



## Economic and Social Council

Distr.: General  
4 Avril 2017

Original: English

---

### Economic Commission for Europe

#### Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context

##### Seventh session

Minsk, 13–16 June 2017

Items 3 (b) and 10 (b) of the provisional agenda

##### Outstanding issues: draft decisions by the Meeting of the Parties to the Convention

Adoption of decisions: decisions to be taken by  
the Meeting of the Parties to the Convention

### Draft decision on the review of compliance with the Convention

#### Proposal by the Implementation Committee

##### *Summary*

The present draft decision was prepared by the Implementation Committee under the Convention on Environmental Impact Assessment in a Transboundary Context at its thirty-eighth session (Geneva, 20–22 February 2017).

The Meeting of the Parties to the Convention is expected to review the draft decision and agree on its adoption.

GE.17-05385(E)



\* 1 7 0 5 3 8 5 \*

Please recycle The recycling symbol, consisting of three chasing arrows forming a triangle.



## Contents

	<i>Page</i>
Draft decision VII/2 on review of compliance with the Convention.....	3
Annexes	
I. Questions to be considered by experts carrying out a review of the environmental impact assessment documentation related to the Ostrovets nuclear power plant .....	13
[II. Terms of reference for the temporary expert body to provide advice to the Implementation Committee regarding the environmental impact assessment documentation related to the Ostrovets nuclear power plant .....	14
[III. Terms of reference for national experts to be appointed by Convention Parties to provide advice to the Implementation Committee regarding the environmental impact assessment documentation related to the Ostrovets nuclear power plant] .....	15

## Draft decision VII/2

### Review of compliance with the Convention

*The Meeting of the Parties to the Convention,*

*Recalling* article 11, paragraph 2, of the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention), and decisions III/2, IV/2, V/4 and VI/2 of the Meeting of the Parties to the Convention on the review of compliance,

*Recalling further* article 14 bis of the second amendment to the Convention,

*Determined* to promote and improve compliance with the Convention,

*Seeking* to promote the identification, as early as possible, of compliance difficulties encountered by Parties and the adoption of the most appropriate and effective solutions for resolving those difficulties,

*Having considered* the analysis made by the Implementation Committee on general compliance issues contained in the fourth review of implementation of the Convention in document ECE/MP.EIA/2014/3 adopted by decision VI/1,

*Having also considered* the findings and recommendations of the Implementation Committee on two Committee initiatives further to paragraph 6 of the appendix to decision III/2,<sup>1</sup> as set out in the reports of the Committee on its thirty-fifth, thirty-sixth and thirty-eighth sessions,<sup>2</sup>

*Having reviewed* the structure and functions of the Committee, as described in the appendix to decision III/2<sup>3</sup> and annex I to decision VI/2,<sup>4</sup>

*Having also reviewed* the operating rules adopted in decision IV/2,<sup>5</sup> as amended by decisions V/4,<sup>6</sup> annex, and VI/2,<sup>7</sup> annex II, and recognizing the importance of improving the efficiency of the working methods of the Committee in view of the growing number and complexity of compliance issues brought before the Committee,

*Having further reviewed* the opinions of the Committee,

*Recognizing* the importance of rigorous reporting by Parties on their compliance with the Convention, and noting the fifth review of implementation of the Convention<sup>8</sup> based on the answers of Parties to the questionnaires on the implementation of the Convention adopted in decision VII/1,

*Recalling* that the compliance procedure is assistance-oriented, and that Parties may make submissions to the Committee on issues regarding their own compliance with the Convention,

<sup>1</sup> ECE/MP.EIA/6, annex II.

<sup>2</sup> ECE/MP.EIA/IC/2016/2, annex; ECE/MP.EIA/IC/2016/4, paras 40-44; and see ECE/MP.EIA/IC/2017/2, forthcoming.

<sup>3</sup> ECE/MP.EIA/6, annex II.

<sup>4</sup> See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

<sup>5</sup> ECE/MP.EIA/10, annex IV.

<sup>6</sup> See ECE/MP.EIA/15.

<sup>7</sup> See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

<sup>8</sup> ECE/MP.EIA/2017/8.

## I. General part

1. *Adopts* the report of the Implementation Committee on its activities contained in document ECE/MP.EIA/2017/4–ECE/MP.EIA/SEA/2017/4, welcomes the reports of the Committee on its meetings in the period after the sixth session of the Meeting of the Parties to the Convention, and requests the Committee:

- (a) To keep the implementation and application of the Convention under review;
- (b) To promote and support compliance with the Convention, including by providing assistance in this respect, as necessary;

2. *Welcomes* the examination by the Committee of specific compliance issues identified in the fourth review of implementation of the Convention<sup>9</sup> regarding Cyprus, which resulted in the Committee declaring its satisfaction with the clarifications provided by the Party;

3. *Welcomes also* the examination by the Committee of information received from other sources, including the public, in one case regarding Serbia and twice regarding Ukraine, which in both instances regarding Ukraine resulted in the Committee declaring its satisfaction with the clarifications provided by the Party at the time, and in the case of Serbia led both to a Committee initiative, regarding which the Committee is now satisfied with the clarifications provided and the actions taken by the Party,<sup>10</sup> and also to information gathering by the Committee regarding compliance with the Protocol that is to be continued at its upcoming sessions;

4. *Notes* the information received from other sources regarding Belgium, Belarus, Bosnia and Herzegovina, Czechia, the Netherlands, Spain and Ukraine that are to be further considered by the Committee at its forthcoming sessions;

5. *Considers*, following the opinions of the Committee, that:

(a) The opportunity provided by the Party of origin to a Party that considers that it would be affected by a significant transboundary environmental impact of a proposed activity listed in appendix I to the Convention, for which no notification has taken place in accordance with article 3, paragraph 1, demonstrates the agreement of the two Parties that a likely significant environmental impact on the territory of the potentially affected Party cannot be excluded according to article 3, paragraph 7, of the Convention;<sup>11</sup>

(b) The mere notification of possibly affected Parties, regardless of their number, does not impose an excessive burden on Parties of origin;<sup>12</sup>

(c) For certain activities, in particular nuclear energy-related activities, while the chance of a major accident, accident beyond design basis or disaster occurring is very low, the likelihood of a significant adverse transboundary impact of such an accident can be very high; therefore, on the basis of the principle of prevention, when considering the affected Parties for the purpose of notification, the Party of origin should be exceptionally prospective and inclusive, in order to ensure that all Parties potentially affected by an accident, however uncertain, are notified. The Party of origin should make such consideration using the most careful approach on the basis of available scientific evidence,

---

<sup>9</sup> ECE/MP.EIA/2014/3.

<sup>10</sup> See paras. 66-69 below.

<sup>11</sup> ECE/MP.EIA/IC/2014/6, para. 35; see also ECE/MP.EIA/IC/2014/2 paras. 33–35.

<sup>12</sup> ECE/MP.EIA/IC/2016/2, annex, para. 59 and footnote k.

which indicates the maximum extent of a significant adverse transboundary impact from a nuclear energy-related activity, taking into account the worst-case scenario;<sup>13</sup>

(d) Procedural and substantive aspects of environmental impact assessment procedures cannot necessarily be treated separately when assessing compliance, in particular if the essence of the compliance case in question pertains to substantive aspects;<sup>14</sup>

6. *Reiterates* that:

(a) The procedure in article 3, paragraph 7, does not substitute for the obligations of a Party of origin deriving from the Convention to notify possibly affected Parties, or to fulfil any other step of the transboundary environmental impact assessment procedure in compliance with the Convention in case transboundary environmental impacts cannot be excluded;<sup>15</sup>

(b) While the primary aim of the Convention, as stipulated in article 2, paragraph 1, is to “prevent, reduce and control significant adverse transboundary environmental impact from proposed activities”, even a low likelihood of such an impact should trigger the obligation to notify affected Parties in accordance with article 3. This is in accordance with paragraph 28 of the Guidance on the Practical Application of the Espoo Convention, endorsed by decision III/4.<sup>16</sup> This means that notification is necessary unless a significant adverse transboundary impact can be excluded;<sup>17</sup>

7. *Encourages* Parties to bring issues concerning their own compliance before the Committee;

8. *Requests* the Committee to provide assistance to Parties in need of such assistance, as appropriate and to the extent possible, and in this respect refers to decision VII/3 on the adoption of the workplan, recommending general requirements to be met by Parties wishing to receive technical advice from the Convention;

9. *Urges* Parties to take into account in their future work the recommendations for further improving the implementation of and compliance with the Convention, including by strengthening national legislation, based on but not limited to the analyses on general compliance issues from the reviews of implementation, adopted by decisions III/1, IV/1, V/3 and VI/1, in conjunction with the general guidance on enhancing consistency between the Convention and environmental impact assessment within the framework of State ecological expertise in countries of Eastern Europe, the Caucasus and Central Asia adopted by decision VI/8;

10. *Also urges* Parties to ensure the application of the Convention in nuclear energy-related activities, and in that respect recalls the 2014 Geneva Declaration<sup>18</sup> (Part A) on the application of the Convention and the Protocol to nuclear energy issues, and in particular:

(a) Emphasizes that Parties to the Convention that carry out nuclear energy-related activities should do so in accordance with the Convention, in a sustainable manner, taking into consideration the precautionary and polluter pays principles, and respecting international nuclear safety standards and relevant environmental legislation;

<sup>13</sup> Ibid., para. 62.

<sup>14</sup> See ECE/MP.EIA/IC/2017/2, forthcoming.

<sup>15</sup> See decision VI/2, para. 5 (h).

<sup>16</sup> ECE/MP.EIA/6, annex IV.

<sup>17</sup> ECE/MP.EIA/10, decision IV/2, annex I, para. 54.

<sup>18</sup> See ECE/MP.EIA/20/Add.3–ECE/MP.EIA/SEA/4/Add.3.

(b) Also emphasizes that close cooperation and improved mutual understanding of the practices and needs of other Parties in the field of nuclear energy will facilitate the application of transboundary environmental procedures in full compliance with the Convention and the Protocol;<sup>19</sup>

(c) Encourages effective cooperation among Parties, the secretariats of all relevant international treaties and international organizations to maximize synergies and strengthen capacities with a view to ensuring the highest possible quality of environmental assessment and level of safety in the nuclear energy field;<sup>20</sup>

11. *Urges* Parties to take into account in their further work the opinions of the Committee in the period from 2001 to 2017, and requests the secretariat to arrange for the revision of the informal electronic publication of these opinions to include the opinions of the Committee from 2014–2017;

12. *Decides* to keep under review and to develop, if necessary, the structure and functions of the Committee and its operating rules at its eighth session, in the light of experience gained by the Committee in the interim, and requests the Committee to prepare any proposals, as it deems necessary, for submission to the Meeting of the Parties at its eighth session;

## **II. Follow-up to decision VI/2**

### **A. Regarding Ukraine**

#### *1. Bystroe Canal Project*<sup>21</sup>

13. *Welcomes* the efforts demonstrated by the Government of Ukraine to follow the recommendations of the Meeting of the Parties addressed to it in decision VI/2;

14. *Appreciates* the reports received from the Government of Ukraine further to paragraph 25 of decision VI/2, concerning the follow-up to decision V/4 in relation to the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta (Bystroe Canal Project);

15. *Welcomes* the efforts undertaken by the Governments of Ukraine and Romania to further develop the bilateral agreement for improved implementation of the Convention;

16. *Welcomes* the efforts of Ukraine to develop a new draft law on the implementation of the Convention and the subsequent vote to adopt the text of the law on environmental impact assessment by the parliament of Ukraine, as a concrete legislative step towards implementation of the strategy of the Government of Ukraine to implement the Convention as referred to in paragraph 25(a) of decision VI/2;

17. *Expresses deep concern*, however, that, despite the positive vote by the parliament of Ukraine on the draft law on environmental impact assessment and the presentation of the new version of the text to the Committee, there is still no legislation in place in Ukraine to ensure proper implementation of the Convention;

18. *Regrets* that Ukraine failed to adopt the relevant legislation by the end of 2015, as set out in paragraph 24 of decision VI/2;

---

<sup>19</sup> Declaration, para. A9.

<sup>20</sup> Declaration, para. A10.

<sup>21</sup> ECE/MP.EIA/IC/2016/6, para. 13; see ECE/MP.EIA/IC/2017/2, forthcoming.

19. *Deeply regrets* that no steps have been taken to bring the Bystroe Canal Project into full compliance with the Convention further to paragraph 24 of decision VI/2, and that the measures to be carried out in accordance with paragraph 19 of decision V/4 have not been implemented, as requested in paragraph 25 (b) of decision VI/2;

20. *Endorses* therefore the findings of the Implementation Committee at its thirty-eighth session that, despite some steps taken, Ukraine has not yet fulfilled most of its obligations under paragraphs 24 and 25 of decision VI/2;<sup>22</sup>

21. *Declares*, therefore, that the caution to the Government of Ukraine issued at its fourth session is still effective;

22. *Endorses also* the findings of the Committee that the continuation of dredging activities by the Government of Ukraine, for example further to the Action Plan adopted by decision No. 187 of 27 July 2013, constitutes a further breach of its obligations under the Convention;<sup>23</sup>

23. *Reiterates* its request to the Government of Ukraine that it adopt the relevant draft legislation and bring the Bystroe Canal Project into full compliance with the Convention by the end of 2018;

24. *Requests* the Government of Ukraine to report by the end of each year to the Implementation Committee on how it has implemented paragraph 23 above, and specifically:

(a) On the implementation of the strategy of the Government of Ukraine to implement the Convention by the end of 2018, inter alia, concrete legislative measures adopted to this effect;

(b) On steps taken to bring the Bystroe Canal Project into full compliance with the Convention, implementing the measures in accordance with paragraph 19 of decision V/4, by the end of 2018, while refraining from any measure or programme which could jeopardize the fulfilment of these recommendations;

25. *Encourages* the Governments of Ukraine and Romania to continue their cooperation in preparing a bilateral agreement or other arrangement to support further the provisions of the Convention, as set out in article 8 of the Convention;

26. *Further requests* the Government of Ukraine to inform Romania about existing monitoring results and to consult with Romania on the post-project analysis, in accordance with article 7 of the Convention, and also to report to the Committee, eight months before the eighth session of the Meeting of the Parties, on the implementation of article 7 of the Convention;

27. *Decides* to address the issue of the suspension of the special rights and privileges accorded to Ukraine under the Convention, including its membership on the Bureau and the Implementation Committee, at the eighth session of the Meeting of the Parties, unless Ukraine adopts the relevant legislation and brings the Bystroe Canal Project into full compliance with the Convention by the end of 2018;

28. *Requests* the Committee to report to the eighth session of the Meeting of the Parties on its evaluation of the steps taken by the Government of Ukraine to bring about compliance, and to develop, if appropriate, further recommendations to assist Ukraine in complying with its obligations under the Convention;

---

<sup>22</sup> See ECE/MP.EIA/IC/2017/2, forthcoming.

<sup>23</sup> ECE/MP.EIA/IC/2016/4, para. 13

2. *Rivne nuclear power plant*<sup>24</sup>

29. *Notes with appreciation* the regular information provided by Ukraine further to paragraph 71 of decision VI/2, concerning the Committee initiative regarding the extension of the lifetime of the Rivne nuclear power plant;

30. *Regrets* that, since last session of the Meeting of the Parties, Ukraine has not adopted new environmental impact assessment legislation to implement the provisions of the Convention;

31. *Also regrets* that Ukraine did not notify Austria, Hungary and Romania, which had expressed their wish to be notified regarding the extension of the lifetime of the Rivne nuclear power plant;

32. *Further regrets* that Ukraine did not provide any evidence of discussions with the other possibly affected Parties — i.e., Belarus, Poland, the Republic of Moldova and Slovakia — to agree on whether notification was needed for the extension of the lifetime of the Rivne nuclear power plant, as repeatedly recommended by the Implementation Committee;

33. *Endorses* the finding of the Implementation Committee that Ukraine remains in non-compliance with the provisions of the Convention referred to in paragraphs 69 and 70 of decision VI/2 with respect to the extension of the lifetime of reactors 1 and 2 of the Rivne nuclear power plant;

34. *Requests* the Government of Ukraine to revise its decision on the lifetime extension of reactors 1 and 2 of the Rivne nuclear power plant by the end of 2018 in order to bring it into compliance with the Convention, based on the strategy referred to in paragraph 35 below;

35. *Also requests* Ukraine to submit to the Implementation Committee by the end of 2017 a strategy for complying with the provisions of the Convention regarding this activity, including time schedule and concrete steps to be undertaken by Ukraine, including:

(a) The adoption of the general legal and administrative framework on the implementation of the Convention;

(b) The notification of all potentially affected Parties, in accordance with article 3 of the Convention;

(c) The preparation of the environmental impact assessment documentation, including transboundary aspects, pursuant to article 4 of the Convention;

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

(e) Ensuring that in the revised final decision due account is taken of 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;

36. *Requests* Ukraine to report by the end of each year to the Implementation Committee on its implementation of the strategy and the revised final decision taken;

37. *Requests* the Committee to report to the Meeting of the Parties to the Convention at its eighth session on compliance by Ukraine, and to develop, if appropriate,

---

<sup>24</sup> See ECE/MP.EIA/IC/2017/2, forthcoming.



further recommendations to assist Ukraine in fulfilling its obligations under the Convention;

## **B. Regarding Armenia**

### *1. National legislation<sup>25</sup>*

38. *Appreciates* the reports received from the Government of Armenia during the intersessional period;

39. *Welcomes* the adoption by the Government of Armenia of legislation for the implementation of the Convention, including the regulation on public participation in compliance with the Convention and the Protocol, further to the decision VI/2, paragraph 31;

40. *Notes*, however, some deficiencies in the adopted legislation related to its practical application;

41. *Takes note with appreciation* of efforts undertaken by Armenia to address the deficiencies referred in paragraph 40 above by amending its legislation and drafting secondary regulations;

42. *Requests* Armenia to enhance distinction between the environmental impact assessment and strategic environmental assessment procedures to facilitate practical application of the legislation based on the recommendations of the international consultants to the secretariat;

43. *Also requests* the Government of Armenia to report to the Committee on the progress made one year before the next session of the Meeting of the Parties;

44. *Requests* the Implementation Committee to evaluate the subsidiary legislation adopted by Armenia for the implementation of the Convention and to report to the Meeting of the Parties at its eighth session thereon;

### *2. Metsamor nuclear power plant<sup>26</sup>*

45. *Takes note* of the information from Government of Armenia that the final decision on the construction of the Metsamor nuclear power plant is no longer valid and activities based on that decision were suspended;

46. *Endorses*, therefore, the finding of the Committee that there is no longer a project and a transboundary environmental impact assessment procedure relating to the Metsamor nuclear power plant;

47. *Encourages*, however, Armenia to ensure that any projects carried out in accordance with energy-related programmes, including nuclear activities, be in compliance with the Convention;

## **C. Regarding Azerbaijan<sup>27</sup>**

48. *Notes* the information received from the Government of Azerbaijan during the intersessional period;

---

<sup>25</sup> See ECE/MP.EIA/IC/2017/2, forthcoming.

<sup>26</sup> ECE/MP.EIA/IC/2014/6, para. 23, and ECE/MP.EIA/2017/4–ECE/MP.EIA/SEA/2017/4, paras. 27–28.

<sup>27</sup> See ECE/MP.EIA/IC/2017/2, forthcoming.

49. *Expresses concern* that, despite some steps taken during this intersessional period, the Government of Azerbaijan failed to implement the requests addressed to it in decision VI/2 (paras. 41-43);

50. *Notes with regret* that the technical advice offered to the Government of Azerbaijan was not used effectively enough to enact relevant legislation on the implementation of the Convention;

51. *Urges* the Government of Azerbaijan to adopt the draft law and the subsequent implementing regulations in line with all technical advice provided, before the end of 2017, and to regularly report to the Committee on the progress made;

52. *Requests* the Committee to continue its initiative concerning Azerbaijan based on a profound suspicion of non-compliance with article 2, paragraph 2, of the Convention, and to report to the Meeting of the Parties to the Convention at its eighth session on compliance by Azerbaijan with the Convention;

53. *Also requests* the Committee to assess circumstances affecting the effectiveness of the technical advice provided to the Government of Azerbaijan, including the organizational structure put in place by the Government to make use of such technical advice, and invites the secretariat to make available to the Committee all information needed to this end;

#### **D. Regarding Belarus<sup>28</sup>**

54. *Appreciates* the annual reports and information provided by Belarus and Lithuania to the Implementation Committee further to decision VI/2 (para. 59);

55. *Welcomes* the steps taken by both Parties since the sixth session of the Meeting of the Parties to address the recommendations in decision VI/2 directed to them (paras 51-58, 62, and 64);

56. *Commends* the Implementation Committee for its thorough analysis of the steps undertaken by Belarus after the twenty-seventh session of the Committee, as outlined in the report of the Committee on its activities;<sup>29</sup>

57. *Recognizes* the efforts made by Belarus to implement decision VI/2, but acknowledges that it is not within the capacity or mandate of the Committee to examine the environmental and scientific issues that had been raised in connection with the planned activity at Ostrovets;

58. *Further acknowledges* that, in order to finalize its conclusions concerning compliance by Belarus with the provisions referred to in paragraph 50 of decision VI/2, the Implementation Committee needs expert advice;

59. *Decides*, therefore, to [establish, by the end of 2017, a temporary expert body in accordance with the provisions of annex II to this decision] [ask Parties to appoint, by the end of 2017, national experts in accordance with the provisions of annex II to this decision], to assist the Implementation Committee;

60. *Requests* the [temporary expert body] [national experts] to provide the Implementation Committee with answers to the questions listed in annex I to this decision, before 1 July 2018;

---

<sup>28</sup> ECE/MP.EIA/IC/2016/6, paras. 29–31, and see ECE/MP.EIA/IC/2017/2, forthcoming.

<sup>29</sup> ECE/MP.EIA/2017/4–ECE/MP.EIA/SEA/2017/4.

61. *Requests* the Implementation Committee to consider compliance by Belarus with the provisions of the Convention in the light of the answers provided by the [temporary expert body] [national experts], and to report to the Meeting of the Parties at its eighth session on the matter;

62. *Encourages* Belarus and Lithuania to continue bilateral expert consultations on issues of disagreement, including on matters that are beyond the scope of the Convention;

63. *Also encourages* both Parties to continue working on the post-project analysis and reach an agreement in establishing a joint bilateral body and procedures for post-project analysis, in particular to ensure sufficient public participation in the framework of the post-project analysis regarding the activity at Ostrovets;

64. *Regrets* that the bilateral agreement for the implementation of the Convention has not been yet concluded, and encourages Lithuania and Belarus to conclude such an agreement further to article 8 of the Convention;

65. *Requests* Belarus and Lithuania to report annually to the Implementation Committee on the progress made.

### III. Committee initiative

#### A. Regarding Serbia<sup>30</sup>

66. *Endorses* the finding of the Implementation Committee that Serbia is in compliance with the Convention regarding the planned extension of the open-pit mine of the Kostolac lignite power plant;<sup>31</sup>

67. *Welcomes* the efforts undertaken by Serbia during the intersessional period to implement the recommendations of the Committee regarding the planned construction of block 3 of the Kostolac lignite power plant;

68. *Also endorses* the findings of the Implementation Committee that Serbia brought the planned construction into compliance with the Convention by initiating a transboundary procedure in accordance with the Convention;<sup>32</sup>

#### B. Regarding the United Kingdom of Great Britain and Northern Ireland<sup>33</sup>

69. *Endorses* the findings of the Implementation Committee that the United Kingdom of Great Britain and Northern Ireland is in non-compliance with its obligations under article 2, paragraph 4, and article 3, paragraph 1, of the Convention in relation to the Hinkley Point C nuclear power plant project;<sup>34</sup>

<sup>30</sup> ECE/MP.EIA/IC/2016/4, paras 42 - 44.

<sup>31</sup> ECE/MP.EIA/IC/2016/4, paras 42

<sup>32</sup> Ibid., para 43.

<sup>33</sup> ECE/MP.EIA/IC/2016/2, annex., paras 66-67. Further to its consideration of the information provided by the United Kingdom shortly before the Committee's thirty-eighth session (Geneva, 20-22 February 2017), the Committee decided at that session to add additional recommendations to those set out in the present document, which it had finalized in March 2016 (see the report of the Committee on its thirty-eighth session (ECE/MP.EIA/IC/2017/2, forthcoming)). The Committee will finalize its recommendations to the Meeting of the Parties based on the comments to be provided by the United Kingdom.

<sup>34</sup> Ibid., annex, para. 66.

70. *Invites* the United Kingdom to enter into discussions with possibly affected Parties, including Parties that cannot exclude a significant adverse transboundary impact from the activity at Hinkley Point C, in order to agree on whether notification is useful at the current stage for this proposed activity;

71. *Requests* the United Kingdom to report to the Committee on the results of its discussions with potentially affected Parties regarding the usefulness of notification;

72. *Urges* the United Kingdom to ensure that, in the context of any future decision-making regarding the planned construction of a nuclear power plant, notifications are sent in accordance with the Convention, further to the opinion of the Committee set out in paragraph 5 (c) above.

## Annex I

### **Questions to be considered by experts carrying out a review of the environmental impact assessment documentation related to the Ostrovets nuclear power plant**

1. What are the characteristics, according to current international rules, recommendations, guidelines and other relevant guidance documents, of an aircraft (heavy or light aircraft) whose direct crash on a commercial nuclear power reactor should be assessed before building a reactor? Were such characteristics analysed in the case of the Ostrovets nuclear power plant?
2. What is the size, according to current international rules, recommendations, guidelines and other relevant guidance documents, of the area around the commercial nuclear power reactor for which the population density has to be assessed in order to take into account the radiological impact of a major accident and to prepare accordingly the emergency measures? Was it respected in the case of the Ostrovets nuclear power plant?
3. According to current international rules, recommendations, guidelines and other relevant guidance documents, should the contamination of rivers and groundwater by radionuclides through direct discharge of contaminated water into the environment following a major accident or through the air be assessed before building a commercial nuclear power reactor? Was such an assessment undertaken in the case of the Ostrovets nuclear power plant?
4. According to current international rules, recommendations, guidelines and other relevant guidance documents, should the management of radioactive waste and spent fuel from a commercial nuclear power reactor (near surface repository or deep geological disposal) be decided before building such a reactor? Was there any mention of the waste management policy in the environmental impact assessment of the Ostrovets nuclear power plant?
5. What are the selection and exclusion criteria (for example, geological and seismo-tectonic structure of the site, seismic hazard assessment (probabilistic assessment), etc.) that a country has to apply, according to current international rules, recommendations, guidelines and other relevant guidance documents, when assessing the suitability of a nuclear power plant site? Were such criteria applied in the selection of the Ostrovets site in comparison with the other sites that were also examined and were the data provided in the environmental impact assessment documentation sufficient to have an idea of the selection process?

**[Annex II****Terms of reference for the temporary expert body to provide advice to the Implementation Committee regarding the environmental impact assessment documentation related to the Ostrovets nuclear power plant**

1. The temporary expert body shall be organized as follows:

(a) It shall consist of three scientific or technical experts. Within two months after the adoption of decision VII/2 of the Meeting of the Parties, one member shall be appointed by Belarus and a second member by Lithuania; a third expert designated by common agreement of the two members shall be the President of the temporary expert body. The third member shall be designated within two months of the appointment of the second expert. The third member shall not be a national of either Belarus or Lithuania, have his or her usual place of residence in the territory of one of these Parties, be employed by either of the two Parties, or have dealt with the matter in any other capacity;

(b) If the President of the temporary expert body has not been designated within the time period mentioned in subparagraph (a) above, the Executive Secretary of the Economic Commission for Europe shall, at the request of either Party, designate the President within a further two-month period;

(c) If Belarus or Lithuania do not appoint their experts within the two-month period stipulated, the Executive Secretary of the Economic Commission for Europe shall designate the President of the temporary expert body within a further two-month period. Upon designation, the President of the expert body shall request the Party that has not appointed an expert to do so within one month. After such a period, the President shall inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further one-month period;

(d) The temporary expert body shall adopt its own rules of procedure and may take all appropriate measures in order to carry out its functions;

(e) Belarus and Lithuania shall facilitate the work of the temporary expert body and, in particular, shall provide it with all relevant documents, facilities and information;

(f) The Parties and the experts shall protect the confidentiality of any information they receive in confidence during the work of the temporary expert body;

(g) The decisions of the temporary expert body shall be taken by majority vote of its members. The answers of the temporary expert body shall reflect the view of the majority of its members and shall include any dissenting view;

(h) The answers of the temporary expert body shall be based on current international rules, recommendations, guidelines and other relevant guidance documents. The answers shall be transmitted by the temporary expert body to the Implementation Committee.

2. The creation and functioning of the temporary expert body will be supported by Belarus and Lithuania in equal shares. In case of disagreement by one of the Parties, the other Party may support, on a voluntary basis, the creation and functioning of the expert body. The expert body shall keep a record of all its expenses and shall furnish a final statement thereof to the Parties.]

**[Annex II****Terms of reference for national experts to be appointed by Convention Parties to provide advice to the Implementation Committee regarding the environmental impact assessment documentation related to the Ostrovets nuclear power plant**

1. The national experts appointed by Parties shall:
  - (a) Not be nationals of either Belarus or Lithuania, have their usual place of residence in the territory of one of these Parties, be employed by either of them, or have dealt with the matter in any other capacity;
  - (b) Protect the confidentiality of any information received in confidence during their work of answering the questions;
  - (c) Base their answers on current international rules, recommendations, guidelines and other relevant guidance documents;
  - (d) Transmit their answers to the Implementation Committee.
2. Belarus and Lithuania shall facilitate the work of the national experts and, in particular, shall provide them with all relevant documents, facilities and information.]