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INFORMATION NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Convention on Environmental Impact Assessment in a Transboundary
Context: Eleventh Meeting of the Working Group on Environmental Impact
Assessment and Strategic Environmental Assessment
(WG 11 on EIA and SEA) (Geneva, 19-21 December 2022)
- Statements by the EU and its Member States

Delegations will find in [Annex](#), for information, a compilation of statements delivered on behalf of the EU and its Member States, at the 11th Meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment (Geneva, 19-21 December 2022), as transmitted by the Presidency.

**Convention on Environmental Impact Assessment in a Transboundary Context
Eleventh meeting of the Working Group on Environmental Impact Assessment
and Strategic Environmental Assessment (WG 11 on EIA and SEA)
(Geneva, 19-21 December 2022)**

- Statements by the EU and its Member States -

Agenda item 1): Adoption of the agenda

- *Annotated provisional agenda for the eleventh meeting (ECE/MP.EIA/WG.2/2022/1)*
- *Informal notes on the agenda (ECE/MP.EIA/WG.2/2022/INF.1)*

The EU and its Member States thank the Secretariat and the Bureau for the preparation of the Eleventh meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment and agree with the agenda items as proposed.

Agenda item 2): Status of ratification

- *Status of ratification of the Convention, its amendments and its Protocol (ECE/MP.EIA/WG.2/2022/INF.2)*

The EU and its Member States, acknowledging the importance to enable the effective entry into force of the two amendments to the Convention and the ratification of the Protocol, invite all those whose ratifications are still missing to take the necessary actions towards the ratification of the two amendments of the Convention and the ratification of the Protocol.

Agenda item 3): Financial arrangements

- *Status of the trust fund (ECE/MP.EIA/WG.2/2022/INF.3)*
- *Bureau's proposals on financial arrangements (ECE/MP.EIA/WG.2/2022/INF.4)*
- *Consideration of in-kind contributions (ECE/MP.EIA/WG.2/2022/INF.5)*

The EU and its Member States thank the Secretariat for the report on contributions and expenditures regarding the trust fund of the Convention and the Protocol, noting the persisting resource constraints and their impact on the workplan implementation and the organization of meetings.

The EU and its Member States thank the Bureau for their proposals on financial arrangements as well as acknowledge the implementation and effectiveness of the present financial scheme and the Secretariat's staffing gaps. Regarding further fundraising, the EU and its Member States agree with the proposal to engage, if possible, the national focal points to the Espoo Convention and its Protocol in national awareness-raising and fund-mobilising activities.

The EU and its Member States also thank the Bureau for the revision of the note on the consideration of in-kind contributions. Regarding the subject of the monetary value determination of in-kind contributions and other related issues introduced by the Bureau, the EU and its Member States understand the complexity of the issue as some types of in-kind contributions are too challenging to be quantified and it would not be advisable to do so. The EU and its Member States therefore agree with the Bureau's proposed approach that the Parties do not have to identify the monetary value of all of their in-kind contributions.

Agenda item 4): Compliance and Implementation

- *Draft seventh review of the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context (ECE/MP.EIA/WG.2/2022/3)*
- *Draft fourth review of implementation of the Protocol on Strategic Environmental Assessment (ECE/MP.EIA/WG.2/2022/4)*

The EU and its Member States are grateful to the Secretariat for the preparation of the Draft seventh review of implementation of the Convention and the Draft fourth review of implementation of the Protocol.

Nevertheless, the EU and its Member States propose to reflect better the answers given to the questionnaires and thus request the following changes and corrections to the draft reviews of implementation and invite the Secretariat to finalize the drafts reflecting the comments and corrections made.

Draft seventh Review of Implementation of the Convention

The EU and its Member States would like to propose the following detailed changes and corrections to the Draft seventh review of implementation of the Convention:

- a. In paragraph 38, the last sentence referring to Lithuania should be deleted and substituted for the following wording which better reflects the explanation given by Lithuania in the questionnaire: *“Lithuania indicates that in case of transboundary EIA public and authorities of the affected Party submit their comments to the competent authority of this Party, while authority of Lithuania (as a Party of origin) receives a consolidated version of all comments and proposals, that are taken into consideration in the same way as those obtained during national procedures.”*
- b. In paragraph 41, when referring to question I.7 concerning post-project analysis, the text *“national ...legislation”* should not be shortened this way as it might be understood to imply that it refers to national legislation in general, however the original question under I.7 refers to national EIA legislation. The words *“environmental impact assessment”* should therefore be inserted to state: *“national environmental impact assessment legislation”*.
- c. In paragraph 60, the wording *“upon request”* is proposed to be added to the last sentence so that it reads: *“Lithuania states that the summary is translated into the national language(s) of the affected Party upon request and the documentation in its entirety is translated into English.”* This wording reflects accurately the comment given by Lithuania in the questionnaire.

- d. In paragraph 66, the last bullet point referring to Poland should be reworded as follows :
“Problems to provide final decisions by the Parties of origin.” to express better the respective answer given by Poland in the questionnaire.
- e. In paragraph 76, we wish to delete the last sentence referring to Sweden. Sweden points out that the use of the “focal point” and “point of contact” networks is considered as being very valuable in Sweden, so there must have been a mistake made while filling out the form.

Draft fourth Review of Implementation of the Protocol

The EU and its Member States would also like to propose the following detailed changes and corrections in the Draft fourth review of implementation of the Protocol:

- a. In paragraph 13, the reference to Estonia in the brackets should be deleted. In Estonia, relevant plans and programmes together with SEA are included in domestic legislation.
- b. In paragraph 19, we propose the first sentence to be reworded as follows: *“Examples of how the term “small areas at local level” is defined or interpreted domestically...”*, as its original wording is unclear as to what it refers to specifically.
- c. In paragraph 26, the reference to Poland in brackets should be deleted as well as the last sentence describing the screening practice in Poland since the interpretation of their answer in the questionnaire is incorrect. In fact, there is no formalised screening procedure in the Polish legal system. There are however some cases, when a planned content of projects is analysed by environmental and health authorities in order to decide whether a SEA procedure should be conducted or not.
- d. In paragraph 27, regarding the information on the practice in Austria, we would like to state that the public is informed on the screening outcome according to Art. 5 para 4 of the SEA Protocol. We therefore propose the following rewording of the respective sentence: *“Austria responded “no” regarding participation of the public concerned in screening, but notes that, in some cases, the public is informed on the outcome of screening according to Art. 5 para 4 of the Protocol”*.
- e. In paragraph 31, the deletion of reference to Austria in brackets is proposed, as the reasonable alternatives are determined on a case-by-case basis in Austria. The respective numbers of respondents need to be revised accordingly.
- f. In paragraph 33, we would like to clarify that in Austria guidelines are used as a proactive method to elaborate good quality documents, i.e. scoping documents or environmental reports.
- g. In paragraph 37, the relevant response of Czechia was misinterpreted. We therefore propose to delete the reference to Czechia in brackets and modify the wording as follows: *”In Czechia, the national law permits a public hearing to be dropped under certain circumstances (the decision is done on case-by-case basis depending on content of the assessed plan and public participation during its screening procedure). Land use plans always require a public hearing in Czechia.”*
- h. In paragraph 55, we propose do delete the word “only” from the second sentence to avoid misleading interpretation, since it indicates that only policies require SEA in listed Parties, which is not a correct statement. The Polish as well as the Maltese SEA regulation also refer to strategies, plans and programmes.
- i. In table 2, regarding Estonia instead of the formulation „<20 a year“ the formulation „~20 a year“ together with the addition of „E“ (estimates) should be used. It has been described in the response to the questionnaire by Estonia that the information regarding such statistics is incomplete.

- j. In table 4, regarding Estonia, all the references „33“ should be deleted as they are misleading. Based on a national study, the response to the questionnaire by Estonia indicated the average duration of a SEA procedure in Estonia (i.e. 33 months) without distinguishing different plans and programmes or sectors.
- k. In table 4, regarding Luxembourg, we request the deletion of the reference “8” for the sectors other than agriculture. In the questionnaire, Luxembourg indicated an average duration of 8 months for domestic SEA in the agricultural sector. However, no average duration was given for the other sectors.
- *Workplan implementation status (ECE/MP.EIA/WG.2/2022/INF.6)*
 - *Additional information on Parties’ practical application of the Convention 2019–2021 (ECE/MP.EIA/WG.2/2022/INF.7)*
 - *Additional information on Parties’ practical application of the Protocol 2019–2021 (ECE/MP.EIA/WG.2/2022/INF.8)*
 - *Suggested improvements to the questionnaires on the implementation of the Convention and the Protocol (ECE/MP.EIA/WG.2/2022/INF.9)*

In addition, the EU and its Member States would like to thank the Secretariat for compiling the received suggestions for improving the questionnaires on the implementation of the Convention and the Protocol. The EU and its Member States are of the opinion that the existing questionnaires can be used in the preparation of the next reviews on the implementation of the Convention and the Protocol during the 2022–2024 period. Appropriate modifications as proposed in the Informal note of the Secretariat and other modifications should be considered by the Implementation Committee when drafting future questionnaires.

The EU and its Member States support especially the suggestions regarding shortening and simplifying the questionnaires as far as content and practical handling is concerned. It should be discussed why questions have to be answered if, for example, there has been no changes of the legal situation. If the questions are repeated in the next questionnaire they should not be changed, or rather the method of answering them should stay the same.

The EU and its Member states would like to make one specific remark only: concerning I. Convention, para 2., letter (e) – the question under II.12. does not contain the word “report”, and therefore it cannot be replaced by “questionnaire” as it is suggested there.

Agenda item 5): Promoting practical application of the Convention and the Protocol

(a) Subregional cooperation and capacity-building

- *Workplan implementation status (ECE/MP.EIA/WG.2/2022/INF.6)*
- *Draft assessment report on identification of synergies and possible cooperation activities in marine regions (ECE/MP.EIA/WG.2/2022/INF.10)*

The EU and its Member States welcome the presentation of the Secretariat and its consultants on the progress in the implementation of activities in marine regions as well as thank Italy for funding these activities. We are grateful to the consultants and Italy for preparing the Draft assessment report on identification of synergies and possible cooperation activities in marine region and we would like to underline the importance of cooperation between the Espoo Convention and other regional seas conventions. The current planning of the European maritime areas presents an opportunity to practically implement the SEA Protocol and further enhance cooperation in the different maritime regions. In this regard, the EU and its Member States would like to express their support for the outcomes of the assessment report as well as for the future practical implementation of the tools that may help enhance the cooperation in the marine regions.

Furthermore, the EU and its Member States thank Poland for the reports on the outcomes of subregional cooperation and capacity-building activities in the Baltic Sea subregion as well as welcome the reports on the subregional cooperation and capacity-building activities in Central Asia and Eastern Europe and the Caucasus.

(b) Exchange of good practices

The Working Party would like to thank Italy for volunteering to organise a thematic event related to the exchange of good practices. Other Member States that would like to entertain the invitation to organise a thematic workshop or seminar either during the next meeting of the Working Group or during the next sessions of the Meeting of the Parties are kindly invited to inform the Working Party.

(c) Capacity-building

- *Revised draft guidance on assessing health impacts in strategic environmental assessment (ECE/MP.EIA/WG.2/2022/INF.13)*

Regarding the progress made on the draft guidance on assessing health impacts in strategic environmental assessment, the EU and its Member States are thankful to the Bureau for its presentation of the revised version of the draft guidance, as well as for its effort in preparing this revision.

Nevertheless, the EU and its Member States regret that some of the reservations expressed towards the previous version of the guidance at the tenth Meeting of the Working Group last year have not been fully resolved in the revised version and still remain valid.

The EU and its Member States note that the draft guidance, as revised, does not reconcile and explain the difference between the terms “health” and “human health”, nor does it provide a definition of either of the two terms and instead still presents the World Health Organization (WHO) broad definition of health, including social and economic factors. Although the attention is drawn towards assessing environmental factors related to health, it is presented “as a minimum”, and thus open to broader interpretation again.

The EU and its Member States also note that the scope of the proposed draft guidance goes beyond the scope of strategic environmental assessments as it relies on terms which are outside the scope of the SEA. It is noteworthy that in the EU, the primary responsibility for health protection continues to lie with the Member States.

The EU and its Member States are of the opinion that any guidance should be clear and precise and rest on agreed definitions of key terms in line with the Protocol, e.g. human health. These must fit for the purpose and the objective of the environmental assessments, and in particular the SEA. Also, it should respect the EU competences in the respective field.

The EU and its Member States believe that identification of specific needs of the Parties calling for the preparation and the adoption of the guidance on assessing health impacts in SEA is necessary in order to develop a useful and practical manual with high added value.

Furthermore, the EU and its Member States would like to recall the EU4Environment programme as an alternative platform under which the activities concerning support and assistance in establishing good practice in assessing health impacts in SEA in line with the Protocol may be explored.

With regard to the aforementioned, the EU and its Member States conclude that we are not in a position to agree on the proposed draft version of the guidance.

In light of the this, considering the long-standing efforts and works dedicated to the preparation of the guidance and yet some fundamental unresolved issues within the guidance as well as the scarcity of resources and capacities to carry out further revisions of its text, including the inability of the EU and its Member States to engage in convening a dedicated working group, the EU and its Member States, bearing in mind the sui generis nature of the suggested solution, propose that the Working Group could consider the option of publishing the improved version of the guidance on the UNECE website as an informal document, including a clear distinction from endorsed documents, thus providing it to the Parties that would wish to consult it. The EU and its Member States are not in position to extend thorough work on this file, and subsequently endorse it in the next Meeting of the Parties of the Convention and the Protocol. Nevertheless, the EU and its Member States are ready to contribute to the necessary improvement and finalisation of the guidance in a form of dedicated concrete proposals for amendments of specific parts of the guidance, focusing on the most relevant issues related to health, in order to ensure the guidance stays within the legal requirements of the Protocol and to avoid any misunderstandings or misinterpretations.

Additional EU+MS statement following the intervention by the IAIA during the plenary session of the WG meeting on 20 December 2022:

The EU and its Member States would like to thank the IAIA for their proposal which has been duly considered. Unfortunately, we have reached a conclusion that the IAIA proposal does not provide a sufficient solution, as it would not address all of the issues of concern to the EU and its Member States regarding the current version of the draft guidance. The previously presented position of the EU and its Member States therefore stands – we are not in a position to agree on the proposed draft version of the guidance and propose that the Working Group could consider the option of publishing the improved version of the guidance on the UNECE website as an informal document.

However, we would like to reiterate and emphasize the readiness of the EU and its Member States to contribute to the necessary improvement of the guidance, delivering our proposals by the end of January 2023.

Moreover, the EU and its Member States intend to individually explore possible means of contributing to the financing of the translation of the guidance after its finalisation. This would facilitate its practical use by the Parties that would wish to consult it in the future. In light of that, the EU and its Member States invite the Secretariat to indicate the necessary scope of the translation as well as to provide an estimation of the costs of such translation, when available.

Other contributions under this agenda item (the statement was not delivered at the WG11 due to nature and progress of the discussion on item 5c)

The EU and its Member states would like to thank the speakers for their reports on recent capacity-building activities.

Agenda item 6): Management, coordination and visibility of intersessional activities

The EU and its Member States regret that, following the conclusions of the 10th Working Group meeting in 2021, the Bureau did not see the need to amend the Note on procedural matters of relevance of meetings with remote participation and take the rules of other UNECE Conventions' notes on the same matter into account.

The EU and its Member States are of the opinion that, as it has been agreed in previous meetings in 2020 and 2021, the current version of the Note deserve due consideration, revision and improvement for future use, not limited to emergency situations. Therefore, the EU and its Member States reserve the right to get back to the file at a later stage and invite the Bureau to reconsider the case.

Agenda item 7): Preparation for the next sessions of the Meeting of the Parties

- *Preparations for the next sessions of the Meetings of the Parties (ECE/MP.EIA/WG.2/2022/INF.11)*
- *A list of vacancies (chairs and members) in the treaty bodies for 2021–2023 (ECE/MP.EIA/WG.2/2022/INF.12)*

(a) Practical arrangements

The EU and its Member States thank the Secretariat for the report on the schedule for the preparations of the ninth session of the Meeting of the Parties to the Convention and the fifth session of the Meeting of the Parties to the Protocol taking place on 12-15 December 2023.

(b) List of draft documents and decisions

The EU and its Member States agree with the initial list of draft decisions and documents to be prepared for consideration by the Meetings of the Parties at their sessions in December 2023, nevertheless reserve their right to comment on the list after its possible revision before the next meeting of the Working Group.

(c) Provisional programme

The EU and its Member States agree with the provisional programme for the next sessions of the Meetings of the Parties.

(d) Possible activities for the draft workplan for 2024–2026

[No statement envisaged.]

(e) Chairs of the sessions

[No statement envisaged.]

(f) Officers for the next intersessional period

The EU and its Member States would like to announce that the current Chair of the Working Group, Ms. Dorota Toryfter-Szumańska, confirmed her willingness to extend her tenure as the Chair of the Working Group for the next intersessional period. The EU and its Member States welcome her candidacy and express their gratitude for her commitment.

Agenda item 8): Related events and international processes

The EU and its Member States are grateful for the report on events and international processes of relevance to the Convention and its Protocol.

Agenda item 10): Presentation of the main decisions taken and closing of the meeting

(The statement was not delivered at the WG11 due to lack of time slot as the WG11 was closed by the Chair to meet the time schedule)

Conclusion 5(a):

The EU and its Member States would like to echo the recognition of the importance and the benefits of establishing thematic subgroups and the arranging of meetings of marine region countries, as this good practice can serve as a valuable model for all the Parties.

Conclusion 5(b):

The EU and its Member States would also like to thank all stakeholders for expressing their willingness to support the organisation of the event to be held during the high-level segment at the next session of the Meeting of the Parties.

Conclusion 7(e):

The EU and its Member States would also like to express our gratitude to Mr. George Kremlis for his willingness to chair the general segment at the next session of the Meeting of the Parties.

Closing statement:

The EU and its Member States would like to convey our thanks to the Secretariat for the smooth organisation of this meeting, including in particular for having organised an in-person participation to this meeting. Whereas we are hopeful that we will be able to maintain such physical meetings in the future, we acknowledge also that hybrid or online meetings, provided that sufficient funding could be ensured in the future, may prove to be the format that would ensure the participation of all Parties, in particular in times of energy and economic crisis, and also facilitate wider participation of delegations, further promoting the Convention and the Protocol. The EU and its Member States would also like to thank the interpreters and all the speakers for their clear and very informative presentations. Thank you. We wish you all a good and safe journey back home.