

Economic Commission for Europe

Executive Body for the Convention on Long-range
Transboundary Air Pollution

Bureau of the Executive Body

Meeting

24 September 2020, via videoconference

Report of the meeting

I. Attendance

Bureau members: Ms. Anna Engleryd (Sweden, Chair), Mr. Sergey Vasiliev (Russian Federation), Mr. Richard Ballaman (Switzerland), Ms. Elizabeth Nichols (United States of America), Ms. Jennifer Kerr (Chair of the Working Group on Strategies and Review), Ms. Laurence Rouil (Chair of the EMEP Steering Body), Ms. Isaura Rabago (Chair of the Working Group on Effects) and Mr. Manfred Ritter (Chair of the Implementation Committee).

Observer: Ms. Susanne Lindahl (European Union).

II. Report from the sixth Joint session of the EMEP Steering Body and the Working Group on Effects

The Chairs of the EMEP Steering Body and the Working Group on Effects shared their experience with holding the session in a virtual mode. Holding the session online resulted in considerably higher attendance of the joint session but less active participation in its discussions. The secretariat noted the progress in the implementation of the science part of the workplan in 2020 despite the COVID-19 pandemic.

The Chair of the EMEP Steering Body asked the secretariat to send her a copy of the session chat to take record of all views and ideas expressed by participants during the session.

Based on the lessons learnt during the organization of the joint session, the Bureau agreed that for the sessions in December: (a) the old registration system would continue to be used; (a) in view of the short time available, presentations should be minimized; (b) the presentation slides should be managed by presenters; (c) the chat of the session should not be taken into account for official proceedings and maintained for informal communication only; (d) the floor should be given to speakers in accordance with the delegation's composition. The secretariat informed that the new INDICO registration system was necessary only for physical presence and entry into the premises. It suggested that for the December sessions the old registration system be used.

The Bureau also agreed that for the sessions in December it might be useful to consider dividing participants into speakers and attendees.

III. Preparations for the fifty-eighth session of the Working Group on Strategies and Review and the fortieth session of the Executive Body: decision making in the prevailing circumstances

The secretariat informed the Bureau that there were four 2-hour afternoon interpretation slots allocated for both sessions and presented the proposed time distribution between their agenda items. It suggested that all comments to the documents for adoption were sent in advance of the sessions for subsequent circulation, and in case of numerous comments received, the adoption should be postponed. Informal consultations could be held before or after the sessions with interpretation.

The observer from the European Union stressed the need to take into account the time required for coordination discussions.

The Bureau agreed that more time should be allocated for the WGSR session and that presentations should not be included in the programme. It noted that Parties would need to identify elements of the Gothenburg Protocol review that had priority for discussion in December 2020 and in May 2021.

The Bureau discussed the expected election of officers. The secretariat informed that a call for nominations would be sent to Parties, following the publication of agendas for the sessions. In case there were not enough nominations received, an extension of term could be proposed. The Bureau agreed that the agenda of both sessions would be finalized in the coming days by the Chairs of the Executive Body and the Working Group on Strategies and Review and the secretariat taking into account the reduced duration of the sessions.

IV. Implementation of the 2020-2021 workplan for the implementation of the Convention and related follow-up to the thirty-ninth session of the Executive Body

The Bureau continued its discussion on the tasks assigned to it in the 2020-2021 workplan for the implementation of the Convention.

Items 2.1.5 (Next steps on broader geographic cooperation on air pollution, including the role for the Convention and for the Forum for international cooperation on air pollution) and 5.2.1.2 (Outreach and cooperation activities through the Forum for international cooperation on air pollution)

The Bureau had requested the secretariat to seek legal advice within the UN related to the Forum for international cooperation on air pollution. In response to this request, the secretariat consulted the issue with the UNOG legal officer and the Office of the Executive Secretary. As a result of this consultation, a note was prepared and presented to the Bureau, including practical suggestions for a way forward (attached to this report).

The Bureau expressed its disappointment with the content of the above note and emphasized that the Forum was established by the Parties via EB Decision 2019/5.

The secretariat noted the lack of agreed terms of reference and a need for further discussion on the issue and proposed to meet with the EB Chair and Bureau members to discuss the way forward. The Bureau agreed with the secretariat's proposal to meet. It also agreed that the discussion on the forum would not be included in the agenda of the Executive Body's session.

Item 3.5 (Review and consider possible revisions to the mandate of the Implementation Committee taking into account relevant EB decisions and recommendations and strategic priorities set out in the long-term strategy and the 2016 scientific assessment.)

The Chair of the Implementation Committee presented the main points in the discussion of possible revisions to the mandate by the Committee at its last meeting (15-17 September 2020). These included: a) revisions to the obsolete text; b) compliance review with the latest obligations only; c) tasks of the secretariat. As the agenda of the fortieth session of the Executive Body was compressed, the Chair of the Implementation Committee suggested that the revisions to the Committee's mandate were discussed at the forty-first session of the Executive Body.

The secretariat pointed to a potential conflict of interest that could arise if changes to the Implementation Committee's mandate were reviewed by the Committee itself. For this reason, it suggested that for further discussions the Bureau re-appropriated the task assigned to it. As the additional issue of the competence of Committee members in accordance with section XI of decision 2012/25 would require an in-depth discussion, the secretariat also suggested that the Bureau devoted a separate meeting to this workplan item.

V. Errors in decision 2019/23

The secretariat informed the Bureau of a notification sent by the Netherlands on errors in decision 2019/3. It also informed the Bureau of the outcomes of the consultation with the Treaty Section of the UN Office of Legal Affairs. The Bureau agreed that with respect to the incorrect reference to the article of the Gothenburg Protocol, a correction could be issued, whereas the proposal to reformulate the condition for entry into force would have to be brought to the attention of Parties to the Protocol.

VI. Other business

The Bureau honoured the memory of Mr. Sokolovski and Mr. Williams who had passed away in 2020 and agreed that the Executive Body would also honour them at its upcoming session.

The observer from the European Union informed the Bureau of the intention of the European Union to propose at the forty-first session of the Executive Body a follow-up to decision 2017/3 on adjustments under the Gothenburg Protocol to account for changes in the membership of the European Union. Further details would be provided to the Bureau at a later stage.

VII. Date, time and place for the next meeting

The Bureau agreed to hold its next meeting remotely on 28 October 2020.

Proposed Forum for international cooperation on air pollution under the UNECE Convention on Long-range Transboundary Air Pollution
Comments by the UNECE secretariat

Establishing the Forum as a body under the Convention

The Executive Body is the governing body of the UNECE Convention on Long-range Transboundary Air Pollution, constituted by article 10 of the Convention. Article 10 also describes its functions.

Article 10, para. 2 (b) imposes certain restrictions on the establishment of subsidiary bodies. In particular, it stipulates that the Executive Body shall establish “working groups to consider matters related to the implementation and development” of the Convention.

The purpose of the proposed forum for international cooperation on air pollution is the exchange of information and mutual learning outside the ECE region, being a repository of technical information and a convenor of countries and organizations, with the goal of increasing international cooperation on addressing air pollution. Its vision is to improve air quality globally. **The purpose of the proposed forum goes beyond the scope of the Convention and the authority of the Executive Body.**

The proposed forum is not related to the development and implementation of the Convention as a legal agreement between Contracting Parties. **Therefore, it does not meet the requirements for a working group to be established under article 10, para. 2(b).**

There is no legal obstacle for another UN organization or agency to “co-lead” a group under the Convention, provided that the conditions of article 10.2 are met, i.e. that the matters considered by the group are related to the Convention’s implementation and development.

Cooperation with entities external to the Convention

The proposal for the Forum for international cooperation on air pollution states that “the Convention is keen to cooperate with other regions to ascertain common challenges and to exchange experiences on air pollution policy”. It further states that “it was recommended that the forum should be steered by the Air Convention in close cooperation with other key stakeholders...”

It should be recalled that the Convention is an agreement between “Contracting Parties” to cooperate amongst themselves. Unlike an organization or a Party, an agreement itself cannot enter into cooperation arrangements. The Contracting Parties cooperate and exchange information with each other on policies and scientific and technical issues within the framework of the Convention (see articles 3,4 and 8).

Article 10.4 stipulates that the “Executive Body, when discharging its functions, shall when it deems appropriate, also make use of information from other relevant international organizations”.

Cooperative activities with other entities are possible and may be of major importance to the achievement of some of the objectives of the Convention or its protocols, including through synergies with other relevant MEAs or processes. It should be noted however, that such cooperative activities are carried out either by the secretariat or by other bodies under the Convention (task forces, expert groups and scientific centres) including through provision of information, participation in workshops, meetings or through joint initiatives. It is recommended to make specific reference to the body involved in a cooperative activity for the purposes of clarity and accuracy.

It is understood that the Executive Body is willing to share the Convention’s success as a model for other regions. A number of means exist to promote the work of the Convention beyond the region, including through the secretariat within the available extra-budgetary resources and subject to a project approved by the UNECE Executive Committee. The establishment of a dedicated body would only be justified if it pursued an objective linked to the eventual development of the Convention, such as, its opening to non-ECE member states.

To expand the existing cooperation and exchange of information to other regions, the Convention (article 14) should be amended to allow Contracting Parties from outside the ECE region.

Overlap with UNEA Resolution 3/8

It is noted that there is a significant degree of overlap between the proposed forum and UNEA resolution 3/8, both in terms of issues addressed, objectives and means of implementation.

For example, UNEA resolution 3/8 requests the Executive Director of UNEP to provide a platform for cooperation and information sharing between interested member States and relevant organizations working to reduce air pollution, such as the Convention on Long-range Transboundary Air Pollution and other organizations, and to house capacity-building resources and online tools that enable member States to use existing air quality data to support policymaking and decision-making, to assess gaps in, and opportunities for, mitigation and cooperation with a view to advancing a shared response to addressing air pollution globally.

Both initiatives promote the use of the Batumi Action for Cleaner Air, itself an initiative formulated under the Environment for Europe process with the aim of encouraging ratification and implementation of the Convention and its three most recent protocols.

Parties to the Convention, being also members of UNEA, should be careful to avoid any overlap and duplication of efforts and initiatives. They may wish to promote the Convention as a model framework for regional cooperation within the existing UNEA platform.

Conclusion

The objectives of the proposed forum go beyond the scope of the Convention and beyond the authority of the Executive Body.

As long as the Convention is not to open to non-ECE member states, cooperation and outreach activities could be pursued through the workplan activities of different bodies under the Convention for the purpose of sharing information on matters relevant to the Convention, both on scientific and technical and policy levels, and promoting it as an effective regional instrument for reducing air pollution. Such activities may contribute to global efforts aimed at improving air quality. Participants from other regions may be invited to the meetings of different task forces and expert group, as well as the regular sessions of the Executive Body and the main subsidiary bodies. The secretariat can continue to engage with relevant ongoing processes and policy debates, and liaise with other convention secretariats, international organizations and initiatives in order to provide and collect information on current discussions on matters related to the Convention, and to promote the Convention within its available resources.

The implementation of new activities on communication, cooperation and promotion of the Convention, including specific liaison and cooperation with UNEP in view of the UNEA 3 resolution, would require a financial commitment by Parties. Depending on the scope and objective of the activities or events, the secretariat will provide an estimated budget. Following an approval by the Executive body, the relevance of the proposed project, *including to the UNECE mandate in general*, will be considered by the UNECE Executive Committee. Upon approval by EXCOM, an extrabudgetary project can be established at UNECE, funded through Parties' contributions.