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

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

Working Group on Environmental Impact Assessment and Strategic Environmental Assessment

Second meeting
Geneva, 27–30 May 2013

Report of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment on its second meeting

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I. Introduction

1. The second meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment (Protocol on SEA) was held from 27 to 30 May 2013 in Geneva, Switzerland.

A. Attendance

2. The meeting was attended by delegations from the following Parties to the Convention and the Protocol and other member States of the United Nations Economic Commission for Europe (ECE): Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Georgia, Germany, Hungary, Ireland, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Ukraine and Uzbekistan. Representatives of the European Commission also attended. The Republic of Korea, as a Member State of the United Nations, was also represented.

3. Representatives of the Convention secretariat attended the meeting. Representatives of the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank also attended. The following non-governmental organizations (NGOs) were represented: Caucasus Environmental NGO Network, European ECO Forum, International Association for Impact Assessment (IAIA) and Justice and Environment.

B. Organizational matters

4. The Chair of the Working Group, Mr. P. Otawski (Poland), opened the meeting.

5. The Working Group adopted its agenda as set out in document ECE/MP.EIA/WG.2/2013/1, which had been prepared by the secretariat in agreement with the Bureau.

6. As recommended by the Bureau, the Working Group agreed to grant the European Investment Bank observer status in its meetings.

II. Status of ratification

7. The Working Group heard a report by the secretariat on the status of ratification of the Convention, its two amendments and its Protocol, and welcomed Denmark's and Portugal's ratifications of the Protocol and Switzerland's ratification of the second amendment to the Convention.

8. The Working Group also welcomed the information provided by the secretariat that the United Nations Legal Counsel had confirmed that when determining the entry into force of the two amendments to the Convention account should be taken of decision V/2 of the Meeting of the Parties (MOP) and its interpretation by the Working Group (ECE/MP.EIA/WG.2/2012/2, para. 12). It noted that, in line with that interpretation, the amendments would enter into force upon their ratification by at least three fourths of the number of Parties at the time of the adoption of the amendments. It noted furthermore that, consequently, three further ratifications were needed for the first amendment and ten further ratifications were needed for the second amendment to enter into force.

9. The Working Group noted that in May 2013, as requested by the Bureau, the ECE Executive Secretary had sent out letters to the ministers for foreign affairs and ministers of the environment of 27 States Parties to the Convention inviting them to rapidly ratify or accede to the amendments and the Protocol. Echoing the recommendations of the Bureau, the Working Group invited the delegations of the concerned Parties to take the necessary action to ensure the entry into force of the amendments by the sixth session of the Meeting of the Parties to the Convention, and to report back to the Working Group on its next meeting in November 2013 on progress made in that regard.

10. The Working Group took note of the information provided by delegates on their plans for ratification of the Protocol and the two amendments to the Convention. A number of them reported that procedures for ratification of the amendments were under way, with those in Slovenia and Finland being the most advanced. Regarding the procedures for ratification of the Protocol, those in Ukraine were reported to be the most advanced. The delegation of Azerbaijan stated that procedures for ratification of the Protocol would be initiated after the adoption of the new law on EIA, which was currently before the parliament. The representative of the Republic of Moldova reported that it was currently receiving pre-accession legislative assistance on strategic environmental assessment (SEA) from the secretariat, and that once that project was completed the Government would initiate the procedures for ratification of the Protocol.

11. The Working Group noted that the report on its first meeting had erroneously listed Armenia among the countries that had reported on their plans to ratify the Protocol, although it was already Party to it (ECE/MP.EIA/WG1/2012/2, para. 10).

12. The Working Group acknowledged the Republic of Korea's interest in acceding to the Protocol. It took note of a decision adopted by the Meeting of the Parties to the ECE Convention on the Protection and the Use of Transboundary Watercourses and International Lakes at its sixth session (Rome, 28–30 November 2012) to expedite and facilitate accession by non-ECE member States. It decided to follow that approach and invited the Bureau with the support of the secretariat to prepare a draft decision on the accession of countries from outside the ECE region to the Espoo Convention and its Protocol on SEA for consideration by the Working Group at its next meeting.

III. Compliance and implementation

13. The Working Group noted the reports of the Implementation Committee under the Convention and the Protocol on its twenty-fifth, twenty-sixth and twenty-seventh sessions (ECE/MP.EIA/IC/2012/4, ECE/MP.EIA/IC/2012/6 and ECE/MP.EIA/IC/2013/2, respectively), as well as the oral report by the Chair of the Implementation Committee, including on:

- (a) Submissions (by Azerbaijan regarding Armenia, by Lithuania regarding Belarus and by Armenia regarding Azerbaijan);
- (b) Committee initiatives on Albania and Azerbaijan, and its new initiative on Ukraine;
- (c) Follow-up to decision V/4 regarding Ukraine;
- (d) Information-gathering cases;
- (e) Proposed amendments to the Committee's rules of procedure;
- (f) Review of implementation of the Convention and Protocol;

(g) The Committee's proposal to assist Armenia and Azerbaijan to implement the Convention, taking into account the presence of exceptional circumstances involving the absence of diplomatic relations, direct contacts and cooperation between the two Parties.

14. The Working Group was informed of the recommendations of the Implementation Committee and the Bureau to establish an ad hoc group to prepare proposals on the implementation of the Convention by Armenia and Azerbaijan, including the possible designation of an intermediary and the use of new communication technologies. It noted the statements by the delegations from Azerbaijan and Armenia, including that Azerbaijan was in favour of the secretariat serving as an intermediary and against the involvement of a third Party, and the establishment of an ad hoc group to prepare proposals, while Armenia was opposed to any involvement of the secretariat as an intermediary. The European Commission announced that it would in principle be willing to financially support the work of an intermediary, should Parties so decide, and if the secretariat subsequently submitted such a request to it. The Working Group welcomed the offer from the European Commission to explore opportunities for financing assistance to the two countries.

15. The Working Group welcomed the proposal by the Chair of the Implementation Committee, IAIA and the European Commission to organize a half-a-day seminar as an agenda item of the Working Group's next meeting for sharing good practice and tools for communication, cooperation and conflict resolution, in particular in the context of countries with no diplomatic relations. It decided to hold the seminar on the first day of its next meeting, on 11 November 2013, and to extend the meeting by half a day, so that it would end on 15 November at 1 p.m. Moreover, the Working Group agreed to forward the recommendations from the seminar to the MOP at its sixth session with a view to assisting Parties in their implementation of the Convention. It also invited the Bureau, with the support of the secretariat and with input from the Chair of the Implementation Committee, IAIA and the European Commission, to prepare a draft decision on that issue for the consideration of the Working Group at its next meeting. Finally, the Working Group appreciated the offer from the Chair of the Implementation Committee, IAIA and the European Commission to prepare a background paper for the seminar in advance of its next session in English and in Russian.

16. The Working Group welcomed the table of concordance prepared by the editors of the United Nations listing discrepancies between the Convention's three authentic language versions, as well as the clarifications on the correction and amendment procedures provided by the United Nations Office for Legal Affairs (included in informal document ECE/MP.EIA/WG.2/2013/INF.5 and its annex). With a view to aligning the language versions, it invited the ad hoc task force of lawyers and native speakers of English, French and Russian, set up by the Working Group at its first meeting,¹ to review the listed inconsistencies and to submit proposals to its next meeting and to the subsequent sessions of the Implementation Committee (in September and/or December 2013). The ad hoc group should propose how to address the discrepancies, through distinguishing between:

- (a) Linguistic, typographical and other technical errors to be addressed through a correction procedure;
- (b) Possible draft amendment(s) to the Convention for adoption by the Meeting of the Parties.

¹ Composed of representatives from the European Commission, France, Ireland, Switzerland and Ukraine; with European ECO Forum and Ecoglobe as observers.

17. The delegation of Belarus pointed out possible further errors it had observed in the Russian version of the Convention. The Working Group invited Belarus to provide them in writing to the ad hoc group and also to consider joining the group. The secretariat was invited to provide the group with the Certified True Copy of the Convention and the listed consistencies as a basis for its work. The Working Group invited the task force to work electronically and to submit its proposals to the secretariat by 15 July 2013. It also invited the Bureau, with the assistance of the secretariat, to prepare a decision on “aligning the authentic language versions of the Convention” for correcting and/or for amending the Convention. In addition, the Bureau and the secretariat were invited to prepare a decision on aligning the language authentic language versions of the Protocol.

18. The secretariat reported on the distribution of the questionnaires on the implementation of the Convention and the Protocol in the period 2010–2012, on the receipt of completed questionnaires from the Parties and on the time schedule for preparing the draft reviews of implementation of the Convention and the Protocol based on the national reports received. The Working Group regretted that, by 27 May 2013, two months after the deadline for completing the questionnaire, Bosnia and Herzegovina, Greece, Ireland, Liechtenstein, Luxembourg, Portugal and the United Kingdom of Great Britain and Northern Ireland had still not reported on their implementation of the Convention. It urged those Parties to report by no later than 7 June 2013. Moreover, although the end of May deadline for completing the questionnaire on the implementation of the Protocol was only a few days away, only 7 of the 25 Parties to the Protocol had reported so far. The Working Group urged the remaining Parties to report by no later than 28 June 2013.

19. The Working Group noted the advice of the Bureau and the Implementation Committee to the secretariat for the production of a draft fourth review of implementation of the Convention and a draft first review of implementation of Protocol, that were to be half as long as the previous reviews. The secretariat had been advised to focus on legal obligations where the implementation by Parties was particularly challenging (Part I of the questionnaires) and to illustrate those with practical examples (from Part II); to shorten and group the questions; and to shorten the preface and introductory parts of the draft reviews. The Working Group did not express any views regarding the contents of the draft reviews. It invited the secretariat to prepare the drafts, with the support of a consultant, and to submit them as official documents for its next session.

20. The Working Group reviewed progress in the implementation of the pre-accession legislative assistance foreseen in the workplan for 2011–2014. It welcomed the information provided by the delegation of Belarus on the technical advice for improving its legislation to implement the Protocol that was scheduled for autumn 2013. It also welcomed the information from the delegation of Uzbekistan and the secretariat that a legislative review on EIA could in principle be carried out in early 2014 with funding from Switzerland. The secretariat was invited to write to the Minister of Foreign Affairs of Uzbekistan to request the Minister’s agreement on the project implementation. Finally, the Working Group noted that Ukraine expected to adopt new legislation on SEA in 2013, and that, consequently, the legislative assistance foreseen in the workplan was no longer needed. It noted furthermore that Ukraine was also about to adopt a new law on EIA.

21. The Working Group welcomed the draft general guidance on resolving a possible systemic inconsistency between the Convention and environmental assessment within the framework of State ecological expertise (informal document ECE/MP.EIA/WG.2/2013/INF.7), which had been developed by two consultants to the secretariat in line with the workplan. It also noted the divergent views of the delegation of Belarus, which expressed reservations regarding the validity and relevancy of the document, notably with respect to its national legislation. All delegations were invited to provide further comments on the document by 15 June. The Working Group invited the

consultants to finalize the draft general guidance taking account of the comments provided during and after the session. It requested the secretariat to submit the draft document for adoption to the MOP at its sixth session, once finalized. It also invited the Bureau, with the support of the secretariat, to prepare a draft decision on the adoption of the draft guidance.

22. To promote the use by international financial institutions of a checklist prepared by the EBRD (decision V/4, para. 16) and the development of a consolidated list reflecting the common practice of those institutions, the Working Group invited the secretariat to write to the Chair of the IFI environmental working group to propose that the checklist be submitted to that group's next meeting in autumn 2013 for comments and inputs.

IV. Exchange of good practices

A. Seminar on biodiversity in environmental impact assessment and strategic environmental assessment

23. A representative of Belgium chaired a seminar on biodiversity in environmental impact assessment (EIA) and SEA, which Belgium had organized as foreseen in the workplan. The Working Group expressed its thanks to the speakers from Belgium, Germany, the European Commission and the International Union for Conservation of Nature (IUCN) and asked the secretariat to place the presentations on the website.

24. The Working Group noted the main conclusions from the seminar and invited Belgium to prepare a brief report on the main challenges identified and suggesting further actions, synergies, partnerships needed for increasing the impact of the Convention and the Protocol with regard to biodiversity. (See annex for the Chair's summary of the seminar.)

B. Other activities foreseen in the workplan

25. The Working Group noted the proposals of the Bureau for the timing and the contents of the planned seminar on nuclear energy (informal document ECE/MP.EIA/WG.2/2013/INF.9) and invited the lead countries for that activity to consider them when preparing for the seminar.

26. The Working Group welcomed the following reports by the lead countries on progress in organizing the half-day or one-day seminars or workshops for the exchange of good practices, as foreseen in the workplan:

(a) Poland reported that, in the absence of a response from Portugal, the other lead country for the workshop on renewable energy, to its attempts to initiate joint preparations, Poland had proceeded alone with the preparations for a workshop devoted only to wind energy. The Working Group called for possible input from other countries with experience on other forms of renewable energy;

(b) Finland, on behalf of the other two lead countries, Austria and Sweden, reported on the preparations for a one-day seminar on nuclear energy. The seminar would focus mainly on addressing areas where the application of the Convention to nuclear energy-related activities was challenging and where guidance for the Parties would be most beneficial. Discussions among the lead countries were still ongoing on whether to also include SEA-related issues. The lead countries planned to send out a questionnaire to countries with experience in nuclear energy-related issues to gather information on the challenges encountered and the solutions and good practices identified.

27. The Working Group agreed on holding the one-day workshop on the long-range impacts of nuclear energy-related activities during the next meeting of the Working Group in November and the half-day seminar on renewable energy at the next session of the MOP.

C. Application of the Convention to nuclear energy-related activities

28. The Working Group decided to invite the MOP at its next session to establish a drafting group to develop good practice guidance to support the application of the Convention to nuclear energy-related activities. As discussed by the Working Group at its first meeting, the draft guidance should build, inter alia, on the background paper produced by the secretariat in 2011 (ECE/MP.EIA/2011/5) and on the outcomes of the seminar on nuclear energy-related activities to be held at the Working Group's next session. The Working Group invited the lead countries of the nuclear seminar, Austria, Finland and Sweden, as well as France, Ukraine and other interested Parties, such as the European Union (EU), to assist the Bureau in preparing a draft decision for the Working Group's next meeting outlining the expected contents and the methods of work for producing the guidance.

29. Delegates expressed their views on the contents of the planned draft guidance. The delegation of Ukraine stressed the need for Parties to receive concrete guidance for the application of the Convention, including to building and operating of nuclear installations. The representative of Slovakia proposed that guidance be provided in particular on: the appropriate procedural stage for deciding on locational alternatives; the appropriate information to be shared with the public for discussion; and the prolongation of the lifetime of nuclear facilities. The delegation of Belarus stated that the Guidance should not only codify good practice but also highlight lessons learned and challenges encountered by countries with experience in nuclear energy-related activities.

30. Representatives from EBRD and European ECO Forum highlighted that when preparing the guidance it was important to coordinating and make use of synergies with the related activities under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). In that connection, the Working Group noted the information provided by the secretariat on a meeting on public participation in nuclear energy-related matters that had been organized under the Aarhus Convention in Luxembourg on 12 and 13 March 2013, with input from the European Commission's Directorate-General for Energy and the Association Nationale des Comités et Commissions Locales d'Information. It invited the secretariat to provide it with the report of that meeting, when available.²

31. The Working Group noted a statement made by the delegation of Azerbaijan on its nuclear energy related concerns.

D. Practices in States outside the region

32. The Working Group welcomed the presentation by the representative of the Republic of Korea on the outcomes of a Workshop on EIA in a Transboundary Context in Eastern Asia, which it had organized jointly with the secretariat in Seoul in June 2012. The secretariat was invited to place the presentation on the Convention website.

² The report (ECE/MP.PP/WG.1/2013/6) is available from http://www.unece.org/fileadmin/DAM/env/pp/ppdm/4th_PPDM/ECE.MP.PP.WG.1.2013.6_as_submitted.pdf.

V. Subregional cooperation and capacity-building

33. The Working Group reviewed progress in organizing subregional cooperation and capacity-building activities, as foreseen in the workplan. It welcomed the information provided by:

(a) Estonia, on the sixth Seminar on cooperation on the Espoo Convention in the Baltic Sea region, held in Tallinn, Poland, on 20 and 21 September 2012;

(b) Germany, on the arrangements for the seventh Seminar on cooperation on the Espoo Convention in the Baltic Sea region expected to be held in Rostock, Germany, on 17 and 18 October 2013;

(c) The secretariat and France on the planned further workshops for the Mediterranean Sea area, as foreseen in the workplan. However, the Working Group regretted the persisting difficulties in organizing a workshop in that subregion and invited the secretariat to write to the concerned countries to prompt them to organize the events;

(d) The secretariat about the first Regional Conference on EIA for South-Eastern Europe, scheduled for 18 to 21 September 2013, which could provide a framework for discussing the multilateral agreement among the countries of South-Eastern Europe for the implementation of the Convention (Bucharest Agreement);

(e) Romania on its plans to organize seminar on the implementation of the Bucharest Agreement in 2014 and a first Meeting of the Parties to the Bucharest Agreement in 2015.

34. The Working Group welcomed the information provided by the delegation of Belarus and the secretariat on a the pilot project on post-project analysis of transboundary EIA, which had been kicked-off at a meeting held in Brest, Belarus, in April 2013. The project would assist and assess the work of a bilateral working group of experts from Belarus and Ukraine that had been established to oversee the joint monitoring and evaluation of the ex-post environmental impacts of the exploitation of the chalky deposit "Hotislavskoe" in Belarus near the border with Ukraine.

35. The secretariat reported that no funding had yet been identified for the pilot project between Kyrgyzstan and Kazakhstan foreseen in the workplan. The concerned countries were once again invited to specify a target activity for the project, so as to facilitate fundraising efforts. The Working Group was informed that the Republic of Korea, which had expressed its interest in observing a pilot application of transboundary EIA in Central Asia, could potentially consider co-funding such a pilot project.

36. The Working Group welcomed the information that the secretariat had secured €2 million for funding subregional cooperation and capacity-building activities in the period 2013–2016 in Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine, through a large EU-funded project, Greening Economies in the Eastern Neighbourhood (EaP-Green). The EaP-Green project component implemented by the secretariat aimed mainly at promoting SEA as an essential planning tool for sustainable development. It would make it possible to finance numerous activities under the current and next intersessional workplans for promoting ratification and application of the Protocol on SEA in the six target countries. It would also enable the organization of three subregional coordination and experience-sharing events between 2014 and 2016. If requested by the concerned countries, technical assistance for implementing the Convention would also be provided. In autumn 2013, with EaP-Green funding, Georgia would receive technical assistance for reviewing and revising its legislation in line with the Convention. To assist in the planning and coordination of the capacity-building activities, the secretariat would shortly be supplemented by a Russian-speaking project staff member.

VI. Promoting ratification and application of the Protocol on Strategic Environmental Assessment

37. The Working Group noted the secretariat's oral report on the maintenance of the *Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment*.³ It endorsed the Manual's health annex as provided in document ECE/MP.EIA/WG.2/2013/4 and invited the secretariat to publish the Russian version of the Manual electronically, including its health annex.

38. The Working Group also welcomed the publication by the secretariat of the *Simplified Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment* (ECE/MP.EIA/18). The Simplified Resource Manual had been prepared by the secretariat and an editorial group from Austria, Finland, the Netherlands, the European Commission and the World Health Organization and finalized taking into account input from Germany and Sweden.

39. The secretariat reported that both Resource Manuals were being translated into Armenian and Azerbaijani and one of them was also being translated into Georgian by the Organization for Security and Cooperation in Europe, at the request of the secretariat, and would be available shortly. The Working Group also encouraged other countries to translate the manuals into their national languages.

40. The Working Group welcomed the information provided by the secretariat on the ongoing and planned legislative reviews, training workshops and pilot projects on SEA in Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine, funded through the EAP-Green project in 2013–2016. Those included national training workshops on SEA in Ukraine and in Armenia in autumn 2013. The national training workshops foreseen in the workplan in Georgia and the Republic of Moldova could be organized as of 2014. The Working Group also welcomed the information from the delegation of Belarus and the secretariat about the three local-level training workshops on SEA that were to be carried out in Belarus in autumn 2013. It noted that no funding had been identified for the national training workshops on SEA in Kazakhstan and in the Russian Federation, and encouraged donors to support those events.

41. The Working Group noted the information provided by the secretariat on the outcomes of the joint event on public participation in strategic environmental decision-making that had been organized with the Aarhus Convention in Geneva on 29 and 30 October 2012, in line with the workplan (see informal document ECE/MP.EIA/WG.2/2013/INF.10 for the minutes of the meeting).

42. The secretariat also informed the Working Group that the draft good practice recommendations on public participation in SEA (ECE/MP.EIA/WG.2/2013/3), submitted for consideration by the Working Group, had been prepared by a consultant to the secretariat under the guidance of the Bureau. The draft recommendations were based on the comments received before, during and after the joint event in October. In addition, a representative of the Aarhus Convention secretariat reported about the preparations for the draft recommendations on public participation in environmental decision-making that had been developed under the Aarhus Convention in consultation with all the stakeholders, including those under the Espoo Convention. During the discussion that followed, delegations made several comments on the draft document. The Working Group invited the secretariat to finalize the draft good practice recommendations based on the comments made, including with a view to aligning the document with the obligations under the

³ Available on the Convention website from http://www.unece.org/env/eia/sea_manual/welcome.html.

Aarhus Convention, and to submit it to the MOP for adoption at its next session. It also invited the Bureau, with the assistance of the secretariat, to prepare a draft decision on the adoption of the recommendations.

43. The delegation of Poland said it would submit a first case study fact sheet on SEA for possible comments by the Working Group at its next meeting and for subsequent publishing on the Convention website. The Working Group welcomed that information and encouraged other Parties to also submit case studies.

44. The Working Group noted the further two informal pamphlets or “FasTips” on key issues in impact assessment practice prepared and presented by IAIA on “Climate smart decisions” and “Governance”. It welcomed the information that by the next session of the MOP, IAIA would also produce pamphlets on the key issues listed the workplan and invited IAIA to circulate those drafts to the Working Group for comments. The representative of IAIA informed the Working Group that some of the “FasTips” would be translated by IAIA affiliations into Spanish, French, Chinese and Arabic.

VII. Inputs to related international processes

45. The Working Group took note of the outcomes of:

(a) The informal meeting between the representatives of the governing bodies of the ECE environmental conventions and the Committee on Environmental Policy held on 27 February 2013 in Geneva, as presented by the Chair. The secretariat was invited to circulate to the Working Group the paper “Towards enhanced cooperation between the ECE Multilateral Environmental Agreements (MEAs)” for comments in advance of the next informal meeting, preliminarily scheduled for October 2013;⁴

(b) The first meeting of an informal network of the Chairs of the compliance and implementation bodies under the ECE MEAs, held in Geneva on 25 March 2013, to exchange ideas and experience on the procedural and operational aspects of the compliance and implementation work, which were reported by the Chair of the Implementation Committee.

VIII. Budget and financial arrangements and financial assistance

A. Budget and financial arrangements

46. The Working Group took note of the biannual financial report for the period to 31 December 2012 and the informal list of the contributions received subsequently by the Convention trust fund (ECE/MP.EIA/WG.2/2012/INF.11).⁵ It acknowledged the shortfall between financial contributions received and the expenditure necessary to fulfil the workplan and the expected functions of the secretariat. To alleviate the secretariat’s burden of reporting, the Working Group invited all Parties to refer to the detailed biannual financial reports for the use of the funds provided to the Convention trust fund, instead of requesting additional reports.

⁴ The document was made available to the Working Group as part of unofficial documents for its second meeting under agenda item 7.

⁵ These informal documents are available on the web page for the meeting, under agenda item 8 (<http://www.unece.org/env/eia/mtgs/wg.2-2.html>).

47. The Working Group considered the draft financial strategy (ECE/MP.EIA/WG.2/2013/5) prepared by the Bureau, with the assistance of the secretariat, “for carrying out the work under the Convention and the Protocol given the financial constraints”, as requested by the Meeting of the Parties (ECE/MP.EIA/15, decision V/10–I/10, para. 16). The Chair informed the Working Group that the draft strategy also drew from the informal document “Sustainable extrabudgetary financial arrangements for the ECE environmental conventions”.⁶ The Working Group commented the document, focusing in particular on the proposed alternative schemes for the financial contributions to the Convention trust fund. It invited the Bureau, with the assistance of the secretariat, to prepare a revised draft based on the comments made, for consideration of the Working Group at its next meeting. The revised draft should elaborate in greater detail on how the proposed alternative schemes might function and how viable they would be in securing funding for the Convention’s budget, and in particular for the priority activities.

48. The Working Group took note of the information provided by the secretariat regarding travel undertaken outside ECE region to Seoul in June 2012, which had resulted in the expenditure from the Convention trust fund of approximately US\$ 100 (with most of the costs having been covered by the Republic of Korea).

B. Financial assistance to representatives of countries with economies in transition, non-governmental organizations and countries outside the region

49. The Working Group was informed of the decision by the Bureau not to provide financial support to representatives and experts from States outside the ECE region for the present meeting.

IX. Preparations for the sixth session of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context and the second session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol

50. The Working Group agreed to hold the sixth session of the MOP and the second session of the MOP serving as the MOP to the Protocol (MOP/MOP)-2) in Kyiv from 2 to 5 June 2014, as proposed by the Bureau.

51. It welcomed the report from the delegation of Ukraine on the practical arrangements for the sessions, including on the setting up of an interministerial Committee for the preparatory work.

52. The Working Group noted the information provided by the secretariat on the financing of MOP sessions and on the host country agreement to be concluded with Ukraine. The delegation of Ukraine urged the secretariat to provide it with the finalized host country agreement as soon as possible through the diplomatic channels, since, due to the budgetary implications involved, the agreement had to be submitted for ratification by the parliament.

⁶ Also available on the web page for the meeting, under agenda item 8.

53. The delegation of Ukraine and the Chair presented proposals of the Bureau for attracting high-level representatives to the next sessions of the Meetings of the Parties, including, notably, holding discussions on impact assessment of energy-related issues, including pipelines, shale gas, nuclear energy and renewables.

54. The Working Group requested the Bureau, with the support of the secretariat, to prepare an initial draft programme for the next sessions of the MOP and the MOP/MOP for discussion by the next meeting of the Working Group. It invited delegations to send the secretariat proposals in that regard, including for seminars or side events.

55. Based on the information provided by the secretariat and a number of delegations, the Working Group considered the implementation of the current workplan and the possible workplan activities for the next intersessional period, including those for which the funding had already been identified. The Chair reminded the delegations about the proposal in the draft financial strategy that activities for which no funding had been identified should not be included in the workplan upon its adoption but that those could be included on a waiting list until appropriate funding was made available. The Working Group invited the Bureau, with the assistance of the secretariat, to prepare a draft workplan for the next intersessional period, 2014–2017, for consideration by the Working Group at its next meeting. It invited delegations to send further proposals to the secretariat for inclusion in the draft workplan, if possible by the end of June 2013. It noted the proposal by Azerbaijan to (co-)organize a workshop on nuclear energy-related matters.

56. Having considered an informal list of draft decisions that might be considered by the MOP and the MOP/MOP at their next sessions, the Working Group requested the Bureau, with the support of the secretariat, to prepare for the next meeting of the Working Group all draft decisions, with the exception of the decision on the review of compliance, which was to be drafted by the Implementation Committee. The draft decisions should cover the following topics:

- (a) Review of implementation of the Convention;
- (b) Review of implementation of the Protocol;
- (c) Adoption of the workplan;
- (d) Budget, financial arrangements and financial assistance;
- (e) Accession by non-ECE countries to the Convention and to the Protocol;
- (f) Aligning the authentic language versions of the Convention;
- (g) Aligning the authentic language versions of the Protocol;
- (h) Application of the Convention to nuclear energy-related activities;
- (i) (Adoption of the) format for notification on SEA;
- (j) (Adoption of the) Guidance on public participation in SEA;
- (k) (Adoption of the) General guidance on resolving possible systemic inconsistency between the Convention and environmental assessment in State ecological expertise systems;
- (l) Good practice on communication, cooperation and conflict resolution.

57. The Working Group invited delegations to propose at its next meeting nominations for officers for the next intersessional period, as follows: four Vice-Chairs of the Working Group; three members of the Bureau; and four members of Implementation Committee. It noted the nomination put forward by Azerbaijan for the vice-chairmanship of the Working Group.

X. Staffing of the secretariat

58. The Working Group noted the staff changes in the secretariat since its last meeting, namely that:

(a) In June 2012, the regular budget programme assistant servicing the secretariat at 50 per cent had been moved to another section of ECE and had not been replaced;

(b) In November 2012, the new Secretary to the Convention and the Protocol had been officially appointed;

(c) In April 2013, a programme assistant at 50 per cent had been recruited with EAP-Green project funding;

(d) The recruitment of two extrabudgetary Professional staff members was under way: with one funded from the Convention trust fund and the other through EAP-Green project funding.

59. The Working Group raised concerns about the lack of dedicated regular budget programme assistance to the Convention secretariat provided by ECE.

XI. Presentation of the main decisions taken and closing of the meeting

60. The Working Group agreed on the main decisions taken at the meeting, as presented by the secretariat. The Chair closed the meeting on Thursday, 30 May 2013.

Annex

Chair's summary of the seminar on biodiversity in environmental impact assessment and strategic environmental assessment

1. The seminar on biodiversity in environmental impact assessment and strategic environmental assessment was organized on behalf of Belgium by the Environment, Nature and Energy Department of the Flemish Government. Its main aim was to raise awareness among Parties and Signatories to the Espoo Convention and the Protocol on SEA of the need to integrate biodiversity in EIA and SEA, and to share knowledge on biodiversity policy in general and on integrating biodiversity in EIA and SEA through the exchange of experiences on good practice and available guidance.
2. The key messages of the seminar can be summarized as follows:
 - (a) Biodiversity loss (i.e., the degradation of ecosystems and the loss of species and of genetic diversity) is not exclusively a matter of endangering natural values, but also of human well-being and economic prosperity through the loss of the natural capital and the ecosystem services it provided;
 - (b) To reverse the ongoing trend of biodiversity loss and to establish conservation, sustainable use and equitable sharing of biodiversity, strategic goals and targets of biodiversity policy (e.g., those of the EU Biodiversity Strategy to 2020, and of the Strategic Plan for Biodiversity 2011–2020 under the Convention on Biological Diversity (CBD) should be taken into account in EIA;
 - (c) An assessment of the impacts on biodiversity must aim for no net loss and, among others, be tailored to the specificity of the plan or project context (as, for example, the marine environment differs from terrestrial and coastal environments), pay attention to an evolving baseline scenario because the current state of the environment is expected to change, and give priority to avoidance of loss, before considering mitigation or, as a last resort, compensation;
 - (d) An assessment of impacts on biodiversity should properly deal with the uncertainty of impacts, monitoring of impacts and, if necessary, the adaptation of the implemented mitigation and compensation measures, which is of critical importance.
3. The presentations summarized in the sections below provide further information on these key messages.

I. Opening of the seminar

4. The seminar was opened by the Chair, Mr. M. Boodts (Chamber of the Flemish Minister for the Environment, Nature and Culture). The Chair recalled that impacts on biodiversity fell within the scope of the Convention and the Protocol and that, as a consequence, due account should be taken of impacts on biodiversity when carrying out impact assessment procedures in line with the two treaties. Since assessing the impacts on biodiversity was a complex issue, there was an important need for information about the assessment of impacts on biodiversity in practice. Against that background, Belgium had proposed to organize a seminar during the meeting of the Working Group and to invite a selection of qualified experts to share their knowledge on biodiversity policy in general and on integrating biodiversity in EIA and SEA.

II. Summaries of the presentations

5. Ms. E. Martens, (Flemish Agency for Nature and Forests, Belgium), introduced the issue of biodiversity loss and ecosystem degradation. She explained that biodiversity covered a variety of genes, species and ecosystems that constituted life on Earth and stressed that the humankind would not exist without biodiversity. Biodiversity and the ecosystem services it provided constituted the Earth's natural capital, i.e., the services that nature supplied such as climate regulation, water and air, soil fertility, and the production of food, fuel, fibre and medicines. The quality of life, economic competitiveness, employment and security all relied on that natural capital. Despite the worldwide recognition that biodiversity and healthy ecosystems were essential for sustainable development and for the mitigation and adaptation to climate change, a steady loss of biodiversity had been observed, with profound consequences for the natural world and for human well-being. The main causes were changes in natural habitats due to intensive agricultural practices, urbanization, overexploitation, alien species invasions, pollution and increasingly also global climate change. The ever-growing demand for the goods and services biodiversity provided and the unsustainable exploitation of natural resources threatened the capacity of the natural environment to regenerate. The impacts of the loss of biodiversity and the degradation of ecosystems were becoming increasingly apparent, e.g., through a higher frequency of natural catastrophes, such as flooding and landslides by heavy rainfall, or severe droughts. Those events illustrated that humankind was exceeding the ecological carrying capacity or the resilience of ecosystems.

6. Ms. Martens drew attention to the growing recognition that biodiversity was not just about protecting species, but also about ensuring nature's capacity to deliver the necessary goods and services, which, although provided seemingly for free, actually had an economic value. The studies on the economics of ecosystems and biodiversity demonstrated the importance of valuing and putting the right price tag on natural capital to ensure that investments were directed at maintaining and enhancing rather than exploiting and destroying that natural capital. Such studies demonstrated that in addition to safeguarding biodiversity's intrinsic value, investing in nature provided multiple benefits to society and the economy. Biodiversity policies therefore needed to address the shortcomings of actions under the previous policies and focus, among others, on the development of coherent ecological networks, integration of biodiversity in other sectors, better scientific knowledge on biodiversity and ecosystem services, enhancing participation and looking for win-win actions to address the situation. Informed decision-making, which took account of the values of biodiversity and ecosystem services, was crucial for the effective integration of biodiversity concerns into other policies, to enhance synergies and maximize co-benefits. Integration and mainstreaming of biodiversity in other policies was crucial to address the direct and indirect drivers of biodiversity loss and to strengthen the commitment and active participation of all stakeholders. A crucial step in the right direction was the integration of biodiversity concerns and the values of biodiversity and ecosystem services into the environmental assessments of projects and plans.

7. Ms. K. Gjerde (IUCN, Global Marine and Polar Programme) focused on the challenges of implementing EIAs in marine areas, in particular beyond the outer continental shelf (i.e., the open ocean and deep seabed within and beyond national jurisdiction) and discussed the CBD Revised Voluntary Guidelines for the Consideration of Biodiversity in Environmental Impact Assessments and Strategic Environmental Assessments in Marine and Coastal Areas (UNEP/CBD/COP11/23). She stressed that while EIAs were common on land or in near-shore and shallow waters, Governments were still grappling with significant ecological, practical, legal and governance differences that could render EIA processes more difficult for projects and activities in offshore marine environments. The open ocean and deep seabed were remote, poorly studied and poorly understood, and subject to

complex, overlapping and fragmentary governance. In the deep sea, extreme conditions were common, productivity was lower, features were patchy and recovery from perturbations could be slower than for most coastal and terrestrial ecosystems. In the open ocean water column, features were similarly patchy, but on much larger spatial scales subject to great variation in time and space. Both the United Nations Convention on the Law of the Sea and the CBD included general requirements for prior assessment of activities that applied in marine and coastal areas. Whereas EIAs could be commonly required through national legislation, EIAs for activities beyond national jurisdiction were currently required only for seabed mining, deep sea bottom fishing, dumping of wastes and ocean fertilization. Governments were debating the need for a global framework for EIAs for activities affecting biodiversity in areas beyond national jurisdiction as part of a larger package of issues that included capacity-building and technology transfer, essential components for successful EIA practice.

8. Ms. Gjerde drew attention to the CBD Revised Voluntary Guidelines on EIA and SEA in Marine and Coastal areas, which built on the CBD Voluntary Guidelines for Biodiversity-inclusive EIAs endorsed in 2006 and on relevant sectoral and regional experiences, as well on the results of an expert workshop in Manila in 2009. In October 2012, the eleventh CBD Conference of Parties had taken note of those Guidelines (CBD COP decision XI/18) and encouraged Governments and organizations to adapt and apply them as might be considered necessary in accordance with their national circumstances and priorities. The Guidelines invited the Governments, among other things, to apply a highly precautionary approach, since the limited knowledge of open ocean and deep sea ecosystems and their relationships, combined with the higher vulnerability of many offshore species, meant that the risks might be significantly higher and the harm harder to repair. Furthermore, the Governments were to focus more on important places than on species or ecosystem services until more was known, to adopt an incremental and iterative “test-based” approach to new activities (such activities might be allowed at a small scale under strict monitoring and surveillance before being allowed to scale-up), to make the best use of existing data (including the use of predictive modelling, proxies and remote sensing, with the relevant collection of data at the location of an activity) and to address issues of equity and stakeholder concerns through open, transparent and participatory processes, using a broad definition of “stakeholder” to reflect regional and global concerns and interests.

9. Ms. M. Novakova (Directorate-General for the Environment of the European Commission) presented the EU biodiversity policy and environmental assessments. The objective of the EU Biodiversity Strategy (COM (2011) 244 final) was to halt the biodiversity loss in the EU, restore ecosystems where possible and to step up efforts to avert global biodiversity loss. The Strategy recognized the failure to meet the EU 2010 biodiversity target and the alarming biodiversity loss that had been a result of various activities that had had significant environmental impact. The Strategy therefore urged, inter alia, an enhanced integration of biodiversity into the development and implementation of other policies. The EU Biodiversity Strategy was built around six targets that focused on the main drivers of biodiversity loss. The envisaged actions aimed to reduce key pressures on nature and ecosystem services in the EU by increasing efforts to fully implement existing nature legislation, anchoring biodiversity objectives into key sectoral policies, and closing important policy gaps. Environmental assessments, like EIA and SEA, were important tools for integrating environmental considerations into the preparation and adoption of certain plans, programmes and projects that were likely to have significant effects on the environment. Both procedures ensured that the effects of implementing plans, programmes, and projects were taken into account during the preparation stage and before their adoption. Biodiversity was a complex issue and had to be taken into account at the earliest stage of the environmental assessments. In that connection, there were two

guidance documents by the European Commission on integrating biodiversity and climate change into EIA and SEA. To achieve high protection of environment, and in particular biodiversity, it was recommended that EIA and SEA documents assessed the existing and future baseline, taking into account different drivers, and the impact of predicted changes in biodiversity. It should be taken into account that each EIA and SEA procedure was different, and so were the environmental impacts. Therefore, the precautionary and prevention principle had to be applied to achieve a high protection of biodiversity and nature. Assessing alternatives which made a difference to biodiversity needed to be given priority in the decision-making. It was also necessary to apply and better use ecosystem-based approaches and green infrastructure rationale as part of a project's design and/or mitigation measures.

10. Mr. R. Slootweg (Sevs Consultancy) focused on ecosystem services in EIA and SEA. Biodiversity was still badly represented in environmental assessment and decision-making, being either considered to be a trifle or else a difficult subject to deal with. The CBD provided for a widely endorsed set of definitions and objectives with respect to biodiversity management and approaches to attain those objectives, but it was important to translate those objectives and approaches for environmental assessment to work in practice. In 2006, the CBD had, with the help of IAIA, adopted guidelines on biodiversity in impact assessment that integrated the objectives of CBD, its ecosystem approach (oriented towards the management of biodiversity), and the outputs of the Millennium Ecosystem Assessment (oriented towards the proper valuation of biodiversity) into one comprehensive approach for biodiversity-inclusive environmental assessment which combined ecology and traditional conservation language with the need for social and economic development, and the act of balancing between present and future. The fundamental point of departure for the guidelines was that there was no need for an altogether new assessment procedure, but, instead, to adopt a more pragmatic and rationale treatment of biodiversity within the existing impact assessment frameworks, like EIA, for the assessment of concrete projects, and SEA for the assessment of impacts resulting from programmes, plans and policies. Although those instruments were widely recognized and used there was an urgent need to improve their use with respect to biodiversity.

11. Mr. Slootweg explained some of the concepts underlying the CBD (and also Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention)) guidelines, as they provided a clear approach to defining biodiversity, based on internationally agreed principles; an unequivocal, scientifically valid manner to identify transboundary issues that needed to be taken into account in impact assessment; a methodology to link biodiversity to stakeholders, by describing biodiversity in terms of ecosystem services; and a scoping tool to limit assessment to the relevant issues (avoiding costly inventories). The CBD took into account present needs (sustainable use), while maintaining future options (conservation), and also introduced the principle of equity. That conveyed an important message that biodiversity was about people and how people managed it for their own well-being. To address that more concretely, the CBD provided for an ecosystem approach. That approach shared principles with environmental assessments, being transparent and participatory and putting an emphasis on the role of stakeholders, and therefore provided an obvious link between biodiversity and environmental assessment. If biodiversity was about people, it had to be linked to people, e.g., through the terminology and concepts provided by the Millennium Ecosystem Assessment. Furthermore, ecosystem services (i.e., goods and services provided by biodiversity) translated biodiversity into concepts that people could understand and that could be linked to stakeholders. For impact assessments, that provided an important mechanism to explain biodiversity to the decision makers. Valuing biodiversity was essential and the stakeholders played an important role in expressing values. The desire to integrate environmental, social and economic aspects in the assessment of projects, plans,

programmes and policies had stimulated the development of the impact assessment framework. In practice, EIA (in its strict meaning of assessing biophysical impacts only), social impact assessment and economic cost-benefit analysis largely continued to operate in their separate realms, and it was difficult to link them within a multidisciplinary environment. The framework aimed to provide insight into the relations between human society and the biophysical environment, and the way in which both biophysical environment and the human society were being influenced and managed. The core element of the conceptual approach was the characterization and classification of ecosystem services provided by the biophysical environment and the assessment of their value for sustaining human livelihoods.

12. Mr. S. Ides (Antwerp Port Authority) discussed the cross-border impact assessments of the Enlargement of the Scheldt Navigation Channel. The Scheldt estuary was the maritime access to several ports in Flanders and the Netherlands, the largest being the Port of Antwerp, located some 100 kilometres from the open sea. The Western Scheldt — the part of the estuary between Vlissingen and the Dutch-Belgian border — was a typical multiple channel system. Up-estuary of the Dutch-Belgian border, the estuary evolved into a meandering single channel system. The tidal penetration from the North Sea into the estuary was the main driving force from the point of view of hydrodynamics. Due to the tidal dynamics and the transition from fresh to salt water, a variety of ecosystems with a rich variety of plants and animals was found along the estuary. Consequently, large parts of the estuary were protected as Natura2000 sites. In 1999, Flanders and the Netherlands had agreed to develop a common strategy for managing the Scheldt estuary. In 2001, they signed a memorandum of understanding defining a Long Term Vision (LTV) strategy and its objectives and in 2002 initiated the preparation of the 2010 Development Outline (DO) for the Scheldt estuary. The aim of the 2010 DO was to define those projects and measures that should be started no later than 2010 to ensure the realization of the LTV in 2030. In March 2005, the execution of the full 2010 DO had been decided on, setting a management strategy to combine the safety against flooding, the accessibility of the ports and the naturalness of the estuary. One of the projects included in the 2010 DO was the deepening and widening of the navigation channel to the port of Antwerp. The project had been proposed by the Antwerp Port Authority to cope with the global economics of scale in the container shipping industry and it was to enable the accessibility to the port of ships with a draft of 13.10 metres independently from the tide. A SEA was completed in 2004 and an EIA of the project in 2007. As an alternative to the traditional disposal strategy, involving disposing material in secondary channels, the project was supplemented with a new disposal strategy aimed at creating low dynamic intertidal and shallow water area, an ecological valuable area that was desired in the Scheldt estuary. In that way, the positive effect of disposal of dredged material from the capital dredging works was seen as a mitigating measure. The new disposal strategy along sandbars was seen as the most environmentally friendly alternative.

13. Mr. Ides explained that despite the use of state-of-the-art tools, expert judgement to interpret the results of the models, the intensive monitoring after the previous deepening campaign in the estuary and the focused monitoring in the field to increase the insight in local physical processes, uncertainties in the results of the environmental assessment still occurred. In order to cope with those uncertainties, a three-stage approach was applied to exclude the occurrence of unexpected negative effects during and after implementation of the project. That involved, in the first stage, the use of the most friendly alternative as determined through the SEA. In the second stage the use of a flexible disposal strategy, with the flexibility foreseen in the permit. Based on the comparison of the continuous monitoring results of the effects of the project to predefined thresholds, the “flexible disposal project group” would decide on when and how to adapt the disposal strategy. A report on the monitoring results was prepared every two years and reviewed by a team of

cross-border experts (the so-called Western Scheldt Monitoring Commission), which would give recommendations to the responsible government, including on a possible change of the disposal strategy, change of the monitoring programme or additional research. In the third stage the license included the possibility to stop the project if negative effects occurred.

14. Finally, Mr. Ides drew attention to the TIDE project (a project within the Interreg IVB North Sea Region Programme), which had included a study on how to cope with uncertainties in a recent rather large-scale project in an estuarine environment. Based on the analysis of five case studies throughout different European estuaries, the following recommendations were provided for coping with uncertainties within environmental assessment:

(a) If any scientific uncertainty with regard to the effects of a project remained, the competent authority could grant its consent under special conditions (e.g., involving an adaptive strategy). Such special conditions should include a predefined and validated scheme to monitor the actual impacts and a framework to adapt the mitigation/compensation measures regarding the actual impact;

(b) A vigorous follow-up mechanism was required, such as a long-term forum with all stakeholders for reporting on the results;

(c) Financial warranties that could guarantee long-term implementation and protection should be put in place;

(d) Such special conditions could be accompanied by a separate legal agreement committing an applicant to take corrective measures or eventually stop the project;

(e) Implementation of precautionary compensation to account for potential failure;

(f) A legal agreement that committed applicants to taking corrective measures in case mitigation and/or compensation did not meet the objectives;

(g) Establishing a forum for reporting results of monitoring programmes which could allow changes to be made to a programme of mitigation or compensation (flexible approach).

15. Mr. M. Zeiler (German Federal Maritime and Hydrographic Agency) gave an overview of the Nord Stream pipeline project (2007–2012) in the Baltic Sea and on the assessment of the project's impacts on biodiversity. The most important technical data related to the pipeline, information on the pipeline route, route survey and the techniques of laying the pipeline that had had a major influence on the impacts of the pipeline on the marine environment. The following needs and best practices were identified as some of the lessons learned from the Nord Stream pipeline case:

(a) Information systems making business and environmental maps available;

(b) Coordinated procedures among the national authorities;

(c) An integrated approach involving civil and environmental engineers in the process and open discussions with stakeholders and NGOs;

(d) Good documentation by the project developer;

(e) Monitoring by the project developer and reporting to the authorities to check the EIA predictions and good practices;

(f) Regular meetings of the authorities from the Parties of origin during the transboundary EIA process under the Espoo Convention;

(g) Workshops on key issues (e.g., Natura2000), including experts from all Affected Party countries;

(h) Dissemination of relevant information (by the project developer) via Internet or presentations to the public and stakeholders.
