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ON ENVIRONMENTAL IMPACT ASSESSMENT
IN A TRANSBOUNDARY CONTEXT

Working Group on Environmental Impact Assessment

Twelfth meeting
Geneva, 11–13 May 2009
Item 4 of the provisional agenda

SUBREGIONAL COOPERATION AND CAPACITY-BUILDING

Summary of workshop findings

Note by Bulgaria and the Republic of Moldova

Summary

The present note has been prepared further to decisions IV/4 and IV/5 taken at the fourth meeting of the Parties (ECE/MP.EIA/10), which requested the lead countries to prepare a short summary of the findings of, respectively, each subregional cooperation or capacity-building workshop held. This note summarizes the findings of: (a) a capacity-building workshop for Eastern Europe, held from 5 to 7 November 2008 in Chisinau; and (b) a subregional workshop for South-Eastern Europe, held from 17 to 19 November 2008 in Koprivshitsa, Bulgaria. Informal reports of the workshops, together with other workshop outputs, are available on the Convention's website (<http://www.unece.org/env/eia>). The workshop in Koprivshitsa included a discussion on the relationship between environmental impact assessment and strategic environmental assessment. A short awareness-raising paper on this relationship, as foreseen in the workplan (ECE/MP.EIA/10, decision IV/7, annex), is included in annex to this note.

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INTRODUCTION

1. The first of the two workshops reported below was originally foreseen in the workplan adopted for the intersessional period between the third and fourth meetings of the Parties (ECE/MP.EIA/6, decision III/9, annex IX). It was a component of the activity on capacity-building in Eastern Europe, Caucasus and Central Asia. The workshop and its necessary budget were carried forward to the current intersessional period. The Meeting of the Parties recognized that such activities promote the implementation and practical application of the Convention in the subregion (ECE/MP.EIA/10, decision IV/5).

2. The second workshop was foreseen in the workplan adopted for the current intersessional period within the activity on subregional cooperation and capacity-building to strengthen contacts between the Parties and other States, including States outside the UNECE¹ region (decision IV/7). The Meeting of the Parties recognized that subregional cooperation promoted the regular exchange of information within the subregion and improved the practical application of the Convention (decision IV/4).

3. The Meeting of the Parties requested the lead countries to prepare a short summary of the findings of each workshop held, whether for capacity-building or for strengthening subregional cooperation (decisions IV/5 and IV/4, respectively). This document responds to the request of the Meeting of the Parties.

I. CAPACITY-BUILDING WORKSHOP FOR EASTERN EUROPE, HELD FROM 5 TO 7 NOVEMBER 2008 IN CHISINAU

4. Representatives of the following Parties participated in the capacity-building workshop for Eastern Europe: Armenia, Belarus, Republic of Moldova, Romania and Ukraine. A representative of the Russian Federation, a Signatory State, also participated. The Convention secretariat was also represented.

5. The following non-governmental organizations (NGOs) were also represented: Caucasus Environmental NGOs Network (CENN), Environmental Rights Centre "Bellona", European Eco-Forum, Regional Environmental Centre (REC) Moldova and REC Russia. Environmental Rights Centre "Bellona" and REC Russia made a statement, which is included in the informal workshop report available on the Convention's website.

6. The workshop was hosted and organized by the Ministry of Environment and Natural Resources of the Republic of Moldova, and funded by a grant from UNECE, with support from Switzerland and the Meeting of the Parties.

¹ United Nations Economic Commission for Europe.

A. Conclusions agreed by the workshop participants

7. To build capacity to implement the Convention fully, the workshop participants from Belarus, the Republic of Moldova and Ukraine agreed that they would seek to carry out the following activities besides the subregional workshop in Belarus already foreseen in the workplan (decision IV/7):

(a) A training workshop, or workshops, for experts and NGOs on transboundary environmental impact assessment (EIA) procedures, with reference to practical experience. The workshop would be for Belarus, Republic of Moldova and Ukraine; Armenia and the Russian Federation would be invited to participate. The workshop would be led by the focal point for Ukraine (subject to approval by Ukraine) in close coordination with the focal points for Belarus and the Republic of Moldova. Romania and other experienced neighbouring Parties would be invited to provide insights into their practical experience;

(b) National workshops in Belarus, Republic of Moldova and Ukraine to raise awareness of the Convention among line ministries, other developers (project proponents) and NGOs. The workshops would be led by the focal point of the Party concerned, and would be prepared in coordination with a relevant NGO in the Party;

(c) Reviews of national legislation, further to a request to the Convention's Implementation Committee (not a submission), and subsequent technical assistance in revision of legislation, if necessary. Equivalent processes have already been initiated in Armenia and in Ukraine. Belarus and the Republic of Moldova might request such reviews;

(d) Sharing of information that would be of use to others, such as guidelines, training materials and awareness-raising products. Relevant materials may be sent to the secretariat, which will make them available electronically through the website, by e-mail or on a CD-ROM, as appropriate. The secretariat will investigate hardcopy publishing of resources of regional or subregional relevance;

(e) Carrying out a pilot project in Belarus, as already foreseen in the workplan. The availability of funding for this pilot project will be confirmed.

8. For all workshops (activities (a) and (b) above), co-financing will be sought, with workshops to be planned in the next budget year (2009). The lead focal points will provide detailed information to the secretariat, which will work with them to secure funding. Further definition of all the above activities may be found in the informal workshop report available on the Convention's website.

II. SUBREGIONAL WORKSHOP FOR SOUTH-EASTERN EUROPE, HELD FROM 17 TO 19 NOVEMBER 2008 IN KOPRIVSHTITSA, BULGARIA

9. Representatives of the following Parties participated in the workshop: Bulgaria, Croatia, Romania and Serbia. A representative of Turkey also participated. The Convention secretariat was also represented. The workshop was hosted and organized by the Ministry of Environment and Water of Bulgaria.

10. In addition to the topics described in the following sections, participants discussed the relationship between EIA and strategic environmental assessment (SEA). Notes on this relationship are provided in annex.

A. Multilateral agreement

11. Parties reported on their preparation for ratification of the multilateral agreement for implementation of the Convention among the countries of South-Eastern Europe (ECE/MP.EIA/2008/8, annex), which States signed in Bucharest during the fourth meeting of the Parties. Turkey, not being a Party to the Convention, indicated that there was not an expectation of accession at present. The secretariat reiterated that non-Parties to the Convention might join the multilateral agreement, so as to provide a transboundary EIA procedure among the countries of South-Eastern Europe.

12. Bulgaria reported that it had concluded that Parliamentary ratification was not needed as the agreement further implements the Convention. Instead, the Council of Ministers of Bulgaria had approved the agreement on 13 November 2008 and the instrument of approval was expected to be sent to the Depository (Romania) by 15 December 2008.

13. The participants noted that national experts might already begin the work foreseen in article 5 of the agreement on the development of significance criteria and for additional guidance on key steps. For the criteria, experts might build on criteria set out in the IPPC and Seveso II Directives², as well as in guidance under the Convention. For additional guidance on key steps, the countries might later use or adopt appropriate existing guidelines.

B. Experiences in the application of the Convention

14. Representatives of each of the Parties described their experiences regarding the practical application of the Convention.

15. In addition, the representative of Bulgaria observed that: (a) comments needed to be addressed by proponent, as there might be thousands of comments and they were for the proponent to answer; (b) strict deadlines could be imposed on the time allowed for the proponent to respond to comments; and (c) alternatives must be developed by the proponent.

² Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (IPPC) and Council Directive 96/82/EC on the control of major-accident hazards ("Seveso II"), as amended by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003.

16. The representative of Romania observed that Romania generally used English as the language of communication and documentation, for practical and cost reasons. He also observed that in some cases it was difficult: (a) to respond to simple objections to the project as a whole, regarding the policy-setting (e.g. from those against mining or against nuclear power); and (b) to foresee the time schedule at the start of the procedure. This created a need for flexibility in terms of consultation with affected Parties.

17. The representatives of Serbia reported that Serbia had no experience in the application of the Convention, but did have experience in transboundary cooperation with Bulgaria, Hungary and Romania in strategic environmental assessment (SEA). EIA and SEA laws were in force, and they addressed transboundary issues.

18. The representative of Turkey reported that EIA legislation was in place, providing concordance with European Union (EU) Directives³, except with respect to transboundary issues.

C. Experiences in strategic environmental assessment

19. All participants provided information on their legislation for, and experiences with, SEA. All Parties had SEA legislation, whereas Turkey had developed a draft SEA law. Most SEAs in the subregion related to spatial planning, but there was also substantial experience with respect to sectoral plans and programmes. Parties noted that certain plans and programmes (e.g. local spatial plans, as well as regional waste management plans, in Romania) attracted significant public interest, whereas other, more strategic, plans and programmes drew little public attention.

20. Parties also noted experience in transboundary SEA, for the EU European Territorial Cooperation Programmes and, ongoing, for the Rosia Montana gold mine in Romania. The specific characteristics of the European Territorial Cooperation Programmes made it difficult for SEA to be carried out, and the responsibilities of the concerned authorities of the States could have been clearer.

D. Other matters

21. The participants took note of information provided by Romania and Bulgaria on an ongoing transboundary EIA procedure for work to improve navigation on the Danube River, where the river forms the border between the two Parties. Romania informed Bulgaria about the project, which Bulgaria took as a notification. Later, Bulgaria and Romania agreed that the project was a joint project and established a joint working group; they anticipated notification of the Republic of Moldova, Serbia and Ukraine.

³ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by Council Directive 97/11/EC of 3 March 1997 and Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC.

22. The participants also took note of information provided by Turkey and the secretariat on ongoing development of guidelines on transboundary EIA under the Convention on the Protection of the Black Sea against Pollution.

E. Follow-up activities

23. The participants considered that further discussion was needed in the subregion on the inclusion of socio-economic effects in SEA as well as on the responsibilities of the environmental authorities in reviewing the expanded scope of SEA.

24. The participants recognized the value of the workshop in sharing experiences and building relationships between States in the subregion. They agreed that a follow-up workshop should be organized within a year, and after the May 2009 meeting of the Working Group on EIA.

Annex

Notes on the relationship between environmental impact assessment and strategic environmental assessment, in a transboundary context, relating to experiences and approaches in South-Eastern Europe

Experiences

1. Within the process for development consent for large-scale projects, including in a transboundary context, Parties have experienced the need to consider development or amendment of plans, particularly spatial plans. Examples include the Belene nuclear power plant in Bulgaria and the Rosia Montana gold mine in Romania.
2. Parties have also observed that comments received from the public of affected Parties on large-scale projects have sometimes addressed more strategic aspects of a given project, e.g. comments received regarding the expansion of the Chernavoda nuclear power plant (units 3 and 4) in Romania questioned the rationale for the project, rather than its environmental impact.
3. Most Parties noted that SEA methodology applicable to more strategic plans and programmes was sometimes difficult to apply at a very detailed level, e.g. in urban planning. Conversely, Serbia's experience was that SEA concerning local planning was difficult to apply at the highest level (strategies).
4. Some States noted that certain institutions were not ready to implement SEA at all levels of planning, but were prepared to do so for EIA. A related issue was that the public was more interested in concrete projects than national-level concepts. Nonetheless, SEA of municipal plans, for example, attracted significant public interest.

Approaches

5. When an activity is proposed in a plan, or where a project proposal would require a change to a plan (or the elaboration of a new plan), EIA and SEA can be combined within one procedure in accordance with the requirements of both EIA and SEA legislation. The public finds the EIA procedure more understandable. In a decision on an EIA, the competent authority specifies that the plan for the same activity should be approved by this decision. This approach has been applied by Bulgaria for fast-track (priority) projects.
6. If an SEA is carried out for a plan that defines subsequent projects, locational questions are best addressed in the SEA and not considered further in the EIA.
7. When a first announcement is received, it is useful to prepare specific recommendations to the proponent on the appropriate procedural aspects to consider – among other things, regarding the Natura 2000 ecological network (and the EU Habitats and Birds Directives⁴), and

⁴ Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds and Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

whether a combined or parallel EIA and SEA might be applicable – and, consequently, to make recommendations on methodology.
