Second High-level Meeting
 - o Whilst the High-Level Meeting considered the appropriateness of starting negotiations on a Framework Convention, **most States did not consider starting negotiations of a Framework Convention on THE as an appropriate action at that present moment, though THE PEP left this option open for future consideration.**²²
 - o Within the Declaration adopted by the Second High-Level Meeting on 5 July 2002, the preamble noted that member states should further enhance implementation of existing international agreements and legal instruments related to transport (*thus, no mention of creating something new*).
 - o The High-Level Meeting took note of the assessment of appropriateness of elaborating a Framework Convention but recognized that **‘the negotiation of a Framework Convention on Transport, Environment and Health seems to be premature and should not be pursued for the time being. Recognise also that the next High-Level Meeting might wish to instruct the Steering Committee, in light of progress of THE PEP, to re-examine the question of whether to start negotiations of a framework convention’.**²³
- 23 January 2009
 - o Third High-level Meeting, Amsterdam Declaration:
 - o *‘Recognize that the question of a Framework Convention on Transport, Environment and Health has not yet been resolved and that further exploratory work should be considered, for example, in the light of newly emerging issues;’*²⁴
- 15 April 2014
 - o Fourth High-level Meeting, Paris Declaration:
 - o *‘Recognize that the question of a Framework Convention on Transport, Health and Environment has not yet been resolved and invite interested Member States to elaborate proposals for consideration at the Fifth High-level Meeting;’*²⁵

²⁰ Decisions and Recommendations Adopted by the High-Level Meeting on Transport, Environment and Health, 4 May 2001, ECE/AC.21/2001/3-EUR/00/502609/3, annex, para. 5.

²¹ ECE, Options Available for Addressing the Priority Issues, High-Level Meeting on Transport, Environment and Health (Second session, 5 July 2002, agenda item 5(a)), Conference Room Paper 14 June 2002.

²² Economic Commission for Europe, World Health Organization Regional Office for Europe, Summary Report of the Second Session of the High-Level Meeting on Transport, Environment and Health (Geneva, 5 July 2002), ECE/AC.21/2002/6-EUR/02/5040828/6, 3 October 2002, para. 11(h).

²³ Economic Commission for Europe, World Health Organization Regional Office for Europe, Declaration adopted by the Second High-Level Meeting on Transport, Environment and Health (Geneva, 5 July 2002), ECE/AC.21/2002/8-EUR/02/5040828/8, 21 August 2002, paras. 3–5.

²⁴ THE PEP, Amsterdam Declaration, Making THE Link: Transport choices for our health, environment and prosperity, Third High-level Meeting on Transport, Health and Environment (Amsterdam, the Netherlands, 22–23 January 2009), ECE/AC.21/4, para. 14.

²⁵ THE PEP, Paris Declaration, Fourth High-level Meeting on Transport, Health and Environment (Paris, France, 14–16 April 2014), para. 21.

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- 17 May 2021
 - o Fifth High-level Meeting, Vienna Declaration:
 - o 'Establish an ad hoc working group to analyse different legal options to give effect to our vision and strategy, and elaborate draft proposals for possible legal instruments and present them for consideration by the Steering Committee, which will agree on a proposal for adoption at the Sixth High-level Meeting on Transport, Health and Environment;'²⁶

²⁶ THE PEP, Vienna Declaration, Fifth High-Level Meeting on Transport, Health and Environment (Online, Geneva, 17 May 2021), ECE/AC.21/2021/3-EUCHP2018924/4.3.3, para. 4.

Annex II

Draft Terms of Reference for the Ad Hoc Working Group and proposed Timeline of Work

A. Mandate

The Steering Committee,

Recalling the strategy and actions for achieving the vision of the Vienna Declaration and accelerating the transformation towards sustainable transport and mobility,²⁷

Recalling the commitment to develop “a comprehensive pan-European strategy on transport, health and the environment, including a clear pathway for its implementation, to achieve the agreed vision and guide the further work of THE PEP, for adoption in 2023”,²⁸

Recalling the mandate given in the Vienna Declaration to “*establish* an ad hoc working group to analyse different legal options to give effect to our vision and strategy, and elaborate draft proposals for possible legal instruments and present them for consideration by the Steering Committee, which will agree on a proposal for adoption at the Sixth High-level Meeting on Transport, Health and Environment”,²⁹

1. Decides to link the current work with the mandate to create a strategy for THE PEP and that the open-ended ad hoc working group responsible to develop the strategy will also lead on this mandate.
2. Consequently, the Steering committee could establish an open-ended ad hoc working group, which will start its work in 2021, to work on THE PEP strategy and the drafting of proposals for possible legal instruments. This group will carry out its work in two main steps. The work on THE PEP strategy will be undertaken first, with the proposed period of work from 2021 – 2023, when the Strategy should be adopted, as per the Vienna Declaration. This will be followed by the drafting of proposals for possible legal instruments in line with the strategy and vision of THE PEP and based on the preliminary work prepared under the strategy. The mandate is proposed for the period 2021 – October 2024.

B. Terms of Reference

1. Composition

3. Each member State could nominate, on a voluntary basis, one or two experts to join the ad hoc working group. Member States might also consider nominating one expert from each sector (i.e., up to 3 experts). The composition of the group may also vary on the topic (i.e., discussion on the strategy or discussion on a legal framework) and it is intended that the group be flexible and open-ended in order to bring together different experts for different needs.

²⁷ ECE/AC.21/2021/2/Add.1–EUCHP2018924/4.3.2/Add.1.

²⁸ Ibid., para. 3.

²⁹ Ibid., para. 4.

4. The group might wish to be supported, at the beginning of each task, initially by a consultant to support the development of the strategy, followed by an experienced consultant on international law.
5. Stakeholders might also wish to nominate a representative.
6. The Secretariat of THE PEP will participate in the working group *ex officio* to provide expert input.

7. Tasks

6. The ad hoc working group will:
 - (a) Take stock of the current situation regarding transport, health and the environment, and define the challenges that need to be solved;
 - (b) Draft the Strategy with a view of adopting it by 2023;
 - (c) Take stock of the work carried out to develop the strategy. In particular, take stock of the findings on the current situation regarding transport, health and the environment, in order to assess the issues faced, the problems to be solved and possible solutions, including those that possible legal instruments can seek to address;
 - (d) Update the scoping exercise of legal instruments that address transport, health and environmental issues;³⁰
 - (e) Elaborate legal proposals for review by the Steering Committee, as per the mandate contained in the Vienna Declaration. Work with the draft documents elaborated so far and improve them further as appropriate.

8. Methods of work

7. The ad hoc working group is expected to meet at least once every 2 months. The meetings should be held at the Palais des Nations in Geneva or in an online or hybrid format.
8. The Chair of the ad hoc working group, appointed at the first meeting of the group, should report on the ongoing work at the annual sessions of the Steering Committee, whilst the final outcome should be submitted to the session scheduled before the sixth High-level Meeting on Transport, Health and Environment.
9. The working group might wish to nominate a rapporteur to support the Chair in the work.
10. The meetings of the ad-hoc working group will be held in English only.

³⁰ The first version can be found here: ECE and WHO Regional Office for Europe, Overview of Instruments Relevant to Transport, Environment and Health and Recommendations for Further Steps Synthesis Report, ECE/AC.21/2001/1-EUR/00/5026094/1.

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11. Participation in the ad hoc working group is open to all ECE member States and experts. Interested intergovernmental and non-governmental organizations are invited to participate and provide expert advice in compliance with United Nations rules and practices.
12. The ad hoc working group should ensure inclusiveness and so active participation of experts in the group from all ECE member States, and in particular from the countries of Eastern Europe, Caucasus and Central Asia.

Annex III:

Terms of reference for a consultant on international legal matters: Expert in international law, in particular in the area of transport, health and environment

Background

Since 2002 the Sustainable Transport and Environment Divisions of United Nations Economic Commission for Europe (UNECE) and the WHO Regional Office for Europe (WHO/Europe) provide secretariat service to the Transport, Health and Environment Pan European Programme (THE PEP) under which framework the Fifth High-level Meeting was organized on 17-18 May 2021.

A major outcome of the High-level event was the Vienna Declaration “Building forward better by transforming to new, clean, safe, healthy and inclusive mobility and transport”. One of the main commitments by member States was to establish an ad hoc working group to analyse different legal options to give effect to their vision and strategy, and elaborate draft proposals for possible legal instruments and present them for consideration by the Steering Committee, which would agree on a proposal for adoption at the Sixth High-level Meeting on Transport, Health and Environment.

Description of duties

The main objectives of this assignment are (a) supporting THE PEP secretariat and the member States in the analysis of different legal options to implement the strategy on transport, health and environment to be elaborated under THE PEP and (b) to elaborate draft proposals for possible legal instruments, in cooperation with, and based on guidance from, the Ad hoc Working Group on Strategy and Possible Legal Instruments (Working Group).

Key duties:

- Carrying out a desk review and mapping, based on work already undertaken under THE PEP, of legally binding instruments at the subregional, regional and global levels on transport, on health and on environment;
- Carrying out an analysis of different legal options that could support the implementation of the vision of the Vienna Declaration and the strategy under preparation;
- Formulate a proposal, based on the analysis above and under the guidance of the Working Group, of different legal options that could be applied to THE PEP and could be negotiated to advance the integration of transport, health and environment, and the implementation of the vision of the Vienna Declaration;
- Elaborate and draft, in cooperation with the Working Group, one or more proposals for possible legal instruments to be submitted to THE PEP Steering Committee.

In carrying out the duties above, the consultant should work also in cooperation with THE PEP focal points and with representatives of THE PEP Partnerships and of other THE PEP implementation mechanisms.

Qualifications, experiences, skills and languages

Qualifications

An advanced university degree (master’s degree or equivalent degree) in international law, with a preference for international environmental law or international treaties.

Experience

- At least 15 years of experience as legal counsel or advisor in international negotiations on matters related to international law, especially international environmental law, and preferably acquired in academia, international research institutes or international organizations;
- Theoretical and practical knowledge of international law, law of treaties, international instruments and their functioning;
- Work experience with UN organizations;
- Knowledge of policy related to transport, health and environment is desirable.

Languages

Excellent spoken and written fluency in English is required.

Consideration on budget requirements for the Bureau of THE PEP

As agreed at the meeting of the Bureau (online, 16 May 2023), Bureau members would assist in fundraising for the consultancy described in the terms of reference above.

Based on previous experience in the secretariat and of the expertise required from the consultant, it is expected that the amount of the consultancy would be approximately \$35,000. The secretariat notes that this amounts to more than 20% of the remaining UNECE Trust Fund budget.

Knowledge of policies on transport, health and environment would be useful to carry out the tasks described above. At the same time, finding a legal expert with knowledge of these policies might be difficult. Being aware of that, the Bureau might consider identifying additional funds to hire a second consultant with expertise on policies related to transport, health and environment. Such a consultant could work with the legal expert and support him/her with elements specific to THE PEP.