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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
on Environmental Impact Assessment in
a Transboundary Context serving as the
Meeting of the Parties to the Protocol on
Strategic Environmental Assessment

Working Group on Environmental Impact Assessment and Strategic Environmental Assessment

Eighth meeting

Geneva, 26–28 November 2019

Item 4 of the provisional agenda

Compliance and implementation

Note on a draft long-term strategy and an action plan for the Convention and the Protocol

Note by the Netherlands and Austria with support from the secretariat

I. Introduction: mandate and objectives

1. The Espoo Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, Finland 1991) and its Protocol on Strategic Environmental Assessment (Kyiv, 2003) have contributed to improving international cooperation, the integration of environment and health concerns into development activities, environmental governance and transparency in planning and decision-making. The treaties have proven to be effective instruments for fostering environmentally sound and sustainable development, as is demonstrated by the steadily increasing number of Parties and the interest in them world-wide. Parties to the Convention and its Protocol further believe in the treaties' potential to contribute to countries' implementation of a wide range of Sustainable Development Goals, as set out in the 2030 Agenda for Sustainable Development.

2. However, despite progress in implementing the Convention and the Protocol, challenges remain, to which add new important environmental and health problems that have emerged at national, regional and global levels since the adoption of the treaties. Consequently, the two treaties should respond to both the remaining and the new challenges, as well as adapt to the changing environment and the future extension of their geographical scope of application. Moreover, to maximize their impact and the political support for them, Parties should define high priority focus areas for their countries and make full use of the potential of the treaties to address them. Parties should also enhance

cooperation and partnerships with relevant international treaties and processes for decreasing overlaps and increasing synergies. The successful development of the treaties in the future will depend on the ability of Parties to ensure that adequate and stable funding is available for the implementation of the treaties and the functioning of the treaty secretariat.

3. Against this background, in 2017, the Meetings of the Parties to both treaties adopted 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, and included that activity in the 2017-2020 workplan, resources permitting. Definition of forward-looking priorities is also deemed to fill a gap, since, at present, the Espoo Convention and its Protocol are the only Multilateral Environmental Agreements of the United Nations Economic Commission for Europe (ECE) that lack a long-term strategy.

4. In accordance with decision VII/7-III/6, the long-term strategy and an action plan should have the following objectives:

(a) Set a strategic vision for the coming years to address priorities and to meet new challenges, including climate change, biodiversity, energy, land-use and urban planning, agriculture, waste management and transport;

(b) Set priorities on the operational level, to ensure the best use of the limited resources of the Parties and the Secretariat;

(c) Identify future activities, partnerships and funding mechanisms.

5. Austria and the Netherlands volunteered to lead informal discussions among volunteering Parties on the development of the work mandated by the Meetings of the Parties, with support from the secretariat. To date, two informal meetings were held: in London, on 1 September 2018 and in Rotterdam, on 7 October 2019. In February 2019, the Meetings of the Parties, at their intermediate sessions, noted the outcomes of the first informal discussions and recommended that those continue at possible future meetings, inviting more Parties to contribute to the work.

6. The present document reflects the outcomes of the informal discussions held this far and presents proposals for consideration of the Working Group regarding the format, contents and the further development of the strategy and the action plan.

7. The Working Group is invited to consider the proposals and to comment and complement them. It may then wish to mandate [Austria and] the Netherlands to continue to lead further informal discussions, with support from the secretariat and in consultation with the Bureau, to further develop the draft document, incorporating the comments made. Subsequently, the revised draft, and a related draft decision of the Meetings of the Parties for its adoption would be presented for consideration of the Bureau at its next meeting (25–26 February 2020), and forwarded for agreement by the Working Group at its ninth meeting, scheduled for 9–11 June 2020. Once agreed by the Working Group, the draft strategy and action plan, would be submitted for adoption by the Meeting of the Parties to the Convention and the Protocol, at their next sessions 8–11 December 2020.

II. General issues and recommendations

8. The informal meeting started by underlining the differences and linkages between a strategy and work plans: A strategy is more generic and focuses on setting priorities for a longer time horizon, such as strengthening and extending the implementation of the treaties, and contributing to key goals and global commitments, such as, achievement of Sustainable Development Goals or addressing climate change and biodiversity. The meeting proposed that the draft strategy to be prepared should extend at least until 2030. The few broad strategic priorities should be linked with a set of priority objectives and implemented through operational activities. The periodical work plans, in turn, would accompany the strategy and include concrete activities that

operationalize the agreed strategic priority goals. The workplans should continue to be agreed by the Meetings of the Parties for the duration of an intersessional period (i.e. this far 3 years), and their implementation be regularly reviewed by the Bureau and the Working Group at their meetings. Lastly, it was considered of utmost importance that the strategic goals and the workplan activities also match with corresponding budgetary resources that Parties should commit to making available.

9. The informal meeting also noted that the strategy should address both the Convention and the Protocol, and clearly distinguish between them.

10. As to its structure and contents, the meeting recommended that the draft long-term strategy and action plan document should first briefly recall the treaties' main strengths and positive contributions to the environment and sustainable development, and then refer to the remaining weaknesses in their implementation (e.g. regarding certain transboundary procedures). Lastly, the draft document should focus on outlining the strategic long-term goals and corresponding priority objectives to be achieved, with the aim to strengthen, further extend and develop the implementation and the impact of the Convention and Protocol within and beyond the ECE region.

11. The annex to this document presents a proposal built around the following three strategic goals together with several related, and partly overlapping, priority objectives and actions at the national and/or international levels:

- (a) Full and effective implementation of the Convention and the Protocol by their Parties;
- (b) Wider application of the Convention and the Protocol within and beyond the ECE region;
- (c) Increased impact and adaptation to new national, regional and global challenges.

Annex

Proposed strategic goals and priority objectives at national and international levels

I. Full and effective implementation of the Convention and the Protocol by their Parties

I.1. Identifying and addressing weaknesses in Parties' implementation, including based on the reviews of implementation of the Convention and the Protocol (e.g. public participation, translation and quality of environmental documentation/report, monitoring/post project analysis, addressing health in SEA etc.) – covering weaknesses both in legislation and practice:

(a) Language and translation issues within transboundary procedures: clarify which documents should be translated; Address possible right of appeals for lack of (quality) translation. Simplify translation procedures to prevent delay of the availability of documents;

(b)

I.2. Achieving/Improving uniformity of interpretation and application of the Convention and the Protocol: by ensuring that all Parties ratify the second amendment to the Convention; by clarifying the terminology and obligations of the treaties; and by addressing the “grey zones”, such as activities not specifically listed in annex I, through the following actions:

(a) Urging concerned Parties to ratify the second amendment; possibly making the availability of financial support to these Parties subject to their ratification of the amendment;

(b) Encouraging further development of bilateral agreements;

(c) Developing more and better guidance (as appropriate, given that negotiating draft guidance documents is time-consuming and the result often so general that that may not be the best tool to address e.g. differences in understanding among countries with different legal systems);

(d) Exchanging good practices, including e.g. introducing a platform/database on the ECE website for uploading good practice that Parties volunteer to submit; and/or, collecting and compiling good practices in a more structured manner with the help of a consultant to the secretariat;

(e) Holding (informal) discussions on interpretation and implementation issues among national focal points of neighbouring Parties; encouraging also the establishment of more permanent sub-regional ad hoc groups of focal points and experts of neighboring Parties to exchange information about projects and national systems and views.

I.3. Strengthening Parties' capacities to implement the Convention and the Protocol, as needed: identifying needs and matching them with resources to cover technical assistance, capacity building, guidance, sharing good practice, twinning procedures. As appropriate, making use of the review of compliance procedure.

I.4. Clarifying the scope of the treaties and their relationship with other assessment tools, whenever needed, to add efficiency and to avoid duplication: e.g. environmental impact assessments and strategic environmental assessment focus on the effects on the environment (including health) of economic development projects and planning and not on social impacts or nuclear safety. (This does not mean that the

Convention/Protocol should not take into account the effects of these broader issues, as relevant).

I.5. Simplifying the implementation of the Convention and the Protocol procedures, where possible: avoiding that their complexity (and the unpredictability of the procedural delays) undermines the national level support for the treaties and makes them difficult for Parties to fulfil, considering also the interrelation with relevant procedures of other Conventions and institutions.

(a) Adopting a lighter notification procedure for those projects that are not listed in annex I of the Convention, promoting instead exchanges of views between the national focal points of concerned countries;

(b)

I.6. Strengthening the support for the treaties by decision-makers, economic sectors and the public, through enhanced visibility and better communication about their benefits:

(a) Developing a communication strategy to enhance visibility and to better convey the advantages of SEA and transboundary EIA;

(b) Portraying and referring to good practices to illustrate the benefits of the treaties (on the website, producing a compilation of good practice);

(c) Making the links of the two assessment tools with SDGs, climate objectives and other national priorities more obvious and known;

(d) Making better use of media, including social media, improving ECE website, and other communication tools;

(e) Preparing innovative promotional material for different target audiences, such as videos and collection of good practices, short messages for policy makers, frequently asked questions (FAQs);

(f) Organizing national awareness raising events, public awareness campaigns, raising awareness of parliamentarians and increasing use of the advocacy role of NGOs;

(g) Attracting more high-level participation at official meetings of the treaty bodies and involving prominent actors in the promotion of the treaties.

I.7. Increasing mutually beneficial synergies with other relevant Conventions and international processes and coordination among and within Parties, to avoid undertaking overlapping obligations and actions: e.g. with other ECE environmental agreements, WHO, OECD, OSCE, IAEA, UNFCCC and UNCLOS. Further synergies could also contribute to improving the cost-efficiency of the secretariats of these treaties and organizations, for example, through joint capacity building activities, and, if feasible, by sharing staff and resources commonly.

I.8. Increasing the number of bilateral agreements for the implementation of the Convention and the transboundary procedures of the Protocol; and simplifying their drafting.

I.9. Improving transboundary cooperation through enhancing the use and the functioning of the network of national focal points and points of contact for notification e.g. through regular meetings with focal points from neighbouring Parties/ the region.

I.10. Ensuring that the review of compliance mechanism under the Convention and the Protocol functions well and its outcomes are respected so that it can effectively assist Parties meet fully their obligations under the treaties.

(a) Possibly reviewing operating rules, funding, and number and election criteria of members to strengthen the mechanism;

(b) Ensuring that Parties respond to the Committee's queries in a timely manner.

I.11. Using the mandatory reporting mechanism under the Convention and the Protocol to better monitor and support implementation

(a) Improving the timeliness and quality of the mandatory reporting, and the questionnaires;

(b) Adapting the reviews of implementation to maximise their usefulness as a source of information to highlight progress achieved and to draw attention to areas that need improvement, but also to disseminate good practices, and to inform the Implementation Committee of potential non-compliance.

I.12. Making adequate funding available: solidly backing all workplan activities and the secretariat services by sufficient funds (through Parties' contributions to the trust fund);

(a) Urging Parties to contribute, agreeing on new financial schemes etc. to increase the funding and the secretariat staffing;

(b) ...

I.13. Improving the conduct of the Meetings of the Parties' sessions and ensuring consensus-based decision-making by

(a) Limiting revisions to official documents and decisions and making available on the meeting webpage any revision proposals well advance of the meetings;

II. Wider implementation of the Convention and the Protocol within and beyond the ECE region

II.1. Increasing accession to the treaties by ECE Member States by:

(a) Building political and public support among non-Parties;

(b) Supporting legal reforms, awareness raising and capacity building in non-Parties, including via bilateral development support and twinning arrangements;

(c) Creating a pool of experts on the Convention and the Protocol with experts from the Parties, who stand ready to answer questions, or conduct short studies or country visits to facilitate accession and implementation by non-Parties. Also supplement the pool with trained national non-Party experts, academia, civil society.

II.2. Enabling and encouraging countries from other regions to accede to the treaties and/or replicating and implementing the treaty provisions and good practice by Parties in their region:

(a) Completing the remaining ratifications of the first amendment to the Convention (urging remaining countries to do so; possibly making financial support to the concerned countries subject to their ratification of the first amendment);

(b) Carrying out awareness raising, technical assistance and capacity building activities;

(c) Developing and translating information material and guidance documents into other languages (e.g. Spanish, Arabic, Chinese);

(d) Using regional and international cooperation frameworks to disseminate information, raise awareness and interest in the Convention and the Protocol;

(e) Creating a pool of experts on the Convention and the Protocol from the Parties, who stand ready to answer questions, or conduct short studies or country visits to facilitate accession and implementation by non-Parties;

(f) Including activities of global interest in the workplans;

II.3. **Preparing for the accession by non-ECE countries:**

(a) Developing guidance for the global application of the treaties;

(b) Identifying and agreeing on possible changes to the modus operandi of the treaty bodies (Working Group, Meetings of the Parties and the Implementation Committee);

(c) Agreeing on a budget and a funding mechanism, e.g. to fund the participation of non-ECE countries in the meetings, outreach, awareness raising and assistance activities;

(d) Identifying possible instruments and their pro's and con's, e.g. bilateral partnerships, development assistance and twinning arrangements between current and prospective Parties, outreach arrangements, cooperation with international institutions such as EIB, the World Bank, OECD etc. Learning from approaches used for example, by the ECE Water Convention

III. **Increased impact and adaptation to new national, regional and global challenges and goals**

III.1. **Identifying key goals at global/international and national levels that correspond to Parties' political priorities and commitments:** e.g. climate change, biodiversity and energy (nuclear, renewables, infrastructure development (transportation, energy, and telecommunications, including in relation to the Belt and Road Initiative);

III.2. **Adapting and developing the treaties, making full use of their potential to address new global, regional and national goals and commitments,** such as Sustainable Development Goals, smart and sustainable cities, circular economy

(a) **Making the treaties' contribution to SDG implementation more concrete and measurable,** e.g. through preparing guidance for translation of those goals, targets and indicators that are relevant to a given plan or programme into context-specific criteria and subsequently applying them as benchmarks within the assessments. The International Association of Impact Assessments (IAIA) could for example be invited to assist in the development of the guidance based on its existing work;

(b)

III.3. **Agreeing on workplan activities and corresponding funding that target key challenges and goals**

(a) Exchanging good practice (thematic seminars, workshops, fact sheets)

(b) Preparing guidance, providing targeted training

III.4. **Coordinating and cooperating with relevant treaties and organizations**