

Economic Commission for Europe

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

Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol on Strategic Environmental Assessment

Bureau

Geneva, 23–24 February 2017

Informal notes of meeting¹

Prepared by the secretariat²

I. Organizational matters

1. The Bureau under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment met in Geneva, on 23 and 24 February 2017.

2. The following members of the Bureau were present: Chair of the Bureau: Mr. Kremlis (European Union), assisted by Ms. Milena Novakova; Ms. Migle Masaityte (Lithuania), Chair of the Working Group on EIA and SEA, Ms. Katarzyna Twardowska (Poland) and two Vice-Chairs of the Working Group: Ms. Aysel Babayeva (Azerbaijan) and Ms. Lourdes Aurora Hernando (Spain), first Vice-Chair of the Implementation Committee. Ms. Inga Podoroghin (Republic of Moldova) was absent. Mr. Andrei Shakemirov (Belarus) was also absent and exceptionally replaced by Ms. Nadezhda Zdanevich. Finally, Mr. Artur Danelyan (Armenia), Vice-Chair of the Bureau, was absent and replaced for the third consecutive time by Ms. Elyanora Grygoryan. The Bureau invited Mr. Danelyan to participate in person at the final meeting of the Bureau (scheduled to be held in Minsk, on 12 June 2017). In this context, the Bureau also noted that, as a rule, the same representative of a Party should not serve in the Bureau and the Implementation Committee (aside from the Chair and the first Vice-Chair of the Committee).

3. The Bureau also welcomed the participation of the following two new Bureau members:

(a) Ms. Martine Rohn-Brossard, from the Swiss Federal Office for the Environment, nominated by Switzerland after the departure of Ms. Cecile Bourigault;

(b) Mr. Dmytro Matiuschenko from the Ministry of Foreign Affairs of Ukraine nominated by Ukraine to replace Mr. Igor Markelov.

¹ Available at: <http://www.unece.org/index.php?id=45103#/>.

² Prepared in consultation with the Bureau.

4. The Bureau adopted its agenda, as contained in informal document ECE/MP.EIA/B/2017/INF.1_rev.

II. Status of ratification of the Convention, its amendments and its Protocol

5. The secretariat reported on the status of ratification of the Convention, its two amendments and the Protocol on SEA. It also reported on the status of ratification of the multilateral agreement among the countries of South-Eastern Europe for implementation of the Convention (Bucharest, 2008).

6. The Bureau welcomed the ratifications of the Protocol since its last meeting by Cyprus, Italy, Latvia and Malta, which had brought the number of Parties to the Protocol to 31. It took note of the information from Armenia, Azerbaijan, Belarus, Switzerland and Ukraine on the developments towards the ratification of the Protocol and/or of two amendments to the Convention, regretting that none of them could announce a concrete time schedule for the completion of the ratification process yet. With regard to the amendments to the Convention, it noted with concern that nine ratifications were still missing for the first amendment to become effective, and allow any United Nations member State to accede to the Convention. It also noted that only one more ratification was needed for the second amendment to enter into force. It expressed a hope that the required number of ratifications would have been achieved by the next session of the Meeting of the Parties to the Convention.

7. Recalling the Convention's global benefits and the need to accelerate the entry into effect of the first amendment, the Bureau reiterated the invitation to its members to prompt their own countries/other concerned countries through bilateral contacts to ratify as soon as possible. It also requested the secretariat to ensure that in the invitation letters to the Meetings of the Parties to be sent to environment ministers and copied to ministers of foreign affairs of the Parties, the Executive Secretary of the Economic Commission for Europe (ECE) urge the Parties to the Convention that had adopted the amendments, or signed the Protocol, to proceed promptly with their ratification.

III. Implementation of the workplan 2014–2017

8. The Bureau reviewed progress in implementation of the various sub-items of the present workplan for 2014–2017 under the Convention and the Protocol.

A. Compliance with and implementation of the Convention and the Protocol

9. The Chair of the Implementation Committee informed the Bureau about the main outcomes of the Committee's sessions in March, September and December 2016 and of the meeting held just before the Bureau meeting, from 20 to 23 February 2017, focusing on the completion by the Committee of the draft decisions on compliance and the report on its activities to the Meetings of the Parties.

10. The Bureau took note of the report by the Committee Chair. It agreed that, at their next sessions (Minsk, 13–16 June 2017) the Meetings of the Parties should invite the Committee to hold virtual meetings in between sessions in English to cope with its growing workload. The Bureau also noted the proposal from the Implementation Committee that the Committee develop guidance to facilitate its assessment of information and compliance matters that relate to the life time extensions of nuclear power plants. The Committee deemed necessary to develop such guidance in view of the increasing number of related

issues brought before the Committee subsequent to decision VI regarding the Rivne nuclear power plant by the Meeting of the Parties (paras 68–71). The Bureau supported the Committee’s proposal to include this activity into the draft workplan for the next intersessional period 2017–2020.

11. Regarding the follow-up by Belarus of decision VI/2 regarding the Ostrovets nuclear power plant, the Committee Chair reported that it had made the following two proposals for consideration of the Meeting of the Parties on how the Committee could receive expert advice on scientific and technical matters, and in particular on five questions it had identified, that would allow it to reach its final conclusions on the matter: (a) through the establishment of an ad hoc expert body or (b) through inviting Parties to the Convention to appoint national experts to assist the Implementation Committee. Prompted by the Chair of the Bureau to provide initial reactions to these proposals, the member from Lithuania initially expressed her Government’s preference for the first option. The member from Belarus was not yet in a position to respond but needed some time to carry out consultations in the capital.

12. The Chair of the Bureau informed the Bureau about a communication from the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) regarding the Hinkley Point C nuclear power plant in the United Kingdom³. According to the Bureau Chair, Germany had been requested to facilitate the participation of its public in decision-making on environmental matters e.g. through the Espoo Convention mechanisms, seemingly outside the jurisdiction of the Aarhus Compliance Committee. The Implementation Committee Chair was invited to consult the Committee on the matter, if possible, already within a virtual meeting before the next sessions of the Meetings of the Parties, and to raise it at the next meeting of the informal network of the chairs of the implementation or compliance bodies under the ECE multilateral environmental agreements that was scheduled to take place in June 2017.

13. The Bureau member nominated by Ukraine expressed concerns regarding the observance by the Implementation Committee of its rules of procedure regarding the participation of Committee members with a conflict of interest, and the impact that this might have had on the Committee’s consideration of a matter concerning Ukraine. The Ukrainian Bureau member referred to the presence of the Committee Chair from Romania at the Committee’s 31st, 32nd and 34th sessions (held in September and December 2014 and in December 2015, respectively) during the consideration of the follow-up by Ukraine of decision VI/2 (preceded by decisions V/4 and IV/2) in relation to the Bystroe Canal Project, until Ukraine had raised the issue in March 2016.⁴ The Ukrainian Bureau member also announced his Government’s intention to present these concerns to the Meetings of the Parties at their sessions in June 2017. The Bureau noted the concerns. The Bureau Chair pointed out that the Committee had drawn lessons from this issue and that the related discussions had since then been carried out consistently in the absence of the Committee members nominated by Romania and Ukraine. Ukraine was however free to make a statement to the Meetings of the Parties in June, either in the general segment, under the agenda items where activities of the Committee were discussed, or in the high-level

³ (ACCC/C/2013/92)

⁴ In the view of the Bureau member nominated by Ukraine the para.13 of the present informal notes does not accurately and integrally reflect the concerns as expressed by him during the Bureau meeting.

segment, as part of the statement by the Minister or the high-level representative of Ukraine.

14. The Bureau then took note of the reports by the secretariat on the implementation of the other sub-activities foreseen in the workplan that related to compliance and implementation, notably:

(a) Legislative assistance to support the implementation and/or ratification of the Protocol and the Convention provided to Armenia, Azerbaijan, Belarus, Georgia and the Republic of Moldova (financed mainly through EU Programme on the Greening Economies in the Eastern Neighbourhood (EaP Green)) and to Kyrgyzstan (with Swiss funding); and on future needs for assistance. The Bureau welcomed the outcomes of the assistance that had resulted notably to legislative reforms in Armenia, Belarus and the Republic of Moldova to enhance their environmental assessment systems with provisions on SEA; and to new draft legislation in Azerbaijan and Georgia for EIA and SEA;

(d) Progress in carrying out a legislative review on application of the Protocol in Kazakhstan, including the upcoming discussion of the review results at a parliamentary round-table on 6 April 2017 (with funding from the European Union's project "Supporting Kazakhstan's Transition to a Green Economy Model);

(e) Progress in the further development and update of the Guidelines on EIA in a Transboundary context for Central Asian Countries, carried out with funding from Switzerland. A kick-off meeting had taken place on 9 February 2017 in Almaty, Kazakhstan: to review the legislative and institutional changes in the five Central Asian countries since 2005; to raise awareness about the transboundary EIA procedure under the Espoo Convention and its benefits for the Central Asian region; to discuss inconsistencies between the provisions of the Convention and the environmental assessment based on the OVOS/ecological expertise systems; to share good practice examples of practical application of the Convention in the pan-European region; and to provide guidance to the international consultant on priorities and options to amend the Guidelines, based on the results of an initial desk review on the matter. The next subregional meeting would be held in early April 2017;

(d) The secretariat's report on the finalization of the draft (5th and 2nd) reports on implementation of the Convention and the Protocol in the period 2013–2015, based on the comments received from the Parties before, during and after the sixth meeting of the Working Group on EIA and SEA (Geneva, 7–10 November 2017);

15. The Bureau welcomed the progress in aligning the authentic language versions of the Protocol and the Convention's two amendments, and invited the secretariat to publish the corrected text of the Protocol text by the next sessions of the Meetings of the Parties, upon the expiry of the consultation period on the corrections circulated by the UN Treaty Section.

B. Subregional cooperation and capacity-building

16. The Bureau took note of the report provided by the secretariat and the concerned Bureau members, on the implementation of activities in the workplan that related to subregional cooperation and capacity-building, as follows:

(a) The preparations of the sub-regional coordination and experience-sharing event for Eastern Europe, the Caucasus and Central Asia to be organized in Ukraine in November 2017, with funding from the European Union (EaP GREEN);

(b) The Baltic Sea subregion seminar organized by the Government of Latvia in Riga, in December 2016, which had inter alia discussed the application of the Convention to Nordstream II project;

17. In the discussions that followed, the Bureau considered a possible side-event at the next session of the Meetings of the Parties that would focus on post-project analysis of the Nordstream I project. It invited the secretariat to first explore the interest of the concerned countries in the event and then, as needed, to approach the developer.

C. Exchange of good practices

18. The Bureau took note of the information from the secretariat regarding the implementation of activities in the workplan that related to the exchange of good practices, including:

(a) The outcomes of the workshop on the global application of the Convention and the Protocol organized by European Investment Bank (EIB) during the meeting of the Working Group on EIA and SEA in November 2017; and its possible follow-up, including a dedicated workshop on SEA and transboundary EIA during the national seminar on impact assessment, scheduled to be held in Hong-Kong in May 2017;

(b) The finalization of the joint “Guidance on land-use planning, siting of hazardous activities and related safety aspects”, funded by the European Investment Bank, based on the comments from the Working Group at its meeting in November. The comments had subsequently been submitted to the Conference of the Parties and the Bureau under the Industrial Accidents Convention. The Bureau also noted the plans to hold a follow-up seminar building on the Guidance in Autumn 2018 during the Conference of the Parties to the Industrial Accidents Convention for exchanging experiences, possibly based on case studies. The Bureau decided not to propose including the activity into the draft workplan 2017–2020 but agreed that the secretariat should circulate electronically any related information for possible input by the focal points of the Espoo Convention and the Protocol on SEA;

(c) The finalization of the good practice recommendations on the application of the Convention to nuclear energy-related activities, based on conclusions by the Working Group at its sixth meeting. Moreover, as mandated by the Working Group, the Bureau reviewed and revised the ad hoc editorial group’s selection of good practice examples to be included into the official document. It agreed that the examples that had not been selected for the official document should be made available to the Meeting of the Parties in an informal document of “practical examples”, and be cross-referenced from the official document. It agreed to move into the informal document the example on post project analysis provided by Belarus. The Bureau further proposed «eligibility criteria» for any future practical examples that the Meeting of the Parties was expected to invite the Parties to provide and the secretariat to make available, subject to prior agreement by the Working Group. In accordance to these criteria, the practical examples should: (a) Not be the subject of a pending compliance case under the Implementation Committee; (b) Be agreeable to both the Party of origin and the affected Party/Parties.

D. Promoting ratification and application of the Protocol

19. The Bureau took note of the report by the secretariat and the concerned Bureau members on the implementation of the workplan activities that related to promoting ratification and application of the Protocol SEA, including notably the national and sub-national training and awareness raising events as well as the pilot projects carried out with

the EU funding from the EaP GREEN programme. It welcomed the national language versions of the video prepared by the secretariat for promoting the Protocol and its benefits in Azerbaijani, Georgian, and Ukrainian languages, and recommended the preparation of further national language versions.

20. The Bureau noted the request by Armenia to organize a round-table on SEA for the key decision-makers to support establishment of SEA system in the country.

21. The Bureau also took note of the needs for further assistance in Eastern Europe, Caucasus and Central Asia, as these had been conveyed to the secretariat, involving notably further awareness raising events to support the initiated legislative reforms and capacity building to further practical implementation of the SEA systems established or being established. It welcomed the initial information from the Chair that the European Commission was likely to continue to provide some future funding building on the outcomes of the assistance provided this far under the EaP-GREEN. The secretariat confirmed that it was in the process of investigating further funding opportunities, notably with the European Commission's Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR).

22. The secretariat reported on the development of further SEA related pamphlets or "FasTips" by the International Association of Impact Assessments and called for donor funds for translating them into Russian

IV. Budget, financial arrangements and financial assistance

23. The Bureau noted the secretariat's report on contributions and expenditure up to February 2017 that demonstrated: continuing insufficiency of funding to cover the budget for 2014–2017 adopted by the Meetings of the Parties through decision IV/4–II/4; a dependency on only a few main donors, and; expected future cuts in the donor revenue. It agreed that it was crucial to sustain the secretariat's extra budgetary staffing and that that should remain a priority one expenditure also in the future. The Bureau decided that the invitation letters from the UNECE Executive Secretary to environment ministers of UNECE member countries should again urge the Governments to pledge financial contributions to the budget for the two treaties for 2017–2020 in advance of the sessions, and that these letters should be copied to foreign ministers of each country.

24. The secretariat reported on the need for Parties to specify in advance the amounts, currencies and years of their pledged contributions for the next intersessional period, for the internal accounting purposes of the United Nation's Geneva Office.

25. The Bureau noted the information by the secretariat that the input from the junior professional officers sponsored by Finland for three consecutive years had been invaluable and that the secretariat had difficulties coping with the workload without that additional support. The Bureau reiterated its invitation to other Parties to explore their opportunities to fund a junior professional officer to assist secretariat in servicing the Convention and the Protocol.

26. The Bureau reviewed the draft decision VII/4–III/4, which had been agreed by the Working Group at its sixth meeting.

⁵ Available at: <http://www.iaia.org/fasttips.php>.

V. Preparations for the next sessions of the Meetings of the Parties

A. Practical arrangements

27. The representative of Belarus informed the Bureau about the venue and the practical arrangements for the next sessions of the Meetings of the Parties (Hotel Beijing, Minsk, 13–16 June 2017). The Bureau noted the information, stressing the need for the logistical information (on visas, the accommodation, shipping of materials, local transportation etc.) to be available as soon as possible, and no later than end of February, to allow timely travel arrangements by the delegations.

28. The Bureau also reviewed the time schedule for the main preparatory steps for the Meetings of the Parties presented by the secretariat. It invited the secretariat to send out invitations to the Parties by early March to facilitate the participation of the Ministers and the high-level representatives at the high level segment of the sessions. As agreed under the previous agenda item, the letters should be copied to the ministers of foreign affairs and draw attention to the need for financial contributions for 2017–2020. The Bureau regretted the overlap of the upcoming sessions with the Environment and Health Ministerial Meeting to be organized by WHO in Ostrava, Czechia, from 13-15 June 2017, which could negatively affect the high-level participation in Minsk.

B. Outstanding issues

1. Draft Minsk declaration

29. The Bureau reviewed the draft Minsk declaration, which it had initially agreed at its meeting in January 2016. As requested by the Working Group in November 2016, the Bureau updated and finalized the draft declaration, including based on the comments provided by Parties (Norway) and taking into account relevant developments since January 2016. The Bureau invited the secretariat to circulate the draft declaration for the final comments to be provided by the Bureau members by 7 March, prior to submitting it as an official document to the Meetings of the Parties at their next sessions.

2. Draft workplan 2017–2020 (draft decision VII/3-III/3)

30. The Bureau finalized the draft workplan on the implementation of the Convention and the Protocol for the next intersessional period 2017–2020 for submission to the Meetings of the Parties. It supported the proposal of the Implementation Committee to recommend to the Meetings of the Parties to include into the workplan, under the item I on “Compliance with and implementation of the Convention and the Protocol”, the following workplan sub-item: I.9. Development of guidance on criteria to be considered when assessing compliance with the Convention of decisions to extend the lifetime of nuclear power plants in situations similar to the one decided by the Meeting of the Parties (decision VI/2, paras 68–71); to be carried out by the Implementation Committee with support from the secretariat (see para. 10 above).

3. Draft decision VII/7-III/6 on the long-term strategy and action plan

31. The Bureau reviewed and agreed on the text of the draft decision VII/7–III/6 on the development of a strategy and an action plan for the future application of the Convention and the Protocol. It invited the secretariat to forward the draft decision to the Meetings of the Parties as part of the other draft decisions to be taken jointly.

4. Other draft decisions to be forwarded to the Meetings of the Parties

32. The Bureau reviewed the text of the remaining draft decisions that it had not yet considered under the previous items, including on :

(a) Guidance on land-use planning, the siting of hazardous activities and related safety aspects, VII/5-III/5;

(b) Good practice recommendations on the application of the Convention to nuclear energy-related activities, VII/6;

33. It invited the secretariat to circulate all the draft decisions for its final review by 7 March, prior to their submission to the Meetings of the Parties.

C. Programme for the Meetings of the Parties

1. Provisional agenda

34. The Bureau reviewed and revised the annotated provisional agenda for the next sessions of the Meetings of the Parties. It invited the secretariat to finalize the draft agenda accordingly and to circulate it to the Bureau for its final review and agreement by 6 March, prior to processing the document and forwarding it to the Meetings of the Parties.

2. Panel discussions

35. The Bureau considered the proposed panellists at the next sessions of the Meetings of the Parties, as follows:

(a) Panel discussion on the contribution of the Convention and the Protocol to the achievement of Sustainable Development Goals and the future of the treaties (in the general segment);

- The Swiss Bureau member, Ms. Rohn-Brossard, initially volunteered as a chair or a moderator of the panel but since the panel was expected to largely focus on the Protocol on SEA, which Switzerland was not yet Party to, she subsequently proposed to participate in the panel as a speaker. This was welcomed by the Bureau;

- The Bureau also welcomed the information from the Polish member of the Bureau that Mr. Piotr Otawski from Poland, would speak in the panel as an independent expert. His travel related costs would need to be covered by the Convention's budget for speakers;

- The Bureau disagreed with the proposed candidate representing Belarussian non-governmental organization, Ecohome, and invited the secretariat to approach the European Ecoforum to receive another nomination from a NGO;

- A possible representative from the Netherlands, as proposed by the delegation of the European Union at the Working Group's sixth meeting in November.

(b) The application of the Protocol and the Convention to climate change mitigation and adaptation (in the high-level segment);

- The Bureau welcomed the confirmed contribution to the panel discussions by the Austrian Environment Agency;

- It invited the secretariat to contact preliminarily proposed or other possible speakers/their offices (e.g. from EIB, European Commission's DG Climate Action,

and the secretariat of the United Nations Framework Convention on Climate Change, the Netherlands);

- It further requested the secretariat to ensure that the UNECE Executive Secretary invites Ministers/High-level participants to take part in the panel discussion.

36. The Bureau did not provide guidance on the substantive preparations of the panels but invited the secretariat to continue liaising with the possible lead-country/organizations, and to carry out preparations of the initial draft programmes of the panels, including on the key topics/questions to be addressed by the panellists. The draft programmes were to be provided to the Bureau for its review at least two months before the panels (i.e. by mid-April).

3. Chairs of the Meetings of the Parties

37. The Bureau pointed out that as Belarus would not have become a Party to the Protocol by June 2017, its Minister could not chair the high-level segment of the Meeting of the Parties to the Protocol. The Bureau noted that there had been a few initial expressions of interests for the co-chairmanship, and that the related consultations were still ongoing. It requested the secretariat to share with the Bureau the list of proposed co-chairs once confirmed, together with a recommendation of the Bureau Chair on them, for the Bureau to agree on electronically.

4. Financial assistance priorities

38. The Bureau reconfirmed that the budget available for the two Meetings of the Parties and the priorities for the financial assistance to participants were those originally foreseen in the budget adopted by the Meetings of the Parties in 2014 (decision VI/4–II/4). It agreed on prioritizing budgeted financing of (4-5) representatives from the following non-ECE countries that were previously actively involved in the activities under the treaties, from Asia: Cambodia, China, Mongolia, Viet Nam, in Asia; and from Africa: Egypt, Libya, Morocco and Tunisia.

5. Side events

39. The Bureau welcomed the proposal by the NGO Central and Eastern European (CEE) Bank Watch Network to organize a side event on the good practice recommendations on the application of the Convention to nuclear energy-related activities and to invite Parties to take part as speakers. The Bureau also considered a possible additional side event on the follow-up to/post-project analysis of the first phase of the Nord-Stream project.

VI. Officers for 2017–2020

40. The Bureau reviewed the proposed nominations for officers to be elected by the Meetings of the Parties for the next intersessional period, without making further proposals.

41. The Bureau invited the Meetings of the Parties to consider mandating the Bureau during the next intersessional period to define/clarify the tasks, term of office, the number and the selection criteria of the Bureau members for ensuring the optimal functioning of the Bureau.

VII. Schedule of meetings 2017–2020

42. The Bureau reviewed and revised an informal timetable of formal meetings under the Convention and the Protocol in 2017-2020 to be presented at the next sessions of the Meetings of the Parties as an informal document.

VIII. Related events

43. Due to time constraints, the Bureau could not consider reports from the secretariat on the following related events:

(a) The fourth meeting of the network of the Chairs of governing bodies under the of the UNECE Multilateral Environmental Agreements (MEAs) and of the Committee of Environmental Policy (CEP) (Geneva, 24 January 2017);

(b) The segment on UNECE MEAs at the twenty-second session of the CEP session (Geneva, 25 January 2017);

(c) The meeting of the informal network of the Chairs of the MEA implementation and compliance committees held on 20 June 2016 (with the next meeting scheduled for June 2017).

IX. Other business

44. No other business was raised under the agenda item.

X. Presentation of the decisions and closing of the meeting

45. The Bureau agreed that it would decide electronically on its agenda for its next meeting scheduled to take place in Minsk, on Monday, 12 June 2017.

46. In absence of time, the Bureau agreed to review the informal presentation of its conclusions electronically and invited the secretariat to prepare informal notes with more details on its deliberations.
