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

Implementation Committee

Twenty-fourth session
Geneva, 20–23 March 2012

Report of the Implementation Committee on its twenty-fourth session

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I. Introduction

1. The twenty-fourth session of the Implementation Committee under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the Protocol on Strategic Environmental Assessment (Protocol on SEA) was held from 20 to 23 March 2012 in Geneva.

A. Attendance

2. The following members of the Implementation Committee for Convention and Protocol matters attended the session: Ms. E. Grigoryan (Armenia); Mr. I. Alekperov replacing Mr. R. Sattarzada (Azerbaijan) at this session; Ms. S. Dimitrova who had been appointed by the Government of Bulgaria on 13 March 2012 to replace Ms. N. Stoyanova (Bulgaria); Mr. M. Prieur (France); Ms. T. Plesco (Republic of Moldova); Mr. J. Brun (Norway); Mr. J. Jendroška (Poland); Mr. F. Zaharia (Romania); Ms. L. Papajová Majeská (Slovakia); Ms. V. Kolar-Planinšic (Slovenia); and Ms. L. A. Hernando (Spain).

3. The session was attended by delegations from Belarus and Lithuania during the Committee's consideration of a submission by Lithuania (see section II.A below); by delegations from Armenia and Azerbaijan during the Committee's consideration of a submission by Azerbaijan (section II.B); and by a delegation from Albania during the Committee's consideration of its initiative on Albania (section III.B).

4. The Committee noted an error in the report of the Committee's last session regarding the participation of Ms. Hernando who had indeed been present.

B. Organizational matters

5. The Chair of the Implementation Committee, Ms. Kolar-Planinšic, opened the session. The Committee adopted its agenda (ECE/MP.EIA/IC/2012/1). The Committee member nominated by Armenia stated that Armenia did not accept the submission by Azerbaijan in its regard and that it did not agree with its inclusion on the Committee's agenda. Armenia considered that it had no obligations regarding Azerbaijan but, out of good will, it would be willing to discuss the matter of the submission with the Committee and the secretariat.

6. With a view to making the best use of the substantial expertise of all of its members, the Committee agreed on the following rule regarding participation at its sessions:

A Committee member elected for Protocol matters only, but representing a Party to both the Convention and the Protocol, may participate in the consideration of an issue relating to compliance with the Convention, provided that there is no objection by a Committee member elected for Convention matters. A Committee member elected for Protocol matters only should not take part in decision-making concerning Convention matters and should not act as curator for an issue relating to compliance with the Convention, but might provide information, opinions and advice. This rule should be applied *mutatis mutandis* in the case of a Committee member elected for Convention matters only, but representing a Party to both the Convention and the Protocol. Further, this rule should be applied without prejudice to paragraphs 10 (entitlement to participate) and 12 (competence) of the structure and functions of the Committee and procedures for review of compliance, and without prejudice to the Committee's operating rules 5 (members) and 18 and 19 (decision-making).

The Committee decided to apply the rule starting from the current session. To ensure transparency, the Committee agreed that the approach would be shared with the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment at its first session (24–26 April 2012).

II. Submissions

7. Discussions concerning submissions were not open to observers, according to rule 17, paragraph 1, of the Committee's operating rules.

8. The Committee recalled that on 23 June 2011 the Meetings of the Parties had revised operating rule 16, paragraph 4, to read: "A submission and any reply to the submission should be made available through the Convention website within one month of receipt". In accordance with the wish of the Parties to ensure transparency and timely availability of information, the Committee decided that the revised rule should apply to all the open submissions currently under consideration by the Committee.

A. Belarus

9. Further to its twenty-third session, the Committee considered the submission by Lithuania, received on 16 June 2011, regarding its concerns about compliance by Belarus with its obligations under the Convention. The Committee also considered a reply by the Government of Belarus to the submission, dated 22 September 2011 and its English translation, dated 3 October 2011, and information provided by Lithuania on 5 December 2011 and its written responses to the Committee's questions dated 6 March 2012. The Committee welcomed the delegations of Lithuania and Belarus, and invited them to describe the submission and the reply, respectively. The Committee then questioned the two delegations.

10. The Committee agreed to consider the matter further and to prepare its draft findings and recommendations at its next session (11–13 September 2012). The Committee decided to request Belarus to provide its responses to the Committee's questions of 27 January 2012 in writing by 15 June 2012.

B. Armenia

11. Further to its twenty-third session, the Committee considered the submission by Azerbaijan, received on 5 May 2011, regarding its concerns about Armenia's compliance with its obligations under the Convention. The Committee also considered a reply by the Government of Armenia to the submission, dated 2 August 2011, information provided at the Committee's twenty-third session and responses provided by the Governments of both Parties to the Committee's questions on 20 February 2012. The Committee welcomed the delegations of Azerbaijan and Armenia and invited them to describe the submission and the reply, respectively. The Committee then questioned the two delegations.

12. The Committee agreed to finalize its findings and recommendations at its next session, taking into account representations received from the two Parties. It also agreed that, for the finalization of its findings and recommendations, it was necessary for it to assess how Armenia and Azerbaijan intended to continue the transboundary environmental impact assessment (EIA) procedure with respect to the construction of the nuclear power plant unit in Metsamor. To that end, it invited the Chair to write to both Parties to request that that information be submitted to the secretariat, together with their representations on the draft findings and recommendations, by 15 August 2012.

13. The findings and recommendations would be provided as an annex to the report of the Committee's next session and referred to in the draft decision on the review of compliance to be submitted to the Meeting of the Parties for its consideration at its sixth session in 2014. Any recommendations would also be included in the draft decision itself.

C. Azerbaijan

14. Further to its twenty-third session, the Committee began its consideration of the submission by Armenia, received on 31 August 2011, expressing concerns regarding six named oil and gas projects developed in Azerbaijan. The Committee also considered a reply by the Government of Azerbaijan to the submission, received on 29 November 2011. It agreed that, for further consideration of the submission, it needed to receive the following additional information from the two Parties:

(a) More detailed information from Armenia concerning its submission, including, notably, the possible transboundary environmental impact of each of the six projects;

(b) All relevant information from Azerbaijan concerning the EIA procedure and decision-making for each of those projects.

15. In line with paragraph 9 of the structure and functions of the Committee, the Committee agreed to invite the two Parties to its twenty-sixth session (26–28 November 2012), where it would continue its consideration of the submission taking into account the further information to be provided by the two Parties by 15 June 2012. The Committee would start by considering the submission in a closed session. It would then invite brief presentations by the concerned Parties (not exceeding 20 minutes each) and ask them questions. Finally, the Committee would consider the submission again in a closed session but would request each delegation to be available for one hour in case it had additional questions. The two Parties should be invited to provide the secretariat with the names of their respective delegates as soon as possible, in order to facilitate access to the Palais des Nations. Azerbaijan, as the Party whose compliance was in question, should also be asked whether it would be willing to accept the presence of observers at the hearing.

16. The Committee asked the Chair to send letters to the two Parties to that effect. In the letters, the two Parties should also be reminded of rule 11, paragraphs 1 to 3, of the operating rules regarding the procedure for submissions.

D. General observation

17. When meeting in a closed session to discuss the submission by Azerbaijan regarding Armenia, (i.e., in the absence of the members nominated by Armenia and Azerbaijan), the Committee agreed more generally that Parties to the Convention and the Protocol should be reminded that the obligation in article 3 of the Convention and article 10 in the Protocol to notify potentially affected Parties rested solely with the Party of origin. If, under exceptional circumstances, the Party of origin sought the assistance of an intermediary in fulfilling its obligations in that respect, it would retain responsibility for any actions or omissions of the intermediary in that regard. The Committee noted, however, that article 13 of the Convention and article 17 of the Protocol could not be interpreted as providing an obligation on the secretariat to act as an intermediary in the procedures set out in the Convention and the Protocol, respectively.

III. Committee initiative

A. Azerbaijan

18. The Committee took note of the information provided by the secretariat based on a note by the Organization of Security and Cooperation in Europe (OSCE) Office in Baku regarding the implementation of the project to provide technical assistance to Azerbaijan for the review of its legislation and a draft law on EIA.

19. The Committee invited the secretariat to transmit to Committee members the report, with recommendations for further strengthening Azerbaijan's capacity to implement and comply fully with its obligations under the Convention, for consideration at the Committee's next session.

B. Albania

20. Further to its twenty-third session, and to paragraph 6 of the Committee's structure and functions, the Committee considered its initiative on Albania, following Albania's failure to report on the implementation of the Convention in the period from 2006 to 2009. The Committee welcomed the delegation of Albania, took note of the statement made and then questioned the delegation.

21. The Committee then prepared draft findings and recommendations. The Committee asked the Chair to send the draft findings and recommendations to Albania, inviting its comments or representations by 30 June 2012, in accordance with paragraph 9 of the description of the Committee's structure and functions.

22. The Committee agreed to finalize its findings and recommendations on the matter at its twenty-sixth session, taking into account any representations received from Albania. The findings and recommendations would be provided as an appendix to the report of the Committee's report of its next session and referred to in the draft decision on the review of compliance to be submitted to the Meeting of the Parties for its consideration at its sixth session in 2014. Any recommendations would also be included in the draft decision itself.

23. The Committee agreed that, if for technical reasons the secretariat was unable to include the Committee's findings and recommendations on any matter as an annex to a session report, the secretariat should without undue delay submit the findings and recommendations as an official document to the Committee's following session.

IV. Review of implementation

A. Revision of the questionnaire

24. The Committee continued its consideration of the revised proposals for the simplification of the questionnaire for the fourth review of the implementation of the Convention and its extension for the first review of the implementation of the Protocol, as presented by the Committee members responsible for overseeing that work.

25. The Committee invited the appointed Committee members to provide it by 30 March 2012 with the strategic environmental assessment (SEA) part of the draft questionnaire, reflecting the comments made by the Committee, and the secretariat to provide it with the EIA part of the draft questionnaire reflecting the comments made. The Committee would then finalize the draft questionnaire by 5 April 2012 for submission to

the Working Group on EIA and SEA for its consideration at its first session. As needed, the Committee would further revise the questionnaire at its twenty-fifth session, taking into account the comments made by the Working Group and the possible comments by the World Health Organization. In line with the recommendations of the Bureau to ease the burden of reporting on Governments, the Committee agreed to propose to the Working Group that the questions on the implementation of the Protocol be circulated to the Parties at the end of October 2012 for them to respond by the end of March 2013. The questions regarding the implementation of the Convention would be sent out two months later, at the end of December 2012, for Parties to respond by the end of May 2013.

B. Specific compliance issues from the Third Review

26. The Committee regretted that it had still not received a response from the Government of Portugal to its letter of September 2011. It invited the secretariat to urge the Government of Portugal to provide its response at its earliest convenience, for the Committee to examine at its subsequent session.

V. Presentation of the main decisions taken and closing of the meeting

27. The Committee decided that it would next meet from 11 to 13 September 2012.

28. Regarding its subsequent sessions, the Committee recalled that the Meetings of the Parties in June 2011 noted an informal schedule of meetings under the Convention in the current intersessional period that included Implementation Committee sessions in March, September and December 2013. It also recalled that the schedule included slots for nine Committee sessions, whereas the budget allowed only for eight sessions. That limit of eight sessions should be taken into account when fixing at each session the dates of the next session, but it would still be best to reserve all three slots in 2013 and then later to cancel one if appropriate.

29. The Committee nevertheless decided to tentatively schedule three meetings for 2013 and one meeting for 2014. The preliminary meeting dates would be as follows: 19–21 March 2013; 10–12 September 2013; 10–12 December 2013; and February 2014.

30. The Committee adopted the draft report of its session, prepared with the support of the secretariat.
