



**Economic and Social
Council**

Distr.
GENERAL

MP.EIA/WG.1/2003/7
2 January 2004

ORIGINAL: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

**Meeting of the Parties to the Convention
on Environmental Impact Assessment
in a Transboundary Context**

Working Group on Environmental Impact Assessment

REPORT OF THE SIXTH MEETING

1. The sixth meeting of the Working Group on Environmental Impact Assessment (EIA) took place in Geneva (Switzerland) from 27 to 29 October 2003.
2. It was attended by the delegations of: Albania, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Czech Republic, Estonia, Finland, France, Georgia, Germany, Hungary, Italy, Kazakhstan, Kyrgyzstan, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Romania, Russian Federation, Serbia and Montenegro, Slovakia, Spain, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, United Kingdom and Uzbekistan. In addition, the Islamic Republic of Iran was represented.
3. A representative of the Commission of the European Communities attended the meeting.
4. The following non-governmental organizations were also represented: ECOGLOBE, ECOTERRA, Environment Experts Association, European ECO Forum, International Association for Impact Assessment (IAIA), Regional Environmental Center for Central and Eastern Europe (REC) and Unisféra International Centre.
5. The Chairperson of the Working Group, Mr. Stefan Ruchti (Switzerland), opened the meeting with a special welcome to the representative of the Islamic Republic of Iran.

I. ADOPTION OF THE AGENDA

6. The Working Group adopted the agenda as set out in document MP.EIA/WG.1/2003/6.

II. REPORT OF THE EXTRAORDINARY MEETING OF THE PARTIES ON THE PROTOCOL ON STRATEGIC ENVIRONMENTAL ASSESSMENT

7. The secretariat reported on the extraordinary meeting of the Parties held in Kiev on 21 May 2003 during the 'Environment for Europe' Ministerial Conference, noting the adoption of the Protocol on Strategic Environmental Assessment (SEA) and its signature by 35 countries and the European Community. The Working Group took note of this information.

III. ACTIVITIES UNDERTAKEN PURSUANT TO THE WORK PLAN ADOPTED AT THE SECOND MEETING OF THE PARTIES

A. Review of the implementation of the Convention

8. The secretariat presented a summary of the draft review of implementation, with 22 Parties having completed the questionnaire. A short version of the draft review was circulated as an informal document in English and Russian.

9. Mr. Roger Gebbels (United Kingdom), President of the Implementation Committee, noted that the respondents had reported a lack of research under Article 9 (Research programmes) and informed the Working Group that he would ask the Implementation Committee to review whether this might be considered a compliance matter.

10. The Working Group agreed that only the introduction and summary sections would be available in the official languages for the third meeting of the Parties. The main review would be made available in the languages as submitted.

11. It was also agreed that the draft review of implementation should include some general conclusions, and that the accompanying draft decision on the review should attempt to link problems with obligations under the Convention in order to support the Implementation Committee in examining the causes of the difficulties encountered by Parties. The draft decision should distinguish between obligations under the Convention and matters of good practice.

12. The findings of the draft review of the implementation of the Convention would be taken into account when discussing elements for the new work plan.

13. The Working Group requested the secretariat to circulate the draft review of implementation to the focal points shortly after the meeting to give them the opportunity to verify that it reflected fully their responses to the questionnaire. The focal points should send their comments to the secretariat by 15 December 2003 so that it could incorporate them into the next version of the review before the seventh meeting of the Working Group (28-30 January 2004).

B. Implementation Committee

14. The President of the Implementation Committee presented the report of the its third meeting (MP.EIA/WG.1/2003/8).

15. The secretariat informed the Working Group that information from an NGO was to be considered at the next meeting of the Implementation Committee. The secretariat also highlighted

the recommendation of the Committee regarding self-referral, whereby Parties were encouraged to come forward with problems with the implementation of the Convention (MP.EIA/WG.1/2003/8, para. 20).

16. The secretariat further noted that, in accordance with decision II/4 adopted at the second meeting of the Parties, four new members of the Implementation Committee were to be appointed at the third meeting of the Parties. The delegation of Poland indicated its willingness to serve on the Implementation Committee.

17. The Working Group took note of the report and requested the Committee to prepare a draft decision together with a revised appendix on the structure and functions of the Committee for consideration at its seventh meeting. The Working Group also suggested that the Committee should draw up criteria for the possible consideration of unsolicited information.

C. Strengthening cooperation with other UNECE conventions

18. The delegation of Romania reported on the outcome of a workshop on cooperation with the other UNECE conventions, held in Romania from 2 to 5 October 2003. It also thanked the delegation of Italy for its financial support and the secretariat for preparing the background documentation. The key proposals of the workshop were presented and discussed.

19. The proposals were refined by a small group and presented again to the Working Group as annexed to the present report. The Working Group took note of the proposals and agreed to take them into account when discussing the work plan.

20. The delegation of Italy also reported on the first meeting of the Working Group of the Aarhus Convention (23-24 October 2003), and on the meeting between the Bureau of the Committee on Environmental Policy and the Bureaux of the five UNECE environmental conventions (3 July 2003).

D. Guidelines on good practice and on bilateral or multilateral agreements

21. Recalling that the guidelines on good practice and on bilateral or multilateral agreements had been accepted at its fifth meeting, the Working Group agreed to defer discussion of the draft decision on the guidelines until its seventh meeting.

E. Subregional cooperation

22. The delegation of Poland presented the report on subregional cooperation (MP.EIA/WG.1/2003/9), announcing that a final workshop would be hosted in Belgrade, on 6 and 7 November 2003, by the Government of Serbia and Montenegro with the support of the Government of Switzerland.

23. The delegation of Croatia suggested that this activity (subregional cooperation) should continue and be included in the new work plan, with a lead country per subregion, and requested the Russian-speaking countries to nominate a lead country for this purpose.

24. The secretariat was requested to solicit comments on the report, which may be submitted until mid-December 2003. The results of the workshop would also be incorporated into the

updated report, which would then be presented at the seventh meeting of the Working Group.

25. The delegation of Kyrgyzstan proposed to hold a workshop on subregional cooperation in the autumn of 2004 and was strongly supported in its effort to foster subregional cooperation in this region by the delegations of Kazakhstan, the Republic of Moldova, the Russian Federation, Tajikistan and Uzbekistan.

26. The Working Group recalled the document adopted at the Kiev Ministerial Conference: "Environmental Partnerships in the UNECE Region: Environment strategy for countries in Eastern Europe, the Caucasus and Central Asia (EECCA) (strategic framework) (ECE/CEP/105/Rev.1)". Several EECCA countries had submitted proposals for capacity-building activities. However, the secretariat reported the difficulties in funding. It was suggested that the secretariat would collect requests for funding and forward them to the Working Group for consideration and identification of funding possibilities.

27. The representative of the Commission of the European Communities underlined the importance of this activity and the priority that it should receive in the work plan. The Working Group decided to take this into account when discussing the work plan.

F. Database on environmental impact assessment (ENIMPAS)

28. The delegation of Poland presented a review on the use of the database. The Chairperson of the Working Group then presented a proposal by the Bureau on the future of the database.

29. The Working Group discussed the two presentations and recognized that Parties had not fully exploited the facility provided by ENIMPAS for a variety of reasons. The Working Group generally favoured a simpler exchange of information via the Convention's web site, with links to national web sites where possible. However, there was some concern that without ENIMPAS there would be no continuation in the collection of information.

30. A small group was set up during the meeting to discuss the future of the database. The delegation of Poland later presented the following findings of this small group:

- (a) The most suitable action was to recommend to the Working Group that the database should close;
- (b) Arrangements should be put in place for data about transboundary EIA already available in ENIMPAS to be transferred to the secretariat; and
- (c) Countries should submit information on transboundary EIA cases to the secretariat for inclusion on the web site.

31. The Working Group agreed with these conclusions and asked the secretariat to prepare a draft decision on this basis. The Working Group expressed its thanks to the Government of Poland and its officers for their commitment to the development and maintenance of the database over the past seven years.

G. Possible future amendments to the Convention

32. The delegation of Germany summarized the outcome of the meeting of the small group on amendments as reported in MP.EIA/WG.1/2003/10, noting that:

- (a) The possible amendments would best be implemented through a second amendment to the Convention to be adopted at the third meeting of the Parties; and
- (b) The possible amendments addressed:
 - (i) Alignments of Appendix I to the Convention with annexes to the Protocol on SEA, the Aarhus Convention and the EC EIA Directive (97/11/EC);
 - (ii) The introduction of scoping procedures; and
 - (iii) Other technical matters such as the adoption of amendments.

33. There was substantial discussion related to the technical aspects of the proposed amendments and additions to Appendix I and it was agreed that a small working group should be established to resolve these matters. That small working group later reported its consensus on the proposals originally made. The Working Group agreed that the following provision on scoping would be discussed at its seventh meeting, noting the need for some adjustment of the wording and for determining the location of the provision within the Convention:

“If the Party of origin carries out a scoping procedure, the affected Party should, to the extent appropriate, be given the opportunity to participate in this procedure.”

34. The Working Group also provisionally accepted the technical amendments for further consideration, while also noting the need to clarify the legal consequences of the proposed text on compliance:

“Article 14 bis

Review of compliance

The Parties shall review compliance with the provisions of this Convention and, if so decided, any protocol adopted under this Convention on the basis of the compliance procedure, as a non-adversarial and assistance-oriented procedure adopted by the Meeting of the Parties. The review shall be based on regular reporting by the Parties.”

35. Some delegations expressed a wish not to propose an amendment to the Convention at the third meeting of the Parties. The Working Group thanked the small group for its work and requested the delegation of Germany to prepare for its seventh meeting a draft decision including the amendments, taking into account the comments made at the present meeting.

H. Public participation in EIA in a transboundary context

36. The delegation of the Russian Federation introduced the outcome of a workshop that had taken place in Moscow and draft guidelines, including submissions from 13 countries (including 10 case studies). The representative of Ecoterra acknowledged the financial and technical support from the United Kingdom and Italy, and went on to provide details of the process by which the draft guidelines had been developed. The Working Group expressed its thanks to the Russian Federation and Ecoterra and its satisfaction with the approach and the outcome.

37. A further amended version of the draft guidelines would be circulated by the delegation of the Russian Federation to the focal points in mid-November 2003 for their comments. It would then be revised once again. A next draft would be available by 10 January 2004 for finalization at the seventh meeting of the Working Group.

I. Work plan

38. The Chairperson of the Working Group introduced the Bureau's proposals on possible elements for the work plan.

39. The Working Group generally agreed that it was important to set priorities, and that this needed to be done in the light of the Protocol on SEA's work plan, and that the work plan needed to be 'modest' and achievable, focusing on the essential activities to support the implementation of the Convention. The work plan should be objective-led, rather than activity-led. Some delegations also noted the value of seminars, thematic workshops and training rather than the drawing-up of additional guidance documents.

40. Two small groups, one Russian-speaking, the other English-speaking, developed proposals for the work plan and reported back to the Working Group. The Russian-speaking group proposed an analysis of the previous work plan to determine future needs, but expected the following elements would need to be included:

(a) Draft guidance on the use of EIA related to transboundary watercourses, how the information in the EIA report would deal with biodiversity, post-project analysis and monitoring, socio-economic impacts, ecological risks, public involvement (new aspects beyond the current public participation guidance), consideration of alternatives to the proposed activity, mitigation measures, impact prediction and how to deal with a situation where only one of the concerned parties is a Party to the Convention;

(b) Institutional support, including support for the creation of competent authorities and for continuing professional development;

(c) A simplified format for the questionnaire on the implementation of the Convention;
and

(d) Quality assurance for EIA.

41. The English-speaking group noted the characteristics of the next period: the legislation was in place, guidance was available, there were different needs and effective application was necessary. The group proposed three main activities:

(a) Development of good practice:

(i) Bilateral and regional cooperation;

(ii) The review of specific transboundary issues and effects (regional seas, water pollution, etc.);

(iii) Projects with many countries involved;

(iv) The implications of the Protocol on the EIA process;

(v) The links and gaps with other processes (other UNECE conventions, etc.);
including

(vi) The exchange of experience and good practice;

(b) Compliance (implementation):

(i) The Implementation Committee;

(ii) The review of non-obligatory issues (e.g. strengthening of weak links); and

(iii) The development of the Convention's web site; and

(c) Capacity-building in the countries of Eastern Europe, the Caucasus and Central Asia,
and others:

(i) The conclusions from the review of implementation; and

(ii) Awareness-raising activities.

42. The Working Group requested the Bureau to prepare a draft work plan for its seventh meeting based on these proposals.

J. Cavtat Declaration

43. It was agreed to defer discussion of the Cavtat Declaration until the seventh meeting of the Working Group.

IV. FINANCING OF THE ACTIVITIES OF THE CONVENTION

A. Current funding

44. The secretariat drew the attention of the Working Group to decision II/13 on the budget, noting that not all activities had been undertaken because of a lack of funding. Funding had been voluntary, which required a continuous identification of funds. The secretariat also reported that just enough funds remained to support the participation of representatives from countries in transition and NGOs for the next meetings, until January 2004, but more funds would be needed thereafter.

45. The delegation of Austria informed the Working Group that it would provide financial support for the third meeting of the Parties and for the participation of delegates from countries with economies in transition in meetings and activities under the Convention.

B. Future funding

46. The Chairperson of the Working Group introduced the Bureau's proposals on future funding. The Secretary of the Aarhus Convention, Mr. Jeremy Wates, described funding arrangements under that Convention. The Bureau's proposal included the following elements:

(a) Non-mandatory contributions would be provided by Parties, and non-Parties, to a general fund (the Local Technical Fund) for the funding of core activities agreed by the Meeting of the Parties. Commitments to make such contributions would be declared at the meetings of the Parties. The contributions would be based on the 'purchase of shares' at the time of the meetings of the Parties; one 'share' would equal a contribution of US\$ 1000. Contributions could be financial contributions or contributions in kind;

(b) Once core activities had been fully funded, additional contributions provided by Parties, and non-Parties, would be used for the voluntary funding of non-core activities in the work plan as agreed by the Meeting of the Parties;

(c) Voluntary funding by Parties, and non-Parties, as the funds became available in the period between the meetings of the Parties would be used for non-core activities.

47. The first two types of funding would create clarity and predictability in the budgeting process, whereas the third type could generate welcome additional resources for the Convention.

48. Financial contributions for core activities would include funding for travel arrangements to

secure the attendance of eligible delegations and for supporting the secretariat at meetings related to core activities and general meetings under the Convention (Working Group, Meeting of the Parties). Activities that did not receive funding at the meeting of the Parties would be considered non-core activities, for which the Bureau together with the secretariat would be requested to identify additional funding.

49. The Working Group discussed the financing proposal of the Bureau and Mr. Wates's presentation. It supported the Bureau's proposal. Some delegations expressed a wish to earmark some funding.

50. The Working Group expressed the need for work plans for both the Convention and the Protocol with a clear identification of the costs involved before asking for pledges, to the extent possible. It was understood that the next version of the work plan would need to include prioritized activities.

51. It was agreed that the Bureau would prepare a draft decision taking into account the comments made for finalization at the next meeting of the Working Group.

C. Financing of representatives from countries in transition and NGOs

52. The secretariat reported on the Committee on Environmental Policy's updated criteria for determining the eligibility of representatives from countries in transition and NGOs for financial support for participation in meetings and in activities in the work plan. It was agreed to continue such an approach. The Bureau would present a draft decision on this matter at the seventh meeting of the Working Group.

V. ORGANIZATIONAL ASPECTS OF THE THIRD MEETING OF THE PARTIES

53. Mr. Nenad Mikulic (Croatia), Chairperson of the Meeting of the Parties, reported on the preparations for the third meeting of the Parties, presented a draft agenda, noted the invitation to stakeholders to display posters at the meeting, and described the budget. He reported that Croatia had invited support from donor countries and noted that funding commitments should be identified at the latest during the next meeting of the Working Group.

54. The delegations of Austria and the United Kingdom indicated that they would contribute to the third meeting of the Parties. Other delegations which considered possible support included: Belgium, Canada, Czech Republic, Finland, France, Germany, Italy, Netherlands, Norway, Spain, Sweden and Switzerland, as well as the Commission of the European Communities.

55. The Chairperson of the Meeting of the Parties also reported that invitations to the third meeting of the Parties would be sent to interested countries outside the UNECE region, specifically the Islamic Republic of Iran, some North African countries within the United Nations Environment Programme's Mediterranean Action Plan, South Africa and some countries represented in the Mekong River Commission.

VI. ACTIVITIES FOR PROMOTING THE IMPLEMENTATION AND RATIFICATION OF THE CONVENTION

A. Status of ratification

56. The secretariat reported that 40 Parties had now ratified, acceded to, approved or accepted the Convention. The delegations of Bosnia and Herzegovina and of Serbia and Montenegro reported on progress to become Parties, with their accession expected by the end of 2004.

B. Amendment of the Convention as adopted at the second meeting of the Parties

57. The secretariat informed the Working Group that two Parties (Germany and Luxembourg) had ratified the amendment to the Convention

VII. CLOSING OF THE MEETING

58. The Chairperson summarized the discussions and the main decisions taken by the Working Group and thanked the delegations for a productive meeting. The Working Group requested the Bureau to finalize the report, with the assistance of the secretariat, for consideration at its seventh meeting.

ANNEX

PROPOSALS ON STRENGTHENING COOPERATION WITH OTHER ECE CONVENTIONS

Proposals for the work plan (2004-2007)

- (i) Recognizing article 4, paragraph 4, of the Convention on the Transboundary Effects of Industrial Accidents, which makes reference to the EIA Convention, it is proposed that this link between the two conventions should be further investigated by a small joint group under the two conventions. The small joint group is expected to prepare a paper on this issue, including possible proposals for further cooperation, to be presented to the Parties to each of the conventions.
- (ii) As the Implementation Committee under the EIA Convention is largely based on the experience within the Convention on Long-range Transboundary Air Pollution, it is proposed to encourage a further exchange of information and cooperation between the Implementation Committees of the both conventions.
- (iii) It is noted that guidance on public participation in a transboundary context is being drawn up under the EIA Convention. It is therefore proposed to consider further links with the Aarhus Convention at a later stage.

Proposals for the secretariat

- (iv) It is recognized that there are legal and substantial linkages between the Convention on the Protection and Use of Transboundary Watercourses and International Lakes and the EIA Convention. It is therefore proposed that the secretariats under these two conventions exchange information in order to identify issues for further joint activities between them to be presented to their respective Bureaux.
- (v) Impact assessment has cross-cutting implications for other UNECE conventions. It is therefore proposed that the secretariat arrange for EIA to be added to the list of items to be addressed in the regular joint Bureaux meetings. This should allow for the identification of further interlinkages through meetings involving experts from all the conventions, thus enhancing the effectiveness of the exercise.

Proposals for the Bureau

- (vi) One example of the interlinkages is the synergy between the Convention on Long-range Transboundary Air Pollution and the EIA Convention, particularly on modelling techniques, relevant data and any appropriate results of scientific research and development. It is suggested that the two Bureaux discuss the exchange of information between the two conventions on these issues.