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

Fourth session

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Items 3 (b) and 8 (b) of the provisional agenda

Outstanding issues: draft decisions by the Meeting of the Parties to the Convention

**Adoption of decisions: decisions to be taken by the Meeting of
the Parties to the Convention**

Draft decisions by the Meeting of the Parties to the Convention

Proposals by the Bureau

Summary

The present document contains two draft decisions prepared by the Bureau of the governing bodies of the Convention on Environmental Impact Assessment in a Transboundary Context and the Protocol on Strategic Environmental Assessment, taking into account any comments made by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment at its ninth meeting (Geneva, 24–26 August 2020): a draft decision on reporting and review of implementation of the Convention (VIII/5); and a draft decision on the applicability of the Convention to the lifetime extension of nuclear power plants (VIII/6). The first draft decision provides for the adoption of the draft sixth review of implementation of the Convention (ECE/MP.EIA/2020/8), while the second provides for the endorsement of the draft guidance on the applicability of the Convention to the lifetime extension of nuclear power plants (ECE/MP.EIA/2020/9), which are foreseen in the workplan for the implementation of the Convention and its Protocol for the period 2017–2020 (ECE/MP.EIA/23/Add.1–ECE/MP.EIA/SEA/7/Add.1, decision VII/3–III/3, annex I, items I.6 and I.9; and ECE/MP.EIA/27/Add.1–ECE/MP.EIA/SEA/11/Add.1, decision IS/2, para. 6).

The Meeting of the Parties to the Convention is expected to review the text of the draft decisions and agree on their adoption.



Decision VIII/5

Reporting and review of implementation of the Convention

The Meeting of the Parties to the Convention,

Recalling its decisions III/1¹, IV/1² and V/3³ on the review of implementation, and decisions V/7–I/7⁴, VI/1⁵ and VII/1⁶ on reporting and the review of implementation,

Recalling also article 14 bis of the Convention on Environmental Impact Assessment in a Transboundary Context, which requires Parties to report on their implementation of the Convention,

Recognizing once again that regular reporting by each Party provides important information that facilitates the review of compliance under the Convention and thereby contributes to the work of the Implementation Committee,

Recognizing that Parties' reporting provides useful information to other countries within and beyond the United Nations Economic Commission for Europe (ECE) region that facilitates their efforts to implement and accede to the Convention,

Having analysed the reports provided by Parties in response to the questionnaire on the implementation of the Convention,

Strongly emphasizing the importance of the timeliness and the quality of national reporting,

Expressing concern that the following 23 States Parties – which were Parties to the Convention during the period under review – responded to the questionnaire late: Azerbaijan, Belarus, Bosnia and Herzegovina, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Kazakhstan, Latvia, Liechtenstein, Luxembourg, Montenegro, North Macedonia, Netherlands, Portugal, Serbia, Slovenia, Spain and Ukraine,

[*Observing* that the European Union is a Party to the Convention, but, being a regional economic integration organization, has, thus far, felt it inappropriate to return a completed questionnaire, providing instead updates regarding relevant European Union legislation,]

Expressing appreciation that Georgia, the State not Party to the Convention, nevertheless responded to the questionnaire,

1. *Welcomes* the reports by Parties on their implementation of the Convention during the period 2016–2018, which have been made available on the Convention website;

2. *Adopts* the sixth review of implementation of the Convention (ECE/MP.EIA/2020/8) and requests the secretariat to arrange for its publication in an electronic format in all three official languages of ECE;

3. *Notes* the findings of the sixth review of implementation, including the following possible weaknesses or shortcomings in the Convention's implementation by Parties:

(a) Parties' definitions of and approaches to key terms in the Convention, such as "impact", "transboundary impact" and "major change", differ, with a few Parties not defining some of these terms in their national legislation. This may lead to potential problems, particularly if the consequence is a lack of clarity about which proposed activities fall within the scope of the Convention (arts. 1 and 6);

¹ See ECE/MP.EIA/23.Add.3–ECE/MP.EIA/SEA/7.Add.3.

² See ECE/MP.EIA/10.

³ See ECE/MP.EIA/15.

⁴ See ECE/MP.EIA/SEA/2.

⁵ See ECE/MP.EIA/20.Add.1–ECE/MP.EIA/SEA/4.Add.1.

⁶ See ECE/MP.EIA/23.Add.2–ECE/MP.EIA/SEA/7.Add.2.

(b) Slightly more than 50 per cent of the Parties have made obligatory provisions for transboundary consultation with the authorities of affected Parties according to article 5, with nine Parties having no provisions in this regard in their domestic legislation;

(c) Only a minority of Parties have an explicit provision in their legislation on how to ensure application of article 6 (3), which requires that concerned Parties be updated on additional information that may trigger consultations and a new decision before work on an activity commences;

(d) There is only rudimentary experience in carrying out post-project analysis under article 7, with eleven Parties having no express provisions implementing this article in their legislation;

(e) Differing practices exist in relation to the translation of documentation for affected Parties. A number of difficulties and concerns are raised by the Parties about such practices, in particular concerning the quality of translations and proper integration of translation into time schedules for consultations and public participation;

(f) Guidance documents developed to help implement the Convention are being used less frequently. However, most Parties do not see a need to update most of the current documents;

(g) Bilateral and multilateral agreements or other arrangements under article 8 can be useful, in particular in addressing differences between Parties' implementation practices;

(h) A lack of timely reporting by Parties complicated the review;

(i) Different quality control measures are used by the Parties to ensure the quality of environmental impact assessment documentation;

(j) A wealth of implementation practices and experiences are reported, but few Parties volunteer to share their good practices by preparing factsheets. Consideration might be given to the ways in which the ECE can facilitate the collection of such practices to help develop material to enhance the Convention's implementation and practical application.

4. *Requests* the secretariat to bring to the attention of the Implementation Committee general and specific compliance issues identified in the sixth review of implementation of the Convention, and requests the Implementation Committee to take these into account in its work;

5. *Requests* the Implementation Committee, if necessary, to adjust the questionnaire for the next reporting round on Parties' implementation of the Convention in the period 2019–2021, taking into account the suggested improvements to the questionnaire on the implementation of the Convention, and to provide, if necessary, a modified version for consideration by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment and for circulation by the secretariat thereafter;

6. *Also requests* the Implementation Committee to prepare a reporting template to fit the context and competencies of regional economic integration organizations, including the European Union, to facilitate their reporting under article 14 bis of the Convention;

7. *Decides* that *Parties* shall complete the questionnaire as a report on their implementation of the Convention during the period 2019–2021;

8. *Urges* Parties to report by the deadline to be agreed by the Working Group;

9. *Requests* the secretariat to post national reports on the Convention website in the languages in which they are available;

10. *Also requests* the secretariat to put the project lists included in the responses to the questionnaire on the Convention website, unless the countries object to this practice;

11. *Decides* that a draft seventh review of implementation of the Convention during the period 2019–2021 based on the reports by Parties will be presented at the ninth session of Meeting of the Parties to the Convention, and that the workplan shall reflect the elements required to prepare the draft review;

12. *Requests* the secretariat to foresee the subsequent publication of the seventh review of implementation, once adopted, in an electronic format in all three official languages of ECE.

Draft decision VIII/6

Applicability of the Convention to the lifetime extension of nuclear power plants

The Meeting of the Parties to the Convention,

Recalling its decision VII/3–III/3¹ on adoption of the workplan,

Reiterating that the Convention on Environmental Impact Assessment in a Transboundary Context is a key instrument establishing rules for domestic action and international cooperation for preventing, reducing and controlling significant adverse transboundary environmental impact from proposed activities that include nuclear energy,

Aware that many Parties are currently considering extending the lifetimes of their existing nuclear power plants,

Aware also of the public concern regarding the potential significant transboundary [and long-range] adverse environmental impacts of the lifetime extension of the existing nuclear power plants in the United Nations Economic Commission for Europe region, and of the public's wish to participate in the related decision-making process,

Affirming the prime importance of the precautionary principle, early and timely notification and transparent and participatory decision-making for the effective application of the Convention,

Affirming also the need for legal certainty for the effective application of the Convention, through ensuring the clarity of its obligations and their scope,

Reiterating that it is essential for Parties to meet fully their obligations deriving from the Convention, and therefore urging them all to do so,

Wishing to assist Parties in complying with their obligations under the Convention, and to promote its effective application in the field of nuclear energy, in particular as regards the lifetime extension of nuclear power plants,

Wishing also to support the work of the Implementation Committee in assessing compliance by Parties with their obligations under the Convention regarding the lifetime extension of nuclear power plants,

1. *Welcomes the development of draft guidance by an ad hoc working group of Parties to the Convention co-chaired by Germany and the United Kingdom of Great Britain and Northern Ireland and composed of representatives of Armenia, Azerbaijan, Austria, Belarus, Belgium, Bulgaria, Canada, Croatia, Czechia, Finland, France, Germany, Greece, the European Union, Italy, Lithuania, Luxembourg, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Switzerland and Ukraine, and supported by the secretariat;*

2. *Endorses the Guidance on the Applicability of the Convention to the Lifetime Extension of Nuclear Power Plants (ECE/MP.EIA/2020/9);*

3. *Recommends that the Parties take into account the contents of the Guidance when implementing the Convention;*

4. *Also recommends that the Implementation Committee consider the Guidance when performing its functions;*

5. *Calls on the Parties to widely disseminate the Guidance to authorities and relevant stakeholders.*

¹ See ECE/MP.EIA/23.Add.1–ECE/MP.EIA/SEA/7.Add.1.