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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

Fourth session

Vilnius, 8–11 December 2020

Items 3 (c) and 8 (c) of the provisional agenda

Outstanding issues: draft decisions by the Meeting of the Parties to the Protocol

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

Draft decisions by the Meeting of the Parties to the Protocol

Proposals by the Bureau

Summary

The present document contains a draft decision on reporting and review of implementation of the Protocol (IV/5, prepared by the Bureau and agreed by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment at its ninth meeting (Geneva, 24–26 August 2020). The draft decision provides for the adoption of the draft third review of implementation of the Protocol (ECE/MP.EIA/SEA/2020/8), which is foreseen in the workplan for the implementation of the Convention and its Protocol for the period 2017–2020 (ECE/MP.EIA/23/Add.1–ECE/MP.EIA/SEA/7/Add.1, decision VII/3–III/3, annex I, item I.6).

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



Draft decision IV/5

Reporting and review of implementation of the Protocol

The Meeting of the Parties to the Protocol,

Recalling decision V/7–I/7¹ of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol on Strategic Environmental Assessment (Meeting of the Parties to the Protocol) and decisions II/1² and III/1³ of the Meeting of the Parties to the Protocol on reporting and the review of implementation,

Recalling also article 14 (4) of the Protocol, concerning the regular review of the implementation of the Protocol,

Recalling further article 14 (7) of the Protocol, on reporting by Parties on measures they have taken to implement the Protocol and article 13 (4) of the Protocol, concerning reporting by Parties on their application of article 13 on policies and legislation,

Recognizing that regular reporting by each Party provides important information that facilitates the review of compliance under the Protocol and thereby contributes to the work of the Implementation Committee,

Recognizing also that Parties' reporting provides useful information to other countries within and beyond the United Nations Economic Commission for Europe (ECE) region that facilitates their efforts to implement and accede to the Protocol,

Having analysed the reports provided by Parties in response to the questionnaire on implementation of the Protocol during the period 2016–2018,

Strongly emphasizing the importance of timeliness and the quality of national reporting,

Expressing concern that the following 15 States Parties –that were Parties to the Protocol during the period under review – responded to the questionnaire late: Bosnia and Herzegovina, Cyprus, Denmark, Germany, Italy, Latvia, Luxembourg, Montenegro, the Netherlands, North Macedonia, Portugal, Serbia, Slovenia, Spain and Ukraine,

Expressing appreciation that the Republic of Moldova, the State not Party to the Protocol during the period under review, and Georgia and Kazakhstan, States not Parties to the Protocol, nevertheless responded to the questionnaire,

1. *Welcomes* the reports by Parties on their implementation of the Protocol during the period 2016–2018, which have been made available on the treaty website;

2. *Adopts* the third review of implementation of the Protocol as contained in document ECE/MP.EIA/SEA/2020/8, and requests the secretariat to arrange for its publication in an electronic form in all three official languages of ECE;

3. *Notes* the findings of the third review of implementation of the Protocol, including the following possible weaknesses or shortcomings and areas for further improvement in the implementation of the Protocol by Parties:

(a) A variety of approaches exist to interpreting the term “set the framework for future development consent” referred to in article 4 (2) of the Protocol, with most Parties having no explicit definition of this term in their domestic legislation; the Parties also experience difficulties in interpreting the provisions of article 4 (4), in particular the terms “small areas at local level” and “minor modifications”;

¹ See ECE/MP.EIA/SEA/2.

² See ECE/MP.EIA/20/Add.2 - ECE/MP.EIA/SEA/4/Add.2.

³ See ECE/MP.EIA/23.Add.3–ECE/MP.EIA/SEA/7.Add.3.

(b) The Parties' legislation and practice continue to differ considerably regarding the opportunities provided to the public concerned to participate in screening and scoping further to articles 5 (3) and 6 (3);

(c) Some Parties seem to find it difficult to appropriately address health aspects and impacts in strategic environmental assessments. Parties may wish to consult the section on health in the *Resource Manual to Support Application of the UNECE Protocol on Strategic Environmental Assessment*⁴ for further information on the matter;

(d) Some consultations are complicated by difficulties arising from Parties' differing practices in relation to the translation of documentation during transboundary consultations, in particular concerning the quality of, and time and resources required for, the translation, and with regard to the integration of the translation into time schedules for consultations and public participation;

(e) Further bilateral agreements or other arrangements to facilitate transboundary consultations between Parties might be useful, in particular to increase efficiency and to address differences between Parties' implementation practices, including language-related issues, time frames, public participation, the interpretation of various terms and the organization of transboundary consultations;

(f) A wide range of implementation practices and experiences are reported by the Parties and this information could be used to enhance the Protocol's implementation and practical application. As no Parties volunteer to provide case studies, consideration might be given to the ways in which ECE can facilitate the creation of such material;

(g) Many Parties continuously fail to fulfil their obligation to report (in accordance with art. 14 (7)) in a timely manner;

(h) Relatively few Parties use the *Resource Manual*, but it is unclear as to why this is the case. Some Parties requested that the current version of the *Resource Manual* be translated into their national languages;

(i) Ensuring quality of the environmental reports may be an area of improvement in the application of the Protocol. Promoting use of quality control approaches could be recommended;

4. *Requests* the secretariat to bring to the attention of the Implementation Committee general and specific compliance issues identified in the third review of implementation, and requests the Implementation Committee to take these into account in its work;

5. *Requests* the Implementation Committee to adjust, if necessary, the questionnaire for the next reporting round on Parties' implementation of the Protocol in the period 2019–2021, taking into account the suggested improvements to the questionnaires on the implementation of the Protocol, and to provide, if necessary, a modified version for consideration by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment and for circulation by the secretariat thereafter;

6. *Also requests* the Implementation Committee to prepare, in consultation with the European Union, represented by the European Commission, a reporting template that fits the nature and the competencies of the European Union;

7. *Decides* that Parties to the Protocol shall complete the questionnaire as a report on their implementation of the Protocol during the period 2019–2021, taking note of the obligations to report arising from articles 14 (7) and 13 (4) of the Protocol;

8. *Urges Parties* to report by the deadline to be agreed by the Working Group;

9. *Requests* the secretariat to post national reports on the treaty website in the languages in which they are available;

⁴ United Nations publication, ECE/MP.EIA/17.

10. *Also requests* the secretariat to post the lists of domestic and transboundary strategic environmental assessment cases included in the responses to the questionnaire on the treaty website, unless the Parties object to this practice;

11. *Decides* that a draft fourth review of implementation of the Protocol during the period 2019–2021 based on the reports by Parties will be presented at the fifth session of the Meeting of the Parties to the Protocol, and that the workplan shall reflect the elements required to prepare the draft fourth review;

12. *Requests* the secretariat to post the draft fourth review of implementation of the Protocol on the treaty website;

13. *Also requests* the secretariat to foresee the subsequent publishing of the fourth review of implementation, once adopted, in an electronic format in the three official languages of ECE.
