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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

Thirty-third session
Geneva, 17–19 March 2015

Report of the Implementation Committee on its thirty-third session

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I Introduction

1. The thirty-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 (Protocol on SEA) was held from 17 to 19 March 2015 in Geneva, Switzerland.

A. Attendance

2. The following members of the Implementation Committee for Convention and Protocol matters attended the session: Mr. V. Buchko (Ukraine); Ms. E. Grigoryan (Armenia); Mr. K. Heinma (Estonia); Ms. L. A. Hernando (Spain); Mr. J. Jendroška (Poland); Ms. Z. Pocsai (Hungary); Ms. O. Shoshi (Albania); Mr. R. Švedas (Lithuania); and Mr. F. Zaharia (Romania). Ms. A. Kliut (Belarus) was replaced by Mr. I. Narkevych. Mr. M. Prieur (France) was absent.

3. The Committee welcomed the alternate member nominated by Belarus.

4. The session was also attended by a delegations from the United Kingdom of Great Britain and Northern Ireland during the Committee's consideration of its initiative on the United Kingdom (see section IV below).

B. Organizational matters

5. The Chair of the Committee, Mr. Zaharia, opened the session. The Committee adopted its agenda (ECE/MP.EIA/IC/2015/1).

6. The secretariat informed the Committee that no information had been received regarding the appointment of alternate members for France, Romania and Ukraine. The members of the Committee representing the three Parties were urged to liaise with their Governments regarding the appointment of alternate members. The member of the Committee representing Belarus was also invited to liaise with his Government to confirm whether he would become the main Committee member, in which case Belarus should appoint a new alternate member; or whether his status as alternate member remained, in which case Belarus should appoint a new main member.

II. Follow-up to decision VI/2

7. Due to time constraints, the Committee postponed consideration of the issues regarding Ukraine (Bystroe Canal Project and Rivne Nuclear Power Plant (NPP)) and Armenia (law on environmental assessment and Metsamor NPP).

8. Discussions on the follow-up to decision VI/2 on review of compliance with the Convention (see ECE/MP.EIA/20.Add.1–ECE/MP.EIA/SEA/4.Add.1) were not open to observers, according to rule 17, paragraph 1, of the Committee's operating rules, and took place in the absence of members nominated by Belarus and Lithuania during the consideration of the cases concerning their countries.

A. Azerbaijan

9. The secretariat reported on the ongoing technical advice being provided to Azerbaijan under the European Union (EU)-funded Greening Economies in the Eastern

Neighbourhood Programme. The drafting of the environmental assessment legislation with the assistance of international experts had been concluded in January 2015. The draft law had then been circulated to international consultants, including a Committee member, and relevant international organizations for their comments, and had been discussed at the national round table on the implementation of the Espoo Convention and its Protocol on SEA in national legislation (Baku, 2 March 2015). The round table had been followed by a two-day workshop on the practical application of the draft law in the renewable energy sector.

10. An English translation of a preliminary draft of the law had been made available to the Committee, as well as the comments by the international consultant. Azerbaijan had informed the Committee through the secretariat that an English translation of the final draft would be provided as soon as it was finalized, after all the comments received were addressed, and that the draft law would be submitted to the parliament by October 2015.

11. The Committee member acting as an international consultant in the legislative assistance project provided details on the consultations on the draft law, which had included two rounds of comments. In his view, the second draft provided an improved legal framework, but some aspects on public participation and transboundary procedures needed to be better addressed.

12. The Committee took note of the information. It welcomed the progress achieved by Azerbaijan. It asked the secretariat to invite Azerbaijan to provide the English translation of the draft law to be submitted to the parliament as soon as it was available.

B. Belarus

13. The Committee then considered its follow-up to decision VI/2 (paras. 48–64) regarding Belarus. Belarus had submitted information about the post-project analysis on 12 February 2015; Lithuania had submitted information about the discussions on the development of a bilateral agreement on 12 March 2015; and the non-governmental organization (NGO) Ecohome had submitted information to the Committee on 4 March 2015.

14. The Chair presented a thorough analysis of the steps undertaken by Belarus and Lithuania, which had been prepared by the curator with the support of the Chair. The Committee considered the analysis, but could not agree on its conclusions. It was decided that additional information was needed. The Committee requested Belarus to address the following question: could the Presidential Decree of 23 November 2013 change the site selected by the Decree of 2011 on the location?

15. The Committee decided to work on its draft analysis using its electronic decision-making procedure. The Committee would finalize its analysis at its thirty-fourth session.

III. Submissions

16. No submissions had been received since the Committee's previous session and there were no earlier submissions still under consideration.

IV. Committee initiative¹

17. Discussions on Committee initiatives were not open to observers, in accordance with rule 17 of the Committee's operating rules.

18. Further to its thirty-second session (Geneva, 9–11 December 2014), the Committee considered its initiative on the United Kingdom regarding the planned construction of the Hinkley Point C NPP (EIA/IC/CI/5). Additional information had also been provided by the United Kingdom on 7 January 2015 and by the NGO Friends of the Irish Environment on 17 January 2015.

19. The Committee welcomed the delegation of the United Kingdom and invited it to present information and opinions on the matter. Members then posed some further questions to seek clarification on the country's position, further to its written replies.

20. The Committee agreed to consider the matter further and to prepare its draft findings and recommendations via its electronic decision-making procedure in July on the basis of the information made available to it. The curator was invited to prepare a draft document with findings and recommendations by the end of June 2015.

V. Information gathering²

21. Due to time constraints, the Committee postponed consideration of the information-gathering cases regarding Ukraine (Khmelnyskyi NPP) and Bosnia and Herzegovina (Ugljevik and Stanari thermal power plants).

A. Serbia

22. The Committee then continued consideration of the information it had gathered further to the information provided by Bankwatch Romania Association concerning the planned construction of a lignite power plant in north-east Serbia, by the River Danube, close to the border with Romania (EIA/IC/INFO/14). The Committee reviewed the response provided on 2 March 2015 by Serbia to the Committee's questions, as well as the information submitted by Romania on 5 March 2015.

23. Further to an analysis by the curator, the Committee noted that the construction of one block at the Kostolac lignite power plant was an activity listed in appendix I to the Convention and that the likelihood of a significant adverse transboundary impact could not be excluded. However, Serbia had not notified potentially affected Parties.

24. On those grounds, the Committee decided to begin a Committee initiative further to paragraph 6 of the Committee's structure and functions. It asked the Chair to write to Serbia, informing Serbia of the Committee's decision and asking it to proceed with the notification under article 3, paragraph 1, as soon as possible and to inform the Committee about the process by no later than 31 October 2015. In his letter, the Chair should urge Serbia to comply with its obligations under the Convention. The Committee agreed to

¹ Information on Committee initiatives, including relevant documentation, is available from <http://www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/committee-initiative.html>.

² More information on information-gathering cases, including relevant documentation, is available from <http://www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/information-from-other-sources.html>.

decide at its next session on whether it would invite Serbia, in line with paragraph 9 of the Committee's structure and functions, to participate in the discussion and to present information and opinions on the matter under consideration at the Committee's thirty-fifth (Geneva, 15–17 March 2016) or thirty-sixth (Geneva, 5–7 September 2016) session.

25. Regarding the issues arising with regard to the Protocol on SEA, further to an analysis provided by the co-curator on Protocol matters, the Committee decided to continue consideration of its information gathering at its next session. It agreed to request Serbia to address the following questions:

(a) What was the status of the Energy Strategy? Had the Strategy been finally adopted and, if not, at what stage of the decision-making procedure was it?;

(b) Had the SEA procedure for the draft Energy Strategy been carried out according to the provisions of the Protocol on SEA?;

(c) In carrying out the SEA procedure, had Serbia notified potentially affected Parties in line with article 10 of the Protocol?;

(d) Did the Energy Strategy include a list of specific projects to be undertaken?;

(e) What was the status of the Spatial Plan? Had the Plan been adopted and, if not, at what stage of the decision-making procedure was it?;

(f) Had the SEA procedure been carried out in relation to the draft Spatial Plan according to the Protocol on SEA?;

(g) In the context of the SEA procedure for the Spatial Plan, had Serbia notified potentially affected Parties in line with article 10 of the Protocol?;

(h) What was the relationship between the Energy Strategy and the Spatial Plan of the Republic of Serbia?

26. The information should be provided by the Party to the secretariat by 31 October 2015 for consideration by the Committee at its next session. The co-curator on Protocol matters was requested to provide an analysis in advance of the session.

B. The Netherlands

27. The Committee then turned to the consideration of the information it had gathered further to the information provided by the NGO Greenpeace Netherlands concerning the extension by the Netherlands of the lifetime of the Borssele NPP (EIA/IC/INFO/15). The Chair noted that, in response to the Committee's letter of 24 December 2014, the Netherlands had contacted the secretariat to draw attention to the annex to its letter of 21 November 2014, which, in its view, addressed a number of the questions in the Committee's letter. The Chair and the curator, Mr. Prieur, after reviewing the annex, had decided to revise some of the questions addressed to the Netherlands. The secretariat had communicated the questions to the country by e-mail on 16 February 2015.

28. The Committee took note of the information provided by the Netherlands on 12 March 2015 and by Greenpeace on 7 January 2015. Belgium had not provided any response to the Committee's letter of 24 December 2015. Further to an analysis by the co-curator, the Committee agreed that it would continue its consideration of the matter at its next session and asked the Chair to write to Germany to provide information on its participation in the decision-making procedure, with a response to be provided by the end of May. In the meantime, the curator was requested to prepare an analysis on the basis of the information already available, preferably by the end of April. The Committee agreed to

discuss the issue via its electronic decision-making procedure and at its thirty-fourth session.

VI. Review of implementation

A. Examination of general and specific compliance issues from the fourth review of implementation of the Convention

29. The Committee continued its consideration of the general and specific compliance issues identified in the fourth review of implementation of the Convention (ECE/MP.EIA/2014/3). It noted with regret that, despite repeated reminders by the secretariat and the Committee, Ireland, Luxembourg and Portugal had yet not returned the questionnaires for the fourth review. The United Kingdom had informed the secretariat that it would return the questionnaire at the end of March 2015.

30. The Committee noted that the reporting system was a very important tool for Parties to identify both good practice and challenges that needed to be addressed, and thus promoted improved implementation of the Convention. It decided to send letters addressed to the ministers responsible for foreign affairs and environment of the countries that had not reported. It also agreed to send a letter to the EU highlighting the failure of those EU member States to report under the Convention and enquiring whether the EU, as a Party to the Convention itself, had at its disposal any means to monitor the reporting performance of EU member States party to the Convention.

31. The Committee then examined a reply from Cyprus received on 27 December 2014 in response to the Committee's letter of 19 September 2014 (and the reminder of 24 December 2014), requesting further clarifications on when and how the public was notified in the absence of current national legislation. The Committee considered that, while Cyprus had provided references to applicable national legislation and had clarified when the public was notified, it had not explained how the public was notified. The Committee decided to ask Cyprus to provide excerpts of the English translation of the provisions mentioned in its letter of 23 December 2014 (i.e., art. 24, paras. 1 and 3, of the Environmental Impact Assessment Laws of 2005 to 2014) and details on how the public was notified. The reply should be provided by 31 October 2015 for consideration by the Committee at its next session.

B. Examination of general and specific compliance issues from the first review of implementation of the Protocol

32. The Committee continued its consideration of the general and specific compliance issues identified in the first review of implementation of the Protocol (ECE/MP.EIA/SEA/2014/3). It noted with regret that, despite repeated reminders by the secretariat and the Committee, Luxembourg and Portugal had yet not returned the questionnaires for the first review.

33. The Committee noted that the Protocol laid down clear reporting obligations for Parties. It decided to send letters to the ministers responsible for foreign affairs and environment of the countries that had not reported. In its letters, the Committee would point out to the Parties concerned that, should no report be received from them by August 2015, the Committee would consider the issue of those Parties' compliance with their reporting obligations under the Protocol at its next meeting.

34. The Committee regretted that it had not received a response from Bosnia and Herzegovina to its letters of September and December 2014. It invited the Chair to send a letter to the ministers responsible for foreign affairs and the environment and urge Bosnia and Herzegovina to provide its response at its earliest convenience, but not later than 31 October 2015. The Committee would examine the response of Bosnia and Herzegovina to its requests regarding the first review of implementation of the Protocol at its next session.

35. Finally, the Committee examined a reply from the European Commission received on 6 October 2014 in response to the Committee's letter of 19 September 2014 requesting the EU to complete and return its questionnaire for the first review of implementation of the Protocol and to address several questions. In its response, the EU had clarified its position regarding its obligation to report under the Protocol and its competences as a regional economic integration organization. The Committee then reviewed the requirements of article 4, paragraphs 2 and 3, and the competence of the EU in defining activities by its member States, notably in the areas of its exclusive competence. The Committee decided to seek further clarification from the EU. To that end, it would prepare further questions via its electronic decision-making procedure to be sent to the EU for a reply by 31 October 2015. The curator was asked to prepare an analysis in advance of the Committee's next session.

C. Modification of the questionnaires

36. At its previous session, the Committee had discussed proposals by the curators concerning the modification of the questionnaires for the fifth review of implementation of the Convention and second review of implementation of the Protocol. It had then finalized the proposals via electronic means. The proposed revisions had been submitted to the Bureau for consideration on 5 and 6 February 2015, and comments had been submitted to the Committee by some Bureau members. The World Health Organization (WHO) had also provided proposals in relation to the questionnaire on the implementation of the Protocol.

37. The Committee decided that it would consider the suggestions made by WHO and the Bureau and finalize the questionnaires by its electronic decision-making procedure by 10 April 2015. The questionnaires would then be submitted to the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment for consideration at its upcoming meeting.

VII. Presentation of the main decisions taken and closing of the session

38. The Committee agreed that it would decide via electronic means whether it would hold its thirty-fourth session in Bucharest from 23 to 25 November or in Geneva from 8 to 10 December 2015. The Committee also preliminarily agreed to hold its thirty-fifth session from 15 to 17 March 2016; its thirty-sixth session from 5 to 7 September 2016; and its thirty-seventh session from 12 to 14 December 2016.

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