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**Outstanding issues: draft decisions by the Meeting of the Parties
to the Convention: other draft decisions**

**Adoption of decisions: decisions to be taken by the Meeting of
the Parties to the Convention**

Good Practice Recommendations on the Application of the Convention to Nuclear Energy-related Activities

Note by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment

Summary

The present Good Practice Recommendations on the Application of the Convention to Nuclear Energy-related Activities were prepared by consultants to the secretariat under the supervision of an editorial group, further to decision VI/7 of the Meeting of the Parties to the Convention (see ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1), and as foreseen in the workplan for the implementation of the Convention and the Protocol (see ECE/MP.EIA/20/Add.3–ECE/MP.EIA/SEA/4/Add.3, decisions VI/3–II/3, annex I).

The Working Group on Environmental Impact Assessment and Strategic Environmental Assessment revised and agreed on the body of the text at its sixth meeting (Geneva, 7–10 November 2016). As requested by the Working Group, following the meeting, the editorial group integrated into the document a selection of good practice examples provided by Parties. The text of the good practice examples was subsequently reviewed by the Bureau at its meeting in February 2016.

The Meeting of the Parties is expected to agree on the Good Practice Recommendations and to endorse them through its decision VII/6.

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I. Introduction

1. In 2014, at its sixth session (Geneva, 2–5 June 2014), the Meeting of the Parties to the United Nations Economic Commission for Europe (ECE) Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention), through its decisions VI/3¹ and VI/7,² requested the development of good practice recommendations on the application of the Convention to nuclear energy-related activities for consideration at its next session in 2017.

2. The Good Practice Recommendations on the Application of the Convention to Nuclear Energy-related Activities contained herein to describe existing good practice on the application of transboundary environmental impact assessment (EIA) procedures in the field of nuclear energy. Their objective is to facilitate the exchange of information and assist countries in the consistent practical application of the Convention by illustrating good practice and sharing experiences.

3. The present recommendations were prepared by consultants to the Convention secretariat (Environment Agency Austria), under the supervision of an editorial group established by the Meeting of the Parties,³ and taking into account the comments by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment at its fifth and sixth meetings (Geneva, 11–15 April and 7–10 November 2016, respectively).⁴ The Bureau reviewed the good practice examples contained in the present document at its meeting on 23 and 24 February 2017.

4. The recommendations incorporate information and responses to a survey provided by national EIA experts and focal points to the Espoo Convention, in most cases in consultation with national nuclear experts. The survey was designed to gather information and to identify existing good practice, but also challenges and experiences in the application of the Convention to nuclear energy-related activities relating to issues specified in the terms of reference adopted by the Working Group at its fourth meeting (Geneva, 26–28 May, 2015).⁵

5. Furthermore, the recommendations build on existing guidance documents on the application of the Espoo Convention and other relevant material, such as selected opinions of the Implementation Committee. They have also been supplemented with good practice examples provided by countries that illustrate the successful application of the Convention to nuclear energy-related activities. On 3 and 4 August 2016, the editorial group held a meeting in Vienna to complement the information and good practice examples gathered and to further refine the draft text of the recommendations. In early 2017, as requested by the Working Group, the editorial group worked electronically to produce a balanced selection of good practice examples for incorporation in the document. Other examples of existing practices provided by Parties on their application of the Convention to nuclear energy-related activities can be accessed from the Convention website.⁶

¹ See ECE/MP.EIA/20/Add.3–ECE/MP.EIA/SEA/4/Add.3.

² See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

³ The editorial group consisted of one to two representatives from each of the following Parties: Austria, Belarus, Finland, France, Germany, the Netherlands, Poland, Ukraine and the European Union. It also included a representative from the non-governmental organization European ECO Forum, in accordance with the workplan.

⁴ See ECE/MP.EIA/WG.2/2016/2, paras. 47–52, and ECE/MP.EIA/WG.2/2016/4, paras. 42–45.

⁵ See ECE/MP.EIA/WG.2/2015/3.

⁶ Informal document ECE/MP.EIA/2017/INF.6, from <http://www.unece.org/index.php?id=45098#/>.

6. In line with its terms of reference,⁷ the good practice recommendations address the following procedural steps under the Convention: screening; notification; environmental impact assessment documentation; public participation; consultation; examination of the information gathered and final decision; and post-project analysis. The present document covers the above steps in separate sections. Each section contains:

- (a) A description of the relevant provisions of the Convention;
- (b) A summary of approaches reported by respondents that reflect the most common statements and comments provided, but also point to the existence of different views and approaches among Parties to the Convention;
- (c) Good practice examples provided by Parties.⁷ Even if the examples are limited in number, they nevertheless provide valuable insights into the practical experiences with the application of the Convention;
- (d) Good practice recommendations that derive from the corresponding summary of approaches, good practice examples and experiences of the Parties, and which also reflect the relevant decisions of the Meeting of the Parties to the Convention and in some cases the relevant opinions of the Implementation Committee (as referred to in footnotes).

7. The good practice recommendations in this document summarize practice as reported by some Parties. They do not create any obligations and are without prejudice to existing obligations set out in the Convention.

8. The document has been prepared with the financial assistance of Austria, Germany and the European Union in the framework of the “Greening the Economies in the Eastern Neighbourhood” (EaP GREEN) programme. The EaP GREEN programme is coordinated by the Organization for Economic Cooperation and Development and implemented by ECE, the United Nations Environment Programme and the United Nations Industrial Development Organization. The views expressed herein can in no way be taken to reflect the official opinion of the European Union, ECE or the other implementing organizations.

II. Screening

A. Introduction

9. The purpose of screening under the Convention is to determine whether a proposed activity or a major change to an activity listed in appendix I to the Convention is likely to cause a significant adverse transboundary impact. That is, screening will have to determine whether proposed nuclear activities, and also major changes to existing ones, subject to a decision of a competent authority (such as upgrades or extensions), fall under the scope of the Convention. In addition, if the proposed activity is not listed in appendix I, but both the Party of origin and the potential affected Party(ies) agree that it is likely to cause a significant transboundary impact and should be treated as if it were listed, the activity will also fall under the Convention.

⁷ Please note that each of the good practice examples solely reflects the perspective of the country that provided the example, and highlights the practical experience of either the Party of origin or the affected Party.

B. Summarized approaches

10. Most of the national legislation of the Parties to the Convention already fully covers the nuclear energy-related activities and installations listed in paragraphs 2 (b) and 3 of the revised appendix I contained in the second amendment to the Convention.⁸

11. There are no standardized procedures in place for determining whether a proposed nuclear energy-related activity is subject to the Convention, but screening rather depends on the type of nuclear energy-related activities. Some responses refer to criteria such as distance or public perception for determining whether an activity is likely to cause significant transboundary impacts.

12. Licences and time limits for nuclear energy-related activities vary among countries. Some licences are issued with a time limit while others are not, sometimes also depending on the type of activity.

13. Based on their national legislation or practice, some Parties also take into account the likelihood of a significant adverse transboundary impact from accidents beyond the design base when determining the applicability of the Convention.

14. It should be noted that, in one specific case, the Meeting of the Parties endorsed “the findings of the Implementation Committee that the extension of the lifetime of the nuclear power plant, subject of the proceedings, after the initial licence had expired, should be considered as a proposed activity under article 1, paragraph (v), of the Convention”.⁹

C. Good practice examples

Box 1

Screening, Sweden (as Party of origin)

Shutdown and service operations for the Ringhals Nuclear Power Plant reactors I and II

Sweden considered that the shutdown and service operations for two of the four reactors at the Ringhals nuclear power plant (NPP) did not entail any significant transboundary environmental impacts. However, Sweden decided in December 2015 to inform the nearest countries, Denmark and Norway, of the process that had been initiated in relation to the EIA. As part of the information, Sweden enclosed the same background information that had been sent to its Government agencies and made publicly available in Sweden.

⁸ ECE/MP.EIA/6, annex VII, appendix.

⁹ ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1, decision VI/2, para. 68.

Box 2

Screening, Germany (as Party of origin)*Nuclear power plant Isar-1 (decommissioning)*

In the as of yet uncompleted approval procedure for the decommissioning of the Isar-1 NPP, Germany and the European Commission in their evaluation came to the conclusion that the project did not have significant adverse transboundary impacts. Austria nevertheless requested to be notified, and, on the basis of the documents provided to it, requested to participate in the environmental impact assessment regarding the project. The authorities designated by Austria and the Austrian public were subsequently involved in the EIA process as of 2014. Austrian representatives attended a public hearing held on 22 July 2014. In addition, a separate meeting for consultations with the Austrian authorities was organized on 4 November 2014.

D. Good practice recommendations

15. **Major change.** The criteria and considerations for identifying a “major change” to nuclear energy-related activities are to be determined on a case-by-case basis.

16. **Early information builds trust.** Given the nature of nuclear energy-related activities (involving the potentially wide scope of severe impacts, great public concern and national interests) it could be considered good practice if a Party of origin informed potentially affected Parties about its screening procedures through formal or informal exchange of information at an early stage, potentially giving a possibility to comment.

17. **Consideration of the risk of major accidents.** Parties of origin are invited to consider the risk of major accidents and/or disasters which are relevant to the project when determining the likelihood of significant transboundary impacts.

18. **Upgrade works during the life cycle.** If upgrade works during the life cycle are planned, Parties are to be aware that these works may fall under “major change” causing significant transboundary impacts.

19. **Exchange of experiences.** The exchange of experiences among Parties on screening procedures in a transboundary procedure has proven to be beneficial.

III. Notification**A. Introduction**

20. Notification requires the determination of the potentially affected Parties to be notified under the Convention. For a proposed nuclear energy-related activity listed in appendix I that is likely to cause a significant adverse transboundary impact, the Party of origin is required, for the purposes of ensuring adequate and effective consultations under article 5, to notify any Party which it considers may be an affected Party as early as possible and no later than when informing its own public about that proposed activity.

21. Regarding the content of the notification, article 3 of the Convention lists: (a) information on the proposed activity, including any available information on its possible transboundary impact; (b) the nature of the possible decision; and (c) an indication of a

reasonable time within which a response is required, taking into account the nature of the proposed activity.

B. Summarized approaches

22. Parties of origin apply different criteria to determine the potentially affected Parties from nuclear energy-related activities. Some Parties choose, for example, criteria based on the normal operation of a planned installation, while some other Parties consider also design base and beyond design base accidents. In addition to official notifications, Parties of origin sometimes also informally inform a broader range of Parties not necessarily potentially affected about proposed nuclear energy-related activities. Parties that consider themselves as potentially affected sometimes proactively request to be notified of a project when significant adverse impacts cannot be excluded from their point of view.

23. In accordance with the obligation to notify any potentially affected Party as early as possible, several Parties of origin inform the potentially affected Parties at the scoping stage, allowing them to take part in the scoping procedure.

24. Apart from the technical characteristics of the proposed activity and information on its possible transboundary impact, information about the Party of origin's permitting system and decision-making procedure is often regarded as particularly helpful in facilitating the notification process.

25. The time frames for affected Parties within which they should respond whether they intend to participate in the transboundary EIA procedure mostly vary between one to three months, also depending on the nature of the proposed nuclear activity. In practice, the competent authorities of several Parties of origin are willing to extend the deadlines specified in the notification, if requested by the affected Party.

26. In case of differing national languages between the Party of origin and the affected Party, notifications are mostly sent in English, while some countries are also notified in Russian. The material intended for the affected Party's public (especially the non-technical summary) is mostly translated into the respective national language.

27. Several Parties have bilateral agreements in place, which determine in advance specific forms (e.g., adjusted template) to be used for notification, i.e., specifying issues such as required contents, time frames, language and translation, or mechanisms to enable equal treatment of the public in both countries.

C. Good practice examples

Box 3

Notification, Poland (as Party of origin)

First nuclear power plant in Poland

The transboundary EIA procedure with respect to the planned construction of the first NPP in Poland was initiated in 2015. At the scoping stage, immediately after the receipt of the relevant information from the developer, Poland sent 13 official notifications (to its neighbours, the Baltic Sea region countries and, as a result of an SEA for the Polish NPP Programme, to Austria) in three languages (English, as a lingua franca, and German and Lithuanian owing to requirements in the respective bilateral agreements). In addition to the official notifications, Poland informed 13 further countries located up to 1,000 kilometres from the potential site of the NPP (corresponding to the distance of a possible impact in case of an accident beyond the design basis). All the 13 officially notified countries indicated their wish to take part in the EIA procedure as affected Parties, and two of the informally informed countries asked for an official notification. As a result, 15 countries were notified and commented on the scope of the EIA report (almost all Parties responded within the given time frame).

The early involvement of the affected Parties and also the provision of information to a broader range of Parties have advantages that can facilitate the entire procedure. First of all, early involvement of the affected Parties makes it possible to establish effective and optimal time frames and costs for the EIA procedure, and prevents late participation of affected Parties on request (at the final stage of EIA). Broad input from affected Parties at the scoping stage helps developing adequate and comprehensive EIA documentation based on exhaustive analyses and investigations. Moreover, early and broad involvement of the affected Parties helps to achieve a high degree of transparency of the procedure.

Box 4

Notification, Austria (as affected Party)

Hungary Paks II nuclear power plant

Notification was carried out at the beginning of the EIA procedure in 2015 for the construction of two new nuclear units at the Paks NPP. Hungary notified Austria in the scoping phase. Hungary sent Austria the necessary information on the scoping procedure (e.g., duration of the public participation in Hungary) in order to give the Austrian public equivalent possibilities to participate. The scoping document was translated into German by Hungary. Hungary prolonged the time limit for Austria to deliver its comments. The communication between the Parties was carried out electronically, and the related information was provided on websites and in paper form.

From the Austrian point of view, the early notification allowed Austria to voice its concerns and request information to be considered in the environmental documentation in due time. The information regarding the scoping procedure given

by Hungary and the translation of the document by the Hungarian Party enabled Austria to initiate the public participation procedure without delay. Hungary was flexible and supportive regarding time limits for sending Austrian comments. The cooperation was efficient also owing to the use of electronic means.

D. Good practice recommendations

28. **Wide notification.** Given the great public concern and national interests involved when it comes to nuclear energy-related activities, a wide notification, i.e., beyond neighbouring Parties, could prevent later misunderstandings and potential disputes. In this context, willingness to involve Parties that were at first not notified but proactively requested notification in accordance with article 3, paragraph 7, of the Convention could prevent potential disagreements later on.¹⁰

29. **Responsibilities associated with the notification.** Information on the project has to be provided in sufficient quality in order to help the affected Party to decide whether it wishes to participate in the transboundary procedure. The translation of the notification documentation by the Party of origin into the language of the affected Party should be provided beforehand; this supports the initiation of the participation procedure and helps to keep it within the given time frames. If no previous cooperation in applying the Convention exists between the Party of origin and the affected Party, the practicalities connected with notification (e.g., the length and timing of the public hearing and the languages — bilingual or trilingual — used by the affected Party) should be agreed in advance between the points of contact for notification.

30. **Early notification.** In accordance with article 3, paragraph 1, of the Convention affected Parties must be notified as early as possible, and no later than when the Party of origin's own public is informed about the proposed activity. Notification might otherwise come too late to influence key aspects of the documentation, and therefore not meet the needs of the affected Parties.¹¹ Informal contacts in advance of the official notification could also facilitate the later procedures (provided that, to avoid misunderstandings, it is made clear whether these contacts represent a formal notification or an informal prior information notice). Moreover, it would be useful for the affected Party to be informed whether and when the Party of origin's public is informed.

31. **Reasonable time frame.** It is recommended to provide affected Parties with reasonable time frames to respond to a notification (i.e., to indicate whether they intend to participate in the transboundary EIA procedure) that also take into account different forms of administrative structures in the Parties, such as federal structures. This could assure an adequate involvement of all national and subnational authorities.¹²

32. **Timely response.** It is recommended that affected Parties respond as early as possible within the time frame specified by the Party of origin, so as to allow the Party of

¹⁰ See also relevant opinions of the Implementation Committee: MP.EIA/WG.1/2003/3, para. 8; and ECE/MP.EIA/WG.1/2006/4, paras. 13 (a)-(d), ECE/MP.EIA/WG.1/2007/3, para. 13, and ECE/MP.EIA/WG.1/2007/4, para. 28 (cf. decision IV/2, annex III).

¹¹ See also opinions of the Implementation Committee: ECE/MP.EIA/WG.1/2006/4, paras. 13 (a)-(d), ECE/MP.EIA/WG.1/2007/3, para. 13, and ECE/MP.EIA/WG.1/2007/4, para. 28 (cf. decision IV/2, annex III).

¹² See Implementation Committee's opinions referred to in footnote 11 above; see also decision V/4, para.7 and ECE/MP.EIA/IC/2010/2, para. 20.

origin to proceed with the next steps. A swift response is particularly recommended if the affected Party has already been accorded an extended time frame to respond.¹³

33. **Information about the Party of origin's permitting system and decision-making procedure.** Aside from the information specified in article 3, paragraph 2, the notification could already include preliminary time frames for subsequent steps in the transboundary EIA procedure (e.g., using the format for notification available on the Convention website)¹⁴ to allow the affected Party to prepare for the necessary steps. Information on the national development consent procedures following the EIA procedure could be given, explaining in particular how the outcome of the EIA will be taken into account in the subsequent procedures and, respectively, the final decision.

34. **Availability of documents.** The information could be provided through a range of means, including at least electronically. Large data sets should be placed on existing websites providing that their respective link is accurately described. These websites should not be changed during the commenting period without informing the notified Parties about any modifications to the web links.¹⁵

35. **Bilateral agreements.** Parties, in particular neighbouring countries, could develop bilateral agreements to facilitate the implementation of their obligations under the Convention, including regarding the notification procedure, which could also cover nuclear energy-related activities. Such agreements may address, for example, the timing of notification, the means and language of communication, the format and contents of the notification and the time frames for the response (decision whether to participate in the transboundary procedure).¹⁶

36. **Point of contact.** The notification should always be sent (at least in copy) to the point of contact for notification in the affected Party¹⁷ unless otherwise provided for in bilateral or multilateral agreements. In case of changes in the contact details for its point of contact and/or focal point, the Party should also inform the Convention secretariat about these changes.

IV. Environmental impact assessment documentation

A. Introduction

37. The environmental impact assessment documentation to be submitted to the competent authority of the Party of origin must contain, as a minimum, the information described in appendix II to the Convention. The Party of origin is required to provide the affected Party (in cases where one exists through a joint body) with the environmental impact assessment documentation. The concerned Parties arrange for distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be

¹³ See footnote 11 above.

¹⁴ <http://www.unece.org/env/eia/notification.html>.

¹⁵ See footnote 11 above, decision V/4, para. 8 (a), cf. ECE/MP.EIA/IC/2010/2, para. 43, and ECE/MP.EIA/IC/2012/6, annex I, para. 33.

¹⁶ See the Implementation Committee's opinions referred to in footnote 11 above; and ECE/MP.EIA/IC/2009/2, para. 24, ECE/MP.EIA/2011/4, para. 47, ECE/MP.EIA/IC/2010/2, paras. 21 and 43, and ECE/MP.EIA/IC/2010/4, para. 29.

¹⁷ A list of points of contact for notification nominated in accordance with decision I/3 (see ECE/MP.EIA/2, annex III) is available at: http://www.unece.org/env/eia/points_of_contact.html. See also relevant opinions of the Implementation Committee, referred to in footnotes 11 and 15 above.

affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity.

B. Summarized approaches

38. Concerning the level of detail of the EIA documentation that would allow for a good understanding of its contents, several Parties highlight the usefulness of carrying out a scoping procedure with early participation of the affected Parties, or at least including scoping documents in the notification and a comprehensible non-technical summary. In general, affected Parties require information to be detailed enough to be able to assess the potential significant transboundary impacts.

39. Some Parties indicate that the EIA documentation should address specific issues, such as the assessment of the likelihood and impacts of design base accidents, and sometimes also beyond design base accident scenarios; the evaluation of and prevention and mitigation measures for transboundary impacts during normal operation of a nuclear power plant; and information about safety procedures in cases of accidents. Safety aspects to protect human health and the environment are commonly regarded to be one of the most important and the most discussed issues in relation to nuclear energy-related activities.

40. In accordance with article 4 and appendix II to the Convention Parties also include in the EIA documentation a description of alternative scenarios and provide in detail reasonable alternatives, for example in terms of location and technology, to the proposed activity, considering also the no-action alternative. Alternative means of energy production or balancing demand and supply are national issues of the Party of origin and are therefore more adequately addressed at the political and strategic level.

41. Due to Parties' differing legislation and practice regarding the relevant procedural stage for the EIA, the timing of the preparation of the EIA documentation varies among countries. In this respect, ensuring in parallel an early notification and an adequate level of technical detail in the accompanying EIA documentation remains challenging.

42. For the proper dissemination of the EIA documentation to the affected Party's public, mostly electronic formats, including web pages, are used, although some Parties also provide hard copies in addition.

C. Good practice examples

Box 5

EIA documentation, Finland (as Party of origin)

Fennovoima Nuclear Power Plant (2014)

In 2014, the EIA report of Finland regarding the Fennovoima NPP dealt also with safety issues, including severe accidents which fall under the International Nuclear Event Scale (INES) levels 6 or 7 with a significant "source term" (i.e., the release to the atmosphere of radioactive matter). Finland submitted in addition a supplementary report with more detailed information as part of the EIA documentation material.

Box 6

EIA documentation, Slovakia (as Party of origin)*New Jaslovské Bohunice Nuclear Power Plant*

Slovakia notified Austria about the planned construction of a new NPP in Jaslovské Bohunice. Austria participated in the respective transboundary EIA procedure from March 2014 until June 2016. The EIA report was issued in August 2015. In addition to all the basic information about the project, the site, the current environment, etc., the report also contained an assessment of the transboundary radiological impacts of the operation of the new NPP for both normal operation and under accident conditions. The inclusion in the documentation of an assessment of the project's impacts in case of a severe accident was much appreciated by the Austrian public, since this addressed an important safety issue of concern to it. The Slovakian authority issued the final EIA statement on the NPP in April 2016.

D. Good practice recommendations

43. **Provision of preliminary information in the scoping documents.** Carrying out a scoping procedure with the early participation of the affected Party or Parties, and/or including scoping documents in the notification, could facilitate the good understanding of the contents of the EIA documentation and consequently simplify the consultation procedures.¹⁸

44. **Comprehensible non-technical summary.** Since the non-technical summary is a key element for informing the public, its content should be drafted in clear, simple, i.e., non-technical, language¹⁹ and provided as a separate document or at least as a separate chapter of the EIA documentation.

45. **Translation of documentation.** It is recommended that, as a minimum, the non-technical summary and those parts of the EIA documentation that are necessary to provide an opportunity to the public of the affected Party to participate (e.g., transboundary impacts) are translated into the national language of the affected Party (principle of equivalence²⁰ and polluter pays principle).²¹ In case of more than one national language, the concerned Parties should agree into which language the documentation should be translated, giving preference to one which is used in both Parties.

46. **Details about the reactor type.** The EIA documentation should contain details about the reactor type or, if not possible at that stage, a sufficient level of information on all reactor types under consideration.

¹⁸ See also ECE/MP.EIA/2011/4, ECE/MP.EIA/WG.1/2006/4, para. 18, decision IV/2, annex III, para. 29, and ECE/MP.EIA/IC/2009/4, para. 26.

¹⁹ See also ECE/MP.EIA/IC/2009/2, para. 16.

²⁰ Article 2, paragraph 6, of the Convention.

²¹ See also decision V/4, para. 6 (c), cf. ECE/MP.EIA/IC/2010/2, para. 35, and ECE/MP.EIA/IC/2010/4, paras. 19 (c) and 20; and ECE/MP.EIA/IC/2010/2, para. 35; and decision V/4, para. 6 (f), cf. ECE/MP.EIA/IC/2010/2, para. 35.

47. **Relevant information.** The EIA documentation should identify and assess all impacts of a nuclear energy-related activity throughout the whole life cycle, taking also into consideration its impacts on climate and risks.²²

48. **Descriptions of alternatives.** Alternatives regarding the location and technology of the proposed activity and also the no-action alternative should be described in a comparable and transparent manner.²³

49. **Risk and accidents.** In order to assess the transboundary impact of the proposed activity on the environment, including on human health and safety, it is recommended to use any relevant information available such as, for example, information obtained through a risk assessment carried out pursuant to other relevant assessment procedures in line with the national legislation and/or regulatory requirements or obtained through other reliable and significant sources.

V. Public participation

A. Introduction

50. Under the Convention, the public of the affected Party has the right to make comments on and to express objections to proposed activities (art. 3, para. 8, and art. 4, para. 2). The Parties concerned need to ensure that opportunities provided to the public of the affected Party are equivalent to those of the Party of origin (art. 2, para. 6).

B. Summarized approaches

51. For most Parties to the Convention, the environment ministries are the competent authorities for coordinating transboundary assessment procedures and ensuring that authorities and the public in the areas likely to be affected are provided with possibilities to comment on the proposed activities.

52. The developer of nuclear-related activities is mostly referred to as being responsible for the preparation of the EIA documentation and for contributing to the organization of public participation procedures by the public authorities. Depending on the countries, the developer may also be in charge of co-organizing the public hearing with the public authorities, including the related translation and interpretation services, and the evaluation of the comments received during the procedure.

53. With respect to the start and stages of public participation in the transboundary EIA procedures, most Parties of origin in practice involve the public from the notification stage onwards. In several countries the public is generally kept informed about the process. The relevant information from a Party of origin is also shared with the public in affected Parties.

54. When notifying their affected public, the authorities of the Parties of origin and affected Parties already rely strongly on digital communication and dissemination, although in many countries the (additional) use of printed media, such as newspapers, official bulletins or billposting at the project location, are still a standard.

²² See part A of the Geneva Declaration (see ECE/MP.EIA/20.Add.3–ECE/MP.EIA/SEA/4.Add.3), adopted by the Meeting of the Parties to the Convention at its sixth session (Geneva, 2–5 June 2014).

²³ See also ECE/MP.EIA/IC/2009/2, para. 39, ECE/MP.EIA/IC/2010/2, para. 33, and ECE/MP.EIA/IC/2013/2, annex, para. 54.

55. Among affected Parties, approaches vary on how their public's comments reach the Party of origin: some competent authorities collect the comments and submit them with their own comments to the Party of origin; and in other affected Parties the public is free to send comments directly to the Party of origin, for which purpose it is useful to indicate an official office e-mail address in the notification.

56. For some Parties, English or Russian is used as the lingua franca into which at least the non-technical summary is translated, but several Parties of origin also offer translation of additional parts of the documentation and/or translation into the language of the affected Party for informing the public. Apart from a few exceptions, translation costs are normally borne by the competent authorities or the project developer in the Party of origin according to the polluter pays principle.

57. For affected Parties, translation of documents in good quality is essential, together with sound (simultaneous) interpreting services during public meetings, even though it sometimes remains difficult to ensure them both. Inadequate translation is often attributed to the technical nature of the terminology involved, but also to a lack of resources (in the Party of origin).

58. The time frame during which comments are collected after the publication of the related notice for the public to comment varies significantly — from two weeks to three months — among Parties, and sometimes also within the same country for different activities.

59. Public hearings are widely seen as the most appropriate format for public engagement, since the bulk of the comments from the public can be addressed through a direct exchange. The comments provided during the hearings are usually documented in the minutes. These minutes, or a summary of the public comments received during the EIA procedure, are either included in the EIA report and/or the competent authority's official EIA statement, in the EIA documentation, or made available separately on the website of the competent authorities.

60. In general, the most common issues of concern and high interest for the public are human health and safety, particularly in the case of an accident. Another frequent issue of public concern is the quality of the documentation (e.g., its translation or its overly technical contents).

61. Key elements of a good public participation process from the affected Parties' point of view, include: (a) early information about the project; (b) clear and transparent EIA documentation and a proper translation of its relevant parts into the language of the affected Party; (c) online availability of the documentation; (d) a sufficient time frame for commenting by the affected public; (e) sufficient opportunities to participate in public hearings in the territory of the Party of origin and/or the affected Party; (f) an informative presentation of the activity and its transboundary impacts during the public hearing, together with high quality interpretation services; and, lastly (g) the subsequent feedback from the Party of origin on how the comments by the public have been taken into account.

C. Good practice examples

Box 7

Public participation, Hungary (as Party of origin)

Paks II Nuclear Power Plant

At the beginning of the EIA procedure for the construction of two new nuclear units of the Paks NPP, in 2015, Hungary notified all those countries that had indicated their interest in participating in the EIA procedure during the preliminary consultation of 2013. In 2015-2016, Hungary carried out a transboundary EIA with nine countries (Austria, Croatia, Czechia, Germany, Serbia, Slovenia, Slovakia, Romania and Ukraine). The full EIA documentation was made available in the Hungarian and English languages. Moreover, its chapter on transboundary effects and the non-technical summary were translated into the Croatian, Czech, Romanian, German, Serbian, Slovak, Slovenian and Ukrainian languages as well. All translations were arranged by the proponent, and the full documentation was made available online during the entire procedure. Hungary organized public hearings in the territory of all the affected Parties, as required, without limiting them in any sense. Indeed, if an affected Party so required, Hungary organized up to three public hearings in three different cities (in Romania), or a two-day-long public hearing (in Germany). Public hearings started after the usual working hours in the afternoons to increase the participation. A dedicated e-mail address was introduced to receive transboundary comments in the procedure in order to offer transparency and equal opportunities to the public of all participating Parties.

Box 8

Public participation, Bulgaria (as Party of origin)

Kozloduy Nuclear Power Plant

In Bulgaria, public participation consists of public hearings and oral and written possibilities for statements and views on the EIA documentation. Its timing and the duration respect a reasonable time frame that is agreed with the affected Party. Translation-related issues, including which documents or parts of documents to translate and which languages to translate them into, and quality assurance of the translations are agreed with the affected Party. The documentation on the outcomes, reports or minutes of the public hearings to be made available after the procedure are agreed with the affected Party. The competent authorities both in the Party of origin and in the affected Party and the developer take part in the organization and the conduct of the public participation procedure. Bulgaria considers as good practice the public consultations and hearings conducted in Romania organized with the Romanian Ministry of Environment, Waters and Forests with respect to EIA procedures for the following planned activities:

- (a) “Facility for Treatment and Conditioning of Radioactive Waste with a High Volume Reduction Factor at Kozloduy Nuclear Power Plant Facility (HVRF)”: the public hearing was conducted in the town of Bechet, Romania, on 15 October 2013;

(b) “Construction of new nuclear power of the latest generation of NPP, Kozloduy of Site 2”: the public hearings were conducted in the towns of Dabuleni, Craiova and Bucharest, Romania, on 18, 19 and 20 November 2014, respectively.

D. Good practice recommendations

62. **Early and timely public information.** Early and timely information about a project, when all options are open, allows for the effective involvement of the public in the EIA process.

63. **Organization of public participation for affected Parties.** The Parties of origin should provide the affected Parties with all relevant information in a timely manner to allow for the organization of public participation (e.g., making information available on the Internet or through the authorities, organizing public hearings, etc.). Sufficient time for the organization of participation before the public participation starts, but also for the follow-up to the public participation procedures (e.g., collecting comments), is necessary.

64. **Reasonable and equal time frames for the public to express its opinion.** The time frames during which comments are collected should be sufficiently long to allow for high-quality public contributions.²⁴ These time frames should allow equal opportunity for the public of the Parties of origin and the public of the affected Parties to participate.

65. **Open and transparent process.** The Party of origin should allow the affected public access to the EIA documentation and any other information deemed useful to be provided to facilitate an open and transparent public participation process. In case of any relevant updates to the EIA documentation or changes in the public participation process in the Party of origin, the affected Party should be informed in order to take subsequent steps (principle of equivalence).²⁵

66. **Public hearing.** If the Party of origin organizes a public hearing on its territory, the public of the affected country should be invited in sufficient time before the hearing. Adequate interpretation services should be provided. For practical reasons it may be more useful to organize an additional public hearing on the territory of the affected Party. The respective authorities of the affected Party and the Party of origin should preferably collaborate on organizational matters and agree on prior clarification of related financial issues.

67. **Direct feedback from the public of the affected Party.** The Party of origin should be aware that in some affected Parties the comments from the public are sent directly to the Party of origin and are not collected by the competent authorities of the affected Party.

²⁴ See also decision V/4, para. 6 (c), cf. ECE/MP.EIA/IC/2010/2, para. 35, and ECE/MP.EIA/IC/2010/4, paras. 19 (c) and 20.

²⁵ Ibid.

VI. Consultation

A. Introduction

68. In accordance with article 5, the Party of origin is required, after completion of the environmental impact assessment documentation, without undue delay to enter into consultations with the affected Party concerning, inter alia, the potential transboundary impact of the proposed activity and measures to reduce or eliminate its impact.

B. Summarized approaches

69. Consultations between the authorities involved in a transboundary EIA procedure are commonly carried out at least in written form, however, without excluding additional possibilities for question-and-answer sessions or meetings (e.g., expert meetings). The extent of interaction also depends on the complexity or significance of the respective project and the (informal) agreements between the Parties forerunning the consultations.

70. Regarding the timing and duration, the average length of consultation periods among the Parties is between one and two months. However, depending on the complexity of the nuclear energy-related project concerned, in practice there also exist cases where consultations have taken up to six months. Consultation meetings are commonly scheduled to last one day.

71. Consultations that are carried out on the basis of the completed and publicly available EIA documentation usually focus on further information, (written) comments and questions (e.g., on nuclear safety issues) requested by the affected Party and answers by the Party of origin. Organizational issues are often discussed and agreed between the Parties on a case-by-case basis before the date of a consultation meeting.

72. Financial costs regarding a consultation meeting (e.g., the venue or interpretation), aside from the related travel expenses and accommodation, are mostly paid by the Party that hosts the meeting, independently of whether that is the Party of origin or the affected Party.

73. When it comes to the outcomes of the consultations and their use, some Parties of origin forward them to the affected Parties while others do not disseminate them separately, but only include them in the publicly available final version of the EIA report, which then is a basis for the outcomes to be at least considered in the final decision on the activity. For some Parties of origin the outcome of the EIA procedure is a binding basis for all subsequent proceedings, such as licence applications by the developer.

C. Good practice examples

Box 9

Consultation, Sweden (as Party of origin)

Interim storage, encapsulation and final disposal of spent nuclear fuel

Sweden notified the countries around the Baltic Sea in December 2005 of its project for the interim storage, encapsulation and final disposal of spent nuclear fuel. Five countries wished to participate in the process and three wished to receive further information on the process. The consultation began in 2008, and focused on the formulation and content of the forthcoming EIA. Sweden also

expressed its interest in holding a consultation meeting. The consultation continued in February 2016 after the location of the final repository had been chosen, and a final EIA documentation had been assembled in conjunction with the submission of licence applications. All the countries received the consultation material in English and Swedish and the countries that took part in the process also received the non-technical summary in the country's own language. Given the long period of time that had passed since the first consultation in 2008, Sweden invited all the countries around the Baltic Sea to a half-day joint consultation meeting, which six countries participated in. Five of the countries then took part in a one-day site visit to the Swedish Nuclear Fuel and Waste Management Company's plants in Forsmark. These events helped to eliminate uncertainties ahead of gathering written comments from the affected Parties. Early and regular communication between the developer and the competent authority made it possible to prepare and translate suitable background information, and to plan and arrange the consultation with a meeting and site visit in a suitable and appreciated form.

Box 10

Consultation, Austria (as affected Party)

Mochovce Nuclear Power Plant

The transboundary EIA procedure with Slovakia on the project "Nuclear Power Plant Mochovce 3 and 4" was initiated in early 2009. Two public hearings were conducted in Slovakia and in Austria, subsequent to the receipt and the completion of the public inspection of the screening and the EIA documentation. The public comments and expert statements gathered were sent to the Slovakian authority for consideration. Therefore, during the subsequent bilateral consultations further questions and subjects could be discussed. Other results of the consultations included an agreement to hold further bilateral technical expert workshops on various specific safety questions regarding the project. This agreement was also included in the final EIA statement. Since then, two such expert workshops have taken place within the framework of a "dialogue on safety issues". The final EIA statement on the project, which was released by the Slovakian authority in early 2010, foresees the continuance of the bilateral dialogue on safety issues.

D. Good practice recommendations

74. **Timely and transparent information.** The full and completed EIA documentation should be made available to the affected Parties well ahead of the consultations among the authorities of the concerned Parties. New or additional information becoming available at a later stage in the EIA procedure may initiate additional consultations.²⁶

²⁶ See also ECE/MP.EIA/IC/2013/2, annex, para. 52, and ECE/MP.EIA/IC/2009/2, para. 25.

75. **Openness for a serious dialogue.** Proactive willingness by Parties of origin to address and take seriously the most important issues from the affected Party's point of view should be at the core of in depth-discussions during consultations.

76. **Thorough evaluation of all comments of affected Parties prior to the consultation meetings.** A thorough evaluation of all available comments allows all Parties concerned to properly prepare for the consultation meetings, which ensures the efficiency and the quality of the meetings. Affected Parties should submit questions to be addressed during the consultations in sufficient time before the consultation meeting to permit better preparation and facilitate discussions.

77. **Duration of the consultation period.** The duration of the consultation period should be long enough to allow consultations on all relevant issues. More than one consultation meeting may be necessary, or it might be agreed that additional written answers can be provided after the meeting.

78. **Well-planned consultation meetings.** Planning the consultation well may involve, inter alia, agreeing on the agenda, proper translation and interpretation in case of differing national languages and the prior clarification of related financial issues, and providing the minutes. The relevant authorities and experts of the Party of origin have to be present and translation issues have to be clarified beforehand. Question-and-answer sessions allow for detailed discussions, including on additional issues which may arise during the consultations.²⁷

VII. Examination of the information gathered and the final decision

A. Introduction

79. The Party of origin must provide to the affected Party the final decision on the proposed activity along with the reasons and considerations on which it was based.

B. Summarized approaches

80. In general, the result of the EIA process (including comments received from public participation and through consultation) has to be taken into due account and constitutes a (binding) basis for the final decision on the proposed activity by the responsible State administration. In some countries, the outcome of the EIA procedure is a self-standing decision that is binding with respect to the subsequent development consent, while in other countries in which the EIA is part of the development consent procedure the final decision is the development consent.

81. All information gathered through the public participation and the consultation procedures are taken into due account in the final decision, and reasons have to be given if certain aspects examined in the EIA procedure will not be incorporated or otherwise addressed in the final decision.

82. Financial costs connected with the dissemination of the final decision and the subsequent information are mostly paid by the Party of origin. If the affected Party needs a

²⁷ See also decision IV/2, annex III, para. 32, and ECE/MP.EIA/WG.1/2006/4, para. 17; and ECE/MP.EIA/8, section 2.9, and ECE/MP.EIA/IC/2009/2, para. 24.

translation of the final decision, the bearing of the related costs has to be decided between the Party of origin and the affected Party. In some cases such details have been predetermined in bilateral agreements.

83. When it comes to issues with regard to the rights to appeal against the final decision by foreign citizens, approaches vary.

84. Not enough information was made available concerning the usage of the International Atomic Energy Agency's Site and External Events Design (SEED) review service in information gathering and decision-making.²⁸

C. Good practice examples

Box 11

Information gathered and final decision, Austria (as affected Party)

Examination of the information gathered and final decision in general

As a rule, during the consultations under the Convention, Austria, as the affected Party, agrees with the Party of origin on a deadline for the submission of its "final expert statement". This final statement evaluates the information available (e.g., environmental documentation, the public participation and consultation) and gives concrete recommendations aiming at reducing possible negative impacts of the project. This final statement has to be taken into consideration by the competent authority of the Party of origin when preparing its final decision on the proposed activity. The final expert statements are supposed to support not only the Austrian public and authorities, but also to contribute to a discussion based on scientific arguments among the Parties concerned.

Box 12

Information gathered and final decision, Romania (as Party of origin)

Cernavoda Nuclear Power Plant

After the public consultation procedure and bilateral expert consultations with Romania regarding the Cernavoda NPP in 2008, Austria submitted a final expert statement to Romania for further consideration in the EIA and decision-making procedure. The final expert statement evaluated and considered the environmental report, comments from the public and the outcome of the bilateral consultations. It contained various conclusions and recommendations aiming at mitigating and minimizing negative transboundary impacts of the project to be taken into consideration within the subsequent EIA and other permitting procedures. Romania reacted on a voluntary basis in written form regarding the final expert statement before the EIA decision was issued. The response of Romania to the final expert statement of Austria enabled Austria to see how Romania dealt with the final recommendations, which gave more transparency to the procedure.

²⁸ See ECE/MP.EIA/20/Add.3–ECE/MP.EIA/SEA/4/Add.3, declaration, paras. A10 and A11.

D. Good practice recommendations

85. **Defining the final decision.** The final decision resulting from the EIA procedure does not always correspond to the licence related to the nuclear activity, but must be complemented by another act, as determined by the respective national laws. It is recommended that the Party of origin clarifies in time (e.g., during notification) its legislation and practice regarding the final decision. A final decision could mean, e.g., one or more decisions of the competent authority or authorities giving a permit to construct a nuclear power plant.²⁹

86. **Submitting the final decision.** Once issued, the final decision along with the reasons and considerations on which it was based, should be sent to the affected Parties in a timely manner to be made publicly available. The final decision should be made available in any lingua franca or in another language as agreed by both affected Parties and the Party of origin or, in case of the existence of a bilateral agreement, in the language required by that agreement, and should be provided in an electronic format.³⁰

87. **Addressing the point of contact.** The final decision must always be sent to the point of contact for notification of the affected Party under the Convention.

88. **Information on the right to appeal.** The Party of origin should provide information in the final decision about the right to appeal for the public in the Party of origin and for citizens of affected Parties, clearly explaining the process and the timing to appeal.³¹

89. **Feedback on comments by the public.** The documentation attached to the decision should explicitly describe how the public comments were taken into account. If the Party of origin submits a report on, e.g., a public meeting held in the country of an affected Party, those parts concerning the affected Party should be translated.³²

VIII. Post-project analysis

A. Introduction

90. The concerned Parties, at the request of any such Party, determine whether, and if so to what extent, a post-project analysis has to be carried out, taking into account the likely significant adverse transboundary impact of the activity for which an environmental impact assessment has been undertaken pursuant to this Convention. Post-project analysis undertaken includes, in particular, the monitoring of the activity and the determination of any adverse transboundary impact. Such monitoring and determination may be undertaken with a view to achieving the objectives listed in appendix V.

B. Summarized approaches

91. Not all Parties carry out post-project analyses in accordance with article 7. However several environmental aspects of nuclear facilities are to be monitored over the time of construction, operation and decommissioning. These monitoring and reporting activities are

²⁹ See also ECE/MP.EIA/10, decision IV/2, annex I, para. 61; and decision V/4, para. 6 (i), cf. ECE/MP.EIA/IC/2009/2, para. 21.

³⁰ See also ECE/MP.EIA/2011/4, para. 51.

³¹ Ibid.

³² See also decision V/4, para. 6 (g), cf. ECE/MP.EIA/IC/2010/2, para. 40.

governed and determined by laws and procedures that are separate from the Convention procedures.

92. Some Parties agree on monitoring and reporting mechanisms (including their scope and timing), during the bilateral consultation process or, depending on the final decision, at a later stage.

93. The bearing of financial costs related to post-project analysis is to be agreed between the concerned Parties; however, related approaches vary.

94. Concerning access to information by the public of the Party of origin and by that of the affected Parties related to post-project analysis, not enough information was yet made available.

C. Good practice example

95. No good practice examples were selected with regard to post-project analysis.

D. Good practice recommendations

96. **Agreeing on monitoring and reporting mechanisms.** The concerned Parties could agree on monitoring and reporting mechanisms during consultations. The Party of origin could send relevant monitoring reports for information and to be commented by the affected Parties.
