
**Report of the Chair of the Implementation Committee under the Convention and the Protocol at the 11th meeting of the Working Group on EIA and SEA
Geneva (19-21 December 2022)**

Agenda item 4. Compliance and implementation

Tentative timing: Monday, 19 December, 3–4.30 p.m.

The Chair of the Implementation Committee will report on the main outcomes of the Committee's fifty-second, fifty-third and fifty-fourth sessions (Geneva (online), 29–31 March and 10–13 May 2022, and Geneva, 4–7 October 2022, respectively) and the main objectives for the Committee's fifty-fifth session (Geneva, 31 January–3 February 2023). The Chair will further brief the Working Group on the Committee's plans for the preparatory work for the next sessions of the Meetings of the Parties, in December 2023.

The Working Group will be invited to comment and take note of the report.

Introduction

Composition of the Committee and changes in the secretariat

The period demonstrated the vital importance of stable and sufficient secretariat support for the Committee's extensive workload, and the acuteness of the secretariat's staffing constraints. The unfortunate long-term sick-leaves of the Committee's secretary added considerable challenge to the Committee's work, leading to delays and backlogs, and increased the pressure on the Convention and the Protocol Secretary, who has had to step in much more. On 1 June 2022, a new Committee secretary, Elisabeth Losasso joined the secretariat. The Committee's own composition was also slightly adapted last summer with the replacement of the member nominated by Germany.

Late responses from Parties concerned

In several compliance cases, the work of the Committee, unfortunately, also continued to be delayed by late or incomplete responses to its questions from the Parties concerned. The Committee once again wants to remind all Parties concerned of their responsibility to provide the Committee with the requested information in a timely and complete manner (as expressed by the MOP in its decision IV/4). It would appreciate the views of the Working Group on how to ensure Parties timely and complete responses to its requests for information.

Cases concerning Ukraine

In the light of the military invasion of Ukraine by the Russian Federation in February, the Committee agreed in its fifty-second session (in March 2022) that it would postpone the consideration of the compliance issues concerning Ukraine, to its subsequent sessions. The Committee will reassess the situation ahead of the next MOP sessions.

Committee's membership for the next term

In December 2023, four Committee members, representing AZ, HU, S, PT, will finish their second term and four new members are to be elected by the Meetings of the Parties. The alternate member for AZ for the Protocol matters from FIN is also due to leave then. Parties wishing to serve in the Committee in the next period may wish to contact the secretariat as early as possible.

Committee's sessions

In 2022, the Committee held three sessions: the fifty-second and the fifty-third sessions online, (29–31 March and 10–13 May 2022, respectively) and the fifty-fourth session (4–7 October 2022) in person in Geneva. (For the outcomes, see the link in the section below).

Compliance matters

During its three sessions the Committee considered 43 compliance issues in total, including: 5 MOP decision follow-ups; 3 submissions; 5 Committee initiatives; 12 information gathering cases; and 18 specific compliance issues arising from the reviews of implementation.

3 out of 5 of the Committee initiatives and 6 out of 12 information gathering cases are related to compliance issues regarding the lifetime extension of nuclear power plants.

The details on the outcomes of the Committee's work during these three sessions are provided in the Committee's reports on the sessions, available on the UNECE website, following the link: <https://unece.org/sessions-3>.

In 2022 the Committee held four hearings with the delegations of the concerned Parties, on the following matters:

1. Hearing under a submission by Montenegro concerning the construction of the Buk Bijela hydropower plant in Bosnia and Herzegovina ([EIA/IC/S/8/SEA/IC/S/1](#));
2. Hearing with Austria, Bulgaria, Romania and Serbia under the Committee initiative concerning the lifetime extension of units 5 and 6 of Kozloduy nuclear power plant in Bulgaria ([EIA/IC/CI/8](#));
3. Hearing with Belgium and Germany under the Committee initiative regarding the lifetime extension of unit 1 of Tihange nuclear power plant in Belgium ([EIA/IC/CI/9](#));
4. Hearing with Austria, Czechia and Germany under the Committee initiative regarding the lifetime extension of four units at the Dukovany nuclear power plant in Czechia ([EIA/IC/CI/10](#)).

The Committee also held online informal consultations with Belarus and Lithuania following-up to the MOP decision regarding the Belarusian nuclear power plant in Ostrovets, and, separately, with Belarus on its progress regarding the adoption of its revised national legislation to implement the Convention.

On 12 December 2022, the Committee held consultations with representatives of the European Commission on the draft templates that the Committee had prepared to facilitate the reporting by the European Union under the Convention and the Protocol. At its 54th session in October, the Committee had considered written comments on the draft templates it had received from the European Commission in July 2022 and commented them in writing on 5 December 2022. The Committee will continue its deliberations at its 55th session in February 2023.

Revision of the Committee's structure and functions and operating rules

Following the standing mandate to the Committee, to improve its work methods and practice based on the experience gathered, the Committee is preparing proposals to its operating rules, and structures and functions for consideration and adoption to the next MOPs. In this revision, the Committee is looking, for example, at rules for the increased use of videoconferencing and electronic communication tools, to increase transparency and efficiency by sharing correspondence from Parties in compliance matters, and rules to improve the timeliness of information from Parties concerned.

Conflict of interest

A set of proposals concerns the conflict-of-interest rules and the Committee's quorum. In the Committee's experience, the present rules are no longer adapted for the consideration of the hugely increased compliance matters relating to nuclear matters, which often involve a multitude of potentially affected Parties (some Parties of origin have even notified all the Convention Parties, some others all the EU member States). As a result, in some of the cases before the Committee, a majority of Committee members would be at least in an indirect conflict of interest, preventing the Committee to reach the quorum of five members. Referring the matter to the MOP, as the rules currently foresee, is not practicable, as the MOP meets only every three years.

Consequently, as indicated already last year, the Committee decided to exceptionally and provisionally abstain from applying rule 5 of its operating rules (51st session, 4-7 October 2021, [ECE/MP.EIA/IC/2021/6](#), paras. 56-58).

To solve the problematic and remain functional also in the future, the Committee is considering options for amendments of the rules at its next session. Possible options envisaged this far have included the following:

1. Allow the Committee members elected for Protocol matters only, to participate in the decision-making, to reach the quorum;
2. Permanently increase the size of the Committee;
3. Ask the MOP to appoint a roster of extraordinary members – to step in as needed;
4. Ask the Working Group to appoint extraordinary members whenever the quorum is not reached and/or
5. Give the right to Parties concerned to object to the participation of a Committee member on reasonable grounds.

Fifty-fifth session of the Committee (31 January – 3 February 2023)

In its next session, the Committee will continue to consider outstanding issues on its agenda, including to:

- follow up on actions further to MOP decisions to be taken by Armenia, Azerbaijan and Belarus, respectively;
- finalize findings and recommendations on two submissions and three Committee initiatives;
- prepare the draft compliance decision related to one Committee initiative,
- consider two lifetime extension cases of nuclear power plants;
- consider the review of its structure and functions and operating rules;
- complete the draft reporting templates for the European Union.

Preparations to the Meetings of the Parties

The Committee will prepare a majority of the draft decisions on compliance at its fifty-sixth session, in May 2023, with a view to providing the drafts for the information of the Working Group at its twelfth meeting (in June 2023) and to finalizing them at the Committee's fifty-seventh session (in September 2023), taking into account the comments to be received from the Parties concerned in advance of that session.