
Economic Commission for Europe

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

Bureau

Kiev, 31 January–1 February 2013

Informal notes of meeting

Note by the secretariat

I. Opening

1. The following members of the Bureau were present: Mr. Dmytro Mormul (Ukraine), Chair of the Bureau, and Mr. Jochen Ritter replacing Matthias Sauer (Germany), alternate Chair for Protocol matters; Ms. Vesna Kolar-Planinšič (Slovenia), Chair of the Implementation Committee; Mr. Aleksandr Andreev (Belarus); and the four Vice-Chairs of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment, Ms. Ruta Revoldiene (Lithuania), Mr. Piotr Otawski (Poland), Mr. Volodymyr Buchko (Ukraine), and Mr. Georges Kremlis (European Commission). The following members of the Bureau were absent: Mr. Aleksandar Vesič (Serbia) and Mr. Felix Zaharia (Romania), first Vice-Chair, Implementation Committee and alternate for Mr. Andreev for Protocol matters.
2. The Bureau adopted its agenda.
3. The Bureau noted the departure of Matthias Sauer and agreed that Mr. Jochen Ritter would succeed to Mr. Sauer as alternate Chair for Protocol matters until the elections of officers at the next sessions of the Meetings of the Parties.

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

4. The Bureau took note of the recent ratifications of the Protocol by Denmark and Portugal.
5. The Bureau noted that the Legal Counsel of the United Nations had confirmed the following interpretation to be applied by the Treaty Depositary when determining the entry into force of the two amendments to the Convention: the two amendments would enter into force once ratified by “three fourths of the number of Parties at the time of the adoption of the amendments”. It noted, consequently, that three further ratifications were required for the entry into force of the first amendment and that eleven more were required for that of the second amendment.
6. The Bureau agreed that Parties should aim for a rapid entry into force of the two amendments to the Convention, and no later than by the next sessions by the Meetings of the Parties. The Bureau renewed its request to the Executive Secretary of the Economic Commission for Europe to write to the Parties to the Convention, identifying those that had adopted the amendments, or the Protocol, with a view to encouraging their prompt

ratification. For member States of the European Union, the letter should highlight that as the European Union was already party to the two amendments and the Protocol. The Bureau approved a template for the draft letters to be addressed to the Ministers of Foreign Affairs and of the Environment of the States Parties to the Convention.

7. The Bureau noted a decision adopted by the Meeting of the Parties to the Convention on the Protection and the Use of Transboundary Watercourses and International Lakes (Water Convention) at its sixth session (28–30 November 2012) to expedite and facilitate the accession by non-Economic Commission for Europe (ECE) countries. It did not reach a consensus on following a similar approach under the Espoo Convention, including due to the current resource limitations, but agreed to submit this matter for consideration by the Working Group at its meeting in May 2013.

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

8. The Chair of the Implementation Committee informed the Bureau about the main outcomes of the Committee's twenty-fifth and twenty-sixth sessions (held on 11–13 September and 26–28 November 2012, respectively) as well as the main objectives for the Committee's upcoming sessions (12–14 March and 10–12 September 2013). The Bureau took note of the report by the Committee Chair.

9. The Bureau supported a Committee proposal to invite the Working Group on Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) to consider establishing an ad hoc group to prepare proposals for the sixth session of the Meeting of the Parties regarding the implementation of the Convention by Armenia and Azerbaijan, including notably the possible designation of an intermediary and the use of new communication technologies. Furthermore, the Bureau endorsed the draft terms of reference prepared by the Committee for the possible intermediary. The Bureau proposed that this group be composed of the members of the Bureau and representatives of the two concerned countries and that the group should meet in the margins of the meeting of the Working Group, in May 2013. In addition, the Bureau requested its Chair to write to the Director General of External Action Service of the European Commission to seek advice and technical assistance to support Armenia and Azerbaijan, including through acting as an intermediary.

10. The Bureau requested the secretariat to inform the Working Group at its meeting in May 2013 of the possibilities for arranging for a review of the text of the three authentic language versions of the Convention (English, French and Russian) by the United Nations, with a view to listing all inconsistencies. The Bureau requested the secretariat to also identify the "preparatory works" of the Convention that had preceded its adoption in 1991. As decided by the Working Group at its first meeting, the listed inconsistencies would be first considered by an ad hoc task force comprising of lawyers and native speakers of English, French and Russian prior to their submission to the Working Group and further to the Meeting of the Parties to decide on further action at its next session (ECE/MP.EIA/WG.2/2012/2, para. 23).

11. The Bureau noted the report by the secretariat on the implementation of activities in the workplan that related to compliance with and implementation of the Convention and the Protocol, including notably:

(a) Timely distribution of the questionnaires for the report on implementation to the Parties to the Convention and to the Protocol for them to complete and return by 31 March and 31 May 2013, respectively;

(b) Plans for the production of the draft fourth review of implementation on the Convention and the draft first review of implementation of the Protocol (in the period 2010-2012) by a consultant to the secretariat, (as provided for in the budget), for discussion by the Working Group at its third meeting in November 2013;

(c) Development of general guidance on resolving a possible systemic inconsistency between the Convention and environmental assessment within the framework of State ecological expertise, for discussion by the Working Group at its second meeting in May 2013;

(d) Pre-accession legislative assistance.

12. The Bureau agreed that for producing reviews of implementation that are substantially shorter (half as long) than the past reviews, the secretariat should prioritize information on the implementation by Parties of their legal obligations under the Convention and the Protocol (Part I of questionnaires) and cut out information on research (article 9 to the Convention). It invited the Working Group to discuss and agree on further guidance for the preparation of the reviews.

IV. Subregional cooperation and capacity-building

13. The Bureau took note of the report by the secretariat on the implementation of activities in the workplan that related to subregional cooperation and capacity-building.

V. Exchange of good practices

14. The Bureau took note of the report by the secretariat on the implementation of activities in the workplan that related to the exchange of good practices. The Bureau:

(a) Noted progress in preparation of seminar on biodiversity during the second meeting of the Working Group in May 2013;

(b) Asked the secretariat to contact the lead countries (Austria, Finland and Sweden) of the planned seminar on the long-range impacts of nuclear energy-related activities to request that it be held during the meeting of the Working Group in November 2013. The Bureau agreed to suggest to the Working Group that the issues to be addressed by the seminar include: extension of the lifetime of nuclear power plants, and possible follow-up further to the completion of the comprehensive risk and safety assessments ("stress tests") of nuclear power plants in the European Union and related recommendations. It also proposed that experts from Belarus, France, Japan, the Russian Federation and Ukraine as well as energy regulators be invited to present practical experience in the field. The Bureau agreed, furthermore, that the seminar should provide the basis for the preparation of guidance to codify practical experience in the application of the Convention to nuclear energy-related activities, for adoption by the next Meetings of the Parties. Finally, it decided that at its meeting in May 2013, the Working Group should hold initial discussions and establish a drafting group for the development of the draft guidance for consideration by the Working Group at its third meeting in November 2013;

(c) Noted information from Poland on its readiness to organize a seminar on renewable energy together with Portugal and agreed that the event should be held during the next sessions of the Meetings of the Parties in 2014.

VI. Promoting ratification and application of the Protocol

15. The Bureau took note of the report by the secretariat on the implementation of activities in the workplan that related to promoting ratification and application of the Protocol. In particular, the Bureau noted the publication of Simplified Resource Manual to Support Application of the Protocol (ECE/MP.EIA/18) in English, French and Russian.

16. The Bureau further noted information on the workplan activities to be implemented by the secretariat in Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine through the EU funded project “Greening of Economies in Eastern Neighborhood (EAP-Green) in 2013-16. The activities in 2013 would include legislative pre-accession assistance on SEA in the Republic of Moldova, training on SEA in Ukraine and a pilot SEA in Armenia. The Bureau recommended that activities to be financed through the EAP-Green in 2014-16 be included in the next intersessional workplan under the Convention and the Protocol.

17. The Bureau noted secretariat’s report on the joint SEA Protocol – Aarhus Convention meeting on public participation in environmental decision making: focus on SEA (29–30 October 2012, Geneva) which had been organized in consultation with the Bureau and co-Chaired by the former Bureau member, Matthias Sauer. It also noted information on the draft good practice recommendations on public participation in SEA (ECE/MP.EIA/WG.2/2013/3) to be submitted for consideration by the Working Group at its meeting in May. It noted, finally, that the minutes of the joint meeting would be made available to the Working Group in English, French and Russian.

VII. Budget, financial arrangements and financial assistance

18. The Bureau took note of the report by the secretariat on the receipt of contributions to, and on expenditure from, the Convention’s trust fund, with reference to the draft biannual financial report. The Bureau agreed to its issue once finalized by the secretariat with final figures covering also December 2012¹.

19. The Bureau requested its Chair to write again to those Parties that had not pledged or contributed to the trust fund, enclosing the table of pledges and contributions included in annex to the biannual financial report (table A.1), and inviting them to contribute taking into consideration for the calculation of their contribution the agreed budget for the Convention and the scale of assessments for the apportionment of the expenses of the United Nations for 2013–2015. Letters should only be sent to those Parties that would be expected to contribute at least US\$ 1,000. In addition, the Bureau requested the secretariat to write to those Parties that had pledged, inviting them to contribute to the trust fund in 2013 and providing them with an invoice for this amount, but referring also to the amount calculated based on the scale of assessments to encourage them to possibly contribute more.

20. The Bureau invited the secretariat to identify funds from the Convention budget to cover the costs of an additional, ninth, meeting of the Implementation Committee scheduled to take place during the intersessional period (as the budget foresaw only eight meetings of the Committee in this period).

21. Further to the decision by the Meeting of the Parties that the Bureau should agree on the development, possibly with the support of a small group, of a strategy for carrying out the work under the Convention and the Protocol given the financial constraints, the Bureau

¹ Pending the closing of the UN accounts for the financial year 2012 (by February-March 2013), the budgetary figures available for the month of December are only estimates.

discussed draft elements of financial strategy prepared by the secretariat. It requested the secretariat to submit the document for consideration by the Working Group at its meeting in May, as amended. The Bureau considered that the proposal for limiting the number of the meetings under the Convention and the Protocol was not relevant, and should therefore be deleted. The Bureau also noted that financing of the ECE Multilateral Environmental Agreements (MEAs) would be discussed at a meeting between representatives of the governing bodies of the MEAs and the Committee of Environmental Policy (or “joint chairs’ meeting”) on 27 February 2013.

22. Given the limited level of funds in the trust fund for the Convention, the Bureau decided not to offer financial support in 2013 to representatives of States outside the ECE region for them to attend. Nonetheless, the secretariat might invite States and intergovernmental organizations from outside the ECE region to participate but without financial support. Further, the Bureau asked the secretariat to encourage donors to provide financial support for representatives of such countries that they wished to assist.

IX. Preparations for the first meeting of the Working Group

23. The Bureau noted the draft annotated provisional agenda of the second meeting of the Working Group, to be held in Geneva from 27 to 30 May 2013 and agreed on the following amendments to it:

(a) Under the agenda item on compliance and implementation, the secretariat should inform the Working Group about its efforts to arrange for a review of the text of the three authentic language versions of the Convention by the United Nations, with a view to listing all inconsistencies (see paragraph 10 above) and the Working Group invited to agree on further actions;

(b) Under “Exchange of good practices”, more time should be allocated for discussing actions to assist Parties in their application of the Convention [and the Protocol] to nuclear energy-related activities, including the development of guidance to codify practical experience and the collection of case studies (see paragraph 14 (b) above);

(c) The discussions for the development of the next intersessional workplan should be shortened in May and the Working Group invited to focus on this work at its third meeting, in November 2013, on the basis of a draft to be prepared by the Bureau and the Implementation Committee.

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

24. The Bureau noted information on the initiation of practical arrangements for the sixth session of the Meeting of the Parties to the Convention (MOP-6), and the second session of the Meeting of the Parties to the Protocol (MOP/MOP-2), expected to be held in Ukraine in May or June 2014. In particular, it took note of the detailed draft host country agreement to be concluded between Ukraine and ECE. It noted that the European Commission would explore opportunities to support the organization of the Meetings.

25. The Bureau proposed that the next sessions of the Meetings of the Parties take place in Kiev, from 2 to 5 June 2014.

26. The Bureau agreed that decisions to be adopted by the Meetings of the Parties should include those on:

(a) Review of implementation under Convention and Protocol;

(b) Review of compliance, including an amendment to the Implementation Committee's rules of procedure regarding participation at the Committee's sessions; and a possible decision on sanctions;

(c) Budget, financial arrangements, financial assistance;

(d) Adoption of the workplan;

(e) Solving the inconsistency between the three authentic language versions of the Convention (e.g. a decision to issue a corrigendum or to amend the Convention);

(f) Possible decisions on speeding up of the accession by non-ECE countries to the Convention and the Protocol.

27. The Bureau agreed, furthermore, that the documents to be adopted or endorsed by the Meetings of the Parties should include:

(a) Format for SEA notification;

(b) Financial strategy;

(c) Good practice on recommendations on public participation in SEA;

(d) Guidance to codify practical on the application of the Convention to nuclear energy-related activities (or a "Road Map").

28. The Bureau agreed that the Meetings should include a high-level segment and that efforts should be made to attract participation by the European Commissioner, by Ministers of the Environment from Ukraine, but also from Greece - which holds the EU presidency in the first half of 2014, from Poland and from other State Parties; as well as by high profile representatives of the European Parliament.

29. The Bureau proposed that the Meetings of the Parties discuss impact assessment of energy related issues, including pipelines, shale gas, nuclear energy and renewables. It also proposed discussions on the possible follow-up actions under the Convention and the Protocol further to the adoption of three EU guidance documents on transboundary EIA; on EIA of projects with large-scale impacts, and on integration of biodiversity and climate considerations into EIA and SEA.

30. The Bureau also suggested the organization of a side event to address economic incentives of the reduction of environmental and health risks through EIA and SEA, including with a view to the possible future involvement of insurance companies as sponsors.

IV. Outcomes of related events

31. The Bureau took note of the information provided by the secretariat on the next meeting between representatives of the governing bodies of the ECE environmental conventions and the Committee of Environmental Policy (or "joint chairs' meeting") to be held in Geneva on 27 February 2013. The Bureau agreed that its Vice-Chair Mr. Otawski would attend this meeting. It invited the secretariat to send it the draft agenda and the documentation for the joint meeting and agreed to provide comments by email, as needed.

XII. Staffing of the secretariat

32. The secretariat informed the Bureau of the recruitment of a fix-term staff member (an external expert provided for in the Convention budget), to support the servicing of the Implementation Committee and the implementation of activities under the Protocol on

SEA. The secretariat also informed the Bureau of the recruitment of a project manager and 50% of programme assistance for 3,5 years to support the implementation of the activities financed by the EAP-Green project. The Bureau was informed, finally, that the secretariat no longer benefitted from 50% of the time of a programme assistant (secretary) from the regular budget but that this support had been reduced to 25%.

33. The Bureau invited Parties to explore opportunities to support the work of the secretariat, including by supplementing its staffing, for example through providing a Junior professional officer or through staff secondment.

XIII. Closing of the meeting

34. The Bureau agreed to meet again in the margins of the third meeting of the Working Group in November 2013. The Government of Ukraine agreed to arrange for simultaneous interpretation for this meeting. The Bureau decided that it might thereafter meet in early 2014, possibly in Greece. The date and the venue of the second meeting would be decided on shortly.

35. The meeting of the Bureau concluded on 1 February 2013.
