

REPORT

**International Workshop on the Applicability of the UNECE Espoo Convention to the  
Lifetime Extension of Nuclear Power Plants**

Vienna, 2 December 2019



## **General information**

The International Workshop on the Applicability of the UNECE Espoo Convention to the Lifetime Extension of Nuclear Power Plants was held back to back with the Meeting of the Ad hoc Working Group on Lifetime Extension of Nuclear Power Plants. The sessions took place in Vienna, Albert-Schweitzer-Haus, from 2 to 4 December 2019. There were various NGOs present, inter alia from Austria, Czech Republic, France, Hungary, Norway and Slovakia.

Following previous discussions within the Ad hoc Group, the discussion on lifetime extension (LTE) of nuclear power plants (NPP) was mainly focused on possible definitions of the three different terms “decision”, “major change” and “likelihood of transboundary environmental impact”. Information material and the Ad hoc Group’s progress report to the Working Group on EIA and SEA had been published beforehand at the [meeting webpage](#). In preparation of the meeting, the Austrian Federal Ministry for Sustainability and Tourism as organiser of the workshop sent out a [paper drafted by ÖKOBÜRO](#) to all registered participants.

The conclusions drawn from the workshop should then be discussed within the following Ad hoc Group meeting. Participants and interested parties were requested to submit their written comments on the Ad hoc Groups’ work by 31 December 2019 to co-chair Lucy Tanner. Patricia Lorenz and Jan Haverkamp will be involved in the further drafting process, as suggested by the co-chairs they can be a channel for more detailed input from members of civil society.

**Agenda:**

10.30-11.00 *Arrival and registration*

11.00-11.15 **Welcome and opening remarks**

Topics:

- Purpose of the international workshop
- Overview of the agenda

Speakers:

- Johannes Kresbach (*Austria, Ad hoc Working Group*)
- Christof Sangenstedt (*Germany, Co-chair Ad hoc Working Group*)

**Session 1 – Setting the scene**

11.15-11.30 **Background**

Topics:

- Rationale for the guidance
- Membership, meetings and reporting of the Ad hoc Working Group
- Terms of reference

Speaker:

- Tea Aulavuo (*Secretary to the Espoo Convention, UNECE*)

11.30-12.30 **Reporting from the ongoing drafting process**

Draft outline of the guidance

Chapters:

1. Is lifetime extension an activity or a major change to an activity?
2. What qualifies as decision of a competent authority?
3. When are significant adverse transboundary impacts likely?

Speakers:

- Christof Sangenstedt (*Germany, Co-chair Ad hoc Working Group*)
- Lucy Tanner (*United Kingdom, Co-chair Ad hoc Working Group*)

Supported by:

- Johannes Kresbach (*Austria, Ad hoc Working Group*)
- Aurélie Guillemont (*France, Ad hoc Working Group*)
- Milena Novakova (*European Commission, Ad hoc Working Group*)

12.30-13.30 *Lunch break*

**Session 2 – In-depth discussion**

13.30-15.00 **Panel discussion with input from all participants**

Panellists:

- Jonas Ebbesson (*Aarhus Convention Compliance Committee*)
- Miguel Coutinho (*International Association for Impact Assessment*)
- Pierre Bourdon (*OECD Nuclear Energy Agency*)
- Jan Haverkamp (*Greenpeace*)
- Patricia Lorenz (*Friends of the Earth*)

Moderators:

- Christof Sangenstedt (*Germany, Co-chair Ad hoc Working Group*)
- Lucy Tanner (*United Kingdom, Co-chair Ad hoc Working Group*)

15.00-15.30 *Coffee break*

15.30-16.30 **Panel discussion with input from all participants (*continued*)**

**Session 3 – Remaining questions and outlook**

16.30-17.00 **Discussion of remaining questions**

Topics

- Remaining questions
- Input for the further drafting process

Moderators:

- Christof Sangenstedt (*Germany, Co-chair Ad hoc Working Group*)
- Lucy Tanner (*United Kingdom, Co-chair Ad hoc Working Group*)

17.00-17.30 **Closing remarks**

Topics

- Take-away from the international workshop
- Outlook and next steps of the Ad hoc Working Group

Speaker:

- Lucy Tanner (*United Kingdom, Co-chair Ad hoc Working Group*)

## **Introduction**

The Ad hoc Group is an establishment of voluntary states that would be party to the Convention. Established in June 2017 by the Meeting of the Parties, it is expected to deliver the draft guidance for adoption by the Meeting of the Parties in December 2020.

The 8<sup>th</sup> meeting of the Ad hoc Group will take place back to back to this workshop. Attendees are the 27 state parties to the Espoo Convention, two representatives of the European Commission (DG ENV and DG ENER), the UNECE Secretary to the Convention, the chair of the Espoo Working Group on EIA and SEA, as well the chair and some members of Implementation Committee.

The Ad hoc Group is co-chaired by Christof Sangenstedt (Ministry for Environment, Germany) and Lucy Tanner (Public Department for Business, Energy and Industrial Strategy, UK). Johannes Kresbach (Austria) has one of the co-lead s to drafting group, together with Sara Cabral (Portugal). As noted by ad hoc group member Milena Novakova (EC), members are working with individual capacity, thus not representing the institution they come from.

In total there will be 11 meetings until the guidance is drafted, in-between there are regular reports to the treaty bodies. The co-chairs have consulted with NGOs regularly (2 meetings in 2018 and 2 in 2019 in Brussels and Bonn). The 1<sup>st</sup> stakeholder workshop took place in Geneva in 2018.

The purpose of the workshop is to discuss with stakeholders the ongoing work on drafting the guidance and to receive input for consideration on three topics currently explored by the Ad hoc Working Group.

## **Session 1 – Setting the scene**

### **Background**

Trigger: Findings of Implementation Committee concerning the Ukrainian Rivne Nuclear Power Plant; “The extension of the lifetime of a nuclear power plant after expiration of the original licence, even in the absence of any works, is [...] subject to the provisions of the Convention.”

→ Compliance decision as adopted by the Meeting of the Parties in 2014 concluded on non-compliance by Ukraine but did not include a general finding on the extension of the lifetime of an NPP;

Good Practice Recommendations on the Application of the Convention to Nuclear Energy-related Activities do not cover the question of LTE.

Challenge: Several LTE cases are pending before the Implementation Committee, with a significant number of further cases envisaged in the coming years

Purpose: End legal uncertainty related to the application of the Espoo Convention to LTE of nuclear power plants

Important question: definition of the term “lifetime extension”

Outline of the guidance:

- Topic 1 Extension of an existing licence or issuance of a new licence by a competent authority in the case of a time-limited licence
- Topic 2 Are there particular factors or preconditions, such as “physical works”, for identifying a “proposed activity”?
- Topic 3 Lifetime extension by a specific domestic law
- Topic 4 Likelihood of lifetime extension to cause significant adverse transboundary impact
- Topic 5 Periodic safety review
- Topic 6 Operation beyond the designed (minimum) lifetime

The 3 questions for discussion concern chapters already drafted, but are still open for discussion.

Examples of first findings of the Ad hoc Group:

- The guidance will use generic examples instead of specific state cases.
- The criteria of a “decision” are not met if there is no authorizing function.
- Accidents beyond design-base have to be considered (no difference on whether it is a new installation or an LTE).

The Ad hoc Group tries to define the difference between “new activity” and “major change” as in case of a new activity the question of “major” does not arise (for Advocate General Kokott in ECJ case C-411/17, this question, however, was not a big issue).

→ Classification as “New activity” if an old license already expired?

Crucial factors to be considered regarding LTE:

- physical works
- Change of operational conditions which result in changes intervention in environment
- multiple minor changes (“salami-tactic”), including their timeframe

Questions / first round of discussion:

- Should the Group take the opinion that LTE presents similar risks as original projects?
- Even in cases of a so-called “unlimited license”, at some point there has to be a new assessment.
- What if design-lifetime has run out?
- Have other facilities been assessed in a similar context as NPP (e.g. other power-plants)?  
*Reply ad hoc Group: Usually, e.g. in case of hydropower, there is a much longer licensing period (up to 90 years), but indeed this is a comparable issue, also regarding deforestation; scope of the guidance is LTE of NPPs, but it sure cannot be excluded that there will be precedence effect*
- NGO Bellona: Lifetime in a license does not matter, because components have a technical lifetime in any case.
- Climate change must be considered in the entire debate.
- How to address NPPs that are operating without any (proper) EIA that conducted in the past?

*Reply of the ad hoc Group: Criteria of EIA and public participation are fully applicable for LTE which might undergo an EIA according to future guidance.*

- Likelihood can only be addressed once a major change has been established, but there is no clear clarification on this issue, no case-law that can be mentioned (likelihood might be implied in case of NPP, but not for other activities listed in annex I).
- Ebbesson: As the co-chair has already taken note of this argument, it should be officially agreed that transboundary impact of NPP is likely.

## Session 2 – In-depth discussion

Panel speakers: Jonas Ebbesson, Miguel Coutinho (IAIA), Pierre Bourdon (OECD NEA), Jan Haverkamp (Greenpeace), Patricia Lorenz (FoE)

General aspects:

- LTE only is in very rare cases a new activity after an expired license.
- Right to information within EIA clearly derives from LTE; up-to-date information on environment is crucial.
- EIA cannot only be focussed on technical changes, but also on lifetime of NPPs.

Parallels to Aarhus:

- Parties to the Espoo Convention are all also parties to the Aarhus Convention, the Ad hoc Group should look at terms in light of the system of Convention (purpose and object of terms rather than direct interpretation).
- The question of appropriateness to apply Convention is not up to the parties.
- Hinkley Point C: UK should have notified the public in the affected party (not only the party itself).
- Since the findings on Borssele, there is a good constructive dialogue with government in NL (by ACCC).
- Aarhus is open to all UN parties; regarding states that are not party to the Convention (e.g. Liechtenstein), the question of participation and notification thus arises (non-parties should generally be included as well).
- Notification issues: Information of the public on a website only is not sufficient according to Aarhus; add in newspaper would be a possibility (must not be less favourable than regarding the public in country of origin).
- According to the ACCC, states must take into account the worries of people when determining public participation.

“decision”

- IAIA: Even if a license is unlimited, there is a design-lifetime regarding an NPP's components.

- OEKOBÜERO: Taking a general look at the Convention's approach and its objectives, states should be required to provide for a procedure leading to a decision, if an activity meets the criteria of a major change and is likely to have transboundary environmental impacts.
- Change of WENDRA guidelines may lead to a change of license.
- Periodic safety reviews as such cannot be considered a decision, but findings and recommendation deriving from them may.
- NEA: In multi-tier decision-making processes there are safety-related decisions, and decisions which are not safety-related; the ultimate negative or positive decision will always be the last one in the timeline.
- HU: Design is obliged to state lifetime of each component.

#### “major change”

- The Convention reads “major change *to* an activity” (instead of “of”) – it is thus indicated that external factors are to be considered equally.
- Screening process (regarding question of major change) should already be subject to a decision with public participation.
- HU: Introduced EIA for LTE in Hungarian legislation; opposes salami-slicing.
- Investment for NPP uprates might demonstrate the size (“major”) of a change.
- Policy changes can also be a major change (as well as external changes and time exchanges).

#### “likelihood”

- IAIA: Importance of terminology; difference risks-impacts, likely significant impacts and significant impacts are relevant.
- There are impacts which need to be assessed in both cases: If no LTE takes place and an NPP is decommissioned *and* if lifetime is extended; even in case of decommissioning a negative LTE decision requires an EIA.
- Importance of timeframe for likelihood
- The provocative view of ad hoc Group, that design-based and beyond design-based impact should be taken into account! (Espoo Convention is clear that all effects are to be considered)
- Likelihood: Significance criteria of appendix III could be applied for criteria regarding transboundary impact of LTE → opposed by Greenpeace, as this is a different system of criteria and LTE is subject to Appendix I.
- OEKOBÜERO: from the perspective of likelihood it should not make a difference if new NPPs are commissioned or a decision on LTE is taken
- Question of notification/information (discussed more on a broader basis, not in relation to LTE)
- Finland: “informing” of other countries instead of notifying is not a favourable approach under the Convention



- Jan Haverkamp: duty of notification especially for generation II reactors: Viennese University of Natural Resources and Life Sciences has published study and map on possible heavy accidents<sup>1</sup>
- Example of CZ EIA Act: did not mention other parties to the Convention to be impacted at all

### Closing remarks

Notes from the co-chairs:

- More openness on the timing of EIA (decision of state)?
- No clear definition of LTE is needed in the guidance – rather a broad definition.

Upcoming meetings of the Ad hoc Working Group:

- 3-4 December 2019
- 9 March 2020
- 10 April 2020

Finalisation of the Guidance:

- May 2020: Submission of the draft Guidance to the Working Group on EIA and SEA
- June 2020: Final (11th) meeting of the Ad hoc Working Group
- September 2020: Submission of the draft Guidance to the Meeting of the Parties
- December 2020: Expected adoption by Meetings of the Parties

Co-chairs will accept written comments until 31 December 2019 to [Lucy.Tanner@beis.gov.uk](mailto:Lucy.Tanner@beis.gov.uk)

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<sup>1</sup> <http://flexrisk.boku.ac.at/>.