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

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

Working Group on Environmental Impact Assessment and Strategic Environmental Assessment

Ninth meeting

Geneva, 9–11 June 2020

Item 5 (b) and 6 (a) of the provisional agenda

**Promoting ratification and application of the Convention
and the Protocol: draft guidance on assessing health impacts
in strategic environmental assessment,**

Compliance and implementation: reporting and review of implementation

Draft decisions by the Meeting of the Parties to the Protocol

Proposals by the Bureau

Summary

In accordance with the mandate given to the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment by the Meetings of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context and to the Protocol on Strategic Environmental Assessment, the Working Group is tasked with making recommendations to these governing bodies regarding future work under the Convention and the Protocol (ECE/MP.EIA/SEA/2, decision I/5–V/5, operative para. 4).

In accordance with the above mandate, the present document contains two draft decisions prepared by the Bureau for the Working Group's consideration: a draft decision on reporting and review of implementation of the Protocol (IV/5); and a draft decision on assessing health impacts in strategic environmental assessment (IV/6).

The Working Group is expected to review and agree on the text of the draft decisions to be forwarded for consideration by the Meeting of the Parties to the Protocol at its fourth session (Vilnius, 8–11 December 2020).



Draft decision IV/5

Reporting and review of implementation of the Protocol

The Meeting of the Parties to the Protocol,

Recalling decision I/7–V/7 of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol on Strategic Environmental Assessment (Meeting of the Parties to the Protocol) and decisions II/1 and III/1 of the Meeting of the Parties to the Protocol on reporting and the review of implementation,

Recalling also article 14 (4) of the Protocol, concerning the regular review of the implementation of the Protocol,

Recalling further article 14 (7) of the Protocol, on reporting by Parties on measures they have taken to implement the Protocol and article 13 (4) of the Protocol, concerning reporting by Parties on their application of article 13 on policies and legislation,

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

Recognizing also 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 Protocol,

Having analysed the reports provided by Parties in response to the questionnaire on implementation of the Protocol during the period 2016–2018,

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

Expressing concern that the following 15 States Parties –that were Parties to the Protocol during the period under review – responded to the questionnaire late: Bosnia and Herzegovina, Cyprus, Denmark, Germany, Italy, Latvia, Luxembourg, Montenegro, the Netherlands, North Macedonia, Portugal, Serbia, Slovenia, Spain and Ukraine,

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

Expressing appreciation that the Republic of Moldova, the State not Party to the Protocol during the period under review, and Georgia and Kazakhstan, States not Parties to the Protocol, nevertheless responded to the questionnaire,

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

2. *Adopts* the third review of implementation of the Protocol as contained in document ECE/MP.EIA/SEA/2020/[8], and requests the secretariat to arrange for its publication in an electronic form in all three official languages of ECE;

3. *Notes* the findings of the third review of implementation of the Protocol, including the following possible weaknesses or shortcomings and areas for further improvement in the implementation of the Protocol by Parties:

(a) A variety of approaches exist to interpreting the term “set the framework for future development consent” referred to in article 4 (2) of the Protocol, with the majority of Parties having no explicit definition of this term in their domestic legislation; the Parties also experience difficulties in interpreting the provisions of article 4 (4), in particular the terms “small areas at local level” and “minor modifications”. These deficiencies might have the

potential to cause problems, particularly if the consequence is a lack of clarity about which plans and programmes fall within the scope of the Protocol;

(b) The Parties' legislation and practice continue to differ considerably regarding the opportunities provided to the public concerned to participate in screening and scoping further to articles 5 (3) and 6 (3), respectively, of the Protocol, which might complicate the Protocol's implementation. Seven Parties report an absence of legislative provisions for the public concerned to participate in screening and/or scoping, while six Parties indicate that such opportunities are provided during scoping only;

(c) Some Parties seem to find it difficult to appropriately address health aspects and impacts in strategic environmental assessment[s]. Parties may wish to consult the section on health in the Resource Manual to Support Application of the UNECE Protocol on Strategic Environmental Assessment¹ (Resource Manual) [and the Guidance on Assessing Health Impacts in Strategic Environmental Assessment ECE/MP.EIA/SEA/2020/[X] forthcoming], for further information on the matter;

(d) Consultations are complicated by difficulties arising from Parties' differing practices in relation to the translation of documentation during transboundary consultations, in particular concerning the quality of, and time and resources required for, the translation, and with regard to the integration of the translation into time schedules for consultations and public participation;

(e) Further bilateral agreements or other arrangements to facilitate transboundary consultations between Parties [continue to be called for] [might be useful], in particular to increase efficiency and to address differences between Parties' implementation practices, including language-related issues, time frames, public participation, the interpretation of various terms and the organization of transboundary consultations;

(f) A wide range of implementation practices and experiences are reported by the Parties and this information could be used in developing material to enhance implementation. As no Parties volunteer to provide case studies, consideration might be given to the ways in which ECE can facilitate the creation of such material;

(g) Many Parties continuously fail to fulfil their obligation to report (in accordance with art. 14 (7)) in a timely manner;

(h) Relatively few Parties use the Resource Manual but it is unclear whether this is due to a need to update or complement all or parts of the Resource Manual. At the same time, a number of Parties requested that the current version of the Resource Manual be translated into their national languages.

(i) Ensuring quality of the environmental reports is an area of improvement in the application of the Protocol. Promoting use of quality control approaches could be recommended. Parties have also expressed the desire for adequate explanations to be provided of how the comments received in accordance with articles 8 to 10 have been taken into account;

(j) Differing monitoring practices are applied to implement article 12 of the Protocol, resulting to difficulties concerning the scope and duration of monitoring, monitoring measures and the use of indicators.

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

5. Requests the Implementation Committee to adjust the questionnaire for the next reporting round on Parties' implementation of the Protocol in the period 2019–2021, taking into account the suggested improvements to the questionnaires on the implementation of the Protocol, and to provide a modified version for consideration by the Working Group

¹ United Nations publication, ECE/MP.EIA/17.

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 the competencies of regional economic integration organizations, including the European Union, to facilitate their reporting under article 13 (4) of the Protocol;

7. Decides that Parties to the Protocol shall complete the questionnaire as a report on their implementation of the Protocol during the period 2019–2021, taking note of the obligations to report arising from articles 14 (7) and 13 (4) of the Protocol;

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 treaty website in the languages in which they are available;

10. Also requests the secretariat to post the lists of domestic and transboundary strategic environmental assessment cases included in the responses to the questionnaire on the treaty website, unless the Parties object to this practice;

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

12. Requests the secretariat to post the draft fourth review of implementation of the Protocol on the treaty website;

13. *Also requests* the secretariat to foresee the subsequent publishing of the fourth review of implementation, once adopted, in an electronic format in the three official languages of ECE.

Draft decision IV/6

Assessing health impacts in strategic environmental assessment

The Meeting of the Parties to the Protocol,

Recalling the preamble of the Protocol, which acknowledges the benefits to the health and well-being of present and future generations that will follow if the need to protect and improve people's health is taken into account as an integral part of strategic environmental assessment,

Recalling also the Resource Manual to Support Application of the UNECE Protocol on Strategic Environmental Assessment,² and particularly its annex A1.1. on health, prepared in collaboration with the World Health Organization,

Recalling further its decision VII/2–III/2 on adoption of the workplan for the implementation of the Convention and its Protocol for the period 2021–2023, which foresees the development of guidance on the assessment of potential health impacts of plans and programmes and the involvement of health authorities,

Highlighting the importance of consulting health authorities alongside the environmental authorities to ensure that environmental, including health, considerations are taken into account in the development of plans and programmes and, to the extent appropriate, in policies and legislation,

Wishing to assist Parties in complying with their obligations under the Protocol, and to promote its effective application,

1. *Welcomes* the development of draft guidance by two consultants, with funding from the European Investment Bank, in consultation with the secretariat, the World Health

² United Nations publication, ECE/MP.EIA/17.

Organization and a task force composed of representatives of Austria, Finland, Ireland and Slovenia;

2. Endorses the Guidance on Assessing Health Impacts [in Strategic Environmental Assessment] [under the Protocol on Strategic Environmental Assessment] [(ECE/MP.EIA/SEA/2020/...)];

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

4. Calls on the Parties to widely disseminate the Guidance to authorities and relevant stakeholders;

5. Proposes that the Guidance be used in the capacity-building activities included in the workplan;

6. Appreciates the good and long-standing cooperation with the World Health Organization in raising awareness of and in supporting the implementation of the Protocol;

7. Encourages Parties to submit good practice examples on the assessment of health and the involvement of health authorities in strategic environmental assessment
