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## 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-third session

Geneva, 4–7 December 2018

## Report of the Implementation Committee on its forty-third session

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## I. Introduction

1. The forty-third 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 in Geneva from 4 to 7 December 2018.

### A. Attendance

2. The following members of the Committee attended the session: Aysel Babayeva (Azerbaijan); Anders Bengtsson (Sweden); Volodymyr Buchko (Ukraine); Libor Dvořák (Czechia); Maria do Carmo Figueira (Portugal); Kaupo Heinma (Estonia); Zsuzsanna Pocsai (Hungary); Romas Švedas (Lithuania); Lasse Tallskog (Finland); and Nadezhda Zdanevich (Belarus).

### B. Organizational matters

3. The Chair of the Committee opened the session. The Committee noted that after having spent one year on revising draft decision VII/2 on compliance requested by the Meeting of the Parties at its seventh session (Minsk, 13–16 June 2017), the Committee could resume the consideration of the numerous pending issues before it, including several new issues received since March 2017.

4. The secretariat informed the Committee about the outcomes of the Bureau meeting held on 22 and 23 October 2018,<sup>1</sup> relating mainly to the preparations for the upcoming intermediary sessions of the Meetings of the Parties (Geneva, 5–7 February 2019), and of the fourth meeting of the ad hoc working group on the application of the Convention to the lifetime extension of nuclear power plants (London, 2–3 October 2018).<sup>2</sup>

5. The Committee noted the letter of 16 November 2018 from Belarus to the Committee and the Bureau with comments on the Committee's preparation of the draft decision on compliance (IS/1(d)) regarding Belarus. Although the matter had not been foreseen in the agenda, the Committee agreed to consider the letter at its current session, under the agenda item on any other business (see paras. 75–84). With the above adjustment, the Committee adopted its agenda as set out in document ECE/MP.EIA/IC/2018/5.

6. The secretariat reported on the status of ratification of the Protocol and the two amendments to the Convention, emphasizing that further to the ratification by Greece of the first and second amendments to the Convention on 2 November 2018 six more ratifications were needed for the first amendment to become operational, including from Armenia, Azerbaijan, Belgium, the former Yugoslav Republic of Macedonia, the United Kingdom of Great Britain and Northern Ireland, and Ukraine. The Committee took note of the information. It noted that of the countries represented in the Committee, Azerbaijan and Ukraine had not yet ratified the two Convention amendments, Belarus was still to ratify the second amendment, and Azerbaijan and Belarus were not yet Parties to the Protocol on strategic environmental assessment. The Committee echoed the invitation of the Bureau to those countries to ratify the amendments, to accede to the Protocol, and to report on their progress to the intermediary sessions of the Meetings of the Parties. The Committee also

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<sup>1</sup> Informal notes of the Bureau meeting are available from <http://www.unece.org/index.php?id=48976>.

<sup>2</sup> Information on the fourth meeting of the ad hoc working group is available from <http://www.unece.org/index.php?id=50054>.

noted the information that the Republic of Moldova had completed the national steps for ratifying the Protocol but was still to submit its instrument of ratification to the treaty depository.

## **II. Submissions**

7. A representative of the secretariat noted that no submissions had been received since the Committee's previous session and that there were no earlier submissions still under consideration.

## **III. Information gathering<sup>3</sup>**

8. Discussions under this agenda item were not open to observers, according to rule 17, paragraph 1, of the Committee's operating rules, and were held in the absence of the members nominated by Belarus, Lithuania and Ukraine during the consideration of the cases concerning their countries. In addition, the consideration of the matter regarding the Almaraz nuclear waste storage in Spain was held in the absence of the member nominated by Portugal, who had declared herself as being in a conflict of interest concerning the issue.

### **A. Convention matters**

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

9. The Committee continued to consider the information it had gathered regarding the law of Belarus on State ecological expertise, strategic environmental assessment and environmental impact assessment. Further to the curator's assessment of that law and the related subsidiary legislation, the Committee noted several deficiencies vis-à-vis the Convention, including concerning the administrative framework to implement the Convention, the definition of several key terms, the field of application, public participation and transboundary consultations. The Committee asked the Chair to write to Belarus to inform it about the identified deficiencies and to invite it, by 15 February 2019, to comment on and clarify whether and how it planned to address the deficiencies with a view to fully aligning its legislation with the Convention. The Committee invited the curator to prepare the analysis of the expected information by 1 March 2019 and agreed to resume its consideration of the matter on the basis of this at its forty-fourth session (Geneva, 12–15 March 2019).

#### **2. Bosnia and Herzegovina**

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

10. Further to the information received on 18 September 2014 from the NGO Centre for Environment of Bosnia and Herzegovina, 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.

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<sup>3</sup> More information on information-gathering cases is available from <http://www.unece.org/environmental-policy/treaties/environmental-impact-assessment/areas-of-work/review-of-compliance/information-from-other-sources.html>.

11. The Committee noted the information from Bosnia and Herzegovina dated 3 May 2017 and the information from Serbia dated 21 July and 7 August 2017 that as recommended by the Committee at its thirty-seventh session (Geneva, 12–14 December 2016), Bosnia and Herzegovina had notified Serbia regarding the activity on 3 February 2017. Moreover, on 13 March 2017, at the request of Serbia it had provided additional information to Serbia. The Committee noted that, in the notification letter, Bosnia and Herzegovina had informed Serbia that it had already completed its domestic environmental impact assessment procedure in July 2013 and that no significant adverse transboundary impacts had been identified on the territory of Serbia. Subsequently, after the completion of the assessment procedure, on 14 November 2013, Bosnia and Herzegovina had issued an environmental permit for the planned construction of the third block of the thermal power plant in Ugljevik. The Committee observed, however, that, at the time of notification, the permitted activity had not yet begun.

12. The Committee also noted that until 7 August 2018 Serbia had not provided its final response to Bosnia and Herzegovina about the activity.

13. The Committee also noted the information from the Centre for Environment dated 6 September 2017 that the environmental permit of 14 November 2013 had been annulled by the Supreme court of the Republika Srpska on 31 May 2017 and that on 24 July 2017 Bosnia and Herzegovina had issued a revised environmental permit for the activity.

14. In addition, the Committee emphasized that affected Parties should endeavour to always provide a response to the notification regarding their intention to participate in the transboundary procedure as early as possible within time frames suggested by the country of origin, so as to allow the Party of origin to proceed with the next steps (ECE/MP.EIA/2017/10, para. 32). If, after receiving a notification, a potentially affected Party wished to participate in the transboundary procedure and was unclear about the nature of the decision to be taken or the transboundary procedure to be undertaken under the notification, it should proactively address the Party of origin requesting it to provide relevant clarifications with regard to the decision and the procedure, including on the timing of, and means for carrying out, consultations under article 5 of the Convention and on how and when the comments received thereof would be taken into account in the final decision. Otherwise, the absence of a timely response may be understood by the Party of origin as a lack of willingness to participate.

15. The Committee requested its Chair to write to Bosnia and Herzegovina to invite that country to provide the Committee with additional information and clarifications by 15 February 2019 on the following issues:

(a) Whether the Government of Serbia had responded to Bosnia and Herzegovina's notification indicating its willingness to participate in the transboundary environmental impact assessment procedure relating to the construction of the third block of the thermal power plant in Ugljevik. If so, it should provide a copy of that response and its translation into English;

(b) Subsequent steps of the transboundary procedure regarding the proposed activity following the notification of Serbia, including:

(i) Preparation or the update of the environmental impact assessment documentation as set out in article 4 paragraph 1 of the Convention;

(ii) Transboundary consultations between the competent authorities based on the environmental impact assessment documentation as set out by article 5 of the Convention;

(iii) Public participation pursuant to article 3.8 and 4.2 of the Convention;

(iv) How the results of the transboundary consultations with Serbia were taken into account in the final decision, further to article 6 of the Convention;

(c) The status of the newly issued environmental permit for the activity of 24 July 2017.

16. Bosnia and Herzegovina should also be invited to clarify based on its national legislation:

(a) Which of its national decisions is considered as a final decision for the purposes of the Convention;

(b) Whether an environmental impact assessment study is obligatory for obtaining an environment permit. The country should provide the relevant extracts from the national legislation, together with translations into English.

17. The Committee then invited its Chair to write to the Government of Serbia inviting it to clarify the following issues by 15 February 2019:

(a) Whether it was satisfied with the information provided by Bosnia and Herzegovina in its notification of 3 February 2018 regarding the construction of the third block of the thermal power plant in Ugljevik of 3 February 2017;

(b) Whether it sent a response to that notification indicating that it intended to participate in the transboundary procedure. If so, it should indicate when the response was provided and provide a copy of the response to Bosnia and Herzegovina, together with its translation into English;

(c) Whether Serbia participated or intends to participate in any other subsequent steps of the transboundary environmental impact assessment procedure as set out by the Convention, including:

(i) Transboundary consultations between competent authorities based on the environmental impact assessment documentation as set out by article 5 of the Convention;

(ii) Public participation pursuant to article 3, paragraph 8 and article 4, paragraph 2 of the Convention.

The Government of Serbia should provide the Committee with copies of the relevant correspondence with Bosnia and Herzegovina concerning these steps and an English translation of the correspondence.

18. The Committee asked the secretariat to write to the Centre for Environment to thank it for the information and to invite it to provide any further relevant updates on the matter by 15 February 2019.

19. The Committee invited the curator to prepare the analysis of the expected information by 1 March 2019 and agreed to resume its consideration of the matter on its basis at its next session.

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

20. The Committee continued its deliberations on the information it had gathered further to the information received on 18 September 2014 from the NGO Centre for Environment on the planned construction of a new thermal power plant in Stanari, Bosnia and Herzegovina, close to the border with Croatia. The Committee considered the information from Bosnia and Herzegovina dated 19 October 2017, while regretting that Croatia had still not responded to its letter of 19 September 2017.

21. The Committee asked the Chair to write to Bosnia and Herzegovina requesting it to provide the following clarifications and information by 15 February 2019:

- (a) Date when the thermal power plant in Stanari started its operation;
- (b) Whether in accordance with its national legislation the environmental impact assessment study prepared in 2008 was valid for the purposes of issuing the renewed environmental permit of 20 July 2015;
- (c) Nature of the changes introduced in that renewed environmental permit and reasons for revising the permit, including whether the changes were linked with:
  - (i) Changes in the technological processes. If so, it should provide a description of these technological changes and explain whether these changes can be considered as a major change pursuant to article 1, paragraph (v) of the Convention;
  - (ii) Expected increase of impact on environment from the proposed activity, including from the increased pollutants' emissions and discharges;
  - (iii) Changes in the environmental standards. If so, it should clarify whether the standards set in the renewed permit of 2015 were more stringent or less stringent than the previous ones;
- (d) Discussions with the Government of Croatia carried out according to article 3, paragraph 7, of the Convention with the aim of determining whether a significant adverse transboundary impact owing to the planned activity was likely and its outcome;
- (e) Steps taken by Bosnia and Herzegovina to conduct such discussions.

The responses to the questions should be substantiated with the copies of the related correspondence and their translation into English.

22. The Committee also asked its Chair to write to Croatia requesting it to provide by 15 February 2019 information and clarifications on:

- (a) Whether the discussions according to article 3, paragraph 7, of the Convention with the aim to determine whether a significant adverse transboundary impact owing to the planned activity was likely had taken place. If so, it should indicate when the discussions had taken place and what were their outcomes;
- (b) Steps taken by the Government of Croatia to initiate and carry out such discussions.

The responses to the questions should be substantiated with copies of the related correspondence and their translation into English.

23. In the letter the Chair should also inform the Government of Croatia that if the discussions have not yet taken place and the Government of Croatia still consider itself a potentially affected Party, the Committee strongly recommends it to take all necessary steps to initiate such discussions without delay further to article 3 paragraph 7 of the Convention and inform the Committee accordingly by 15 February 2019. Absence of any action from Croatia in this regard would be understood by the Committee as Croatia's decision not to apply the Convention for this activity.

24. The Committee agreed that it would continue its information gathering on the matter at its forty-fourth session further to the analysis of the information to be prepared by the curator by 1 March 2019.

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

25. Further to the analysis of the information from Ekotim (Bosnia and Herzegovina) of 14 April 2017 concerning the planned construction by Bosnia and Herzegovina of a thermal power plant in Banovici, approximately 50 kilometres from the borders of Croatia and Serbia, the Committee asked the Chair to send a letter to the Government of Bosnia and Herzegovina requesting it to provide by 15 February 2019 the information and clarifications concerning the following:

(a) The planned activity, including its exact location (illustrating the location of the planned activity on a map and showing the distances from the borders with the neighbouring countries) and the characteristics and the current status of the activity, i.e. whether the construction was being planned or under way;

(b) Whether Bosnia and Herzegovina considered that a significant adverse transboundary impact in respect of the proposed activity is likely on the territory of Croatia and Serbia, providing a justification for its conclusion, including excerpts from relevant studies;

(c) Environmental impact assessment procedure for the planned activity, including on whether the potentially affected countries had been notified in accordance with article 3 paragraph 1 of the Convention. If so, it should also provide copies of the notifications and the responses from the potentially affected countries, if any received.

26. The Committee also invited the Chair to write to the Governments of Croatia and Serbia requesting them to provide the following information and clarifications by 15 February 2019:

(a) Whether the Governments had been notified about the planned construction of a new thermal power plant in Banovici. If so, they should indicate when the notifications were received and what were the outcomes of the subsequent steps of the transboundary environmental assessment procedure, if completed;

(b) Whether, based on the information available, the Governments considered themselves as potentially affected Parties with respect to this planned activity;

(c) If the Governments considered that they could be potentially affected but had not been notified, whether they planned to make use of the mechanism provided for in article 3, paragraph 7, of the Convention.

27. In addition, the Committee asked the secretariat to write to Ekotim informing it that the Committee was gathering information with regard to the activity in Banovici and asking it to provide the Committee with any further relevant information by 15 February 2019, if available.

28. The Committee invited the curator to prepare by 1 March 2019 an analysis of the information to be provided by the Parties concerned and Ekotim, and agreed to continue consideration of the matter at its next session on that basis.

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

29. The Committee considered the information from Ekotim received 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 border with Croatia and Serbia.

30. Following deliberations, it agreed to gather further information on the matter and invited the Chair to write to the Government of Bosnia and Herzegovina requesting it to provide by 15 February 2019 information and clarifications on:

(a) The planned activity, including its exact location, illustrating the location of the planned activity on a map and showing the distances from the borders with the neighbouring countries, the characteristics and the current status of the activity, i.e. whether a permitting procedure was ongoing or completed or whether the construction was being planned or under way;

(b) Whether the Government of Bosnia and Herzegovina considers that a significant adverse transboundary impact in respect of the proposed activity is likely on the territory of Croatia and Serbia, providing a justification for its conclusion, including excerpts from relevant studies;

(c) The environmental impact assessment procedure carried out with respect to the proposed activity, in particular the transboundary impact assessment procedure, including:

(i) Whether the Government of Bosnia and Herzegovina notified the potentially affected Parties in accordance with article 3 paragraph 1 of the Convention. If “yes”, it should also provide copies of the notifications and the responses from the potentially affected countries, if any received;

(ii) Whether a transboundary procedure was carried out for the receipt of the environmental permit from the Federal Ministry of environment and tourism in July 2010 and/or for the renewal of the environmental permit in July 2016;

(d) National legislative requirements for the environmental impact assessment procedure, the environmental permit and the renewal of the environmental permit, providing the relevant excerpts from the legislation and specifically indicating whether your national legislation:

(i) Require carrying out an environmental impact assessment procedure to renew the environmental permit;

(ii) Foresee a validity period for the environmental permit and environmental impact assessment documentation. It should provide relevant excerpts from the legislation.

31. The Chair was also invited to write to Croatia and Serbia inviting them to clarify by no later than 15 February 2019:

(a) Whether their Governments had been notified about the planned construction of power unit 7 at the Tuzla thermal power plant. If so, they should indicate when the notifications had been received and what had been the outcomes of the subsequent steps of the transboundary environmental assessment procedure, if completed;

(b) Whether, based on the information available, the Governments considered themselves as potentially affected Parties with respect to this planned activity;

(c) If they considered that they could be potentially affected but had not been notified, and whether they planned to make use of the mechanism provided for in article 3, paragraph 7, of the Convention;

32. In addition, the Committee asked the secretariat to write to Ecotim informing it that the Committee was gathering information with regard to the activity in Tuzla and asking it to provide the Committee with any further relevant information by 15 February 2019, if available.

33. The Committee agreed to continue its consideration of the matter at its next session further to the analysis of the expected information to be prepared by the curator by 1 March 2019.

**3. Bulgaria: the life time extension of Kozloduy nuclear power plant (ECE/IC/INFO/28)**

34. The Committee took note of the information provided by the Romanian non-governmental organization Actiunea pentru Renasterea Craiovei (ARC) regarding the extension of the lifetime of units 5 and 6 at Kozloduy nuclear power plant, close to the border with Romania. The Committee appointed a curator for the matter and invited him to prepare by 15 February 2019 an analysis of the information received with a view to continuing its deliberations on the matter at its next session.

**4. Serbia: extension of Drmno lignite pit mine (ECE/IC/INFO/27)**

35. Further to its deliberations at its forty-second session (Geneva, 11–14 September 2018), the Committee continued its deliberations with regard to the extension of the open-pit mine at Drmno. Based on the analysis of the information received from the non-governmental organization ClientEarth dated 18 June 2018, the Committee asked the Chair to write to Serbia inviting it to provide the following clarifications and information by 15 February 2019:

- (a) A summary description of the project, clarifying its phases, components and timelines for implementation;
- (b) The state of play of the open-pit mine, including licensing and construction procedures, as well as current mining activity, in particular:
  - (i) The exact degree of increase in the capacity of the open-pit mine according to the practice and as licensed;
  - (ii) Whether the project with its total extended capacity, including its cumulative effects, had ever been subject to an environmental impact assessment procedure according to the Serbian environmental impact assessment act and whether a screening procedure had been carried out in this regard;
- (c) A description of the possible environmental impacts of the proposed activity on the Romanian territory, near the Serbian border.
- (d) Whether the Government of Serbia had held any discussions or exchanged information with the Government of Romania regarding the activity;
- (e) Next steps concerning the further procedure for the activity (e.g. transboundary environmental impact assessment procedure, licensing procedure, any discussions with the Government of Romania about the extended capacity of the mine).

36. The Chair was also invited to write to the Government of Romania requesting it to clarify by 15 February 2019:

- (a) Whether Romania had previously been officially informed about the extension of the open-pit mine at Drmno;
- (b) Whether the Government had held any discussions or exchanged information with the Government of Serbia regarding the activity;
- (c) Whether it considered that Romania was an affected Party with regard to the proposed activity, taking into account a likely significant adverse environmental impact on the territory of Romania;
- (d) Whether it had requested to be notified about the activity according to the provisions of the Convention or entered into discussion on the matter previously;
- (e) If it considered that it could be potentially affected but had not been notified, whether it intended to make use of the mechanism provided for in article 3, paragraph 7 of the Convention.

37. The Committee asked the secretariat to write to ClientEarth informing it that the Committee was gathering information on the activity in Drmno and asking it to provide the Committee with any further relevant information by 15 February 2019, if available.

38. The Committee agreed to continue its consideration of the matter at its next session further to the analysis of the expected information to be prepared by the curator by 1 March 2019.

## 5. Spain

### (a) Construction of a temporary spent fuel storage facility at the Almaraz nuclear power plant (ECE/IC/INFO/22)

39. The Committee continued its consideration of the information dated 27 January 2017 by the Portuguese political party Pessoas-Animais-Natureza concerning the planned construction of a temporary spent fuel storage facility at the Almaraz nuclear power plant in Spain.

40. Further to its analysis of the information from Spain dated 20 February 2018 and from Portugal dated 4 December 2017, the Committee noted that at the time that Spain had carried out the relevant domestic environmental impact assessment procedure of the planned construction of the temporary spent fuel storage facility at the Almaraz nuclear power plant, the second amendment to the Convention had not yet been in force. Consequently, that activity did not yet fall under the Convention, i.e. was not yet listed in appendix I of the Convention. It also noted that further to the mediation exercise led by the European Union, both countries had reached an agreement on 21 February 2017 and had issued a joint statement on 29 April 2017.

41. The Committee asked its Chair to write to the Government of Portugal requesting it to provide by 15 February 2019 clarifications on its current position concerning the activity and the applicability of the Convention, covering the following issues:

(a) Whether the Government continued to consider that a significant adverse transboundary impact in respect of the proposed activity was likely on the territory of Portugal;

(b) Whether during the EU mediation process leading to the joint statement on the agreement in April 2017 the Governments of Portugal and Spain had reached an agreement that a significant adverse transboundary impact on the territory of Portugal was likely;

(c) Whether the correspondence between Portugal and Spain in autumn 2016 concerning the willingness of Portugal to participate in the environmental impact assessment procedure for the proposed activity had been in accordance with article 2, paragraph 5, of the Convention. The Committee should be provided with copies of this correspondence and their translation into English, including letters from Portugal to Spain dated 29 September 2016 and 19 October 2016 and the replies to these letters by Spain.

42. The Committee also invited its Chair to write to the Government of Spain requesting it to provide the following information and clarifications by 15 February 2019:

(a) The current status of the proposed activity;

(b) Whether correspondence with regard to the proposed activity with Portugal in autumn 2016, including the letter dated 11 November 2016 informing Portugal about Spain's view concerning a significant adverse transboundary impact in respect of the proposed activity and the need for a notification, had been according to the provisions of

article 2, paragraph 5, of the Convention. It should also provide a copy and an English translation of the letter;

(c) Whether during the EU mediation process leading to the joint statement on the agreement in April 2017 the Governments of Portugal and Spain had reached an agreement that a significant adverse transboundary impact on the territory of Portugal was likely;

(d) The steps that the Government of Spain had undertaken or intended to undertake with regard to the proposed activity under the Convention.

43. The Committee invited the curator to prepare by 1 March 2019 an analysis of the information to be provided by both Parties and agreed to resume its consideration of the matter at its next session.

**(b) The extension of the lifetime of the Santa Maria de Garoña nuclear power plant (ECE/IC/INFO/26)**

44. The Committee continued its consideration of the information dated 17 August 2017 from the Portuguese political party Pessoas-Animais-Natureza concerning the planned extension of the lifetime of the Santa Maria de Garoña nuclear power plant.

45. It noted the information from Spain dated 27 October 2017 that it declared the permanent cessation of the operation of that plant by order ETU/754/2017 adopted on 1 August 2017 and that Spain subsequently intended to issue a permit to dismantle the plant followed by the closure declaration.

46. The Committee concluded that the information provided by Spain was sufficient and decided to close its information gathering on the issue. The Committee recommended that Spain should ensure that further activities related to the decommissioning of the Santa Maria de Garoña nuclear power plant should be carried out in accordance with the Convention, as appropriate.

47. The Committee asked the Chair to write to the Government of Spain to inform it accordingly and to thank Spain for its cooperation. It also asked the Chair to request the agreement of the Government that the correspondence between the Committee and Spain be placed on the Convention's website, as an illustration of the Committee's approach to the compliance issue and of a proper and sufficient response from a Party in addressing the issue.

**6. Switzerland: changes at Zurich airport (ECE/IC/INFO/25)**

48. The Committee considered the information received from a German civil initiative on 20 June 2017 concerning the planned changes at the Zurich airport, close to the border with Germany, including construction of taxiways and modifications of the operating regulations. The Committee agreed that it would continue its consideration of the matter at its next session. It requested its Chair to write to Switzerland to provide it with the following information and clarifications by 15 February 2019:

(a) The planned changes at the Zurich airport, including the construction of taxiways, modifications of the operating regulations, the possible extension of runways and any other changes; as well as the current status of the activity. The information was to be substantiated with a map illustrating the geographical reach of the changes introduced compared to the existing situation, also showing the distance from the border with Germany;

(b) Whether the changes would lead to an increase of the air traffic in the respective airspaces of Switzerland and Germany. The responses were to be substantiated

with the corresponding statistics and data on the proposed increase of the air traffic, including on the number and directions of take-offs and landings, volume of traffic, and other relevant statistics;

(c) The transboundary impact assessment procedure carried out regarding the planned changes at Zurich airport, including:

(i) Whether a domestic environmental impact assessment and/or screening process had been carried out;

(ii) Whether the Government of Switzerland had assessed whether the changes at Zurich airport constituted a significant change to the existing airport leading to a likely significant transboundary environmental impact and if so, what had been the outcomes of that assessment;

(iii) Whether a transboundary environmental impact assessment procedure had been carried out and if so what its outcomes had been. If Switzerland had concluded that a significant adverse transboundary impact could not be excluded, it should inform the Committee whether the potentially affected Parties, including Germany, had been notified about the activity. It should also describe the steps taken further to the notification and provide copies of the notifications sent to the potentially affected Parties and their responses, if any. If Switzerland had concluded that the transboundary procedure was not needed, it should provide a justification for that conclusion, and specify whether the conclusion had been reached in cooperation with the potentially affected Parties.

49. The Committee invited the Chair to send a letter to the Government of Germany asking it to inform the Committee whether it was aware of the project and whether the Swiss authorities had consulted it regarding the proposed activity in order to determine whether a transboundary impact assessment procedure would be required. Germany should also be invited to clarify the following points:

(a) Whether it had been notified about the changes at the Zürich airport. If so, it should indicate when the notifications had been received and what had been the outcomes of the subsequent steps of the transboundary environmental assessment procedure. If it had not been notified, whether it considered itself a potentially affected Party with respect to the planned activity;

(b) If it considered that it could be potentially affected but no notification had taken place, it should indicate whether it intended to make use of the mechanism provided for in article 3, paragraph 7, of the Convention.

50. The Committee asked the secretariat to write to the German civil initiative informing it that the Committee was gathering information on the activity relating to Zurich airport and would like to be provided with any available further relevant information by 15 February 2019.

51. The Committee invited the curator to prepare an analysis of the information to be provided by Switzerland, Germany and the German civil initiative by 1 March 2019 for the Committee to consider at its forthcoming session.

## **7. Ukraine**

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

52. The Committee resumed its consideration of the information it had gathered on the planned construction of nuclear reactors 3 and 4 at the Khmelnytsky nuclear power plant in

Ukraine in the light of new information made available by Poland in the first quarter of 2017. The information gathering on the same matter further to the information originally received from a Belarusian NGO (on 5 November 2012) had been closed at the Committee's thirty-fourth session (Geneva, 8–10 December 2015) further to the information from Ukraine that it had denounced the agreement of cooperation with the Russian Federation for the construction and financing of the third and fourth power units of the Khmel'nitsky plant, putting off implementation of the activity.

53. The Committee recalled that in the first quarter of 2017, Ukraine had resumed its investment activities for the planned construction of units 3 and 4 at the Khmel'nitsky nuclear power plant and noted the information from Poland of 19 and 24 October 2017 about the ongoing transboundary environmental impact assessment procedure between its Government and that of Ukraine concerning these planned activities.

54. The Committee decided to continue its information gathering and to request additional information about the proposed activity and the related transboundary environmental impact assessment procedure from Ukraine and the potentially affected Parties that were consulted regarding the proposed activity before its suspension in 2015.

55. The Committee asked the Chair to write to the Government of Ukraine to request by 15 February 2019 the following information and clarifications:

(a) Confirmation that the Government had decided to resume the proposed activity on construction of power units 3 and 4 at the Khmel'nitsky nuclear power plant, indicating when the decision was taken and by which competent authority. It should also provide a copy of that decision and an English translation;

(b) Whether the Government had informed all potentially affected Parties (including Austria, Belarus, Hungary, Republic of Moldova, Poland, Romania and Slovakia) about resuming these proposed activities and about the continuation of the transboundary impact assessment procedure with respect to the activities. It should describe the steps taken substantiating each answer with the copies of the relevant decisions and correspondence with the potentially affected Parties, including:

(i) Notifications to all potentially affected Parties, in accordance with article 3, paragraph 1 of the Convention;

(ii) Any changes introduced to the project further to the decision to resume the proposed activities and any updates made to the environmental impact assessment documentation, including transboundary aspects;

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

(iv) Public participation in accordance with article 3 paragraph 8 and article 4 paragraph 2 of the Convention;

(v) The final decision to be made taking into account the outcomes of the environmental impact assessment procedure, including the environmental impact assessment documentation and comments received by the affected Parties, further to article 6 of the Convention.

56. The Committee also invited the Chair to send letters to the Governments of Austria, Belarus, Hungary, the Republic of Moldova, Romania and Slovakia requesting them to inform the Committee by 15 February 2019:

(a) Whether they had been informed about Ukraine's resuming of the activities regarding the planned construction of power units 3 and 4 at the Khmelnytsky nuclear power plant;

(b) If they had been informed, they should also provide:

(i) Updates on the transboundary environmental impact assessment procedure for the planned activity and their participation in it;

(ii) Information about other possible developments.

57. The Committee requested the Chair to write to Poland inviting it to provide further information about the application of the Convention to the planned activity, including on the outcomes of discussions between Poland and Ukraine relating to the issues raised in the letters from the Government of Poland to the Government of Ukraine (of 6 and 20 October 2017).

58. The Committee agreed to resume its consideration of the matter at its next sessions further to the curator's analysis to be prepared by 1 March 2019 of the responses to the Committee's questions.

## **8. Construction of Svydovets tourism complex**

59. The Committee took note of the information provided on 28 November 2018 by the Swiss non-governmental organization Bruno Master Fonds on the construction of a large tourism complex at Svydovets mountain range in western Ukraine, close to the border with Hungary and Romania. The Committee appointed a curator for the matter and invited him to prepare by 15 February 2019 an analysis of the information received so that it could be considered by the Committee at its next session.

## **9. Netherlands (ECE/IC/INFO/15), Belgium (EIA/IC/INFO/18), Czechia (EIA/IC/INFO/19), Ukraine (EIA/IC/INFO/20)**

60. The Committee noted the progress in the development of guidance on the application of the Convention to the extension of the lifetime of nuclear power plants by an ad hoc working group, as presented in the document ECE/MP.EIA/2019/10 to be considered by the Meeting of the Parties at its intermediary session. It noted that the ad hoc group was expected to finalize the guidance for the Meeting of the Parties to endorse in December 2020.

61. The Committee agreed that while waiting for the guidance, its responsibility was to continue gathering and analysing information on all the matters relating to the lifetime extension of nuclear power plants that had been brought before it, in accordance with its mandate to review compliance by Parties with their obligations under the Convention. It invited the curators for the matters on the extension of the lifetime of the power units of the Borssele nuclear power plant in the Netherlands, the Doel and Tihange nuclear power plants in Belgium, the Dukovany nuclear power plant in Czechia, the Kozloduy nuclear power plant in Bulgaria and 11 power units located at the Rivne, South-Ukrainian, Zaporizhzhya and Khmelnytsky nuclear power plants in Ukraine to review the information made available to the Committee and to identify whether any additional information should be requested from the Governments of the concerned Parties to fill remaining information gaps.

## **B. Protocol matters**

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

62. The Committee continued its consideration of compliance by Serbia with the Protocol on Strategic Environmental Assessment regarding its Government's Energy Strategy, the programme for its implementation and Spatial Plan. Further to the analysis by the curator for the matter of the information from Bosnia and Herzegovina dated 17 August 2017, from Bulgaria dated 29 June 2017, from Montenegro dated 18 July 2017, and from the former Yugoslav Republic of Macedonia dated 6 June 2017, the Committee noted that those countries had received the notification in accordance with article 10 regarding the Energy Strategy accompanied with the draft plan and the environmental report. It also noted that the time frame for the transmission of the written comments was short, constituting in some cases only 12 working days. As a matter of good practice, the Committee recommended using the format of notification adopted by decision II/7 by the Meeting of the Parties at its second session for the purpose of notification.

63. The Committee noted the information from Croatia dated 19 July 2017, Hungary dated 12 July 2017 and Romania dated 9 May 2017 that they had not received a notification regarding the Energy Strategy from Serbia. The Committee also noted that according to the answers received from the neighbouring countries no notification in accordance with article 10 had been made by Serbia regarding the Programme for the Implementation of the Energy Strategy for the period from 2017 to 2023.

64. It asked the Chair to write to the Government of Serbia requesting it to provide by 15 February 2019 further clarifications and information on the following:

(a) Regarding the Government's Energy Strategy (Energy Sector Development Strategy of the Republic of Serbia for the Period up to 2025 with the Projections up to 2030):

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

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

(iii) Whether the Governments of Croatia, Hungary and Romania had requested a notification relating to the Government's Energy Strategy;

(iv) A copy of the report on public consultations.

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

(i) An update regarding the preparation and adoption of the Programme and the related strategic environmental assessment procedure carried out. It should provide the Committee with a summary of the draft Programme in English and the non-technical summary of the environmental report required by the Protocol;

(ii) Whether the potentially affected Parties had been notified in accordance with article 10 of the Protocol. If they had been notified, it should provide copies of the notifications and the responses, if any, from the potentially affected Parties;

(iii) Whether the potentially affected Parties had requested a notification in relation to the Programme;

(c) Regarding the second Spatial Plan of the Republic of Serbia, to provide the date of the first formal preparatory act for the plan pursuant to article 24, paragraph 4, of the Protocol.

65. The Committee also asked the Chair to write to the Governments of Croatia, Hungary, and Romania inviting them to provide the following information:

(a) An update on whether these Governments had been notified by Serbia about the Government's Energy Strategy or the programme for its implementation. If so notified, the Governments should provide the Committee with a copy of the notification and an English translation of their responses, if any, to Serbia;

(b) Whether they considered themselves as affected Parties and had requested a notification with regard to the Government's Energy Strategy or the programme for its implementation.

66. The Chair was also asked to write to the Governments of Bulgaria, Bosnia and Herzegovina and Montenegro requesting them to provide the following information and clarifications by 15 February 2019:

(a) An update on whether they had been notified by Serbia in relation to the Programme for the Implementation of the Energy Strategy for the period 2017 up to 2023. If they had been notified, they should provide the Committee with a copy of the notification and an English translation of their responses, if any, to Serbia;

(b) Whether they considered themselves as affected Parties and had requested a notification with regard to the Programme for the Implementation of the Energy Strategy.

67. The Chair was also requested to write to the Government of the former Yugoslav Republic of Macedonia requesting it to provide the following by 15 February 2019:

(a) Whether it had been notified in November 2013 by Serbia of the Energy Sector Development Strategy of the Republic of Serbia for the Period up to 2025 with the Projections up to 2030. If it had been notified, it should provide the Committee with a copy of the notification and an English translation of its response, if any, to Serbia;

(b) An update on whether it had been notified by Serbia of the Programme for the Implementation of the Energy Strategy for the period 2017 up to 2023. If it had been notified, it should provide the Committee with a copy of the notification and an English translation of its response, if any, to Serbia;

(c) Whether it considered itself an affected Party and had requested a notification with regard to the Programme for the Implementation of the Energy Strategy.

68. The Committee agreed to resume its consideration of the matter at its next sessions further to the curator's analysis of the expected information to be prepared by 1 March 2019.

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

69. The Committee considered 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.

70. The Committee asked the Chair to send a letter to the Government of Ukraine requesting it to provide clarifications of the following:

(a) When the first formal preparatory act for the Programme referred to in article 24 paragraph 4 of the Convention had been made and the origin and the nature of the

decision, (i.e. whether it was a governmental decision, a decision by the Ministry of Energy and Coal Industry or a decision by another body);

(b) If the first formal preparatory act for the Programme had been subsequent to the date of entry into force of the Protocol by Ukraine, it should provide more information about:

(i) the content of the Programme and, in particular, whether it sets the framework for the future development consent for projects listed in Annex I to the Protocol;

(ii) the nature of possible environmental and health effects, if any, including possible transboundary effects, if any;

and the English translation of the relevant parts of the Programme addressing the questions raised above;

(c) If the Programme sets the framework for future development consent for projects, it should provide information about the implementation of the Programme, mainly regarding which development consent procedures for particular projects have been under way or completed;

(d) National legislative framework to implement the Protocol, including a clarification of whether the national legislation on strategic environmental assessment, including the secondary legislation, has already come into force or is still being prepared. In this light, it should also provide the Committee with the summary in English of concrete provisions enshrined in the national legislation to implement the Protocol.

71. Ukraine should provide the Committee with the information through the secretariat by 15 February 2019 for consideration by the Committee at its next session. The curator was requested to provide an analysis of the expected information by 1 March 2019.

72. The Committee also requested the secretariat to write to the NGO informing it about its proceedings and invited it to provide any further information regarding the activity by 15 February 2019.

## **IV. Review of implementation**

### **A. Specific compliance issue under the Protocol**

73. The Committee continued its deliberations 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). It invited the curator to prepare by 15 February 2019 an analysis, including on whether a separate reporting format should be foreseen for regional economic integration organizations, as referred to in article 21 of the Protocol, such as the European Union. He was also invited to compare the European Union SEA Directive<sup>4</sup> vis-à-vis the requirements of the Protocol. The Committee agreed to continue its consideration of the matter at its next session.

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<sup>4</sup> Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment.

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

74. The Committee noted an overview by the curators of the general and specific compliance issues from the fifth review of implementation of the Convention and second review of implementation of the Protocol. It invited the co-curators to prepare proposals for possible follow-up actions on the general and the possible specific compliance issues arising from the two reviews with a view to continuing the consideration of the issues at its next session(s). The analysis was requested to be provided by 15 February 2019.

## **V. Other business**

### **A. Follow-up to decision VI/2: Belarus (EIA/IC/S/4)**

75. The Committee took note of a letter from Belarus of 16 November 2018 to the Committee and the Bureau containing observations and comments on the Committee's deliberations and conclusions at its forty-second session (11–14 September 2018) in relation to the compliance matter concerning Belarus (Belarusian nuclear power plant in Ostrovets, EIA/IC/S/4). Although the item was not foreseen in its agenda and despite the urgency for it to progress with many pending matters, the Committee, chaired by its first Vice-Chair, addressed the points raised by Belarus. The deliberations were held in the absence of the Committee members from Belarus and Lithuania. The Committee requested its Vice-Chair to write a response to Belarus reflecting its deliberations as described below and invited the secretariat to send that letter also to the Bureau.

76. The Committee first noted in general that Belarus seemed not to agree with the Committee's conclusions on that country's non-compliance with certain of its obligations under the Convention nor with the Committee's working methods for reaching them. In that respect, the Committee reassured Belarus that all the Committee members, nominated by Parties and entrusted by the Meetings of the Parties to fulfil the objective and functions of the Committee, had carried out their heavy workload diligently, in full respect of the treaty provisions and the Committee's *modus operandi*. It also continued to regularly review and improve its rules and working methods as its workload and composition evolved, including to ensure the avoidance of any direct and indirect conflict of interest of any of its members in its proceedings.

77. The Committee noted that in accordance with the interpretation by Belarus of the Committee's operating rules (rule 13 (1)), Belarus should have been provided with an opportunity to comment on the Committee's recommendations to the Meeting of the Parties concerning its own country, as included in draft decision IS/1 (d), after the finalization of that draft decision at the Committee's forty-second session and before the decision had been submitted to the intermediary session of the Meeting of the Parties. For Belarus, that would have been justified because, in its opinion, the Committee's findings at its forty-second session related for the first time to the content of the environmental impact assessment documentation of Belarus, in particular, the site selection for the nuclear power plant in Ostrovets. Belarus further asserted that the Committee's findings did not derive from the analysis of the steps undertaken by Belarus as a follow-up to decision VI/2 adopted by the Meeting of the Parties at its sixth session (Geneva, 2–5 June 2014).

78. Regarding the above procedural claims, the Committee reiterated the clarifications from its previous session, which consisted of the following:

(a) Since the adoption of its operating rules in 2008 (through decision IV/2, annex IV), rule 13 (1) has been consistently applied only to the Committee's preparation of a document containing its findings and recommendations further to a new submission by a Party regarding another Party (or to a new Committee initiative), which also summarizes: facts and information about the compliance matter; the Committee's consideration and evaluation, and on that basis, the Committee's recommendations to the Meeting of the Parties.<sup>5</sup> The findings and recommendations on the submission in 2011 by Lithuania regarding Belarus adopted by the Committee at its twenty-seventh session (12–14 March 2013) were prepared following this rule (see ECE/MP.EIA/IC/2013/2, annex);

(b) In contrast, in accordance with the Committee's established practice, which applied to all Parties alike, the draft "follow-up" decisions to earlier decisions by the Meetings of the Parties have never been shared for comments with any Party whose compliance was in question. These draft decisions were prepared between the sessions of the Meetings of the Parties based on the progress reports, clarifications and other information received from the Parties concerned. Belarus had been informed about the Committee's deliberations since the seventh session of the Meeting of the Parties to the Convention in June 2017 through the Committee's reports and letters and had been given ample opportunity to influence the Committee's deliberations in a timely manner by providing the Committee with all the requested information and comments. It could also have sought clarification should any of the Committee's questions have remained unclear to it.

79. Regarding the substance, the Committee pointed out that although article 4 (1) had not been explicitly referred to in the earlier decision VI/2 and draft decision VII/2, the Committee's findings relating to the contents of the environmental impact assessment documentation of Belarus and the issue of alternative sites to the nuclear power plant in Ostrovets were by no means new but on the contrary had been at the core of the disagreement between Belarus and Lithuania from the beginning.<sup>6</sup> The Committee also stressed that its findings clearly and directly had built on and followed up on the findings from the previous intersessional period, 2014–2017,<sup>7</sup> and on draft decision VII/2 on compliance.<sup>8</sup>

80. The Committee's earlier conclusions, as set out in the reports on its sessions, included the following:

(a) Further to its analysis of the steps taken by both Parties since the Committee's twenty-seventh session, in March 2013, the Committee could not reach a final conclusion on the compliance of the steps taken by Belarus to reach the final decision with the provisions of the Convention because "the essence of the compliance case was

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<sup>5</sup> In accordance with operating rules 13(1) and (3), the draft findings and recommendations must be transmitted to the Parties involved, and, subsequently, at its meeting following the deadline for comments, the Committee should review and finalize them taking into account the comments received. Once finalized, the findings and recommendations are issued as an official document (usually annexed to the respective Committee reports) and transmitted to the Parties involved and the Meeting of the Parties. The Committee's document itself is not subject to comments by the Meeting of the Parties. Only the Committee's recommendations to the Meeting of the Parties on a given matter, included in a draft decision on compliance by the Meeting of the Parties, are subject to possible changes as agreed by the Parties during the session at which they are discussed.

<sup>6</sup> See ECE/MP.EIA/IC/2013/2, annex, paras. 53–55 and 67–70 of the Committee's findings and recommendations from 2013.

<sup>7</sup> Committee reports on its thirty-fourth to thirty-eighth sessions (from December 2015 to February 2017).

<sup>8</sup> ECE/MP.EIA/2017/8, paras. 54–65, and annexes I and II.

about unresolved substantive aspects of the environmental impact assessment documentation that could not necessarily be treated separately from the procedural aspects of environmental impact assessment”;<sup>9</sup>

(b) In accordance with the Committee’s past findings, “the persistent disagreement between Belarus and Lithuania related in particular to scientific and other technical matters concerning the construction of the nuclear power plant, for example, regarding reasonable locational alternatives and the methodology and data used in determining the siting as described in the EIA documentation”.<sup>10</sup> In the Committee’s view the description of locational alternatives to be included in the environmental impact assessment documentation in line with appendix II(b) should be especially required when an activity was planned near a city;<sup>11</sup>

(c) In 2016, the Committee had identified specific questions on the technical and scientific aspects of the environmental impact assessment documentation of Belarus to which it needed responses in order to reach its final conclusions.<sup>12</sup> These questions were subsequently annexed to draft decision VII/2<sup>13</sup> submitted to the Meeting of the Parties at its seventh session, in June 2017. One of the questions related to the criteria for selecting the Ostrovets site and the sufficiency of the data in the environmental impact assessment documentation for understanding the selection process.<sup>14</sup>

81. The Committee noted that Belarus had not expressed opposition to the Committee’s technical and scientific questions, although they related to the contents of the environmental impact assessment documentation on the Belarusian nuclear power plant. Belarus, however, contested the Committee’s decision to continue its examination of the site selection question over the past year to reach its final conclusions (see para. 82 below). In that regard, the Committee asserted that it had revised the relevant parts of draft decision VII/2, as mandated by the Meeting of the Parties at its seventh session, taking into account the deliberations held during and in the margins of that session. Moreover, regarding the “justifications of the selection of the Ostrovets site” annexed to the letter of Belarus, the Committee confirmed that it was already familiar with that information and that it had carefully considered it when preparing draft decision IS/1(d), together with all the other information on the issue of site selection that had been made available to the Committee by Belarus and the publicly available environmental impact assessment documentation. It emphasized that it was the Committee’s prerogative and responsibility to draw its conclusions and draft decisions based on a thorough consideration of all the relevant issues, including with a view to ensure the accountability, credibility and consistency of the Committee deliberations and conclusions.

82. The Committee’s decision-making on the site-selection question included the following two steps:

(a) In February 2017, the Committee stated that the International Atomic Energy Agency (IAEA) report on its Site and External Events Design (SEED) mission conducted in January 2017<sup>15</sup> “might provide answers to some of its questions”. With a view to

<sup>9</sup> ECE/MP.EIA/2017/4 – ECE/MP.EIA/SEA/2017/4, para. 39 and ECE/MP.EIA/2017/8, para. 5(d) and paras. 54–65

<sup>10</sup> See for example ECE/MP.EIA/IC/2016/6; para. 26; ECE/MP.EIA/2017/4 – ECE/MP.EIA/SEA/2017/4, para. 40.

<sup>11</sup> ECE/MP.EIA/IC/2013/2, annex, para. 68.

<sup>12</sup> ECE/MP.EIA/2016/6, annex I.

<sup>13</sup> ECE/MP.EIA/2017/8, annex I.

<sup>14</sup> *Ibid*, annex, para.5.

<sup>15</sup> At the invitation of Belarus, as requested by decision VI/2, para. 64.

supporting constructive resolution of the compliance matter by the Parties, the Committee had agreed to examine the SEED report, provided that it “was released at least two weeks before the seventh session of the Meeting of the Parties”.<sup>16</sup> Although it had received the report from Belarus only one week before that session, in the afternoon of 5 June, it had agreed, exceptionally, to convene an ad hoc session in Minsk, four working days later, on 12 June, to consider the report. At the ad hoc session, the Committee had concluded that “although the report did not mention the application of the selection and exclusion criteria for the assessment of the suitability of the nuclear power plant site, it included a specific reference to the current seismic hazards at Ostrovets”.<sup>17</sup> It was on that basis that the Committee had decided to remove the question from the list of questions to be submitted to external expert advice;

(b) Subsequently, at its fortieth session (in December 2017), the Committee agreed that it had taken a hasty decision at its ad hoc session because the SEED mission report had not provided factual evidence on the site selection process. Consequently, the Committee decided to continue to examine that question together with the other remaining questions in order to reach its final conclusions.

83. The Committee stressed that its findings and conclusions were applicable to all Parties in identical situations and not specific only to Belarus. In the draft decision on general issues of compliance (IS/1), the Meeting of the Parties was invited to consider agreeing, following the opinions of the Committee, that “Procedural and substantive aspects of environmental impact assessment in accordance with the Convention cannot necessarily be treated separately when assessing compliance, in particular if the essence of the compliance case in question pertains to substantive aspects”. At the same time, the Committee pointed out that in comparison with the previous compliance matters, the one relating to Belarus and Lithuania had been particularly complex. The Committee had attempted over the past years all reasonable approaches to reach its conclusions. After the unsuccessful bilateral expert consultations between Belarus and Lithuania, and after having exhausted all the avenues for receiving external expert advice<sup>18</sup> the Committee decided to examine the documentation prepared by Belarus under the environmental impact assessment procedure itself, seeking, as appropriate, the services of national scientific experts and other technical advice in accordance with its structure and functions. The Committee again emphasized that as a rule the Committee does not have the resources to take on such a comprehensive workload and that it can do so only in exceptional cases, that is when it deems that the examination of the environmental impact assessment documentation is required for reaching its conclusions and no other options are available.

84. In conclusion, the Committee reassured Belarus that it considers all the compliance issues before it in a non-discriminatory, nonarbitrary and unbiased manner, and with the aim of securing constructive solutions.

## **B. Committee initiative on the United Kingdom of Great Britain and Northern Ireland (EIA/IC/CI/5)**

85. As agreed at the Committee’s forty-second session and further to receiving the letter dated 17 October 2018 from the United Kingdom of Great Britain and Northern Ireland, in

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<sup>16</sup> ECE/MP.EIA/IC/2017/2, para. 10.

<sup>17</sup> Report on the ad hoc session of the Committee (ECE/MP.EIA/IC/ad-hoc/2017/INF.6, para. 10).

<sup>18</sup> Through proposals to establish an expert body or to consult national experts that were not acceptable to both Parties, and through consulting International Atomic Energy Agency and its SEED report, which had left most of the issues unclarified.

November 2018 the Committee had finalized its findings and recommendations on compliance by the United Kingdom with its obligations under the Convention in respect of the Hinkley Point C nuclear power plant, as presented in document ECE/MP.EIA/2019/14 through its electronic decision-making procedure. The secretariat was requested to provide the findings and recommendations to the United Kingdom and to transmit them for consideration by the Meeting of the Parties at its intermediary session. The related documents and information should also be posted on the Convention website, as set out in the Committee's operating rule 16.

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

86. The Committee confirmed that in 2019 it would hold its forty-fourth session from 12 to 15 March, its forty-fifth session from 10 to 13 September and its forty-sixth session from 10 to 13 December. Unless the Committee were to decide otherwise, all the meetings would be held in Geneva.

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

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