

International Workshop on the
Applicability of the UNECE Espoo Convention to
the Lifetime Extension of Nuclear Power Plants

Vienna, 2 December 2019

International Workshop on the
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Extension of Nuclear Power Plants

Opening Remarks

Purpose of the Workshop

Participation of stakeholders

Discuss with stakeholders ongoing work on drafting guidance

Receive input for consideration on three topics currently explored by an Ad hoc Working Group

Agenda:

- 1 – Background
- 2 – Reporting from the drafting process
- 3 – Panel discussion with input from all participants
- 4 – Discussion of remaining questions
- 5 – Closing remarks with outlook to next steps

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Background

Background: rationale for guidance on LTE of NPPs

Introduction

Trigger: Findings of Implementation Committee concerning the Ukrainian Rivne Nuclear Power Plant

“The extension of the lifetime of a nuclear power plant after expiration of the original licence, even in the absence of any works, is [...] subject to the provisions of the Convention.”

→ Compliance decision as adopted by the Meeting of the Parties in 2014 concluded on non-compliance by Ukraine but did not include a general finding on the extension of the lifetime of a nuclear power plant

Challenge: Several LTE cases are pending before the Implementation Committee, with a significant number of further cases envisaged in the coming years

Purpose: End legal uncertainty related to the application of the Espoo Convention to lifetime extensions of nuclear power plants

Background on the Adhoc Working Group: timeline

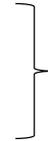
- **Established in June 2017** by the Meeting of the Parties
- Expected to deliver draft guidance for **adoption by the Meeting of the Parties in December 2020**

Meetings of the Adhoc Working Group

Establishment of the Adhoc Working Group in June 2017 by the Meeting of the Parties

1st November 2017 in Luxembourg

2nd February 2018 in Brussels



Develop Terms of Reference

Adoption of the Terms of Reference in May 2018 by the Working Group on EIA and SEA

3rd June 2018 Meeting in Berlin

4th October 2018 Meeting in London

5th March 2019 Meeting in Geneva

6th June 2019 Meeting in Lisbon

7th October 2019 in Rotterdam



Draft Guidance

8th-11th December 2019 (Vienna), March 2020 (Rome), April 2020 (Sofia), June 2020 (tbc)

Background on the Adhoc Working Group: membership

Membership

27 State Parties: Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Canada, Czechia, Finland, France, Germany, Greece, Italy, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom and Ukraine.

Other attendees:

- UNECE Secretary to the Espoo Convention
- Chair of the Working Group on EIA and SEA
- Chair and some members of the Implementation Committee
- European Commission DGs for the Environment and Energy

→ Germany and the United Kingdom co-chair the Adhoc Working Group.

Background on the Adhoc Working Group: reporting and consultations

Regular consultations with representatives of NGOs

2 Meetings in Brussels: August and December 2018

2 Meetings in Bonn: June and October 2019

First **stakeholder workshop** (with NGOs, IAEA, IAIA, OECD/NEA) in Geneva May 2018

Regular progress reports at the treaty bodies' meetings:

- Working Group on EIA and SEA: May 2018 and November 2019
- Meeting of the Parties to the Convention: February 2019

Summary reports of meetings and progress reports are available on the UNECE website www.unece.org/env/eia (under Meetings and Events)

Background on the Adhoc Working Group: Terms of Reference

- Topic 1 Extension of an existing licence or issuance of a new licence by a competent authority in the case of a time-limited licence
- Topic 2 Are there particular factors or preconditions, such as “physical works”, for identifying a “proposed activity”?
- Topic 3 Lifetime extension by a specific domestic law
- Topic 4 Likelihood of lifetime extension to cause significant adverse transboundary impact
- Topic 5 Periodic safety review
- Topic 6 Operation beyond the designed (minimum) lifetime

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Reporting from the ongoing Drafting Process

Ongoing drafting process: Draft outline of the guidance

Chapters to be discussed:

- Background and introduction
- Guiding principles
- Lifetime extension: Terminology and scenarios

Chapters currently drafted:

- Is lifetime extension an activity or rather a major change to an activity?
- Lifetime extension of nuclear power plants subject to a decision of a competent authority in accordance with an applicable national procedure
- Likelihood of lifetime extension to cause significant adverse transboundary impact

Chapter: „Major Change“

Background

Article 1, subparagraph (v) of the Convention describes proposed activity as

“any activity or any major change to an activity subject to a decision of a competent authority in accordance with an applicable national procedure”.

Point 2 of Appendix I lists as activities

“nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).”

→ Question: Is a lifetime extension an activity or a major change to an activity?

Chapter: „Major Change“

State of the discussion

Lifetime extension as “new activity” or “major change”?

- Lifetime extension will usually not be regarded as new activity, but as change to an existing activity
- Situations possible which justify classification as new activity, e.g. where a time limited licence is prolonged after it expired

Factors for classification of a change as “major” change?

- Associated physical works, if significant environmental impacts are implied
- Changed intervention in the environment, e.g. an increase use of natural resources

Consideration of ECJ judgement in case C-411/17

Chapter: „Major Change“

Open questions

Conditions to qualify a lifetime extension as new activity or major change

Length of the lifetime extension as determining factor for major change

Relevance of other factors

- Multiple minor changes
- Changes in the environment
- Existence or absence of a former environmental impact assessment
- New scientific findings

Chapter: „Decision“

Background

Article 1, subparagraph (v) of the Convention describes proposed activity as

“any activity or any major change to an activity subject to a decision of a competent authority in accordance with an applicable national procedure”.

→ Question: What qualifies as a decision on lifetime extension of a competent authority?

Chapter: „Decision“

State of the discussion

Starting point: not the *title*, but the *authorising function*

→ Internal procedures not followed by an authorisation do not qualify

Relevance of the criteria developed by the ECJ in case C-411/17:

- Specific domestic law (e.g. law is precise and unconditional)
- Multi-tier decision-making process (e.g. effects can already be identified and assessed)

No decisions:

- Recommendations and measures related to operational routines
- Findings and recommendations of periodic safety reviews per se (but they may trigger a decision)

Chapter: „Decision“

Challenges

Handling of scenarios with “time unlimited licence”

Identifying a “decision” on “lifetime extension” for “nuclear power plants”

→ Discussion on the basis of examples

Chapter: „Decision“

Discussion on basis of examples

Example 1 – Time-limited license due to expire, but licence to be extended or new license to be issued

Example 2 – No time-limited license, but established design lifetime reached

a) Specific safety review and subsequent authorisation required to continue operation

b) No specific safety review, but authorisation required to continue operation

c) No specific safety review and no authorisation required to continue operation

Example 3 – No time-limited license, no established design lifetime

Example 4 – Time period on which an environmental impact assessment was based is due to expire

Example 5 – Specific domestic law fulfills the same characteristics as an authorization

Chapter: „Decision“

Open questions

Classification of statements related to (periodic) safety reviews

Handling of cases in which the plant has never been subject to an environmental impact assessment

Approach in cases without an administrative proceeding around the end of the design lifetime

Chapter: „Likelihood“

Background

According to article 3, paragraph 1 of the Convention, a notification is required for

“a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact.”

→ Question: When are significant adverse transboundary impacts of lifetime extensions likely?

Chapter: „Likelihood“

State of the discussion

A physical change to the environment resulting from a lifetime extension does not necessarily change the state of the environment as substantially as building a new nuclear power plant, but might present a similar risk.

Conditions for applicability of the Espoo Convention:

- The lifetime extension is *(1) likely to cause adverse impacts*.
- The impacts are *(2) significant* and *(3) transboundary*.

Sources of impacts considered of relevance:

- Normal operation
- Events that are design-based
- Events beyond the design base

Chapter: „Likelihood“

Open questions

Significance: Further development of the criteria in Annex III of the Convention

Criterion “appropriately wide” when defining the extent of the notification

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Panel Discussion with Input from all Participants

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Closing Remarks

Next steps

Upcoming meetings of the Adhoc Working Group

8th December 2019

9th March 2020

10th April 2020

Finalisation of the Guidance

May 2020 Submission of the draft Guidance to the Working Group on EIA and SEA

June 2020 Final (11th) meeting of the Adhoc Working Group

September 2020 Submission of the draft Guidance to the Meeting of the Parties

December 2020 Expected adoption by Meetings of the Parties

Written Comments

Opportunity to sent written comments to the Co-chairs

Deadline: 31 December 2019

Email: Lucy.Tanner@beis.gov.uk

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Thank you for your participation!