

Environmental Impact Assessment (EIA) in the Legal and Regulatory Framework for Nuclear Energy-related Activities

Forum on Nuclear Cooperation in Asia
7 March 2019

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Agenda

- **Introduction: The UN Declarations Behind EIA**
- **Environmental Protection in Nuclear Safety Conventions**
- **The UNECE Regime: Espoo, Kiev and Aarhus**
- **EIA in the European Union (*briefly*)**
- **Current Issues in Environmental Law for Nuclear Activities**
 - Ensuring compliance with the Espoo Convention
 - Does the lifetime extension of a nuclear power plant necessitate an EIA?

Introduction: The UN Declarations Behind EIA

Environmental Law and Nuclear Law

- **1972:** Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration)

[1985: European Union member states obliged to pass EIA legislation (85/337/EEC)]

- **1991:** Espoo Convention
- **1992:** Rio Declaration on Environment and Development
- **1994:** Convention on Nuclear Safety
- **1997:** Joint Convention
- **1998:** Aarhus Convention
- **2003:** Kiev Protocol

	UN declaration
	EU (regional) requirement
	environmental convention
	nuclear safety convention

**Stockholm Declaration,
Principle 2 (1972)**

**Stockholm Declaration,
Principle 21 (1972)**

**Environmental
Impact
Assessment**

**Rio Declaration,
Principle 17 (1972)**

**Rio Declaration,
Principle 19 (1992)**

Stockholm Declaration (1972)

- UN Conference on the Human Environment (**Stockholm Conference**) was the UN's 1st major conference on international environmental issues. It had a major impact on the development of international environmental law and policy.



5 June 1972 - United Nations Conference on the Human Environment, Stockholm, Sweden. A general view of the opening meeting of the Conference. (Photo Credit: UN Photo/Yutaka Nagata) <http://legal.un.org/avl/ha/dunche/dunche.html>

- Conference adopted a Declaration with 26 environmental principles.
- UN GA “note[d] with satisfaction” the Stockholm Conference report, including the Declaration, by 112 votes to none, with 10 abstentions

Stockholm Declaration (1972)

Chapter I

DECLARATION OF THE UNITED NATIONS CONFERENCE ON THE HUMAN ENVIRONMENT

The United Nations Conference on the Human Environment,

Having met at Stockholm from 5 to 16 June 1972,

Having considered the need for a common outlook and for common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment,

I

Proclaims that:

1. Man is both creature and moulder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race on this planet a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights—even the right to life itself.

2. The protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world; it is the urgent desire of the peoples of the whole world and the duty of all Governments.

3. Man has constantly to sum up experience and go on discovering, inventing, creating and advancing. In our time, man's capability to transform his surroundings, if used wisely, can bring to all peoples the benefits of development and the opportunity to enhance the quality of life. Wrongly or heedlessly applied, the same power can do incalculable harm to human beings and the human environment. We see around us growing evidence of man-made harm in many regions of the earth: dangerous levels of pollution in water, air, earth and living beings; major and undesirable disturbances to the ecological balance of the biosphere; destruction and depletion of irreplaceable resources; and gross deficiencies, harmful to the physical, mental and social health of man, in the man-made environment, particularly in the living and working environment.

4. In the developing countries most of the environmental problems are caused by under-development. Millions continue to live far below the minimum levels required for a decent human existence, deprived of adequate food and clothing, shelter and education, health and sanitation. Therefore, the developing coun-

tries must direct their efforts to development, bearing in mind their priorities and the need to safeguard and improve the environment. For the same purpose, the industrialized countries should make efforts to reduce the gap themselves and the developing countries. In the industrialized countries, environmental problems are generally related to industrialization and technological development.

5. The natural growth of population continuously presents problems for the preservation of the environment, and adequate policies and measures should be adopted, as appropriate, to face these problems. Of all things in the world, people are the most precious. It is the people that propel social progress, create social wealth, develop science and technology and, through their hard work, continuously transform the human environment. Along with social progress and the advance of production, science and technology, the capability of man to improve the environment increases with each passing day.

6. A point has been reached in history when we must shape our actions throughout the world with a more prudent care for their environmental consequences. Through ignorance or indifference we can do massive and irreversible harm to the earthly environment on which our life and well-being depend. Conversely, through fuller knowledge and wiser action, we can achieve for ourselves and our posterity a better life in an environment more in keeping with human needs and hopes. There are broad vistas for the enhancement of environmental quality and the creation of a good life. What is needed is an enthusiastic but calm state of mind and intense but orderly work. For the purpose of attaining freedom in the world of nature, man must use knowledge to build, in collaboration with nature, a better environment. To defend and improve the human environment for present and future generations has become an imperative goal for mankind—a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of worldwide economic and social development.

7. To achieve this environmental goal will demand the acceptance of responsibility by citizens and communities and by enterprises and institutions at every level, all sharing equitably in common efforts. Individuals in all walks of life as well as organizations in many fields, by their values and the sum of their actions, will shape the world environment of the future. Local and national governments will bear the greatest burden for

Principle 2

“The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.”

Stockholm Declaration (1972)

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Principle 21

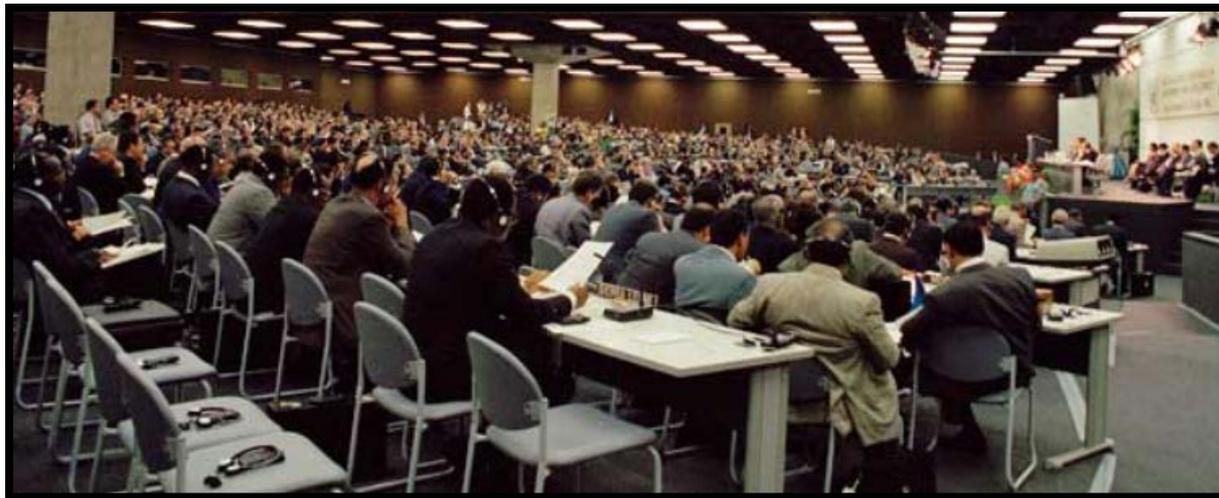
“States have, in accordance with the Charter of the United Nations and the principles of international law, the **sovereign right** to exploit their own resources pursuant to their own environmental policies, and the **responsibility** to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.”

Rio Declaration (1992)

- UN Conference on Environment and Development (**Rio Conference**) followed the Stockholm Conference.
- 30,000 participants from 176 countries, including 103 heads of state or government
- Conference adopted the Rio Declaration on Environment and

Development, which contains a series of principles defining the rights and responsibilities of states

- Rio Declaration adopted by 178 UN member states



3 June 1992 - United Nations Conference on Environment and Development, Rio de Janeiro, Brazil. A general view of the Conference on the opening day. (Photo Credit: UN Photo/Michos Tzovaras)
<http://legal.un.org/avl/ha/dunche/dunche.html>

Rio Declaration (1992)

THE RIO DECLARATION
ON
ENVIRONMENT AND DEVELOPMENT (1992)

PREAMBLE

The United Nations Conference on Environment and Development,

Having met at Rio de Janeiro from 3 to 14 June 1992,

Reaffirming the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972, and seeking to build upon it,

With the goal of establishing a new and equitable global partnership through the creation of new levels of co-operation among States, key sectors of societies and people,

Working towards international agreements which respect the interests of all and protect the integrity of the global environmental and developmental system,

Recognizing the integral and interdependent nature of the Earth, our home,

Proclaims that:

PRINCIPLE 1

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

PRINCIPLE 2

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 17

“**Environmental impact assessment**, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.”

Rio Declaration (1992)

THE RIO DECLARATION
ON
ENVIRONMENT AND DEVELOPMENT (1992)

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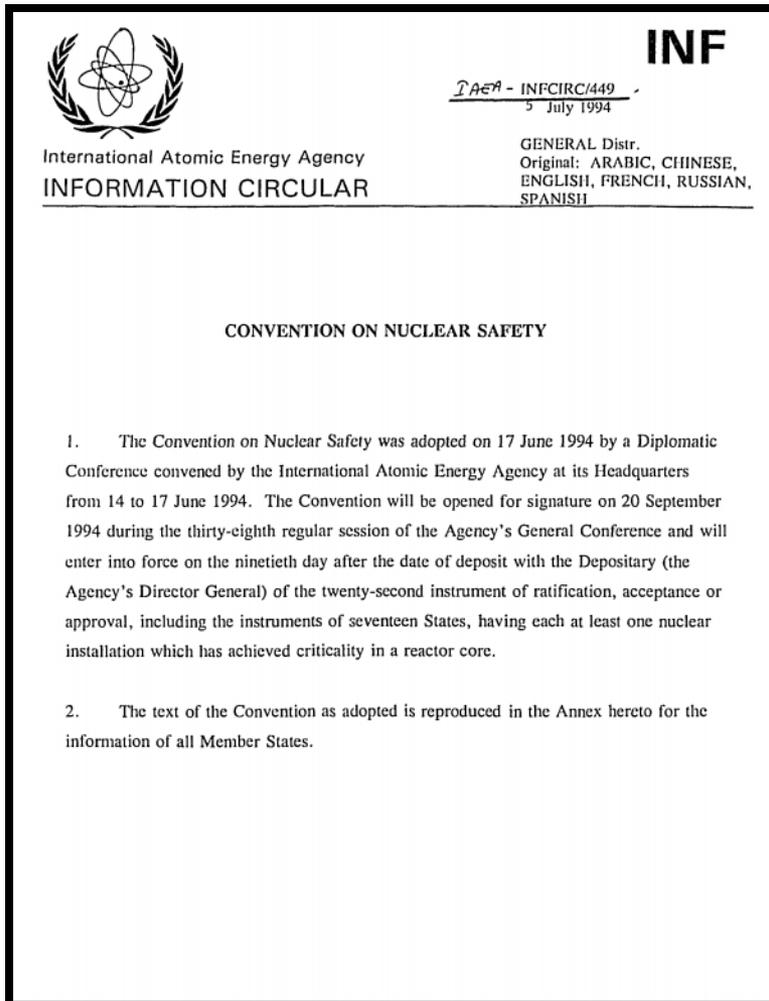
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Principle 19

“States shall provide prior and timely notification and relevant information to potentially affected States on activities that may have a **significant adverse transboundary environmental effect** and shall consult with those States at an early stage and in good faith.”

Environmental Protection in Nuclear Safety Conventions

Convention on Nuclear Safety (1994)



Preamble: “The Contracting Parties ... Aware of the importance to the international community of ensuring that the use of nuclear energy is safe, well regulated and **environmentally sound**”

Article 1(ii): The objectives of this Convention are: ... to establish and maintain effective defences in nuclear installations against potential radiological hazards in order to protect individuals, society and the **environment** from harmful effects of ionizing radiation from such installation

Convention on Nuclear Safety (1994)



International Atomic Energy Agency
INFORMATION CIRCULAR

INF

IAEA - INFCIRC/449
5 July 1994

GENERAL Distr.
Original: ARABIC, CHINESE,
ENGLISH, FRENCH, RUSSIAN,
SPANISH

CONVENTION ON NUCLEAR SAFETY

1. The Convention on Nuclear Safety was adopted on 17 June 1994 by a Diplomatic Conference convened by the International Atomic Energy Agency at its Headquarters from 14 to 17 June 1994. The Convention will be opened for signature on 20 September 1994 during the thirty-eighth regular session of the Agency's General Conference and will enter into force on the ninetieth day after the date of deposit with the Depositary (the Agency's Director General) of the twenty-second instrument of ratification, acceptance or approval, including the instruments of seventeen States, having each at least one nuclear installation which has achieved criticality in a reactor core.
2. The text of the Convention as adopted is reproduced in the Annex hereto for the information of all Member States.

Article 17(iv) (Siting)

Each contracting party shall take the appropriate steps to ensure that appropriate procedures are established and implemented: ... for consulting contracting parties in the vicinity of a proposed nuclear installation, insofar as they are likely to be affected by that installation and, upon request providing the necessary information to such contracting parties, in order to enable them to evaluate and make their own assessment of the likely safety impact on their own territory of the nuclear installation.

Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (1997)



INF

INF/CIRC/546
24 December 1997

International Atomic Energy Agency
INFORMATION CIRCULAR

GENERAL Distr.
Original: ARABIC, CHINESE
ENGLISH, FRENCH, RUSSIAN and
SPANISH

**JOINT CONVENTION ON THE SAFETY OF SPENT FUEL MANAGEMENT
AND ON THE SAFETY OF RADIOACTIVE WASTE MANAGEMENT**

Latest Status

1. The Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management was adopted on 5 September 1997 by a Diplomatic Conference convened by the International Atomic Energy Agency at its headquarters from 1 to 5 September 1997. The Joint Convention was opened for signature at Vienna on 29 September 1997 during the forty-first session of the General Conference of the International Atomic Energy Agency and will remain open for signature until its entry into force.
2. Pursuant to article 40, the Joint Convention will enter into force on the ninetieth day after the date of deposit with the Depository of the twenty-fifth instrument of ratification, acceptance or approval, including the instruments of fifteen States each having an operational nuclear power plant.
3. The text of the Convention, as adopted, is attached hereto for the information of Member States.

Article 1(ii) (Objectives): The objectives of this Convention are: ... to ensure that during all stages of SF and RW management there are effective defenses against potential hazards so that individuals, society and the **environment** are protected from harmful effects of ionizing radiation, now and in the future, in such a way that the needs and aspirations of the present generation are met without compromising the ability of future generations to meet their needs and aspirations;

Article 4(iv) General Safety Reqs

Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (1997)



International Atomic Energy Agency
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3. The text of the Convention, as adopted, is attached hereto for the information of Member States.

Article 6 and 13 (Siting of Proposed Facilities): Each CP shall take the appropriate steps to ensure that procedures are established and implemented for a proposed SF and RW management facility ... (ii) to evaluate the likely safety impact of such a facility on individuals, society and the environment; (iv) to consult CPs in the vicinity of such a facility, insofar as they are likely to be affected by that facility, and provide them, upon their request, with general data relating to the facility to enable them to evaluate the likely safety impact of the facility upon their territory

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3. The text of the Convention, as adopted, is attached hereto for the information of Member States.

Articles 7(i) and 14(i) (Design and Construction of Facilities)

Article 8(i) and 15(i) (Assessment of Safety of Facilities): Each CP shall take the appropriate steps to ensure that: ... before construction of a SF and RW management facility, a systematic safety assessment and an environmental assessment appropriate to the hazard presented by the facility and covering its operating lifetime shall be carried out;

Article 17(iii) (Institutional Measures After Closure)

The United Nations Economic Commission for Europe (UNECE) Regime

Member States of the UNECE



UNECE Environmental Conventions Covering Nuclear Activities

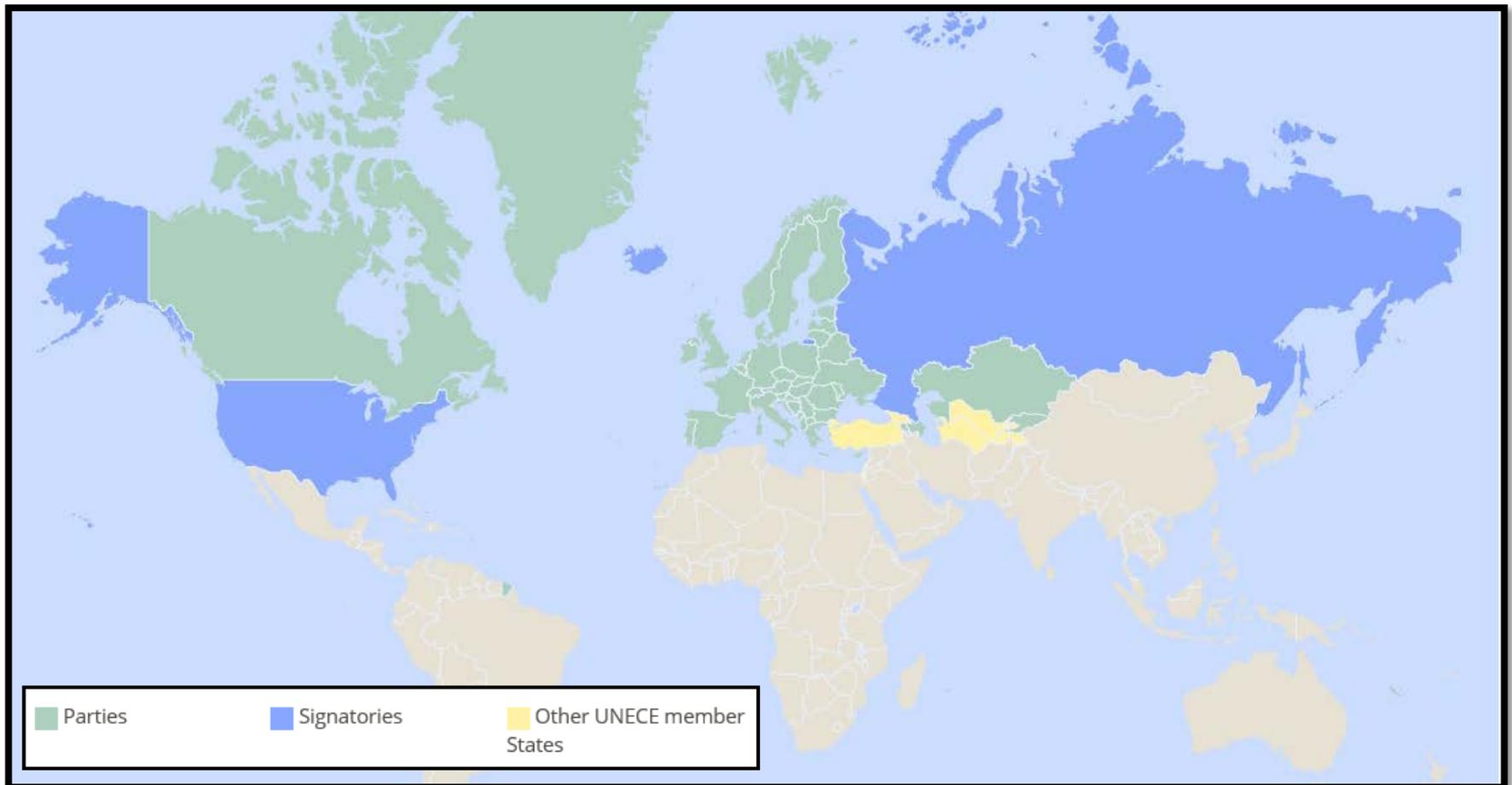
- **(Espoo Convention)** Convention on Environmental Impact Assessment in a Transboundary Context (1991)
- **(SEA Protocol or Kiev Protocol)** Protocol on Strategic Environmental Assessment to the Espoo Convention (2003)
- **(Aarhus Convention)** Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998)

Convention on Environmental Impact Assessment in a Transboundary Context

Esposo Convention (1991)

Espoo Convention Parties and Signatories

45 Parties: European (incl. EU) and Central Asian countries, plus Canada
* United States and Russia are signatories, not parties.



Parties to the Espoo Convention

Albania	Denmark	Latvia	Serbia
Armenia*	Estonia	Liechtenstein	Slovakia*
Austria	Finland*	Lithuania	Slovenia*
Azerbaijan	Fmr Yugoslav Republic of Macedonia	Luxembourg	Spain*
Belarus	France*	Malta	Sweden*
Belgium*	Germany*	Moldova	Switzerland*
Bosnia and Herzegovina	Greece	Montenegro	Ukraine*
Bulgaria*	Hungary*	Netherlands*	United Kingdom*
Canada*	Ireland	Norway	European Union
Croatia	Italy	Poland	
Cyprus	Kazakhstan	Portugal	
Czech Republic*	Kyrgyzstan	Romania*	

* Country with at least one nuclear power plant in operation.

Espoo Convention (1991)

Why does it matter to FNCA?

1. One FNCA participating country is a party to the Espoo Convention (Kazakhstan)
2. Soon, the Espoo Convention will be open for accession to all UN Member States, even those that are not members of the UNECE, upon approval by the Meeting of the Parties.

Background: This opening up of membership of the Convention was adopted in the 1st Amendment to the Convention on 27 February 2001. The 1st Amendment entered into force on 26 August 2014, but it is not yet effective. For it to become effective, all states and organisations that were parties to the Espoo Convention at the time of the 1st Amendment's adoption (27/02/2001) must have ratified the Amendment. There are six (6) missing ratifications.

What is the Espoo Convention?

PURPOSE

- sets out the obligations of parties to assess the environmental impact of certain activities at an early stage of planning and
- lays down general obligations of states to notify and consult each other on all major projects under consideration that are likely to have a significant adverse environmental impact across boundaries.

Article 2(1): The Parties shall, either individually or jointly, take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities.

Application of Espoo to Nuclear Activities

APPLICATION

- Proposed activity must be listed in the Convention (see Appendix 1)

AND

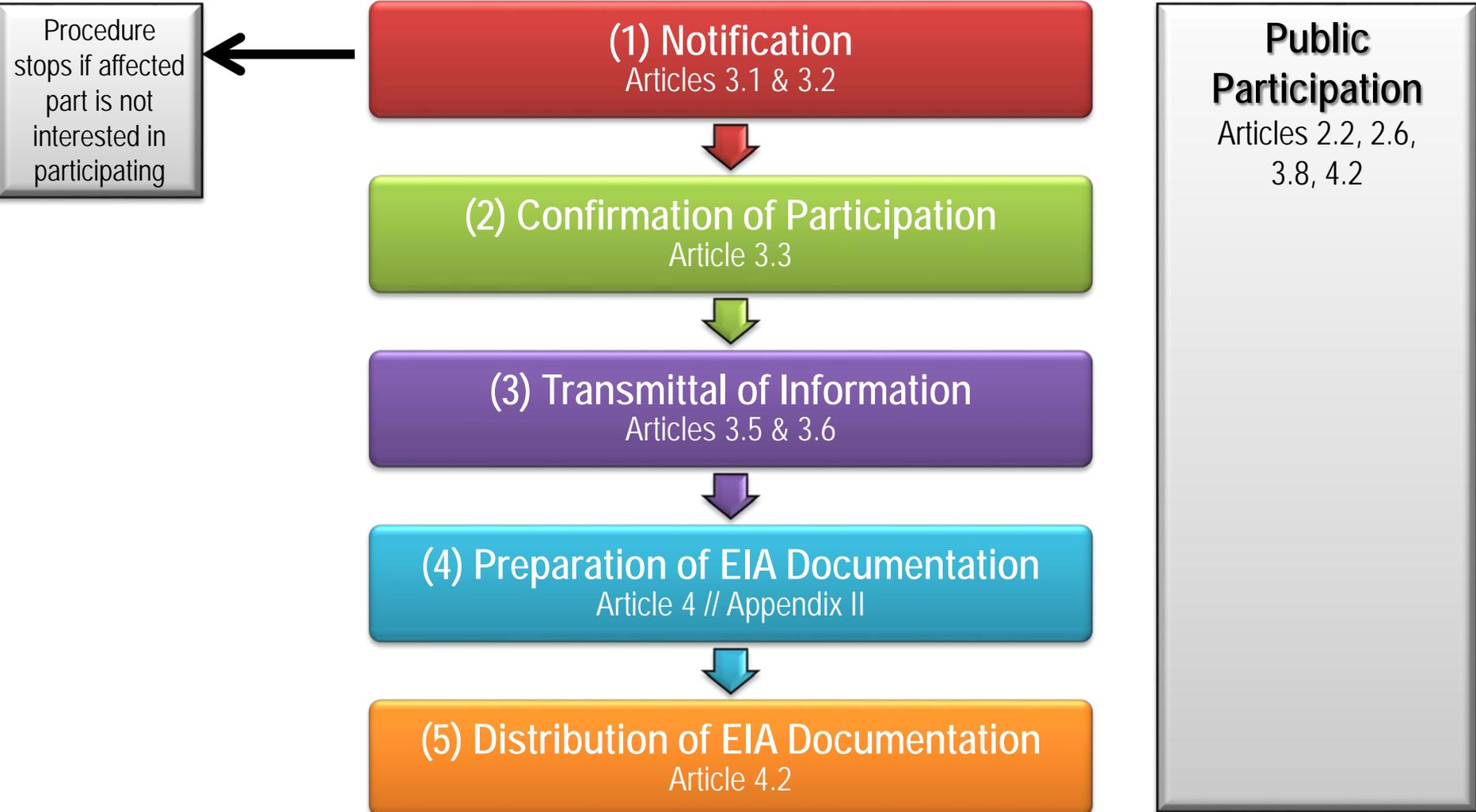
- Proposed activity must be likely to cause a significant adverse transboundary impact

Proposed Activity means any activity or any major change to an activity subject to a decision of a competent authority in accordance with an applicable national procedure

* **Appendix 1** lists nuclear power stations and other nuclear reactors (except RR) and installations solely designed for the production or enrichment of nuclear fuels, for the reprocessing of irradiated nuclear fuels or for the storage, disposal and processing of radioactive waste.

* **Appendix 1 under 2nd Amendment** increases the scope of the list of activities

EIA Procedural Steps (1 of 2)



EIA Procedural Steps (2 of 2)

(6) Consultation of Authorities and Public Participation
Article 4.2

Public Participation
Articles 2.2, 2.6, 3.8, 4.2

(7) Consultation between Countries
Article 5

(8) Examination of Information & Final Decision
Article 6.1

(9) Transmittal of Final Decision Documentation
Article 6.2

If parties so determine

(10) *Post-project Analysis*
Article 7.1 // Appendix V + Article 7.2

Contents of an EIA

- a) A description of the proposed activity and its purpose;
- b) A description, where appropriate, of reasonable alternatives (for example, locational or technological) to the proposed activity and also the no-action alternative;
- c) A description of the environment likely to be significantly affected by the proposed activity and its alternatives;
- d) A description of the potential environmental impact of the proposed activity and its alternatives and an estimation of its significance;
- e) A description of mitigation measures to keep adverse environmental impact to a minimum;
- f) An explicit indication of predictive methods and underlying assumptions as well as the relevant environmental data used;
- g) An identification of gaps in knowledge and uncertainties encountered in compiling the required information;
- h) Where appropriate, an outline for monitoring and management programmes and any plans for post-project analysis; and
- i) A non-technical summary including a visual presentation as appropriate (maps, graphs, etc.).

Impacts Covered

Any effect caused by a proposed activity on the environment including:

human health and safety

flora

fauna

soil

air

water

climate

landscape

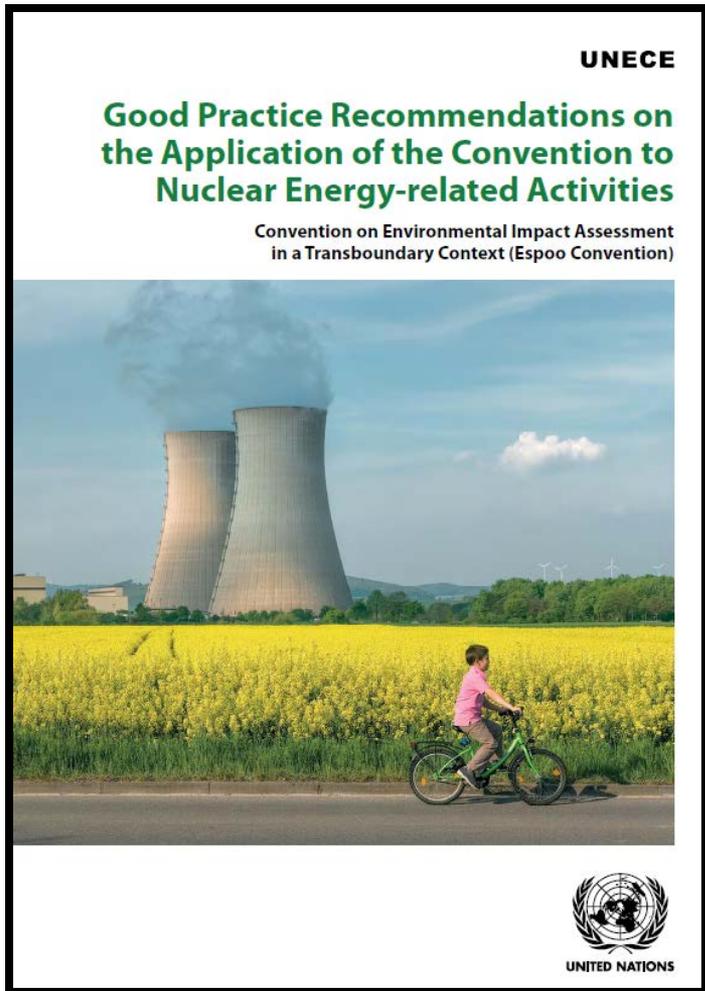
historical monuments or
other physical structures

interaction among
these factors

cultural
heritage

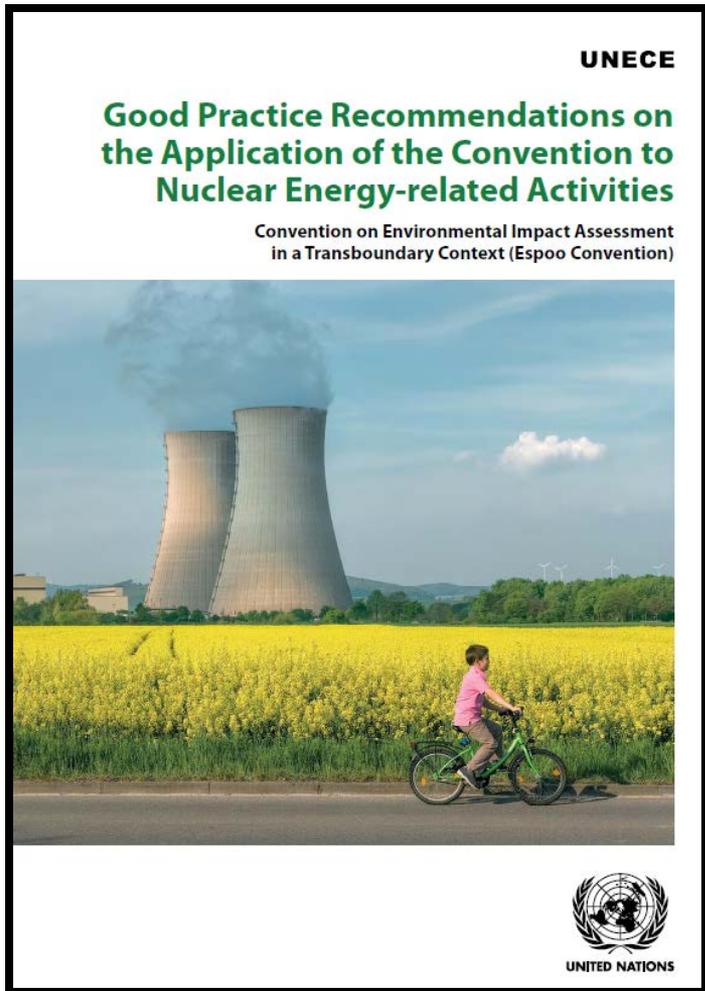
socio-economic conditions resulting
from alterations to those factors

Espoo Good Practice Recommendations



- **Aim:** to describe existing good practice on the application of the transboundary EIA procedures in the field of nuclear energy.
- **Objective:** facilitate the exchange of information and assist countries in the consistent practical application of the Convention by illustrating good practice and sharing experiences.
- **Application:** Does not create any obligations and are without prejudice to the obligations set out in the Espoo Convention.

Espoo Good Practice Recommendations



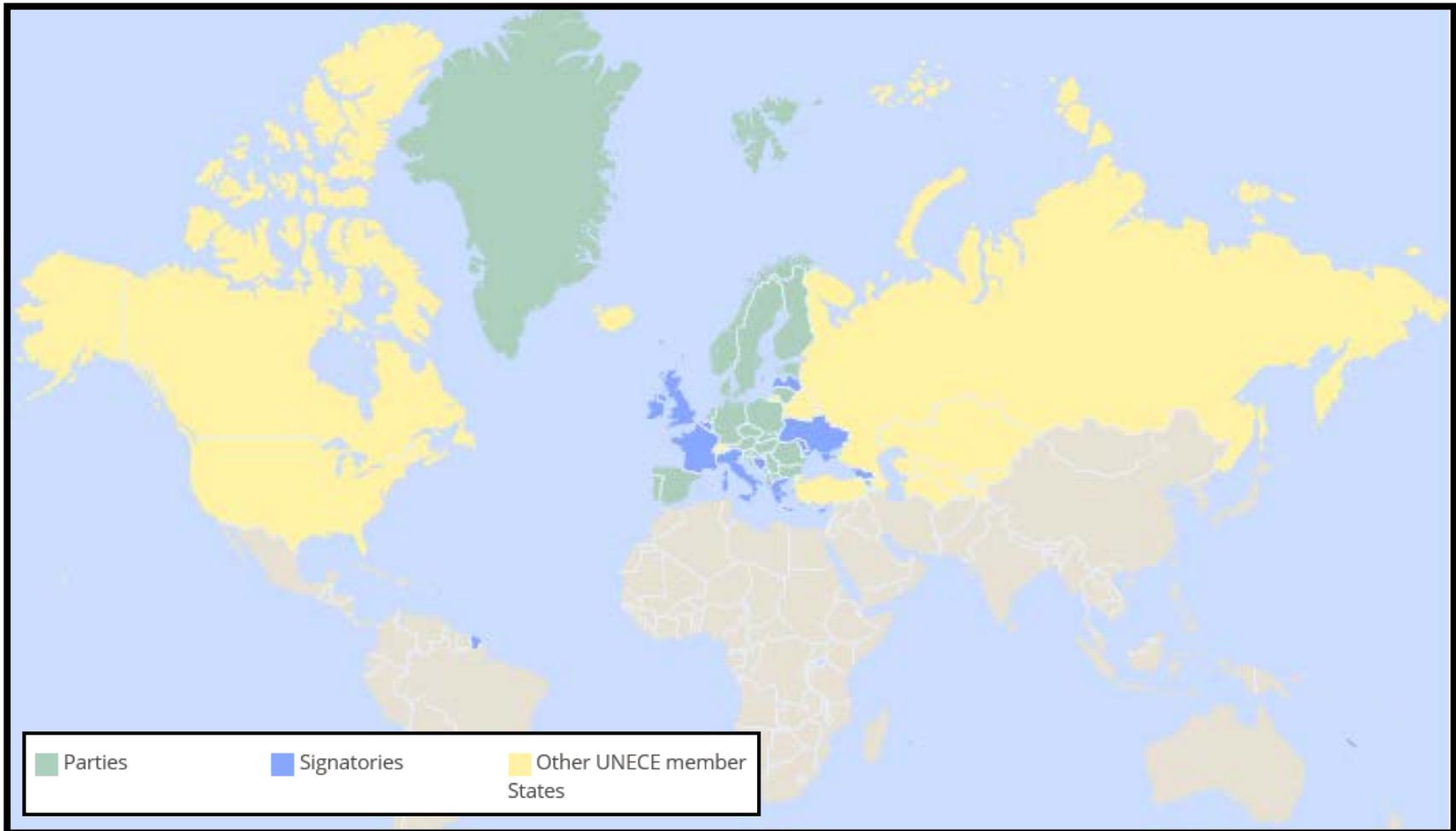
- **7 chapters:** covering all stages of the EIA procedure, from screening to post-project analysis
- **For each chapter:** summarised approaches, good practice examples and good practice recommendations
- **12 examples by 9 countries:** Austria, Bulgaria, Finland, Germany, Hungary, Poland, Romania, Slovakia, Sweden.
- **15 practical examples** in the additional informal document.

Protocol on Strategic Environmental Assessment to the Espoo Convention

Kiev Protocol (2003)

Kiev Protocol Parties and Signatories

32 Parties: European (incl. EU), Armenia and Cyprus



Kiev Protocol (2003)

Rio Declaration

Principle 4: In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

- **Goal:** to provide early and effective inputs to ensure that environmental considerations are thoroughly taken into account in the development of plans and programmes
- Parties must integrate EAs into their **development** of plans and programmes at the earliest stages, regardless of whether these plans or programmes are likely to have an impact on the territory of *another state*.
- **Screening:** applies to plans and programmes (and any modifications thereto), and possibly policies and legislation, that are likely to have significant environmental, including health, effects

Application of Kiev to Nuclear Activities

A strategic environmental assessment shall be carried out for plans and programmes which are prepared for ... energy ... and which set the framework for future development consent for projects listed in Annex I and any other project listed in Annex II that requires an environmental impact assessment under national legislation.

* [Annex I](#) lists nuclear power stations and other nuclear reactors (except RR) and installations solely designed for the production or enrichment of nuclear fuels, for the reprocessing of irradiated nuclear fuels or for the storage, disposal and processing of radioactive waste.

* [Annex II](#) lists additional activities within the scope if an EIA is required under national law, such as nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors (except research installations ...), and other installations, as far as not included in annex I, designed for processing, disposing and storage of irradiated nuclear fuel, production or enrichment of nuclear fuel, and processing, storage and final disposal of radioactive waste.

Strategic Environmental Assessment (SEA)

- **Environmental Report:** shall identify, describe and evaluate the likely significant environmental, including health, effects* of implementing the plan or programme and its reasonable alternatives.
- **Public Participation:** process should serve the purposes of providing information, gathering comments and engaging the public concerned in collaborative problem solving.
- **Transboundary Consultations:** notification required when a proposed plan or programme in one country (the party of origin) is likely to have significant environmental effects on the territory of another country (the affected party). Must include the draft plan or programme, the ER, including info. on transboundary effects, and info. on the decision-making procedure, including information on a time schedule for comments.

* **Environmental, including health, effect:** any effect on the environment, including human health, flora, fauna, biodiversity, soil, climate, air, water, landscape, natural sites, material assets, cultural heritage and the interaction among these factors.

Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters

Aarhus Convention (1998)

Aarhus Convention Parties

47 Parties: includes a majority of European (incl. EU) and Central Asian countries



Aarhus Convention (1998)

Objective

Contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of:

- **Pillar 1:** Access to Information
- **Pillar 2:** Public Participation in Decision-making
- **Pillar 3:** Access to Justice in Environmental Matters

Aarhus Convention: 3 Pillars

Pillar 1: Access to Environmental Information

Purpose: ensures that members of the public are able to know and understand what is happening in the environment around them. It also ensures that the public is able to participate in an informed manner.

Article 4: Requires a system that enables the public to request and receive environmental information from public authorities

- Public authorities to make information available upon request
- Time limits for public authorities to respond and supply the requested information (ASAP or 1-2 months)
- Acceptable limitations on disclosure (international relations, national defence, IP, personal data, third party interests, etc.)

Article 5: Requires a system through which public authorities collect environmental info. and actively disseminate it to the public without request

Aarhus Convention: 3 Pillars

Pillar 2: Public Participation in Decision-Making

Why: people have the right to take part in basic decisions affecting their lives. The quality of these decisions can be improved through the active involvement of the public concerned.

Convention establishes firm obligations that parties must meet in providing for timely, adequate and effective public participation. Among these are requirements concerning notification, timing, information, commenting, taking into account and communication.

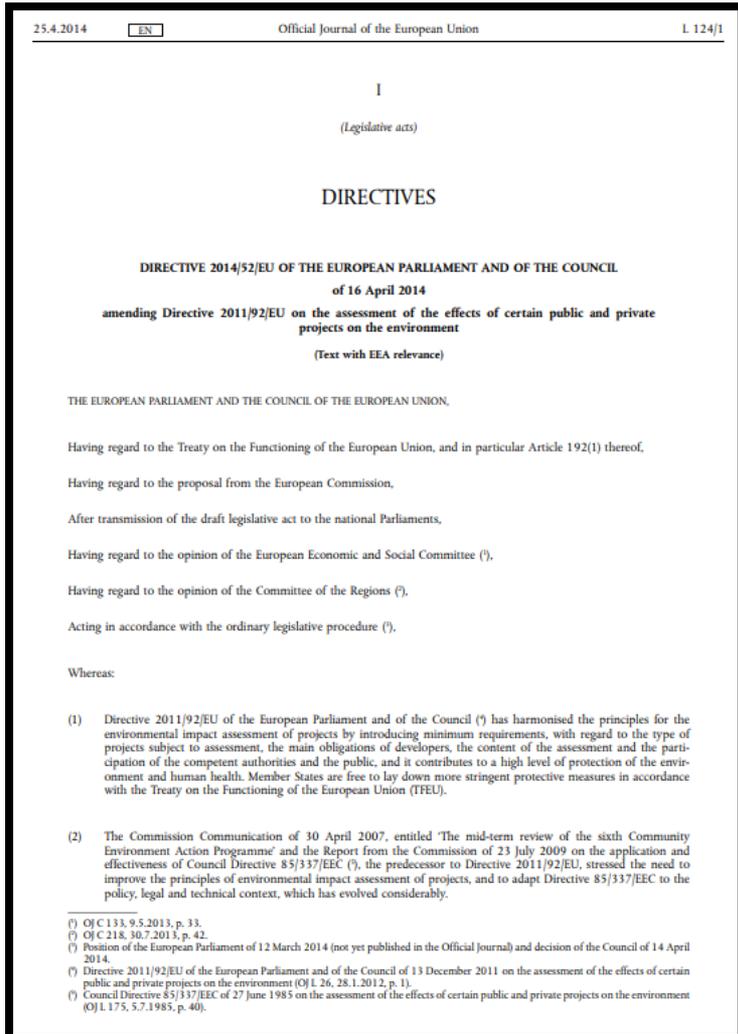
Pillar 3: Access to Justice

Access to justice under the Convention means access for the public to procedures where legal review of alleged violations of the Convention and national laws relating to the environment can be requested.

Why: to ensure that members of the public can have the rights enshrined in the Convention, as well as national laws relating to the environment, enforced by law.

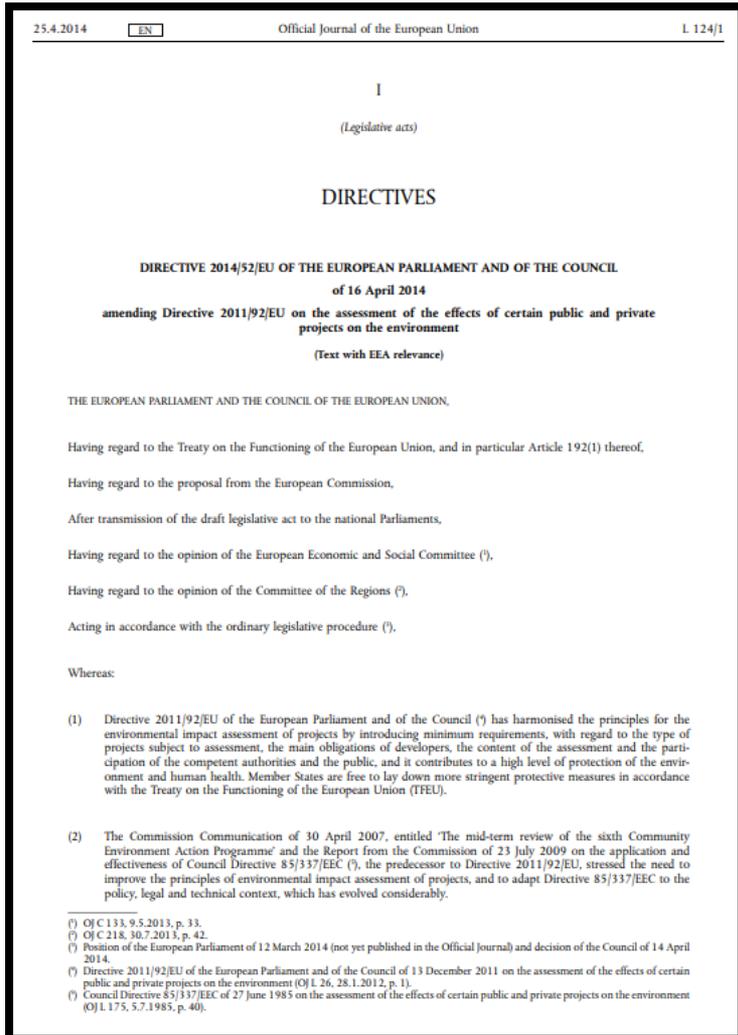
EIA in the European Union *(briefly)*

EU EIA Directive (1985 // 2014)



- The EU EIA Directive (85/337/EEC) has been in force since 1985 and applies to a wide range of defined *public and private projects*, which are defined in Annexes I and II.
 - Annex I is in line with the 2nd Amendment to the Espoo Convention
- The 1985 Directive has been amended multiple times. The current version is: [“Directive 2014/52/EU Of The European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment”](#).
- The EIA Directive is in line with both the Espoo Convention and the Aarhus Convention.

EU EIA Directive (1985 // 2014)

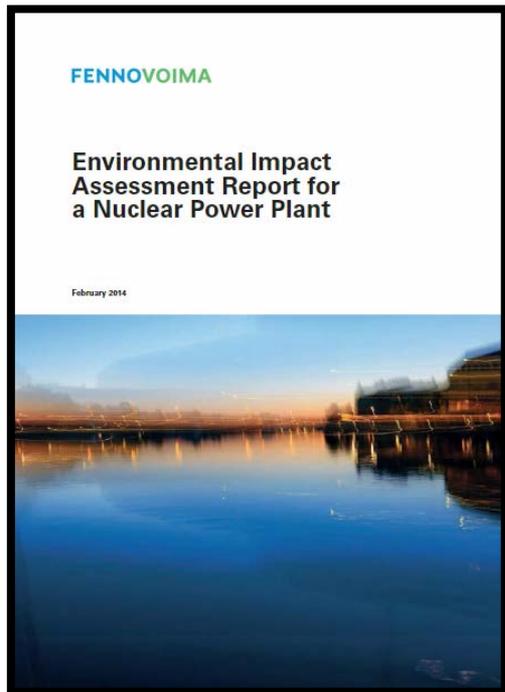


- The EIA procedure in the EU provides that:
 - the developer may request the competent authority to say what should be covered by the EIA information to be provided by the developer (scoping stage);
 - the developer must provide information on the environmental impact (EIA report – Annex IV);
 - the environmental authorities and the public (and affected Member States) must be informed and consulted;
 - the competent authority decides, taken into consideration the results of consultations.
- The public is informed of the decision afterwards and can challenge the decision before the courts.

Example: EIA in Finland

Fennovoima Environmental Impact Assessment (EIA) Report (2014) assessing the environmental impacts of a 1200MW NPP at the Pyhäjoki site in Finland (288 Pages)

- **Chapter 1:** Description of the project
- **Chapter 2:** Description of the procedure followed, communications and participation
- **Chapter 3:** Technical project description
- **Chapter 4:** Nuclear safety
- **Chapter 5:** Licenses, permits, plans, notifications and decisions required for the project
- **Chapter 6:** Project's relationship with plans and programmes concerning environmental protection and the use of natural resources



Example: EIA in Finland

- **Chapter 7:** Assessment methods, present state of the environment and the assessed environmental impacts
 - Land use and impacts of construction and operation
 - Emissions into the air
 - Water systems and fishing
 - Soil, bedrock and groundwater
 - Flora, fauna and conservation areas
 - Landscape and cultural environment
 - Traffic and traffic safety
 - Noise
 - People and society
 - Waste and waste management
 - Transboundary environmental impacts
 - Zero option

Example: EIA in Finland

- **Chapter 8:** Comparison between alternatives and assessment of the significance of the impacts
- **Chapter 9:** Prevention and mitigation of adverse impacts
- **Chapter 10:** Environmental impact monitoring programme
- Literature review
- Coordinating authority's statement on the EIA programme
- International hearing: Responses to the questions and statements of some foreign countries on the EIA programme

https://issuu.com/fennovoima/docs/environmental_impact_assessment_rep_864bab858ddafd

Current Issues in Environmental Law for Nuclear Activities

Current Issues in Environmental Law for Nuclear Activities

1

Ensuring Compliance with the Espoo Convention

Espoo Convention Compliance Options

Inquiry Commission (Article 3(7))

“When a Party considers that it would be affected by a significant adverse transboundary impact of a proposed activity listed in Appendix I, and when no notification has taken place ... [and] if [the] Parties cannot agree whether there is likely to be a significant adverse transboundary impact, any such Party may submit that question to an inquiry commission in accordance with the provisions of Appendix IV to advise on the likelihood of significant adverse transboundary impact, unless they agree on another method of settling this question.”

Implementation Committee

- Established by the Meeting of the Parties (MOP) in 2001. Consists of 8 Contracting Parties who each appoint a member of the Committee
- Considers submissions of non-compliance
- Prepares reports on compliance
- Seeks information on compliance

Espoo Implementation Committee

“Non-adversarial and assistance-oriented” procedure

Reviews parties’ compliance on the basis of:

- **Submissions:** party-to-party submission or self-referrals
- **Committee Initiatives**, launched in two ways:
 - Information obtained from other sources (most often from NGOs);
 - Specific compliance issues arising from the periodic reviews of the implementation of the Espoo Convention.

Each of these is then followed by correspondence with the Party Concerned and other stakeholders to define whether the Implementation Committee should further examine the matter.

Espoo Implementation Committee

- Closed sessions
- “Hearings” with Parties whose compliance is at issue
- Draft findings and recommendations (F&R) shared with the Parties concerned
- F&R are adopted, taking into account comments received
- F&R are forwarded to the MOP to the Convention for adoption

Espoo Implementation Committee

5 Submissions by Parties – 2 re: nuclear activities (closed)

- S/3 Metsamor, Armenia (2011-2012) [new nuclear plant]
- S/4 Ostrovets, Belarus (2011-2013) [new nuclear plant]

6 Committee Initiatives – 2 re: nuclear activities

- CI/4 Rivne, Ukraine (2011-2014) [LTO]
- CI/5 Hinkley Point C, United Kingdom (2013-2016) [new nuclear plant]

* Decision on CI/5 and follow-up decisions to S/3, S/4 and CI/4 were recently made at the 5-7 February 2019 Intermediary Session of the MoP to the Espoo Convention and the Protocol on SEA.

29 Information Gathering Cases – 8 re: nuclear activities

Current Issues in Environmental Law for Nuclear Activities

2

**Does the lifetime extension of a nuclear
power plant necessitate an EIA?**

Espoo and Lifetime Extensions

Article 1(v) “Proposed activity” means any activity **or any major change to an activity** subject to a decision of a competent authority in accordance with an applicable national procedure;

- The renewal of an NPP licence is generally subject to EIA, though the location, technology and operating procedures may remain unchanged.
- However, in many UNECE countries, NPPs are licensed without any lifetime limitation. Questions remain as to whether an extension of the designed operation period of an NPP is subject to the Convention if no licence renewal process is needed.

Espoo and Lifetime Extensions

CI/4 Rivne, Ukraine (2011-2014): concerning the planned extension of the Rivne NPP, the Committee found that Ukraine, whose legislation did not require the carrying out of either a domestic or a transboundary EIA procedure for the extension of the operator's licence through its renewal, was in non-compliance with the Convention.

“the decision to authorize a proposed activity subject to the Convention, according to the national procedure, only for a limited period of time meant that any subsequent decision to extend that limited period of time, whether in the form of a new licence or amendment or renewal of the existing one, would, under the Convention, be another decision of a competent authority to authorize or undertake a proposed activity. In that context it becomes less relevant whether it is a new activity or a major change to an activity.”

Espoo and Lifetime Extensions

Pending information gathering cases on LTO:

- **Netherlands**, Borssele NPP (IC/INFO/15) (2014-)
- **Belgium**, Doel 1 & 2, Tihange 1 (IC/INFO/18) (2016-)
- **Czech Republic**, Dukovany NPP (IC/INFO/19) (2016-)
- **Ukraine**, Rivne, South-Ukraine, Zaporizhzhya and Khmelnytsky NPPs (IC/INFO/20) (2016-)
- **Spain**, Santa Maria de Garona NPP (IC/INFO/26) (2017-)
- **Romania**, Kozloduy 5 & 6 (IC/INFO/28) (2013-)

Espoo and Lifetime Extensions

Ad hoc group on the applicability of the Espoo Convention to the lifetime extension of NPPs

- Established in 2017 to draft terms of reference for possible guidance on addressing the applicability of the Espoo Convention with regard to decisions on the lifetime extension of NPPs
 - ToR adopted in 2018: ECE/MP.EIA/WG.2/2018/2, annex IV
- Lead countries: Germany and the United Kingdom, with the EC as secretariat.
- Matters being discussed:
 - Lifetime extension: A change to an activity or a new activity?
 - When is a lifetime extension a major change?
 - Possible lifetime extension scenarios
- Anticipated submission of draft guidance to the MOP: 09/2020

Environmental Assessments for Nuclear Activities in Practice

In Summary

Policy: the decision to assess the environmental effects of proposed actions prior to making decisions is a policy

- Ex: Espoo Convention; National Environmental Policy Act

Process: the policy is implemented through a process that often includes screening, notifications, public participation, environmental assessments, consultations, etc.

Procedure: within the high-level process, there are often detailed procedural steps that must be undertaken and analyses to be performed in order to achieve the policy objectives and implement the process.

Resources

- **Espoo Convention & Kiev Protocol website:**
www.unece.org/env/eia/welcome.html
- **Espoo Good Practice Recommendations:**
www.unece.org/fileadmin/DAM/env/documents/2017/EIA/MOP7/28_04_2017_ece_mp.eia_2017_10_e.pdf
- **Aarhus Convention website:** www.unece.org/env/pp/welcome.html
- **Aarhus Convention Implementation Guide:**
www.unece.org/fileadmin/DAM/env/pp/Publications/Aarhus_Implementation_Guide_interactive_eng.pdf
- **“Nuclear law and environmental law in the licensing of nuclear installations” by Christian Raetzke:** www.oecd-nea.org/law/nlb/nlb92.pdf#page=57

Resources

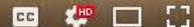


UNECE

Protocol on Strategic Environmental Assessment

Play (k)

0:10 / 6:41



www.youtube.com/watch?v=K1UT_r20iEI

Thank you!



NEA

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