

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

Working Group on Environmental Impact Assessment and Strategic Environmental Assessment

Sixth meeting

Geneva, 7-10 November 2016

Item 10 of the provisional agenda

Implementation and compliance

Needs assessment for further-capacity building activities

Note by the secretariat

I. Introduction

1. At its fifth meeting (11–15 April 2016), the Working Group Environmental Impact Assessment and Strategic Environmental Assessment reviewed and revised the draft decision on the adoption of the workplan for 2017–2020 and its two annexes (ECE/MP.EIA/WG.2/2016/L.1), which had been agreed by the Bureau. It observed that the proposed waiting list of activities (ibid., annex II) without funding was long and that, therefore, further reflection on priorities would be needed at its next meeting in November, notably by the countries concerned. It invited delegations to send further proposals and offers for funding and leading the workplan activities and welcomed the information of the European Commission regarding exploring the possibilities for continuing funding after the close of the EU Programme ‘Greening Economies in Eastern Neighbourhood’ (EaP GREEN) and encouraged also the concerned beneficiary countries to advocate in European Union forums for and request further regional cooperation and capacity-building implemented by ECE in the framework of the Convention and the Protocol.

2. The present document has been prepared by the secretariat to assist the Working Group (in particular, the countries of the Eastern Europe and the Caucasus) in prioritizing the activities proposed under the waiting list of the 2017-2020 workplan. It outlines the progress in establishing national strategic environmental assessment (SEA) and where relevant environmental impact assessment systems (EIA) in the beneficiary countries resulted from the technical assistance and capacity building activities implemented by the secretariat and the concerned countries (under the 2011-2014 and 2014-2017 workplans); highlights the remaining challenges; and outlines the further needs and relevant activities to addressing these challenges that are included in the Annex II of the 2017-2020 workplan.

3. The present document will be complemented by outcomes of a needs assessment survey for the period 2017-2020 carried out by the secretariat in the countries of Central Asia and which will be presented to the Working Group at its sixth meeting.

4. The document also summaries possible sources of funding for these activities and the recent discussions between the European Commission, EU Member States and the countries of Eastern Europe and the Caucasus carried out in the framework of the Eastern Partnership Panel on Environment and Climate Change and related to

the further regional cooperation and capacity-building to facilitate adoption and effective implementation of SEA and EIA procedures in the framework of the Convention and the Protocol.

II. Progress by the beneficiary countries in establishing national SEA and EIA systems in accordance with the Convention and the Protocol

5. A large amount of technical assistance and capacity building activities was implemented in ten countries of Eastern Europe, the Caucasus, Central Asia and the Russian Federation under the the 2011-2014 and 2014-2017 workplans of the Convention on EIA in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment (Protocol on SEA). The activities in Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova have been financed through the European Union's EaP GREEN Programme. The activities in Kazakhstan have been funded by the EU through the project "Supporting Kazakhstan's Transition to a Green Economy Model". Switzerland provided financial support for the activities in Kyrgyzstan, and the activities in the Russian Federation were funded by Sweden. The activities aimed to provide the means to the beneficiary countries to progress on their path towards establishing SEA and EIA systems in line with the provisions of the Protocol on SEA and the Espoo Convention.

6. To date the implementation of the activities have yielded several important results, including:

(a) comprehensive legislative and institutional reforms for establishing the national SEA and EIA systems in line with the provisions of the two treaties in Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan and the Republic of Moldova;

(b) establishing the necessary initial elements¹ to roll out subsequent comprehensive national training programmes for the planning and environmental authorities in Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan and the Republic of Moldova, Russian Federation and Ukraine;

(c) facilitating ratification of the Protocol on SEA by Ukraine and the amendments to the Convention by the Republic of Moldova.

7. The details related to the implementation of the activities until October 2016 are provided in the 'Draft summary report on the implementation of technical assistance and capacity building activities' (ECE/MP.EIA/WG.2/2016/6/INF.8) and the 'Workplan implementation status' (ECE/MP.EIA/WG.2/2016/6/INF.3).

III. Remaining challenges, needs and ways forward

8. Despite progress in the concerned countries, the path towards establishing and implementing SEA systems that comply with the Protocol standards remains challenging.

9. The important impediments which still need to be overcome include the following:

(a) limited awareness of SEA and its benefits among the sectoral planning authorities,

(b) gaps and contradictions in the legislative frameworks due to unfinished reforms,

(c) lack of understanding of the roles and responsibilities of various authorities in the SEA process,

(d) limited national institutional and human capacities to implement SEA and transboundary EIA initiatives.

¹ These elements include: (a) core groups of SEA pioneers and trainers (up to 8 experts per country); (b) sample SEAs at the national level; (c) regional training materials; (d) draft national recommendations on the implementation of SEA.

10. The beneficiary countries have themselves recognised that to sustain the initiated legislative and institutional reforms to set up the national environmental assessment systems in line with the Protocol, further technical assistance from the international community is required. In the same manner, further support is needed for some countries in Eastern Europe, the Caucasus and Central Asia in setting up national practice for the application of the transboundary EIA procedure in order to facilitate implementation of and accession to the Convention². Consequently, the countries have conveyed their specific needs for further international technical assistance on a number of occasions, including at regional and national events carried out under the 2014-2017 workplan³ and the meetings of the Bureau and the Working Group on EIA and SEA held in Geneva in January and April 2016, respectively, and the SEA and EaP GREEN side events⁴ at the Eighth Environment for Europe Ministerial Conference (Batumi, Georgia, 8–10 June 2016). These needs focus on four major priority areas or clusters and are presented below.

Cluster I: Support the establishment of a national legislative and institutional framework which fully complies with the Protocol, the Convention (as well as the relevant EU legislation) and assist the Governments in clearly defining roles and responsibilities of the relevant authorities in the SEA process at the national and local levels

Needs assessment

11. Additional assistance for dealing with the remaining challenges is needed in order to (a) facilitate the further legislative process and adoption⁵ of the legislation that complies with the Protocol on the SEA, the Espoo Convention where relevant and the EU SEA Directive; (b) draft executive (implementing) regulations (in particular in Azerbaijan); (c) identify a list of relevant other national legal acts to be amended, including sectoral legislation⁶; (d) test the proposed transboundary EIA/SEA procedures on practice. It would be particularly important for the countries to benefit from immediate assistance in monitoring all the revisions introduced to the draft laws during the legislative process regarding their compliance with international standards. To this end, the translation of the national draft legislation might be needed.⁷

Proposed activities under the waiting list of the 2017-2020 workplan

I.2. Technical legislative advice to Parties to the Convention and/or the Protocol requesting assistance.

I.3. Pre-accession technical legislative advice to a country or countries wishing to join the Protocol and/or the Convention to review national legislation for implementation of the Protocol and/or the Convention and to draft primary or secondary legislation/propose amendments.

Cluster II: Support to building of national and local capacities, developing practical experience and national guidelines for the effective application of the SEA/EIA procedures in line with the Protocol (and the relevant EU legislation)

² See paragraph 15 for details.

³ A participatory needs assessment exercise was carried out at the sub-regional event “Enhancing SEA in selected countries of Eastern Europe, the Caucasus and Central Asia”, (2-6 November 2015, Lopota, Georgia), the results are documented in the report of the meeting and at the Overview of legislative and administrative reforms for implementing strategic environmental assessment in Eastern Europe and the Caucasus (CE/MP.EIA/WG.2/2016/5/INF.6, p. 28); The views expressed at the national workshops are documented through the evaluation forms filled by the participants of the EaP GREEN national training and awareness raising events and the reports.

⁴ Side events at Batumi Conference organised by the secretariat and the Dutch Commission on EIA as well as by OECD and partners of EaP GREEN respectively. Ministers responsible for environment from Georgia, the Republic of Moldova and Ukraine, the Deputy Minister of Nature Protection of Armenia as well as delegations from Belarus and Azerbaijan highlighted that addressing these challenges is a crucial prerequisite to complete the initiated legislative and institutional reforms of the environmental assessment systems and to begin application of SEAs. Representatives of the Central Asian and Caucasus countries stressed that gaps in legislative frameworks as well as lack of confidence and clearly established procedures between the countries inhibit use of transboundary EIA.

⁵ Awareness raising and advocacy campaigns among politicians and high level to support the adoption and the implementation of the new legislative frameworks (Armenia, Azerbaijan, Georgia, Republic of Moldova); Assessing costs and benefits of the implementation of the EIA and SEA legislation (Georgia, Belarus) to support adoption and implementation of the laws.

⁶ Complementing the main SEA legal instrument with a set of other legislative and/or regulatory measures introducing SEA-related provisions into the general legal framework for land-use planning and building legislation as well as into sector-specific legislation defines roles of the planning authorities in SEA and provides a sound basis for the application of SEA.

⁷ CE/MP.EIA/WG.2/2016/5/INF.6, p. 28

Needs assessment

12. Despite significant efforts made by the countries in setting up their SEA legislative frameworks, the SEA is still a very new tool for all of them. The sectoral planning authorities, the environmental and health authorities and the public are not yet sufficiently aware of and skilled in implementing the proposed SEA procedures. In addition, the countries lack the expert potential to support practical application of SEA. For the sectoral authorities it is important to understand their own role and responsibility to develop the SEA report, carry out consultations with the environmental and health authorities and the public (including the transboundary consultations) and build their capacities in carrying out the SEA procedure. For the environmental and health authorities it is crucial to become aware and clear about their role in SEA, including screening, scoping, and transboundary consultations and to be able to ensure quality control of the SEA report. For the SEA practitioners and consultants, it is vital to get familiar with procedural aspects of SEA and get proficient in applying a variety of methods and tools to (i) evaluate specific impacts of proposed plans and programmes on certain environmental and health components; (ii) develop and access development alternatives, and (iii) identify mitigation measures. For the public it is important to be aware of their rights to participate in the SEA procedure and get familiar with the efficient methods for public participation in SEA.

13. Thus, efforts must be made to raise awareness, knowledge and skills on SEA among sectoral planning, environmental and health authorities as well as SEA practitioners and the public. To this end, the most effective activities listed by the concerned countries include: national and local level pilot projects on SEA which provide opportunities for hands-on experience for relevant stakeholders and support training of national practitioners; training events for environmental, health and sectoral authorities as well as SEA practitioners and the public, development of SEA sector/topic specific guidance for environmental and health authorities, planning authorities as well as representatives of public and SEA toolkits⁸ for practitioners (in particular for regional planning and urban development, as well as the water management, transport and energy sectors), and regional experience exchange and training events. It is also important to envision the development and incorporation of SEA related courses into vocational education and training programmes of the governmental officials and further support a group of trainers who can develop and deliver the above-mentioned courses.

14. After the adoption of the national legislation on SEA, it is important to establish the institutional and financial capacity to conduct SEA not only as part of a pilot project but on a regular basis. This may involve developing practical arrangements for involvement of the relevant SEA/EIA experts, organizing public consultations, disseminating information as well as developing the data-base for relevant registers (i.e. register of experts, register of SEA documentation, etc.). In addition, the specific challenges which all the countries face include difficulties in engaging with the health authorities as they lack understanding of SEA procedure and do not accept their role in it. Facilitation of a dialogue between environmental, health and sectoral authorities and specific training events organised with the support of WHO and UNECE can address this challenge.

Proposed activities under the waiting list of the 2017-2020 workplan

II.C.2. Subregional conference with training of trainers on the application of SEA to climate change mitigation to be followed by national training sessions, and supplemented by preparation of guidance.

II.C.3. Subregional training workshop on quality control of SEA documentation.

II.C.4. Subregional capacity-building activities to promote public participation in decision-making on EIA and SEA, including to strengthen the capacities of national Aarhus Centres for Armenia, Azerbaijan and Georgia and the regional Aarhus Centres Network in the EIA and SEA processes, using the Good Practice Recommendations on Public Participation on SEA and the general guidance on enhancing systemic consistency

II.C.X. SEA study tour to one of the European Union member countries.

IV.1. Development of country- and sector-specific guidance for the assessment of potential health impacts of plans and programmes and for the involvement of health authorities, building on the chapter on health in the SEA Resource Manual. (Could be linked with a possible subregional workshop.)

⁸ The sector specific guidelines and toolkits would help government officials and SEA practitioners in carrying out SEA procedure and in preparing the SEA report. The guidelines should outline the procedural aspects of SEA, provide interpretations of the new legal provisions in the given country, and offer a variety of methods and tools for evaluating specific impacts of proposed plans and programmes on certain environmental and health components; methods for developing and accessing development alternatives and identification of mitigation measures. The suggested methods and tools should reflect the existing economic contexts, the level of national scientific and research potential and the status of national monitoring systems and data availability.

IV.2. Development of good practice recommendations on the application of SEA to climate change mitigation.

IV.3. Development of guidance on the application of the Protocol on SEA to urban planning.

IV.5. Workshops for national and local sectoral authorities as well as environmental and health authorities, including training, on the application of the Protocol for countries in the ECE region and beyond; including on the application of SEA to climate change adaptation and mitigation plans or programmes.

IV.6. Pilot SEAs in selected countries, in selected sectors

IV.7. National guidance documents on the implementation of SEA.

Cluster III: Support to raise awareness and common understanding of the benefits of the SEA at national and local levels and in different sectors, including the benefits of public participation and consultation of relevant authorities

Needs assessment

15. As mentioned above, the awareness of SEA and its benefits among the various stakeholders still needs to be considerably increased, including awareness raising and advocacy campaigns among politicians and high level officials (especially from the sectoral/line ministries) to support the adoption and the implementation of the new legislative frameworks (Armenia, Azerbaijan, Georgia, Kyrgyzstan, and the Republic of Moldova); and preparing advocacy materials, including preparing good practice examples on SEA in various economic sectors (based on SEA pilots and experience from the practical application of SEA in the other Parties of the Protocol).

Proposed activities under the waiting list of the 2017-2020 workplan

IV.4. Translation of the video promoting the benefits of SEA and the Protocol into national languages.

IV.8. Preparation of fact sheets on application of the Protocol on SEA.

Cluster IV: Support the establishment/implementation of environmental impact assessment procedures at the national and transboundary levels

Needs assessment

16. Some countries in Eastern Europe, the Caucasus and Central Asia that are Parties of the Convention or that intend to join the Convention experience challenges in setting up their national practice in the application of the transboundary EIA procedures. These are related to the lack of understanding and acceptance of the transboundary EIA procedures by the national level officials and the existing systemic inconsistencies between the EIA procedure set out by the Convention and the environmental assessment within the framework of State ecological expertise/OVOS in the concerned countries. To this end the specific requests of the countries include:

- (a) Armenia: additional support to facilitate the implementation of the transboundary EIA procedure, in particular, through a pilot on the application of transboundary EIA between Armenia and Georgia.
- (b) Belarus: an update and revision of the 1990 UNECE guidance on post-project analysis in EIA, taking into account considerations of access to information and public participation; and support the implementation of a pilot project on the post project analysis regarding the Ostrovets Nuclear Power Station.
- (c) Georgia, Azerbaijan, Armenia and the Republic of Moldova: capacity building on quality control of EIA documentation and capacity building on screening and scoping under the EIA procedures as compared to the OVOS/expertise procedures.
- (d) Uzbekistan: capacity building on the implementation of the convention.

17. By 30 October 2016 the secretariat is expecting to obtain additional clarifications from Kyrgyzstan and Kazakhstan regarding the support needed to implement the Convention as well as from Tajikistan and Turkmenistan regarding the support needed to facilitate ratification of the Convention.

Proposed activities under the waiting list of the 2017-2020 workplan

I.4. After the adoption of national law by Georgia, pilot on the application of transboundary EIA between Armenia and Georgia to test their respective laws and improve transboundary procedures. (requested by Armenia and

confirmed by Georgia)

I.3. (b) Uzbekistan: 2–3 national seminars on the application of the Convention. (to reflect in the text of column 2)

III. Potential sources of funding

18. As mentioned in section II (para 4) of the present document, the technical advice and capacity building activities provided to the countries of Eastern Europe, the Caucasus and Central Asia under the 2011-2014 and 2014-2017 workplans have been supported by various donors, including the EU funds for technical cooperation with the countries of Eastern Europe, Switzerland and Sweden. These and other sources could be explored to support the implementation of the proposed activities from the Annex II of the 2017-2020 workplan.

19. Donor Governments are invited to explore their opportunities to fund the further capacity building activities, in line with the Government of Switzerland, that has initially offered to finance activities to promote transboundary EIA procedures in Central Asian Countries, to be defined by these countries. Governments may consider on a priority basis the provision of bilateral technical assistance or alternatively transfer funds to the Trust fund under the Convention and the Protocol.

20. Grants may be available under the Development Cooperation Programmes of some donor countries. For example, Norway, which is the largest donor under the Convention and the Protocol, has provided since 2013 large grants to the five UNECE Multilateral Environmental Treaties, for the promotion of environmental protection and cooperation in the UNECE region. The pledged share for the Espoo Convention and the Protocol on SEA in the period 2015-2017 amounted to 350,000 USD in total. Similar Development Cooperation Programmes exist in the Netherlands, Sweden and other countries.

21. The secretariat is also aware of the Czech-UNDP Trust Fund⁹ through which smaller grants¹⁰ (up to EURO 50,000) could be raised to organise individual events, such as study tours as well as regional and national training events in the countries of Eastern Europe, the Caucasus and Central Asia. To raise funds, the donor Governments should address their respective authorities for development cooperation. The beneficiary countries could also address the UNDP country offices in their countries.

22. To finance the activities in the countries of Eastern Europe and the Caucasus, it might be possible to use the funding mechanisms provided in the framework of the Eastern Partnership Panel on Environment and Climate Change (the Panel). (The EaP GREEN is one of the Programmes funded in the framework of the Panel, with funding that amounted approximately to a total of 2 Mln Euros or 500,000 Euros per year for a period of 4 years. This corresponded to some 180,000 Euros per country per year.) One of the already established priorities for cooperation between the EU and the countries of the Eastern Europe and the Caucasus for the next period is to 'aim for the adoption and effective implementation of SEA and EIA procedures at the national level and in a transboundary context in line with the Espoo Convention and its Protocol on SEA'¹¹. Currently the Panel is developing the Action Plan that will establish a framework, modality and the volume for further financial support to the countries of Eastern Europe and the Caucasus for the next period.

23. The concerned countries could also or in addition explore opportunities to obtain financial support for their priority activities at a national level through the EU-bilateral assistance programmes which are managed directly by the EU Delegations in the given country. It is important to note, however, that environment is not a - priority for the bilateral cooperation between the EU and the countries of Eastern Europe and the Caucasus. Nevertheless, SEA and EIA related activities could be incorporated in the support programmes for the economic development in particular for the energy, transport and regional development or the programmes dedicated to the approximation of the national environmental legislation to the EU environmental acquis. Concerned countries could consider contacting the responsible managers at the EU Delegations in their countries.

24. It should be noted that fundraising activities require significant human resources from the beneficiary countries and the secretariat. Moreover, the implementation of capacity building activities necessitates appropriate

⁹ http://www.eurasia.undp.org/content/rbec/en/home/about_us/partners/czech-undp-trust-fund.html

¹⁰ See 2010-2017 Development Cooperation Strategy of the Czech Republic. Online available at http://www.mzv.cz/file/762314/FINAL_Development_Cooperation_Strategy_2010_2017.pdf

¹¹ Declaration on Cooperation on Environment and Climate Change in the Eastern Partnership adopted on 18 October 2016 in Luxembourg.

amount of additional dedicated staff, both professional and support staff. Any project funding, in particular for larger projects, should therefore cover both substantial activities and the related staff costs. Finally, it is worth noting that project funds come with strict conditions related to their use and obligations for regular detailed narrative and financial reporting to donors.