

IMPLEMENTATION COMMITTEE
CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT
PROTOCOL ON STRATEGIC ENVIRONMENTAL ASSESSMENT

Mr. Felix Zaharia, Chair
Telephone: +402 143 117 12
Treaties
Fax: +402 131 923 54
E-mail: felix.zaharia@mae.ro

Ministry of Foreign Affairs
Directorate for International Law and
Alea Alexandru, 31-33, Sector 1
Bucharest, Romania

Secretariat: Ms. Elena Santer, UNECE
Telephone: +41 (0)22 917 2090
E-mail: elena.santer@unece.org

Palais des Nations
CH-1211 Geneva 10
Switzerland

Ref. EIA/IC/CI/5 - Hinkley Point C NPP

26 May 2017

Dear Mr. Scott,

I am writing to you on behalf of the Implementation Committee under the Convention on Environmental Impact Assessment in a Transboundary Context and its Protocol on Strategic Environmental Assessment in response to your letters of 28 March 2017 and 26 April 2017 where you present in detail the views of the United Kingdom of Great Britain and Northern Ireland on the procedures the Committee needs to follow when adopting additional recommendations.

I would like to inform you that, after careful consideration of the representations submitted by the United Kingdom in both of your letters, the Implementation Committee has asked me to write to you setting out its views.

According to its structure and functions, the objective of the Committee is to assist Parties to comply fully with their obligations under the Convention. The Committee provides this assistance in good faith, taking into account the principle of prevention, and is grateful when Parties, like the United Kingdom, make use of its recommendations to the Meeting of the Parties in order to ensure full compliance with the Convention.

The Committee fully agrees with the United Kingdom that, since these recommendations are intended to be implemented by Parties, every opportunity should be given to the Parties concerned to provide their views on the issues considered by the Committee in accordance with the Committee's structure and functions and its operating rules. In the Committee's view, a participatory process in the development of recommendations ensures their future successful implementation.

The process of developing the recommendations is shaped by the objective of the Committee mentioned above and, therefore, should be dynamic, as far as permitted by the Committee's resources. As you are aware, these resources are limited and the workload of the Committee has increased greatly over the past intersessional periods. Every year, the Committee finds on its agenda problematic situations where Parties find it very difficult to comply with the Convention. These situations generate extensive correspondence, which presents in detail the Parties' efforts to implement the Convention and the

Mr. Giles Scott
Head of Energy Infrastructure Planning and Coal Liabilities
Department for Business, Energy and Industrial Strategy
3 Whitehall Place,
London SW1A 2AW
E-mail: giles.scott@beis.gov.uk

CC: Mr. Tom Simpson
Team Leader, Department for Communities and Local Government
Planning - Infrastructure and Environment
Zone 1/J5, Eland House, Bressenden Place
SW1E 5DU London, United Kingdom
E-mail: tom.simpson@communities.gsi.gov.uk

recommendations of the Meeting of the Parties. Formal hearings and other meetings with Parties' representatives require important time allocations. Therefore, the Committee is normally constrained to invite the concerned Parties to attend just one of the Committee's sessions and, in accordance with its operating rules, relies heavily on the written information received from Parties.

In this context, I would like to underline that the letter of the United Kingdom of 11 March 2016 did not inform the Committee about the beginning of any works at Hinkley Point C, but only about the granting of development consent and that resources had been expended in reliance on it. A specific reference to work under development consent having already commenced was made only later, in annex A of the letter of the United Kingdom to the Committee of 13 February 2017. This was, in the Committee's view, new information, which had to be taken into account in the dynamic process of preparing Committee's recommendations referred to above.

Further to paragraph 2 of the Committee's operating rule 11, the United Kingdom was expressly informed that the Committee would consider, and discuss, this new information at its thirty-eighth session. (Please see the email from the secretariat of 13 February 2017 addressed to the focal point of the United Kingdom).

The Committee did not breach the right of the United Kingdom to present information and opinions on the matter, which the United Kingdom was clearly aware would be under consideration. In its letter of 13 February 2017, the United Kingdom provided precisely such information and opinions for consideration of the Committee, which the Committee duly considered at its thirty-eighth session. It is on the basis of this letter and not on other information that the Committee arrived, legitimately, at its conclusions.

The Committee decided to prepare additional recommendations exclusively on the basis of the unequivocal information provided by the United Kingdom regarding its implementation of the Committee's initial recommendations before their endorsement by the Meeting of the Parties. Therefore, the Committee saw no need to revert to the United Kingdom to verify or clarify the source of information. Moreover, in general terms, the Committee's operating rules are not very clear on the procedure to be followed when adopting additional recommendations regarding a Party's follow-up on recommendations that have not yet been endorsed by the Meeting of the Parties. Consequently, immediately after its thirty-eighth session, in its letter of 1 March 2017, the Committee informed the United Kingdom about the essence of its additional recommendations, but submitted these recommendations to the United Kingdom for comments only on 3 April 2017 after their formal editing and further to your letter of 28 March 2017.

During its recent virtual consultations on the matter, the Committee noted that, because of its procedural concerns, the United Kingdom had not provided its comments by the deadline of 2 May 2017 as requested by the Committee. In the absence of these comments, the Committee decided not to submit the additional recommendations on the matter for the consideration of the Meeting of the Parties to the Convention at its seventh session. Instead, it decided to allow the necessary time for the United Kingdom to present its views, and for the Committee to review and take them into account when finalizing the recommendations at its subsequent sessions.

As the Committee also decided to extend the earlier deadline for comments, I kindly invite the United Kingdom to submit its comments on the additional recommendations to the Committee, through the secretariat. Your Government is invited to submit its comments in writing **by 17 July 2017** for the Committee to consider at its thirty-ninth session, which is scheduled to take place from 5 to 7 September 2017. By that same date, the United Kingdom is invited to provide the Committee with any additional information concerning its discussions with Parties that cannot exclude a transboundary environmental impact of the proposed activity at the Hinkley Point C nuclear power plant.

I also wish to clarify an apparent misunderstanding of the United Kingdom regarding paragraph 84 of the report on the activities of the Implementation Committee (ECE/MP.EIA/2017/4–ECE/MP.EIA/SEA/2017/4). The third sentence of that paragraph, concerning the Committee’s maintaining its “previous opinion”, does not refer to the United Kingdom and the Hinkley Point C project, but to the Committee’s previous opinion regarding a comparable situation in Ukraine with respect to the Bystroe Canal Project, as set out in decision IV/2, annex I, paragraphs 69 (b) and 74 (b). However, to avoid further misinterpretations, the Committee has decided to substitute the sentence in question with the relevant quotation from the Committee’s report on its thirty-eighth session, which reads as follows:

The Committee recalled that in a previous situation where the procedures under the Convention had not been completed it had been of the opinion that the project, including its maintenance and its operation, should have been suspended (see decision IV/2, annex I, paras. 69 (b) and 74 (b)).

Finally, I wish to reiterate the Committee’s appreciation for the efforts of the United Kingdom to implement the recommendations prepared at the Committee’s thirty-fifth session, and to stress that it will continue to assist in good faith the United Kingdom to fully comply with the Convention.

I hope that the decision of the Committee and the explanations provided above fully respond to the concerns expressed by the United Kingdom.

Sincerely yours,



Felix Zaharia
Chair, Implementation Committee,
Convention on Environmental Impact Assessment
in a Transboundary Context
Protocol on Strategic Environmental Assessment

Attachment: Copy of the email from the secretariat of 13 February 2017 addressed to the focal point of the United Kingdom

From: Eia Conv/UNECE/GVA/UNO
To: Tom Simpson <Tom.Simpson@communities.gsi.gov.uk>
Cc: "Eia Conv" <Eia.Conv@unece.org>, "Leigh Gareth (Energy Development)" <Gareth.Leigh@beis.gov.uk>, "Scott Giles (Energy Development)" <Giles.Scott@beis.gov.uk>, Tea Aulavuo/UNECE/GVA/UNO@UNGVA
Date: 02/13/2017 03:16 PM
Subject: Re: Consideration by the Espoo Implementation Committee of the Planned Construction of a Nuclear Power Station at Hinkley Point C
Sent by: Elena Santer

Dear Mr. Simpson,

This is to acknowledge the receipt of the information from the United Kingdom of Great Britain and Northern Ireland regarding committee initiative EIA/IC/CI/5 concerning the planned construction of a nuclear power station at Hinkley Point C.

The information will be forwarded for the consideration of the Committee at its next session.

Kind regards,



Secretariat

Convention on Environmental Impact Assessment in a Transboundary Context
Protocol on Strategic Environmental Assessment
Environment Division

Email: eia.conv@unece.org

 [Twitter](#)  [Facebook](#)  [YouTube](#)  [UNECE](#)

From: Tom Simpson <Tom.Simpson@communities.gsi.gov.uk>
To: "Eia Conv" <Eia.Conv@unece.org>, "Aphrodite Smagadi" <Aphrodite.Smagadi@unece.org>
Cc: "Scott Giles (Energy Development)" <Giles.Scott@beis.gov.uk>, "Leigh Gareth (Energy Development)" <Gareth.Leigh@beis.gov.uk>
Date: 02/13/2017 10:52 AM
Subject: Consideration by the Espoo Implementation Committee of the Planned Construction of a Nuclear Power Station at Hinkley Point C

Dear Aphrodite,

Please see the attached letter and annex regarding the findings and recommendations of the Implementation Committee in respect of its initiative concerning the United Kingdom of Great Britain and Northern Ireland (EIA/IC/CI/5).

With best wishes.

Tom