



Economic and Social Council

Distr.: General
16 August 2011

Original: English

Economic Commission for Europe

Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context

Fifth session

Geneva, 20–23 June 2011

Report of the Meeting of the Parties on its fifth session

Contents

	<i>Paragraphs</i>	<i>Page</i>
Part One		
Proceedings		
I. Introduction.....	1–11	3
A. Attendance.....	3–4	3
B. Organizational matters.....	5–11	3
II. Outstanding issues.....	12–28	4
A. Review of compliance.....	13–14	4
B. Adoption of the workplan.....	15–16	4
C. Budget, financial arrangements and financial support.....	17–18	5
D. Interpretation of article 14 on amendments.....	19	5
E. Review of implementation.....	20	5
F. Establishment of a subsidiary body.....	21	6
G. Application of the Convention's compliance procedure to the Protocol.....	22	6
H. Reporting and the review of implementation.....	23	6
I. Accession by Member States of the United Nations not members of the Economic Commission for Europe.....	24	6
J. Nominations of officers and tentative calendar of meetings.....	25–28	6
III. Seminar on 20 years of law and practice under the Convention.....	29–32	7

IV.	Review of the workplan and of work done by the Working Group on Environmental Impact Assessment	33–40	8
V.	Review of compliance, review of implementation and work done by the Implementation Committee.....	41–43	9
VI.	Panel discussion on nuclear energy-related projects	44–47	9
VII.	Presentation on the Swiss-organized programme on Environmental Impact Assessment in Central Asia and Azerbaijan.....	48–49	10
VIII.	Opening ceremony of the high-level segment.....	50–53	10
IX.	Statements by Ministers and high-level representatives.....	54	10
X.	Adoption of decisions	55–56	11
XI.	Election of officers for the next intersessional period.....	57–60	11
XII.	Date and venue of next meetings	61	12
XIII.	Other business	62–64	12
XIV.	Conclusion of the session.....	65–67	12

Part Two

Decisions adopted by the Meeting of the Parties

Decisions V/5 through V/9, taken jointly with the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Convention's Protocol on Strategic Environmental Assessment, have been included only in the report of that body's first session (ECE/MP.EIA/SEA/2) to avoid duplication.

V/1.	Amendment of rule 7 of the rules of procedure	13
V/2.	Interpretation of article 14 of the Convention (amendments)	13
V/3.	Review of implementation	14
V/4.	Review of compliance.....	15
	Annex: Amendment of the operating rules of the Implementation Committee.....	22
V/10.	Budget, financial arrangements and financial assistance	23
Annex		
	Pledges to the budget for the next intersessional period	28

Part One Proceedings

I. Introduction

1. The fifth session of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) was held from 20 to 23 June 2011 in Geneva. It was held in conjunction with the first session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Convention's Protocol on Strategic Environmental Assessment (see ECE/MP.EIA/SEA/2).

2. The Meeting of the Parties to the Convention (MOP) and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol (MOP/MOP) convened in joint and individual meetings throughout the sessional period. The present report, however, details the work of the fifth session of the MOP only.

A. Attendance

3. The meeting was attended by delegations from the following Parties to the Convention and other member States of the United Nations Economic Commission for Europe (UNECE): Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Ukraine, United States of America and Uzbekistan. Hungary also made statements on behalf of the European Union (EU) and its member States; in addition, representatives of the European Commission attended and made statements. Iraq, Mongolia and Viet Nam, as States Members of the United Nations, were also represented.

4. Representatives of the Convention secretariat attended the meeting. Representatives of three United Nations bodies also attended the meeting: the International Atomic Energy Agency, the World Health Organization and the United Nations Environment Programme (UNEP). One other intergovernmental organization was represented: the International Sava River Basin Commission. The following non-governmental organizations (NGOs) were represented: Agency ECOTERRA (Russian Federation), Caucasus Environmental NGO Network, Ecoglobe (Armenia), Ecological Society "RUZGAR" (Azerbaijan), European ECO Forum, Friends of the Earth Europe, International Association for Impact Assessment and International Council of Environmental Law. In addition, academics from the following universities attended the meeting: Flinders University (Australia), Hokkaido University (Japan), Opole University (Poland), Stockholm University (Sweden), University of Edinburgh (United Kingdom of Great Britain and Northern Ireland), University of Ghent (Belgium) and University of Waterloo (Canada).

B. Organizational matters

5. The Chair of the Bureau, Mr. A. Vesic (Serbia), opened the meeting.

6. The Meeting adopted decision V/1 on the amendment of rule 7 of the rules of procedure (see ECE/MP.EIA/2011/L.1).¹

7. The Deputy Director of the Environment Division of UNECE welcomed delegates and informed the Meeting that the Convention's Bureau had recommended that Mr. Vesic be elected as Chair of the general segment of the Meeting. The Meeting elected Mr. Vesic accordingly.

8. The Meeting adopted its agenda (ECE/MP.EIA/14), which had been prepared by the secretariat in agreement with the Chair of the Bureau, having agreed to the request by the delegation of Ukraine to delay discussion of the draft decision on the review of compliance to the following day.

9. The Meeting noted the informal report on credentials of the representatives of Parties attending the Meeting (ECE/MP.EIA/2011/INF.9).

10. The secretariat informed the Meeting of the status of ratification of the Convention and of the amendments to the Convention adopted at the second and third sessions of the Meeting of the Parties. The delegation of Portugal informed the Meeting that it was expecting to ratify the two amendments soon.

11. The Meeting decided that the secretariat should reprint the Convention when current stocks were close to exhaustion.

II. Outstanding issues

12. The Meeting discussed and agreed on the following outstanding issues prior to the high-level segment.

A. Review of compliance

13. The Chair of the Implementation Committee, Mr. M. Sauer (Germany), reported on the review of compliance. He introduced draft decision V/4 on the review of compliance (ECE/MP.EIA/2011/L.3), while also indicating several revisions proposed by the Implementation Committee as a result of the Committee's session held on 20 June 2011 (ECE/MP.EIA/IC/2011/4), particularly regarding Ukraine. The revisions also reflected the ongoing technical advice to Azerbaijan, the awaited adoption of revised legislation in Armenia and the pending submissions initiated by Azerbaijan and Lithuania that were to be considered by the Committee in its forthcoming sessions.

14. The delegation of Ukraine proposed alternative wording in the draft decision regarding its own compliance (section II.A). A drafting group was established to develop a revised text acceptable to all Parties. The drafting group met repeatedly until the Meeting was able to agree on a revised version of the draft decision for consideration at its high-level segment.

B. Adoption of the workplan

15. The secretariat presented an informal assessment of the implementation of the previous workplan (ECE/MP.EIA/10, decision IV/7), highlighting those activities that had

¹ All meeting documentation and other information regarding the fifth session of the MOP is available at http://live.unece.org/env/eia/meetings/mop_5.html.

not been carried out or completed. The Meeting agreed that a planned workshop for the Mediterranean Sea area would be carried forward into the next intersessional period, together with its budget. The secretariat reported that approximately 90 per cent of the workplan activities had been completed, specifically 98 per cent of priority 1 activities had been completed and 87 per cent of priority 2 activities had been completed. The Meeting expressed its satisfaction with the implementation of the previous workplan.

16. The secretariat also presented draft decision V/9 (see ECE/MP.EIA/2011/L.2) on the adoption of the workplan, and identified activities that might be implemented through the Environment and Security Initiative.² That draft decision was to be considered by the MOP and the MOP/MOP. The Chair facilitated the development and shortening of the workplan table included in the draft decision. The Meeting also revised the draft decision to take note of a workshop held in Georgia in May 2011, and to recognize the roles played by the Regional Environmental Centres for Central and Eastern Europe and for Central Asia. The Meeting agreed on a revised version of the draft decision that would be forwarded for its consideration at the high-level segment.

C. Budget, financial arrangements and financial support

17. The secretariat presented the report on the budget and financial arrangements in the period since the fourth session of the Meeting of the Parties (ECE/MP.EIA/2011/1) and noted more recent contributions to the trust fund of the Convention: US\$ 11,000 from Finland and US\$ 10,000 from the United Kingdom, fulfilling pledges made at the previous session; a further US\$ 5,000 expected from Finland to support the holding of the present session; and contributions of US\$ 5,000 from the Czech Republic and US\$ 4,000 from Hungary for 2011. The secretariat reported a surplus of approximately US\$ 80,000 that would be added to the Convention's operating reserve. The Meeting expressed its satisfaction with the use of the Convention's trust fund.

18. The secretariat also presented draft decision V/10 on the budget, financial arrangements and financial support (see ECE/MP.EIA/2011/L.2). That draft decision was to be considered by the MOP and the MOP/MOP. The Meeting agreed on a revised version of the draft decision that would be forwarded for its consideration at the high-level segment, having recognized the commitment by the European Union to support the budget.

D. Interpretation of article 14 on amendments

19. The Meeting agreed to forward without amendment draft decision V/2 on interpretation of article 14 (amendments) (see ECE/MP.EIA/2011/L.1) for its consideration at the high-level segment.

E. Review of implementation

20. The secretariat explained two proposed changes to the draft decision V/3 on the review of implementation (see ECE/MP.EIA/2011/L.1), which were intended: (a) to record that Albania had not responded to the questionnaire on the implementation of the

² The Initiative is a partnership between the Organization for Security and Cooperation in Europe, the Regional Environmental Centre for Central and Eastern Europe, the United Nations Development Programme, UNECE and UNEP with the North Atlantic Treaty Organization as an associated partner. For more information see <http://www.envsec.org>.

Convention in the period from 2006 to 2009; and (b) to align the listed findings with those recorded in the draft review of implementation (ECE/MP.EIA/2011/2, para. 7). The Meeting agreed on a revised version of the draft decision that would be forwarded for its consideration at the high-level segment.

F. Establishment of a subsidiary body

21. The Meeting agreed to forward without amendment draft decision V/5 on the establishment of a subsidiary body (see ECE/MP.EIA/2011/L.2) for its consideration at the high-level segment. That draft decision was to be considered by the MOP and the MOP/MOP.

G. Application of the Convention's compliance procedure to the Protocol

22. The Chair of the Implementation Committee explained draft decision V/6 on the application of the Convention's compliance procedure to the Protocol (see ECE/MP.EIA/2011/L.2). That draft decision was to be considered by the MOP and the MOP/MOP. The Meeting agreed to forward without amendment the draft decision for its consideration at the high-level segment.

H. Reporting and the review of implementation

23. The Meeting agreed to forward without amendment draft decision V/7 on reporting and the review of implementation (see ECE/MP.EIA/2011/L.2) for its consideration at the high-level segment. That draft decision was to be considered by the MOP and the MOP/MOP.

I. Accession by Member States of the United Nations not members of the Economic Commission for Europe

24. The Meeting agreed to forward without amendment draft decision V/8 on accession by Member States of the United Nations not members of UNECE (see ECE/MP.EIA/2011/L.2) for its consideration at the high-level segment. That draft decision was to be considered by the MOP and the MOP/MOP.

J. Nominations of officers and tentative calendar of meetings

25. The Chair presented an informal list of nominations of members of the Bureau, officers for the new Working Group and members of the Implementation Committee. Additional nominations for the Bureau were made for Belarus and Serbia. Ukraine withdrew its nomination to the Implementation Committee and Slovakia agreed to serve as an alternate for Protocol matters on that body. The Meeting also noted the proposal by Ukraine to host the next session of the MOP and the MOP/MOP and thus to serve as Chair of the Bureau; Germany could serve as alternate Chair of the Bureau for Protocol matters as Ukraine was not a Party to the Protocol.

26. The Meeting agreed with suggestions by the Chair that: (a) the Chair of the Working Group be elected from among that body's Vice-Chairs when it first met; (b) the first Vice-Chair of the Implementation Committee should be from a Party to both the Convention and the Protocol so that he or she might serve as Chair of that body if required; (c) the Chair

and Vice-Chairs of the new Working Group, and the Chair and first Vice-Chair of the Committee, should serve also as members of the Bureau.

27. The Meeting considered a proposal by the European Environmental Bureau on behalf of European ECO Forum that a representative of the latter be permitted to participate in meetings of the Bureau as an observer. The Meeting decided that the Bureau would decide on whether such an observer would be permitted to participate, in accordance with the rules of procedure.

28. The Meeting noted an informal schedule of planned events for the next intersessional period (ECE/MP.EIA/2011/INF.6).

III. Seminar on 20 years of law and practice under the Convention

29. Insights into 20 years of law and practice under the Convention were provided by invited academic experts on two themes:

(a) Panel 1: The Espoo Convention's Relationship to Public International and European Law:

- Mr. A. Boyle (University of Edinburgh, United Kingdom), who spoke on developments in international law of environmental impact assessment and their relation to the Espoo Convention;
- Mr. J. Ebbesson (Stockholm University, Sweden), who spoke on the relationship between the Espoo Convention and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention);
- Mr. S. Marsden (Flinders University, Australia), who spoke on the implementation of and compliance with the Espoo Convention and its Protocol in the European Union;

(b) Panel 2: Legal Developments within the Espoo Convention:

- Mr. J. De Mulder (University of Ghent, Belgium), who spoke on the Protocol: "a matter of good governance?";
- Mr. N. Craik (University of Waterloo, Canada), who spoke on the legal status of subsidiary body rulings and "guidance" documents;³
- Mr. J. Jendroska (Opole University, Poland), who spoke on legal challenges of the application of Espoo Convention in post-Soviet environmental assessment within the framework of State ecological expertise systems.

30. Mr. Craik also moderated the seminar. Mr. Boyle quoted the recent judgment of the "Pulp Mills case" that was of particular interest: "it may now be considered a requirement under general international law to undertake an environmental impact assessment where there is a risk that the proposed industrial activity may have a significant adverse impact in a transboundary context, in particular, on a shared resource."⁴ Mr. De Mulder highlighted the need to view strategic environmental assessment in a broader good-governance and decision-making perspective.

³ On behalf also of joint author Mr. T. Koivurova (University of Lapland, Finland).

⁴ *Case Concerning Pulp Mills on the River Uruguay (Argentina v. Uruguay)*, International Court of Justice, Judgment of 20 April 2010, para. 204.

31. In the subsequent discussions between the speakers and delegations, Mr. Marsden argued that the so-called “MOX Plant case”⁵ should not be interpreted as preventing the raising of non-compliance issues between European Union countries in the Convention’s Implementation Committee. Mr. Ebbesson further clarified his views of the Espoo and Aarhus Conventions as complementary and mutually reinforcing instruments. Mr. Jendroska’s examination of a possible systemic inconsistency between the Convention and environmental assessment within the framework of State ecological expertise systems in a number of countries of the former Soviet Union also led to debate.

32. The Meeting expressed its gratitude to the speakers and asked that the presentations be made available on the website of the Convention.

IV. Review of the workplan and of work done by the Working Group on Environmental Impact Assessment

33. The secretariat identified the workplan activities relating to subregional cooperation and capacity-building and to the exchange of good practices, focusing on activities completed since the last meeting of the Working Group on Environmental Impact Assessment held in November 2010.

34. The delegation of Belarus reported on the completion of a pilot implementation project based on the application of the Convention to a proposed hydroelectric power plant in Belarus, upstream of Lithuania. The project had concluded with subregional workshops on 5 November and 3 December 2010 and with the issuance of a final decision on the power plant. Belarus also reported on the ongoing negotiation of bilateral agreements with Lithuania, Poland and Ukraine.

35. The delegation of Sweden reported on the holding of a workshop for the Baltic Sea subregion in Espoo (Finland) on 31 March and 1 April 2011, and the delegation of Romania reported on the holding of a seminar on large-scale energy projects in the Black Sea area, held in Szentendre (Hungary) on 1 December 2010. The representative of Georgia expressed the desire of Georgia to participate in future events relating to the application of the Convention in the Black Sea area.

36. A representative of the European Commission reported on a joint seminar with the Russian Federation to review experiences in the application of the Convention to the Nord Stream project for other transboundary projects, held in Moscow on 20 May 2011.

37. The representative of Tajikistan reported on a national workshop, held in Dushanbe on 22 and 23 July 2010. Participants in the workshop had asked that capacity-building be continued, including two- or three-day training workshops, and that perhaps a pilot project be carried out with Kyrgyzstan.

38. The secretariat reported on the holding of a national seminar in Ashgabat, held jointly with the UNECE Convention on Transboundary Effects of Industrial Accidents, on 5 and 6 June 2011.

39. The Meeting welcomed the above information on activities under or related to the workplan.

40. The Meeting agreed that an informal list of cases of the application of the Convention would be made available on the website of the Convention.

⁵ *European Commission v. Ireland*, European Court of Justice Case C-459/03.

V. Review of compliance, review of implementation and work done by the Implementation Committee

41. The Chair of the Implementation Committee reported on the Committee's activities in the period since the fourth session of the Meeting of the Parties (ECE/MP.EIA/2011/4). He also drew the Meeting's attention to the document on the opinions of the Implementation Committee, 2001–2010 (ECE/MP.EIA/2011/6).

42. The secretariat reported on the completion by Parties of the questionnaire on the implementation of the Convention for the period from 2006 to 2009, and on the subsequent preparation of the review of implementation (ECE/MP.EIA/2011/2 and ECE/MP.EIA/2011/3). The secretariat highlighted the strengths and weaknesses in implementation noted in the draft review, noting that Albania was the only State Party in the period under review that had not submitted a completed questionnaire. The review would be published electronically; future draft reviews of implementation of the Convention and of the Protocol would be limited to 8,500 words each to comply with limits determined by the General Assembly.

43. The delegation of Belarus observed that it was incorrectly identified in the draft review as not having a definition of "the public" in its national legislation.

VI. Panel discussion on nuclear energy-related projects

44. A panel discussion was held, with the following panellists providing insights into how the Convention was applied to nuclear energy-related projects likely to have significant adverse transboundary impact:

- Mr. A. Molin, Federal Ministry of Environment (Austria);
- Mr. J. Aurela, Ministry of Employment and the Economy (Finland);
- Mr. J-L. Lachaume, Deputy Director-General of the Nuclear Safety Authority (France);
- Ms. R. Mazzanti, Head of Liaison Office in Geneva, International Atomic Energy Agency;
- Mr. S. Motiejunas, State Enterprise Radioactive Waste Management Agency (Lithuania);
- Ms. M. Nauduzaite, Directorate-General for Energy, European Commission;
- Ms. P. Lorenz, Friends of the Earth Europe.

45. Mr. G. Kremlis, of the Directorate-General for Environment of the European Commission, moderated the discussion. Panellists identified possible solutions to problems identified by the secretariat in a background paper on the topic (ECE/MP.EIA/2011/5).

46. Thereafter, delegations made short interventions from the floor in response to the panel discussion, providing specific examples of how the Convention had been applied to such activities in their countries. Summing up the discussion, Mr. Kremlis emphasized the need for the development of guidance to codify practical experience, which could be based on the secretariat's background paper, and which might address key issues, such as: severe accidents and risk assessment; a range of alternatives including the zero alternative; the full life cycle (starting from the choice of materials and including decommissioning) and both front- and back-ends (mining and waste disposal); the duration of the validity of an assessment; cumulative impacts; two-stage assessment (at site selection and detailed design

stages, combined with the safety statement); language problems; notification upon request; public influence on decision-making; and the interaction with other procedures, including strategic environmental assessment.

47. The Meeting expressed its gratitude to the panellists and asked that the presentations be made available on the website of the Convention.

VII. Presentation on the Swiss-organized programme on Environmental Impact Assessment in Central Asia and Azerbaijan

48. The delegation of Switzerland provided an outline of its programme on environmental impact assessment capacity-building in Central Asia and Azerbaijan, with further insights being provided by a consultant, Mr. H. Meessen, and by the delegation of Uzbekistan.

49. The Meeting expressed its gratitude to the speakers and asked that the presentations be made available on the website of the Convention.

VIII. Opening ceremony of the high-level segment

50. The Chair of the general segment informed the MOP and MOP/MOP, meeting in joint session, that the Convention's Bureau had recommended that Hannu Himanen, Ambassador and Permanent Representative of Finland to the United Nations in Geneva, be elected as Chair of the high-level segment of the Meeting. The Meeting elected Mr. Himanen accordingly.

51. The Chair of the high-level segment made some opening remarks before inviting Mr. G. Poffet, Vice Director of the Swiss Federal Office for the Environment, to make a keynote speech.

52. The Chair also invited Mr. J. Kubis, Executive Secretary of UNECE, to make an opening statement.

53. The Chair thanked the two speakers before inviting the moderator of the previous day's panel discussion on nuclear-energy related activities to report back to the high-level segment on the outcomes of that discussion. The Meeting welcomed a subsequent proposal by Austria, Finland and Sweden to lead a one-day workshop on the long-range impacts of nuclear-energy related activities, and decided to amend the workplan accordingly.

IX. Statements by Ministers and high-level representatives

54. The following delegations and representatives made statements: Armenia, Azerbaijan, Belarus, Lithuania, Romania, Ukraine, the European Union, the European Commission and the World Health Organization. The Meeting asked that the statements be made available on the website of the Convention.

X. Adoption of decisions

55. Having reviewed the changes made earlier in the sessional period, the Meeting adopted the following decisions:⁶

- (a) Decision V/2 on the interpretation of article 14 of the Convention (amendments);
- (b) Decision V/3 on the review of implementation;
- (c) Decision V/4 on the review of compliance;
- (d) Decision V/5 on the establishment of a subsidiary body;
- (e) Decision V/6 on the application of the compliance procedure of the Convention on Environmental Impact Assessment in a Transboundary Context to the Protocol on Strategic Environmental Assessment;
- (f) Decision V/7 on reporting and the review of implementation;
- (g) Decision V/8 on accession by Member States of the United Nations not members of the United Nations Economic Commission for Europe;
- (h) Decision V/9 on the adoption of the workplan;
- (i) Decision V/10 on the budget, financial arrangements and financial assistance.

56. The secretariat reported on the pledges made to contribute to the budget of the Convention and its Protocol (see annex). The secretariat noted that the total value of the pledges made was less than that at the previous session of the MOP and that that would limit the secretariat's expenditure in accordance with the budget.

XI. Election of officers for the next intersessional period

57. The MOP and the MOP/MOP convened again in a joint meeting to elect officers for the next intersessional period.

58. The Meeting elected four Vice-Chairs of the newly established Working Group on Environmental Impact Assessment and Strategic Environmental Assessment: Ms. M. Masaityte (Lithuania); Mr. P. Otawski (Poland); a representative of Ukraine (to be named later); and Mr. Kremlis (European Commission). The Meeting decided that the Working Group would elect its own Chair from among the Vice-Chairs when it first met, in the expectation that Mr. Otawski would be chosen.

59. The Meeting elected Mr. D. Mormul (Ukraine) as the Chair of the Bureau, with Mr. Sauer (Germany) as his alternate for Protocol matters. The Meeting also elected Mr. A. Andreev (Belarus) and Mr. Vesic (Serbia) as Vice-Chairs of the Bureau, together with the Chair and Vice-Chairs of the Working Group (with the exception of the Vice-Chair from Ukraine), and the Chair and first Vice-Chair of the Implementation Committee. The first Vice-Chair of the Committee would serve as alternate to Mr. Andreev for Protocol matters as Belarus had not joined the Protocol.

⁶ Decision V/1 was adopted at the opening of the session. Decisions V/5 through V/10 were taken jointly with the MOP/MOP. Decisions V/1, V/2, V/3, V/4 and V/10 are included later in the present document. To avoid duplication, decisions V/5 through V/9 are included only in the report of the first session of the MOP/MOP (ECE/MP.EIA/SEA/2).

60. The Meeting elected four new members of the Implementation Committee for Convention matters: Ms. E. Grigoryan (Armenia); Mr. M. Prieur (France); Mr. F. Zaharia (Romania); and Ms. L. A. Hernando (Spain). They were to join the four continuing members of the Committee: Ms. T. Javanshir (Azerbaijan); Ms. N. Stoyanova (Bulgaria); Ms. T. Plesco, who replaced Ms. D. Bragoi, previously Vice-Chair (Republic of Moldova); and Ms. V. Kolar-Planinsic (Slovenia), previously Vice-Chair. The Committee was to elect its own chair from among its members.

XII. Date and venue of next meetings

61. The MOP and the MOP/MOP convened in a joint meeting to welcome the proposal by Ukraine to host the next joint session. It was decided that the sixth session of the MOP would be held in conjunction with the second session of the MOP/MOP in May or June 2014.

XIII. Other business

62. The delegation of Armenia asserted that Azerbaijan had ignored its obligations under the Convention since its accession in 1999, as it had not notified interested Parties, with an invitation to participate in the environmental impact assessment, of the several major oil and gas projects that had been listed earlier by the delegation of Azerbaijan. Neither Azerbaijan nor the secretariat had made any attempt to apply the provisions of the Convention to those projects. Further, what was the basis for Azerbaijan's assertion that one of the reasons why it had not applied the Convention was that only two neighbouring States were also Parties?⁷ Where in the Convention was it stated that a sufficient number of neighbouring Parties were required for the Convention to be applied? Azerbaijan's assertion set a dangerous precedent and undermined the Convention. The secretariat should clarify existing practice for reacting to "such violations" of the Convention.

63. The delegation of Azerbaijan responded by declaring that Azerbaijan had always complied fully with the Convention's provisions, and had cooperated closely with the secretariat. It was noted that Azerbaijan had concerns about an ongoing nuclear project in Armenia, which had led Azerbaijan to raise the issue before the Implementation Committee. That submission to the Committee had been recorded in decision V/4 on the review of compliance as being pending and to be considered by the Committee in its forthcoming sessions.

64. The two delegations asked that their statements be reflected in the report of the session.

XIV. Conclusion of the session

65. The Meeting agreed on the main decisions taken in the sessional period, as presented by the secretariat. The Meeting authorized the secretariat to complete the report after the session under the guidance of the outgoing Bureau.

66. In closing the Meeting, the Chair thanked delegations for their work in finding solutions. The Meeting expressed its thanks to the delegations of Hungary and Switzerland for hosting receptions during the sessional period.

67. The Chair closed the Meeting on Thursday, 23 June 2011.

⁷ Armenia and, across the Caspian Sea, Kazakhstan.

Part Two

Decisions adopted by the Meeting of the Parties

Decisions V/5 through V/9, taken jointly with the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Convention's Protocol, have been included only in the report of that body's first session (ECE/MP.EIA/SEA/2) to avoid duplication.

Decision V/1

Adopted by the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context at its fifth session

Amendment of rule 7 of the rules of procedure

The Meeting of the Parties to the Convention,

Considering that rule 7 of the Rules of Procedure of the Convention (adopted in decision I/1, ECE/MP.EIA/2, annex I) should be interpreted in a constructive manner, taking into account the context of each specific case,

Believing that private companies, developers and others may provide valuable input to the deliberations of Parties in meetings under the Convention,

1. *Decides* to amend rule 7 of the Rules of Procedure of the Convention through the addition of a paragraph that reads:

“3. Paragraphs 1 and 2 shall be applied mutatis mutandis to a researcher, commercial firm, developer, consultant or other commercial entity that is invited with the agreement of the Bureau to participate as an observer in a specific meeting, or in discussions on one or more specific agenda items of a specific meeting.”

Decision V/2

Adopted by the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context at its fifth session

Interpretation of article 14 of the Convention (amendments)

The Meeting of the Parties to the Convention,

Recalling its decision II/14 through which an amendment to the Convention was adopted,

Recalling also its decision III/7 through which a second amendment to the Convention was adopted,

Noting that article 14, paragraph 4, of the Convention, which establishes the conditions for entry into force of amendments to the Convention other than those to an annex, is open to different interpretations due to the ambiguity inherent in the expression “by at least three fourths of these Parties”,

Recalling that the second amendment to the Convention replaces the above-cited expression with “by at least three fourths of the number of Parties at the time of their adoption”,

Recalling also article 31 of the Vienna Convention on the Law of Treaties, which sets out general rules on the interpretation of treaties and which requires, in paragraph 3 (a), that any subsequent agreement between the parties to a treaty regarding its interpretation or the application of its provisions shall be taken into account,

Desiring to bring about an early entry into force of the amendments adopted through its decisions II/14 and III/7,

1. *Agrees* to interpret the expression “by at least three fourths of these Parties” as meaning at least three fourths of the Parties to the Convention that were Parties at the time of the adoption of the amendment in question;

2. *Decides* that any State that becomes a Party to the Convention after the date of adoption of this decision is also deemed to have agreed to the interpretation of article 14, paragraph 4, of the Convention set out above.

Decision V/3

Adopted by the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context at its fifth session

Review of implementation

The Meeting of the Parties to the Convention,

Recalling its decisions III/1 and IV/1 on the review of implementation,

Recalling also article 14 bis of the Convention, as adopted by its decision III/7, that provides a legal obligation on Parties to report on their implementation of the Convention,

Having analysed the reports provided by Parties in response to the questionnaire for the reporting system,

Regretting that one Party that was a Party to the Convention during the period under review has not responded to the questionnaire,

1. *Welcomes* the reports by Parties on their implementation, which have been made available on the website of the Convention;

2. *Adopts* the Third Review of Implementation (ECE/MP.EIA/2011/2 and ECE/MP.EIA/2011/3) and requests the secretariat to arrange its publication in an appropriate form;

3. *Notes* the findings of the Third Review of Implementation, including:

(a) Confusion among the Parties about the respective functions of the point of contact for notification and the focal point for administrative matters;

(b) That the list of activities covered by the Convention in appendix I is not being reflected in full by some Parties;

(c) A frequent lack of a definition by Parties of “the public”;

(d) A failure by Parties to recognize that article 3, paragraph 8, and article 4, paragraph 2, state that the “concerned Parties” are responsible for ensuring opportunities for public participation;

(e) A failure to recognize that article 5 provides for transboundary consultations distinct from article 4, paragraph 2;

(f) A lack of experience in carrying out post-project analysis (art. 7);

(g) A continuing need for bilateral and multilateral agreements or other arrangements, particularly to address differences between Parties in: the content of the notification; language; time frames; how to proceed when there is no response to a notification or if there is disagreement about the need for notification; the interpretation of various terms; and the requirement for post-project analysis;

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.

Decision V/4

Adopted by the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context at its fifth session

Review of compliance

Preamble

The Meeting of the Parties,

Recalling article 11, paragraph 2, of the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention), and decisions III/2 and IV/2 on the review of compliance,

Recalling also article 14 bis of the second amendment to the Convention,

Determined to promote and improve compliance with the Convention,

Seeking to promote the identification, as early as possible, of compliance difficulties encountered by Parties and the adoption of the most appropriate and effective solutions for resolving those difficulties,

Having considered the analysis made by the Implementation Committee on general compliance issues in the Second Review of Implementation, as presented in the annex to decision IV/1,

Having also considered the findings and recommendations of the Implementation Committee on a submission made to the Committee in accordance with paragraph 5 (a) in the appendix to decision III/2 (ECE/MP.EIA/6, annex II), as set out in the report of the Committee on its eighteenth session (ECE/MP.EIA/IC/2010/2, annex),

Having reviewed the structure and functions of the Implementation Committee, as described in the appendix to decision III/2, and being aware of the consequences for the composition of the Committee resulting from the entry into force of the Protocol on Strategic Environmental Assessment,

Having also reviewed the operating rules adopted in decision IV/2 and included as annex IV to that decision, and recognizing the importance of the transparency and the predictability of the Implementation Committee's work,

Having further reviewed the opinions of the Implementation Committee,

Recognizing the importance of rigorous reporting by Parties of their compliance with the Convention, and noting the third review of the implementation of the Convention based on Parties' answers to the questionnaire on the implementation of the Convention and adopted in decision V/3,

Recalling that the compliance procedure is assistance-oriented and that Parties may make submissions to the Implementation Committee on issues regarding their compliance with the Convention,

I. General part

1. *Adopts* the Implementation Committee's report on its activities (ECE/MP.EIA/2011/4), welcomes the reports of the meetings of the Committee in the period after the fourth session of the Meeting of the Parties, and requests the Committee:

- (a) To keep the implementation and application of the Convention under review;
- (b) To promote and support compliance with the Convention, including to provide assistance in this respect, as necessary;

2. *Welcomes* the examination by the Implementation Committee of specific compliance issues identified in the second review of implementation adopted in decision IV/1, regarding Albania, Austria, Belgium, Greece, Hungary, Latvia, Liechtenstein and Slovenia, which resulted in the Committee declaring its satisfaction with the clarifications provided by Parties;

3. *Welcomes also* the examination by the Implementation Committee of information received from other sources, including the public, regarding Belgium, the Republic of Moldova, Romania, Slovakia and Ukraine, which resulted in the Committee declaring its satisfaction with the clarifications provided by Parties;

4. *Notes* the pending submissions initiated by Azerbaijan and Lithuania that are to be considered by the Implementation Committee at its forthcoming sessions;

5. *Considers*, following the observation of the Implementation Committee, that the final opinion of an inquiry commission that an activity is likely to have a significant adverse transboundary impact is final inasmuch as it decides that the transboundary environmental impact assessment procedure foreseen in the Convention must be applied in full, beginning with the immediate notification of the affected Party. The procedure may be stopped only if either (a) the planned activity is abandoned or (b) the affected Party indicates that it does not wish to participate. Any subsequent studies or analyses, including findings of the environmental impact assessment documentation prepared in accordance with article 4 of and appendix II to the Convention, by no means have any effect on the validity of the respective opinion of the inquiry commission, even if they show no actual significant adverse transboundary impact of the activity in question;⁸

⁸ ECE/MP.EIA/IC/2009/2, para. 22.

6. *Considers also*, following the opinions of the Implementation Committee, that:

(a) The Party of origin is responsible for ensuring that notification under article 3 is carried out properly;⁹

(b) Entrusting the proponent of an activity with the carrying out of the procedure for transboundary environmental impact assessment is not adequate, unless the proponent is the State;¹⁰

(c) During the procedure for transboundary environmental impact assessment the concerned Parties share the responsibility for ensuring that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin. That opportunity must be based on accurate and effective notification of the public and access to at least relevant parts of the documentation in the appropriate language of the affected Party, when documentation is in a language that could not be understood by the public of the affected Party. That is in addition to their responsibility to provide the possibility of access to the full and final environmental impact assessment documentation in the original language or languages during the procedure for transboundary environmental impact assessment. In that context, while recognizing the lack of administrative powers of the Party of origin's competent authority on the territory of the affected Party, at a minimum it has to provide the possibility for the public of the affected Party to participate in the procedure of the Party of origin. The Party of origin's competent authority should furthermore support the affected Party's competent authority in providing effective participation for the public of the affected Party in the procedure for transboundary environmental impact assessment;¹¹

(d) The affected Party has an obligation to allow that the opportunity provided to the public of the affected Party to participate in the procedure under the Convention is equivalent to that provided to the public of the Party of origin. If the affected Party refuses to carry out its duties, the Party of origin cannot be held responsible for organizing public participation in the affected Party, but should provide the possibility for the public of the affected Party to participate in the procedure of the Party of origin;¹²

(e) Copyright protection should not be considered as allowing for the prevention of the public availability of the full environmental impact assessment documentation;¹³

(f) Unless otherwise provided for in a bilateral or multilateral agreement or other arrangement, the concerned Parties should, when sending or responding to the notification, agree at the start of the procedure for transboundary environmental impact assessment on the scope of the documentation to be translated. The documentation to be translated should, at a minimum, include the non-technical summary and those parts of the environmental impact assessment documentation that are necessary to provide an opportunity to the public of the affected Party to participate that is equivalent to that provided to the public of the Party of origin. Unless otherwise provided for in a bilateral or multilateral agreement or other arrangement, the burden for translation should fall upon the Party of origin in line with the polluter pays principle;¹⁴

⁹ ECE/MP.EIA/IC/2010/2, para. 38.

¹⁰ *Ibid.*, para. 36.

¹¹ ECE/MP.EIA/IC/2010/2, para. 35, and ECE/MP.EIA/IC/2010/4, paras. 19 (c) and 20.

¹² ECE/MP.EIA/IC/2010/2, para. 37.

¹³ ECE/MP.EIA/IC/2010/4, para. 20.

¹⁴ ECE/MP.EIA/IC/2010/2, para. 35.

(g) The final decision should provide a summary of the comments received pursuant to article 3, paragraph 8, and article 4, paragraph 2, of the Convention and the outcome of the consultations as referred to in article 5, and should describe how they and the outcome of the environmental impact assessment have been incorporated or otherwise addressed in the final decision, in the light of the reasonable alternatives described in the environmental impact assessment documentation;¹⁵

(h) In the light of article 3, paragraph 8 and article 4, paragraph 2, of the Convention, the obligation under article 6, paragraph 2, shall be interpreted as an obligation to inform also the public concerned in the affected Party of the final decision;¹⁶

(i) If the conditions attached to a decision can be altered subsequently by other decisions, the former cannot be considered the “final decision” in the meaning of the Convention;¹⁷

(j) An extended time period between a final decision on a planned activity and subsequent construction works might bring into doubt the validity of the environmental impact assessment for the planned activity and thus of the final decision;¹⁸

7. *Recommends*, pending entry into force of the second amendment to the Convention as adopted by decision III/7, that Parties in their role of Party of origin (a) notify as early as possible and when determining case by case the content of environmental impact assessment documentation (“scoping”), where applicable, so that the environmental impact assessment documentation could meet the needs of the affected Party and (b) involve the affected Party in any such case-by-case determination;¹⁹

8. *Recommends also*, following the opinion of the Implementation Committee, that:

(a) Parties retain records of the means of communication, dates and addresses, and that communications should be sent in parallel by other means, for example simultaneously by post and e-mail,²⁰

(b) Environmental impact assessment documentation should include a separate chapter on transboundary impact to facilitate translation;²¹

9. *Recommends further* that Parties consider developing informal agreements, such as bilateral guidelines, common declarations and memorandums of understanding, in cases where bilateral and multilateral agreements are inappropriate;²²

10. *Encourages* Parties to bring issues concerning their own compliance before the Implementation Committee;

11. *Requests* the Implementation Committee to provide assistance to Parties in need of such assistance, as appropriate and to the extent possible, and in this respect refers to decision of the fifth session of the Meeting of the Parties on the adoption of the workplan;

¹⁵ Ibid., para. 40.

¹⁶ See ECE/MP.EIA/IC/2009/2, para. 27.

¹⁷ Ibid., para. 21.

¹⁸ ECE/MP.EIA/IC/2009/4, paras. 36 (a) and 46.

¹⁹ ECE/MP.EIA/IC/2010/2, para. 20, and ECE/MP.EIA/IC/2009/4, para. 26.

²⁰ ECE/MP.EIA/IC/2010/2, para. 43.

²¹ Ibid., para. 35.

²² Ibid., para. 18.

12. *Urges* Parties to take into account in their further work the recommendations for further improving the implementation of and compliance with the Convention, including by strengthening national legislation, based on but not limited to the analyses on general compliance issues:

- (a) From the Review of Implementation 2003, adopted by decision III/1;
- (b) As presented in chapter V of the Implementation Committee's previous report on its activities as set out in annex III to decision IV/2,
- (c) As presented in chapter III of the Implementation Committee's latest report on its activities (ECE/MP.EIA/2011/4);

13. *Also urges* Parties to take into account in their further work the opinions of the Implementation Committee in the period from 2001 to 2010 (ECE/MP.EIA/2011/6), and requests the secretariat to arrange for the publication of these opinions in electronic or paper format, as appropriate, and for the periodic revision of the publication;

14. *Adopts* the amendment to the operating rules of the Implementation Committee set out in the annex to this decision, which should be applied to any meeting and to any other conduct of business of the Committee and should be read together with and in furtherance of the structure, functions and procedures described in the appendix to decision III/2, and requests the secretariat to arrange publication of the amended operating rules in electronic or paper format, as appropriate;

15. *Decides* to keep under review and to develop if necessary the structure and functions of the Implementation Committee as well as its operating rules at the sixth session of the Meeting of the Parties in the light of experience gained by the Committee in the interim, including recommendations to the Meeting of the Parties on the imposition of sanctions for non-compliance, and in this context requests the Committee to prepare any necessary proposals for the sixth session of the Meeting of the Parties;

16. *Requests* the secretariat to promote the use by international financial institutions of a checklist prepared by the European Bank for Reconstruction and Development under the workplan adopted by decision IV/7;

II. Follow-up to decision IV/2

A. Regarding Ukraine

17. *Endorses* the finding of the Implementation Committee at its seventeenth session that, while Ukraine had fulfilled some of its obligations under paragraph 10 of decision IV/2 with respect to both phases of the project for the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta (Bystroe Canal Project),²³ it had not fulfilled all of these obligations (see ECE/MP.EIA/IC/2008/2, section V.B, ECE/MP.EIA/IC/2009/2, section II.C, and ECE/MP.EIA/IC/2009/4, section II.B);

18. *Declares* therefore that the caution to the Government of Ukraine issued in its fourth session is effective (see ECE/MP.EIA/IC/2009/4, para. 16);

19. *Welcomes* the independent review of Ukraine's legal, administrative and other measures to implement the provisions of the Convention (ECE/MP.EIA/IC/2009/5) and notes the report of the European Union-funded project to support Ukraine in its

²³ Making possible the deep-water fairway Danube-Black Sea through the Kilia Arm (E 80-09) identified in the 2011 white paper on the effectiveness and sustainability of inland waterway transport in Europe (ECE/TRANS/SC.3/189).

implementation of the Convention, and in particular the proposed measures to bring the project for the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta into compliance with the Convention,²⁴ and invites the Government of Ukraine to follow up the recommendations of the report and as appropriate cooperate in this respect with the Government of Romania;

20. *Notes* the steps taken by the Government of Ukraine in relation to phase II of the project for the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta, including the repeal of the decision dated 28 December 2007 on the implementation of the project; the transmission of the notification on the project; and, following the positive response of Romania, the transmission of the environmental impact assessment (EIA) documentation on the project; the holding of a public consultation meeting in Tulcea (Romania) on 9 June 2009; and also the fact that Ukraine has received the comments in writing by Romanian non-governmental organizations, international organizations and the Romanian public and organized a bilateral meeting with Romania in Kyiv on 15 and 16 July 2009;²⁵

21. *Appreciates* the strategy of the Government of Ukraine to implement the Convention, as requested in the decision IV/2, paragraph 12, as an important step towards future compliance;

22. *Also appreciates* in particular the steps taken by the Government of Ukraine to initiate negotiations with the aim of concluding bilateral agreements with the neighbouring countries that are Parties to the Convention;

23. *Notes with concern* the insufficient progress with the realization of the strategy of the Government of Ukraine to implement the Convention, in particular the recent changes in the legislative framework for development control that appear to be not corresponding to the strategy, but in fact diminishing rather than strengthening the capacity of the legislative framework to ensure compliance with the Convention;

24. *Requests* the Government of Ukraine to report by the end of each year to the Implementation Committee: (a) on steps taken to bring into full compliance the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta, implementing the measures in accordance with paragraph 19, and on the post-project analysis of the project; (b) on the implementation of the strategy, in particular on concrete legislative measures adopted to this effect;

25. *Also requests* the Implementation Committee to report to the sixth session of the Meeting of the Parties on its evaluation of the steps taken by the Government of Ukraine to bring about compliance and to implement the strategy, and to develop, if appropriate, further recommendations to assist Ukraine in complying with its obligations under the Convention;

²⁴ *Support to Ukraine to Implement the Espoo and Aarhus Conventions, Draft Final Report*, EuropeAid Development and Cooperation, European Commission, August 2010, prepared by NIRAS A/S, Denmark (mention of any commercial firm in this document does not imply endorsement by the United Nations).

²⁵ Information distributed by Ukraine during the fifth session of the Meeting of the Parties, entitled "Procedural steps of Ukraine under the provisions of the Espoo Convention in respect of the deepwater navigation route Danube-Black Sea in 2004-2011", on taking the so-called "Final Decision as to implementation of the project 'Development of Danube — Black Sea Deepwater Navigation Route in Ukrainian section of the estuary. Full scale development' on 25.01.2010".

26. *Offers* technical advice to the Government of Ukraine to assist it in bringing its legislation into line with the provisions of the Convention, subject to the availability of funding;

B. Regarding Armenia

27. *Welcomes* the preparation by the Government of Armenia, with the assistance of the Implementation Committee and the Convention secretariat, of draft revised legislation for the implementation of the Convention in accordance with the Committee's findings (decision IV/2, annex II); welcomes also the draft legislation as providing a suitable framework for the implementation of the Convention in Armenia, and requests Armenia to adopt the draft legislation;

28. *Appreciates* the reports received from the Government of Armenia further to paragraph 19 of decision IV/2;

III. Submissions by Parties

Regarding Romania

29. *Endorses* the findings of the Implementation Committee that Romania was not in non-compliance with the Convention in relation to the activities referred to in the submission by Ukraine regarding Romania on 6 March 2009 (ECE/MP.EIA/IC/2010/2, annex);

30. *Urges* the Governments of Romania and Ukraine to accelerate negotiations to cooperate in the preparation of a bilateral agreement or other arrangement in order to support further the provisions of the Convention, as set out in article 8 of the Convention, further to paragraph 14 of decision IV/2, and invite them in this context to consider extending the list of activities subject to the Convention in relation to the protection of the Danube Delta, and to introduce provisions on management and monitoring;

IV. Committee initiative

Regarding Azerbaijan

31. *Encourages* Azerbaijan to implement the recommendations of the second Environmental Performance Review (ECE/CEP/158) with respect to environmental impact assessment and strategic environmental assessment;

32. *Welcomes* the ongoing technical advice for the review of Azerbaijan's legislation on environmental impact assessment.

Annex

Amendment of the operating rules of the Implementation Committee

Replace rule 16, paragraph 4, by the following paragraphs:

4. A submission and any reply to the submission should be made available through the Convention website within one month of receipt.

5. The following documents and information should be made available through the Convention website, once the Committee has concluded its consideration of the issue:

(a) Information by which the Committee becomes aware of a possible non-compliance;

(b) Any reply to a Committee initiative;

- (c) Corroborating or supporting information;
 - (d) Correspondence by the Committee;
 - (e) Draft findings and recommendations, and ensuing representations from the Parties involved.
6. Documents and information other than those identified in paragraphs 4 and 5 should be available upon request if agreed by the Committee.
7. Paragraphs 4, 5 and 6 should not apply to parts of documents and information that have been provided to the Committee requesting confidentiality.
8. Paragraphs 4, 5 and 6 should not apply to the following documents and information that relate to a self-referral in accordance with paragraph 5 (b) of the appendix to decision III/2, unless agreed by the Committee and by the submitting Party:
- (a) A submission;
 - (b) Corroborating or supporting information;
 - (c) Correspondence by the Committee;
 - (d) Draft findings and recommendations, and ensuing representations from the submitting Party.
9. Pending consideration by the Committee, a short summary of the issue should be available on the Convention website, once agreed by the Committee, together with a list of relevant documents and information, but not their content. The summary should be prepared by the secretariat to include in particular:
- (a) The names of the Party or Parties involved;
 - (b) The date of the submission, information or Committee initiative;
 - (c) The name and type of the activity in question, in the case of a submission or Committee initiative.
10. Any progress report from a Party requested by the Meeting of the Parties or by the Implementation Committee should be made available through the Convention website as soon as possible and at the latest within one month of receipt.

Decision V/10

Adopted by the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context at its fifth session

Decision I/10

Adopted by the 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 at its first session

Budget, financial arrangements and financial assistance

The Meeting of the Parties to the Convention and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol on Strategic Environmental Assessment,

Meeting in joint session,

Recalling decision III/10 of the Meeting of the Parties to the Convention on the budget and financial arrangements for the period up to the fourth session of the Meeting of the Parties,

Recognizing the wish of the Parties for a high degree of transparency and accountability,

Welcoming the biannual financial reports prepared by the secretariat since the fourth session of the Meeting of Parties to the Convention, with biannual reporting best addressing the schedule of the meetings of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment, the Meeting of the Parties to the Convention and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol, as well as national budgeting cycles,

Recognizing with appreciation the contributions made in cash and in kind to the budget in the period between the fourth and fifth sessions of the Meetings of the Parties to the Convention,

Seeking to facilitate willingness of donor countries to make further contributions, as well as assisting financial and project management,

Believing that the Parties should be informed in a timely manner of the status and developments in the financing of activities under the Convention and the Protocol,

Also believing that the financing of activities under the Convention and the Protocol should be distributed among as many Parties and non-Parties as possible,

Aware of the importance of wide participation by the Parties in its activities in order to ensure progress,

Aware also of the need to facilitate the participation of certain countries with economies in transition that may otherwise not be able to take part,

Recalling the amendment to the Convention (decision II/14 of the Meeting of the Parties to the Convention) which allows United Nations Member States not members of United Nations Economic Commission (UNECE) for Europe to accede to the Convention, and recalling article 23, paragraph 3, of its Protocol which allows United Nations Member States not members of UNECE to accede to the Protocol,

1. *Confirm* for country Parties the system of shares endorsed by decision III/10 of the Meeting of the Parties to the Convention, whereby countries choose to make contributions equivalent in value to a number of shares of the budget;

2. *Recognize* the commitment by the European Union to contribute 2.5 per cent of the total amount needed and not covered by the United Nations regular budget for activities of the workplan of the Convention and its Protocol and to maintain its annual pledge of 50,000 euros towards the combined costs until that amount becomes less than 2.5 per cent of the total. This commitment is subject to annual endorsement by the budgetary authorities of the European Union and is without prejudice to paragraph 1;

3. *Adopt* the report prepared by the secretariat on the budget and financial arrangements in the period since the fourth session of the Meeting of the Parties to the Convention (ECE/MP.EIA/2011/1);

4. *Decide* that activities under the workplan for the period up to the sixth session of the Meeting of the Parties to the Convention, and the second session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol, which are not covered by the United Nations regular budget should be covered by contributions of 1,135 shares of 1,000 United States dollars each, of which 470 shares

would cover the core (priority 1) requirements and 665 shares would cover the remaining non-core (priority 2) requirements;

5. *Agree* the budget of the Convention and its Protocol for the period up to the sixth session of the Meeting of the Parties to the Convention and the second session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol, as set out in the table below;

6. *Also agree* that contributions shall be allocated to the budgets of the individual items in the table below in the order of priority set for each item unless and to the extent that a contributor specifies that a contribution should be allocated to a particular item in the table; where funds remain after the completion of such items, the surplus shall be transferred to the overall budget to be spent on the items in the table below in the order of priority set for each item;

7. *Request* that Parties seek to transfer their contributions to the UNECE Trust Fund on Local Technical Cooperation (Espoo Convention) as early as possible in their budget year, so as to provide greater certainty for future financial and project management;

8. *Encourage* Parties that have so far not pledged anything to make contributions during the current and future budget cycles, and request the Bureau to contact such Parties for this purpose;

9. *Also encourage* Parties that have so far only committed limited funds or in-kind contributions to raise their contributions during the current and future budget cycles, and request the Bureau to contact such Parties for this purpose;

10. *Request* the secretariat to continue to prepare and submit to the Bureau biannual reports with the view to assist in preparing the report to the sixth session of the Meeting of the Parties to the Convention and the second session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol, as requested in paragraph 14 below, and further request the Bureau to consider the biannual reports prepared by the secretariat and to agree their circulation to the Parties;

11. *Also request* the secretariat to include in the biannual reports information on the resources available (including in-kind contributions and United Nations programme support) and the expenditure on each item specified in the budget, as well as highlighting significant developments;

12. *Further request* the secretariat to provide Parties with timely reminders concerning outstanding pledges;

13. *Decide* that the Bureau shall be able to propose limited adjustments to the budget, up to a maximum of 10 per cent, where such adjustments are necessary before the next meeting of Parties, provided that Parties are promptly informed of such adjustments and given the opportunity to comment both in writing at the time and at the next meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment, at which time Parties should be invited to indicate confirmation of the adjustments;

14. *Request* the secretariat, in accordance with the financial rules of the United Nations, to monitor the expenditure of the funds and to prepare a report for the next meeting of the Parties, based on the information contained in the biannual reports and giving a clear indication of the significant developments during the period in order that Parties can best meet future demands for resources under the Convention and its Protocol;

15. *Also request* the secretariat to seek additional staff funded by the regular budget of the United Nations to provide long-term and stable secretariat functions;

16. *Decide* that the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment shall prepare a further draft decision on financial

arrangements for adoption at the sixth session of the Meeting of the Parties to the Convention and the second session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol, based on experience gained in the meantime under the financial arrangements adopted by this meeting, and request the Bureau, possibly with the support of a small group, to develop a strategy for carrying out the work under the Convention and the Protocol given the financial constraints;

17. *Call upon* countries with economies in transition to finance to the extent possible their own participation in the activities under the Convention and its Protocol in order to ensure that the limited funds available are used efficiently;

18. *Urge* Parties and encourage non-Parties and relevant international organizations to contribute financial resources to enable countries with economies in transition and non-governmental organizations to participate in the meetings under the Convention and its Protocol;

19. *Decide* that securing proper staffing of the secretariat has priority above financial support to participants in formal meetings and that, among participants, priority should be given to representatives of Parties, then of non-Parties and then of non-governmental organizations;

20. *Recommend* that the Convention and its Protocol should apply the guiding criteria established and periodically updated by the Committee on Environmental Policy for financial assistance to support the participation of experts and representatives from countries with economies in transition in meetings and workshops organized within the framework of the Convention and its Protocol and other relevant activities, depending upon the availability of funds;

21. *Request* the secretariat to grant, subject to the availability of funds, financial assistance for the participation in meetings under the Convention and under its Protocol of designated experts from non-governmental organizations identified in a list to be drawn up by its Bureau, subject to a maximum of five such experts, unless otherwise decided by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment;

22. *Decide* that its Bureau shall, depending on the availability of funding and subject to priority being given to funding the workplan, examine requests for possible financial assistance for the participation in meetings under the Convention and its Protocol by representatives and experts from States outside the UNECE region.

Budget for the implementation of the Convention and its Protocol for the period up to the sixth session of the Meeting of the Parties to the Convention and the second session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol, for activities to be funded from the Convention Trust Fund or by in-kind contributions

<i>Activity</i>	<i>Priority</i>	<i>Notes/sub-activities</i>	<i>Unit</i>	<i>Cost per item per unit (shares)</i>	<i>Cost per unit (shares)</i>	<i>Number of units over three years</i>	<i>Total cost over three years (shares)</i>
Organizational activities (with most meetings taking place in Geneva)							
Sixth session of the Meeting of the Parties to the Convention and the second session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol	2	Participation of countries with economies in transition (CITs)	Meeting	40	90	1	90
	2	Participation of non-governmental organizations		20			
	2	Invited speakers		10			
	2	Participation of non-UNECE countries		20			
Meetings of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment	2	Participation of CITs	Meeting	20	40	3	120
	2	Participation of non-governmental organizations		10			
	2	Participation of non-UNECE countries		10			
Bureau meetings (free standing)	2	Participation of CITs (Bureau members)	Meeting		5	4	20
Meetings of the Implementation Committee	2	Participation of CITs (Committee members)	Meeting		5	8	40
Informal translations of informal papers for meetings listed above	2		Meeting		5	13	65
Promotion of contacts with countries outside the UNECE region (with reporting of results to Working Group)	2	Travel of secretariat and Chair	Mission		5	5	25
External expert to provide secretariat support for the implementation of the Convention and the Protocol ^a	1	External expert (United Nations Standard Salary Cost, including net salary, taxes and common staff costs)	Year		150	3	450
Further secretariat support for the implementation of the Convention and the Protocol	2	Consultants	Year	20	60	3	180
	2	Promotional materials		10			
	2	Secretariat travel in relation to the workplan		30			
Total (organizational)							990

<i>Activity</i>	<i>Priority</i>	<i>Notes/sub-activities</i>	<i>Unit</i>	<i>Cost per item per unit (shares)</i>	<i>Cost per unit (shares)</i>	<i>Number of units over three years</i>	<i>Total cost over three years (shares)</i>
Substantive activities (see corresponding workplan for details)							
Compliance with and implementation of the Convention and the Protocol	2	Informal translations of submissions					10
	1	Drafting of review of implementation	Consultant				20
	2	Country-specific performance reviews	Review		25	3	75
Exchange of good practices	2	Workshops or half-day seminars	Seminar		10	4	40
Total (substantive)							145
Grand total (in shares, 1 share = \$1,000)							1 135

^a Including coordination of capacity-development, development and maintenance of website, modification of questionnaire, drafting of review of implementation and of other documents.

Annex

Pledges to the budget for the next intersessional period

<i>Participant (Party to Convention)</i>	<i>Party to the Protocol</i>	<i>Pledge (1 share = US\$ 1,000)</i>
Albania	Yes	
Armenia	Yes	
Austria	Yes	Six shares per year for three years, for both instruments.
Azerbaijan		
Belarus		
Belgium		
Bosnia and Herzegovina		
Bulgaria	Yes	US\$ 5,000 for the Convention and US\$ 3,000 for the Protocol in the period up to the next Meeting of the Parties, to be paid in 2012.
Canada		
Croatia	Yes	Three shares per year.
Cyprus		
Czech Republic	Yes	US\$ 5,000 per year until the next Meeting of the Parties, depending upon the availability of funds in the national budget.
Denmark		
Estonia	Yes	
Finland	Yes	An associate expert will be funded for one year with an option for a second year.
France		€10,000 per year, subject to availability in the budget.
Germany	Yes	A minimum of 30 shares for the period to the next session of the Meeting of the Parties to the Convention and the next session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol. This sum will be divided into at least two payments and will be earmarked. Any payment depends on the availability of funds in the national budget that will have to be adopted by the Parliament for each year.
Greece		
Hungary	Yes	US\$ 4,000 per year contribution for the period to the next Meeting of the Parties (in years 2011, 2012, 2013 and 2014).
Ireland		
Italy		
Kazakhstan		
Kyrgyzstan		
Latvia		

<i>Participant (Party to Convention)</i>	<i>Party to the Protocol</i>	<i>Pledge (1 share = US\$ 1,000)</i>
Liechtenstein		
Lithuania	Yes	
Luxembourg	Yes	
Malta		
Montenegro	Yes	
Netherlands	Yes	€48,000 for the intersessional period between the fifth and sixth sessions of the Meeting of the Parties.
Norway	Yes	10–15 shares per year for the period to the next session of the Meeting of the Parties to the Convention and the next session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol. Any payment depends on the availability of funds in the national budget that will have to be adopted by the Parliament for each year.
Poland		Five shares per year for the period to the next Meeting of the Parties (in years 2012, 2013 and 2014).
Portugal		
Republic of Moldova		
Romania	Yes	
Serbia	Yes	US\$ 1,000 in 2012.
Slovakia	Yes	€2,000.
Slovenia	Yes	Three shares per year for three years for both the Convention and the Protocol.
Spain	Yes	
Sweden	Yes	20 shares, in kind, primarily for Baltic cooperation for both instruments, subject to the approval of the national budget.
Switzerland		Likely US\$ 20,000 (20 shares) per year to the next meeting of the Parties.
The former Yugoslav Republic of Macedonia		
Ukraine		US\$ 6,000 (six shares) in total for the period to the next meeting of the Parties.
United Kingdom of Great Britain and Northern Ireland		
European Union	Yes	€50,000 per year. ^a

^a But see paragraph 2 of decision V/10 on the budget, financial arrangements and financial assistance.