
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
serving as the Meeting of the Parties
to the Protocol on Strategic
Environmental Assessment

Bureau

Geneva, 5– 6 February 2015

Informal notes of meeting

Prepared by the secretariat

I. Organizational matters

1. The Bureau under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment took place in Geneva, from 5 to 6 February 2015.
2. The following members of the Bureau were present: Mr. Piotr Otawski (Poland), Chair of the Bureau; Ms. Migle Masaityte (Lithuania), Chair of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment (Working Group on EIA and SEA) and three Vice-Chairs of the Working Group: Ms. Aysel Babayeva (Azerbaijan), Ms. Inga Podoroghin (Republic of Moldova), and Mr. Igor Markelov (Ukraine); Mr. Felix Zaharia (Romania), Chair of the Implementation Committee; two-Vice-Chairs of the Bureau: Ms. Cecile Bourigault (Switzerland), and Mr. Georges Kremlis (European Union), assisted by Ms. Milena Novakova; and Ms. Lourdes Aurora Hernando (Spain), First Vice-Chair of the Implementation Committee and alternate for Ms. Bourigault for Protocol matters. Mr. Artur Danelyan (Armenia), Vice-Chair of the Bureau was absent and replaced by Ms. Elyanora Grygoryan.
3. The Chief of the Environment for Europe and Sustainable Development Section, Environment Division, of the United Nations Economic Commission for Europe (ECE) made some introductory remarks.
4. The Bureau recalled that the Meeting of the Parties to the Convention (MOP) at its sixth session and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol (MOP/MOP) at its second session (Geneva, 2–5 June 2014), had elected Mr. Otawski as the Chair of the Bureau with the understanding that his election did not indicate Poland's agreement to host the next session of the MOP and the MOP/MOP.

5. The Bureau also recalled that the MOP at its sixth session and the MOP/MOP at its second session had elected a representative of Azerbaijan (to be named later) and Ms. Tatjana Plesco (Republic of Moldova) as Vice-Chairs of the Working Group.¹ The Bureau took note of the nomination of Ms. Babayeva (Azerbaijan) and of the recent appointment of Ms. Podoroghin replacing Ms. Plesco (Republic of Moldova) as Vice-Chairs of the Working Group on EIA and SEA.

6. The Bureau adopted its agenda.

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

7. The secretariat reported on the status of ratification of the Convention, its two amendments and its Protocol, and on its actions to encourage ratification, i.e. the letters sent in September 2014 from the ECE Executive Secretary to ministers of foreign affairs and to environment ministers of 25 Parties to the Convention, the Russian Federation (Signatory of the Convention) and Georgia (Signatory of the Protocol) inviting them to ratify/accede to the Convention, its amendments and the Protocol, as appropriate. The secretariat also reported on the status of ratification of the multilateral agreement among the countries of South-East Europe for implementation of the Convention (Bucharest, 2008).

8. The Bureau took note of the information, notably of the entry into force of the first amendment to the Convention on 26 August 2014, following Malta's accession on 28 May 2014.

9. Further to the entry into force of the first amendment, United Nations (UN) Member States that are not members of the ECE may accede to the Convention upon approval by the MOP. At its sixth session, the MOP had adopted decision VI/5–II/5 giving blanket approval to any future request for accession. However, according to article 17, new paragraph 3, any request for accession cannot be considered or approved – which means that UN Member States that are not members of the ECE cannot accede to the Convention – until the amendment has entered into force for all the States and organizations that were Parties to the Convention when the amendment was adopted on 27 February 2001.

10. In that regard, the Bureau noted with concern that for the amendment to become effective ratifications were still missing from the following 15 States that were Parties to the Convention on the date of its adoption: Armenia, Azerbaijan, Belgium, Canada, Cyprus, Denmark, Greece, Italy, Latvia, Liechtenstein, Portugal, Republic of Moldova, the Former Yugoslav Republic of Macedonia, Ukraine and the United Kingdom of Great Britain and Northern Ireland.

11. The Bureau welcomed information provided by its members representing Armenia, Azerbaijan and the Republic of Moldova, on the ongoing developments towards ratification of the two amendments, anticipated to occur in 2015–2016. Bureau members also agreed to seek to bilaterally approach, as appropriate, some of the 15 Parties and encourage ratification of the first amendment.

12. The Bureau considered the intention of the Parties to promote the global application of the Convention, as demonstrated, inter alia, through the adoption in June 2014 of MOP decision VI/5–II/5 on accession, and of the Geneva Declaration – Part B on the Global application of the Convention. It agreed that it was important to accelerate the fulfilment of

¹ ECE/MP.EIA/20–ECE/MP.EIA/SEA/4, para. 65.

the condition of ratification by the 15 Parties for the amendment to become truly effective, and decided that the issue should be discussed at the upcoming fourth meeting of the Working Group on EIA and SEA (Geneva, 26–28 May 2015).

13. To facilitate discussions at the Working Group meeting, the Bureau asked the secretariat to prepare an informal note, in consultation with the UN Office of Legal Affairs, Treaty Section, about the implications of the entry into force of the amendment for ECE and non-ECE countries pending ratification by the 15 Parties (art. 17, new paras. 3 and 7); and about possible avenues to promote the global application of the Convention as soon as possible, including the adoption of a separate Agreement modifying article 17, new paragraph 3, and entering into force through a non-objection procedure when a deadline specified in the Agreement has lapsed.

14. The Bureau also asked the secretariat to send a reminder to the national focal points of the 15 Parties whose ratification was required, referring to the letters sent by the ECE Executive Secretary in September 2014 (para. 7), and noting that at the Working Group meeting in May 2015, they would be invited to provide detailed information about steps taken towards the ratification of the first amendment.

15. The Bureau welcomed information provided by its member representing Switzerland on the ongoing developments in the national legislation that would then lead to accession to the Protocol, but not before 2018; as well as information by its member representing Ukraine on the ongoing developments for the adoption of a law on EIA in the country.

III. Review of decisions by the Meetings of the Parties

16. The Bureau recalled the tasks assigned to it during the sixth session of the MOP and the second session of the MOP/MOP as included in the report of the two sessions (ECE/MP.EIA/20-ECE/MP.EIA/SEA/4, and Add.1 – Add.3).

IV. Implementation of the workplan 2014-2017

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

17. The Chair of the Implementation Committee informed the Bureau about the main outcomes of the Committee's thirty-first and thirty-second sessions (held on 2–4 September, and on 9–11 December 2014, respectively² and the main objectives for the Committee's upcoming session (17–19 March 2015), where the Committee was expected among other things to continue following up with MOP decision VI/2 on review of compliance, notably in relation to compliance by Belarus and Ukraine, as well as to conclude its work on the revision of the questionnaires for the implementation of the Convention and the Protocol. The Bureau took note of the report by the Committee Chair.

² Reports on the Implementation Committee's sessions held in 2014 are available at: <http://www.unece.org/environmental-policy/treaties/environmental-impact-assessment/meetings-and-events.html?id=7113#/2014/0/0/28089/19940/>.

18. The Chair of the Working Group on EIA and SEA drew the Bureau's attention to communications ACCC/C/2013/91 (United Kingdom)³ and ACCC/C/2013/92 (Germany)⁴ submitted by members of the public before the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), and the parallel consideration by the Implementation Committee of its Committee initiative (EIA/IC/CI/5) on the United Kingdom, regarding the planned construction of the Hinkley Point C nuclear power plant. In the view of the Chair of the Working Group, the cases currently pending consideration before the Aarhus Convention Compliance Committee and the Espoo Convention Implementation Committee were correlated and the two bodies should seek to ensure that the provisions of the two treaties are interpreted in a way that is consistent with their defined scope and without weakening one another.

19. Taking that into account, the Bureau asked the Implementation Committee, through its Chair, to liaise, as appropriate, with the Aarhus Convention Compliance Committee and ensure a coordinated and coherent approach in the interpretation of the two instruments. It also decided that the issue should be raised for discussion at the Working Group in May 2015, where the Committee would also be expected to report. To assist in the discussions by the Working Group, the Bureau requested the secretariat to prepare an informal note on the subject.

20. Considering also the close relationship between the Protocol on Strategic Environmental Assessment (SEA) and the Aarhus Convention, the secretariat should also browse through the Good practice recommendations on public participation in SEA adopted by MOP/MOP decision II/8, and outline for consideration by the Working Group any parts that might put at stake the coherent interpretation of the two instruments.

21. The secretariat reported on the implementation of other sub-activities that related to compliance and implementation, notably:

a) Modification of the questionnaires for the report on implementation of the Convention and the Protocol (in the period 2014–2016) and the timetable for the production of the fifth review of implementation with the Convention and the second review of implementation with the Protocol;

b) Legislative assistance, notably under the Greening Economies in the Eastern Neighbourhood (EaP Green) programme, to support implementation or accession/ratification (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Republic of Moldova, Russian Federation, Uzbekistan);

c) Developments on the alignment of the authentic language versions of the Protocol and the two amendments to the Convention; and

d) Preparation of guidance on the implementation of the Convention (drawing on opinions of the Implementation Committee).

22. The Bureau welcomed in general the approach proposed by the Committee to simplify the questionnaires and agreed to provide feedback on the draft questionnaires by 10 March 2015. It was also proposed that once the questionnaires are finalized and used for the preparation of the fifth review of implementation of the Convention and the second

³ <http://www.unece.org/environmental-policy/enenvironment-conventions/all/treaties/public-participation/aarhus-convention/envpptfwg/envppcc/envpppubcom/united-kingdom-acccc201391.html>.

⁴ <http://www.unece.org/environmental-policy/conventions/public-participation/aarhus-convention/tfwg/envppcc/envpppubcom/germany-acccc201392.html>.

review of implementation of the Protocol, they should not be revised again in the next intersessional period, so as to allow Parties to work with track changes on their reports for the preparation of the sixth review of implementation of the Convention and the third review of implementation of the Protocol.

23. As regards technical support to Uzbekistan to review its national legislation for implementation of the Convention and to propose amendments to Uzbekistan, the Bureau recalled that, with the support of Switzerland, the activity had been scheduled to take place in 2012–2013 and that it had significantly been delayed and carried forward to the current intersessional period due to open-ended discussions with Uzbekistan. The Bureau also recalled that Parties had agreed that should the activity not take place by May 2015, the funds should be reallocated. The Bureau asked the secretariat to write a letter to Uzbekistan regarding the planned technical assistance with a deadline to confirm the activity; and invited Switzerland to consider possible reallocation of the funds, in case of lack of response on the part of Uzbekistan.

24. The Bureau took note of the table with possible inconsistencies identified by the United Nations Office at Geneva translation services with a view to aligning the three authentic versions of the Protocol. It agreed that the table should be submitted for consideration by the Working Group in May 2015, which would then decide on the composition of the ad hoc task force to review the possible inconsistencies. In the meantime, it asked the secretariat to invite Belarus, France and the United Kingdom to review the table, if possible, before the Working Group meeting and share their views at the meeting.

B. Subregional cooperation and capacity-building

25. The Bureau took note of the report by the secretariat on the implementation of activities in the workplan that related to subregional cooperation and capacity-building in the subregions of South-Eastern Europe; Mediterranean, including Adriatic Sea; Baltic Sea; and Eastern Europe, the Caucasus and Central Asia.

C. Exchange of good practices

26. The secretariat informed the Bureau about the implementation of activities in the workplan that related to the exchange of good practices, and in that context it presented the draft terms of reference for the development of good practice recommendations on the application of the Convention to nuclear-energy activities, which had been prepared in consultation with Austria, one of the main donors for the activity, as well as the challenges for the funding of the activity. The Bureau took note of the draft terms of reference and agreed to provide feedback on the draft by 20 February 2015. It also agreed to explore further possibilities for the financing of the activity.

27. The Bureau also took note on the progress for the organization by Belarus in cooperation with Ukraine of the half-day seminar on post-project analysis, scheduled to take place in the framework of the Working Group meeting in March 2015.

28. The Bureau was informed about the expression of interest by the European Investment Bank (EIB) to develop joint good practice recommendations on land use planning, together with the Convention on the Transboundary Effects of Industrial Accidents and the ECE Committee on Housing and Land Management, and to support the organization of a workshop in that regard. It decided that the issue should be discussed more in details at the Working Group meeting in May 2015.

29. The Bureau welcomed a Committee proposal for the organization of a half-day seminar in the context of a Working Group meeting or the Batumi subregional event under the EaP Green, with the objective of informing Parties about recent processes of drafting legislation and developing institutional capacity on EIA and SEA. It asked the secretariat to write to countries that have benefited from such legislative assistance whether they would be interested in sharing their experience; and decided that the holding and timing of such seminar would be further discussed at the Working Group meeting in May 2015.

D. Promoting ratification and application of the Protocol

30. The Bureau took note of the report by the secretariat on the implementation of activities in the workplan that related to promoting ratification and application of the Protocol, notably holding of workshops, including training, implementation of pilot projects and development of legislation on SEA, which were supported by the EaP Green Programme. The Bureau also took note of the difficulties reported on the implementation of some activities, especially those relating to the identification of pilot projects. In that regard, it approved the suggested by the secretariat “demand-driven” approach. It further took note of the possibility that some of the planned EaP Green activities would be scaled down due to the loss of funds as a result of recent EURO – USD exchange rate fluctuations.

31. The secretariat then reported on recent developments regarding the technical advice to Kazakhstan on improving legislation to implement the Protocol and advice in drafting necessary amendments, expected to be funded by the European Union. Accordingly, the technical assistance would focus on the water sector and more details were expected to be available at the next Working Group meeting in May 2015.

32. Finally, the secretariat reported on the plans for the preparation of a video that would be on the promotion of the benefits of the Protocol. A separate video on the promotion of the benefits of the Convention would be prepared later, subject to availability of resources. The Bureau took note of the information and requested the secretariat to share with the Bureau members an advance version of the video, before the Working Group meeting in May 2015, should it be available by that time.

V. Budget, financial arrangements and financial assistance

33. The Bureau took note of the report by the secretariat on the receipt of contributions to, and on expenditure from, the Convention’s trust fund, with reference to the draft biannual financial report covering the period until end of December 2014. It agreed to issue the final version of the report, as soon as the final figures for 2014 were confirmed.

34. The Director of the Environment Division, ECE, presented an information note regarding funding of the ECE multilateral environmental agreements (MEAs). The note had been initiated by the ECE management and was a living document, which aimed to provide an overview of the key challenges to and opportunities for ensuring the sustainability and quality of the support provided by the ECE MEAs secretariats in the mid- to longer term, and put forward a set of proposed actions to address them.

35. The Bureau welcomed the information and acknowledged the insufficiency and unpredictability of funding for covering the budget adopted by the sixth MOP. It was also informed that the issue would be further discussed at the informal network of the representatives of the MEAs governing bodies on 13 April 2015, where the Convention and the Protocol would be represented by the Chair of the Working Group. It then agreed that the issue should be further discussed by the Working Group in May 2015 where the Bureau would call for guidance on how to proceed with a view to ensure sustainable funding.

36. The Bureau then took note of actions taken by the secretariat to encourage further contributions (in accordance with annex II to decision VI/3–II/3) and agreed that the secretariat should continue its practice of encouraging contributions to the trust fund. It then requested the secretariat to acknowledge the contribution of EIB so far and encourage further support.

37. At their last session in June 2014 (decision VI/4–II/4, para. 24), the MOP and the MOP/MOP, had requested the secretariat to grant, subject to the availability of funds, financial assistance to designated experts from non-governmental organizations (NGOs) identified by the Bureau for their participation in meetings under the Convention and the Protocol, unless otherwise decided by the Working Group on EIA and SEA. Following that decision, the Bureau requested the secretariat to launch the evaluation process of NGOs that would possibly benefit of financial assistance during the present intersessional period, as soon as possible and agreed on the information to be requested by interested NGOs, notably on the financial information to be provided. On the basis of applications received, the Bureau would designate in March 2015 experts from NGOs who would receive financial assistance, but noted that it may decide to review its criteria in the course of 2015, after the Working Group meeting in May 2015.

38. Given the limited level of funds in the trust fund for the Convention, the Bureau decided not to offer financial support in 2015 to representatives of States outside the ECE region for them to attend.

VI. Preparations for the next sessions of the Meetings of the Parties (MOP-7 and MOP/MOP-3)

39. The Bureau was informed that there had been no official offer by any Party to host the next MOP and MOP/MOP. It decided that the dates should be confirmed once the host country has been identified, and confirmed that should there be an offer by a Party to host the two meetings, the representative of that country would participate to the Bureau, but would not hold the chairmanship, as the Chair of the Bureau had been elected by the MOP and the MOP/MOP.

VII. Preparations for the fourth session of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment

40. The Bureau reviewed the annotated provisional agenda (ECE/MP.EIA/WG.2/2015/1) of the fourth meeting of the Working Group, to be held in Geneva from 26 to 28 May 2015, and proposed some changes in the draft. It requested the secretariat to circulate the draft by email as well, before official submission.

41. Taking into account the accession to the Convention by non-ECE countries and the concerns expressed over the insufficient and unpredictable funding of the activities, issues that were discussed at length during the meeting, the Bureau requested the secretariat to ensure that the ECE Executive Secretary send letters in March 2015 to ministers of foreign affairs and to environment ministers, which address, as appropriate: The urgency of ratification of the first amendment by the 15 Parties whose ratification was necessary for its entry into effect; the voluntary scheme of contributions, inviting Parties to contribute in time and allow for predictable financing of the planned activities; and the upcoming meeting of the Working Group in May 2015, inviting Parties, especially those who had not participated in recent meetings, to participate. The letters should also highlight the importance of the Convention and offer assistance, as needed, to Parties.

VIII. Related events

42. The Bureau took note of information provided by the Chair of the Working Group on the joint meeting of the informal network of representatives of governing bodies of the ECE MEAs and of the Committee of Environmental Policy (CEP) on 27 October 2014 in Geneva, in which she had participated. The follow-up meeting was scheduled to take place on 13 April 2015, immediately prior to session of CEP in April and would focus on sustainable funding of the ECE MEAs (see para. 35).

IX. Other business

43. No other business was discussed.

X. Presentation of the decisions and closing of the meeting

44. The Bureau agreed that it would decide electronically whether it would meet informally in the margins of the Working Group in May 2015 and took note of the information by the secretariat that arrangements had been made for a Bureau meeting in Geneva, from 4 to 5 February 2016. In the meantime, members would explore the possibility of holding the 2016 meeting in their countries.

45. The meeting of the Bureau concluded on Friday, 6 February 2015. It invited the secretariat to draft the informal meeting report and to circulate it for its comments prior to its finalization.
