


**Economic Commission for Europe**

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

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

**Implementation Committee**

**Forty-fifth session**

Geneva, 10–13 September 2019

**Report of the Implementation Committee on its  
 forty-fifth session**
**Contents**

	<i>Page</i>
I. Introduction .....	3
A. Attendance .....	3
B. Organizational matters .....	3
II. Follow-up to decisions IS/1 a, c and f .....	3
A. Follow-up to decision IS/1a regarding Armenia (EIA/IC/CI/1) .....	3
B. Follow-up to decision IS/1c regarding Azerbaijan (EIA/IC/CI/2) .....	4
C. Follow-up by Ukraine to decision IS/1f regarding the Bystroe Canal Project (EIA/IC/S/1) ..	5
III. Submissions.....	5
IV. Information gathering.....	6
A. Convention matters .....	6
B. Protocol matters .....	15
V. Review of implementation .....	17
A. Specific compliance issue under the Protocol.....	17



B.	Examination of general and specific compliance issues from the fifth review of implementation of the Convention.....	17
C.	Examination of general and specific compliance issues from the second review of implementation of the Protocol .....	18
D.	Review of the findings of the draft sixth review of implementation of the Convention and the draft third review of implementation of the Protocol .....	19
VI.	Work methods and operating rules .....	19
VII.	Presentation of the main decisions taken and closing of the session .....	20

## I. Introduction

1. The forty-fifth session of the Implementation Committee under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment was held from 10 to 13 September 2019, in Geneva.

### A. Attendance

2. The following members of the Committee attended the session: Mr. Anders Bengtsson (Sweden); Ms. Aysel Rzayeva (Azerbaijan); Mr. Libor Dvorak (Czechia); Ms. Maria do Carmo Figueira (Portugal); Mr. Kaupo Heinma (Estonia); Ms. Zsuzsanna Pocsai (Hungary); Mr. Romas Švedas (Lithuania); Mr. Lasse Tallskog (Finland); and Ms. Nadezhda Zdanevich (Belarus). The Committee regretted that neither Mr. Vladimir Buchko, a Committee member nominated by Ukraine, nor his alternate were able to attend the session.

### B. Organizational matters

3. The Chair of the Committee opened the session. As suggested by the Chair, the Committee agreed to consider the letters from Denmark, Finland and Sweden, dated 17 May 2019, 23 August 2019 and 3 June 2019 respectively, regarding Nord Stream 2 (see paras. 89–91 below) under agenda item 4 on “Information gathering”. The Committee adopted its agenda as set out in document ECE/MP.EIA/IC/2019/3 with that adjustment.

4. The secretariat informed the Committee about the outcomes of the Bureau meeting held in Geneva, on 17 and 18 June 2019, including the Bureau’s recommendations on improving the future conduct of the Meetings of the Parties’ sessions with a view to facilitating consensus in the Parties’ decision-making.<sup>1</sup>

5. The Committee welcomed the information from the Committee member nominated by Azerbaijan concerning ratification of the two amendments to the Convention in early September 2019.

## II. Follow-up to decisions IS/1 a, c and f

6. The Committee discussed the follow-up to decisions IS/1 a, c and f regarding compliance by individual Parties with their obligations under the Convention, as adopted by the Meeting of the Parties to the Convention at its intermediary session (Geneva, 5–7 February 2019) (see ECE/MP.EIA/27–ECE/MP.EIA/SEA/11, para. 48). The discussions were not open to observers, in accordance with rule 17 (1) of the Committee’s operating rules.<sup>2</sup> The Committee member nominated by Azerbaijan was absent during the Committee’s consideration of the matter regarding her own country.

### A. Follow-up to decision IS/1a regarding Armenia (EIA/IC/CI/1)<sup>3</sup>

7. The Committee welcomed the information from Armenia dated 24 July 2019 that the proposed amendments to its legislation for the implementation of the Convention and the secondary legislation would be adopted by December 2019. Armenia would thereafter provide an English translation of the legislation for the Committee.

<sup>1</sup> Informal notes on the Bureau meeting are available at <http://www.unece.org/index.php?id=50461>.

<sup>2</sup> The Committee’s operating rules were adopted by decision IV/2, annex IV (see ECE/MP.EIA/10) and then amended by decisions V/4, annex (see ECE/MP.EIA/15) and VI/2, annex II (see ECE/MP.EIA/20.Add.1–ECE/MP.EIA/SEA/4.Add.1).

<sup>3</sup> The Committee reference. Information on Committee initiatives is available at [www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/committee-initiative.html](http://www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/committee-initiative.html).

8. The secretariat reported on planned activities in the context of the European Union-funded “EU4Environment” initiative, focusing on the development of institutional structures to implement the Protocol and the Convention and on the preparation of guidelines on transboundary environmental impact assessment procedure, which should be based on the requirements of the legislation to be adopted.

9. The Committee asked its Chair to write to Armenia expressing thanks for the information provided and encouraging the country to follow its schedule for adopting the legislation. In his letter, the Chair should highlight that the Committee would prepare the first drafts of all compliance decisions at its forty-seventh session (Geneva, 16–19 March 2020), with a view to presenting them for comments before, during and after the ninth meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment (Geneva, 9–11 June 2020). To enable the Committee to do so, Armenia should provide, by no later than 17 February 2020, the following:

(a) A report on implementation by Armenia of decision IS/1a, particularly regarding paragraphs 4 and 5;

(b) An English translation of the adopted legislation.

10. The Committee agreed to continue the consideration of the matter at its forty-seventh session and invited the curator to prepare, by 2 March 2020, his analysis and the elements for the draft decision on the matter.

## **B. Follow-up to decision IS/1c regarding Azerbaijan (EIA/IC/CI/2)**

11. The Committee discussed the information received from Azerbaijan on 12 July 2019 regarding, among other things, the preparation, since summer 2018, of six pieces of secondary legislation, including regulations on environmental impact assessment, transboundary environmental impact assessment and strategic environmental assessment, that had been submitted for intergovernmental consultations.

12. According to domestic legislative procedures, the secondary legislation was intended to, among other things, address discrepancies in the 2018 framework law on environmental impact assessment regarding the Convention and the Protocol. To that end, with the support of the German Agency for International Cooperation, a team of national and international experts had reviewed the draft regulations and had prepared an expert opinion on their compliance with the Convention and the Protocol. The Ministry of Ecology and Natural Resources of the Republic of Azerbaijan had been reviewing the experts’ conclusions and integrating them into the draft regulations.

13. The secretariat informed the Committee about assistance offered to Azerbaijan as a part of the EU4Environment initiative to assess how to further support the country in integrating the expert conclusions into the draft regulations after their most recent revisions, with a view to ensuring the regulations’ full compliance with the Convention before adoption. Final confirmation by Azerbaijan of that assistance was pending.

14. The Committee asked its Chair to write to Azerbaijan expressing thanks for the information provided and urging Azerbaijan to complete the finalization and adoption of the secondary legislation in an effective and efficient manner, ensuring full compliance with the Convention. In his letter to Azerbaijan, the Chair should highlight that the Committee would prepare the first drafts of all compliance decisions at its forty-seventh session, with a view to presenting them for comments before, during and after the ninth meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment. To enable the Committee to do so, Azerbaijan should provide, by no later than 17 February 2020, the following:

(a) A report on the implementation by Azerbaijan of paragraphs 5 to 8 of decision IS/1c;

(b) An English translation of the adopted legislation.

15. The Committee agreed to continue the consideration of the matter at its forty-seventh session and invited the curator to prepare, by 2 March 2020, his analysis and the elements of the draft decision on the matter.

### C. Follow-up by Ukraine to decision IS/1f regarding the Bystroe Canal Project (EIA/IC/S/1)

16. The Committee welcomed the information from Romania dated 8 August 2019 providing an update on the status of the bilateral agreement with Ukraine. Romania also reiterated that it had transmitted its comments on the road map developed by Ukraine to bring the project into full compliance with the Convention and expressed its willingness to discuss the comments with Ukraine. It stressed that, in its view, the 2017–2018 monitoring report of Ukraine had not provided sufficient background data to allow for the carrying out of water quality trend analyses in relation to the foreseen project works, including likely significant impacts. Without sufficient background data, it was not possible for Romania to verify the report's conclusions. The Committee noted that Romania had been examining the 2018–2019 monitoring report with a view to providing its comments to Ukraine as soon as possible.

17. The Committee regretted that Ukraine had not provided an update on the steps taken by it to implement decision IS/1f as requested by the Committee in its letter of 11 April 2019. The Committee decided to invite Ukraine to participate in a one-hour videoconference – to be organized by the secretariat at its forty-sixth session (Geneva, 10–13 December 2019) – for informal consultations on the progress made by Ukraine in implementing decision IS/1f of the Meeting of the Parties, particularly on steps taken by Ukraine to bring the project into full compliance with the Convention. It invited the curator to develop, by 7 October 2019, a list of specific questions to be discussed at the videoconference. The Committee asked its Chair to inform Ukraine accordingly and to request it to provide written responses to the Committee's specific questions by no later than 11 November 2019. The curator was invited to prepare the analysis of the information expected from Ukraine by 26 November 2019.

## III. Submissions

18. The Committee noted the submission by Bulgaria received by the secretariat on 31 May 2019 and corroborating information received on 13 June and 28 June 2019. Bulgaria had expressed its concerns about compliance by Serbia with its obligations under the Convention regarding the following activities, located close to the Bulgarian border:

- (a) Construction of an experimental facility to test flotation technology for processing copper, lead and zinc ore in Karamanica;
- (b) Ore exploitation and mining at the Podvirovi and Popovica mines;
- (c) Extending the production of zinc, lead and other metals at the Grot mine.

19. The Committee also took note of the communication sent by the secretariat to the focal point of Serbia on 19 June and 8 July 2019, forwarding the submission with the corroborating information, in conformity with paragraph 5 (a) of the appendix to decision III/2 (ECE/MP.EIA/6, annex II).

20. The Committee noted that, at its forty-sixth session, it would consider the official submission by Bulgaria, following the receipt of the reply requested from Serbia by 19 September 2019. Consequently, at its present session, the Committee withheld from addressing any substantive issues regarding the submission.

21. The Committee, however, noted the information form and corroborating information provided on 10 February 2019 by the Bulgarian non-governmental organization (NGO) the Balkanka Association concerning the obligations of Serbia, as a Party of origin, and of Romania, as an affected Party, regarding the construction of an experimental facility to test flotation technology for processing copper, lead and zinc ore in Karamanica. It noted that the corroborating information from the Balkanka Association had referred to various activities in the Struma River Basin, including those listed in paragraph 18 above. Consequently, the Committee decided to consider the information concerning those activities. Should the Balkanka Association wish the Committee to consider other activities mentioned in its corroborating information and its additional information dated 10 August 2019, it should submit to the Committee a duly completed information form and the related corroborating information for each activity separately.

## IV. Information gathering<sup>4</sup>

22. Discussions under the present agenda item were not open to observers – in line with rule 17 (1) of the Committee’s operating rules – and were held in the absence of the member nominated by Belarus during the consideration of the cases concerning that country. In addition, the member nominated by Portugal declared a conflict of interest concerning the matter regarding the Almaraz nuclear waste storage in Spain. The member nominated by Hungary declared a conflict of interest regarding the construction of a tourism resort in the Svydovets mountain range in Ukraine. The members nominated by Belarus and Hungary declared a conflict of interest regarding the construction of nuclear reactors 3 and 4 at the Khmelnytsky nuclear power plant in Ukraine. Those members were absent during the consideration of those matters by the Committee. Discussions regarding the Nord Stream 2 project were held in the absence of the members nominated by Finland and Sweden.

### A. Convention matters

#### 1. Belarus: National legislation to implement the Convention (EIA/IC/INFO/21)

23. The Committee noted the response of Belarus of 15 July 2019 to the Committee’s letter of 11 April 2019 regarding its national legislation to implement the Convention. In the absence of the curator, however, the Committee decided to resume its consideration of the matter at its forty-sixth session.

#### 2. Bosnia and Herzegovina

(a) *Ugljevik thermal power plant (EIA/IC/INFO/16)*

24. The Committee continued its consideration of the information it had gathered concerning the planned construction of a third block for the thermal power plant in Ugljevik, Bosnia and Herzegovina, close to the border with Serbia.

25. The Committee noted the information provided by Bosnia and Herzegovina, dated 25 July 2019, reiterating that the implementation of the project would not be continued based on the environmental permit of 24 July 2017 and stating that a new environmental impact assessment procedure had not yet been initiated.

26. The Committee recalled that: the planned activity was listed in appendix I to the Convention; the likelihood of a significant adverse transboundary impact on the territory of Serbia could not be excluded (ECE/MP.EIA/IC/2016/6, para. 41); and Serbia had expressed a wish to participate in a transboundary environmental impact assessment on the activity (ECE/MP.EIA/IC/2019/2, para. 29). The Committee asked its Chair to write to Bosnia and Herzegovina requesting it to ensure that the new environmental impact assessment procedure for the activity was carried out in full compliance with the Convention, including:

(a) Notifying Serbia as a potentially affected Party, in accordance with article 3 of the Convention;

(b) Preparing the environmental impact assessment documentation, pursuant to article 4 of and appendix II to the Convention, including transboundary aspects of the proposed activity and their interlinkages with other related activities, including with other thermal power plants in the region. Bosnia and Herzegovina was invited to ensure that the documentation contained sufficient information for the purposes of carrying out the transboundary consultations under article 5 and taking the final decision further to article 6 of the Convention;

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<sup>4</sup> More information on information-gathering cases is available at <http://www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/information-from-other-sources.html>.

(c) Carrying out consultations with authorities of the affected Parties based on the environmental impact assessment documentation, as set out in article 5 of the Convention;

(d) Ensuring public participation in accordance with articles 2 (6), 3 (8) and 4 (2) of the Convention;

(e) Taking into account the outcomes of the environmental impact assessment procedure, including the environmental impact assessment documentation and comments received by the affected Party, further to article 6 of the Convention.

27. In his letter, the Chair should also invite Bosnia and Herzegovina to:

(a) Inform the Committee, by 11 November 2019, about the status of the proposed activity and the timeline for each step of the transboundary environmental impact assessment procedure, also providing a copy of the notification to Serbia and its translation into English;

(b) Refrain from carrying out any works at the proposed activity until the transboundary procedure in accordance with the Convention had been finalized.

28. The Committee agreed to continue its consideration of the matter at its next session. It invited the curator to prepare, by 26 November 2019, an analysis of the expected information.

29. In addition, the Committee requested the secretariat to inform Ekotim (Bosnia and Herzegovina) of the Committee's deliberations on the matter.

(b) *Stanari thermal power plant (EIA/IC/INFO/17)*

30. The Committee continued its deliberations regarding the planned construction of a thermal power plant in Stanari, Bosnia and Herzegovina, close to the border with Croatia. The Committee noted the information provided by Bosnia and Herzegovina, dated 15 May 2019, and by Croatia, dated 8 July 2019, and agreed to continue its consideration of the matter at its next session. To enable the Committee to reach its conclusions at that session, the Committee invited the curator to prepare, by 11 November 2019, a detailed analysis of all information available to it to date.

(c) *Banovici thermal power plant (ECE/IC/INFO/23)*

31. The Committee continued its deliberations on the information it had gathered further to the information received from Ekotim on 14 April 2017 concerning the planned construction by Bosnia and Herzegovina of a new thermal power plant in Banovici, approximately 50 km from the borders with Croatia and Serbia.

32. The Committee examined information received from Bosnia and Herzegovina, dated 25 July 2019, and from Croatia, dated 8 July 2019. It noted that Croatia had not been notified about the activity by Bosnia and Herzegovina and had been unable to answer the Committee's questions, including on whether it considered itself potentially affected by a significant adverse transboundary impact of the proposed activity pending the receipt of the information that it had requested from Bosnia and Herzegovina on 24 January 2019. The Committee also noted with regret that Serbia had, to date, not responded to the Committee's letter of 16 April 2019, inviting it, among other things, to establish, based on the information to be requested by it from Bosnia and Herzegovina, whether it considered itself potentially affected by the proposed activity.

33. The Committee asked its Chair to write to Bosnia and Herzegovina drawing its attention to the provisions of article 3 (7) of the Convention and strongly encouraging it to ensure cooperation with Croatia and Serbia by, among other things, providing to both Parties without delay detailed information about the activity and the likelihood of significant adverse transboundary environmental impacts. Bosnia and Herzegovina should be invited to:

(a) Inform the Committee by 11 November 2019 about its communication with both Parties and the outcomes of the discussions with them, if any;

(b) Provide copies of all correspondence between the Parties and the English translation of thereof.

34. The Committee Chair was also invited to write to Croatia and Serbia requesting them to provide responses to the Committee's unanswered questions contained in its letters dated 16 April and 20 December 2018. The Parties should also be invited to provide copies of all their correspondence with Bosnia and Herzegovina and the English translations thereof. In his letter to Croatia and Serbia, the Chair should also inform both Parties that the absence of clear responses to the Committee's questions by 11 November 2019 would indicate that the Parties did not consider themselves to be potentially affected by the proposed activity in Banovici.

35. The Committee agreed to continue its consideration of the matter at its next session. It invited the curator to prepare, by 26 November 2019, an analysis of the expected information.

*(d) Construction of unit 7 at Tuzla thermal power plant (ECE/IC/INFO/24)*

36. The Committee continued its deliberations on the information it had gathered further to the information received from Ekotim on 14 April 2017 concerning the planned construction by Bosnia and Herzegovina of unit 7 of the thermal power plant in Tuzla, close to the borders with Croatia and Serbia.

37. The Committee noted the information from Croatia dated 8 July 2019 that Croatia had been unable to answer the Committee's questions including on whether it considered itself potentially affected by a significant adverse transboundary impact of the proposed activity in Tuzla pending the receipt of the information that it had requested from Bosnia and Herzegovina on 8 February 2019. The Committee also noted with regret that Serbia had to date not responded to the Committee letter of 16 April 2019 inviting it, among other things, to establish, based on the information to be requested by it from Bosnia and Herzegovina, whether it considered itself potentially affected by the proposed activity.

38. The Committee asked its Chair to write to Bosnia and Herzegovina drawing its attention to the provisions of article 3 (7) of the Convention and strongly encouraging it to ensure cooperation with Croatia and Serbia by, among other things, providing to both Parties without delay the detailed information about the activity and the likelihood of the significant adverse transboundary environmental impacts. Bosnia and Herzegovina should be invited to:

(a) Inform the Committee by 11 November 2019 about its communication with both Parties and the outcomes of the discussions with them, if any;

(b) Provide copies of all correspondence between the Parties and the English translation of thereof.

39. The Committee Chair was also invited to write to Croatia and Serbia requesting them to provide, by 11 November 2019, responses to the Committee's unanswered questions contained in its letters dated 16 April and 20 December 2018. The Parties should also be invited to provide copies of all their correspondence with Bosnia and Herzegovina and the English translation thereof. In his letter to Croatia and Serbia, the Chair should also inform both Parties that the absence of clear responses to the Committee's questions by 11 November 2019 would indicate that the Parties did not consider themselves potentially affected by the proposed activity in Tuzla.

40. The Committee agreed to continue its consideration of the matter at its next session. It invited the curator to prepare, by 26 November 2019, an analysis of the expected information.

41. Before continuing its deliberations on other matters, the Committee observed that it had received four different complaints expressing concerns regarding transboundary environmental impact assessment procedures of four different thermal power plants in one country. It decided to ask its Chair to write to Bosnia and Herzegovina requesting it to:

(a) Provide detailed information about its energy strategy and/or energy plan(s) referring to those thermal power plants;

(b) Clarify whether a strategic environmental impact assessment procedure had been carried out regarding those strategic documents and whether cumulative effects had been assessed during that procedure;

(c) Provide, for the consideration of the Committee, a copy of its environmental impact assessment legislation and the English translation of thereof.

### 3. Serbia: Extension of Drmno lignite pit mine (ECE/IC/INFO/27)

42. The Committee continued to consider the information it had gathered on the extension of the capacity of the open-pit mine at Drmno, Serbia, close to the border with Romania, further to information provided jointly by two NGOs, Bankwatch Romania and ClientEarth, dated 18 June 2018. The Committee recalled its previous deliberations on the matter (ECE/MP.EIA/IC/2019/2, paras. 52–55) and examined the replies by the Government of Romania, on 30 May 2019, and by ClientEarth, on 31 May 2019, in response to its letters of 9 April 2019.

43. The Committee welcomed the information from Romania and ClientEarth, noting that:

(a) Romania agreed that the environmental impacts of the extension of the Drmno mine's capacity had been addressed under the transboundary procedure regarding the construction of the third block of the Kostolac power plant. The two Parties had discussed and exchanged information on the matter during that transboundary procedure, including at a public hearing in September 2017. Serbia had fully answered all the questions from the Romanian authorities and the public, including the NGO Bankwatch Romania. No likely significant adverse transboundary environmental impacts of the proposed activity on Romania had been identified, despite the planned increase of the production capacity of the open-pit mine;

(b) Serbia would be ready to exchange sufficient information and hold discussions in accordance with article 3 (7) on whether a significant adverse transboundary impact on Romania was likely, should Romania consider that it was likely to be affected by the activity;

(c) Romania did not intend to make use of article 3 (7) regarding the extension of the Drmno open-pit mine's capacity; It intended to observe any adverse transboundary impact of the activity based on the post-project analysis measures agreed in accordance with article 7 of the Convention with Serbia, as provided for by the final decision of 28 September 2017;

(d) ClientEarth had not communicated to Romania its observations and concerns regarding the existing exploitation by Serbia of the Drmno mine and its views on the likely significant transboundary impacts after the transboundary procedure had been concluded and the final decision issued.

44. In the light of the above, the Committee decided that, at the current stage, there was no need for it to pursue further its information-gathering activities regarding the issue. The Committee asked the Chair to write to the Governments of Serbia and Romania and to ClientEarth to inform them accordingly. The Chair should also request agreement that the correspondence between the Committee, Serbia and Romania be placed on the Convention's website, as an illustration of the Committee's approach to information gathering and of proper and sufficient responses from a Party to the Committee.

### 4. Spain: Construction of a temporary spent fuel storage facility at the Almaraz nuclear power plant (EIA/IC/INFO/22)

45. The Committee continued its consideration of the information it had gathered concerning the planned construction of a temporary spent-fuel storage facility at the Almaraz nuclear power plant in Spain further to the information provided by the Portuguese political party Pessoas-Animais-Natureza on 27 January 2017.

46. It recalled its previous finding that, at the time when Spain had carried out its domestic environmental impact assessment procedure for the planned construction of the temporary spent fuel storage facility in Almaraz, the second amendment to the Convention had not yet entered into force and that, consequently, that activity did not yet fall under the Convention, i.e. was not yet listed in appendix I to the Convention (ECE/MP.EIA/IC/2018/6, para. 40).

47. The Committee also recalled that, through a mediation exercise led by the European Union, Spain and Portugal had reached an agreement on 21 February 2017 and had issued a joint statement regarding the activity on 29 April 2017 (*ibid.*). Based on the analysis of the information received from Portugal, on 9 March 2019, and from Spain, on 5 April 2019, the Committee noted that the bilateral process carried out further to the agreement of 21 February 2017 did not foresee the application of the Convention. Although Portugal would have preferred to be officially notified under the Convention, it had accepted the proposed alternative procedure on an exceptional basis, since under that procedure the two Parties had been able to exchange information and views regarding the activity and to foresee mitigation measures.

48. On those grounds, the Committee concluded that, at the current stage, there was no need for it to pursue further its information gathering regarding the issue. Nevertheless, for future reference, the Committee emphasized that, when a Party requested another Party to enter into discussions on whether one or more proposed activities not listed in appendix I was or were likely to cause a significant adverse transboundary impact, Parties had an obligation to carry out such discussions in accordance with article 2 (5) of the Convention.

49. The Committee asked its Chair to write to Portugal, Spain and the Portuguese political party *Pessoas-Animais-Natureza* informing them of the Committee's conclusions. The Chair should also request them to provide an agreement that the correspondence between the Committee, Portugal and Spain be placed on the Convention's website, as an illustration of the Committee's approach to information gathering and of a proper and sufficient response from a Party to address the issue.

## 5. Switzerland: Changes at Zurich Airport (ECE/IC/INFO/25)

50. The Committee continued its consideration of the information that it had gathered on the planned changes at Zurich Airport, close to the border with Germany, including the construction of taxiways and changes in the operating regulations.

51. The Committee noted the information from Switzerland dated 9 July 2019 that:

(a) The taxiways from runway 28 had been in operation since June 2019, while the taxiways from runway 34 had not yet been scheduled due to domestic court proceedings completed only recently;

(b) The 2014 changes in the operating regulations had not yet been implemented, pending approval from Germany and ongoing domestic court proceedings.

52. The Committee recalled that the domestic environmental impact assessment procedure concerning construction of taxiways for runways 28 and 34 and the 2014 changes in the operating regulations had determined no significant adverse environmental impact on the territory of Germany.

53. The Committee noted that authorization for some additional changes in the operating regulations had been requested by Zurich Airport in 2017 and 2018 (2017 changes in operating regulations) and that the governmental approval procedure for those changes was still ongoing.

54. Regarding the installation of a nuclear waste repository close to Zurich Airport, Switzerland reported that identification of suitable sites for such a repository had been regulated through the Sectoral Plan for Deep Geological Repositories. The second stage of the Plan had been completed, narrowing down the possible siting of the repository to three locations that would be further examined until 2022, with a view to identifying one or two locations for the subsequent licensing procedure. The consultations under the Convention had been planned to take place between 2040 and 2050 and handling of nuclear waste had not been envisioned before 2050. In that context, the Committee recalled that Switzerland was not a Party to the Protocol and had no obligation to carry out the transboundary procedure for the Plan thereunder.

55. The Committee also examined information from Germany and from the German civil initiative dated 11 July 2019. Germany reiterated that Freiburg Regional Council and the Ministry of Transport of Baden-Württemberg had, on various occasions, communicated to Switzerland their views that a transboundary environmental impact assessment procedure was required for various steps of the proposed extension of Zurich Airport, including for

construction works and changes in the operating regulations. Their requests had been constantly denied by Switzerland. Germany also reported that the regional authorities of Baden-Württemberg had not issued an official request for notification.

56. The Committee agreed to ask its Chair to write to Switzerland requesting it to provide the Committee, by 11 November 2019, with the additional information, including the following:

(a) Regarding the conclusion that the new taxiways for runways 28 and 34 and the changes in the 2014 operating regulations had no significant environmental impact on the territory of Germany:

(i) Extracts from all the relevant environmental impact assessment documentation justifying such a conclusion, and their translation into English;

(ii) Clarification on whether the conclusion had been transmitted to Germany; If so, it should provide copies of the related correspondence with Germany, including replies from Germany confirming its agreement with the conclusion, and their translation into English.

(b) Regarding the changes in the 2017 operating regulations, clarifications on:

(i) Whether Switzerland had assessed whether the 2017 changes constituted a major change pursuant to article 1 (v) of the Convention and if so, what the outcomes of the assessment had been. The answer should be substantiated with the extracts from the documentation justifying the conclusion on the matter, and their translation into English;

(ii) Whether any environmental impact assessment procedure had been carried out for the 2017 changes and if so, what the status of the procedure was and what its outcomes had been.

57. The Committee also asked its Chair to write to Germany requesting it to provide consolidated responses, as a Party to the Convention, on the following:

(a) Whether Germany considered itself to be an affected Party regarding the changes at Zurich Airport, namely regarding:

(i) The construction of new taxiways for runways 28 and 34;

(ii) Changes in the 2014 operating regulations;

(iii) Changes in the 2017 operating regulations.

(b) If it considered itself to be potentially affected, whether it, as a Party to the Convention, intended to make use of the mechanism provided for in article 3 (7) thereof.

58. The Committee also asked its Chair to share with Germany and Switzerland all the correspondence on the matter between the Committee and those two Parties. The information from the German civil initiative should also be shared with the Parties upon receipt of its consent.

59. The Committee agreed to continue its consideration of the matter at its next session, based on the analysis of the expected information to be prepared by the curator by 26 November 2019. It requested the secretariat to inform the German civil initiative accordingly.

## 6. Ukraine

(a) *Construction of nuclear units 3 and 4 at the Khmelnytsky nuclear power plant in Ukraine (EIA/IC/INFO/10)*

60. The Committee continued its deliberations on the information it had gathered on the planned construction of nuclear units 3 and 4 at the Khmelnytsky nuclear power plant in Ukraine in the light of information made available by Poland in the first quarter of 2017.

61. It noted the information from Austria, dated 3 July and 25 July 2019, and the information from Belarus and Poland, dated 9 August 2019, regarding the transboundary consultations on the proposed activity in accordance with article 5 of the Convention duly held by Ukraine with those Parties, including the organization of hearings with Austria, on

13 June 2019, with Belarus, on 3 May 2019, and with Poland, on 22 May 2019. It noted that those Parties considered that the transboundary consultations had been completed. At the same time, Poland had wished to draw the attention of Ukraine to a potential need to propose measures mitigating environmental impacts on soil and water and had requested additional information from Ukraine.

62. The Committee also noted the information from Hungary, dated 22 July 2019, from Slovakia, dated 9 August 2019, and from the Republic of Moldova, dated 14 August 2019, about the status of the transboundary consultation process with those three countries.

63. The Committee expressed regret at the fact that Ukraine had not responded to the Committee's questions addressed to it on 16 April 2019 after the Committee's forty-fourth session (Geneva, 12–15 March 2019).

64. The Committee asked the Chair to write to Ukraine reiterating its previous requests to Ukraine and inviting it to provide, by 11 November 2019, information on the following:

- (a) The status of the consultations with Austria, Belarus and Poland;
- (b) The status of the transboundary consultations with Hungary, the Republic of Moldova, Romania and Slovakia, including, if applicable, the reasons for terminating the consultations;
- (c) The timeline for each step of the transboundary procedure, including the consultations with all potentially affected Parties under article 5 of the Convention, and the expected date of the final decision on the activity, in accordance with article 6 of the Convention.

In the letter, the Chair should also request Ukraine to provide copies of all relevant decisions and all correspondence with all potentially affected Parties and their translation into English.

65. The Committee agreed to resume its consideration of the matter at its next sessions based on the curator's analysis to be presented no later than 26 November 2019.

*(b) Construction of Svydovets tourism complex (EIA/IC/INFO/29)*

66. The Committee continued to consider the information it had gathered on the construction of a large tourism complex in the Svydovets mountain range in Ukraine, close to the border with Hungary and Romania, further to information provided by Swiss NGO Bruno Manser Fonds on 28 November 2018.

67. The Committee examined replies from Hungary, dated 25 July 2019, from Romania, dated 8 August 2019, and from Ukraine, dated 9 August 2019, to its letters dated 16 April 2019.

68. It noted that, although Hungary had sent a request for a notification to Ukraine on 3 May 2018, it had not yet been notified regarding the activity. Romania had also not been notified regarding the activity and planned to make use of the mechanism provided by article 3 (7) of the Convention.

69. Based on a thorough analysis of all information available to date, the Committee noted that:

- (a) The national environmental impact assessment procedure had been ongoing since 14 March 2018. Under the national procedure, the comments received from the Ukrainian public on the planned activity and the scope of the environmental impact assessment report had been transmitted to the developer;
- (b) The Ukrainian competent authority had not been able to notify Hungary as the assessment of the likelihood of adverse transboundary environmental impacts of the proposed activity had not yet been made. Should the transboundary impact be determined based on the environmental impact assessment documentation expected from the developer, Ukraine would inform the potentially affected Parties and the public accordingly;
- (c) In general, the information provided by Ukraine was limited in nature, and a number of the Committee's questions addressed to Ukraine by the letter of 16 April 2019 had been answered insufficiently or remained unanswered.

70. The Committee agreed to ask its Chair to write to Hungary drawing its attention to the mechanism provided by article 3 (7) of the Convention and inviting it to consider using the mechanism, if it deemed it necessary.

71. The Chair should also write to Romania inviting it to contact Ukraine without delay, for the purposes of entering into discussions under article 3 (7) of the Convention, and to update the Committee by 11 November 2019 on such discussions.

72. The Committee asked its Chair to write to Ukraine informing it of the views and intended actions of Hungary and Romania. The Chair should invite Ukraine to ensure efficient cooperation with Hungary, Romania and other Parties wishing to enter into discussions with it under article 3 (7) of the Convention, including exchange of sufficient information on the proposed activity. In his letter, the Chair should stress that, according to article 3 (1) of the Convention, the Party of origin should notify the affected Parties as early as possible and no later than when it informed its own public about the proposed activity, should a transboundary impact be determined.

73. The Committee also invited the Chair to write to Bulgaria, Czechia, Serbia and Slovakia requesting them to provide, by 11 November 2019, clarifications on the following:

(a) Whether their Governments considered that they would be affected by a significant adverse transboundary impact of the planned activity in Ukraine;

(b) If so, whether their Governments had been notified by Ukraine in accordance with article 3 (1) of the Convention. If they had not been notified, whether they planned to make use of the mechanism provided for in article 3 (7) of the Convention.

74. To facilitate the consideration of the matter by the Parties concerned, the Chair should transmit to them the English translation of the public notice on the activity provided by Ukraine on 9 August 2019.

75. The Committee asked the secretariat to inform the Swiss NGO Bruno Manser Fonds of the outcomes of the deliberations and invite it to provide any additional relevant information on the matter by 11 November 2019.

76. The Committee agreed to continue its consideration of the matter at its forty-sixth session, based on the analysis of the expected information by the curator to be prepared by 26 November 2019.

## **7. Information-gathering matters related to lifetime extension of nuclear power plants**

77. The Committee continued its consideration of the cases related to the lifetime extension of nuclear power plants.

78. The Committee noted the judgment of the Court of Justice of the European Union of 28 July 2019 on case C-411/17 concerning the Belgian law extending the operating life of nuclear power station units Doel 1 and Doel 2, concluding that the extension of the lifetime of those plants by Belgium should have been subject to a transboundary environmental assessment. The Committee found that the judgment contained strong arguments in support of the application of the Convention to the lifetime extension of every one of the three units at Belgian nuclear power plants being considered by the Committee (Doel 1, Doel 2 and Tihange 1) and to similar cases. It also emphasized the need for the ad hoc group on the lifetime extension of nuclear power plants to take that judgment into account in its preparation of guidance on the applicability of the Convention to such cases.

(a) *Bulgaria: Kozloduy nuclear power plant (ECE/IC/INFO/28)*

79. The Committee continued its consideration of the information regarding the lifetime extension of units 5 and 6 of the Kozloduy nuclear power plant in Bulgaria, 2 km from the border with Romania, that it had gathered further to the information from the Romanian NGO Actiunea pentru Renasterea Craiovei of 13 March 2018.

80. The Committee noted the information from Romania, dated 30 May 2019, that it had been notified by Bulgaria regarding the activity on 13 March 2014, in accordance with article 3 of the Convention. As a potentially affected Party, Romania had confirmed its participation in the procedure and provided its comments and proposals regarding the scope

of the environmental impact assessment documentation to be prepared by Bulgaria. In May 2015, however, Bulgaria had informed Romania of its conclusion that environmental impact assessment for the proposed activity was not needed. In July 2015, Romania had responded to Bulgaria, reiterating its wish to participate in the procedure, provided its views on the likely significant adverse impacts from the activity on the territory of Romania and proposed to organize a bilateral expert meeting to discuss the matter further. According to Romania, Bulgaria had not taken its proposals into account and, as of 30 May 2019, had not responded thereto.

81. The Committee then examined the responses from Bulgaria dated 28 May and 19 August 2019 to its letters dated 9 April and 22 July 2019. The Committee expressed regret that Bulgaria had failed to respond to its repeated questions regarding the activity and the related transboundary environmental impact assessment procedure. Instead, it had referred the Committee to the publicly available information on the websites of various national and international organizations. Bulgaria had also reiterated that, in its view, the Convention did not apply to the extension of the lifetime of nuclear power plants, as such an extension did not qualify as a “new activity” or as a “major change” and was not expressly listed in appendix I to the Convention.

82. The Committee found the approach of Bulgaria and the lack of responses to the Committee’s queries to be indicative of uncooperativeness. With reference to decision II/4 of the Meeting of the Parties establishing the Committee and to the Committee’s structure, functions and operating rules,<sup>5</sup> the Committee stressed that it was the role and prerogative of the Committee to gather information from the Parties on matters under its consideration with a view to reviewing the Parties’ compliance with their obligations under the Convention. Even when a Party itself believed that it had fulfilled all its obligations under the Convention, it was up to the Committee to reach its own conclusions based on the information that the Party should provide. To enable the Committee to perform its functions, as mandated by the Meeting of the Parties, the concerned Parties should facilitate the Committee’s work in good faith – in line with paragraph 26 of the Vienna Convention on the Law of Treaties – by providing the requested information in a timely manner.

83. The Committee recalled its operating rule 11 (7), according to which the Committee might choose not to consider documentation referred to by the Parties via weblinks (ECE/MP.EIA/20.Add.1–ECE/MP.EIA/SEA/4.Add.1, annex II, para. 9). It had decided, however, to exceptionally examine the information available at the websites referred to by Bulgaria. Based on its analysis of the information, the Committee had found elements indicating possible non-compliance of Bulgaria with its obligations under the Convention regarding the lifetime extension of the Kozhloduy nuclear power plant.

84. The Committee, however, decided to give Bulgaria another opportunity to provide information on the activity and explanations on the related transboundary procedure that might prove the contrary. The Committee agreed to ask its Chair to again write to Bulgaria inviting it to respond to the Committee’s questions. On the basis of that response, the Committee would decide on further steps at its next session.

*(b) Ukraine: Khmelnytsky, Rivne, South Ukrainian and Zaporizhzhya nuclear power plants (ECE/IC/INFO/20)*

85. The Committee continued its consideration of the information it had gathered concerning the lifetime extensions of the Khmelnytsky, South Ukrainian and Zaporizhzhya nuclear power plants and units 3 and 4 of the Rivne nuclear power plant.

86. The Committee reviewed the information received from Poland, on 11 June 2019, from Hungary on 25 June 2019, from Moldova on 19 July 2019, from Germany on 6 August 2019, from Romania on 8 August 2019, from Slovakia on 9 August 2019, from Poland again on 9 August 2019, and from Belarus on 9 August 2019.

87. The Committee noted with appreciation that Ukraine had notified the potentially affected Parties (Austria, Belarus, Germany, Hungary, Poland, the Republic of Moldova,

<sup>5</sup> ECE/MP.EIA/4, annex IV, decision II/4, para. 1, and appendix; and ECE/MP.EIA/6, annex II, decision III/2, appendix, in particular para. 7 (a).

Romania and Slovakia) regarding the lifetime extension of units 1 and 2 and units 1 to 5 at, respectively, the South-Ukrainian and Zaporizhzhya nuclear power plants and had carried out the subsequent steps of the environmental impact assessment procedure. Austria, Belarus, Hungary and Poland had confirmed that the consultations under article 5 of the Convention had been concluded and that they were expecting the final decision on the activity to be transmitted to them by Ukraine, explaining how their comments had been taken into account.

88. The Committee also noted information from Ukraine, dated 27 August 2019, that Ukraine had decided to suspend the transboundary procedures for lifetime extensions of the Khmelnytsky, South-Ukrainian and Zaporizhzhya nuclear power plants pending the preparation of guidance on applicability of the Convention with regard to decisions on to the lifetime extension of nuclear power plants by the ad hoc working group (ECE/MP.EIA/2017/23/Add.1–ECE/MP.EIA/SEA/7/Add.1, decision VII/3–III/3, annex I, item I.9).

89. The Committee underlined that, in its view, by suspending at its final stage the ongoing transboundary procedure initiated and carried out under the Convention, Ukraine had put itself in non-compliance with the provisions thereof. The Committee asked its Chair to write to Ukraine strongly encouraging it to proceed with the finalization of the transboundary procedures concerning the activities at the South-Ukrainian and Zaporizhzhya nuclear power plants and reiterating the Committee's requests of 17 April 2019 concerning information on lifetime extension of units at the Khmelnytsky nuclear power plant.

## **8. Nord Stream 2 (EIA/IC/INFO/30)**

90. Recalling its considerations at its forty-fourth session, the Committee examined information received from Denmark, Finland and Sweden, respectively dated 17 May 2019, 23 August 2019 and 3 June 2019, regarding the construction of the Nord Stream 2 project by Denmark, Finland, Germany and Sweden. It noted that, to date, no additional information had been provided by Ukraine.

91. It noted that Denmark, Finland, Germany and Sweden as Parties of origin had responded to the requests by Ukraine.

92. As to the concerns of Ukraine regarding the compliance of Sweden with the provisions of the Convention, the Committee concluded that, in the present case, the mere absence of an official letter from Sweden to Ukraine did not constitute non-compliance. It emphasized that Sweden had:

(a) Provided Ukraine with information regarding the Nord Stream 2 project proceedings in a bilateral meeting of government representatives held on 24 August 2018;

(b) Responded to email communications by Ukraine without delay on three occasions;

(c) Sent an official letter to Ukraine on 27 May 2019 reiterating the information previously provided at the bilateral meeting and by email.

93. The Committee asked its Chair to inform Sweden and Ukraine accordingly. It agreed to continue its consideration of the matter at its subsequent sessions upon receipt of the information about the finalization of the discussions on whether a significant adverse transboundary impact from the activity was likely on the territory of Ukraine and their outcomes.

## **B. Protocol matters**

### **1. Serbia (SEA/IC/INFO/1)**

94. The Committee continued its consideration of compliance by Serbia with the Protocol regarding the Energy Sector Development Strategy of the Republic of Serbia for the Period up to 2025 with Projections up to 2030, the Strategy's implementation programme and the second Spatial Plan. The Committee reviewed the responses provided

by Serbia, on 17 April 2019, Hungary, on 31 May 2019 and Montenegro, on 1 June and 12 July 2019, and the letter from Bulgaria to Serbia, dated 15 August 2019.

95. Further to the analysis of all the information provided by Serbia since 2014, the Committee observed that the Party had provided insufficient information on repeated occasions. Before drawing its conclusions at its next session, the Committee decided to give Serbia another opportunity to provide information on its strategic planning documents and explanations on the related transboundary procedures. The Committee asked its Chair to write to Serbia requesting it to provide, by 30 October 2019, the following information and clarifications:

(a) Regarding the Government's Energy Strategy:

(i) When the first formal preparatory act for the Government's Energy Strategy referred to in article 24 (4) of the Protocol had been completed; The origin and the nature of that act;

(ii) A copy of the report on public consultations organized under the strategic environmental assessment procedure for the Strategy;

(iii) The copies of the notifications regarding the transboundary consultations under the Protocol sent by the Serbian Ministry of Foreign Affairs to the Governments of Croatia, Hungary and Romania;

(iv) When, to which authority(ies) and by what means the notifications on the Strategy had been sent to the potentially affected Parties; Whether any measures had been taken to ensure that the notifications had been delivered, and whether the list of the points of contact for notification under the Protocol had been used when sending the notifications;

(v) Whether Croatia, Hungary and Romania had requested to be notified regarding the Strategy;

(vi) Justification regarding whether the Strategy set the framework for future development consent for projects in accordance with article 4 (2) of the Protocol.

(b) Regarding the Programme for the implementation of the Energy Strategy for the Period 2017 up to 2023:

(i) An update on the Programme's preparation and adoption and the related strategic environmental assessment procedure;

(ii) The draft Programme and the environmental report in English;

(iii) Copies of the notifications sent to the potentially affected Parties and their responses thereto, if any;

(iv) Whether the potentially affected Parties had requested a notification on the Programme;

(v) Transboundary consultations, including their timeline and stages, carried out regarding the Programme between Serbia and the Parties concerned, including, in particular, Hungary and Montenegro; Whether the consultations had been completed with some or all of the Parties and whether they had been carried out in accordance with article 10 of the Protocol;

(vi) Justification regarding whether the Programme set the framework for the future development consent for projects in accordance with article 4 (2) of the Protocol;

(vii) The date of adoption of the programme; Whether the programme had been adopted in accordance with article 11 (1) of the Protocol; Whether the Parties consulted had been informed about the decision pursuant to article 11 (2) of the Protocol.

96. In addition, the Committee requested its Chair to write to North Macedonia reiterating its questions addressed to the country in its letter on 20 December 2018.

97. The Committee agreed to resume its consideration of the matter at its next session, further to the curator's analysis of the expected information to be prepared by 26 November 2019.

## 2. Ukraine (SEA/IC/INFO/3)

98. The Committee continued its consideration of the information it had gathered further to the information provided by Eco-TIRAS International Environmental Association of River Keepers (Republic of Moldova) on 24 March 2017 concerning the Programme of Ukraine for Hydro Energy Development for the Period until 2026.

99. It examined the reply of Ukraine, dated 30 July 2019, to the Committee's inquiries of 17 April 2019, commending Ukraine on its legislation on strategic environmental assessment that seemingly transposed all of the requirements deriving from the Protocol, with some provisions being even more progressive.

100. The Committee, however, noted with regret that the responses of Ukraine to a number of its other questions required additional clarifications, some of which had arrived after the set deadline. Consequently, the Committee had to postpone consideration of the matter to its next session.

101. The Committee also requested the secretariat to write to Eco-TIRAS informing it of the Committee's proceedings.

## V. Review of implementation

### A. Specific compliance issue under the Protocol

102. The Committee continued to consider the information it had gathered concerning the specific issue of compliance by the European Union with the Protocol identified in the first review of implementation of the Protocol (ECE/MP.EIA/SEA/2014/3, para. 5).

103. It recalled three main aspects of the matter that it had considered at its previous sessions, which were:

(a) Limited applicability of the current reporting format on the implementation of the Protocol by individual Parties for reporting by the regional economic integration organizations referred to in article 21 of the Protocol, such as the European Union;

(b) Possible discrepancies between the Protocol and the European Union Strategic Environmental Assessment Directive;<sup>6</sup>

(c) Possible applicability of the Protocol to plans/programmes adopted at the European Union level.

104. Regarding the first point, the Committee asked its Chair to share its proposal for a possible reporting format for regional economic integration organizations with the European Union, inviting it to comment, by 11 November 2019, on that format before its subsequent consideration by the Working Group.

105. As to the second point, the Committee noted the response of the European Union dated 24 June 2019 to its letter of 17 April 2019, particularly that the European Commission was in the process of evaluating the Strategic Environmental Assessment Directive to ensure that it was "fit for purpose". The Committee invited its Chair to write to the European Union requesting it to ensure that the possible discrepancies between the Directive and the Protocol communicated to it by the Committee's letter of 17 April 2019 were taken into account in the evaluation.

<sup>6</sup> Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment, *Official Journal of the European Communities*, L 197 (2001), pp. 30–37.

106. The Committee agreed to resume its consideration of the matter at its subsequent sessions.

## **B. Examination of general and specific compliance issues from the fifth review of implementation of the Convention**

107. The Committee continued its consideration of the general and specific compliance issues identified in the fifth review of implementation of the Convention (ECE/MP.EIA/2017/9).

108. The Committee regretted that it had not received a response from Cyprus, North Macedonia or Portugal to its letters of 11 April 2019 and that it needed to postpone consideration of the reply from Belgium to its next session due to the reply's late arrival. It invited the Chair to write to the Parties that had failed to respond urging them to provide their answers without delay, and no later than 11 November 2019, for the Committee to examine at its next session.

109. The Committee examined replies from Albania, Austria, Azerbaijan, Croatia, Czechia, Denmark, Finland, Greece, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, Norway, the Republic of Moldova, Slovakia, Spain, Sweden and Ukraine received from May to August 2019 in response to the Committee's letters of 11 April 2019 requesting further clarifications on how they, as affected Parties, ensured public involvement in the environmental impact assessment procedure under articles 3 (8) and 4 (2) of the Convention. The Committee agreed that the Parties' responses were to its satisfaction and asked the Chair to write to the Governments of the above-mentioned countries accordingly.

110. In addition, the Committee examined a reply from the Government of Montenegro, received on 10 May 2019, clarifying that, in cases in which Montenegro was the affected Party, the national legislation did not require the organization of a public hearing on its territory but emphasizing that, once transboundary documentation was received, the entire procedure was conducted as a domestic procedure, ensuring public involvement. The Committee concluded that the information was not sufficient to determine how public involvement in the environmental impact assessment procedure was ensured in the country in cases in which it was an affected Party, and decided to ask Montenegro to further clarify how it, as an affected Party, ensured public involvement in the environmental impact assessment procedure under articles 3 (8) and 4 (2) of the Convention. The reply should be provided by 11 November 2019 for consideration by the Committee at its next session.

111. The Committee examined replies from Malta, Italy, Luxembourg and Slovakia, received on 9 May 2019, 28 May 2019, 28 May 2019 and 31 May 2019 respectively, in response to the Committee's letter of 11 April 2019 requesting further clarifications on how article 4 (1) of the Convention concerning the preparation of the environmental impact assessment documentation was implemented within their national legal and administrative frameworks. The Committee agreed that the responses provided were to its satisfaction and asked the Chair to write accordingly to the Governments of those countries.

112. Finally, the Committee examined a reply from France, received on 4 June 2019 in response to the Committee's letter of 11 April 2019, requesting further clarifications on how article 6 (1) of the Convention had been implemented in French national legislation. The Committee agreed that the response provided was to its satisfaction and asked the Chair to write to the Government of France informing it accordingly.

113. The Chair should also seek the agreement of all the Parties that had provided satisfactory responses that the correspondence between them and the Committee be placed on the Convention's website, as an illustration of the Committee's approach to a specific compliance issue and of a proper and sufficient response from a Party to address the issue.

### **C. Examination of general and specific compliance issues from the second review of implementation of the Protocol**

114. The Committee continued its consideration of the general and specific compliance issues identified in the second review of implementation of the Protocol (ECE/MP.EIA/SEA/2017/9).

115. The Committee regretted that it had not received a response from Serbia to its letter of 17 April 2019. It invited the Chair to urge Serbia to provide its response without delay and no later than 11 November 2019.

116. The Committee examined a reply from Italy received on 12 July 2019 in response to the Committee's letter of 17 April 2019 requesting clarification on implementation of article 7 (3) of the Protocol, particularly on how Italy ensured that environmental reports were of sufficient quality, and whether the procedure followed in practice met the requirements of the Protocol.

117. The Committee agreed that the clarification by Italy was to its satisfaction and asked the Chair to write to the Government of Italy to inform it accordingly. The Chair should also request agreement that the correspondence between the Committee and Italy be placed on the Convention's website, as an illustration of the Committee's approach to the specific compliance issue.

### **D. Review of the findings of the draft sixth review of implementation of the Convention and the draft third review of implementation of the Protocol**

118. The Committee took note of the findings of the draft sixth review of implementation of the Convention (ECE/MP.EIA/WG.2/2019/3) and the draft third review of implementation of the Protocol (ECE/MP.EIA/WG.2/2019/4) and the suggestions for improvement of the questionnaires provided by the Parties.

119. Before concluding its consideration of the reviews of implementation, the Committee noted with regret that, despite repeated reminders by the secretariat, Azerbaijan had not yet returned the questionnaire for the sixth review of implementation of the Convention and Cyprus and Germany had not yet returned their questionnaires for the third review of implementation of the Protocol. Furthermore, the European Union was a Party to both Treaties, but, being a regional economic integration organization, felt it inappropriate to return completed questionnaires. The Committee decided to ask the Chair to send reminders to Azerbaijan, Cyprus and Germany asking them to respond no later than 11 November 2019.

## **VI. Work methods and operating rules**

120. The Committee continued its discussions on ways to increase the effectiveness and efficiency of its working methods and practice to tackle the constantly growing number of compliance cases before it.

121. The Committee emphasized the importance for the Parties to understand their obligations when nominating representatives to serve on the Committee, including to ensure that appropriate time and resources were allocated to allow their nominated members to accomplish their tasks as Committee members. In addition to participating in the Committee sessions, the work of the Committee members involved:

(a) Preparing for the sessions by reviewing the information available on all compliance cases and other agenda items to be considered;

(b) As an assigned curator for some of the cases, thoroughly analysing them and preparing the related written in-depth reports in a timely manner.

The Committee stressed that good preparation for the sessions was a prerequisite for the effectiveness of the Committee's work. Practice had shown that preparation for the sessions was more time-consuming than participation therein.

122. The Committee also stressed that respect for deadlines by the Parties concerned was crucial when providing information, responding to the Committee's inquiries and delivering progress reports. Late submission of information or submission of information of insufficient quality by the Parties concerned significantly hindered the Committee's work.

123. The Committee subsequently discussed and agreed on methods for improving its preparations for the sessions, including requesting the:

(a) Parties to provide the required information no later than four weeks before the session at which it was to be considered;

(b) Committee members, as curators, to prepare their reports at least two weeks before the session.

124. The Committee also proposed adjusting its operating rule 11 (4) regarding the deadline for the delivery of information by the Parties.

125. The Committee considered that correspondence from Parties to the Committee regarding compliance matters should be made available to all Parties concerned, whenever necessary. That would promote transparency and consistency and would increase the efficiency of the Committee's work. Moreover, correspondence further to information from other sources, such as NGOs, might be shared with the Parties concerned, based on the correspondent's consent.

126. The Committee reiterated its commitment to making every effort to ensure that its members avoided direct or indirect conflicts of interest regarding matters considered by the Committee.

127. Further to its previous deliberations (ECE/MP.EIA/IC/2016/4, para. 45), the Committee also agreed to accelerate the consideration of new information received from other sources, by inviting the Committee Chair to request, without delay, the Parties concerned to provide the Committee with the basic initial information.

128. To further enhance the cost-effective time management of its sessions, the Committee agreed to increasingly use videoconference/teleconference facilities whenever possible, including for consultations with the Parties.

129. With a view to ensuring the continuity of the Committee's deliberations, particularly when a permanent Committee member was unable to participate in a session, the Committee agreed that the alternate Committee members should be provided with access to its files upon request by the permanent member.

130. At its next sessions, the Committee agreed to continue the discussion on possible shortcomings in its proceedings, with a view to preparing practical guidance on the Committee's working methods and, as required, draft proposals for amendments to the Committee's structure, functions and operating rules, for consideration of the Meetings of the Parties, including regarding quorum requirements.

## **VII. Presentation of the main decisions taken and closing of the session**

131. The Committee confirmed that it would hold its forty-sixth session from 10 to 13 December 2019, its forty-seventh session from 16 to 19 March 2020 and its forty-eighth session from 1 to 4 September 2020. Unless the Committee decided otherwise, all the sessions would be held in Geneva.

132. The Committee adopted the draft report of its session, prepared with the support of the secretariat. The Chair then formally closed the forty-fifth session.

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