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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

Seventh meeting
Geneva, 28–30 May 2018

Report of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment on its seventh meeting


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I. Introduction

1. The seventh meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment (Protocol on SEA) was held from 28 to 30 May 2018 in Geneva, Switzerland.

A. Attendance

2. The meeting was attended by delegations from the following Parties to the Convention and the Protocol and other member States of the United Nations Economic Commission for Europe (ECE): Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czechia, Denmark, Estonia, Finland, France, Georgia, Germany, Hungary, Ireland, Italy, Kazakhstan, Kyrgyzstan, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan and the United Kingdom of Great Britain and Northern Ireland. A representative of Ukraine made a presentation via video link under agenda item 4 (Application of the Convention to the lifetime extension of nuclear power plants). The European Union was represented by the European Commission. Statements on behalf of the European Union and its member States were made by both the Commission and Bulgaria, which held the Presidency of the Council of the European Union in the first half of 2018.

3. Representatives of the International Atomic Energy Agency (IAEA), the Nuclear Energy Agency of the Organisation for Economic Co-operation and Development (OECD), the Organization for Security and Co-operation in Europe (OSCE) and the World Health Organization (WHO) attended the meeting. In addition, the following non-governmental organizations (NGOs) were present: Caucasus Environmental NGO Network (CENN); ClientEarth; the European Environment Bureau; the European Nuclear Energy Forum (ENEF); Friends of the Earth Europe (FoEE); Nuclear Transparency Watch; the International Association for Impact Assessment (IAIA); the Regional Environmental Centre for Central Asia (CAREC); Society and Environment (Ukraine); and the World Wide Fund for Nature Russia (WWF Russia). Two independent experts also attended the meeting.

B. Organizational matters

4. The Chair of the Working Group, Ms. Vesna Kolar-Planinšič (Slovenia), opened the meeting. The Director of the ECE Environment Division welcomed the participants.

5. The Working Group adopted the draft agenda (ECE/MP.EIA/WG.2/2018/1).¹

¹ Official and informal documents for the meeting, background documents and presentations provided to the secretariat are available at <http://www.unece.org/index.php?id=47337>.

II. Status of ratification

6. The secretariat presented a report on the status of ratification of the Convention, its two amendments and the Protocol on Strategic Environmental Assessment (ECE/MP.EIA/WG.2/2018/INF.2). The Working Group welcomed the entry into force of the second amendment to the Convention on 23 October 2017 and publication of the amended text of the Convention (ECE/MP.EIA/21/Amend.1)². While welcoming the recent ratification of both amendments to the Convention by Denmark and Canada, it noted with concern that seven more ratifications were needed in order for the first amendment to produce effects, allowing accession to the Convention by non-ECE States, and urged the seven countries in question – Armenia, Azerbaijan, Belgium, Greece, the former Yugoslav Republic of Macedonia, the United Kingdom and Ukraine – to ratify the amendment. It also urged all signatories to the second amendment to ratify it in order to ensure unified application of the Convention by its Parties.

7. The Working Group requested the secretariat to ensure that in the letters of invitation to the intermediary session of the Meetings of the Parties to the Convention and to the Protocol (Geneva, 5–7 February 2019), the ECE Executive Secretary urged the Parties to the Convention that had adopted the amendments or signed the Protocol to proceed promptly with their ratification. It also requested the secretariat to invite the seven Parties that have yet to ratify the first amendment to provide a progress report on the steps that they have taken in that regard.

8. Delegations reported on their plans to ratify the Convention, its two amendments and the Protocol, with Azerbaijan the most advanced for both amendments. The Working Group took note of the information provided. It welcomed the news that Serbia would soon ratify the 2008 multilateral agreement among the countries of South-Eastern Europe for implementation of the Convention on Environmental Impact Assessment in a Transboundary Context (the Bucharest Agreement) but expressed regret at the absence of information from Croatia and Greece on their plans to ratify it and from Bosnia and Hercegovina on its plans to accede to it. The Working Group invited all parties to the aforementioned instruments to report on their progress at the next sessions of the Meetings of the Parties.

III. Compliance and implementation

1. Review of compliance

9. The Chair reminded the Working Group that at its seventh session (Minsk, 13–16 June 2017), the Meeting of Parties to the Convention had decided to continue its deliberations on draft decision VII/2 (on compliance with the Convention) at an intermediary session and had mandated the Implementation Committee to revise the draft decision, taking into account the work carried out and the progress achieved before and during the seventh session. She also informed the Working Group about the Bureau's recommendations at its previous meeting (Geneva, 7–8 February 2018) with a view to

² Among other changes, the second amendment expanded the list of activities in appendix I, aligning it with the European Union legislation on the assessment of the effects of certain public and private projects on the environment (European Union Directive 85/337/EEC, later replaced by Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 (the EIA Directive); recommended that Parties of origin allow affected Parties to participate in the scoping stage; provided a formal basis for the review of compliance; made regular reporting mandatory; and clarified the amendment procedure under the Convention.

improving the conduct and outcomes of future sessions of the Meetings of the Parties and, specifically, the recommendations that in future, the Implementation Committee avoid amending draft decisions on compliance that have been issued as official documents but have not yet been considered by the Parties and that the coordination meetings of European Union member States be conducted earlier and in a more efficient manner.³ The Working Group endorsed those recommendations.

10. The Chair of the Implementation Committee informed the Working Group about the main outcomes of the Committee's thirty-ninth, fortieth and forty-first sessions (held on 5–7 September and 5–7 December 2017 and 13–15 March 2018, respectively), at which the Committee had had to give priority to the revision of draft decision VII/2, and therefore to delay its consideration of several pending and new compliance issues. The Chair and the first Vice-Chair of the Committee presented the revisions to the draft decision on compliance. Following the suggestion made by Ukraine at the seventh session of the Meeting of the Parties,⁴ the Committee had decided to split the draft decision into one general and several country-specific decisions⁵ with a view to facilitating their consideration and adoption by the Parties. The Committee planned to finalize all of the draft decisions, including the general provisions (draft decision IS/1) and draft decision IS/1h on the United Kingdom, at its forty-second session (Geneva, 11–14 September 2018) based on inputs to be provided by the concerned Parties in advance of that session.

11. The Working Group took note of the report of the Committee's Chair, welcomed the revisions to draft decision VII/2 and supported the splitting of the compliance decisions. It noted the comments made by the delegations of Armenia, Azerbaijan and Belarus regarding the draft decisions on their countries (draft decisions IS/1a, c and d, respectively) and the comments made by ClientEarth with regard to draft decision IS/1f on Serbia. It also took note of the concerns raised by Belarus with regard to the Committee's working methods since 2017 regarding the compliance matter concerning the country's nuclear power plant.

12. The Working Group acknowledged the Committee's growing work overload owing to the increasing number and complexity of the compliance issues brought before it and the significant additional burden resulting from the revision of draft decision VII/2 during the current intersessional period. It supported the Bureau's recommendation that the Committee be allowed to hold longer and more frequent meetings, as needed, using budgetary savings to cover the additional costs arising from the participation of eligible Committee members.⁶ It also noted that additional days of interpretation would be costly and thus could not be guaranteed for all meetings.

2. Reporting and review of implementation

13. The secretariat informed the Working Group that in January 2018, the Former Yugoslav Republic of Macedonia had provided its overdue responses to the two questionnaires on implementation of the Convention and the Protocol during the period 2013–2015; thus, all Parties had now fulfilled their reporting obligations for that reporting period. The Working Group welcomed the electronic publication by the secretariat of the

³ See the informal notes on the last Bureau meeting, para. 12. Available at <https://www.unece.org/index.php?id=47325>.

⁴ ECE/MP.EIA/23 -ECE/MP.EIA/SEA/7, para. 28.

⁵ Decisions IS/1a–g (ECE/MP.EIA/WG.2/2018/INF.4.a–g) on Armenia (two draft decisions), Azerbaijan, Belarus, Serbia and Ukraine (two draft decisions). The symbol "IS" stands for "intermediary session".

⁶ See informal notes of the last Bureau meeting, para. 14. Available at <https://www.unece.org/index.php?id=47325>.

fifth review of implementation of the Convention (ECE/MP.EIA/25)⁷ and the second review of implementation of the Protocol (ECE/MP.EIA/SEA/9)⁸ during the period 2013–2015.

14. The Working Group reviewed the Implementation Committee's proposals for slight modifications to the questionnaires on implementation of the Convention and the Protocol during the period 2016–2018, which took into account the suggestions made by various Parties. It approved the amended questionnaires and requested the secretariat to arrange for their translation, preferably as annexes to the meeting report. It also agreed on a timetable for the distribution and return of the two questionnaires and the secretariat's preparation of the draft sixth review on implementation of the Convention and the draft third review on implementation of the Protocol (ECE/MP.EIA/WG.2/2018/INF.5). It requested the secretariat to send both questionnaires to the Parties by 31 October 2018 for completion by 31 March 2019.

15. The Working Group stressed the importance of reporting under the Convention and the Protocol and noted that, the second amendment to the Convention having entered into force in October 2017, reporting was now obligatory under both instruments. It invited the Parties to submit good-quality national implementation reports in a timely manner and noted that, despite the secretariat's efforts to explore possibilities for online reporting, no appropriate solution had been identified as yet. It welcomed Canada's offer to translate reports from original French into English as an in-kind contribution.

3. Legislative assistance to support implementation and ratification

16. The Working Group reviewed progress in providing the technical assistance envisaged in or related to the workplan for 2017–2020. It welcomed the information presented by Armenia, Azerbaijan, Ukraine and the secretariat on the legislative assistance that the secretariat had provided with funding from the European Union through the Greening Economies in Eastern Partnership (EaP GREEN) programme and the efforts made by the concerned countries since June 2017. A representative of Armenia informed the Working Group that changes in its Government might delay adoption of the amended national legislation on environmental impact and strategic environmental assessment. A representative of Azerbaijan reported that the country's amended draft framework law on implementation of the Convention and the Protocol was expected to be adopted by parliament by the end of May 2018. The Working Group was also informed that Ukraine's new law on strategic environmental assessment had been adopted by parliament in March 2018 and signed by the President in April 2018. The Working Group expressed the hope that the six countries that had benefited from EaP-GREEN-funded assistance from the secretariat would soon have aligned their legislation with the Convention and the Protocol and that the Parties that had not yet done so would take the necessary steps to accede to both instruments.

17. The Working Group welcomed the progress report by Kazakhstan and the secretariat on the legislative review of the country's environmental assessment system under the Convention and the Protocol, funded by Switzerland, and the European Union project on supporting Kazakhstan's transition to the Green Economy Model. It noted that with the support of consultants to ECE, Kazakhstan had drafted amendments to its national legislation on strategic environmental assessment in accordance with the Protocol and that the country planned to align its national legislation with the Convention.

⁷ <http://www.unece.org/index.php?id=47889>.

⁸ <http://www.unece.org/index.php?id=48009>.

18. The secretariat also informed the Working Group about the plans to provide legislative assistance on environmental impact assessment to Tajikistan and Uzbekistan with funding from Switzerland and on the possible legislative reviews of strategic environmental assessment in Tajikistan and another Central Asian country with funding from Germany.

19. Lastly, the Working Group took note of the information provided by the Russian Federation on its progress in adopting new legislation on environmental impact and strategic environmental assessment, which was expected to be adopted by 2019.

4. Draft updated guidelines on environmental impact assessment in a transboundary context for Central Asian countries

20. The secretariat presented the draft updated guidelines on environmental impact assessment in a transboundary context for Central Asian countries (ECE/MP.EIA/WG.2/2018/3). The draft had been prepared by consultants to the secretariat pursuant to the 2014–2017 and 2017–2020 workplans and in consultation with the Central Asian countries, including at three subregional meetings held in 2017. The secretariat informed the Working Group that all countries of the subregion, including Parties (Kazakhstan and Kyrgyzstan) and non-Parties to the Convention, faced difficulties of varying degree in implementing transboundary environmental assessment procedures owing, among other things, to systemic inconsistencies between their national systems and the procedures set out in the Convention. The guidelines were intended as a tool for practical implementation of the Convention, taking into account national and subregional contexts and legislation in the Central Asian countries. In the future, they would be supplemented with technical assistance in order to align those countries' legislation with the Convention.

21. The Working Group reviewed and welcomed the draft guidelines and invited the secretariat to finalize them based on comments from the European Union (to be provided to the secretariat in writing by 10 June 2018) with a view to further aligning them with the Convention. The Working Group also agreed on the text of the draft decision of the Meeting of the Parties to the Convention regarding the updated guidelines and invited the secretariat to circulate it, together with the finalized draft guidelines, for consideration at the intermediary session of the Meeting of the Parties to the Convention.

5. Strategy and an action plan for future application of the Convention and the Protocol

22. The Working Group considered the development of a strategy and an action plan for future application of the Convention and the Protocol in accordance with decision VII/7–III/6, adopted at the seventh session of the Meeting of the Parties to the Convention and the third session of the Meeting of the Parties to the Protocol, as envisaged in the workplan for 2017–2020, subject to the identification of resources. The Chair of the Bureau reported on the Bureau's recommendation that efforts to define strategic directions and priority actions for the two instruments would be best undertaken by volunteering representatives of the Parties, with support from the secretariat, rather than by external consultants. He also pointed out that the proposal to draft a strategy and an action plan had been made in follow-up to the brainstorming session that Austria, Finland and the Netherlands had organized in April 2016, during the sixth meeting of the Working Group, in order to discuss the strategic vision and the future role and aims of the two instruments.

23. The Working Group took note of the Bureau's recommendation; invited delegations, especially from the three countries that had organized the brainstorming session, to consider their availability to lead the development of a draft strategy and an action plan and to report to the secretariat by the end of August 2018; encouraged other Parties to provide expertise for this activity; and invited all volunteering Parties to contact the secretariat.

6. Publications

24. The Working Group took note of two informal electronic publications that had been processed by the secretariat since the previous sessions of the Meetings of the Parties. In addition to the two reviews of implementation presented previously (see para. 13 above), these publications included an update of the opinions of the Implementation Committee (as at 2017)⁹ and Practical guidance on reforming legal and institutional structures with regard to the application of the Protocol,¹⁰ prepared with European Union (EaP GREEN) funding in order to support the drafting of legislation on strategic environmental assessment in beneficiary countries.

IV. Application of the Convention to the lifetime extension of nuclear power plants

A. Workshop

25. The representatives of Germany and the United Kingdom led a workshop on the draft terms of reference for possible guidance on the application of the Convention to the lifetime extension of nuclear power plants (ECE/MP.EIA/WG.2/2018/4), prepared by an ad hoc working group that they had chaired, and presented the draft terms of reference and the written comments received from Parties and other stakeholders. The Working Group welcomed the workshop and the ad hoc group's efforts to develop draft terms of reference with support from the secretariat, thanked the speakers and participants and invited the secretariat to post all of the presentations on the meeting web page.

26. The Working Group took note of the following main conclusions of the workshop:

(a) The Implementation Committee's work is heavily constrained. The guidance is therefore urgently needed;

(b) The interpretation of the Convention should be in line with its main purpose and objectives;

(c) The lifetime extension of nuclear power plants is not only about nuclear safety, but also about the environment; any changes in the surrounding environment, such as an increase in population or water scarcity, should be considered;

(d) Environmental issues must be properly addressed in environmental impact assessment, possibly through a screening assessment;

(e) Safety reviews cannot replace transboundary environmental impact assessments: the two processes are complementary;

(f) The Convention is largely aligned with the European Union's Environmental Impact Assessment Directive,¹¹ but it is a legally distinct instrument;

(g) The lifetime extension of nuclear power plants also entails ensuring public participation and transparency, including in a transboundary context;

⁹ Available at https://www.unece.org/env/eia/implementation/implementation_committee.html.

¹⁰ Available at <https://www.unece.org/index.php?id=48688>.

¹¹ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014.

- (h) Consideration should be given to the impact of multiple short-term extensions;
- (i) Not all safety upgrades lead to environmental benefits; they can also have adverse impacts on the environment.

B. Terms of reference for the guidance and next steps

27. The Working Group reviewed and adopted the draft terms of reference as amended by the co-Chairs following the workshop based, among other things, on comments from the Compliance Committee under the ECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) (see annex IV to the present report).

28. The Working Group extended the mandate of the ad hoc group under the continued leadership of Germany and the United Kingdom and invited it to work on the draft guidance based on the terms of reference, taking into account the workshop's outcomes, and to submit a written report on its progress to the intermediary session of the Meeting of the Parties to the Convention in February 2019 as an official document so that the Meeting could decide how to proceed with a view to adopting the guidance at its eighth session (preliminarily scheduled to be held in Geneva in December 2020).

29. The Working Group reviewed a draft decision on the guidance and requested the Bureau, with support from the secretariat, to revise it based on the Working Group's decisions. The revisions should, among other things, amend the title and the symbol of the draft decision to read "draft decision IS/2 on the application of the Convention to the lifetime extension of nuclear power plants"; delete the references to "key elements"; and, instead, invite the Meeting of the Parties to consider the progress report to be prepared by the ad hoc group. The Working Group also invited the secretariat to incorporate the workshop's findings into the draft decision before circulating it for consideration by the Meeting of the Parties at its intermediary session.

30. Lastly, the Working Group discussed the future membership of the ad hoc group, including its potential expansion to include intergovernmental and non-governmental organizations, and noted that Canada and, subject to confirmation, Belgium had volunteered for membership. The Working Group expressed its support and appreciation for the involvement of such organizations in the subsequent work of the ad hoc group and invited the group's co-Chairs, with the support of the secretariat, to provide appropriate and timely opportunities for their participation. It concluded, however, that the responsibility for drafting and decision-making should remain with the Parties to the Convention.

31. The Working Group took note of the information, provided by the co-Chairs, that the ad hoc group's next meeting was scheduled to be held in Berlin on 20 and 21 June 2018 and that the United Kingdom planned to host another meeting, probably in London, in early October 2018.¹²

V. Subregional cooperation and capacity-building

32. The Working Group reviewed progress with the subregional cooperation and capacity-building activities envisaged in the workplan. It welcomed the reports provided by:

¹² It was subsequently confirmed that the meeting would be held in London on 2 and 3 October 2018.

(a) Romania, on the special session on the Convention, the Protocol and the Bucharest Agreement at the Third Regional Conference on Environmental Impact Assessment (Vodice, Croatia, 13–16 September 2017); and on Romania’s willingness to organize a workshop by 2020, subject to the availability of resources;

(b) Finland and Sweden, on their plans to organize the tenth Baltic Sea Area workshop, preliminarily scheduled to be held in Stockholm, Sweden on 5 and 6 September 2018;¹³

(c) The secretariat and the concerned Parties, on the second subregional workshop (Kyiv, 31 October–2 November 2017) on lessons learned from the European Union (EaP GREEN)-funded capacity-building activities since 2013 and on the subregional workshop for Central Asian countries (Kyiv, 2–3 November 2017), financed by Switzerland. The two events had been held back-to-back in order to share experience in introducing strategic environmental assessment between the two subregions.

33. The Working Group also welcomed the information provided by the secretariat with regard to the planned subregional activities in Central Asia, including:

(a) A seminar to promote the application of transboundary environmental impact assessment (Tashkent, 4 June 2018) immediately preceding the Central Asian Environmental Forum (5–8 June 2018);

(b) A study tour in Germany and a subregional workshop to support the assessment of needs and the preparation of action plans for introducing strategic environmental assessment systems in the Central Asian countries. It was planned that these activities would be organized in 2019 or 2020 in cooperation with OSCE, subject to the confirmation of funding from Germany.

34. The Working Group also took note of the Central Asian countries’ request for pilot projects to test the draft updated guidelines on environmental impact assessment in a transboundary context in Central Asian countries.

VI. Exchange of good practices

35. The Working Group took note of the Chair’s report on the workshop on land-use planning and industrial safety (Mechelen, Belgium, 16–17 May 2018), organized under the ECE Convention on the Transboundary Effects of Industrial Accidents (Industrial Accidents Convention) with funding from the European Investment Bank. The Chair and the delegation of Portugal had attended the workshop and provided input on the application of the Espoo Convention and its Protocol. One of the aims of the workshop was to promote implementation of the Guidance on Land-Use Planning, the Siting of Hazardous Activities and related Safety Aspects (ECE/CP.TEIA/35), prepared jointly by the secretariats of the Industrial Accidents Convention, the Espoo Convention and its Protocol in order to highlight the linkages between and synergies under these instruments and to ensure that their provisions are applied in a consistent and coordinated manner. The Working Group welcomed the subsequent publication of the Guidance and took note of the video¹⁴ on the application of the Industrial Accidents Convention, prepared for the workshop, which included references to the Espoo Convention, its Protocol and the Guidance.

36. The Working Group also welcomed the secretariat’s publication of the Good Practice Recommendations on the Application of the Convention to Nuclear Energy-related

¹³ The workshop was subsequently postponed to the spring of 2019 (exact date to be confirmed).

¹⁴ Available at <https://www.youtube.com/watch?v=i3PjrBkNXOw&feature=youtu.be>.

Activities (ECE/MP.EIA/24), prepared by an ad hoc editorial group of States Parties and one observer NGO, in consultation with stakeholders, and endorsed by the Meeting of the Parties to the Convention in June 2017 at its seventh session through decision VII/6 (ECE/MP.EIA/23/Add.1–ECE/MP.EIA/SEA/7/Add.1). As requested by the Parties, the publication included an annex with a list of other examples of relevant practice.

37. The Working Group considered progress in organizing the workshops and half-day seminars for the exchange of good practices envisaged in the workplan and took note of:

(a) The information from the secretariat that the seminar on improving intersectoral cooperation and institutional arrangements for the application of the Protocol and the Convention might be held in 2019 in coordination with the development of guidance on health and with funding from the European Investment Bank; and

(b) The European Commission's continuing interest in organizing a seminar on synergies between transboundary environmental impact assessment, strategic environmental assessment and the United Nations Convention on the Law of the Sea.

38. In addition, the Working Group took note of a new proposal by Nuclear Transparency Watch and ClientEarth to organize a workshop on coal- and lignite-related projects with transboundary impacts during the current intersessional period.

VII. Promoting ratification and application of the Protocol and the Convention

39. Beneficiary countries and the secretariat reported on the implementation of activities to funded by the European Union's EaP GREEN programme since June 2017, including finalization of the national guidance documents on strategic environmental assessment in Armenia, Azerbaijan, the Republic of Moldova and Ukraine; training workshops on the application of the Protocol in Azerbaijan (April 2018) and Belarus (December 2017); final national conferences on the results of the EaP-GREEN-funded activities in Armenia, Azerbaijan, Belarus, the Republic of Moldova and Ukraine and further priorities for enhancing strategic environmental assessment and environmental impact assessment in those countries; and a high-level awareness-raising event on strategic environmental assessment in Ukraine (April 2018). The Working Group welcomed the information and the progress in strengthening implementation of the Protocol and the Convention in the countries concerned and noted their requests for further support.

40. The secretariat also informed the Working Group about the finalization of a document entitled *Application of the Protocol on Strategic Environmental Assessment: Manual for Trainers*¹⁵ and preparation of a publication that will summarize the lessons learned from the activities funded by the EaP GREEN programme.

41. The Working Group welcomed the information provided by Kazakhstan and the secretariat regarding progress in the implementation of a European-Union-funded pilot application of strategic environmental assessment to the Government of Kazakhstan's draft strategy for the development of its fuel and energy system until 2030. The activities under the pilot project had thus far included two training workshops (Astana, 8–9 November 2017 and 5 March 2018) and preparation of a scoping report that had been submitted to the Kazakh Government for consideration in early April 2018. As required by the donor agreement, the pilot project would be completed by the end of October 2018.

¹⁵ Issued as an informal publication available at <http://www.unece.org/index.php?id=48758>.

42. The Working Group reviewed a note by the secretariat entitled “Guidance on addressing health impacts of plans and programmes and for the involvement of health authorities in strategic environmental assessment: a concept note” (ECE/MP.EIA/WG.2/2018/INF.9). The secretariat planned to produce that guidance as envisaged in the workplan, jointly with WHO and with funding from the European Investment Bank and support from consultants. The Working Group welcomed the note and the funding provided by the Bank and invited the secretariat to submit the draft guidance document to the Working Group for comments and to consult the Bureau on its development electronically and/or at the next meeting of the Bureau.

43. The Working Group welcomed two case studies on Germany’s application of the Protocol to its federal energy and transport plans. A representative of Germany also made a general presentation of the country’s legislation on strategic environmental assessment. The Working Group invited the secretariat to make available the presentations and the case study fact sheets and encouraged other Parties to submit case studies on their application of the Protocol or the Convention.

44. The secretariat provided an update on the two-page “FasTips” (pamphlets) on key issues in strategic environmental assessment, prepared by the International Association for Impact Assessment,¹⁶ and on the translation of a number of those pamphlets into Russian with funding from WWF Russia and the European Union’s EaP GREEN Programme. It also informed the Working Group about its plans to prepare draft FasTips on the Convention and the Protocol as envisaged in the workplan. The Working Group welcomed the information and invited the secretariat to finalize the FasTips on the two instruments in consultation with the Bureau.

VIII. Budget, financial arrangements and financial assistance

45. The Working Group took note of the draft annual financial report for the period 1 July 2017 to 30 April 2018 (ECE/MP.EIA/WG.2/2018/INF.8) and invited the secretariat to finalize the report with data as at 30 June 2018 and, subject to the agreement of the Bureau, post it on the Convention website. It noted that the contributions to the budget for the period 2017–2020 that had been pledged by Parties in June 2017 at the previous sessions of the Meetings of the Parties covered only 60 per cent of the budget adopted at those sessions.¹⁷ It further noted that the budget covered mainly “priority one” expenditures (i.e. the costs of one professional secretariat staff member and the preparation of draft reviews of implementation of the Convention and the Protocol) and financial support for the travel of eligible participants to attend official meetings; it did not cover the implementation of workplan activities.

46. The Working Group acknowledged that the funding for the workplan activities depended to a large extent on the secretariat’s efforts to raise extrabudgetary funds. It welcomed these efforts and, in particular, the information that the European Union was likely to provide over 2 million euros in additional funding for the period 2018–2021 under a new EU4Environment project that aimed to sustain and build on the EaP-GREEN-funded workplan activities in Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine. It also took note of the ongoing European Union project for promoting strategic environmental assessment in Kazakhstan (2016–2018) with a total budget of some 200,000 dollars.

¹⁶ Available from <http://www.iaia.org/fastips.php>.

¹⁷ See the annex to decision VII/4–III/5 (ECE/MP.EIA/2017/23/Add.1–ECE/MP.EIA/SEA/7/Add.1).

47. The Working Group welcomed the following contributions from donor countries:

(a) A grant from Norway to support the implementation of several ECE multilateral environmental agreements, including the Espoo Convention and its Protocol, during the period 2017–2020 (covering, among other things, a half-time administrative support post in the secretariat);

(b) Probable funding in the amount of over 300,000 euros from Germany to be used by the secretariat, in cooperation with OSCE, in supporting the implementation of strategic environmental assessment in five Central Asian countries;

(c) Continuing Swiss funding to support implementation of the Convention in Central Asia;

(d) Funding from Czechia to support implementation of the Convention and the Protocol in Georgia.

48. The Working Group considered a proposal from the Bureau regarding funding for the intermediary session of the Meetings of the Parties to the Convention and the Protocol, which had not originally been envisaged and therefore had not been included in the 2017–2020 budget. The Working Group allocated 35,000 dollars to support the participation of eligible countries (20,000–25,000 dollars) and NGOs (10,000 dollars) in the session. It agreed with the Bureau that these costs should be covered from the Convention trust fund's operating reserve of savings accumulated from previous intersessional periods. The secretariat explained that the operating reserve served to ensure the smooth functioning of the secretariat and implementation of the workplan, including by allowing annual extensions of extrabudgetary staff contracts pending the receipt of voluntary contributions during a given period.

49. The Working Group took note of the following decisions regarding financial support for participation in meetings during the current intersessional period, taken by the Bureau as requested by the Meetings of the Parties (decisions VII/4–III/4, para. 24):

(a) Participation in official meetings by eligible non-Parties to the Convention and the Protocol in the ECE region should continue to be supported;

(b) For non-ECE countries, the Bureau would decide whether to fund the cost of travel to attend official meetings on a case-by-case basis;

(c) Using several selection criteria – such as NGO activities relevant to the Convention and the Protocol – and a procedure involving the submission of written information, the Bureau had identified the NGOs that were eligible for financial support. As a result, one expert from five or six of the following NGOs would receive assistance in order to participate in the meetings of the Working Group and the sessions of the Meetings of the Parties: CENN, the European ECO Forum, the European Environment Bureau, IAIA, Nuclear Transparency Watch and WWF/Russia.

50. The Working Group took note of the staff changes in the secretariat since the previous sessions of the Meetings of the Parties and joined the Bureau in inviting delegations to explore possibilities for sponsoring a Junior Professional Officer to work in the secretariat.

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

A. Intermediary session of the Meetings of the Parties

51. The Working Group considered the Bureau's decisions and proposals regarding the intermediary session of the Meetings of the Parties to the Convention and the Protocol (ECE/MP.EIA/WG.2/2018/INF.11). The Chair recalled that at its seventh session, the Meeting of Parties to the Convention had entrusted the Bureau, in consultation with the secretariat, with the task of preparing the draft agenda and identifying a date for the intermediary session in late 2018 or early 2019. The Working Group supported the Bureau's decision to hold the intermediary session in Geneva from 5 to 7 February 2019, including a half-day high-level session on 7 February.

52. The Working Group then considered the provisional agenda of the intermediary session. It noted that although all of the draft decisions and documents for the session related solely to Convention matters, the Parties to the Convention and to the Protocol would also be called upon to take joint decisions on two organizational issues, namely the election of the Chair of the Bureau and the date of the next ordinary sessions of the Meetings of the Parties. It was agreed that the intermediary session should also provide an opportunity for both Meetings of the Parties to review progress in implementation of the 2017–2020 workplan and, to that end, the secretariat was invited to provide the necessary informal documentation and progress reports.

53. It was decided that the draft decision on the lifetime extension nuclear power plants should be discussed immediately following the discussion of draft decision IS/1 on the review of compliance with the Convention and should be renumbered and renamed. It was also agreed that the Meeting of the Parties to the Convention should be invited to comment on a progress report, to be prepared by the ad hoc working group as an official document, and on finalization of the draft guidance on the application of the Convention to the lifetime extension of nuclear power plants, to be submitted to the eighth session of the Meeting of the Parties for adoption. The Working Group agreed on the provisional agenda as revised and invited the Bureau to finalize it with the support of the secretariat.

54. The Working Group reviewed and amended the list of draft decisions proposed by the Bureau and referred it to the intermediary session of the Meeting of the Parties to the Convention.

55. The Working Group invited the Parties to volunteer to chair the high-level segment of the intermediary session and requested the secretariat to continue its informal consultation of the Parties for that purpose. It also agreed to invite the permanent representatives of the Parties to the United Nations Office and other international organization in Geneva to consider chairing that segment of the session.

B. Next ordinary sessions of the Meetings of the Parties

56. Based on the Bureau's proposals (ECE/MP.EIA/WG.2/2018/INF.12), the Working Group agreed on 9–11 December 2020 as the provisional dates for the eighth session of the Meeting of the Parties to the Convention and the fourth session of the Meeting of the Parties to the Protocol. It also agreed on an indicative time schedule for the other official meetings under the two instruments during the current intersessional period.

57. Recalling that in June 2017, the Meetings of the Parties had extended the mandate of the current Chair of the Bureau until the intermediary session of the Meetings of the Parties,

the Working Group invited delegations to contact the secretariat with proposals for the chairmanship of the Bureau beyond that session as soon as possible and, in any event, no later than early December 2018.

58. The Working Group also invited delegations to send offers to host the eighth and fourth sessions of the Meetings of the Parties to the secretariat well in advance of the intermediary session. In the absence of a volunteering host country, the sessions would be held in Geneva.

X. Inputs to related international processes

59. The Working Group took note of the following information on inputs to related international processes:

(a) A report by the Chair of the Bureau on a joint meeting of the representatives of the governing bodies of the ECE multilateral environmental agreements and the Committee on Environmental Policy (Geneva, 13 November 2017 and on the segment on multilateral environmental agreements, held within the framework of the twenty-third session of the Committee on Environmental Policy (Geneva, 14–17 November 2017);

(b) The secretariat's report on the outcomes of the meeting of the Regional Forum on Sustainable Development for the UNECE Region (Geneva, 1–2 March 2018) and on a side event, organized by Czechia, on achievement of the Sustainable Development Goals through the participation of all with a focus on environmental impact assessment and strategic environmental assessment;

(c) The secretariat's report on the greening of China's Belt and Road Initiative, including training courses for Central Asian governments and Chinese investors (Turin, Italy, 8–11 October 2018), organized by the United Nations Environment Programme (UNEP) in collaboration with ECE and other organizations. The training courses included a segment on strategic environmental assessment with a trainer selected by the Convention secretariat.

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

60. The Working Group endorsed the main decisions agreed at the meeting, as presented by the secretariat, and requested the secretariat to prepare the report on the meeting under the guidance of the Chair. The Chair officially closed the meeting on Wednesday, 30 May 2018.

Annex I

Co-Chairs' summary report on the workshop on the lifetime extension of nuclear power plants

I. Panel 1

1. Mr. Romas Svedas, Chair of the Implementation Committee, drew attention to the rapidly-increasing number of cases on the lifetime extension of nuclear power plants on the Committee's agenda, the high complexity of those cases, the differing opinions of the Parties and the urgent need for guidance. He also stressed the duty of the Committee to provide the Parties with recommendations, based on the objectives of the Espoo Convention in a changing world, without undue delay.

2. Ms. Kimberly Sexton Nick, Organisation for Economic Co-operation and Development (OECD) Nuclear Energy Agency, spoke about several of the topics covered by the draft terms of reference for possible guidance on the applicability of the Convention to the lifetime extension of nuclear power plants (ECE/MP.EIA/WG.2/2018/4): topic 1 (Extension of an existing licence or issuance of a new licence by a competent authority in the case of a time-limited licence), topic 3 (Lifetime extension by a specific domestic law) and topic 5 (Periodic safety review). She outlined the relevant OECD mandates and ongoing activities, in particular the recent survey carried out by the Working Party on the Legal Aspects of Nuclear Safety.

3. Mr. Greg Rzentkowski, International Atomic Energy Agency (IAEA), gave a presentation on challenges and needs for long-term operation of nuclear power plants at the global level from a safety perspective and presented the relevant IAEA instruments, such as periodic safety reviews. IAEA considered that from a technical perspective, it was important to achieve "reasonably practicable safety improvements" in order to enhance the safety of the older nuclear power plants and bring them to a level approaching that of modern plants.

4. Representatives of the European Commission (Mr. Aurel Ciobanu-Dordea, Directorate-General for Environment; Mr. Hans Rhein, Directorate-General for Energy; and Mr. Janos Vegh, Joint Research Centre) examined the issue from the perspectives of the energy supply, the need to ensure that operators meet the highest safety standards and that regulatory controls are in place and the complementarity between Euratom law and European Union environmental provisions. The presenters argued for dynamic and transparent application of the Espoo Convention in a constantly-changing environment but warned that the Convention was not applicable to every nuclear power plant activity.

II. Panel 2

5. Ms. Maria Partidário, International Association for Impact Assessment (IAIA), spoke about topic 4 of the draft terms of reference (Likelihood of lifetime extension to cause significant adverse transboundary impact) and an upcoming IAIA Workshop on the lifetime of nuclear-related activities, scheduled to be held in Lisbon from 15 to 16 November 2018. The Workshop would provide an opportunity to consider the challenges of lifetime extension for nuclear-related activities from a scientific and technical perspective and to examine its environmental, social and health impacts as input for capacity-building and informed decision-making.

6. Mr. Jan Haverkamp, Nuclear Transparency Watch, focused on the views of civil society (including parliaments) and on the natural, legal, moral and logical right of citizens and States to be consulted. He argued that in a constantly changing environment, a solid assessment of environmental impacts should always be conducted; the question should be not whether but how to do so. He drew attention to the issue of short-term lifetime extensions and the need for solid justifications for excluding them from environmental impact assessments. On topic 6 (Operation beyond the designed (minimum) lifetime), he referred to literature on the design lifetime of various types of reactors (30, 40 and 60 years, respectively) and suggested that this issue should be reflected in environmental impact assessment procedures.

7. Ms. Patricia Lorenz, Friends of the Earth Europe, questioned the inclusion in the terms of reference of language such as “major change” or “new activity” since all nuclear power plants would change – both technically and otherwise – over the years, as would the surrounding environment, and developers began to prepare for a lifetime extension long before the end of the designed lifetime of a nuclear power plant. In her view, environmental impact assessment was necessary even where a specific domestic law was in place. She also believed that periodic safety reviews or stress tests should be accompanied by an examination of environmental issues (e.g. water supply, water protection, radiation protection requirements and nuclear waste issues).

8. Ms. Maryna Shymkus, Ministry of Ecology and Natural Resources, Ukraine, described her country’s experience with transboundary consultations on environmental impact assessment in follow-up to decision VI/2 regarding the lifetime extension of the Rivne nuclear power plant (ECE/MP.EIA/20.Add.1 – ECE/MP.EIA/SEA/4.Add.1), adopted at the sixth session of the Meeting of the Parties to the Convention, including the new national legislation and environmental impact assessment and the practical procedure for consultations.

9. Mr. João Oliveira Martins and Ms. Sara Sacadura Cabral, Portuguese Environment Agency, reported on topics 4 (Likelihood of lifetime extension to cause significant adverse transboundary impact) and 5 (Periodic safety review), stressing that nuclear safety and environmental impact assessment were distinct issues; they were not mutually exclusive and neither could play the role of the other. Given that not only the area surrounding a nuclear power plant, but also the views of society, change over time, lifetime extension issues must be properly addressed within the framework of an environmental impact assessment, and potentially a screening exercise, prior to periodic safety reviews in close cooperation with the potentially affected parties and the concerned public.

10. Ms. Dorota Toryfter-Szumańska, Department of Environmental Impact Assessment, Poland, spoke on topic 4 (Likelihood of lifetime extension to cause significant adverse transboundary impact) from the perspective of a government that has no commercial nuclear power plants. She gave specific examples of cases in which Poland had been notified of a lifetime extension project under the precautionary principle in the absence of a significant adverse transboundary impact assessment and of the Polish people’s reaction to those cases.

11. Mr. Yves Guannel, French Nuclear Safety Authority, explained that in France, there was no pre-determined time limit for nuclear power plants; a lifetime extension system with a dual approach – a generic procedure for the French electric utility company (Electricité de France (EDF)) fleet and a specific regulatory procedure for each nuclear power plant – was in place. France’s Nuclear Safety Authority involved the public in that process in various ways.

Annex II

Convention questionnaire

Questionnaire for the report of [NAME OF COUNTRY] on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context in the period 2016–2018

Information on the focal point for the Convention

1. Name and contact information:

Information on the point of contact for the Convention

2. Name and contact information (if different from above):

Information on the person responsible for preparing the report

3. Country:
4. Surname:
5. Forename:
6. Institution:
7. Postal address:
8. Email address:
9. Telephone number:
10. Fax number:
11. Date on which report was completed:

Part one

Current legal and administrative framework for the implementation of the Convention

In this part, please provide the information requested, or revise any information relative to the previous report. Describe the legal, administrative and other measures taken in your country to implement the provisions of the Convention. This part should describe the framework for your country's implementation, and not experience in the application of the Convention.

Please do not reproduce the text of the legislation itself but summarize and explicitly refer to the relevant provisions transposing the Convention text (e.g., EIA Law of the Republic of ..., art. 5, para. 3, of Government Resolution No. ..., para. ... item...)

Article 1

Definitions

I.1. Is the definition of impact for the purpose of the Convention the same in your legislation as in article 1?:

- (a) Yes
- (b) Yes, with some differences (please provide details):
- (c) No (please provide the definition):
- (d) There are no definitions of impact in the legislation

Your comments:

I.2. Is the definition of transboundary impact for the purpose of the Convention the same in your legislation as in article 1? Please specify each below.

- (a) Yes
- (b) Yes, with some differences (please provide details):
- (c) No (please provide the definition):
- (d) There are no definitions of transboundary impact in the legislation

Your comments:

I.3. Please specify how major change is defined in your national legislation:

I.4. How do you identify the public concerned? Please specify (more than one option may apply):

- (a) Based on the geographical location of the proposed project
- (b) By making the information available to all members of the public and letting them identify themselves as the public concerned
- (c) By other means (please specify):

Your comments:

Article 2

General provisions

I.5. Provide legislative, regulatory, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2):

- (a) Law on EIA:
- (b) EIA provisions are transposed into another law(s) (please specify):
- (c) Regulation (please indicate number/year/name):
- (d) Administrative (please indicate number/year/name):
- (e) Other (please specify):

Your comments:

I.6. Please describe any differences between the list of activities in your national legislation and appendix I to the Convention, if any:

- (a) There is no difference, all activities are transposed in the national legislation as is
- (b) It differs slightly (please specify):

Your comments:

I.7. Identify the competent authority/authorities responsible for carrying out the EIA procedure in your country (please specify):

- (a) There are different authorities at national, regional, local levels
- (b) They are different for domestic and transboundary procedures
- (c) Please name the responsible authority/authorities:
- (d) There is no single authority responsible for the entire EIA procedure:

Your comments:

I.8. Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it:

- (a) No
- (b) Yes (please specify):

Your comments:

I.9. How does your country, As a Party of origin and as an affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to the Party of origin's public, as required in article 2, paragraph 6 (please explain):

Article 3 Notification

I.10. As a Party of origin, when do you notify the affected Party (art. 3, para. 1)? Please specify:

- (a) During scoping
- (b) When the EIA report has been prepared and the domestic procedure started
- (c) After finishing the domestic procedure
- (d) At other times (please specify):

Your comments:

I.11. Please define the format of notification:

- (a) It is the format as decided by the first meeting of the Parties in its decision I/4 (ECE/MP.EIA/2, annex IV, appendix)
- (b) The country has its own format (please attach a copy)
- (c) No official format used

Your comments:

I.12. As a Party of origin, what information do you include in the notification (art. 3, para. 2)? Please specify (more than one options may apply):

- (a) The information required by article 3, paragraph 2
- (b) The information required by article 3, paragraph 5
- (c) Additional information (please specify):

Your comments:

I.13. As a Party of origin, does your national legislation contain any provision on receiving a response to the notification from the affected Party in a reasonable time frame (art. 3, para. 3, “within the time specified in the notification”)? Please specify:

- (a) National legislation does not cover the time frame
- (b) Yes, it is indicated in the national legislation (please indicate the time frame):
- (c) It is determined and agreed with each affected Party case by case in the beginning of the transboundary consultations (please indicate the average length in weeks):

Your comments:

Please specify the consequence if a notified affected Party does not comply with the time frame, and the possibility of extending a deadline:

I.14. How do you inform the public and authorities of the affected Party (art. 3, para. 8)? Please specify:

(a) By informing the point of contact to the Convention listed on the Convention website¹⁸

(b) Other (please specify):

Your comments:

I.15. On what basis is the decision made to participate (or not) in the transboundary EIA procedure as an affected Party (art. 3, para. 3)? Please specify:

(a) Notified ministry/authority of the affected Party responsible for EIA decides on its own based on the documentation provided by the Party of origin

(b) Based on the opinions of the competent authorities of the affected Party

(c) Based on the opinions of the competent authorities and that of the public of the affected Party

(d) Other (please specify):

Your comments:

I.16. If the affected Party has indicated that it intends to participate in the EIA procedure, how are the details for such participation agreed, including the time frame for consultations and the deadline for commenting (art. 5)? Please specify:

(a) Following the rules and procedures of the Party of origin

(b) Following the rules and procedures of the affected Party

(c) Other (please specify):

Your comments:

Articles 3.8 and 4.2

Public participation

I.17. How can the public express its opinion on the EIA documentation of the proposed project (art. 5)? Please specify (more than one option may apply):

As a Party of origin

(a) By sending comments to the competent authority/focal point

(b) By taking part in a public hearing

(c) Other (please specify):

As an affected Party

(d) By sending comments to the competent authority/focal point

(e) By taking part in a public hearing

(f) Other (please specify):

¹⁸ List available from http://www.unece.org/env/eia/points_of_contact.htm.

Your comments:

I.18. Please indicate whether your national EIA legislation requires the organization of a public hearing on the territory of the affected Party in cases where your country is the country of origin:

(a) Yes

(b) No

Your comments:

I.19. Please indicate whether your national EIA legislation requires the organization of public hearings in cases where your country is the affected Party:

(a) Yes

(b) No

Your comments:

Article 4

Preparation of the environmental impact assessment documentation

I.20. How do you ensure sufficient quality of the EIA documentation As a Party of origin? Please specify:

(a) The competent authority checks the information provided and ensures it includes all information required under appendix II as a minimum before making it available for comments

(b) By using quality checklists

(c) There are no specific procedures or mechanisms

(d) Other (please specify):

Your comments:

I.21. How do you determine the relevant information to be included in the EIA documentation in accordance with article 4, paragraph 1? Please specify (more than one option may apply):

(a) By using appendix II

(b) By using the comments received from the authorities concerned during the scoping phase, if applicable

(c) By using the comments from members of the public during the scoping phase, if applicable

(d) As determined by the proponent based on its own expertise

(e) By using other means (please specify):

Your comments:

I.22. How do you determine “reasonable alternatives” in accordance with appendix II, paragraph (b)?

(a) On a case-by-case basis

(b) As defined in the national legislation (please specify):

(c) Other (please specify):

Your comments:

Article 5

Consultations on the basis of the environmental impact assessment documentation

I.23. Does your national EIA legislation have any provision on the organization of transboundary consultations between the authorities of the concerned Parties? Please specify:

(a) Yes, it is obligatory

(b) No, it does not have any provision on that

(c) It is optional (please specify):

Your comments:

Article 6

Final decision

I.24. Please indicate all points below that are covered in a final decision related to the implementation of the planned activity (art. 6, para. 1):

(a) Conclusions of the EIA documentation

(b) Comments received in accordance with article 3, paragraph 8, and article 4, paragraph 2

(c) Outcome of the consultations as referred to in article 5

(d) Outcomes of the transboundary consultations

(e) Comments received from the affected Party

(f) Mitigation measures

(g) Other (please specify):

I.25. Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and the public in your country (art. 6, para. 1)?:

(a) Yes

(b) No

Your comments:

I.26. Is there any regulation in the national legislation of your country that ensures the implementation of the provisions of article 6, paragraph 3?:

(a) No

(b) Yes (please specify):

Your comments:

I.27. Do all activities listed in appendix I (items 1-22) require a final decision to authorize or undertake such an activity?:

- (a) Yes
- (b) No (please specify those that do not):

Your comments:

I.28. For each type of activity listed in appendix I that does require a final decision, please indicate the legal requirements in your country that identify what is regarded as the “final decision” to authorize or undertake such an activity (art. 6 in conjunction with art. 2, para. 3), and the term used in the national legislation to indicate the final decision in the original language:

Your comments:

Article 7

Post-project analysis

I.29. Is there any provision regarding post-project analysis in your national EIA legislation (art. 7, para. 1)?:

- (a) No
- (b) Yes (please specify the main steps to be taken and how the results of it are communicated):

Your comments:

Article 8

Bilateral and multilateral cooperation

(a) Agreements

I.30. Does your country have any bilateral or multilateral agreements based on the Convention (art. 8, appendix VI)?:

- (a) No
- (b) Yes Please specify with which countries:

If publicly available, please also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.

I.31. What issues do these bilateral agreements cover (appendix VI)? (More than one option may apply):

- (a) Specific conditions of the subregion concerned
- (b) Institutional, administrative and other arrangements
- (c) Harmonization of the Parties’ policies and measures
- (d) Developing, improving, and/or harmonizing methods for the identification, measurement, prediction and assessment of impacts, and for post-project analysis
- (e) Developing and/or improving methods and programmes for the collection, analysis, storage and timely dissemination of comparable data regarding environmental quality in order to provide input into the EIA
- (f) Establishment of threshold levels and more specified criteria for defining the significance of transboundary impacts related to the location, nature or size of proposed activities

(g) Undertaking joint EIA, development of joint monitoring programmes, intercalibration of monitoring devices and harmonization of methodologies

(h) Other, please specify:

Your comments:

(b) Procedural steps required by national legislation

I.32. Please describe how the steps required for a transboundary EIA procedure under your national legislation correlate to domestic EIA in the lead-up to the final decision. If there are differences in the procedures for screening/scoping or for preparation of the environmental impact assessment and consultation, please specify.

Alternatively, this question can be answered or supported by providing a schematic flowchart showing these steps.

Your comments:

I.33. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?

(a) No

(b) Yes (please specify):

(i) Special provisions:

(ii) Informal arrangements:

Your comments:

I.34. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for nuclear power plants (NPPs)?

(a) No

(b) Yes (please specify):

(i) Special provisions:

(ii) Informal arrangements:

Your comments:

Part two

Practical application during the period 2013–2015

Please report on your country's practical experiences in applying the Convention (not your country's procedures described in part one), whether As a Party of origin or affected Party. The focus here is on identifying good practices as well as difficulties Parties have encountered in applying the Convention in practice. The goal is to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve its application.

II.1. Does your country object to the information on transboundary EIA procedures that you provide in this section being compiled and made available on the website of the Convention? Please specify (indicate "yes" if you object):

(a) Yes

(b) No

Your comments:

1. Experience in the transboundary environmental impact assessment procedure during the period 2013–2015

Cases during the period 2013–2015

II.2. If your country's national administration has a record of transboundary EIA procedures that were under way during the reporting period, in which your country was a Party of origin or affected Party, please list them in the tables II.2 (a) and II.2 (b) below (adding additional rows as needed).

Table II.2 (a)

Transboundary EIA procedures: As a Party of origin

Project name	Starting date (date notification sent)	Affected Party/ Parties	Timing of the notification (screening, scoping or preparation of the EIA documentation)	Length of the main steps in months			Final decision (date of issuing, if information is available)
				Submission of the environmental report	Transboundary consultations (expert, if any)	Public participation, including public hearing, if any	
1.							
2.							
3.							
4.							
...							

Your comments:

Please share with other Parties your country's experience of using the Convention in practice. In response to each of the questions below, either provide one or two practical examples or describe your country's general experience. You might also include examples of lessons learned in order to help others.

II.3. The Convention does not mention the translation of EIA documentation as an important prerequisite for the participation of potentially affected Parties in a transboundary EIA procedure. Please explain:

(a) How has your country addressed the issue of the translation of EIA documentation?

(b) What difficulties has your country experienced with regard to translation and interpretation, both as a Party of origin and as an affected Party, and what solutions has it found?

(c) Which Party covers the cost of translation of EIA documentation?

(i) As a Party of origin:

(ii) As an affected Party:

(iii) Other, please specify:

(d) What parts of the EIA documentation does your country usually translate?

(i) As a Party of origin:

(ii) As an affected Party:

(e) Please indicate whether and how the issue of translation is addressed in bilateral agreements between your country and other Parties.

(f) As a Party of origin, in which language do you usually provide EIA documentation to the affected Party?

(i) English

(ii) The affected Party's language

(iii) Other (please, specify)

(g) As an affected Party, from which language do you usually translate?

(i) English

(ii) Language of the Party of origin

(iii) Other (please, specify)

(h) Describe any difficulties that your country has encountered during public participation procedures and consultations under article 5, for example with regard to timing, language and the need for additional information.

(i) As a Party of origin:

Experience with public participation

Experience with consultations under article 5

--

(ii) As an affected Party:

Experience with public participation

Experience with consultations under article 5

- (i) Please describe how the costs of interpretation during the hearings are covered:
- (ii) By the Party of origin:
- (iii) By the affected Party:
- (iv) Shared by both Parties concerned:
- (v) Developer:
- (vi) Other, please specify

II.4. Describe any difficulties that your country has encountered during transboundary public participation (expert consultation, public hearing, etc.), including on issues of timing, language and the need for additional information:

II.5. Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects or that of an NPP?:

- (a) Yes
- (b) No

II.6. If you answered yes to question II.5, please provide information on your country's experiences describing, for example, means of cooperation (e.g., contact points, joint bodies, bilateral agreements, special and common provisions, etc.), institutional arrangements, and how practical matters are dealt with (e.g., translation, interpretation, transmission of documents, etc.):

- (a) For joint cross-border projects:
- (b) For NPPs:

II.7. Please provide examples from your experience during the reporting period (either complete cases or elements such as notification, consultation and public participation) that, in your view, constitute good practice:

II.8. Would your country like to introduce a case in the form of a Convention "case study fact sheet"?

- (a) No
- (b) Yes (please indicate which cases):

II.9. Has your country carried out post-project analyses in the period 2013–2015:

- (a) No
- (b) Yes (please indicate which projects, along with the challenges in implementation and any lessons learned):

2. Experience in using the guidance in 2013–2015

II.10. Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online?

(a) Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context (ECE/MP.EIA/7):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

(b) Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendix):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

(c) Guidance on the Practical Application of the Espoo Convention (ECE/MP.EIA/8):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

3. Clarity of the Convention

II.11. Has your country had difficulties implementing the procedures defined in the Convention, either As a Party of origin or as an affected Party, because of a lack of clarity of the provisions?

- No
- Yes (please indicate which provisions and how they are unclear):

4. Suggested improvements to the report

II.12 Please provide further suggestions (preferably specific drafting proposals) for how this report could be improved.

Annex III

Protocol questionnaire

Questionnaire for the report of [NAME OF COUNTRY] on the implementation of the Protocol on Strategic Environmental Assessment in the period 2013–2015

Information on the focal point for the Protocol

1. Name and contact information:

Information on the point of contact for the Protocol

2. Name and contact information (if different from above):

Information on the person responsible for preparing the report

3. Country:
4. Surname:
5. Forename:
6. Institution:
7. Postal address:
8. Email address:
9. Telephone number:
10. Fax number:
11. Date on which report was completed:

Part one

Current legal and administrative framework for the implementation of the Protocol

In this part, please describe the legal, administrative and other measures taken in your country to implement the provisions of the Protocol. This part should describe the framework for your country's implementation, and not experience in the application of the Protocol.

Article 3

General provisions

I.1. Please provide the main legislative, regulatory and other measures you have adopted in your country to implement the Protocol (art. 3, para. 1) (more than one option may apply):

- (a) Law on SEA (please indicate number/year/name):
- (b) SEA provisions are transposed into another law(s) (please specify):
- (c) Regulation (please indicate number/year/name):
- (d) Administrative rule (please indicate number/year/name):
- (e) Other (please specify):

Your comments:

Article 4

Field of application concerning plans and programmes

I.2. List the types of plans and programmes that require SEA in your legislation: .

I.3. Explain how you define whether a plan or programme "set the framework for future development consent" (art. 4, para. 2):

I.4. Explain how the terms "plans and programmes ... which determine the use of small areas at local level" (art. 4, para. 4) are interpreted in your legislation:

I.5. Explain how you identify in your legislation a "minor modification" to a plan or programme (art. 4, para. 4):

Article 5

Screening

I.6. How do you determine which other plans and programmes should be subject to a SEA as set out in article 4, paragraphs 3 and 4, in accordance with article 5, paragraph 1? Please specify:

- (a) On a case-by-case basis
- (b) By specifying types of plans and programmes
- (c) By using a combination of (a) and (b)

(d) Other (please specify):

Your comments:

I.7. Do you provide opportunities for the public concerned to participate in screening and/or scoping of plans and programmes in your legislation (art. 5, para. 3, and art. 6, para. 3)?

No

Yes (please specify (more than one option may apply)):

(a) By sending written comments to the competent authority

(b) By sending written comments to the local municipality

(c) By providing answers to a questionnaire

(d) By taking part in a public hearing

(e) By sending written comments to the consultants/SEA experts or persons preparing the plans and programmes

(f) Other (please specify):

Your comments:

Article 6 Scoping

I.8. How do you determine what is the relevant information to be included in the environmental report, in accordance with article 7, paragraph 2 (art. 6, para. 1)?

Article 7 Environmental report

I.9. How do you determine “reasonable alternatives” in the context of the environmental report (art. 7, para. 2)? Please specify:

(a) On a case-by-case basis

(b) As defined in the national legislation (please specify):

(c) By using a combination of (a) and (b)

(d) Other (please specify):

Your comments:

I.10. How do you ensure sufficient quality of the reports? Please specify:

(a) The competent authority checks the information provided and ensures it includes all information required under annex IV as a minimum before making it available for comments

(b) By using quality checklists

(c) There are no specific procedures or mechanisms

(d) Other (please specify):

Your comments:

Article 8

Public participation

I.11. How do you ensure the “timely public availability” of draft plans and programmes and the environmental report (art. 8, para. 2)? Please specify (more than one option may apply):

- (a) Through public notices
- (b) Through electronic media
- (c) Through other means (please specify):

Your comments:

I.12. How do you identify the public concerned (art. 8, para. 3)? Please specify (more than one option may apply):

- (a) Based on the geographical location of the plans and programmes
- (b) Based on the environmental effects (significance, extent, accumulation, etc.) of the plans and programmes
- (c) By making the information available to all members of the public and letting them identify themselves as the public concerned
- (d) By other means (please specify):

Your comments:

I.13. How can the public concerned express its opinion on the draft plans and programmes and the environmental report (art. 8, para. 4)? Please specify (more than one option may apply):

- (a) By sending comments to the relevant authority/focal point
- (b) By providing answers to a questionnaire
- (c) Orally
- (d) By taking part in a public hearing
- (e) Other (please specify):

Your comments:

I.14. Do you have a definition in your legislation of the term “within a reasonable time frame” (art. 8, para. 4)? Please specify:

- (a) No, the time frame is determined by the number of days fixed for each commenting period
- (b) No, it is defined case by case
- (c) Yes (please provide the definition):
- (d) Other (please specify):

Your comments:

Article 9

Consultation with environmental and health authorities

I.15. How are the environmental and health authorities identified (art. 9, para. 1):

- (a) On a case-by-case basis:
- (b) As defined in the national legislation:
- (c) Other (please specify)

Your comments:

I.16. How are the arrangements for informing and consulting the environmental and health authorities determined (art. 9, para. 4):

- (a) On a case-by-case basis:
- (b) As defined in the national legislation:
- (c) Other (please specify)

Your comments:

I.17 Does your national legislation call for consultations with environmental and health authorities?

- (a) Yes
- (b) No

I.18. How can the environmental and health authorities express their opinion (art. 5, para. 2, art. 6, para. 2, and art. 9, para. 3):

- (a) By sending comments
- (b) By providing answers to a questionnaire
- (c) In a meeting
- (d) By other means (please specify)

Your comments:

Article 10

Transboundary consultations

I.19. As a Party of origin, when do you notify the affected Party (art. 10, para. 1)? Please specify:

- (a) During scoping
- (b) When the draft plan or programme and the environmental report have been prepared
- (c) At other times (please specify):

Your comments:

I.20. As a Party of origin, what information do you include in the notification (art. 10, para. 2)? Please specify:

- (a) The information required by article 10, paragraph 2

(b) The information required by article 10, paragraph 2, plus additional information (please specify):

Your comments:

I.21. As a Party of origin, does your legislation indicate a reasonable time frame for the transmission of comments from the affected Party (art. 10, para. 2)? Please specify:

(a) No

(b) Yes (please indicate how long):

Your comments:

I.22. If the affected Party has indicated that it wishes to enter into consultations, how do the Parties agree on detailed arrangements to ensure that the public concerned and the authorities in the affected Party are informed and given an opportunity to forward their opinion on the draft plan or programme and the environmental report within a reasonable time frame (art. 10, paras. 3 and 4)?

(a) Following those of the Party of origin

(b) Following those of the affected Party

(c) Other (please specify):

Your comments:

Article 11 Decision

I.23. When a plan or programme is adopted, explain how your country ensures, in accordance with article 11, paragraph 1, that due account is taken of:

(a) The conclusions of the environmental report

(b) Mitigation measures

(c) Comments received in accordance with articles 8 to 10

Your comments:

I.24. How and when do you inform your own public and authorities (art. 11, para. 2)?

I.25. How do you inform the public and authorities of the affected Party (art. 11, para.

(a) By informing the point of contact

(b) By informing the contact person of the ministry responsible for SEA, who then follows the national procedure and informs his/her own authorities and public

(c) By informing all the authorities involved in the assessment and letting them inform their own public

(d) Other (please specify):

Your comments:

I.26. How do you ensure that, when a plan or programme is adopted, the public, the authorities and the Parties consulted are informed and that the information mentioned in article 11, paragraph 2, is made available to them?

(a) Pursuant to national legislation (please refer to specific provisions and provide citations in order to clarify the procedure followed):

(b) Other (please specify):

Your comments:

Article 12 Monitoring

I.27. Describe the legal requirements for monitoring the significant environmental, including health, effects of the implementation of the plans and programmes adopted under article 11 (art. 12, paras. 1 and 2):

Part two Practical application during the period 2013–2015

In this part, please report on your country's practical experiences in applying the Protocol (and not your country's procedures, which were described in part one). The focus of this section should be on identifying good practices as well as difficulties encountered in applying the Protocol in practice. The goal is to enable Parties to share solutions. Please therefore provide appropriate examples highlighting application of the Protocol in your country and innovative approaches to improve its application.

II.1. Does your country object to the information on SEA procedures provided in this section being compiled and made available on the website of the Protocol? Please specify (indicate "yes" if you object):

(a) Yes

(b) No

Your comments:

1. Consideration of health effects

II.2. Does your SEA documentation always include specific information on health effects? Please specify:

(a) Yes

(b) No, only when potential health effects are identified

2. Domestic and transboundary implementation in the period 2013–2015

II.3. Does your SEA documentation always include specific information on potential transboundary environmental, including health, effects? Please specify:

(a) Yes

(b) No, only when potential transboundary effects are identified

3. Cases during the period 2013–2015

II.4. Please provide the (approximate) number of transboundary SEA procedures initiated during the period 2013–2015 and list them, grouped by the sectors listed in article 4, paragraph 2:

4. Experience with the strategic impact assessment procedure in 2013–2015

II.5. Has your country experienced substantial difficulties in interpreting particular terms (or particular articles) in the Protocol?

- (a) No
- (b) Yes (please indicate which ones):

II.6. How does your country overcome the(se) problem(s), if any, for example by working with other Parties to find solutions? Please provide examples:

II.7. With regard your country's experience with domestic procedures, in response to each of the questions below, either provide one or two practical examples or describe your country's general experience. You might also include examples of lessons learned in order to help others. Please detail:

(a) Has your country carried out monitoring according to article 12 and, if so, for what kinds of plans or programmes (cite good practice cases or good practice elements (e.g., consultation or public participation), if available)?

(b) Would your country like to present a case to be published on the website of the Convention and its Protocol as a "case study fact sheet"?

- (i) No
- (ii) Yes (please indicate which ones):

II.8. With regard your country's experience with transboundary procedures, in response to each of the questions below, either provide one or two practical examples or describe your country's general experience. You might also include examples of lessons learned in order to help others. Please detail:

(a) What difficulties has your country experienced and what solutions has it found?

- (i) Translation and interpretation
- (ii) Other issues

(b) What does your country usually translate as a Party of origin?

(c) As an affected Party, has your country ensured the participation of the public concerned and the authorities pursuant to article 10, paragraph 4?

- (i) No
- (ii) Yes (please indicate how):

(d) What has been your country's experience of the effectiveness of public participation?

(e) Does your country have examples of organizing transboundary SEA procedures for joint cross-border plans and programmes?

- (i) No
- (ii) Yes (please describe):

(f) As an affected Party, how do you ensure that the public concerned and the authorities are informed and given an opportunity to forward their opinion on the draft plan or programme and the environmental report within a reasonable time frame (art. 10, para. 4)?

5. Experience regarding guidance in 2013–2015

II.9. Are you aware of any use in your country of the online *Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment* (ECE/MP.EIA/17)?¹⁹:

- (a) No:
- (b) Part of it (Please specify):
- (c) Yes (please describe your experience):

Your comments on how the Guidance might be improved or supplemented:

6. Awareness of the protocol

II.10. Does your country see a need to improve the application of the Protocol in your country?

- (a) No:
- (b) Yes Please describe how your country intends to improve application of the Protocol:

7. Suggested improvements to the report

II.11. Please provide suggestions for how this report may be improved:

¹⁹ Available from http://www.unece.org/env/eia/pubs/sea_manual.html.

Annex IV

Terms of reference for guidance on the applicability of the Convention to the lifetime extension of nuclear power plants

I. Mandate

1. 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) at its seventh session (Minsk, 13–16 June 2017) agreed on the establishment of an ad hoc working group to draft terms of reference for possible guidance on addressing the applicability of the Espoo Convention to decisions on the lifetime extension of nuclear power plants. The Parties also agreed that the ad hoc group should meet at least twice prior to the seventh meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment (Geneva, 28–30 May 2018) and should organize a dedicated workshop at that meeting to discuss the outcomes of its work, with the presence at that workshop of the Implementation Committee under the Espoo Convention and its Protocol on Strategic Environmental Assessment, civil society and possibly the International Atomic Energy Agency (IAEA) and the Nuclear Energy Agency of the Organization for Economic Cooperation and Development. The Working Group was mandated to discuss and consider adopting the terms of reference at its seventh meeting taking into account the outcomes of the workshop. It was also requested to consider the subsequent extension of the ad hoc group to include international and non-governmental organizations (see ECE/MP.EIA/23-ECE/MP.EIA/SEA/7, para. 12; and ECE/MP.EIA/23/Add.1-ECE/MP.EIA/SEA/7/Add.1, decision VII/7–III/3, item I.9).

II. Background

2. At its sixth session (Geneva, 2–5 June 2014), the Meeting of the Parties to the Convention discussed whether the extension of the lifetime of a nuclear power plant was within the scope of the Espoo Convention.²⁰ The Implementation Committee, in its recommendations to the Meeting of the Parties concerning compliance with the Convention, had taken the general view that “the extension of the lifetime of a nuclear power plant, after expiration of the original licence, even in absence of any works is to be considered as a major change to an activity and consequently subject to the provisions of the Convention”.²¹ However, considering the various positions of the Parties on the topic, the compliance decision that the Meeting of the Parties adopted at that session (decision VI/2) in the end did not include a general statement on the extension of the lifetime of a nuclear power plant, limiting itself to a finding of non-compliance in relation to the Rivne nuclear power plant (see ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1, decision VI/2, paras. 68–71).

²⁰ This issue had already been addressed in a background note on the application of the Convention to nuclear-related activities prepared by the secretariat for a panel discussion on nuclear energy-related projects at the fifth session of the Meeting of the Parties to the Convention (Geneva, 20–23 June 2011) (see ECE/MP.EIA/2011/5, paras. 9–11).

²¹ See ECE/MP.EIA/2014/L.3, draft decision VI/2, para. 5 (f); see also the Committee’s findings and recommendations further to a Committee initiative concerning Ukraine with regard to the Rivne nuclear power plant (ECE/MP.EIA/IC/2014/2, annex, para. 65).

3. There is, therefore, still considerable legal uncertainty as to whether and in what circumstances lifetime extensions of nuclear power plants require a transboundary environmental impact assessment under the Espoo Convention. There are several cases of this nature pending before the Implementation Committee,²² with a significant number of further cases envisaged in the next 10 years.

III. Preparatory process

4. Following the first meeting of the ad hoc working group (Luxembourg, 27–28 November 2017), in December 2017 and February 2018 its co-Chairs circulated updated versions of the document containing elements of terms of reference for the possible guidance. Comments received from a number of Parties to the Convention represented in the ad hoc group were reflected in the updated versions. In the second meeting of the ad hoc working group (Brussels, 20–21 February 2018) the paper was further discussed, strictly focusing on the content of the draft terms of reference. The group agreed that answers to the application of the Convention as regards the extension of lifetime of nuclear power plants would have to be given in possible future guidance itself. The current draft terms of reference were the basis of discussion at the workshop held during the seventh meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment. Along with the outcomes of that workshop, they were submitted for consideration of the Working Group.

5. The present document contains the terms of reference adopted by the Working Group in May 2018. It reflects comments received, primarily those of the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). The Working Group also extended the mandate of the ad hoc group and invited it to begin work on the draft guidance based on the terms of reference, taking into account the workshop's outcomes (see annex I to the present report), and to submit a written report on its progress to the intermediary session of the Meeting of the Parties to the Convention in February 2019 as an official document so that the Meeting could decide how to proceed with a view to adopting the guidance at its eighth session (preliminarily scheduled to be held in Geneva in December 2020).

IV. Relevant criteria for determining the applicability of the Convention

6. There are several stages before the requirement to notify under article 3 of the Espoo Convention is established. As a first step, the cumulative criteria of a “proposed activity” as defined by article 1, paragraph (v), of the Convention have to be fulfilled. A “proposed activity” must be:

- (a) an “activity” or a “major change to an activity”;
- (b) “subject to a decision”;
- (c) “of a competent authority”;

²² The following cases are pending: the Netherlands, Borselle nuclear power plant (EIA/IC/INFO/15); Belgium, Doel nuclear power plant reactors 1 and 2 and Tihange nuclear power plant reactor 1 (EIA/IC/INFO/18); Czechia, four reactors at the Dukovany nuclear power plant (EIA/IC/INFO/19); Ukraine, several reactors at the South Ukraine, Khmelnytskyi and Zaporizhzhya nuclear power plants (EIA/IC/INFO/20).

(d) “in accordance with an applicable national procedure”.

7. When a lifetime extension is regarded as a “proposed activity”, a transboundary procedure in accordance with the Convention will only be required if a second set of cumulative criteria are fulfilled (see article 2, paras. 2 to 5, and article 3, para. 1, of the Convention). According to these criteria, the lifetime extension must be:

(a) “likely to cause”;

(b) “significant”;

(c) “adverse”;

(d) “transboundary impact”.

8. These criteria should only be analysed with regard to their specific relevance in the context of lifetime extensions of nuclear power plants.

V. Topics to be considered

9. The topics in this section highlight six areas that should be explored further when developing possible guidance for the applicability of the Espoo Convention to decisions on the lifetime extension of nuclear power plants. A short introduction for each topic will explain the reasons for and the aspects of the respective topic that could be important with regard to the criteria listed under section IV above. The introductions will be followed by a list of Discussion points related to the topics.²³

10. As set out in the mandate for the ad hoc working group from June 2017 and as discussed in the group’s meetings in Luxembourg and in Brussels, the intention is that the discussion on the future guidance should be limited by the scope of the Espoo Convention in relation to the lifetime extension of a nuclear power plant.

Topic 1

Extension of an existing licence or issuance of a new licence by a competent authority in the case of a time-limited licence

11. In several countries time-limited licences are envisaged for the operation of nuclear power plants. If the time limit runs out the operator may ask for an extension of his licence or for the existing licence to be reissued for an extended period of time. Future guidance should reflect whether and under what circumstances the continued operation subject to a time extended licence or a new licence will meet the criteria of a proposed activity as defined in article 1, paragraph (v), of the Convention (see para. 5 above).

²³ Note: the order and numbering of the topics and the points of discussion does not indicate any form of hierarchy between them.

Discussion points

- Is the continued operation of a nuclear power plant subject to a time-extended licence a new “activity” or a “major change” to an existing activity according to article 1, paragraph (v), of the Convention?
- Practical relevance of the above distinction:
 - Classification as a “major change” could perhaps offer more flexibility in a case-by-case examination of lifetime extensions of nuclear power plants (e.g., a short extension might possibly be regarded as a “minor change”).
- How can “major” be defined with regard to the extension of the lifetime of a nuclear power plant?
- Does it make a difference whether the licence providing for lifetime extension modifies the original licence or whether it extends the lifetime of the facility only, leaving the technical or operating conditions untouched?
- The scope of this topic covers cases in which the former time-limited licence has not expired yet. How should cases be handled in which the operator asks for a time-extended licence after the validity period of the original licence has expired? Is the later operation in the latter cases necessarily a new activity which will require a transboundary procedure according to the Espoo Convention if the other criteria (e.g., likelihood to cause significant adverse transboundary impact) are met?
- Is there an agreed technical definition for “lifetime extension” and “long-term operation”^a and how could this definition help to clarify the applicability of the Convention in possible guidance?

^a According to the European Commission’s Joint Research Centre in its presentation at the first meeting of the ad hoc working group, no specific definition for “lifetime extension” could be found. For “long-term operation” the Joint Research Centre referred to an IAEA definition: “operation beyond an established time frame set forth by, for example, licence term, design, standards, licence and/or regulations”. (See, for example, *Plant Life Management Models for Long Term Operation of Nuclear Power Plants*, IAEA Nuclear Energy Series No. NP-T-3.18 (Vienna, International Atomic Energy Agency, 2015), available from <https://www-pub.iaea.org/books/iaeabooks/10520/Plant-Life-Management-Models-for-Long-Term-Operation-of-Nuclear-Power-Plants>).

Topic 2

Are there particular factors or preconditions, such as “physical works”, for identifying a “proposed activity”?

12. The definition of “proposed activity” in article 1, paragraph (v), of the Convention does not mention particular factors such as “physical works” as a specified precondition for a proposed activity.²⁴ The future guidance on lifetime extensions for nuclear power plants should include consideration of whether factors like “physical works” could be a relevant criterion to identify a “proposed activity” within the scope of the Convention.

13. Attention should also be given to the fact that “physical works” is not a legally defined term. “Physical works” may include different categories of activities only some of which might be relevant with regard to the applicability of the Convention to the lifetime extension of nuclear power plants. Others may not (e.g., because they may have no influence on the operation of a facility). If the inclusion of a requirement regarding “physical works” was found relevant, then the possible guidance should analyse different types of “physical works” and their significance with regard to the application of the Convention.

²⁴ The definition of “proposed activity” in article 1, paragraph (v), of the Espoo Convention is different from the definition of “project” in the EIA Directive. With regard to the definition of “proposed activity” of the Espoo Convention, the Implementation Committee took the view that “the extension of the lifetime of a nuclear power plant, after expiration of the original licence, even in absence of any works, is to be considered as a major change to an activity and consequently subject to the provisions of the Convention” (see para. 2 above). However, according to article 1, paragraph 2 (a), of the EIA Directive “project” means: “the execution of constructive works or other installations or schemes; [and] other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources”. The European Court of Justice in its rulings came to the conclusion that the extension of a licence “in the absence of any works or interventions involving alterations to the physical aspect of the site” is not a project under the EIA Directive (see Case C-275/09, Brussels Hoofdstedelijk Gewest v. Vlaamse Gewest, E.C.R. [2011] I-1753, para. 30).

Discussion points

- Are there reasons to assume that a “proposed activity” will require physical works or other particular factors, although not mentioned explicitly in article 1, paragraph (v), of the Convention?
- If proposed activities have to be accompanied by physical works, how should physical works relevant in terms of the Convention be distinguished (e.g., by quantitative and qualitative criteria) from others which could be disregarded? In this context, do physical works also include measures for the improvement of nuclear safety (i.e., safety upgrades)? If not, how should measures for safety improvement be distinguished from other works such as a power upgrade?
- Does it make a difference whether physical works will be performed before the operation continues or sometime after the extension?
- Are there any other possible factors or preconditions? In particular, should such factors include the period of operation on which the environmental impact assessment for the existing activity was based and the issue of whether an environmental impact assessment was carried out when the nuclear power plant was permitted?

Topic 3**Lifetime extension by a specific domestic law**

14. The term “competent authority” is defined in article 1, paragraph (ix), of the Convention as an authority responsible for performing the tasks covered by the Convention or entrusted by a Party with decision-making powers. In some countries the lifetime of a nuclear power plant has not been extended by an administrative decision but by a specific domestic law.

Discussion points

- Is a national parliament a “competent authority” in the meaning of article 1, paragraphs (v) and (ix), of the Convention?
- If a national parliament adopts a specific domestic law extending the lifetime of a certain nuclear power plant, what conditions will have to be met to assume that the decision is taken “in accordance with an applicable national procedure” (article 1, para. (v), of the Convention)? For example, should the national legislative procedure be considered an “applicable national procedure”?
- Does it make a difference whether the underlying licence is limited or unlimited?
 - In some countries, for example, the operating period of a nuclear power plant with an unlimited time licence is reduced by a specific domestic law. Later, this law is amended in order to allow for an extended operating period.
- Does it make a difference whether the law providing for a lifetime extension modifies the underlying licence (i.e., its period of validity) or whether it extends the lifetime of the facility directly leaving the operating licence untouched?

Topic 4**Likelihood of lifetime extension to cause significant adverse transboundary impact**

15. As noted above (see in particular para. 7), the extension of the lifetime of an existing nuclear power plant would only require a transboundary procedure in accordance with the Espoo Convention if the resultant operation of that nuclear power plant was likely to cause significant adverse transboundary impact. Therefore, guidance should consider how to determine if a lifetime extension is likely to have this effect. When exploring the likelihood of significant adverse transboundary impact, attention should also be given to the different types of possible lifetime extensions. In some cases, a continued operation under the same conditions (i.e., with no significant technical changes or updates) will be allowed, while in other cases lifetime extension will only be permitted if accompanied by measures to improve nuclear safety. It should be made clear whether and how these differences could be reflected in the assessment.

Discussion points

- Can the extension of the lifetime of a nuclear power plant be regarded as a factor that is likely to cause significant adverse transboundary impact (noting the definition of “impact” in article 1, paragraph (vii), of the Convention)?
 - The extended operation of a nuclear power plant might result, e.g., in
 - Malfunction by ageing components.
 - The risk of an accident.
 - An increase in the time of exposure to extreme natural hazards that could alone or in combination with human failure or malevolent human acts lead to the release of radioactive substances into the environment.
 - Increased generation of both radioactive waste and spent nuclear fuel.
 - Should the guidance also consider how to address changes in the environment and/or changes in environmental standards when assessing the possible significant adverse transboundary impact of the lifetime extension of an existing nuclear power plant?
- How should the term “likely” be understood in the context of nuclear-energy-related activities, such as the lifetime extension of a nuclear power plant, where the probability of a major accident, beyond-design-basis accident or disaster is low but the magnitude of the adverse transboundary impact of such an accident or disaster could be extremely high?
- Could a specific process (e.g., “screening”) be recommended in order to assess whether lifetime extension will be likely to cause significant adverse transboundary impact? What kind of assessment will be required for this “screening”?
- Does it make a difference whether lifetime extension will be accompanied by measures to improve nuclear safety or measures to reduce the environmental impact? Will measures to improve safety have to be assessed with regard to their possible impact on the environment (beyond radiological aspects)?
- Does the duration of the lifetime extension make a difference?
 - For instance, the likelihood of a significant adverse transboundary impact could perhaps be lower if the nuclear power plant will only be allowed to operate for an additional short period of time.
- Does it make a difference whether the nuclear power plant in question was constructed before the Espoo Convention existed/was in force for a given Party and never subject to a transboundary environmental impact assessment procedure (including public participation)^a according to the Convention?

- If the Party of origin concludes that no significant adverse transboundary impact is likely to occur, how can that conclusion be demonstrated without conducting a transboundary environmental impact assessment? Could that be demonstrated by the specific process (“screening”) mentioned above?

^a Public participation, including in the transboundary context, as required under the ECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) is also of relevance.

Topic 5

Periodic safety review²⁵

16. According to the respective national legislation there are different ways of proceeding once a periodic safety review of a nuclear power plant has been carried out. In some countries the operator needs a permission from the competent authority to continue the operation of the installation following its periodic safety review. Depending on the findings of the periodic safety review, the permission may include an obligation for the operator to carry out nuclear safety improvements of the installation before continuing its operation or in parallel to its continued operation. A periodic safety review could also be used in support of the decision-making process for a licence extension or renewal (if required by the national legal framework). The future guidance should also consider these cases. It should also clarify the correlation between the transboundary EIA process, periodic safety reviews and licencing processes.

➤ ²⁵ A periodic safety review after a certain period of operation of a nuclear power plant is for instance mandatory in the European Union under the Euratom Nuclear Safety Directive (Directive 2009/71/EURATOM establishing a Community framework for the nuclear safety of nuclear installations and its amendment, Directive 2014/87/Euratom). A periodic safety review is a comprehensive safety review of all the important aspects of safety carried out at regular intervals, typically every 10 years. (See also Periodic Safety Review for Nuclear Power Plants: Specific Safety Guide, IAEA Safety Standards Series No. SSG-25 (Vienna, International Atomic Energy Agency, 2013), available from <https://www.iaea.org/publications/8911/periodic-safety-review-for-nuclear-power-plants>.) The operating licence exists independently of the periodic safety review.

Discussion points

- Does a permission granted by the competent authority to continue operation after a periodic safety review has been carried out fulfil the characteristics of a “decision” as set out in article 1, paragraph (v), of the Convention?
- Could the term “decision” in article 1, paragraph (v), of the Convention also include decisions to allow or not allow a continued operation of an installation following its periodic safety review?
- Even if the national law does not foresee a formal permission to continue the operation of an installation after a periodic safety review has been carried out, the competent authority will have to examine the findings of the periodic safety review and consider if continued operation will be acceptable. Could the conclusion of this assessment be regarded a “decision” according to article 1, paragraph (v), of the Convention?
 - See article 2, paragraph 3, of the Convention: “an environmental impact assessment is undertaken prior to a decision to authorize or undertake a proposed activity listed in Appendix I”.
- Do the same principles apply for a permission to continue operation following an outage?
- How can a distinction be drawn between usual maintenance and works and measures related to a periodic safety review?
- What is the relationship between a periodic safety review, licensing and transboundary environmental impact assessment (both process and contents wise)?

Topic 6**Operation beyond the designed (minimum) lifetime**

17. At the time of their construction, many nuclear power plants were typically designed for a (minimum) lifetime of 30 or 40 years. In some countries, according to their national law, a review will be carried out when the operation of a nuclear power plant comes to the end of its designed (minimum) lifetime. To continue the operation following this date, a permission by the competent authority may be required, for example following a periodic safety review. Depending on the findings of the review, the permission may include an obligation for the operator to carry out nuclear safety improvements of the installation.

Discussion points

- The situation described above, i.e., the review of a nuclear power plant in order to explore whether continued operation beyond its designed (minimum) lifetime will be possible, could be similar to the cases discussed under topic 5 (periodic safety review). Are there any differences that would justify a different approach?
- Would it be helpful for possible guidance to include a definition/a common understanding of the term “designed lifetime”?^a

^a See the different existing definitions from various organizations, such as IAEA (“Design life”: “The period of time during which a facility or component is expected to perform according to the technical specifications to which it was produced”, *IAEA Safety Glossary: Terminology Used in Nuclear Safety and Radiation Protection*, 2007 Edition (Vienna, International Atomic Energy Agency, 2007), available from <http://www-ns.iaea.org/standards/safety-glossary.asp>).