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MEETING OF THE PARTIES TO THE CONVENTION
ON ENVIRONMENTAL IMPACT ASSESSMENT
IN A TRANSBOUNDARY CONTEXT

**REPORT OF THE MEETING OF THE PARTIES TO THE CONVENTION ON
ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT ON
ITS FOURTH MEETING, HELD IN BUCHAREST FROM 19 TO 21 MAY 2008**

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Part One: Proceedings

INTRODUCTION

1. The fourth meeting of the Parties to the Convention on Environmental Impact Assessment (EIA) in a Transboundary Context (Espoo, 1991) took place in the Parliament Palace, Bucharest, from 19 to 21 May 2008, at the invitation of the Government of Romania.
2. The meeting was attended by delegations from the following Parties to the Convention and other UNECE member States: Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, the Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Moldova, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, the United Kingdom of Great Britain and Northern Ireland, and Uzbekistan. Representatives of the European Commission also attended. Iraq, a Member State of the United Nations, was also represented.
3. Representatives of one United Nations body attended the meeting: the United Nations Development Programme (UNDP). Three other intergovernmental organizations were represented: the European Bank for Reconstruction and Development (EBRD), the Secretariat of the International Commission for the Protection of the Danube River (ICPDR) and the International Sava River Basin Commission. Three regional environmental centres were represented: Regional Environmental Center for Central and Eastern Europe (REC-CEE), Regional Environmental Centre for Moldova (REC Moldova) and Russian Regional Environmental Centre (Russian REC). The following non-governmental organizations (NGOs) were represented: Danube Environmental Forum, Eco-Globe, Environment Experts Association, European ECO-Forum, Hokkaido University, Independent Ecological Expertise, Institute for Ecological Modernisation, International Association for Impact Assessment, Society of Sustainable Development and WWF Romania.
4. The meeting consisted of two general segments and one high-level segment. The first general segment dealt with items 1, 2 and 3 of the provisional agenda (ECE/MP.EIA/9) and took place in the afternoon of 19 May and on the morning of 20 May 2008. The high-level segment dealt with provisional agenda items 4, 5, 6 and 7 and took place in the afternoon of 20 May 2008. Finally, the second general segment dealt with provisional agenda items 8, 9, 10 and 11 and took place on the morning of 21 May 2008. Further documentation from the meeting, both formal and informal, is available on the Convention's website (<http://www.unece.org/env/eia>).

I. OPENING OF THE MEETING

Documentation: ECE/MP.EIA/9 (Annotated provisional agenda for the fourth meeting)

5. The Chair of the Bureau, Mrs. Daniela Pineta (Romania), opened the meeting.
6. The Meeting of the Parties elected Mr. Silviu Stoica, State Secretary of the Ministry of Environment and Sustainable Development of Romania, as Chair for the two general segments,

and Mr. Attila Korodi, Minister of Environment and Sustainable Development of Romania, as Chair of the high-level segment. The Chair for the general segment welcomed the delegations to Romania.

7. The secretariat reported on the representation at the fourth meeting of the Parties and the credentials submitted by the Parties and Signatories.

8. The secretariat informed the Meeting of the Parties about the status of ratification of the Convention and the declarations made by Parties upon deposit of their instruments of ratification of the Convention since the third meeting of the Parties. The secretariat highlighted the acceptance of the Convention by Belarus on 10 November 2005 and Serbia's accession to the Convention on 18 December 2007. The secretariat similarly informed the Meeting of the Parties about the status of ratification of the amendments to the Convention adopted at the second and third meetings of the Parties, highlighting the approval of both amendments by the European Community on 18 January 2008. Finally, the secretariat also informed the Meeting of the status of ratification of the Convention's Protocol on Strategic Environmental Assessment and the declarations made by Parties upon deposit of their instruments of ratification, noting that, with seven Parties, it had not entered into force.

9. The Meeting of the Parties considered its agenda. The delegation of Ukraine objected to the consideration by the Meeting of the Parties of the informal document, Addendum to findings and recommendations further to a submission by Romania regarding Ukraine, which it claimed only to have seen immediately before the start of the session, and contrary to rule 10 of the Rules of Procedure of the Convention (adopted in decision I/1, ECE/MP.EIA/2, annex I) regarding the timing of distribution of documents.

10. The secretariat noted that rule 10 referred to the distribution of available documents, while also noting that the document had been sent to Ukraine in English on 7 May 2008 and in Russian on 13 May 2008. The secretariat also drew the Meeting's attention to rule 32, paragraph 1, which states that "As a general rule, no proposal shall be discussed or put to the vote at any meeting unless copies of it have been circulated to delegations not later than 24 hours in advance." The Meeting of the Parties adopted its agenda unchanged and agreed to consider the addendum.

II. OUTSTANDING ISSUES

11. Under this item, the Meeting of the Parties discussed and agreed on outstanding issues prior to the high-level segment.

A. Review of compliance with the Convention

Documentation: ECE/MP.EIA/2008/1 (Report of the twelfth meeting of the Implementation Committee)
ECE/MP.EIA/2008/2 (Report of the thirteenth meeting of the Implementation Committee)
ECE/MP.EIA/2008/3 (Report of the fourteenth meeting of the Implementation Committee)

ECE/MP.EIA/2008/4 (Draft decision IV/2 on review of compliance)

ECE/MP.EIA/2008/5 (Report on the activities of the Implementation Committee)

ECE/MP.EIA/2008/6 (Findings and recommendations further to a submission by Romania regarding Ukraine)

Addendum to findings and recommendations further to a submission by Romania regarding Ukraine

ECE/MP.EIA/2008/7 (Findings and recommendations further to a Committee initiative on Armenia)

12. The Chair of the Implementation Committee, Ms. Seija Rantakallio (Finland), reported on the review of compliance. She described the above-mentioned addendum to the Committee's findings and recommendations further to a submission by Romania regarding Ukraine (ECE/MP.EIA/2008/6). She then introduced the draft decision IV/2 on review of compliance (ECE/MP.EIA/2008/4), to which were annexed draft operating rules for the conduct of Committee meetings.

13. The Chair of the Meeting reminded the Meeting of the Parties that the Committee reports, findings and recommendations (ECE/MP.EIA/2008/1, 2, 3, 5, 6 and 7) were not open to amendment by the Meeting, but only the draft decision that proposed the welcoming, adoption or endorsement of the other documents.

14. The delegation of Armenia objected to the Committee's summary of facts, information and issues regarding the availability to the Committee of draft regulations, within the findings and recommendations further to a Committee initiative on Armenia (ECE/MP.EIA/2008/7, para. 23, final sentence). The delegation of Armenia also noted that paragraph 2 of the same document was translated into Russian incorrectly.

15. The delegation of Ukraine informed the meeting that the Deputy Prime Minister of Ukraine, Mr. Hryhoriy Nemyrya, had written to the Executive Secretary of UNECE, Mr. Marek Belka, on 19 May 2008 regarding the "Bystroe Canal Project". The Project (the Danube-Black Sea Deep-Water Navigation Canal in the Ukrainian sector of the Danube Delta, referred to by Ukraine as "the Project of Ukraine on a Renovation of the Danube-Black Sea Navigation Route") was the subject of the submission by Romania regarding Ukraine. In his letter, Mr. Nemyrya outlined the steps that Ukraine had taken to comply with the Convention, including the setting up on 2 April 2008 of the Intergovernmental Coordination Council on the Implementation of the Espoo Convention in Ukraine, which he heads. That Council's meetings had led to the following actions:

(a) Ukraine was preparing a notification on the proposed activity on the Dniester Hydropower Station, for transmission to the affected Parties;

(b) Ukraine was to carry out consultations with Moldova on 21 and 22 May 2008 on the likely transboundary impact of the Dzurdzulensky Oil Terminal Project (planned in Moldova) and the Dniester Hydropower Station;

(c) Ukraine had nominated Mr. Volodymyr Buchko as focal point in Ukraine for the Convention.

16. The delegation of Ukraine further informed the Meeting of the Parties that Mr. Nemyrya, in his letter, listed further concrete actions to be taken by Ukraine:

(a) Ukraine was ready to reconsider the final decision taken regarding the Bystroe Canal Project;

(b) Additional consultations with affected Parties on the Project could be arranged and carried out;

(c) Ukraine was ready to host an independent expert sent for the analysis of environmental legislation in Ukraine, as recommended by the Implementation Committee (see Part Two, decision IV/2, annex I);

(d) Ukraine was again inviting the secretariat and members of the Implementation Committee for an on-site visit to the Project;

(e) Ukraine was ready to sign bilateral agreements with Romania;

(f) Ukraine would appreciate the assistance of the secretariat with respect to the submission of an implementation strategy for Ukraine, as also recommended by the Implementation Committee.

17. Further, the delegation of Ukraine declared to the Meeting of the Parties that it would repeal the final decision on implementing Phase II of the Project.

18. The Meeting of the Parties requested the inclusion in this report of the meeting of the two Committee documents on findings and recommendations (ECE/MP.EIA/2008/6 and 7), amended to include the Committee's addendum.

19. The Meeting of the Parties agreed to consider later in the meeting (see para. 41) a revised version of the draft decision, incorporating the changes recommended by the Implementation Committee in its addendum.

B. Strengthening subregional cooperation

Documentation: ECE/MP.EIA/2008/8 (Draft decision IV/4 on strengthening subregional cooperation)

20. The secretariat reported that a planned meeting for the Mediterranean Sea subregion had not yet been held in Morocco. Consequently, the Meeting of the Parties agreed minor amendments to the draft decisions on strengthening subregional cooperation and on adoption of the workplan (ECE/MP.EIA/2008/8 and 10, respectively).

C. Capacity-building in Eastern Europe, Caucasus and Central Asia

Documentation: ECE/MP.EIA/2008/9 (Draft decision IV/5 on capacity-building in Eastern Europe, Caucasus and Central Asia)

21. The secretariat reported that a planned capacity-building workshop for the Eastern Europe subregion had been delayed until September 2008. Consequently, the Meeting of the Parties agreed minor amendments to the draft decisions on capacity-building in Eastern Europe, Caucasus and Central Asia and on adoption of the workplan (ECE/MP.EIA/2008/9 and 10, respectively).

D. Workplan

Documentation: ECE/MP.EIA/2008/10 (Draft decision IV/7 on adoption of the workplan for the period to the fifth meeting of the Parties)

22. The Chair of the Working Group on EIA, Ms. Vania Grigorova (Bulgaria), introduced draft decision IV/7 on adoption of the workplan for the period to the fifth meeting of the Parties (ECE/MP.EIA/2008/10). She went on to facilitate development of the workplan table. The Meeting of the Parties agreed to consider later in the meeting a revised version of the draft decision (see para. 46).

E. Budget and financial arrangements

Documentation: ECE/MP.EIA/2008/11 (Draft decision IV/8 on budget and financial arrangements for the period to the fifth meeting of the Parties)

23. The Chair requested delegations to provide initial information to the Meeting of the Parties on their pledges to contribute to the budget.

24. The Chair of the Working Group on EIA then introduced the draft decision IV/8 on budget and financial arrangements for the period to the fifth meeting of the Parties (ECE/MP.EIA/2008/11).

25. The secretariat presented the financial report annexed to the draft decision. The Meeting of the Parties asked that the report be extended to address income and expenditure associated with the holding of the fourth meeting of the Parties.

F. Matters relating to the Protocol on Strategic Environmental Assessment

26. The Meeting of the Parties took note of information provided by the delegation of Austria on a workshop on public participation in strategic decision-making, held in December 2007 in Sofia.

27. The Meeting also took note of information provided by a representative of UNDP and by the delegation of Armenia on the Belgrade Initiative on Strategic Environmental Assessment (SEA) (ECE/BELGRADE. CONF/2007/18).

G. Nomination of officers and of members of the Implementation Committee

28. The Chair of the Bureau, Ms. Daniela Pineta (Romania), made a number of proposals for officers and members of the Bureau for the period up to the fifth meeting of the Parties. She also proposed Parties that might nominate members of the Implementation Committee for the same period.

III. PANEL DISCUSSION ON ENERGY-RELATED PROJECTS

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

- (a) Mr. Nenad Mikulic, Ministry of Environmental and Physical Planning of Croatia, who spoke on the “EIA of the Natural Gas Production Field ‘Northern Adriatic’, Croatia – Italy”;
- (b) Mr. Gerhard Winkelmann-Oei, Federal Environment Agency of Germany, who spoke on the “Safety of installations, hazard prevention and cleaner production”;
- (c) Mr. Constantin Pulbere, Ministry of Environment and Sustainable Development of Romania, who spoke on “Applying the Convention to the Cernavoda Nuclear Power Plant units 3-4”;
- (d) Mr. Fikret Jaffarov, of the Azerbaijan NGO Society of Sustainable Development, who spoke on “The network development for civil control of the impacts of oil and gas operations in Azerbaijan”.

30. Panellists focused on practices and experiences in transboundary EIA in the energy sector, describing which approaches worked and which did not. They also suggested means to advance the implementation of the Convention with relation to energy-sector projects. During the panel discussion, it was generally agreed that public participation procedures were an essential part of the implementation of the Convention, and that they should be further improved.

IV. OPENING CEREMONY FOR HIGH-LEVEL SEGMENT

31. Mr. Attila Korodi, Minister of Environment and Sustainable Development of Romania, Chair of the high-level segment of the Meeting of the Parties, invited Mr Bogdan Olteanu, President of the Chamber of Deputies of the Romanian Parliament, to open the high-level segment. The Minister then made an opening speech before inviting Ms. Monika Linn to address the Meeting of the Parties on behalf of Mr. Paolo Garonna, Deputy Executive Secretary of UNECE.

V. THE CONVENTION 10 YEARS AFTER ITS ENTRY INTO FORCE: FUTURE DIRECTIONS

32. A discussion on the Convention's future directions was led by the Chair with contributions from invited speakers:

- (a) Ms. Joanna Treweek, independent ecologist specialising in biodiversity-inclusive impact assessment, who spoke on "Transboundary environmental impact assessment and biodiversity";
- (b) Ms. Elizabeth Wilson, Principal Lecturer in Environmental Planning at Oxford Brookes University, United Kingdom, who spoke on "Environmental assessment and climate change";
- (c) Mr. William Sheate, Reader in Environmental Assessment in the Centre for Environmental Policy at Imperial College London, who spoke on "EIA and SEA, notably their interrelationship and their role as instruments for sustainable development";
- (d) Mr. Lyudmil Ikonov, Executive Director of the Institute for Ecological Modernisation, Bulgaria, who spoke on "Promoting subregional cooperation, with a focus on the Black Sea subregion";
- (e) Mr. Andriy Andrushevych, European ECO-Forum, who made a statement on behalf of the NGOs represented at the Meeting of the Parties.

33. The discussion again focused on practices and experiences. The speakers identified actions to overcome obstacles to effectiveness in certain areas of the implementation of the Convention and its Protocol. It was generally understood that:

- (a) Impacts on biodiversity should be more thoroughly addressed in the implementation of the Convention;
- (b) SEA appears to be an appropriate mechanism to deal with climate change impacts;
- (c) The interlinkages between EIA and SEA might be further considered to improve the application of both instruments;
- (d) A number of transboundary energy and transport projects will cross the Black Sea area, and this may prove a challenge with respect to the application of the Convention.

VI. STATEMENTS BY MINISTERS

34. The delegations of Armenia, Bulgaria, Croatia, Romania, Slovenia on behalf of the European Union (EU) Presidency, The former Yugoslav Republic of Macedonia and Ukraine, as well as representatives of ICPDR and UNDP, made brief oral policy statements in response to

the opening statements and discussion in the high-level segment. The Executive Secretary of the Convention on Biological Diversity made a written statement available to the Meeting.

VII. SIGNING OF A MULTILATERAL AGREEMENT BY MINISTERS FROM SOUTH-EASTERN EUROPE

Documentation: ECE/MP.EIA/2008/8 (Draft decision IV/4 on strengthening subregional cooperation)

35. The Chair explained that within the framework of the workplan activity on strengthening subregional cooperation, the countries of South-Eastern Europe had negotiated a multilateral agreement for implementation of the Convention. At the invitation of the Chair, the following seven countries adopted and then signed the agreement: Bulgaria, Croatia, Greece, Montenegro, Romania, Serbia and The former Yugoslav Republic of Macedonia. The Meeting of the Parties congratulated the countries on their signing of the agreement.

36. This agenda item concluded the high-level segment. The Chair thanked delegations for their active and constructive participation in the high-level segment and wished them a successful continuation of the Meeting of the Parties. A press conference was then held.

VIII. REVIEW OF THE WORK DONE BY THE WORKING GROUP ON ENVIRONMENTAL IMPACT ASSESSMENT AND ADOPTION OF DECISIONS

37. The Meeting of the Parties adopted decisions drafted by the Working Group on EIA on the sub-items below following up on activities in the workplan for the period up to the fourth meeting of the Parties. The secretariat provided information on the activities in the workplan for the period up to the fourth meeting of the Parties that had not been followed up by a draft decision:

(a) At its tenth meeting, the Working Group on EIA had agreed to postpone any further discussion of the examination of the substantive relationship between the Convention and its Protocol until the Protocol had entered into force and some practical experience with its implementation and application had been gained (ECE/MP.EIA/WG.1/2007/2, para. 33);

(b) Also at its tenth meeting, the Working Group had supported the proposal by the small group examining institutional and procedural activities under the Protocol on SEA (ECE/MP.EIA/WG.1/2007/2, annex);

(c) At their second meeting, the Signatories to the Protocol had welcomed the work done by UNDP, with the support of REC-CEE, to analyse capacity-building needs in Eastern Europe, Caucasus and Central Asia, carried out under the workplan (MP.EIA/AC.3/2005/2, para. 8). This work had been followed by the development of strategies in four countries for implementation of the Protocol, and by a number of pilot projects;

(d) At its tenth meeting, the Working Group had thanked the small editorial group established under the Meeting of the Signatories to the Protocol for its excellent work in preparing the draft Resource Manual to Support Application of the Protocol, including a part regarding health (ECE/MP.EIA/WG.1/2007/2, para. 57). The Resource Manual had been drafted with the assistance of the secretariat and REC-CEE. The Signatories to the Protocol had, at their second meeting, agreed that the Resource Manual be presented to their third meeting for finalization (MP.EIA/AC.3/2005/2, para. 9);

(e) The Working Group, at its eleventh meeting, had noted the holding by UNDP of a training course on the practical application of the Protocol, held in October 2007 in Prague, for practitioners from Eastern Europe and Caucasus (ECE/MP.EIA/WG.1/2007/8, para. 23). The course had been based in part on the Resource Manual.

38. The Meeting took note of this information.

39. The secretariat apologized for the late availability of formal documents in all three languages, and the non-availability of document ECE/MP.EIA/2008/15 in French. The Meeting of the Parties recognized that its secretariat had submitted documents for translation in good time, but delays in translation and printing had resulted in unacceptable release dates. The Meeting then invited its secretariat to explore the reasons for the delays, to seek assurances that the problems would be addressed for its future meetings, and to inform heads of delegation accordingly.

A. Review of implementation of the Convention

Documentation: ECE/MP.EIA/2008/12 (Draft decision IV/1 on review of implementation)
ECE/MP.EIA/2008/13 (Review of the legal and administrative framework for implementation of Articles 2 and 3)
ECE/MP.EIA/2008/14 (Review of the legal and administrative framework for implementation of Articles 4 to 9)
ECE/MP.EIA/2008/15 (Review of the practical application of the Convention during the period 2003–2005)

40. The Chair of the Bureau introduced the draft decision on review of implementation (ECE/MP.EIA/2008/12), together with the second review of the implementation of the Convention based on information provided by Parties (ECE/MP.EIA/2008/13 to 15). **The Meeting of the Parties adopted decision IV/1 on review of implementation** (see Part Two).

B. Review of compliance with the Convention

Documentation: ECE/MP.EIA/2008/4 (Draft decision IV/2 on review of compliance)
ECE/MP.EIA/2008/5 (Report on the activities of the Implementation Committee)
ECE/MP.EIA/2008/6 (Findings and recommendations further to a submission by Romania regarding Ukraine)

Addendum to findings and recommendations further to a submission by Romania regarding Ukraine
ECE/MP.EIA/2008/7 (Findings and recommendations further to a Committee initiative on Armenia)

41. The Chair of the Implementation Committee introduced the draft decision on review of compliance (ECE/MP.EIA/2008/4), together with the report on the activities of the Committee (ECE/MP.EIA/2008/5) and the Committee's findings and recommendations (ECE/MP.EIA/2008/6 and 7), as well as the Committee's addendum to its findings and recommendations further to a submission by Romania regarding Ukraine. The delegation of Slovenia, on behalf of the EU Presidency, presented a revised version of the draft decision. The Meeting of the Parties agreed further changes to the revised version. **The Meeting of the Parties adopted decision IV/2 on review of compliance** (see Part Two).

C. Inquiry procedure

Documentation: ECE/MP.EIA/2008/16 (Draft decision IV/3 on inquiry procedure)

42. The Chair of the Bureau introduced the draft decision on inquiry procedure (ECE/MP.EIA/2008/16). **The Meeting of the Parties adopted decision IV/3 on inquiry procedure** (see Part Two).

D. Strengthening subregional cooperation

Documentation: ECE/MP.EIA/2008/8 (Draft decision IV/4 on strengthening subregional cooperation)

43. The Chair of the Bureau introduced the draft decision on strengthening subregional cooperation (ECE/MP.EIA/2008/8), revised earlier in the meeting (see para. 20). **The Meeting of the Parties adopted decision IV/4 on strengthening subregional cooperation** with the above-mentioned amendments (see Part Two).

E. Capacity-building in Eastern Europe, Caucasus and Central Asia

Documentation: ECE/MP.EIA/2008/9 (Draft decision IV/5 on capacity-building in Eastern Europe, Caucasus and Central Asia)
ECE/MP.EIA/WG.1/2007/6 (Guidelines on environmental impact assessment in a transboundary context for Central Asian Countries)

44. The Chair of the Bureau also introduced the draft decision on capacity-building in Eastern Europe, Caucasus and Central Asia (ECE/MP.EIA/2008/9), revised earlier in the meeting (see para. 21). **The Meeting of the Parties adopted decision IV/5 on capacity-building in Eastern Europe, Caucasus and Central Asia** with the above-mentioned amendments (see Part Two).

F. Exchange of good practices

Documentation: ECE/MP.EIA/2008/17 (Draft decision IV/6 on exchange of good practices)

45. The Chair of the Bureau further introduced the draft decision on exchange of good practices (ECE/MP.EIA/2008/17). **The Meeting of the Parties adopted decision IV/6 on exchange of good practices** (see Part Two).

G. Workplan

Documentation: ECE/MP.EIA/2008/10 (Draft decision IV/7 on adoption of the workplan up to the fifth meeting of the Parties)

46. The Chair of the Working Group on EIA introduced the draft decision on adoption of the workplan up to the fifth meeting of the Parties (ECE/MP.EIA/2008/10). She went on to describe how it had been revised in response to the earlier discussions (see para. 22). **The Meeting of the Parties adopted decision IV/7 on adoption of the workplan** with the above-mentioned amendments (see Part Two).

H. Budget and financial arrangements

Documentation: ECE/MP.EIA/2008/11 (Draft decision IV/8 on budget and financial arrangements for the period up to the fifth meeting of the Parties)

47. The Chair of the Working Group on EIA also introduced the draft decision on budget and financial arrangements for the period up to the fifth meeting of the Parties (ECE/MP.EIA/2008/11). She then described how this decision had been revised extensively in response to the earlier discussion on the budget and in response to pledges made. Delegations then confirmed pledges to the budget, in cash or in-kind. Cash contributions to the Convention's Trust Fund are listed in the annex to this report; in-kind contributions are identified in the workplan (see Part Two, decision IV/7, below) and valued in the budget table (see Part Two, decision IV/8, below). **The Meeting of the Parties adopted decision IV/8 on budget and financial arrangements** (see Part Two), having requested the Bureau to ensure that the budget table was consistent with the adopted workplan.

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

Documentation: ECE/MP.EIA/2008/18 (Draft decision IV/9 on financial assistance to representatives of countries with economies in transition, non-governmental organizations and countries outside the UNECE region)

48. Finally, the Chair of the Working Group on EIA introduced the draft decision on financial assistance to representatives of countries with economies in transition, NGOs and countries outside the UNECE region (ECE/MP.EIA/2008/18). **The Meeting of the Parties adopted decision IV/9 on financial assistance to representatives** (see Part Two).

IX. DATE, VENUE AND ELECTION OF OFFICERS FOR THE FIFTH MEETING OF THE PARTIES

49. The Chair invited proposals for the venue and date of the fifth meeting of the Parties, referring to rule 4 of the rules of procedure and to the tentative schedule of meetings included in the informal Notes for delegates distributed at the meeting. **The Meeting of the Parties agreed to meet again in 2011.**

50. The Chair then invited the election of officers (members of the Bureau) and members of the Implementation Committee to serve up to and including the fifth meeting of Parties, further to the earlier proposals (see para. 28 above). **The Meeting of the Parties elected the following officers as members of the Bureau:** Mr. Aleksandar Vesic (Serbia) as Chair of the Bureau and of the Working Group on EIA; Mrs. Daniela Pineta (Romania) and Mr. Jorgen Brun (Norway) as Vice-Chairs of the Working Group on EIA; Mr. Alberto Marcolino (Portugal) as Chair of the Meeting of the Signatories to the Protocol; and Ms. Eva Baron (Netherlands), Mr. Nikoloz Tchakhnakia (Georgia) and Mr. Gavrosh Zela (Albania) as Vice-Chairs of the Meeting of the Signatories to the Protocol.

51. The meeting noted that the Chair of the Implementation Committee, who is also a member of the Bureau, would be elected by the new Committee.

52. **The Meeting of the Parties elected the following Parties to nominate members of the Implementation Committee:** Azerbaijan; Bulgaria; Moldova; and Slovenia.

53. The Meeting of the Parties thanked the outgoing officers and members of the Bureau: Ms. Daniela Pineta (Romania), Chair of the Bureau; Ms. Vania Grigorova (Bulgaria), Chair of the Working Group on EIA; Ms. Sandra Ruza, Mr. Arnolds Luksevics and Ms. Sandija Snikere (Latvia), and Mr. Roger Gebbels (European Commission), Vice-Chairs of the Working Group on EIA; Mr. Jan De Mulder (Belgium), formerly Chair of the Meeting of the Signatories to the Protocol; Mr. Nikoloz Tchakhnakia (Georgia), Mr. Robert Lowenstein (United Kingdom) and Mr. David Aspinwall (European Commission), Vice-Chairs of the Meeting of the Signatories to the Protocol; and Ms. Seija Rantakallio (Finland), Chair of the Implementation Committee.

54. The Meeting of the Parties also thanked the four outgoing members of the Implementation Committee: again, Ms. Seija Rantakallio (Finland); Ms. Daniela Stefkova, who replaced Ms. Menka Spirovska, Vice-Chair of the Committee (both The former Yugoslav Republic of Macedonia); Ms. Margarita Korkhmazyan (Armenia); and Mr. Gabriel Nižňanský, who replaced Mr. Thomas Cernohous (both Slovakia).

55. Finally, the Meeting of the Parties thanked the four continuing members of the Implementation Committee: Mr. Nenad Mikulic (Croatia); Mr. Matthias Sauer (Germany); Mr. Kubanychbek Noruzbaev, who replaced Ms Gulfiya Shabaeva (both Kyrgyzstan); and Mr. Jerzy Jendroska (Poland).

X. CLOSING OF THE MEETING

56. The Chair summarized the main decisions taken at the fourth meeting of the Parties, particularly those adopted during the second general segment (see chapter VIII above), as set out in Part Two of this report.

57. In closing the meeting, the Chair thanked all delegations for their constructive approach to finding solutions to the outstanding issues. Delegations and the secretariat thanked the Government of Romania for the excellent organization of the meeting and indicated that the meeting was indeed crucial for the implementation of the Convention.

58. The Chair closed the meeting on Wednesday, 21 May 2008.

Part Two : Decisions adopted by the Meeting of the Parties

Decision IV/1

Review of implementation

The Meeting of the Parties,

Recalling its decision III/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 analyzed the reports provided by the Parties and non-Parties in response to the questionnaire for the reporting system,

Regretting that not all Parties had responded to the questionnaire,

1. *Welcomes* the reports by the Parties and non-Parties on their implementation, which have been made available on the website of the Convention;
2. *Adopts* the Second Review of Implementation, as annexed to this decision;
3. *Notes* the findings of the Second Review of Implementation:
 - (a) Not all respondents to the questionnaire recognized that Article 3, paragraph 8, and Article 4, paragraph 2, state that the “concerned Parties” (as defined in Article 1, item (iv), to mean both the Party of origin and the affected Party) are responsible for ensuring opportunities for public participation;
 - (b) Not all respondents recognized that Article 5 provides for transboundary consultations distinct from Article 4, paragraph 2;
 - (c) Some Parties appeared to apply the Convention routinely. Others, with similar levels of development activity and similar possibilities to affect other Parties, appeared to be more reluctant to embark on transboundary consultations and so limited their experience in the application of the Convention;
 - (d) Few Parties had had experience of carrying out post-project analysis under Article 7;
 - (e) There was a continuing need for Parties to establish bilateral and multilateral agreements to identify direct contacts and to address differences in, inter alia, language, the payment of processing fees, the time frames and deadlines, how to proceed when there is no response to a notification, the procedural steps, the timing of public participation (e.g. whether in screening or scoping), the interpretation of various terms

(including “major change to an activity”, “significant” impact, “reasonably obtainable information” and “reasonable alternatives”), the content of the environmental impact assessment (EIA) documentation 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 Second Review of Implementation, and requests the Committee to take these into account in its work;

5. *Also requests* the Implementation Committee to modify the current questionnaire to provide a questionnaire on the implementation of the Convention in the period 2006–2009, for consideration by the Working Group on Environmental Impact Assessment and for circulation, and for conversion into a parallel Internet-based questionnaire by the secretariat thereafter;

6. *Further requests* the Implementation Committee to include in the questionnaire a question on the application by the Parties of Article 3, paragraph 8, and Article 4, paragraph 2, of the Convention;

7. *Also further requests* the secretariat to put the project lists included in the answers to the questionnaire on the Convention’s website unless the responding Party does not agree;

8. *Decides* that Parties shall complete the questionnaire as a report on their implementation of the Convention, taking note of the obligation to report arising from Article 14 bis as adopted by decision III/7, and that a failure to report on implementation might be a compliance matter to be considered by the Implementation Committee;

9. *Also decides* that a draft third review of implementation based on the reports by Parties will be presented at the fifth meeting of the Parties, and that the workplan shall reflect the elements required to prepare the draft third review.

Annex

Second Review of Implementation

I. INTRODUCTION

1. This document presents the “Review of Implementation 2006”, examining responses to a questionnaire on countries’ implementation of the UNECE Convention on Environmental Impact Assessment (EIA) in a Transboundary Context, for the period mid-2003 to end-2005.
2. The secretariat has made available these responses on the Convention’s website¹, as decided by the Convention’s Working Group on EIA (MP.EIA/WG.1/2005/2, para. 12).
3. The first part of this document introduces the Convention, provides a description of the mandate and aim of the Review, reports the level of response to the questionnaire, and introduces some of the strengths and weaknesses of the implementation of the Convention that are apparent from the responses. The findings of the review are listed in the decision to which this document is annexed. The second part of this document summarizes the responses to the questionnaire.
4. This document is a follow-up to the first review, the “Review of Implementation 2003”, as summarized in the appendix to decision III/1 of the Meeting of the Parties to the Convention (ECE/MP.EIA/6, annex I). The full “Review of Implementation 2003” is also available on the Convention’s website.

A. The Convention

5. The Convention on EIA in a Transboundary Context (the “Espoo Convention”) was adopted and signed on 25 February 1991, in Espoo, Finland. As of 1 January 2007, there were 41 Parties to the Convention: 40 member States of UNECE plus the European Community (EC), defined as “a regional economic integration organization” in the Convention.
6. Two subsidiary bodies support the activities of the Meeting of the Parties to the Convention in the intersessional period: the Working Group on EIA and the Implementation Committee.
7. On 21 May 2003, the Convention was supplemented by the Protocol on Strategic Environmental Assessment (SEA).

B. Mandate and aim of the review

8. The Meeting of the Parties decided at its third meeting, held from 1 to 4 June 2004, to adopt a workplan (decision III/9, in ECE/MP.EIA/6, annex IX) that included an activity on “Compliance with and implementation of the Convention”. The objective of the activity was to “Enhance the implementation of and compliance with the Convention”. The activity included the

¹ <http://www.unece.org/env/eia/>

preparation of a revised and simplified questionnaire by the Implementation Committee with the support of the secretariat. The need to revise and simplify the questionnaire had been identified by respondents to the questionnaire used as the basis for the "Review of Implementation 2003".

9. The activity also included: (a) the distribution of the questionnaire to the Parties for them to complete and return; and (b) preparation of a draft review of implementation. These two sub-activities were to be carried out by the secretariat.

10. The workplan indicated that the secretariat should issue the questionnaire early in 2006 for completion by mid 2006. The Working Group agreed that this schedule would be accelerated to allow adequate time for preparation of the draft review of implementation, with the questionnaire being circulated in October 2005 for completion by the end of April 2006 (MP.EIA/WG.1/2005/2, para. 12).

11. The workplan also indicated that the secretariat should prepare the draft review of implementation for presentation to the Working Group on EIA at the end of 2006 and to the fourth meeting of the Parties in 2007. However, at its ninth meeting, in April 2006, the Working Group decided to postpone its tenth meeting until spring 2007 and the fourth meeting of the Parties to 2008 (ECE/MP.EIA/WG.1/2006/2, para. 33).

C. Level of response to the questionnaire

12. The secretariat issued the questionnaire on 19 and 20 October 2005 accordingly, including countries' responses to the previous questionnaire where appropriate, as requested by the Working Group on EIA (MP.EIA/WG.1/2005/2, para. 12). Reminders were issued on 1 June, 2 August and 13 October 2006, with a final deadline being imposed by the secretariat, with the support of the Implementation Committee, of 30 November 2006.

13. By 28 February 2007, completed questionnaires were received from 33 of the 40 States Parties to the Convention: Armenia; Austria; Azerbaijan; Bulgaria; Canada; Croatia; Cyprus; the Czech Republic; Denmark; Estonia; Finland; France; Germany; Hungary; Italy; Kazakhstan; Kyrgyzstan; Latvia; Liechtenstein; Lithuania; Moldova; the Netherlands; Norway; Poland; Romania; Slovakia; Slovenia; Spain; Sweden; Switzerland; The former Yugoslav Republic of Macedonia; Ukraine and the United Kingdom of Great Britain and Northern Ireland.

14. The Convention entered into force in Belarus after the reporting period. The remaining six States that are Parties to the Convention (Albania, Belgium, Greece, Ireland, Luxembourg and Portugal) failed to provide completed questionnaires by the end of February 2007. Albania, Greece, Ireland, Luxembourg and Portugal also failed to provide completed questionnaires used as the basis for the earlier "Review of Implementation 2003". However, in May 2007, Belgium, Luxembourg and Portugal provided completed questionnaires; Greece provided a completed questionnaire in July 2007 and Ireland in February 2008. These late responses have not been included in the summary of reports. No completed questionnaire was received from Albania.

15. The European Community (EC) is a Party to the Convention but, being a regional economic integration organization rather than a State, has a different status and therefore felt it

inappropriate to send in a completed questionnaire. Nonetheless, the EC provided a response explaining its position and why it considered itself unable to complete the questionnaire.

16. Two States not party to the Convention provided responses: Georgia and Turkmenistan.

17. Most completed questionnaires were in English, but 11 were not: France responded in French, as did Luxembourg and Switzerland in part, whereas Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Turkmenistan and Ukraine replied in Russian. Informally translated and edited responses from these latter eight States are included on the Convention's website.

D. Findings of the review

18. An analysis of the information provided in the responses to the questionnaire revealed the increasing application of the Convention and the continuing development of bilateral and multilateral agreements to support its implementation. However, the analysis also revealed a number of possible weaknesses or shortcomings in the Convention's implementation. These weaknesses point to potential and necessary improvements in the implementation of the Convention. To guide and focus the future work under the Convention, they are listed and summarized in the decision to which this document is annexed.

II. SUMMARY OF RESPONSES TO THE QUESTIONNAIRE

19. This review summarizes responses to the revised questionnaire regarding the implementation of the Convention during the period 2003–2005, including its practical application. Responses to questions indicating a lack of experience have not been included in this review. The questions are indicated in italics.

A. Article 2: General Provisions

1. Domestic implementation of the Convention

Question 1. List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (Art. 2.2).

20. Respondents listed the various legislation, agreements and circulars implementing the provisions of the Convention. Armenia and Azerbaijan did not have any implementing measures, though necessary legislation was being discussed in the former. Switzerland also was proposing implementing legislation, noting that the Convention applied directly.

2. Transboundary environmental impact assessment procedure

Question 2. Describe your national and transboundary EIA procedures and authorities (Art. 2.2):

a. Describe your EIA procedure and indicate which steps of the EIA procedure include public participation.

21. Respondents' descriptions of their national EIA procedures ranged from a concise outline of the procedural steps with a note of which steps involved the public (Armenia, Austria, Azerbaijan, Denmark, Finland, Georgia, Germany, Hungary, Italy, Kazakhstan, Kyrgyzstan, Lithuania, Moldova, Norway, Poland, Slovenia, Spain, Sweden, Switzerland, Turkmenistan, United Kingdom), to a more extensive explanation of the procedure (Canada, Czech Republic, Latvia, Netherlands, Slovakia, Ukraine). A key element in these descriptions was whether public participation was possible in screening (Canada, Lithuania, Romania, Sweden) or scoping (Canada, Czech Republic, Denmark, Estonia, Finland, Kazakhstan, Latvia, Lithuania, Netherlands, Norway, Slovakia), as well as once an environmental report has been prepared. Spain provided consultation of environmental non-governmental organizations (NGOs) in both screening and scoping. In Hungary, there was public participation in the "preliminary phase" of the EIA procedure, which combined screening and scoping.

b. Describe how the different steps of the transboundary EIA procedure mentioned in the Convention fit into your national EIA procedure.

22. To describe how the different steps of the transboundary EIA procedure in the Convention fit into their national EIA procedures, some respondents quoted or described their legislation (Austria, Canada, Estonia, Norway, Romania, Slovakia, The former Yugoslav Republic of Macedonia). Others summarized the key elements (Armenia, Azerbaijan, Croatia, Cyprus, Czech Republic, Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Latvia, Moldova, Netherlands, Poland, Spain). Bulgaria and United Kingdom simply reported full transposition of the Convention and of the EIA Directive (EC Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EC), respectively. Similarly, in Denmark, Slovenia and Sweden the Convention's procedure corresponded to the national one; in Switzerland, it was carried out in parallel. Kazakhstan reported correspondence between the Convention's procedure and the national one, except with regard to paragraph (i) of Appendix II (non-technical summary). In Lithuania, where the Convention provided for EIA procedures differing from those in the national law, the provisions of the Convention were applied.

c. List the different authorities that are named responsible for different steps of the transboundary EIA procedure. Also list the authorities responsible for the domestic EIA procedure, if they are different.

23. Respondents listed the authorities responsible for different steps of the national and transboundary EIA procedures. Most Parties (i.e. more than 20) indicated a role in transboundary EIA for their ministry of (or state agency, or similar, for) the environment (Armenia, Austria, Azerbaijan, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Norway, Poland, Romania, Slovakia, Slovenia, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkmenistan), but other respondents indicated the ministry of foreign affairs (Austria, Croatia, Czech Republic, France, Kyrgyzstan, Latvia, Norway, Romania, Spain). When Switzerland was the Party of origin, its Federal Office for the Environment might not be involved. In Germany, the federal government was rarely involved, with local, regional or, occasionally, state (Land) authorities being responsible.

24. For national EIA procedures, many indicated a role for their ministry of the environment (Armenia, Bulgaria, Croatia, Czech Republic, Estonia, Georgia, Italy, Kazakhstan, Latvia, Lithuania, Moldova, Norway, Slovakia, Slovenia, Spain, The former Yugoslav Republic of Macedonia) or environmental inspectorate, agency, authority, office or regional centre (Cyprus, Finland, Hungary, Lithuania, Romania, Switzerland), and for other national and local authorities (Czech Republic, Kazakhstan, Moldova, Poland).

d. Is there one authority in your country that collects information on all the transboundary EIA cases under the Convention? If so, name it. If not, do you intend to establish such an authority?

25. In most Parties, there was one national authority that collected information on all the country's transboundary EIA cases under the Convention (Armenia, Austria, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Hungary, Italy, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Moldova, Poland, Romania, Slovakia, Slovenia, Spain, Sweden, Turkmenistan, United Kingdom). In Azerbaijan, France, Germany, Kazakhstan, the Netherlands and Ukraine there was no such body, but there were plans to create one in Azerbaijan. The arrangements in Norway were under review.

Question 3. Do you have special provisions for joint cross-border projects (e.g. roads, pipelines)?

26. Most Parties had no special provisions for joint cross-border projects, unless in project-specific bilateral agreements (Armenia, Austria, Azerbaijan, Croatia, Cyprus, Czech Republic, Denmark, Estonia, France, Georgia, Germany, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Moldova, Netherlands, Norway, Poland, Romania, Slovakia, Slovenia, Spain, Sweden, The former Yugoslav Republic of Macedonia, Turkmenistan, Ukraine, United Kingdom). Bulgaria indicated that the EIA procedure was organized jointly, including preparation of the EIA documentation by a common team of experts. Canada listed a series of topics to be discussed with the other Party. Finland's bilateral agreement with Estonia provided for joint EIA in such instances.

3. Identification of a proposed activity requiring environmental impact assessment under the Convention

Question 4. Is your country's list of activities subject to the transboundary EIA procedure equivalent to that in Appendix I to the Convention?

27. Some country's lists of activities subject to the transboundary EIA procedure were equivalent to that in Appendix I to the Convention (Armenia, Cyprus, Denmark, Estonia, Hungary, Kyrgyzstan, Romania, Slovakia, Slovenia, Spain, The former Yugoslav Republic of Macedonia, Turkmenistan, United Kingdom), while other country's lists were more extensive (Austria; Bulgaria; Canada; Croatia; Czech Republic; France, expressed as criteria rather than a list; Germany; Italy; Liechtenstein; Moldova; Netherlands; Norway; Poland; Romania; Switzerland). The lists of Finland, Sweden and Ukraine included all the projects listed in Appendix I. Kazakhstan's list included the projects listed in Appendix I, as amended by the second amendment to the Convention. Lithuania's list was generally equivalent, but its bilateral

agreement extended the list to include any activity covered by domestic EIA procedures. Georgia (not a Party) and Latvia indicated that their lists were not equivalent, without specifying whether they were more or less extensive. Azerbaijan did not have such a list. Switzerland's list did not include wind farms.

Question 5. Please describe:

a. The procedures and, where appropriate, the legislation you would apply to determine that an "activity", or a change to an activity, falls within the scope of Appendix I (Art. 2.3), or that an activity not listed should be treated as if it were (Art. 2.5)

28. Respondents described their procedures and legislation:

(a) For some respondents, every activity requiring a domestic EIA fell within the scope of Appendix I or was treated as if it did (Austria, Germany, Italy, Liechtenstein, Lithuania, Netherlands, Norway, Poland, The former Yugoslav Republic of Macedonia, United Kingdom), or might have been (Switzerland). Similarly, in Croatia any activity in Appendix I or requiring a domestic EIA fell within the scope of Appendix I or was treated as if it did;

(b) Azerbaijan suggested a possible role for the secretariat or a panel of independent experts in case of uncertainty;

(c) In Bulgaria, the competent authority determined whether an activity fell within the scope of Appendix I, and the concerned Parties might have, at the initiative of any Party, entered into discussions regarding whether an activity not listed in Appendix I should have been treated as if it did;

(d) Cyprus' legislation specified thresholds to indicate which changes to activities fell within the scope of Appendix I or were treated as if they did;

(e) In the Czech Republic, any activity in its first category of project subject to domestic EIA fell within the scope of Appendix I. A potentially affected Party might also request a transboundary EIA for such an activity;

(f) Appendix I activities fell within Denmark's legislation;

(g) In Finland, the competent authority determined whether an activity fell within the scope of Appendix I if it was unclear;

(h) France's criteria identified activities requiring domestic EIA and which fell within the scope of Appendix I or were treated as if they did;

(i) Hungary's legislation included the activities listed in Appendix I with the addition of quantitative criteria. These activities therefore fell directly within the scope of Appendix I;

- (j) In Kazakhstan, the project proponent determined whether an activity was listed in Appendix I. If not, reference has to be made to Appendix III;
- (k) Kyrgyzstan referred to situations where an activity was planned next to a transboundary river or included the laying of transboundary pipelines;
- (l) Slovakia had a list of activities in its legislation. If the concerned Parties so agreed, an unlisted activity that might have a significant adverse transboundary impact would have been treated as if it was listed;
- (m) Slovenia's screening procedure provided such a determination;
- (n) Sweden noted that activities not listed in Appendix I, but for which a domestic EIA was mandatory, would have been treated as if they were listed based on a case-by-case evaluation using legal criteria;
- (o) Turkmenistan (not a Party) suggested the concerned Parties agreement on such a determination;
- (p) Denmark, Italy and Romania also indicated that any activity not listed but that might have been likely to have a significant adverse transboundary impact was treated as if fell within the scope of Appendix I. Similarly, in Latvia, if an initial assessment revealed that an activity not listed was nonetheless likely to have a significant adverse transboundary impact, the activity was treated as if fell within the scope of Appendix I. Finland also indicated that such a "screening decision" might be made, giving special consideration to criteria such as those in Appendix III. In the United Kingdom, this might have been achieved by administrative means.

b. How a change to an activity is considered as a "major" change

29. Many countries had legal criteria for determining whether a change to an activity was considered as a "major" change (Austria; Canada; Czech Republic; Denmark; Finland; France; Germany; Hungary, both quantitative and qualitative; Kyrgyzstan, including a 10% increase in production; Latvia; Lithuania; Netherlands; Norway; Poland, with a 20% increase in emissions or consumption of raw materials or energy; Romania; Slovakia; Switzerland; The former Yugoslav Republic of Macedonia; United Kingdom). Several others required a case-by-case examination (Azerbaijan; Bulgaria; Cyprus; Finland and Germany, in certain cases; Italy; Kazakhstan; Liechtenstein; Slovakia). Estonia reported the need for EIA was considered if the change involved an amendment to the development consent; Sweden similarly required an EIA if a new permit was required. Slovenia considered that changes to an activity were cumulative and an EIA was mandatory whenever a threshold in its list of activities subject to EIA was crossed.

c. How such an activity, or such a change to an activity, is considered likely to have a "significant" adverse transboundary impact (Art. 2.5, Guidelines in Appendix III)

30. Some countries had legal criteria for determining whether a "significant" adverse transboundary impact was likely (Austria, Canada, Germany, Hungary, Italy, Norway, Poland,

Romania, Slovakia, Spain, Switzerland, The former Yugoslav Republic of Macedonia). In Bulgaria, application was mandatory for Appendix I activities, but a case-by-case examination was undertaken for changes. In Croatia, the Parties concerned agreed on the meaning of “significance”. Many respondents reported that a case-by-case examination was undertaken (Cyprus, Denmark, Finland, France, Georgia, Germany, Latvia, Liechtenstein, Lithuania, Netherlands, Slovakia, Sweden, United Kingdom), with Switzerland and the United Kingdom also referring to published guidelines on whether projects were likely to have significant environmental effects. Kazakhstan simply listed a number of criteria. Kyrgyzstan indicated locational criteria. In Slovenia and Ukraine, the EIA itself determined impact significance. Finland, Kyrgyzstan, Slovakia and Switzerland referred to possible consultations with potentially affected Parties.

d. How you would decide whether it is “likely” to have such an impact. (Art. 2.3)

31. Regarding whether an activity was “likely” to have such an impact. (Art. 2.3), Austria and Norway interpreted “likely” to mean “a certain possibility”. Several countries used legal criteria (Bulgaria, Canada, Estonia, Germany, Romania); Kyrgyzstan and Switzerland referred to Appendix III. A regulation was required for definition of such criteria in The former Yugoslav Republic of Macedonia. Hungary indicated that various legal provisions might help in the procedural determination. Again in Croatia, the Parties concerned agreed on the meaning of “likely”. Many countries decided case-by-case (Armenia; Cyprus; Denmark; Finland; Germany; Italy; Latvia; Liechtenstein; Lithuania; Netherlands, while applying the precautionary principle; Slovakia; Sweden; United Kingdom). In France, all impacts considered might be “likely”. Finland and Kyrgyzstan referred to possible consultations with potentially affected Parties. In Slovenia and Ukraine, the EIA itself determined impact likelihood.

4. Public participation

Question 6. Do you have your own definition of “the public” in your national legislation, compared to Article 1(x)? How do you, together with the affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to your own public as required in Article 2, paragraph 6?

32. Some respondents had a definition of “the public” (Armenia, Finland, France, Germany, Italy, Kazakhstan, Lithuania, Moldova, Slovakia, The former Yugoslav Republic of Macedonia, Turkmenistan, Ukraine). Cyprus, Slovenia and the United Kingdom had a definition through transposition of the EIA Directive. In addition, Latvia, Hungary and Romania had a definition through transposition of the Aarhus Convention². Poland’s law referred to “everyone” having the right to submit comments; similarly, the Czech Republic refers to “anyone” commenting or attending a public hearing. Kyrgyzstan, Liechtenstein, Sweden and Switzerland did not have a definition, but Spain expected to have one shortly.

² Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

33. To ensure, together with the affected Party, that the opportunity given to the public of the affected Party is equivalent to the one given to their own public, countries indicated:

- (a) Consultation of or agreement with the affected Party (Austria, Finland, Kyrgyzstan, Norway, Bulgaria, Estonia);
- (b) Consideration (Cyprus) or equal consideration (Croatia, Hungary, Lithuania) of the comments from the public in the affected Party;
- (c) Equal opportunities for nationals and non nationals (Canada);
- (d) Public hearings in both Parties (Switzerland).

34. Denmark and the Netherlands provided information at the scoping stage as well as once the full EIA documentation was available. Sweden invited the Party of origin to decide on appropriate means of informing the public. Bulgaria noted that the affected Party was responsible for providing an equivalent opportunity, whereas France, Italy and Spain suggested that it was the sole responsibility of the affected Party. This was also the experience to date in the United Kingdom. Similarly, in the Czech Republic it was for the affected Party to follow its legislation. In contrast, Germany's legislation also applied to public participation in the affected Party and Slovenia's legislation included provisions ensuring public participation in the affected Party. Poland facilitated public participation in the affected Party "as soon as possible".

B. Article 3: Notification

1. Questions to the Party of origin

Question 7. Describe how you determine when to send the notification to the affected Party, which is to occur "as early as possible and no later than when informing its own public"? At what stage in the EIA procedure do you usually notify the affected Party? (Art. 3.1)

35. A notification was sent to the affected Party:

- (a) As early as possible (Austria, Cyprus, Germany, Poland, Turkmenistan);
- (b) No later than when informing their own public (Austria, Cyprus, Finland, Slovenia, Turkmenistan), usually (Czech Republic);
- (c) At the same time as informing their own public (Azerbaijan, France, Moldova, Romania, Sweden), in principle (Denmark);
- (d) At the time of the first public hearing on the scoping (Norway);
- (e) Once the national authorities had determined a need for EIA (Bulgaria, Estonia, Latvia, Slovenia) or transboundary EIA (Germany, Hungary, Poland);

- (f) Within five days of determining, or being informed by an affected Party, that a transboundary impact, was likely (Czech Republic);
- (g) Once the project proponent had declared the start of the preparation of the project and EIA documentation (Kyrgyzstan);
- (h) Before approval of the scope or, if screening determines the need for a transboundary EIA, before scoping (Lithuania);
- (i) During scoping (Spain), if possible (Germany, Poland, Switzerland);
- (j) After receipt (Finland, Slovak Republic) or approval (Azerbaijan) of the scope;
- (k) At the time of the first session of the review body, once a likely impact had been determined (Croatia);
- (l) At some stage between the national authority becoming aware of the project and the domestic public being informed (Italy, United Kingdom);
- (m) Sometimes during initial planning stages, but sometimes during preparation of the EIA, when the possible impact became known (Canada);
- (n) No later than the permitting procedure (Switzerland);
- (o) Before the public participation procedure began (Germany);
- (p) On completion (Moldova) or before publication (Liechtenstein) of the EIA documentation;
- (q) When publishing the “notification of intent” domestically (Netherlands).

Question 8. Describe how you determine the content of the notification? (Art. 3.2)

36. Regarding the content of the notification, Bulgaria, Croatia, Hungary and Lithuania simply indicated that it was according to the Convention. The Czech Republic referred to its legal requirements, which addressed the requirements of Article 3.2. Others indicated compliance: with both the Convention and the EIA Directive (Latvia); with decision I/4 on the format for notification (Romania); or with all domestic and international legal instruments and bilateral agreements (The former Yugoslav Republic of Macedonia). Kazakhstan referred to Article 3.2 and to the Convention’s guidance; Kyrgyzstan to domestic legislation and guidelines. Article 3.2 guided Moldova in determining the content. In Germany, the notification contained all available information needed by the affected Party to determine whether it wished to participate. Other countries included in the notification:

- (a) A notification letter (France);

- (b) A project description (Austria, Cyprus, Estonia, Finland, Italy, Netherlands, Norway, Slovenia, Sweden, Turkmenistan), including its possible emissions and consumption of raw materials, energy, etc. (Poland);
- (c) The possible alternatives and environmental protection measures (Poland);
- (d) A copy of the application for consent for the project (Liechtenstein);
- (e) The reasons why EIA had been initiated (Estonia);
- (f) Information on its possible (transboundary) impact (Austria, Cyprus, Denmark, Estonia, Finland, Poland, Slovakia, Slovenia, Turkmenistan);
- (g) Relevant parts of the scope (Finland, Slovakia);
- (h) The preliminary assessment and terms of reference, if at the scoping stage (Switzerland);
- (i) Where applicable, the draft EIA documentation (Austria);
- (j) The EIA documentation (Liechtenstein), if available (Moldova);
- (k) Information on the EIA procedure (Finland, Spain, Sweden);
- (l) Information on the competent authority (Switzerland);
- (m) Information on the permitting or decision-making (Cyprus, Finland, Slovakia, Slovenia, Sweden, Switzerland);
- (n) An invitation to participate and to propose consultation procedures (Norway);
- (o) Information on how to provide comments (Finland, Liechtenstein) and on deadlines for a response or for comments (Finland, Slovakia, Slovenia, Switzerland);
- (p) An offer to provide additional information (Italy);
- (q) The same information as made available domestically (France), if only at the permitting stage (Switzerland);
- (r) The same information as made available domestically for scoping (Spain);
- (s) Full information on the basis of which affected Party could make an informed decision (United Kingdom).

Question 9. Describe the criteria you use to determine the time frame for the response to the notification from the affected Party (Art 3.3, “within the time specified in the

notification”)? What is the consequence if an affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?

37. In describing the criteria used to determine the time frame for the response to the notification from the affected Party, Bulgaria listed a series of characteristics of projects and their potential impacts. Others respondents gave specific time frames:

- (a) Four weeks (Romania);
- (b) Twenty to thirty days (Czech Republic);
- (c) Thirty days (Croatia, Germany, normally, Italy, Kyrgyzstan, Moldova, Slovenia, The former Yugoslav Republic of Macedonia) in a bilateral agreement (Poland);
- (d) Six weeks (Liechtenstein);
- (e) Thirty to sixty days (Hungary);
- (f) One to two weeks after the end of the public hearings (Finland);
- (g) Two months if at the notification stage (Switzerland);
- (h) Two months in one bilateral agreement (Estonia).

38. Others referred to:

- (a) National legislation (Croatia, France, Netherlands, Slovakia);
- (b) Bilateral agreements (Slovakia);
- (c) Domestic procedures (Denmark, Finland, Norway) with some flexibility (Spain) or with a factor to allow transboundary consultations (United Kingdom);
- (d) Agreement between the authorities and the proponent (Latvia), with the affected Party also being consulted (Sweden).

39. In Estonia, Latvia, Poland and Sweden, there was no time frame in the national legislation, but Cyprus' legislation specified that domestic EIA time limits would not apply to transboundary EIA

40. Respondents went on to describe the possibility of sending a reminder (Croatia, France, Sweden, United Kingdom), or even suspending the procedure (Hungary), if no response was received. Many countries would have allowed an extension (Croatia, Estonia, France, Italy, Norway, Sweden, Switzerland), which might only be short (Denmark, Netherlands), limited to two weeks (Romania), needed to be justified (Kyrgyzstan, Lithuania, Moldova) or should not delay the national procedure (Finland, Poland). In Germany, it was the competent authority that decided on allowing an extension. An extension might have been discussed bilaterally in the

Czech Republic, Latvia and Slovenia, with Latvia allowing an extension of up to 30 days. Estonia needed to keep the proponent informed of such an extension. An extension might have delayed the whole procedure in some countries (Denmark, Italy, Netherlands, United Kingdom); a late response, without a prior request to extend the deadline, might not be taken into consideration (Hungary, United Kingdom). Finally, Croatia and France might have taken a lack of response to indicate no objection to the project and Germany indicated that it was then for the competent authority to decide whether to continue with the transboundary EIA procedure.

Question 10. Describe when you provide relevant information regarding the EIA procedure and proposed activity and its possible significant adverse transboundary impact as referred to in Article 3, paragraph 5. Already with the notification or later in the procedure?

41. Countries provided with the notification: relevant information regarding the EIA procedure (Italy, Moldova) and proposed activity (Croatia, Cyprus, Estonia, Slovenia) and its possible significant adverse transboundary impact (Cyprus, Estonia, Moldova, Slovenia). Several Parties (Austria, Bulgaria, Finland, France, Hungary, Norway, Poland, Romania, Slovakia) sent all the information above with the notification, as did Denmark, Liechtenstein and the Netherlands, generally. Countries also sent the remaining information once a response had been received from the affected Party (Austria, Cyprus, Estonia, Latvia), or at the request of the affected Party (Croatia). The Czech Republic sometimes sent the information with the notification and sometimes once a response had been received. Spain sent the above information in the scoping phase, as did Switzerland as far as information on transboundary impacts was available at that stage. The former Yugoslav Republic of Macedonia sent the information immediately after starting the EIA procedure and the United Kingdom sent the information as early as possible between notification and response. In Germany, the competent authority decided on the timing, taking into account the need for translation. Kyrgyzstan sent preliminary information with the notification, followed later by more comprehensive information. Sweden sent the information available in the relevant language with the notification.

Question 11. How do you determine whether you should request information from the affected Party (Art. 3.6)? When do you normally request information from the affected Party? What kind of information do you normally request? How do you determine the time frame for a response from the affected Party to a request for information, which should be “prompt” (Art. 3.6)?

42. Respondents noted diverse means of determining whether to request information from the affected Party:

- (a) Depending on borders and on the complexity and significance of the impact (Bulgaria);
- (b) If insufficient information on the environment potentially affected in the affected Party (Bulgaria, Estonia);
- (c) If needed to determine transboundary impact (Croatia);

- (d) Depending on the activity (Slovakia) or type of activity (Czech Republic);
- (e) At the initiative of the competent authority (Finland);
- (f) As defined in legislation (Hungary);
- (g) As determined by the proponent or its consultant (Romania);
- (h) When the affected Party was invited to provide information and to suggest significant issues to be addressed in the EIA documentation (Spain);
- (i) If comments from the affected Party required clarification (United Kingdom).

43. In France, there was not a role for the authorities in requesting information; this was the responsibility of the proponent or its consultant. Finland similarly indicated that the proponent would normally gather such information.

44. The timing of such a request was:

- (a) In the scoping phase (Hungary, Netherlands, Romania, Spain, Switzerland);
- (b) While preparing the EIA documentation (Estonia);
- (c) With the notification (Hungary, Lithuania);
- (d) At an 'early stage' (Denmark);
- (e) Before the procedure began (Finland);
- (f) Once the affected Party had indicated that it wished to participate (Czech Republic, Kyrgyzstan);
- (g) Determined case by case (Slovakia).

45. In the United Kingdom, the timing varied but information on publicity arrangements was requested during notification. The kinds of information normally requested:

- (a) Related to the potential impacts (Bulgaria, Switzerland);
- (b) Related to the affected population (Bulgaria);
- (c) Comprised a catalogue of available data plus environmental indicators (Croatia);
- (d) Were determined by the needs of the EIA (Germany, Hungary, Romania, Sweden);

- (e) Were on the state of the environment (Netherlands) in the affected area (Slovakia, Slovenia).
46. The time frame for a response was variously:
- (a) Defined in the request (Bulgaria, Estonia, United Kingdom);
 - (b) Agreed between the points of contact (Croatia);
 - (c) As soon as possible (Germany);
 - (d) The same as for the response to the notification (Finland), while recognizing that some information might take longer to provide (Hungary);
 - (e) As defined by the affected Party (Kyrgyzstan);
 - (f) Determined case by case (Slovakia);
 - (g) Two months when the competent authority was federal (Switzerland)
 - (h) One month (Turkmenistan).

Question 12. How do you consult with the authorities of the affected Party on public participation (Art. 3.8)? How do you identify, in cooperation with the affected Party, the “public” in the affected area? How is the public in the affected Party notified (what kinds of media, etc are usually used)? What is normally the content of the public notification? Does the notification to the public of the affected Party have the same content as the notification to your own public? If not, describe why not. At what stage in the EIA procedure do you normally notify the public of the affected Party?

47. Several Parties discussed public participation arrangements between the concerned Parties (Bulgaria, Canada, Denmark, Estonia, Finland, Germany, Kyrgyzstan, Latvia, Netherlands, Norway, United Kingdom), or exchanged correspondence to this effect (Romania). In Austria, Germany and Slovakia the determination of the extent of impacts identified “the public” in the affected area, while in Croatia “the public” was the population of a county or smaller or similar administrative area. In Armenia, the public was those exposed to the impact, meaning the population of the affected region or community. For Bulgaria, the Czech Republic, Kyrgyzstan, Romania and Switzerland the affected Party, not the Party of origin, identified the public; Germany considered that this was the responsibility of the concerned Parties. For Switzerland, the relevant authority in the affected Party was responsible for informing that country’s public, but Switzerland sought to inform the affected Party’s public at the same time as its own, upon submission of the project information by the proponent. Finland noted that the affected Party was in a better position to identify the public in the affected area. Slovenia indicated a case-by-case determination based on the affected Party’s legislation and through consultations between the concerned Parties.

48. Respondents gave a variety of means for notifying that public:

- (a) Through the media (Bulgaria, Canada, Czech Republic, Germany, Slovenia);
- (b) In newspapers (Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Germany, Latvia, Netherlands, Slovenia) or the official journal (Croatia);
- (c) By advertisements (Sweden);
- (d) On notice boards (Czech Republic);
- (e) In public buildings (Sweden);
- (f) Via the Internet (Canada, Czech Republic, Germany, Latvia, Romania);
- (g) By post (Canada, Latvia);
- (h) By direct presentations (Slovenia);
- (i) By any other means (Denmark).

49. The public notification contained information:

- (a) On the activity (Bulgaria, Denmark, Estonia, Germany, Latvia, Netherlands, Sweden, Switzerland);
- (b) The activity's potential impacts (Bulgaria, Estonia, Germany, Latvia, Sweden, Switzerland);
- (c) Specified in decision I/4 (Canada);
- (d) On the public hearing (Croatia, Latvia, Netherlands);
- (e) On the notification, documentation and expert opinion (Czech Republic);
- (f) On contact details for the competent authority (Germany) and the proponent (Denmark);
- (g) On the decision-making procedure (Denmark, Netherlands);
- (h) On arrangements for accessing information (Latvia, Sweden);
- (i) On commenting arrangements (Denmark, Estonia, Germany, Latvia, Netherlands), including any public hearing (Denmark, Slovakia).

50. Croatia, Kyrgyzstan, Switzerland and the United Kingdom provided the EIA documentation. Austria provided to the affected Party the text of the domestic public announcements; both Austria and Norway provided all documents available to their domestic

public and Slovakia all documents needed for the information of the affected Party's public. Austria normally provided information early on to enable public inspection in both countries at the same time. Bulgaria similarly intended that its notification of the affected Party be forwarded early on to the affected public. Denmark and the Netherlands notified the affected Party's public at the same time as their own, but in Croatia this only took place after the domestic public hearing.

51. In a number of Parties (Canada, Croatia, Czech Republic, Denmark, Netherlands, Slovenia, Switzerland), the notification to the public of the affected Party had the same content as the notification to their own public; Bulgaria reported that it should be so, but this was not the case in the United Kingdom because the affected Party had always taken responsibility for the notification of its public and public participation in the affected Party was according to the affected Party's procedures. France, Kyrgyzstan, Spain and Sweden made it clear that this matter was fully the responsibility of the affected Party, though Sweden enquired what measures were to be taken by the affected Party and Kyrgyzstan expected the proponent to bear the costs. The Czech Republic, Hungary, Lithuania and Moldova simply provided all the information to the affected Party, which was then responsible. Finland noted that it was usually the affected Party that informed its public and defined the content of the notification. Germany provided the same information to the affected Party and considered that the public participation should have taken place at the same time as the domestic public participation. Latvia asked the affected Party to take responsibility for the notification; Italy determined arrangements case by case; Estonia had a bilateral agreement that clarified the affected Party's responsibility for the notification of its public; Germany tried to ensure an adequate procedure in the affected Party. In Poland, neither the national legislation nor bilateral agreements obliged direct notification of the public in the affected Party.

Question 13. Do you make use of contact points for the purposes of notification as decided at the first meeting of Parties (ECE/MP.EIA/2, decision I/3), and listed on the Convention website at http://www.unece.org/env/eia/points_of_contact.htm?

52. Many Parties made use of, or would use, the contact points for the purposes of notification (Armenia, Austria, Bulgaria, Canada, Croatia, Denmark, Finland ("very useful"), Italy, Kazakhstan, Latvia, Lithuania, Netherlands, Norway, Poland, Slovakia, Slovenia, Sweden, Switzerland, United Kingdom). The Czech Republic sometimes did, Kyrgyzstan responded that it did not. France did so, but also advised proponents to make earlier informal contacts in the affected Party. Hungary normally did so, though in certain priority cases the Minister of Environment would initiate the notification, in part or in full. In Romania, to date, more senior officials in the Ministry of Environment had signed notifications, or diplomatic channels were used, with a copy being sent to the contact point. In Estonia, the Minister of Environment had instead sent notifications, whereas in Spain notifications had instead been sent through the Ministry of Foreign Affairs. Germany had used these contact points if there was no alternative authority known or specified in an agreement. Moldova sent notifications to the ministry specified, not to the individual within the ministry.

Question 14. Do you provide any information to supplement that required by Article 3, paragraph 2? Do you, furthermore, follow the proposed guidelines in the report of the

first meeting of the Parties (ECE /MP/2, decision I/4)? If not, in what format do you normally present the notification?

53. Many Parties followed the proposed guidelines for the content of the notification in decision I/4 (Austria; Bulgaria; Croatia; Estonia; France; Germany, possibly; Latvia; Lithuania; Moldova; Netherlands; Norway, Poland; Romania; Slovenia; Sweden). Hungary only followed the guidelines in part because of a two-step notification procedure, whereas the United Kingdom did not follow the guidelines, but provided full information to enable the affected Party to make an informed decision on whether to take part in the EIA procedure. Kyrgyzstan relied on national guidelines, the Czech Republic on national legislation. The Czech Republic, Denmark and Kyrgyzstan did not follow the guidelines appended to decision I/4. The Czech Republic, Denmark (if necessary), Finland, France, Germany (possibly), the Netherlands, Romania, Slovakia and Sweden provided supplementary information in the notification, and Croatia and France provided additional information if so requested.

2. Questions to the affected Party

Question 15. Describe the process of how you decide whether or not you want to participate in the EIA procedure (Art. 3.3)? Who participates in the decision-making, for example: central authorities, local competent authorities, the public and environmental authorities? Describe the criteria or reasons you use to decide?

54. The decision, as affected Party, on whether to participate in a transboundary EIA procedure depended on:

- (a) The likely significance of the impact (Austria, Denmark, Germany, Norway, Slovenia, United Kingdom);
- (b) Whether a transboundary impact was likely (Estonia, Hungary, Lithuania, Netherlands, United Kingdom);
- (c) The type or nature of the activity (Lithuania, Poland);
- (d) The activity's distance from the border (Lithuania, Poland);
- (e) The level of public interest (Denmark, Netherlands);
- (f) Criteria (Romania) defined in national legislation (Bulgaria, Germany, Poland) or in the Convention (Croatia, Poland).

55. Who participated in the decision-making depended on the territory likely to be affected (Austria, Poland), depended on the proposed activity (Estonia), or was:

- (a) Competent, concerned or relevant authorities (Czech Republic, Estonia, Finland, Germany, Hungary, Norway, Poland, Romania, Slovakia, Slovenia);

- (b) Local authorities (Denmark, Estonia, Kyrgyzstan, Romania, Slovakia, Sweden, Switzerland);
- (c) Central authorities (Denmark, Estonia, Finland, Hungary, Latvia, Liechtenstein, Lithuania, Moldova, Romania, Slovakia, Slovenia, Sweden, Switzerland, Turkmenistan, Ukraine);
- (d) The public (Hungary, Sweden);
- (e) NGOs (Finland; Kyrgyzstan; Moldova, possibly);
- (f) Research institutes (Finland).

Question 16. When the Party of origin requests you to provide information relating potentially affected environment: (a) how do you determine what is “reasonably obtainable” information to include in your response; and (b) describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of “promptly” in the context of responding to a request for information? (Art. 3.6)

56. “Reasonably obtainable” information was:

- (a) Already available to the authorities (Cyprus, Hungary, Romania);
- (b) Existing (Croatia, Denmark, Moldova, Netherlands, Slovenia) or available (Liechtenstein);
- (c) Readily (Croatia, Hungary, Switzerland) or publicly available (Germany, United Kingdom);
- (d) Obtainable within the time frame specified (Czech Republic, Denmark, Latvia, Slovakia, and necessary for the EIA documentation);
- (e) Available at proportionate cost (United Kingdom);
- (f) Necessary to determine the transboundary impact (Poland).

57. Information that was not reasonably obtainable was:

- (a) Classified (Bulgaria);
- (b) Not available or requiring a lengthy process to find or produce (Hungary);
- (c) Requiring research (Netherlands, Switzerland) or analysis (Moldova);
- (d) Confidential or commercially sensitive, or legally restricted or prejudicial to legal proceedings (United Kingdom).

58. Canada, Romania, Latvia, Liechtenstein, Poland and Turkmenistan indicated that “promptly”, in the context of responding to a request, meant without undue delay once the information was available. Denmark and Germany suggested “as soon as possible”. The Netherlands noted that information had to be collected from various sources, whereas Bulgaria noted the need to take into account the nature of the material requested and whether raw data had to be processed for this express purpose. Bulgaria, the Czech Republic, Moldova, Slovakia and Switzerland also suggested that “promptly” meant within the time frame of the request; Finland suggested the deadline would be agreed between the concerned Parties. In Croatia, general administrative procedures required a response within 30 days. Slovenia indicated one month. Romania made reference to its implementation of the Aarhus Convention, which similarly provided for a one-month time frame. Austria’s single practical experience was of responding within a few weeks; in Hungary, no deadlines were defined though, in practice, requested information that was available could be provided within a few weeks.

C. Article 4: Preparation of the Environmental Impact Assessment Documentation

1. Questions to the Party of Origin

Question 17. What is the legal requirement for the content of the EIA (environmental impact assessment) documentation (Art. 4.1)?

59. Many respondents referred to legislation defining the required content of the EIA documentation (Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Germany, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Romania, Slovenia, Switzerland, Ukraine, United Kingdom). Others provided direct quotation of the legislation (Austria, Finland, Lithuania, Moldova, Norway, Poland, Slovakia, Sweden, Turkmenistan), whereas France, Kazakhstan and Spain summarized the key contents. Estonia and the Netherlands explained how the contents were determined. Armenia had legislation partially and indirectly defining the content, with reference also being made to the Convention’s provisions. Azerbaijan had no legislation, but referred to European Union (EU) legislation and to the Convention.

Question 18. Describe your country’s procedures for determining the content of the EIA documentation (Art. 4.1).

60. To determine the content of the EIA documentation, respondents indicated that either the proponent or its experts (Austria, Bulgaria, Finland, Germany, Lithuania, Norway, Switzerland, United Kingdom) or the competent authority (Czech Republic, Latvia, Liechtenstein, Netherlands, Poland, Slovakia, Spain, Sweden) undertook the scoping. In Hungary, the competent authority prepared the scope on the basis of the preliminary environmental assessment submitted by the proponent, whereas in Norway it was on the basis of a draft scope prepared by the proponent. When prepared by the proponent, the competent authority then expressed its opinion (Austria, Bulgaria, Finland, Germany) or gave its approval (Estonia, Lithuania) on the scope prepared by the proponent; in Austria, the competent authority had three months to give its opinion; in Bulgaria, only one month. In the United Kingdom, there was a possibility of the competent authority expressing its opinion. In France, the proponent might ask the competent authority for advice on additional elements to be included in the EIA documentation.

61. Where the competent authority prepared or commented on the scope, respondents indicated input from relevant authorities (Finland, Hungary, Latvia, Liechtenstein, Netherlands, Norway, Romania, Slovakia, Spain), the public (Finland, Netherlands, Norway, Slovakia), public organizations or NGOs (Hungary, Spain), and the affected Party (Finland, Poland, Romania, Slovakia). In Lithuania, the views of the relevant authorities on the scope, prepared by the proponent, also had to be sought and addressed. Many countries referenced legislation, though Croatia noted that it had no scoping procedure at that time. Italy, Kazakhstan and Ukraine each presented an outline scope.

Question 19. How do you identify “reasonable alternatives” in accordance with Appendix II, alinea (b)?

62. “Reasonable alternatives” were identified case-by-case (Austria, Czech Republic, Estonia, France, Norway, Slovakia) or based on guidelines (Romania). Slovakia indicated a role for various authorities, the public and the affected Party in identifying alternatives. In addition, “reasonable alternatives” were:

- (a) Feasible, possible, practical, realistic or viable (Armenia, Estonia, Kyrgyzstan, Latvia, Moldova, Norway, Poland);
- (b) Normally (with exceptions requiring justification) compliant with land-use plans (Czech Republic)
- (c) Economically and environmentally compatible (Ukraine);
- (d) Requiring little additional expense and resulting in major environmental benefits (Azerbaijan);
- (e) Satisfying the project objectives (Armenia, Estonia, Netherlands, Poland);
- (f) Reducing or taking into account the environmental impact (Bulgaria, Netherlands, Poland, Slovenia);
- (g) Within the competence of the proponent (Netherlands);
- (h) Simply those alternatives examined (Kazakhstan, Liechtenstein, United Kingdom).

63. The Czech Republic, Estonia, Kazakhstan and Lithuania listed many types of alternatives; Finland, Kazakhstan, Kyrgyzstan and Moldova highlighted the “no project” alternative. Croatia highlighted technological alternatives, Germany noted technological and locational or routing alternatives, and Turkmenistan identified both socio-economic and locational ones, but Germany and Norway indicated that the types of alternative depended on the type of project. Austria and Germany noted greater consideration of alternatives for infrastructure projects. Finally, in Hungary, the consideration of alternatives was not mandatory, only desirable, whereas Lithuania indicated that several alternatives had to be investigated and in Slovakia at least two.

Question 20. How do you identify “the environment that is likely to be affected by the proposed activity and its alternatives” in accordance to Appendix II, alinea (c), and the definition of “impact” in Article I(vii)?

64. To identify the environment that is likely to be affected, some respondents referred to definitions in national legislation (Croatia, Finland, Sweden), the EU Directive on EIA (Cyprus) or the Convention (Armenia, Azerbaijan, Netherlands, United Kingdom); France referred to a definition of environmental components in its legislation; Turkmenistan provided a detailed description, Kazakhstan and Ukraine shorter ones. Several countries reported a case-by-case identification while preparing the EIA documentation (Estonia, France, Germany, Italy, Latvia, United Kingdom) or the scope (Romania, Slovakia, Switzerland), whereas Bulgaria made reference to the characteristics of the proposed activity and location. Respondents also indicated identification of the affected environment by the competent authority in consultation with other authorities (Liechtenstein) or with the affected Party (Austria, possibly; Norway); the Czech Republic indicated that the proponent identified the area of impact, but the competent authority might have altered it; Finland, Lithuania and Switzerland reported that the proponent was responsible; Slovakia noted comments and requirements by the authorities, the public and the affected Party. Finally, Hungary described the method of identification in its legislation.

65. Regarding the definition of the “impact”, Croatia and Finland referred to definitions in their legislation and Cyprus to a definition in the EIA Directive. Estonia, France, Italy and Latvia reported case-by-case definition while preparing the EIA documentation, Ukraine again provided a brief definition.

Question 21. Do you give the affected Party all of the EIA documentation (Art. 4.2)? If not, which parts of the documentation do you provide?

66. Countries reported providing all EIA documentation to the affected Party (Germany, Switzerland, United Kingdom):

- (a) Subject to any privacy or access to information restrictions (Austria, Bulgaria, Canada);
- (b) Available (Croatia, Cyprus); including views of the public (Czech Republic);
- (c) With detailed information being sent upon request (Denmark, Estonia, France, Hungary, Italy);
- (d) Including any research results (Kyrgyzstan);
- (e) Though some materials were only available in Latvian (Latvia);
- (f) Generally in Lithuanian, Russian and English, and at least the non-technical summary and the transboundary impacts chapter (Lithuania);
- (g) Except non-relevant detailed expert reports (Netherlands, Norway);

- (h) Except confidential material (Romania);
- (i) In general (Slovakia, Spain);
- (j) When in Swedish, otherwise subject to discussion with the affected Party and the project proponent (Sweden).

67. Poland indicated that it sent only that part of the documentation required by the affected Party to assess the impact on its territory. Finland sometimes translated the whole EIA documentation, but more often only the parts concerning the project and its transboundary impact were translated and sent. Moldova simply noted that the notification in conformity with national legislation. Slovenia reported that it would provide the information specified in Appendix II. Ukraine sent sufficient information (the summary).

Question 22. How is the transfer and reception of the comments from the affected Party organized? How does the competent authority in your country (as the Party of origin) deal with the comments? (Art. 4.2)

68. Comments were transferred:

- (a) Directly to the competent authority in the Party of origin (Austria, Denmark, Germany, Netherlands, Norway, Poland, Switzerland, United Kingdom), and to the point of contact (Denmark) or to the ministry of environment (Norway), or via the ministry of environment (Moldova, Poland);
- (b) Via an authority in the affected Party (Austria; Estonia, in a bilateral agreement; Romania);
- (c) Via the points of contact (Bulgaria; Finland; United Kingdom, where this was the preferred approach);
- (d) At the regional (*département*) level (France);
- (e) Through the local embassy to the competent authority in the Party of origin (Italy);
- (f) Between the ministries of environment (Czech Republic, Hungary);
- (g) Through the embassy and the Ministry of Foreign Affairs (Ukraine).

69. Some other countries organized the transfer case by case, by the points of contact, the competent authorities or other relevant authorities in the concerned Parties (Canada, Croatia, Latvia, Slovenia).

70. These comments were taken into account in the decision (Bulgaria; Denmark; Germany; Italy; Poland; Sweden, at the permitting stage; Switzerland; United Kingdom), in the same way

as domestic comments (Austria, France, Hungary, Norway, Slovakia). In other Parties, the comments were forwarded to the proponent and its experts (Estonia, Hungary, Lithuania), who took them into account in revising the EIA documentation (Estonia; Hungary; Kyrgyzstan, for well-founded comments as determined by the expert review committee; Moldova; Spain; Sweden, at the notification or scoping stage), and who responded to the affected Party (Estonia). Croatia explained that only “environmental comments” were taken into account and forwarded to the proponent. In the Czech Republic, it was the Ministry of Environment that revised the EIA documentation. In Finland, such comments were treated in the same way as domestic comments and were taken into account by the competent authority in its review of the EIA documentation. The Netherlands required a statement explaining how comments, whatever their source, had been taken into account. In Hungary, the competent authority had been able to order additional studies on the basis of comments received from the affected Party or its public. Romania, as Party of origin, responded to the comments and sent the comments and responses to the affected Party, the proponent and the relevant domestic authorities. Finland provided similar information to the affected Party.

Question 23. Describe the procedures and, where appropriate the legislation you would apply to determine the time frame for comments provided for in the words “within a reasonable time before the final decision” (Art. 4.2)? What is the consequence if the affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?

71. Some respondents referred to the application of the time frame: for domestic consultations (Denmark, normally; France; Norway; Switzerland), applied flexibly (Spain, United Kingdom); as agreed by the points of contact taking into account national legislation (Croatia); or as agreed between the concerned Parties (Armenia; Estonia; Sweden, with the proponent too). Estonia also gave the example of a bilateral agreement specifying a time frame of two months; Poland gave a similar example of 90 days. The 90-day time frame was applied by Austria in all cases and normally by Romania, the Czech Republic noted 60 days, Germany six weeks to two months, Kyrgyzstan three months, Norway not less than six weeks, Latvia 20–40 days, Slovakia eight weeks and Slovenia 30 days (but not set in law). Bulgaria, however, allowed only seven days. Italy’s legislation set the time frame; in the Netherlands, the duration depended on which legislation applied, but was at least four weeks. In Hungary, 120 days were allowed for the entire permitting procedure. Canada noted that public participation had to be well in advance of the decision, the Netherlands that comments had to be able to influence the decision, and the United Kingdom indicated that the time frame had to comply with good administrative practice. Finland indicated that comments were requested in good time for the decision: comments from the public usually during one month after the public hearing, and a statement from the competent authority of the affected Party within two months of the public hearing.

72. The consequence of the affected Party not complying with the time frame included:

- (a) No consequence (Croatia) if only a few days (Estonia) or if comments still arrived before the decision was taken (Hungary) and they provided important and relevant new information (Germany);
- (b) The same as for domestic comments (Norway);

- (c) Comments could or might not have been taken into consideration (Denmark, Netherlands, Switzerland);
- (d) The final decision might not take into account the interests of the affected Party (Kyrgyzstan);
- (e) It might delay decision-making, fail to influence decision-making, inadvertently withhold relevant information, fail to represent the public's views or add to the cost of the procedure, if re-opened (United Kingdom).

73. The Czech Republic would have tried to take late comments into account. In Romania, this might have been taken to indicate that there were no comments, whereas Sweden and the United Kingdom would have reminded the affected Party and the latter would have offered a short extension. If an affected Party asked for an extension of a deadline, countries would have:

- (a) Agreed or normally agreed (Croatia, Norway, Slovenia, Sweden, Switzerland);
- (b) Agreed in consultation with the proponent (Estonia);
- (c) Agreed if the request was justified (France, Lithuania, Poland) and national interests allow (Kyrgyzstan) or subject to good administrative practice (United Kingdom);
- (d) Considered (Italy);
- (e) Agreed if the legislation or administrative or decision-making procedure permitted (Czech Republic, Denmark, Finland, Netherlands, Poland, Romania).

74. An extension was usually not possible because of the deadlines set in Germany's legislation, but in Hungary it was possible to suspend the procedure if requested. Finally, both the consideration of late comments and the possibility of an extension were determined case by case in Slovakia.

Question 24. What material do you provide, together with the affected Party, to the public of the affected Party?

75. This question was interpreted in diverse ways. However, examples included:

- (a) Prior information on a potential project (United Kingdom);
- (b) Public notices (Canada);
- (c) The project application or notification (Austria, Czech Republic, Finland, Germany, Hungary, Kyrgyzstan, Netherlands, Norway, Poland, Slovenia);

- (d) The project description or documentation (Bulgaria, Croatia, Latvia, Poland, Romania, Slovenia, Switzerland, United Kingdom);
- (e) Procedural information, including on how to comment (Netherlands);
- (f) The screening report (Canada);
- (g) The scoping report (Canada, Estonia, Lithuania);
- (h) The preliminary environmental assessment (Hungary);
- (i) The EIA documentation prepared by the proponent (Austria; Bulgaria; Canada; Czech Republic; Estonia; Finland, possibly; Germany; Hungary; Kyrgyzstan, when necessary; Latvia; Lithuania; Netherlands; Norway; Slovenia; Switzerland; Ukraine; United Kingdom);
- (j) The (translated) description of the potential transboundary impact (Bulgaria, Finland, Germany, Hungary, Poland, United Kingdom);
- (k) The (translated) non-technical summary (Germany, Hungary, Kyrgyzstan, Lithuania, Netherlands, Poland);
- (l) Additional studies (Germany)
- (m) Other materials for public discussion (Latvia);
- (n) The conclusion of a fact-finding procedure (Czech Republic),
- (o) The review of the EIA documentation, or State environmental review, by the authorities or experts (Austria, Canada, Czech Republic, Finland, Slovenia, Ukraine);
- (p) The decision (in part) on the application or permit (Austria, Canada, Germany, Hungary, Poland);
- (q) The decision on appeals, etc. (Hungary);
- (r) Monitoring reports (Canada);
- (s) Other documents (Canada).

76. In addition, France, Moldova and Sweden indicated that this was a matter for the affected Party, whereas Canada, Denmark, Germany, Italy and Slovakia reported that all information available domestically was also available to the affected Party and its public.

Question 25. Do you initiate a public hearing for the affected public, and at what stage, whether in the affected Party, in your country or as a joint hearing? If a public hearing is

held in your country, as Party of origin, can the public of the affected Party, public authorities, organizations or other individuals come to your country to participate?

77. Respondents provided information on public hearings for the affected public, though Cyprus reported that there was no obligation for such a hearing, Finland that hearings were not always necessary, and Italy that public hearings were not foreseen by legislation, but might have been provided for in bilateral agreements. Germany, Slovakia and Ukraine had a legal requirement for a public hearing. For Austria, public hearings might have been held in the affected Party, in the Party of origin or as a joint hearing.

78. A public hearing might have been held in the affected Party:

(a) Depending on the project type, on the need for translation and on the number of affected people in the affected Party (Austria);

(b) As agreed between the concerned Parties on a case-by-case basis or defined in bilateral agreements (Bulgaria);

(c) As agreed by the concerned Parties and the proponent (Switzerland), in either Party (Finland);

(d) In agreement with the affected Party and in line with national legislation (Croatia);

(e) Organized by the affected Party (Estonia, Lithuania) under a bilateral agreement (Hungary);

(f) Organized by the competent authority (Norway);

(g) As determined case by case (Slovakia).

79. Kyrgyzstan and Latvia indicated that a public hearing would generally have been held in the affected Party, Romania reported that it would have been willing to participate in such a hearing. However, the Czech Republic, Hungary, Lithuania, Moldova, the Netherlands, Poland and Sweden would not, as Parties of origin, have organized a public hearing in the affected Party as this was the affected Party's responsibility. However, Sweden had organized such a hearing in another Party. Germany reported that this might occur if there was very close cooperation between the Parties concerned.

80. Bulgaria indicated that a joint hearing might have been held for a joint EIA, Denmark that public hearings were initiated jointly in either Party, and Switzerland that joint hearings would normally be held in the Party of origin, whereas the United Kingdom reported that joint hearings were not anticipated. A public hearing might have been held in Austria as Party of origin if necessary and in cooperation with the affected Party. Several respondents indicated that the public of the affected Party, public authorities, organizations or other individuals might have come to their country, as Party of origin, if a public hearing was held there (Bulgaria, Croatia, Czech Republic, Denmark, France, Germany, Kyrgyzstan, Moldova, Netherlands, Poland,

Romania, Slovakia, Sweden, Switzerland, United Kingdom), subject to normal entry requirements (Canada), or without cost to the proponent or the authorities in the Party of origin (Hungary).

2. Questions to the affected Party

Question 26. Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of the words “within a reasonable time before the final decision”, this being the time frame for comments (Art. 4.2)?

81. In their role of affected Party, respondents indicated how they determined the meaning of “within a reasonable time before the final decision”. Some required respect of the deadline set by the Party of origin (Poland, Romania, Switzerland, United Kingdom), with Austria, Germany and Sweden referring to the legislation of the Party of origin. Romania and the United Kingdom requested an extension if there was insufficient time. In Austria, after submission of the comments, there still had to be enough time for consultations and the time frame depended on the project type, the complexity of its impacts and its political importance. Bulgaria indicated that the time frame was determined case by case or through bilateral agreement. In Armenia, Estonia and Slovenia the concerned Parties agreed together on the time frame, whereas in Croatia it was any period agreed to by the Party of origin. Azerbaijan referred to subregional (Caspian Sea) guidance. The Czech Republic, while referring to the deadline set by the Party of origin, noted a 15-day period for commenting on published information and a 30-day period after publication for responding to the Party of origin. Denmark referred to its legislation and noted that the time frame was usually the same as for domestic comments. Finland assumed that the Party of origin would provide a reasonable time frame. The Netherlands and Norway simply indicated that it was the same as when they were Party of origin (see Question 23). Kazakhstan referred to the period for the State environmental expert review, as defined in its legislation. Slovakia’s legislation provided eight weeks, but the period for commenting might be reduced in line with justified requirements of the Party of origin. Finally, in Cyprus it could have been up to thirty days, in Moldova it was thirty days, in Hungary it needed to be at least 30 days and in Kyrgyzstan not more than three months.

Question 27. Who is responsible for the organization of the public participation in the affected Party? Is the public participation normally organized in accordance with your legislation as the affected Party, or with the legislation of the Party of origin, or with ad hoc procedures, or with bilateral or multilateral agreements?

82. Respondents organized public participation in their country, as the affected Party, in accordance with: their legislation (Armenia; Bulgaria; Croatia; Czech Republic; Denmark; Estonia; France; Hungary; Kazakhstan; Lithuania; Poland and Switzerland, but within the time frame set by the Party of origin; Romania; Slovenia; The former Yugoslav Republic of Macedonia; United Kingdom); the legislation of the Party of origin (Austria; Czech Republic, as well; Estonia; Germany, usually; Netherlands); bilateral or multilateral agreements (Bulgaria, Estonia, Finland, Latvia, Lithuania, Netherlands, The former Yugoslav Republic of Macedonia); or case-by-case arrangements (Finland, Italy, Latvia, Norway, Romania, Sweden). In Kazakhstan, the local authorities organized the public participation, whereas in the Czech Republic and Slovenia it was the Ministry of Environment, in Germany the competent authority

for that type of project, in Kyrgyzstan the relevant environmental authorities, and in Moldova and Slovakia the local authorities together with the Ministry. Denmark noted the involvement of the Party of origin.

D. Article 5: Consultations

1. Questions to the Party of Origin

Question 28. At which step of the EIA procedure does the consultation in accordance with Article 5 generally take place? Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of “undue delay”, with regard to the timing of entry into consultation? Do you normally set the duration for consultations beforehand? If there seems to be no need for consultation, how do you determine not to carry out consultations?

83. Many respondents misunderstood this question. However, others indicated the step or steps of the EIA procedure at which the consultation occurred:

- (a) Without delay after sending the notification (Italy);
- (b) During scoping (Romania; Switzerland, preferably);
- (c) During preparation of the EIA documentation (Bulgaria, Croatia, Latvia);
- (d) Once the EIA documentation had been prepared (Hungary, Kyrgyzstan, Netherlands, Poland, Romania, Spain, Sweden, United Kingdom);
- (e) Within twenty days of receiving the EIA documentation (Czech Republic);
- (f) Once the EIA documentation had been evaluated (Austria, Bulgaria);
- (g) Once the environmental impact statement has been sent (Kyrgyzstan);
- (h) When requested by the affected Party (Estonia).

84. Germany and Poland noted that consultations were more efficient if held after the affected Party had commented on the EIA documentation. However, consultations might occur at any stage in Germany and Slovakia. Austria, the Czech Republic, Estonia, Lithuania, Romania and Slovenia set the duration for consultations beforehand, whereas Croatia did not. Finland set the time frame when sending the EIA documentation, referring to its legislation. Kyrgyzstan noted a maximum period of three months. Such consultations should always have been initiated in Hungary, whereas Croatia indicated that consultations need not have been initiated if no impact appeared likely.

Question 29. On what level do you arrange for consultation: national, regional or local? Who usually participates in the consultation? Describe the responsibilities of the

authorities involved. By what means do you usually communicate in consultations, for example by meeting, exchange of written communications?

85. Consultations were held at different levels in the countries when they were the Party of origin:

- (a) At the national or federal level (Bulgaria; Canada; Croatia; Cyprus; Czech Republic; Estonia; Germany; Hungary; Kyrgyzstan; Liechtenstein; Lithuania; Romania; Slovakia; Spain; Switzerland, possibly);
- (b) At the regional, State or local levels as well, if appropriate (Bulgaria, Canada, Germany, Kyrgyzstan, Switzerland);
- (c) At the expert level, with relevant authorities if problems remained unresolved (Denmark, Netherlands);
- (d) At the level appropriate for the project type (France, Italy, Latvia, Poland, United Kingdom).

86. Various participants were identified:

- (a) National or federal authorities (Bulgaria; Canada; Croatia; Estonia; Germany; Hungary; Kyrgyzstan; Liechtenstein; Moldova; Romania; Slovakia; Slovenia; Spain; Switzerland, possibly; United Kingdom);
- (b) Regional, State or local authorities (Bulgaria, Canada, Germany, Kyrgyzstan, Moldova, Slovenia, Switzerland, United Kingdom);
- (c) Competent authorities (Denmark, Germany, Slovakia, Slovenia);
- (d) Aboriginal representatives (Canada);
- (e) Experts (Canada, Denmark, Switzerland, United Kingdom);
- (f) The project proponent (Canada, Romania, Slovakia, Switzerland);
- (g) The (concerned) public, or its representatives (Bulgaria, Croatia, Italy, Moldova, United Kingdom);
- (h) Other stakeholders (Croatia);
- (i) Anyone concerned (Cyprus).

87. In such consultations, the environmental authorities provided information or clarified requirements (Bulgaria), or provided coordination and organized the consultation (Romania). The consultations were made by:

- (a) Exchanging written communications (Bulgaria, Czech Republic, Denmark, Finland, Germany, Lithuania, Netherlands, Romania, Slovenia, Spain, Switzerland, United Kingdom);
- (b) Telephone (Denmark, Kyrgyzstan, United Kingdom);
- (c) Meetings between the concerned Parties (Bulgaria, Czech Republic, Denmark, Germany, Lithuania, Netherlands, Slovenia, Switzerland);
- (d) Internet (Kyrgyzstan, Slovenia, Switzerland).

2. Questions to the affected Party

Question 30. On what level is the consultation normally held: national, regional or local? Who normally participates in the consultation? By what means do you usually communicate in consultations, for example by meeting or by the exchange of written communications? How do you indicate if there is no need for consultations?

88. When countries were the affected Party, the consultations were also held at various levels:

- (a) Depending on the nature and the potential impact of the proposed activity (Bulgaria, France, Latvia), though often at the local level (France);
- (b) As determined case by case (Kazakhstan, Moldova);
- (c) At all levels (Croatia);
- (d) At the expert level at first (Denmark, Netherlands);
- (e) At the national level (Cyprus, Czech Republic, Estonia, Hungary, Poland, Romania, Slovakia, The former Yugoslav Republic of Macedonia), if problems were unresolved (Denmark, with consultations at the local level too; Netherlands);
- (f) At federal and State levels (Germany);
- (g) At the regional level (Hungary, Poland).

89. The participants included the proponent (Austria) and the competent authority of the Party of origin (Austria, Netherlands) and from the affected Party:

- (a) The point of contact or ministry of environment (Austria; Denmark; Estonia; Netherlands; Norway; Poland; Slovakia; Switzerland, possibly; United Kingdom);
- (b) Competent authorities (Bulgaria, Germany, Hungary, Latvia, Liechtenstein, Slovenia, Switzerland);

- (c) Relevant local and national authorities (Bulgaria, Croatia, Denmark, Estonia, Germany, Hungary, Netherlands, Norway, Poland, Romania, Slovenia, Switzerland, United Kingdom);
- (d) Experts (Denmark, Poland, Switzerland);
- (e) The public (Bulgaria);
- (f) NGOs (Bulgaria, United Kingdom);
- (g) Other stakeholders (Croatia);
- (h) Anyone concerned (Cyprus).

90. Communications were:

- (a) In writing (Bulgaria; Croatia; Czech Republic; Denmark; Germany; Hungary; Italy; Latvia; Netherlands; Norway; Romania; Spain; Sweden; Switzerland; United Kingdom, usually);
- (b) In meetings (Austria, Bulgaria, Croatia, Denmark, Germany, Hungary, Latvia, Netherlands, Poland, Romania, Switzerland);
- (c) By other means, e.g. telephone, fax or e-mail (Denmark, Latvia, Switzerland);
- (d) As agreed by the concerned Parties (Slovenia).

91. Finland, Germany, Norway, Poland and Romania would have written to indicate whether there was a need for consultations.

E. Article 6: Final Decision

1. Questions to the Party of Origin

Question 31. Describe what is regarded as the “final decision” to authorize or undertake a proposed activity (Art. 2.3). Do all projects listed in Appendix I require such a decision?

92. Respondents described the “final decision” as:

- (a) The decision in the consolidated permit procedure, except for federal roads and high-speed railways, which required two decisions (Austria);
- (b) The decision of the whole State expert review (Azerbaijan, Ukraine), dependent of a positive State environmental expert review decision (Moldova);

- (c) Generally the “visa for design” issued by the chief architect of the municipality (Bulgaria);
- (d) The decision on the acceptability of the proposed activity in view of its environmental impact (Croatia) and of the opinions obtained (The former Yugoslav Republic of Macedonia);
- (e) The final decision taken by the responsible planning authorities, after assessment of the EIA documentation and preparation of the opinion on the environmental assessment (Cyprus);
- (f) The decision on the proposal, dependent on the environmental impact statement (Slovakia), generally with conditions as defined in the statement (Czech Republic);
- (g) The decision granting (or refusing) a permit (Denmark, Finland, Germany, Sweden), development consent (Estonia, France, Germany, Latvia), or authorization (Switzerland). The decision on the EIA could have been taken separately in Sweden;
- (h) The decision by the environmental authority on the basis of the EIA documentation and the comments by the affected Party (Kyrgyzstan);
- (i) The decision on whether the proposed activity, given its nature and environmental impact, may be carried out at the chosen site (Lithuania);
- (j) The decision on the environmental conditions for consent (Poland);
- (k) The decision on the environmental permit or agreement, a precondition for the building permit (Hungary, Romania, Slovenia);
- (l) The decision permitting other legal decisions, legally binding plans (spatial, land-use, regional), route adoption, etc. (Netherlands).

93. In Norway, the final decision was a decision following a procedure in the planning and building act or other sectoral acts; when two or more acts were involved, each had a decision and it varied which was the “final decision”. Kazakhstan noted that a positive conclusion of the State environmental expert review was a pre-condition for the decision. All projects listed in Appendix I required such a decision in most Parties (Austria; Azerbaijan; Croatia, except for deforestation of large areas; Denmark; Estonia; Finland; France; Germany; Hungary; Kazakhstan; Kyrgyzstan; Liechtenstein; Lithuania; Moldova; Netherlands; Norway; Poland; Romania; Slovenia, Spain; Switzerland; Ukraine). Most of the projects listed required such a decision in Sweden.

Question 32. How does the EIA procedure (including the outcome) in your country, whether or not transboundary, influence the decision-making process for a proposed activity? (Art. 6.1)

94. Bulgaria, Hungary and Romania indicated that the EIA decision or agreement was required for development consent, as was, in Armenia, Azerbaijan and Kazakhstan, a positive

conclusion of the expert review of the EIA documentation. The decision took into account, took into consideration or was informed by the EIA procedure or documentation in most Parties (Austria, Canada, Croatia, Cyprus, Czech Republic, Finland, Estonia, Germany, Italy, Latvia, Lithuania, Netherlands, Norway, Poland, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, United Kingdom). The State environmental review was a component of the whole State expert review in Ukraine. Countries identified in particular the relevance of:

- (a) The results of consultations, including public comments (Austria, Estonia, Italy, Latvia, Lithuania, Netherlands, Norway, Poland, The former Yugoslav Republic of Macedonia, United Kingdom);
- (b) The results of transboundary consultations (Czech Republic, France, Germany, Lithuania, Netherlands, Poland);
- (c) The examination of alternatives (Netherlands).

95. In the United Kingdom, a decision to refuse development consent could be taken without reference to the EIA documentation. Norway noted that EIA helped in the identification of better alternatives and mitigation measures, but that it was not as an efficient aid to deciding on whether a project should proceed. Germany also noted the importance of mitigation measures. There was no influence in Liechtenstein.

Question 33. Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and public in your country (Art. 6.1)?

96. In most Parties, comments by the authorities and the public of the affected Party, and the outcome of the consultations, were taken into consideration in the same way as the comments from the authorities and public in their country as the Party of origin (Austria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, France, Germany, Hungary, Italy, Kyrgyzstan, Lithuania, Netherlands, Norway, Poland, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom). Canada indicated that it would likely give equal consideration. Bulgaria, Kazakhstan, Latvia and Moldova did not explicitly indicate whether equal consideration was given. A summary of domestic and transboundary comments was included in the permit application in Finland, to be taken into account by the permit authority in its decision.

Question 34. How is the obligation to submit the final decision to the affected Party normally fulfilled? Does the final decision contain the reasons and considerations on which the decision is based? (Art. 6.2)

97. Most Parties (Austria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Moldova, Norway, Poland, Romania, Slovakia, Slovenia, Sweden, Ukraine, United Kingdom) submitted the final decision to the affected Party, with Germany noting translation where possible and Sweden where necessary. Hungary, Latvia and Ukraine indicated the bodies involved. Most Parties (Austria, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Kyrgyzstan,

Latvia, Lithuania, Netherlands, Norway, Poland, Romania, Slovenia, Sweden, Switzerland, Ukraine, United Kingdom) also indicated that the final decision contained the reasons and considerations on which the decision was based.

Question 35. If additional information comes available according to paragraph 3 before the activity commences, how do you consult with the affected Party? If need be, can the decision be revised? (Art. 6.3)

98. If additional information became available before the activity began, a number of Parties would have informed or consulted the affected Party (Cyprus; Czech Republic; Estonia; Germany; Kyrgyzstan; Netherlands; Norway, if of relevance to comments made by the affected Party; Romania), or the decision or the environmental permit could have been revised (Croatia, Estonia, Finland, Germany, Hungary, Kyrgyzstan, Moldova, Netherlands, Romania, Slovenia, United Kingdom).

F. Article 7: Post-Project Analysis

Question 36. How do you determine whether you should request a post-project analysis to be carried out (Art. 7.1)?

99. Some respondents reported that post-project analysis should always have been carried out: Austria, Bulgaria, Croatia, Slovakia and (though optional in practice) the Netherlands. In other countries, post-project analysis was carried out:

- (a) Usually and according to bilateral agreements, in consultation with the affected Party (Estonia);
- (b) Depending on whether a significant environmental impact was expected (Estonia, Romania);
- (c) Depending on the type of activity (France, United Kingdom) and the technology used (Romania);
- (d) As determined case by case (Kazakhstan, Moldova);
- (e) Depending on the distance from the border (Romania);
- (f) Depending on the decision of the competent authority (Germany, Norway, Switzerland), possibly in consultation with the affected Party (Hungary); or
- (g) As defined by the (domestic) EIA procedure (Azerbaijan, Czech Republic, Latvia, Lithuania, Spain).

100. Italy decided on whether to carry out such an analysis if requested by the affected Party. In Slovenia, such an analysis was carried out before operations began and was a condition on the operating permit.

Question 37. Where, as a result of post-project analysis, it is concluded that there is a significant adverse transboundary impact by the activity, how do you inform the other Party and consult on necessary measures to reduce or eliminate the impact pursuant to Article 7, paragraph 2?

101. Some respondents confirmed that there would have been an exchange of information between the concerned Parties in this situation (Cyprus, Czech Republic, Estonia, France, Latvia, Netherlands, Poland, Romania), through the focal points (Croatia, United Kingdom). Respondents also reported that additional consultations (Croatia, Italy, Latvia, Netherlands, Poland, Romania, Slovenia), according to a bilateral agreement (Estonia), would have been held on necessary measures to reduce or eliminate the impact. Others indicated that arrangements would have been determined case by case (Canada, Hungary, Latvia, Lithuania).

G. Article 8: Bilateral and Multilateral Agreements

Question 38. Do you have any bilateral or multilateral agreements based on the EIA Convention (Art. 8, Appendix VI)? If so, list them. Briefly describe the nature of these agreements. To what extent are these agreements based on Appendix VI and what issues do they cover? If publicly available, also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.

102. Respondents reported the following general agreements based on, or related to, the Convention, besides numerous project-specific agreements:

- (a) Convention for the Protection and Sustainable Use of the Waters of the Spanish-Portuguese Hydrological Catchments (Albufeira Convention, 1998);
- (b) Agreement between Austria and Slovakia (2004);
- (c) Agreement between Estonia and Finland (2002);
- (d) Agreement between Estonia and Latvia (1997);
- (e) Guidelines of the French-German-Swiss Governmental Commission for the Upper Rhine (2005, replacing 1996 “Tripartite Recommendations”);
- (f) Recommendations of the French-German-Luxembourg Governmental Commission (1986 “Saar-Lor-Lux Recommendation”);
- (g) Common Declaration between Germany and the Netherlands (entered into force in 2005);
- (h) Agreement between Germany and Poland (2006, but yet to enter into force; see also earlier agreement on cooperation in environmental protection);
- (i) Agreement between Lithuania and Poland (2004);

(j) (Possibly draft) informal trilateral guideline between Austria, Liechtenstein and Switzerland, possibly to be extended to other countries.

103. Agreements had also been drafted:

- (a) Between Austria and the Czech Republic;
- (b) Between the Czech Republic and Germany (see also earlier agreement on cooperation in environmental protection);
- (c) Between the Czech Republic and Poland;
- (d) Between the Czech Republic and Slovakia;
- (e) Between Flanders (Belgium) and the Netherlands;
- (f) Between Hungary and Slovakia;
- (g) Between Poland and Slovakia;
- (h) Among the countries of South-Eastern Europe.

104. In addition, a possible informal agreement between Austria, Germany, Liechtenstein and Switzerland, and a possible common declaration between Denmark and Germany were reportedly planned.

105. Furthermore, Denmark held annual meetings with Germany and with Sweden to discuss transboundary EIA of certain types of projects.

Question 39. Have you established any supplementary points of contact pursuant to bilateral or multilateral agreements?

106. No such supplementary points of contact had been established in most Parties (Austria, Azerbaijan, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Moldova, Norway, Romania, Slovakia, Slovenia, Sweden, Switzerland, Ukraine). However, such points of contact had been established in Armenia, the Netherlands and Poland. Germany planned to do so further to its agreement with Poland. Spain reported that a commission had been established to implement the above-mentioned Albufeira Convention. No supplementary points of contact had been established in the United Kingdom, but informal working agreements and contacts had developed between staff in Northern Ireland (United Kingdom) and their counterparts in Ireland.

H. Article 9: Research Programmes

Question 40. Are you aware of any specific research in relation to the items mentioned in Article 9 in your country? If so, describe it briefly.

107. Relevant research was reported as follows, with full titles provided in the completed questionnaires:

- (a) Practical results of EIA procedures (Austria);
- (b) The effects of hydrocarbon development and production (Azerbaijan);
- (c) Climate change and environmental assessment; follow-up; regional environmental effects frameworks; significance (Canada);
- (d) Improving EIA (Croatia);
- (e) The effects of offshore wind farms (Denmark);
- (f) Review of EIA Practice (Estonia);
- (g) Cooperation with Poland in transboundary EIA; evaluation of federal EIA legislation (Germany);
- (h) Comparative review of national and transboundary EIA procedures (Hungary);
- (i) The effects of wind farms on birdlife; guidance on health in EIA; alternatives to road building (Norway);
- (j) Information system on EIA procedure (Slovakia);
- (k) Contribution of scoping to the effectiveness of EIA (United Kingdom);
- (l) Study and guidance on the assessment of indirect and cumulative impacts and impact interactions; strategy for EIA and strategic environmental assessment (SEA) research in the European Union; the relationship between the EIA and SEA (2001/42/EC) Directives; guidance on screening; guidance on scoping; review check list; interrelation between the Integrated Pollution Prevention and Control (96/61/EC), EIA and Seveso (96/82/EC and 2003/105/EC) Directives and the Eco-Management and Audit Scheme Regulation (1836/93); evaluations of the performance of the EIA process; costs and benefits in EIA and SEA (European Commission).

I. Ratification of the amendments and the Protocol

Question 41. If your country has not yet ratified the first amendment to the Convention, does it have plans to ratify this amendment? If so, when?

108. Many countries planned to ratify the first amendment (Armenia, Azerbaijan, Austria³, Bulgaria⁴, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, the Netherlands, Norway, Romania, Slovenia, Slovakia, Switzerland, and the United Kingdom). Cyprus was awaiting a decision on ratification by the European Union (EU). Italy, Liechtenstein, The former Yugoslav Republic of Macedonia and the EC⁵ had no plans for ratification at that time. Germany, Poland and Sweden had already ratified the amendment.

Question 42. If your country has not yet ratified the second amendment to the Convention, does it have plans to ratify this amendment? If so, when?

109. Many countries planned to ratify the second amendment (Austria⁶, Azerbaijan, Bulgaria⁷, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Hungary, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, the Netherlands, Norway, Poland, Romania, Slovakia, Slovenia, Switzerland and the United Kingdom). Again, Cyprus was awaiting a decision on ratification by the EU. Italy, Liechtenstein and the EC⁸ had no plans for ratification at that time. Germany's ratification act had entered into force and its instrument of ratification was to be deposited soon. Sweden had already ratified the amendment

Question 43. If your country has not yet ratified the Protocol on SEA, does it have plans to ratify the Protocol? If so, when?

110. Many countries planned to ratify the Protocol (Armenia, Austria, Azerbaijan, Bulgaria⁹, Croatia, Denmark, Estonia, France, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, the Netherlands, Norway¹⁰, Poland, Romania, Slovakia, Slovenia, Switzerland and the United Kingdom). Again, Cyprus was awaiting a decision on ratification by the EU. Hungary, Italy, Liechtenstein and the EC had no plans for ratification at that time and Ukraine was not yet ready. Germany's ratification act had entered into force and that its instrument of ratification was to be deposited soon. The Czech Republic, Finland and Sweden had already ratified the Protocol.

J. Cases during the period

Question 44. Do you have any practical experience of applying the Convention in this period (yes/no)? If you do not have any such experience, why not?

111. Most Parties had had practical experience of applying the Convention in this period (Austria; Bulgaria; Croatia; Czech Republic; Denmark; Finland; France; Germany; Hungary;

³ Ratified 14 September 2006.

⁴ Ratified 25 January 2007.

⁵ But approved 18 January 2008.

⁶ Ratified 14 September 2006.

⁷ Ratified 25 January 2007.

⁸ But approved 18 January 2008.

⁹ Ratified 25 January 2007.

¹⁰ Approved 11 October 2007.

Italy; Kazakhstan; Kyrgyzstan; Lithuania; Moldova; Netherlands, at provincial, regional and local levels; Norway; Poland; Romania; Slovakia; Slovenia, in notification only; Spain; Sweden; Switzerland; Ukraine; United Kingdom). Others had had no such experience in the period (Georgia and Turkmenistan, which are not Parties; Armenia, Azerbaijan, Canada, Cyprus, The former Yugoslav Republic of Macedonia). Estonia and Latvia had received notifications but had not then indicated intent to participate.

Question 45. Does your national administration have information on the transboundary EIA procedures that were under way during the period? If so, please list these procedures, clearly identifying for each whether your country was the Party of origin or the affected Party. If you have not provided a list of transboundary EIA procedures in connection with previous reporting, also provide a list of those procedures. If possible, also indicate for each procedure why it was considered necessary to apply the Convention.

112. Most Parties listed transboundary EIA procedures in the period (Austria, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Moldova, Netherlands, Norway, Poland, Romania, Slovakia, Slovenia, Spain, Sweden, Ukraine, United Kingdom). Due to the number of possible competent authorities, to its federal structure and to the absence of an obligation to collect such data, Germany was unable to provide such information. The respondents provided numerous examples of activities that had been subject to such procedures, most frequently:

- (a) Thermal and nuclear power stations (item 2 in Appendix I to the Convention);
- (b) Motorways, express roads and railways (item 7).

113. Wind farms were the commonest among the types of activity not listed in Appendix I (though listed in the Appendix in the second amendment), but which had been subject to several transboundary EIA procedures.

Question 46. Are there other projects than those mentioned above for which a transboundary EIA procedure should have been applied, but was not? Explain why.

114. Most Parties were not aware of any projects other than those mentioned above for which a transboundary EIA procedure should have been applied, but was not (Armenia, Austria, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Latvia, Liechtenstein, Moldova, Netherlands, Norway, Poland, Slovakia, Slovenia, Sweden, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom). Switzerland indicated that this might have occurred. Lithuania referred to a project affecting Belarus, regarding which Belarus had not initially been notified, as it was not a Party to the Convention until late in 2005. Romania noted that the Bystroe Canal Project in Ukraine¹¹ had not been subject to transboundary EIA. Spain had notified other Parties regarding two projects, with the Parties either not responding or indicating that they did not wish to be consulted. Azerbaijan

¹¹ Information on this project is available on the Convention's website at: <http://www.unece.org/env/eia>.

observed that there had been such projects, but concerning neighbouring States with which it did not have agreements; most neighbouring States were not Party to the Convention. Kazakhstan similarly noted a project involving China, which was not a Party.

Question 47. Provide information on the average durations of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.

115. Transboundary EIA procedures took:

- (a) One to three years, depending on whether there were extended consultations and changes submitted by the proponent (Austria);
- (b) Fifteen months for a nuclear power plant (Bulgaria);
- (c) Two years for a flood protection project (Croatia);
- (d) A procedure begun in 2001 was still ongoing in May 2006 for a hydropower plant project (Croatia);
- (e) Highly variable (Denmark);
- (f) Less than one year (eight months) for a power plant renovation project (Estonia);
- (g) One to two years (Finland, Norway);
- (h) Two and a half years, for one abandoned project (Kyrgyzstan);
- (i) One to two years for industrial projects (Netherlands);
- (j) Two to three years for spatial planning, land-use and other plans (Netherlands);
- (k) At least one year (Poland);
- (l) One to one and a half years (Romania);
- (m) Several years (Slovakia);
- (n) Three years for marine dredging projects (United Kingdom).

116. Broad public interest and political attention extended the timescale in Hungary. Germany and Sweden noted that it depended on the individual project. However, it should have been, or generally was the same as for domestic EIA procedures in Italy, the Netherlands and Switzerland.

117. Regarding the average durations of the individual steps in the procedure:

- (a) Individual steps lasted 30–60 days (Croatia);

- (b) The preparation of the terms of reference for scoping and for holding consultations took approximately one month (Bulgaria);
- (c) The publication and approval of the scope and the EIA documentation lasted one month (Estonia);
- (d) Ten weeks was sufficient for the first, notification phase (France);
- (e) The notification and response took two months (Kyrgyzstan), one month (Lithuania), or four to six weeks (Romania);
- (f) The comments on the scope took one month, but could have been accelerated by sending the draft scope with the notification (Lithuania);
- (g) The scoping took six weeks (Romania) or two months (Switzerland);
- (h) The comments on the EIA documentation took two months (Lithuania);
- (i) The review stage generally took six to eight weeks, but six months for a nuclear power plant (Romania);
- (j) The consultation on the EIA documentation took five months (Switzerland)
- (k) The quality review of the EIA documentation took 14 days (Bulgaria);
- (l) The delay between the final public hearing and the issue of the final decision was two months (Bulgaria).

118. Romania explained that deadlines for the different stages were agreed with the affected Parties. Bulgaria, as a Party of origin, indicated that the notification of the competent authority, the public and the affected Party regarding a nuclear power plant took approximately two months, whereas Romania as the affected Party indicated only four weeks. Later in the same procedure, Bulgaria indicated that public hearings in the concerned Parties (including one month's public access the EIA documentation) took six months, whereas Romania reported only four months.

K. Experience of the transboundary Environmental Impact Assessment procedure during the period

Question 48. If you have had practical experience, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.

119. Some respondents gave practical examples of how implementation of the Convention had supported the mitigation of possible transboundary impacts, including:

- (a) Environmental protection measures added to, and made stricter for, interim storage facilities for spent nuclear fuel (Austria) and a flood protection project (Croatia);
- (b) Substantial environmental improvements were introduced into the design of a goldmine project (Kyrgyzstan);
- (c) A dredging project halted in part through application of the Convention (Norway);
- (d) A dredging area reduced in extent (United Kingdom).

120. Estonia, Poland and Romania also indicated that an affected Party's position had affected how a project was implemented and monitored. Germany noted that EIA in most cases led to conditions on development but not a project's refusal, whereas Denmark noted that a Party of origin had refused projects subject to the Convention. Finland indicated that the consideration of adverse transboundary impacts inevitably led to the reduction of such impacts. In contrast, Sweden reported that was not aware of such benefits. Finally, Switzerland indicated that the procedure led to greater awareness of environmental consequences of projects and to better public participation.

Question 49. How have you interpreted in practice the various terms used in the Convention, and what criteria have you used to do this? Key terms include the following: "promptly" (Art. 3.6), "a reasonable time" (Art. 3.2(c), Art. 4.2), "a reasonable time frame" (Art. 5), and "major change" (Art. 1(v)). If you are experiencing substantial difficulties interpreting particular terms, do you work together with other Parties to find solutions? If not, how do you overcome the problem?

121. Respondents explained how in practice they interpreted the various terms used in the Convention, with some usually working with other Parties to interpret particular terms (Austria, Denmark, Finland, Germany, Kyrgyzstan, Romania, Sweden, Switzerland) or indeed the concerned Parties needed to agree on the interpretation (Estonia, Latvia, Lithuania). Croatia suggested that Parties might have had to refer back to the Meeting of the Parties if the concerned Parties were unable to agree. Bilateral agreements addressed the interpretation of these terms, or might do so in some countries (Latvia, Netherlands, Poland, Romania, Slovakia). Legislation in the Netherlands included comparable terms. Kyrgyzstan indicated that Parties needed to refer to their own legislation; and Switzerland similarly referred to the legislation of the Party of origin. France, Moldova, the Netherlands, Switzerland and the United Kingdom had not experienced difficulties with these terms.

122. Practical definitions for "promptly" included:

- (a) Within the deadline specified in the request to the affected Party (Bulgaria, Croatia, United Kingdom);
- (b) As soon as possible and no later than 30 days after receiving documents, etc. (Estonia);

- (c) As soon as possible (Germany);
- (d) Immediately after the necessary procedural steps were taken (Hungary);
- (e) As soon as practicably possible, i.e. once the project description was sufficient to provide such information (Norway).

123. Definitions for “a reasonable time” included:

- (a) Thirty days, with a possible extension for the affected Party of an additional 30 days (Czech Republic);
- (b) A reasonable time for a response to a notification was specified, and was at least one month, whereas that for distribution of the EIA documentation was determined through consultations between the concerned Parties and by forwarding documentation no later than when displaying the information to its own public (Estonia);
- (c) A reasonable time for a response to a notification was normally 30 days, with a possible extension, whereas that for distribution of the EIA documentation was between six and eight weeks (Germany);
- (d) As determined through consideration of the length of the national procedural steps and the time needed for translation and dissemination (Hungary);
- (e) No less than six weeks (Norway);
- (f) As required to meet the needs of individual cases and circumstances, with possible extension, subject to the need to comply with good administrative practice (United Kingdom).

124. Definitions of “a reasonable time frame” were:

- (a) As determined individually, case by case (Norway);
- (b) As determined through consultation and adequate to allow domestic consultations, with possible extension (United Kingdom).

125. And definitions for a “major change” included:

- (a) As determined through a case-by-case screening, applying criteria and holding discussions between the proponent and the competent authority (Bulgaria);
- (b) A 30 per cent change (Croatia);
- (c) A change requiring amendment of the development consent (Estonia);
- (d) According to legal thresholds or by case-by-case screening (Germany);

- (e) Exceeding the criteria in Appendix I (Norway);
- (f) As determined through application of legal criteria (Romania);
- (g) As determined through screening whenever legal thresholds are exceeded (United Kingdom).

Question 50. Share with other Parties your experience of using the Convention. In response to each of the questions below, either provide one or two practical examples or describe your general experience. You might also include examples of “lessons learned” in order to help others.

a. How in practice have you identified transboundary EIA activities for notification under the Convention, and determined the significance and likelihood of adverse transboundary impact?

126. Two respondents provided information, from the viewpoint of the (potentially) affected Party, on how in practice they identified transboundary EIA activities for notification under the Convention and determined the significance and likelihood of adverse transboundary impact:

- (a) For projects with the potential to affect a large area, Austria assigned experts to identify potential impacts as a basis for requesting notification. For projects likely to affect smaller areas, local authorities were asked whether they wished to participate in transboundary EIA;
- (b) In Hungary, notification was expected or requested for projects close to the border, with a direct hydrological impact on a cross-border river or that were similar to a project that had led to a transboundary pollution incident.

127. Other respondents described experiences as the Party of origin in determining whether to notify:

- (a) In the Czech Republic, it was on the basis of a transboundary impact section in the project notice and whether the project was to be located close to the border;
- (b) Both Denmark and Sweden referred to projects having impacts on their own territory and being close to a border;
- (c) In Estonia, the authorities assessed whether the planned activity was likely to have significant adverse transboundary impact, taking into consideration the characteristics of the activity, its location, the risk of emergencies and the potential impact area;
- (d) In Croatia and Italy, it was on the basis of the conclusions of the EIA documentation; in France, it depended on whether the planned activity was close to the border;

- (e) In Croatia and the Czech Republic, it might also have been in response to a request from another Party that considered that it might have been affected;
- (f) In Finland, the competent authority for the EIA would normally identify projects to which the Convention might apply, with discussions with focal points of affected Parties also having contributed to determining transboundary impact;
- (g) Germany reported that the competent authority made a determination case by case, with a recommendation to notify if no clear decision was possible;
- (h) Kyrgyzstan gave examples of where a project was close to a border or a cross-border river, or where it required transport of toxic chemicals through the affected Party;
- (i) In Lithuania, the proponent identified whether the planned activity was likely to have significant adverse transboundary impact while preparing the EIA documentation. The authorities also examined the possibility of such an impact;
- (j) Expert judgment was used in the Netherlands to determine whether a planned activity was likely to have significant adverse transboundary impact, applying the precautionary principle. If it was to be located within five km of the border then the competent authorities gave specific attention to a possible transboundary impact. If there was uncertainty about a project further from the border, the Netherlands initiated dialogue with the affected Party and that might lead to a transboundary EIA procedure;
- (k) In Norway, the competent authority generally identified transboundary EIA activities and the local environmental authorities identified the transboundary impact, which was further determined through consultation.
- (l) Romania referred to its legislation to determine the significance and likelihood of adverse transboundary impact, and considered the outline of potential environmental effects that was included in the project description;
- (m) In Slovakia, the EIA documentation addresses transboundary impacts, and criteria are used to determine significance;
- (n) In Spain, it was simply those projects listed in Appendix I of the Convention or in the European Union EIA Directive, whereas Poland referred to Annexes I and II of the EIA Directive and to project thresholds;
- (o) Switzerland referred to the location near the border of projects subject to domestic EIA, and to the findings of the EIA;
- (p) Finally, the United Kingdom indicated that it did not notify Member States of the European Economic Area, including the European Union, under the Convention, but rather under the EIA Directive, and that it considered it unlikely that it would notify under the Convention given its location. Activities notified, except in Northern Ireland, had been marine dredging projects, with possible effects on the fisheries or coastline of

the notified States. Significance was determined on the basis of the EIA and of information supplied by affected States and other stakeholders.

b. Indicate whether a separate chapter is provided on transboundary issues in the EIA documentation. How do you determine how much information to include in the EIA documentation?

128. Several respondents indicated that there was no distinct chapter on transboundary issues (Armenia, Italy, Romania), or no legal requirement to structure the EIA documentation in this way (United Kingdom). France reported that the information was spread across the documentation. However, other countries indicated that a separate chapter (or section or even document) on transboundary issues in the EIA documentation was (or would have been) recommended (Germany, Norway) or provided (Czech Republic, with its content reflecting the significance of such issues; Kyrgyzstan; Lithuania; Netherlands; Poland; Slovakia; Switzerland), according to the legislation (Austria, Estonia), and taking into account information and comments by the affected Party (Hungary). In Croatia, the structure of the EIA documentation was outlined in law and the content was defined in agreement between the points of contact. Finland considered having a separate chapter as advantageous.

c. What methodology do you use in impact assessment in the (transboundary) EIA procedure (for example, impact prediction methods and methods to compare alternatives)?

129. Respondents did not generally distinguish transboundary EIA methodologies from general EIA ones, though in Hungary transmission calculations might have played a greater role in transboundary EIAs. In many Parties, the proponent or its experts selected the appropriate prediction and comparison methods (Bulgaria, Estonia, France, Germany, Lithuania, Switzerland, Ukraine, United Kingdom). However, Italy's legislation indicated many methods, and Croatia's legislation required the use of certain methodologies. Some respondents identified specific methodologies:

- (a) France, the Netherlands and Poland noted frequent use of multicriteria analysis to compare alternatives;
- (b) Armenia and Kazakhstan noted prediction methods and methods for the comparison of alternatives;
- (c) Bulgaria referred to matrices;
- (d) The Czech Republic referred to scenario building and the comparison of alternatives.
- (e) Finland referred to models analysis and disaggregative comparison methods;
- (f) Kyrgyzstan referred to quantitative and qualitative analyses and the comparison of alternatives;

(g) Norway noted the use sometimes of interactive conferences with the public to supplement more technical methods, especially for infrastructure projects;

(h) Romania noted the use of emission dispersion and other simulation models.

d. Translation is not addressed in the Convention. How have you addressed the question of translation? What do you usually translate? What difficulties have you experienced relating to translation and interpretation, and what solutions have you applied?

130. Respondents provided diverse information regarding translation and interpretation during transboundary EIA procedures:

(a) Austria, when notifying, had provided the project description and an analysis of possible transboundary impact in the language of the affected Party. It had then provided in the language of the affected Party all parts that relate to transboundary issues of the EIA documentation, the evaluation of the documentation, and the decision. Austria had received documentation in Czech only, which it had had to translate, resulting in costs and delays;

(b) Bulgaria had held consultations between concerned Parties in English, unless otherwise specified in bilateral agreements. According to the legislation, the proponent had to translate the non-technical summary and, unless agreed otherwise, the full EIA documentation;

(c) Croatia had once provided all the EIA documentation in its language and had once translated into English the documentation relating to transboundary issues. Interpretation was used in meetings;

(d) The Czech Republic did not normally translate documents, considering this a matter for each Party to arrange individually, whether EIA documentation or comments from the affected Party's public. When the country as Party of origin translated documents, this was organized by the Ministry of Environment but paid for by the proponent;

(e) Estonia gave the example of a scoping report translated into English and the summary of the subsequent EIA documentation being translated into English and Russian;

(f) Finland indicated that this was arranged between points of contact on a case-by-case basis, but with materials needed for public information always being translated;

(g) France reported that it generally notified in French and received EIA documentation in the language of the Party of origin, the exception being for marine dredging projects. However, the legislation did allow for the translation of documentation into French so as to promote effective public participation, though this did not appear to have been applied;

- (h) Germany reported delays and expense for its authorities receiving materials in Czech. As a Party of origin, Germany always translated at least the non-technical summary and other parts of the documentation relevant for public participation, as well as parts of the final decision, subject to reciprocity. Its bilateral agreement with Poland addresses translation;
- (i) Hungary's legislation required that it translate into the language of the affected Party the non-technical summary and the "international" chapter. When Hungary received documentation not in Hungarian, it first translated the table of contents so as to identify which sections were relevant and required translations, together with the summary. Hungary noted that translation of documentation received was costly and time-consuming, making it difficult to respect deadlines. It also noted that it was difficult to identify competent translators;
- (j) Italy indicated that most documents were provided in the official language of the affected Party, though sometimes in English instead;
- (k) Kazakhstan and Kyrgyzstan noted the common use of Russian in Eastern Europe, Caucasus and Central Asia, but Kyrgyzstan highlighted the need occasionally to translate materials into, and to hold discussions in, Kyrgyz in more rural areas;
- (l) Latvia and Lithuania considered that translation might have been addressed in bilateral agreements. Where there was no bilateral agreement, Lithuania reported that for one project it had translated the full EIA documentation into English and Russian, but for other projects only the summary was translated;
- (m) The Netherlands reported that, under bilateral agreements, it generally translated the notification of intent, the EIA procedure (including time frames and conditions on participation), the summary of the EIA documentation, a summary of the permit request, and draft and final decisions. No translation was required when dealing with Flanders (Belgium);
- (n) Norway indicated that it translated into English (which is acceptable for Denmark, Finland and Sweden) the project description, notification and possible transboundary impacts, when notifying, and then the EIA and other relevant documentation. Translation and interpretation into Russian was reportedly a challenge;
- (o) Poland referred to a bilateral agreement according to which the notification, the part of the EIA documentation relating to the affected Party's territory, part of the final decision and other letters had to be translated, and interpretation provided during consultations;
- (p) Romania reported translation into English of the project description and the EIA documentation, according to its legislation;

- (q) Slovakia noted the proponent's responsibility for translation of the summary and, determined case by case, the full documentation. Slovakia also noted difficulties arising from the time taken for translations and the adequacy of the translation, particularly of technical terms;
- (r) Spain simply reported that the language usually used was Spanish;
- (s) Sweden referred to discussions between the Parties and the developer to arrange for necessary translations;
- (t) Switzerland noted that its national languages corresponded to the languages of its neighbours, therefore assuring adequate translation;
- (u) Ukraine noted translation into English, if necessary;
- (v) The United Kingdom had encouraged the project proponent to provide translations into the language of the affected Party. If the proponent failed to do so, then the United Kingdom might have provided translation of the non-technical summary and of information relating to transboundary impact.

e. How have you organized transboundary public participation in practice? As Party of origin, have you organized public participation in affected Parties and, if so, how? What has been your experience of the effectiveness of public participation? Have you experienced difficulties with the participation of your public or the public of another Party? (For example, have there been complaints from the public about the procedure?)

131. Several respondents indicated that as Party of origin they had not organized (Croatia, Czech Republic, Estonia, Poland, Romania, United Kingdom) public participation in an affected Party, or did not do so as this was the responsibility of the affected Party (France, Hungary). Similarly, Switzerland relied on the authorities in the affected Party. Italy indicated that consultations in the affected Party were generally in line with that country's legislation and Hungary, as an affected Party, had organized its own public participation. Denmark as an affected Party had also organized its own public participation, but in cooperation with the Party of origin.

132. The Netherlands had organized public participation in affected Parties; had organized public hearings, with interpretation, in the Netherlands as a Party of origin; had translated announcements in local newspapers in affected Parties; and had points of contact in regional (local) authorities. Norway, as a Party of origin, had also organized public hearings in an affected Party. Finland was developing its public participation procedures but, as a Party of origin, was holding public hearings for two projects, for one in Sweden and the other in Finland, with the Swedish public being invited.

133. Austria, as an affected Party, and Croatia, as a Party of origin (in different cases), received large numbers of comments from the public of the affected Party. However, several respondents had difficulties with, and had received complaints about, the public participation:

- (a) Austria reported that, as an affected Party, its public had complained about public hearings in the Party of origin (no opportunity for discussion, no interpretation) and the quality of the EIA documentation;
- (b) The Czech Republic noted that it had provided a public hearing in its country and invited the public of the affected Party, but the latter had been dissatisfied with the quality of the consecutive interpretation;
- (c) Hungary noted that NGOs participated more actively than the general public;
- (d) The Netherlands reported that there were sometimes complaints about the procedure or about EIA documentation that had not been translated;
- (e) Norway reported that members of the public in the affected Party sometimes complained that they had not been notified;
- (f) Romania also reported problems because the EIA documentation had been made available in English rather than the language of the affected Party. National NGOs in Romania had also noted: poor interpretation during public hearings; only one in 20 participants was female and most participants were retired; too much information was provided in too short a period; there were few public comments; and there had been an emphasis on economic and mobility aspects.

f. Describe any difficulties that you have encountered during consultations, for example over timing, language and the need for additional information.

134. Several respondents described difficulties they had encountered during consultations:

- (a) Austria reported that as affected Party it had insisted on holding more than one meeting for consultations, despite the Party of origin insisting that the Convention provided for only one such meeting. Austria was of the opinion that it was the time frame rather than the number of meetings that determined the consultations;
- (b) Croatia reported difficulties arising when the EIA documentation had to be amended in response to comments from the affected Party, rather than involving the affected Party in scoping the EIA. Croatia also noted slow information and documentation flows;
- (c) The Czech Republic referred to the interpretation problems described above;
- (d) Estonia noted that there had not, on one occasion, been sufficient time for public hearings in an affected Party;
- (e) Kyrgyzstan referred to timing problems;
- (f) The Netherlands observed that additional translations were necessary to promote understanding of one's neighbours' procedures and administrative culture;

- (g) Norway noted incompatibilities between procedural timetables in the concerned Parties;
- (h) Romania indicated that relying on translations into English led to difficulties;
- (i) Sweden noted that time limits were sometimes a problem, especially if consultations were during the summer vacation period;
- (j) Switzerland referred to problems arising if the notification arrived later in the procedure;
- (k) The United Kingdom noted difficulties getting affected Parties to respond to requests to indicate whether they wished to participate.

g. Describe examples of the form, content and language of the final decision, when it is issued and how it is communicated to the affected Party and its public.

135. Respondents gave examples of the final decision:

- (a) Austria as an affected Party had received final decisions in Czech; all decisions were publicly available;
- (b) Bulgaria noted that the final decision contained the grounds for the decision and conditions on the design and construction stages;
- (c) Croatia reported that the form, content and language of the final decision were determined by national legislation and that the affected Party was responsible for communicating the final decision to its public;
- (d) The Czech Republic reported that the final decision contained, as determined by the legislation, the decision itself, its justification and the possibility for appeal. A copy was sent to the affected Party in Czech;
- (e) Denmark indicated that the decision was communicated to the affected Party in the same way as to the domestic authorities;
- (f) Estonia indicated that the content of the final decision was determined by the appropriate national legislation, and that it included conditions on the activity (such as mitigation measures and monitoring). For transboundary cases, the decision was to be translated into English;
- (g) In Finland, the content of the decision varied according to the permitting legislation, but it generally contained information on the project, its impacts, the decision itself, its justification and how the EIA was taken into account. The decision was in Finnish and, in some cases, Swedish. It was sent to the affected Party;

- (h) France reported also that the content of the final decision was determined by the appropriate national legislation, was in French and was sent in letter form to the affected Party;
- (i) Germany noted sending the whole decision, translated if possible, in paper and possibly electronic forms;
- (j) Italy referred to one case where the affected Party took part in approving the final project on completion of the EIA procedure;
- (k) The Netherlands reported that the final decision was published in local newspapers in the affected Party, with more detailed information available from the authorities in the affected Party;
- (l) In Norway, the final decision was brief for projects under the planning and building act (and subject to municipal voting), but was often longer and more technical for projects under sectoral laws. The final decision was translated into English (or Russian) and sent to the affected Party, which was then responsible for distribution to those who commented on the EIA documentation;
- (m) Poland reported usually receiving the final decision in Polish, with the Ministry of Environment then asking the regional authorities to make it available to the public;
- (n) In Romania, the form and content of the final decision (environmental agreement) were determined by national legislation, including conditions and justification. The final decision was translated into English and then sent by post and e-mail to the affected Party through diplomatic channels;
- (o) Sweden noted sending the decision to the affected Party in Swedish and, if necessary, translated in part or in whole;
- (p) Switzerland indicated that a decision under the Convention had the same form as any other decision, but it also dealt with submissions from the affected Party;
- (q) Ukraine noted the issue of the final decision by the Ministry of Foreign Affairs, generally in English;
- (r) The United Kingdom indicated that the final decision, issued in English, included conditions on the commencement and operation of the activity.

h. Have you carried out post-project analyses and, if so, on what kinds of projects?

136. Though many respondents had no experience of carrying out post-project analyses, some were able to give examples:

- (a) Croatia reported monitoring programmes providing the basis for post-project analysis for two projects: offshore gas production and pipelines, and flood protection;

(b) Estonia noted that a power plant renovation project was subject to monitoring, but pre-dated the 2005 domestic requirement to carry out an ex-post evaluation of EIA on the basis of monitoring results;

(c) France expected several infrastructure projects to be subject to evaluation five years after construction had begun;

(d) Romania had agreed to carry out a post-project analysis for a nuclear power plant project;

(e) The United Kingdom reported that for marine dredging projects operators had to provide annual reports on post-project monitoring, with a substantial survey and report every five years.

i. Do you have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your experiences describing, for example, any bilateral agreements, institutional arrangements, and how practical matters are dealt with (contact points, translation, interpretation, transmission of documents, etc.).

137. Again, though many respondents had no experience of organizing transboundary EIA procedures for joint cross-border projects in the period, some were able to give examples:

(a) Austria referred to the Brenner (or Brennero) Tunnel between it and Italy, with EIA occurring much earlier in Italy and on the basis of less-developed project documentation. Experts from the two Parties and the developer collaborated in drawing up the documentation and in the assessment, while the national procedural steps were taken separately by the two Parties. Italy added that a bilateral agreement had been prepared to address various practical arrangements of the project;

(b) Denmark, Germany and Sweden noted the Baltic Sea gas pipeline (“NordStream”) which was the subject of a notification in November 2006;

(c) The Netherlands referred to numerous joint cross-border projects (railways, motorways, waterways, oil and gas pipelines, power lines, industrial sites and nature development sites) for which the application of its bilateral agreements had proved very useful;

(d) Norway reported plans for a meeting between its focal point and Finland’s to discuss coordination regarding a cross-border road;

(e) Romania provided information on a bridge across the Danube River to Bulgaria. Bulgaria indicated that the EIA procedure had been completed in 2002, but for Romania it had begun with a bilateral agreement in 2001 (which led to a joint committee and numerous joint working groups) and was still on going in December 2004 when a public hearing was held in Romania. This reflected a two-stage approach comprising a

preliminary EIA according to Bulgarian legislation and a final EIA according to Romanian legislation;

(f) Switzerland referred to numerous such projects (hydropower, railways, roads, pipelines and power lines), noting the importance of good cooperation and of seeking to harmonize EIA and approval procedures.

j. Name examples of good practice cases, whether complete cases or good practice elements (e.g. notification, consultation or public participation) within cases. Would you like to introduce your case in a form of Convention's fact sheet?

138. Several respondents provided examples of good practices:

(a) Austria reported on the transboundary EIA of six interim storage facilities for spent nuclear fuel in Germany, noting that a common language had facilitated consultations and public participation;

(b) Bulgaria and Romania referred to the second bridge over the Danube River between the two countries (already the subject of a Convention fact sheet available on the Convention's website);

(c) Estonia noted that, though time frames were too tight, a case in 2002 with Finland as the affected Party had included good practice elements: early notification, informal contacts by e-mail and EIA documentation amended to take into account comments by Finland;

(d) Hungary reported that Romania had notified it in a timely fashion regarding the Rosia Montana goldmine project and that Romania had accepted suggestions on the scope of the EIA;

(e) Hungary also reported that Croatia had accepted a request for additional information on a hydropower plant and had accepted terms of reference for the EIA documentation addressing transboundary impacts. The technical and hydrological chapters of the documentation had been very well prepared;

(f) Italy referred again to the Brenner (Brennero) Tunnel;

(g) Switzerland reported that the procedure for Basel-Mulhouse Airport had gone well.

L. Cooperation between Parties during the period

Question 51. Do you have any successful examples of how you have overcome difficulties arising from different legal systems in neighbouring countries?

139. Many Parties had not experienced difficulties arising from different legal systems in neighbouring countries. France noted that one of the main implications of implementing the

Convention had been the need to understand applicable procedures in neighbouring countries. Lithuania noted the importance of bilateral agreements to overcome differences, whereas the Netherlands referred to the fact that the translation of legislation, dialogue and the exchange of expertise had increased knowledge and understanding between neighbouring States. Finland noted the importance of good relationships between points of contact. Denmark reported about the harmonization of procedures for the public hearing for a nuclear power plant in a neighbouring country, as well as harmonization of procedures for the above-mentioned NordStream project. Germany noted that difficulties had to be solved case by case, referring also to the negotiation of a bilateral agreement. Switzerland indicated that trilateral discussion of guidelines, and joint EIA procedures, both promoted understanding and resolution of problems.

M. Experience in using the guidance during the period

Question 52. Have you used in practice the following guidance, recently adopted by the Meeting of the Parties and available online? Describe your experience of using these guidance documents and how they might be improved or supplemented.

a. Guidance on public participation in EIA in a transboundary context

140. Some countries had used the guidance on public participation in transboundary EIA (Armenia and France, for regulations only; Croatia; Finland; Kyrgyzstan; Latvia, for notification only; Lithuania; Moldova). Germany had distributed the guidance widely. Others had not used the guidance (Austria; Azerbaijan; Bulgaria; Czech Republic; Denmark; Netherlands; Norway; Slovakia; Slovenia; Sweden; The former Yugoslav Republic of Macedonia; Ukraine; United Kingdom). Italy noted the primacy of national legislation.

b. Guidance on subregional cooperation

141. Several countries had used the guidance on subregional cooperation (Bulgaria, partially; Croatia; France, for regulations only; Kyrgyzstan; Moldova). Armenia indicated its use in defining the topic of a subregional seminar. Germany again had distributed the guidance widely. Switzerland noted that it had supported the elaboration of this guidance. Others had not used the guidance (Austria, Azerbaijan, Czech Republic, Denmark, Finland, Latvia, Lithuania, Netherlands, Norway, Slovakia, Slovenia, Sweden, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom).

c. Guidelines on good practice and on bilateral and multilateral agreements

142. More countries reported use in practice of the guidance on good practice and on bilateral and multilateral agreements (Armenia, for regulations only; Austria (“very useful”); Bulgaria; Croatia; Estonia; Finland; France; Germany (“positive”); Hungary, extensively; Latvia, for notification only; Lithuania; Moldova; Norway (“useful”); Poland (“very useful”); Romania; Sweden; Switzerland). Germany reported translation and wide distribution. Others had not used the guidance (Azerbaijan, Czech Republic, Denmark, Kyrgyzstan, Netherlands, Slovakia, Slovenia, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom).

N. Clarity of the Convention

Question 53. Have you had difficulties implementing the procedure defined in the Convention, either as Party of origin or as affected Party? Are there provisions in the Convention that are unclear? Describe the transboundary EIA procedure as applied in practice, where this has varied from that described in Part I or in the Convention. Also describe in general the strengths and weaknesses of your country's implementation of the Convention's transboundary EIA procedure, which you encounter when actually applying the Convention.

143. Difficulties encountered when implementing the procedure defined in the Convention included:

- (a) The time schedule was tight (Estonia) or the overall procedure was long (Croatia, Romania);
- (b) The use of diplomatic channels caused substantial delays, so the use of contact points was vital (Hungary);
- (c) It was difficult to determine a likely significant adverse transboundary impact, noting the Bystroe Canal Project in Ukraine (Romania);
- (d) There were difficulties with translation (Ukraine) and time frames, which needed to be addressed in bilateral agreements (Austria, Lithuania).

144. Regarding the clarity of the Convention's provisions, France noted that the Convention's requirements were not always clear as they mixed obligations with recommendations; Switzerland similarly noted a large margin for interpretation. The meaning of the word "likely" was not clear to Hungary, whereas for Kyrgyzstan the terms "major" (Appendix I), "large" (Appendices I and III) and "close to an international frontier" (Appendix III) were unclear. Similarly, others sought guidance on post-project analysis (Czech Republic) and Article 6.3 (Finland). Respondents went on to describe what approaches strengthened their implementation of the Convention:

- (a) Obligations and procedures in national legislation (Bulgaria, Netherlands, Poland, Slovakia);
- (b) Independent expert opinion on data in the notification and EIA documentation (Czech Republic);
- (c) Bilateral agreements to govern practical application (Austria, Croatia, Lithuania, Netherlands, Poland, Slovakia);
- (d) Experience in transboundary EIA (Austria, Croatia);

(e) The delegation of responsibility to local authorities with first hand information, though this was also recognized as a weakness when it had led to the late identification of transboundary cases (Norway);

(f) The training of local authorities (Croatia).

O. Awareness of the Convention

Question 54. Have you undertaken activities to promote awareness of the Convention among your stakeholders (e.g. the public, local authorities, consultants and experts, academics, investors)? If so, describe them.

145. Respondents reported on such activities:

(a) Events (information days, seminars, workshops) addressing the Convention or transboundary EIA (Cyprus, Estonia, Finland, Kazakhstan, Kyrgyzstan, Lithuania, Moldova, Poland, Slovakia, The former Yugoslav Republic of Macedonia, United Kingdom);

(b) Regular or frequent discussions with and informing of authorities on implementation of the Convention (Austria, Germany, Switzerland);

(c) Publication of the Convention in the national collection of international treaties (Czech Republic);

(d) Distribution of guidance addressing transboundary EIA (Armenia, Croatia, Germany, Kyrgyzstan, Poland), including with respect to public participation (Romania, in collaboration with NGOs), as well as the Convention's guidance on its practical application translated into the national language (Austria, Estonia, Hungary);

(e) Support of activities by a national EIA society (Germany);

(f) Raising awareness of a bilateral agreement (Netherlands);

(g) Leaflets on EIA, including transboundary EIA (Cyprus);

(h) Information about transboundary EIA cases on a website (Austria, Bulgaria, Croatia);

(i) Information about the Convention and its application (Austria, Bulgaria, Estonia, Germany, Hungary, Kyrgyzstan, Lithuania, Norway, Slovakia) or about transboundary EIA (Germany, United Kingdom) on a website;

(j) An NGO project on increasing awareness and participation in the Convention in industrial zones close to borders (Armenia) and, similarly, a meeting with NGOs to facilitate their participation (Azerbaijan);

- (k) A project to promote application with a neighbouring State (Austria).

Question 55. Do you see a need to improve the application of the Convention in your country and, if so, how do you intend to do so? What relevant legal or administrative developments are proposed or ongoing?

146. Respondents indicated a variety of legal and administrative developments that were proposed or ongoing:

- (a) Continued development of (transboundary) EIA legislation (Armenia, Azerbaijan, Croatia, Czech Republic) or public participation and access to justice (Germany);
- (b) Possible ratification of the amendments to the Convention (Ukraine);
- (c) More training of (local) authorities to identify potential transboundary impacts and to improve awareness of the Convention (Croatia, Estonia);
- (d) Broader distribution of tasks and more resources as the number of transboundary EIA cases increases (Hungary);
- (e) Preparation of bilateral agreements (Azerbaijan, Lithuania, Moldova);
- (f) Preparation of guidance on EIA of transboundary projects (Finland);
- (g) Preparation of guidance on transboundary EIA procedures (Kazakhstan, Norway);
- (h) Raising awareness of public participation in EIA (Romania);
- (i) Systematic recording of transboundary EIA cases (Switzerland);
- (j) Greater cooperation with other neighbouring States (The former Yugoslav Republic of Macedonia).

147. Other respondents (Bulgaria, Cyprus, Liechtenstein, Netherlands, Poland, Slovakia, Slovenia, United Kingdom) reported that no such improvements were required, whereas France and Latvia indicated that more experience was needed before necessary developments could have been identified.

P. Suggested improvements to the report

Question 56. Please provide suggestions for how the report may be improved.

148. Some respondents provided suggestions on how to improve the questionnaire:

- (a) A shorter questionnaire with fewer questions (Bulgaria, Cyprus, France, Germany, Kazakhstan and Switzerland), and no subdivision of questions (Latvia);

- (b) A simplified questionnaire (Bulgaria and France), with duplication, repetition or overlap removed (Bulgaria, Cyprus, Finland, Kazakhstan, Latvia, Lithuania and Moldova);
- (c) Simpler questions, with yes/no or multiple-choice answers (Germany and the United Kingdom);
- (d) Less theoretical, with more examples (Switzerland);
- (e) Removal of questions of definitions of terms (Moldova);
- (f) More relevant and focused questions (France and Italy);
- (g) A longer reporting period, as transboundary EIA procedures are long and legislation changes infrequently (Hungary);
- (h) Access to software tools (spelling- and grammar-checking) (Germany and the United Kingdom) and not using the forms feature (grey boxes where text may be entered) of Microsoft Word (Germany).

Decision IV/2

Review of compliance

The Meeting of the Parties,

Recalling Article 11, paragraph 2, of the Convention and decision III/2 on the review of compliance,

Recalling Article 14 bis of the second amendment to the Convention,

Determined to promote and improve compliance with the Convention,

Having considered the analysis made by the Implementation Committee on general compliance issues in the Review of Implementation 2003, as summarized in the appendix to decision III/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 annex I to this decision, and also having noted the letter of 19 May 2008 from the Deputy Prime Minister of Ukraine to the Executive Secretary of the United Nations Economic Commission for Europe, and the announcement by the Ukrainian delegation made during the fourth meeting of the Parties,

Having further considered the findings and recommendations of the Implementation Committee further to its initiative in accordance with paragraph 6 in the appendix to decision III/2 (ECE/MP.EIA/6, annex II) as set out in annex II to this decision,

Having reviewed the structure and functions of the Implementation Committee, as described in the appendix to decision III/2, bearing in mind the possible involvement of the public 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,

Recognizing the importance of rigorous reporting by Parties of their compliance with the Convention, and noting the second review of the implementation of the Convention in the annex to decision IV/1 based on Parties' answers to the revised and simplified questionnaire on the implementation of the Convention,

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/2008/5), welcomes the reports of the meetings of the Committee in the period after the third 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. *Encourages* Parties to bring issues concerning their own compliance before the Implementation Committee;
3. *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 IV/6 on the workplan;
4. *Urges* Parties to take into account in their further work the recommendations for further improving the implementation of and compliance with the Convention, based on but not limited to the analysis on general compliance issues from the Review of Implementation 2003 as requested by the Meeting in its decision III/1, and as presented in section V of the Implementation Committee's report on its activities as set out in annex III to this decision;
5. *Adopts* the operating rules of the Implementation Committee set out in annex IV to this decision including sources and criteria for dealing with information other than submissions from Parties, 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;
6. *Decides* to keep under review and develop if necessary the structure and functions of the Implementation Committee as well as the operating rules at the fifth meeting of the Parties in the light of experience gained by the Committee in the interim, and in this context requests the Committee to prepare any necessary proposals for the fifth meeting of the Parties;

II. Regarding Ukraine

7. *Endorses* the findings of the Implementation Committee that Ukraine has been in non-compliance with its obligations under the Convention, in particular Articles 2, 3, 4, 5 and 6;
8. *Decides* to issue a declaration of non-compliance to the Government of Ukraine;
9. *Takes note* of the commitment by the delegation of the Government of Ukraine made during the fourth meeting of the Parties to reconsider the final decision of 28 December 2007, and urges the Government of Ukraine to repeal without delay the final decision of 28 December 2007 concerning the implementation of the project for the Danube-Black Sea Deep-

Water Navigation Canal in the Ukrainian sector of the Danube Delta, and not to implement Phase II of the project before applying fully the provisions of the Convention to the project, taking into account the findings of the Implementation Committee, and to report to the Committee at its fifteenth meeting (October 2008) and at subsequent meetings if necessary;

10. *Decides* to issue a caution to the Government of Ukraine to become effective on 31 October 2008 unless the Government of Ukraine stops the works, repeals the final decision and takes steps to comply with the relevant provisions of the Convention;

11. *Requests* the Government of Ukraine to ensure that its legislation and administrative measures are able to implement fully the provisions of the Convention, and agrees to support the Government of Ukraine in the undertaking of an independent review of its legal, administrative and other measures to implement the provisions of the Convention for consideration by the Implementation Committee in the first half of 2009. This independent review shall be undertaken by a consultant to be nominated by the Committee and financed from the budget of the Convention;

12. *Also requests* the Government of Ukraine to submit to the Implementation Committee by the end of 2009 a strategy, taking into account the efforts by the Government of Ukraine to implement the provisions of the Convention and based on the outcome of the independent review, including its time schedule and training and other actions to bring about compliance with the Convention, and thereafter to report to the Committee on the implementation of the strategy;

13. *Further requests* the Implementation Committee to report to the fifth meeting of the Parties on the strategy and its implementation and to develop, if appropriate, further recommendations to assist Ukraine in complying with its obligations under the Convention;

14. *Invites* the Government of Ukraine to enter into negotiations with its neighbouring Parties to cooperate in the elaboration of bilateral agreements or other arrangements in order to support further the provisions of the Convention, as set out in Article 8, and to seek advice from the secretariat. The Government of Ukraine is invited to report on progress with the elaboration of such agreements, particularly with Romania, to the Implementation Committee by the end of 2010 and to the fifth meeting of the Parties.

III. Regarding Armenia

15. *Endorses* the findings of the Implementation Committee regarding Armenia (ECE/MP.EIA/2008/7);

16. *Requests* Armenia to revise its legislation in accordance with the Implementation Committee's findings to ensure full implementation of the Convention;

17. *Includes* in the workplan an activity supporting Armenia through technical assistance in drafting the necessary legislation. This technical assistance shall be undertaken by a consultant to be nominated by the Implementation Committee and financed from the budget of the Convention;

18. *Welcomes* Armenia's plan to carry out a pilot project on transboundary environmental impact assessment and to elaborate a bilateral agreement in support to implementation of Convention, further to the outcome of the capacity-building workshop held in Yerevan in September 2007;

19. *Requests* Armenia to report to the Implementation Committee, if possible by the end of 2009, on actions taken to implement the above recommendations.

Annex I

Implementation Committee's findings and recommendations further to a submission by Romania regarding Ukraine

I. INTRODUCTION – SUBMISSION AND THE COMMITTEE'S PROCEDURE

A. Until the fourteenth meeting of the Implementation Committee

1. On 26 May 2004, the Government of Romania made a submission to the Implementation Committee expressing concerns about Ukraine's compliance with its obligations under the Convention with respect to the Danube-Black Sea Deep-Water Navigation Canal in the Ukrainian Sector of the Danube Delta (the "Bystroe Canal Project").¹² The submission also made reference to paragraph 5(a) of the appendix to decision III/2.
2. On 19 August 2004, the Government of Romania requested the establishment of an inquiry commission under Article 3, paragraph 7, of the Convention, with respect to the same project.¹³
3. At its sixth meeting (3–5 November 2004), the Committee noted paragraph 15 of the appendix to decision III/2, which stipulates that where a matter is being considered under an inquiry procedure it may not be the subject of a submission. Thus, the Committee decided that it was not in a position to consider the submission of Romania (MP.EIA/WG.1/2005/3, para. 14).
4. The Inquiry Commission completed its work on 10 July 2006 and handed over its final opinion on the environmental impact of the project to the Ambassadors of Romania and Ukraine in Geneva and to the Executive Secretary of UNECE. The Commission's unanimous opinion was that the project was likely to have a significant adverse transboundary impact on the environment.¹⁴
5. Following the final opinion of the Inquiry Commission, Romania sent five notes (of 10 July 2006, 3 and 26 October 2006, 13 November and 8 December 2006) expressing its desire to participate in the environmental impact assessment (EIA) procedure for the project and its availability to assist in conducting public consultations in Romania. Ukraine stated in a letter to the Executive Secretary of UNECE, received on 30 May 2007, that it was studying further the issues raised in the final opinion of the Inquiry Commission.
6. On 23 January 2007, the Government of Romania made a second submission expressing concerns about Ukraine's compliance with its obligations under the Convention, with respect to the Bystroe Canal Project, and in the light of the final opinion of the Inquiry Commission on the

¹² A summary of the submission is available at:

http://www.unece.org/env/eia/implementation_committee_matters.htm.

¹³ A description of the inquiry procedure and of the work of the Inquiry Commission is available at:

<http://www.unece.org/env/eia/inquiry.htm>.

¹⁴ The Inquiry Commission's opinion is set out in its report, also available at:

<http://www.unece.org/env/eia/inquiry.htm>.

environmental impact of the project.¹⁵ The submission alleged that, in spite of repeated démarches, Ukraine did not indicate that it was considering applying the relevant provisions of the Convention and in particular that no EIA documentation had been made available to Romania.

7. On 23 January 2007, the secretariat, further to paragraph 5 (a) of the appendix to decision III/2, forwarded a copy of the submission to the Convention's focal point in Ukraine requesting that Ukraine send any reply and information in support thereof to the secretariat and to the focal point in Romania within three months (i.e. before 23 April 2007).

8. At its eleventh meeting (13–14 February 2007), the Committee agreed that the second submission by Romania superseded Romania's first submission, which was considered closed (ECE/MP.EIA/WG.1/2007/4, para. 23). The Committee also agreed to consider the second submission, with the participation of representatives of the two Parties concerned, at its twelfth meeting (26–28 June 2007).

9. The secretariat received information on 19 April 2007 from the Permanent Mission of Ukraine to the United Nations Office and the other international organizations in Geneva. This information included, inter alia, a notification, without date or signature. The secretariat requested on 20 April 2007 a clarification from the Convention's focal point in Ukraine as to whether this information was the reply to the submission by the Government of Romania.

10. On 11 May 2007, the secretariat received the following information from the Convention's focal point in Ukraine:

“Let me inform you that Ukraine presented to the Romanian Party the following documents in accordance with Article 3 of the EIA Convention:

1. Notification for the Project on the Deep-Water Navigable Canal in Danube Delta with cover[ing] letter of 18 April 2007, No. 4430/11-7 signed by Minister V. Dzharty.

2. Analytical material and EIA report on CD[-ROM].

Please note that these documents should be considered as the reply to the submission of Romania from 23 January 2007.”

11. The above-mentioned analytical information and CD-ROM were submitted to the secretariat on 31 May 2007 together with the original and an unofficial translation of a letter from the Minister of the Environment of Ukraine to the Executive Secretary of UNECE dated 18 April 2007.

12. Some additional views were presented by the Government of Romania (in a letter dated 20 June 2007) and by the Government of Ukraine (in a letter dated 22 June 2007).

¹⁵ A summary of the submission is available at:

http://www.unece.org/env/eia/implementation_committee_matters.htm.

13. At its twelfth meeting, the Committee considered the matter of the submission, first inviting the Romanian delegation and thereafter the Ukrainian delegation to present the submission and the reply, respectively, and then to respond to the other Party's presentation. The two delegations also replied to questions posed by members of the Committee.

14. The delegation of Romania presented a written statement summarizing its allegations and responding to some of the views presented by the Government of Ukraine in the above-mentioned letter of 22 June 2007, with the translations of the notes between the Ministries of Foreign Affairs of the two countries being attached. In its oral presentation, the delegation of Romania provided information on the environmental importance of the Danube Delta, indicating that information about the construction of the Bystroe Canal became known in 2002 and that since then the Government of Romania had contacted the Government of Ukraine several times requesting to be properly notified and involved in the transboundary procedure as envisaged under the Convention. The delegation of Romania also indicated that it had submitted this issue to the Committee on 23 January 2007 (see para. 6 above) because no follow-up had been undertaken by Ukraine regarding the final opinion of the Inquiry Commission.

15. The delegation of Ukraine presented a set of materials describing the project.¹⁶ In its oral presentation, the delegation of Ukraine indicated that the works on the Bystroe Canal were aimed at restoring waterway traffic. It also provided information that the outcome of the Inquiry Procedure was reflected in the EIA report. The delegation of Ukraine gave assurances that the entire project would be conducted in line with relevant international obligations.

16. For the preparation of its draft findings and recommendations at its thirteenth meeting (30 October–1 November 2007), the Committee considered the information brought to its attention prior to and during its twelfth meeting.

17. Before finalizing the findings and recommendations, in accordance with paragraph 9 of the description of the Committee's structure and functions (appended to decision III/2), the Committee sent the draft findings and recommendations to the two parties, inviting their comments or representations within a period of five weeks, between 8 November and 14 December 2007. At its fourteenth meeting (15–17 January 2008), the Committee finalized its findings and recommendations taking into account representations received from the two parties (ECE/MP.EIA/2008/6).

18. The Committee welcomes the cooperative spirit in which the Governments of Romania and Ukraine worked with the Committee in its deliberations on the matter.

B. After the fourteenth meeting of the Implementation Committee

19. The findings and recommendations, as finalized on 17 January 2008, were based on the declaration made by the Ukrainian delegation in the Committee's twelfth meeting (June 2007), that the final decision was not the approval by the Cabinet of Ministers but a construction permit

¹⁶ The materials included a document entitled "Ukraine's Report Materials Regarding Execution of Espoo Convention Provisions; Geneva, 2007".

to be granted by local authorities, which had not yet been granted (ECE/MP.EIA/2008/6, para. 27). The Committee, when considering the extent of Ukraine's non-compliance with its obligations under the Convention, did not challenge this declaration and assumed that, at the time of finalization of the findings and recommendations, the final decision had not been taken.

20. Consequently, some of the findings regarding Phase II of the Project were conditional upon actions being taken prior to the final decision. The Committee found that, in relation to Phase II of the project, Ukraine could not be considered as being in non-compliance with the Convention as long as the final decision regarding Phase II was not taken and, as long as before the final decision regarding Phase II was taken, all the necessary steps envisaged by the Convention were followed (ECE/MP.EIA/2008/6, para. 65(b)).

21. On 7 February 2008 the secretariat was informed by the Permanent Mission of Ukraine to the United Nations Office and Other International Organizations in Geneva that the final decision on Phase II of the Project had been taken by the Government of Ukraine on 28 December 2007.¹⁷ The final decision included approval of the implementation of the Project, and had been provided to the Government of Romania.

22. The Committee was not provided by Ukraine with information to prove that all necessary steps listed by the Committee in its draft findings and recommendations to be followed before taking the final decision on Phase II were indeed taken.

23. Bearing in mind the above developments, the Committee elaborated, by way of electronic decision-making, addendums to its findings and recommendations with a view to bringing them to the attention of the fourth meeting of the Parties for formal adoption in accordance with paragraph 13 of the appendix to decision III/2. The addendums have been incorporated into the findings and recommendations below.

II. SUMMARY OF FACTS, INFORMATION AND ISSUES

A. Project

24. The Bystroe Canal Project was divided into Phases I and II, each being subject to a separate national authorization procedure, including environmental authorization procedure (or "State ecological examination").

25. The delegation of Ukraine indicated at the Committee's twelfth meeting that it had informed its own public about the project in accordance with its national legislation in 2003, 2004 and 2005.

¹⁷ Final Decision taken by Ukraine concerning the Full-scale Implementation of the Danube-Black Sea Navigation Route Project in the Ukrainian Part of the Danube Delta.

B. Phase I

26. In 2002, the procedure for authorizing Phase I was initiated with a feasibility study and an EIA report being submitted to the competent Ukrainian authorities. The final decision was taken in April 2004 and the works initiated the following month.
27. The Government of Ukraine maintained that it had notified Romania about the project with a number of notes, starting with a note of 18 December 2002, and had in addition provided Romania with the EIA report concerning Phase I on 5 August 2004.
28. The Government of Romania acknowledged receiving the two above-mentioned documents, but maintained that neither of them met the requirements of the Convention. Moreover, the Government of Romania asserted that, despite its démarches, Ukraine failed to undertake all the steps envisaged in the Convention to allow the Romanian authorities and public to participate in the EIA procedure before the decision on Phase I was taken.
29. The Government of Ukraine maintained that while it had informed Romania about the project it did not consider it likely to have a significant adverse transboundary impact and therefore did not consider it necessary to follow in detail the requirements of the Convention.
30. Works concerning the project were suspended in June 2005, but resumed in November 2006.¹⁸

C. Phase II

31. Work on the design of Phase II commenced in 2004 and, on the basis of an EIA report, an environmental authorization was given in 2006. The precise date and details of the authorization vary in communications from the Government of Ukraine: according to the above-mentioned letter of 18 April 2007, it was the decision No. 345 of 19 April 2006, but according to other information communicated to the Committee, it was the decision No. 116/04 of 26 October 2006.¹⁹
32. The Government of Romania alleged that the final decision on Phase II was taken when the Cabinet of Ministers of Ukraine approved Phase II on 30 May 2007, whereas the Ukrainian delegation in the Committee's twelfth meeting maintained that the final decision was not the approval by the Cabinet of Ministers but a construction permit to be granted by local authorities, which had not yet been granted. According to a press release by the Ministry of Transport of Ukraine, the official opening of the Canal was celebrated on 2 May 2007.
33. A notification dated 18 April 2007 was submitted to Romania on 24 April 2007. An EIA report was submitted later.

¹⁸ "Ukraine's Report Materials", pp. 11–12.

¹⁹ "Ukraine's Report Materials", p. 14.

34. On 15 June 2007, Romania responded to the notification from Ukraine, confirming its desire to participate in the procedure, and sent preliminary observations on the information provided by Ukraine. However, the Government of Romania alleged that the notification failed to meet the requirements of the Convention by not indicating “the nature of the possible decision” as required by Article 3, paragraph 2, of the Convention. The Government of Romania also alleged that the EIA report failed to meet the requirements of the Convention on a number of counts, in particular by not sufficiently addressing transboundary issues, by disregarding the report of the Inquiry Commission and by failing to provide a non-technical summary.

35. The Government of Ukraine undertook to organize an event on 18 June 2007 in Vilkove (Ukraine), which Ukraine announced to Romania on 4 June 2007 as constituting “consultations regarding the environmental impact of the project”. The event was understood by the Government of Romania as serving public participation purposes, whereas the Government of Ukraine considered it as also serving the purpose of intergovernmental consultations under Article 5 of the Convention. The Committee was not informed of the substantial outcome of the event.

III. CONSIDERATION AND EVALUATION

A. General observations

36. The Committee considers that Ukraine’s national regulatory framework for authorizations of projects and EIA seems to be extremely complicated. In particular, it is difficult to identify which of a number of consecutive decision-making procedures should be considered as the final “decision to authorize a proposed activity” as stipulated in Article 2, paragraph 3, of the Convention. Moreover, there seems to be no clear legal framework for transboundary EIA procedures. It is the Committee’s understanding that, according to the Constitution of Ukraine, international treaties ratified by Ukraine are integral parts of the national legal system and have supremacy over national laws.

37. The project has been subject to investigations under various international agreements. In particular, the UNECE Aarhus Convention²⁰ Compliance Committee, and subsequently the Meeting of the Parties to the Aarhus Convention, noted an insufficiently clear regulatory framework for public participation in relation to the project.²¹

38. The lack of a clear national legal framework has had a bearing on the information and documents provided by the Government of Ukraine, which have not always been sufficiently consistent and clear. References to file numbers and dates of certain evidence sometimes differed, and the reasoning and explanations given sometimes differed significantly.

²⁰ The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

²¹ Decision II/5b by the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus, 1998). Further information is available at: <http://www.unece.org/env/pp>.

39. The Committee gathered information allowing it to identify in a sufficiently precise manner the main facts and events and to evaluate the application of the Espoo Convention, despite difficulties in grasping all the legal and factual details pertaining to the procedures involved in authorizing the project in Ukraine.

B. Legal basis

40. Romania deposited its instrument of ratification of the Convention on 29 March 2001. Ukraine deposited its instrument of ratification of the Convention on 20 July 1999. Thus, Romania and Ukraine were both Parties to the Convention when the Bystroe Canal Project was initiated.

41. The project is covered by item 9 in Appendix I to the Convention. Although the Bystroe Canal already existed and therefore it could not be considered as a new activity, the Committee is of the opinion that according to the definition of “Proposed activity” (as included in Article 1 (v)) the project falls under the scope of “major change”. The Committee is of the opinion that for the purpose of the procedures under the Convention, in particular Article 2, paragraph 3, such an activity includes not only construction but also operation and maintenance works.

42. The final opinion of the Inquiry Commission, in accordance with Article 3, paragraph 7, of the Convention, was that the project is likely to have a significant adverse transboundary impact. In such a situation, the requirements of the Convention do apply to the project and the opinion of the Committee is that Romania should be considered as the “affected Party”.

43. The final opinion of an inquiry commission is a matter of fact and takes effect immediately; in particular the Convention does not provide for the Parties to “study” such an opinion (see para. 5 above). The final opinion of an inquiry commission cannot be challenged and should lead to notification if the opinion is that a significant adverse transboundary impact is likely. The Convention requires notification as early as possible and no later than when informing the public of the Party of origin (Article 3, para. 1). If the public of the Party of origin has already been informed about the proposed activity, the notification should be sent immediately.

44. The likelihood of a significant adverse transboundary impact applies to both Phases I and II, and the Inquiry Commission stated that in some respects the adverse transboundary impact of Phase II could be even greater.²²

45. Phase I was authorized and largely implemented before the Inquiry Commission concluded that the project was likely to have a significant adverse transboundary impact.

46. The procedure for authorization of Phase II was initiated when establishment of the Inquiry Commission had already been requested.

²² Report of the Inquiry Commission, p. 60.

47. The Committee is of the opinion that the above facts have a bearing on its findings regarding the application of the Convention in relation to Phases I and II.

C. Phase I

48. The information provided shows that in relation to Phase I, Ukraine did not follow the requirements of the Convention in relation to assuring the proper involvement of the Romanian authorities and public in the respective EIA procedures. In particular, Ukraine:

- (a) Did not notify Romania as envisaged in Article 3, paragraph 2;
- (b) Did not submit information as envisaged in Article 3, paragraph 5(a);
- (c) Did not take steps to ensure, together with Romania, that the Romanian public in the areas likely to be affected was informed and provided with possibilities for making comments, as required under Article 3, paragraph 8;
- (d) Did not furnish, as envisaged in Article 4, paragraph 2, and Article 2, paragraph 3, the EIA documentation to Romania before the decision was taken (as the decision was taken in April 2004, whereas the EIA documentation was furnished on 5 August 2004);
- (e) Did not take steps to arrange, together with Romania, for the distribution of the EIA documentation to the Romanian public as required under Article 4, paragraph 2;
- (f) Did not enter into consultations with Romania concerning the potential transboundary impact and measures to reduce or eliminate such impact, as required under Article 5, and did not take steps to agree with Romania on a time frame for such consultations, as also required under Article 5;
- (g) Did not ensure that the final decision authorizing implementation of Phase I had taken into account the outcome of the consultations with Romania, as required under Article 6, paragraph 1;
- (h) Did not provide Romania with the text of the final decision authorizing implementation of Phase I, along with the reasons and considerations on which it was based, as required under Article 6, paragraph 2.

49. The Government of Ukraine in some of the documents suggested that it was “aiming to fulfil the provisions of the Convention” through the exchange of notes with Romania²³, while at the Committee’s twelfth meeting it confirmed that it was not following the Convention due to its initial conviction of the lack of a significant adverse transboundary impact of the project.

50. The Convention does not clearly stipulate what are the legal consequences of the final opinion of the Inquiry Commission, in particular whether it has a retroactive effect (a so-called

²³ “Ukraine’s Report Materials” p. 7.

ex tunc effect) or whether the obligations stemming from the Convention apply in such a case only after the Inquiry Commission has found the activity likely to have significant adverse transboundary impacts (a so-called *ex nunc*, or non-retroactive, effect), and whether the request for establishment of the Inquiry Commission has any suspensive effect in relation to an activity.

51. The Committee is of the opinion that, in the absence of clear legal grounds in the Convention for accepting *ex tunc* effect, the final opinion of the Inquiry Commission should be understood as having only *ex nunc* effect.

52. The Convention did not clearly require implementation of Phase I to be immediately suspended as a result of the request for establishment of the Inquiry Commission in August 2004.

53. The immediate suspension of implementation can, however, be invoked from the objective and purpose of the Convention. As set out in the Preamble and in Article 2, paragraph 1, the Convention is based on the principle of prevention, which is well embedded into international environmental law²⁴. Therefore, Ukraine should have taken all appropriate and effective measures to, first of all, prevent a significant adverse transboundary environmental impact from the project. Indispensable to the prevention of such effects occurring in the case of activities likely to have a significant adverse transboundary environmental impact is the carrying out of the transboundary procedure under the Convention. Bearing in mind that the final opinion of the Inquiry Committee was that the project is likely to have a significant adverse transboundary impact, the Committee is of the opinion that, by continuing the implementation of the project after the matter had been submitted to the inquiry procedure and without carrying out the transboundary procedure, Ukraine defeated the object and purpose of the inquiry procedure and made it impossible to achieve its obligation to prevent significant adverse transboundary environmental impact from Phase I of the project.

54. Article 3, paragraph 1, of the Convention stipulates that Parties shall notify any Party of a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact. The Committee is of the opinion that, while the Convention's primary aim, as stipulated in Article 2, paragraph 1, is to "prevent, reduce and control significant adverse transboundary environmental impact from proposed activities", even a low likelihood of such an impact should trigger the obligation to notify affected Parties in accordance with Article 3. This would be in accordance with the *Guidance on the Practical Application of the Espoo Convention*, paragraph 28, as endorsed by decision III/4 (ECE/MP.EIA/6, annex IV). This means that notification is necessary unless a significant adverse transboundary impact can be excluded.

55. Acknowledging the likelihood of a "significant adverse transboundary environmental impact from proposed activities" for the purpose of triggering the Convention's procedures

²⁴ As the International Court of Justice put it, "Existence of the general obligation of States to ensure that activities within their jurisdiction and control respect the environment of other States ... is now part of the corpus of international law" (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, International Court of Justice Reports 1996, para. 29) and "Vigilance and prevention are required on account of often irreversible character of damage to the environment" (Gabcikovo-Nagymaros Project (Hungary/Slovakia), Judgment, International Court of Justice Reports 1997, para. 140).

should be treated as willingness to cooperate with the Parties concerned to “prevent, reduce and control” such impact before the activity is authorized. Thus, initiation of the transboundary procedure under the Convention does not prevent the Party of origin from undertaking such proposed activities after having carried out the transboundary procedure, provided that due account is taken of the transboundary procedure’s outcome in the final decision (Article 6, para. 1).

56. The information provided shows that after the Inquiry Commission delivered its final opinion, and contrary to the conclusions in the above paragraphs, Ukraine did not notify Romania immediately regarding Phase I, and some work was resumed on Phase I.

D. Phase II

57. The information provided shows that Ukraine sent a formal notification to Romania in April 2007, more than 10 months after the Inquiry Commission delivered its final unanimous opinion in July 2006.

58. The notification of April 2007 was not only late, but also did not meet all the requirements of Article 3, paragraph 2; in particular, it did not properly indicate the nature of the possible decision. The Committee also noted that the notification was not made in accordance with decisions I/3 and I/4 (ECE/MP.EIA/2, annexes III and IV, respectively).

59. The information provided shows that, after the Inquiry Commission delivered its final opinion, decision-making procedures concerning Phase II were carried out with the decision on the conclusion of the State ecological examination being taken in October 2006 on the basis of EIA documentation that denied a significant adverse transboundary impact.

60. The Committee is of the opinion that immediately after the final opinion of the Inquiry Commission was delivered, the authorization for Phase II should have been suspended until:

- (a) Romania is given proper possibility to submit comments, in particular regarding potential transboundary impact to be assessed in the EIA documentation;
- (b) The public in Romania is given an opportunity to deliver its comments;
- (c) Proper consultations between Ukraine and Romania on the basis of the EIA documentation have taken place.

61. The above procedures envisaged by the Convention should precede the final decision on the proposed activity. The Committee is of the opinion that, while the Parties are free to decide which of the multitude of decisions required within their regulatory framework should be considered final for the purpose of the Convention, their discretion in this respect is limited to those decisions that in real terms set the environmental conditions for implementing the activity. In this respect, the Committee doubts whether the decision of the local authorities in Ukraine may significantly vary from the preceding respective decisions taken by the central authorities.

62. The Committee notes a positive approach and efforts of the Government of Ukraine to undertake consultations with the Romanian public and authorities.

IV. FINDINGS

63. Having considered the above, the Committee adopts the following findings with a view to bringing them to the attention of the Meeting of the Parties for formal adoption in accordance with paragraph 13 of the appendix to decision III/2.

64. The provision in the Constitution to directly apply international agreements (see para. 31 above) is considered by the Committee as being insufficient for proper implementation of the Convention without more detailed provisions in the legislation. In particular, the national regulatory framework should clearly indicate:

(a) Which of the decisions for approving the activities should be considered the final decision for the purpose of satisfying the requirements of the Convention;

(b) Where in the decision-making process there is a place for a transboundary EIA procedure and who is responsible for carrying it out and by which means.

65. The information provided by the delegation of Ukraine leads the Committee to conclude that Ukraine has established a domestic EIA system, but that Ukraine does not comply fully with Article 2, paragraph 2, of the Convention because it does not provide sufficiently clearly in its regulatory framework the information referred to in paragraph 59.

66. Furthermore, Ukraine has not implemented decisions I/3 and I/4 taken by the Meeting of the Parties.

67. In the absence of an adequate regulatory framework, it is particularly important that officials are sufficiently aware of the obligations stemming from the Convention. However, the information provided by the delegation of Ukraine did not convince the Committee that these obligations are sufficiently understood by all officials in Ukraine involved in the transboundary EIA procedure and related decision-making.

68. Further to paragraph 38 above, the Committee is convinced that immediately after the final opinion of the Inquiry Commission was delivered, the transboundary procedure for this project should have been initiated with the sending of the notification according to Article 3, paragraph 2, of the Convention.

69. In relation to Phase I:

(a) The Committee finds that the fact of authorizing and implementing Phase I cannot be considered as being in clear non-compliance with the Convention at the time of the decision-making, because Ukraine assumed that the project was not likely to have a significant adverse transboundary impact;

(b) However, the Committee is of the opinion that, in the light of the reasons stated in paragraph 48 above, Ukraine should have suspended the project, including its maintenance and operation (see para. 36 above), immediately after Romania requested the establishment of the Inquiry Commission in August 2004. Further, with the final opinion of the Inquiry Commission (see para. 4 above), the project, including its maintenance and operation, should have continued to be suspended pending the completion of the procedures under the Convention;

(c) Further to paragraph 38 above, the Committee finds that not notifying Romania immediately after the final opinion of the Inquiry Commission should be considered as non-compliance with the Convention.

70. In relation to Phase II of the project:

(a) The Committee finds that, by failing to timely and sufficiently notify Romania after the final opinion of the Inquiry Commission, Ukraine was not in compliance with its obligations under Article 3 of the Convention;

(b) The Committee finds that Ukraine cannot be considered as being in non-compliance with the Convention:

- (i) As long as the final decision regarding Phase II is not taken; and
- (ii) As long as before the final decision regarding Phase II is taken all the necessary steps envisaged by the Convention are followed, in particular:
 - a. EIA documentation is prepared following all the requirements of Appendix II including properly addressing transboundary impacts;
 - b. Romania is given a proper possibility to submit comments on the EIA documentation;
 - c. The public in Romania is given an opportunity to deliver its comments;
 - d. Proper consultations between Ukraine and Romania take place concerning, inter alia, the potential transboundary impact of the proposed activity and measures to reduce or eliminate its impact; and
- (iii) If Ukraine, subsequently to the steps in (ii):
 - a. Submits the final decision to Romania, having taken due account of the comments so received;
 - b. If then requested by Romania, determines together with Romania whether to carry out a post-project analysis.

71. Ukraine, despite the pending procedure before the Implementation Committee and despite a clear indication included in the draft findings and recommendations, did take the final decision on Phase II without taking all necessary steps envisaged by the Convention, in particular:

(a) EIA documentation had not been prepared following all the requirements of Appendix II, including properly addressing transboundary impacts;

- (b) Romania had not been given a proper possibility to submit comments on EIA documentation described in item (a);
- (c) The public in Romania had not been given sufficient opportunities to deliver its comments;
- (d) Proper consultations between Ukraine and Romania did not take place concerning, inter alia, the potential transboundary impact of the proposed activity and measures to reduce or eliminate its impact.

72. Although Ukraine did submit the final decision to Romania, Ukraine could not take due account of the comments by Romania further to paragraph 65 bis, items (b), (c) and (d).

73. By failing to take the above steps, Ukraine was not in compliance with its obligations under Articles 2, 3, 4, 5 and 6 of the Convention.

V. RECOMMENDATIONS

74. The Committee recommends that the Meeting of the Parties:

- (a) Endorse the findings of the Implementation Committee that Ukraine has been in non-compliance with its obligations under the Convention, in particular Articles 2, 3, 4, 5 and 6;
- (b) Urge the Government of Ukraine to suspend the final decision of 28 December 2007 concerning the implementation of the project for the Danube-Black Sea Deep-Water Navigation Canal in the Ukrainian sector of the Danube Delta, and not to implement Phase II of the project before applying fully the provisions of the Convention to the project, taking into account the findings of the Implementation Committee, and to report to the Implementation Committee at its fifteenth meeting (October 2008) and subsequent meetings if necessary;
- (c) Decide to issue a caution to the Government of Ukraine;
- (d) Request the Government of Ukraine to ensure that its legislation and administrative measures are able to implement fully the provisions of the Convention, and agree to support the Government of Ukraine in the undertaking of an independent review of its legal, administrative and other measures to implement the provisions of the Convention for consideration by the Implementation Committee in the first half of 2009. This independent review shall be undertaken by a consultant to be nominated by the Committee and financed from the budget of the Convention;
- (e) Request the Government of Ukraine to submit to the Implementation Committee, by the end of 2009, a strategy taking into account the efforts by the Government of Ukraine to implement the provisions of the Convention and based on the outcome of the independent review, including its time schedule and training and other actions to bring

about compliance with the Convention, and thereafter report to the Committee on the implementation of the strategy;

(f) Request the Implementation Committee to report to the fifth meeting of the Parties on the strategy and its implementation and to develop, if appropriate, further recommendations to assist Ukraine in complying with its obligations under the Convention;

(g) Invite the Government of Ukraine to enter into negotiations with its neighbouring Parties to cooperate in the elaboration of bilateral agreements or other arrangements, in order to support further the provisions of the Convention as set out in Article 8, and to seek advice from the secretariat. The Government of Ukraine is invited to report on the progress made regarding the elaboration of such agreements, particularly with Romania, to the Implementation Committee by the end of 2010 and to the fifth meeting of the Parties.

Annex II

Implementation Committee's findings and recommendations further to a Committee initiative on Armenia

I. INTRODUCTION – THE COMMITTEE'S PROCEDURE

1. Decision III/1 on the review of implementation was based on national responses to a questionnaire on Parties' implementation of the Convention. The Implementation Committee considered compliance issues identified through the examination of the review of implementation appended to decision III/1, including issues concerning the legal implementation of the Convention in Armenia.
2. As a result of this examination the Committee entered into correspondence with Armenia to clarify its responses to the questionnaire. This correspondence culminated in a letter from Armenia dated 18 October 2006 (ECE/MP.EIA/WG.1/2007/4, para. 10). The Committee noted that Armenia, in its letter, had not made a submission regarding its own compliance, but was seeking the assistance of the Committee in implementing the Convention. At its eleventh meeting (13–14 February 2007), the Committee decided, while making reference to paragraph 6 of the appendix to decision III/2, to respond positively to the request from Armenia and to explore possibilities to provide technical advice to review the Armenian current and draft future legislation on Environmental Impact Assessment (EIA) in more detail, with reference to paragraph 7 and subject to paragraph 11 of the appendix to decision III/2.
3. With the assistance of the Organization for Security and Cooperation in Europe, and through the Environment and Security Initiative, such technical advice was provided by a consultant in September 2007.
4. At its thirteenth meeting (30 October–1 November 2007), the Committee considered a report by the consultant, which formed the main basis for the Committee's deliberations.
5. The Committee drafted findings and recommendations and sent them to the Government of Armenia further to paragraph 9 of the appendix to decision III/2. At its fourteenth meeting (15–17 January 2008), the Committee finalized its findings and recommendations taking into account representations received from Armenia.
6. The Committee welcomes the cooperative spirit with which the Government of Armenia worked with the Committee in its deliberations on the matter, and hopes that this will encourage similar approaches by other Parties to strengthen their compliance with the provisions of the Convention.

II. SUMMARY OF FACTS, INFORMATION AND ISSUES

A. Introduction

7. The legal and administrative framework for EIA in Armenia had existed since 1995 and included the main procedural elements of EIA.

8. Armenia acceded to the Convention on 21 February 1997.
9. A new draft Law on State Environmental Review (SER) had been proposed to improve the legal and administrative framework for EIA in Armenia. The draft Law would establish a new legal framework for both EIA and Strategic Environmental Assessment (SEA) processes.
10. With regard to the transboundary EIA procedure, both the current Law and the draft Law refer mostly to applicable international instruments. The draft Law also envisages, for every proposed activity likely to have a significant adverse transboundary impact, an ad hoc procedure to be established in accordance with Armenia's international agreements.

B. Review of existing legislation

11. The process of SER as well as that of EIA²⁵ in Armenia is regulated primarily by the Law on Environmental Impact Expertise, adopted in 1995. This Law regulates the legal, economic and organizational basis for expertise (or review) of the environmental impact of proposed activities and concepts. The main goal of the Law is to regulate proposed activities that are likely to have an environmental impact.
12. According to the Law on Environmental Impact Expertise, the expertise process consists of several stages. The proponent develops and submits preliminary documentation on the proposed activity to the Ministry of Nature Protection for review. The Ministry takes a decision about the necessity of carrying out the environmental impact expertise. If an expertise is necessary, the proponent prepares the EIA documentation and submits the required documentation to the Ministry for the expertise.
13. During the examination of documentation for a proposed activity, the State non-commercial organization "Environmental Expertise" collects opinions of interested state bodies (e.g. the Ministries of Urban Development, Health, Agriculture, Transport, Economic Development and Trade and the municipalities) and departments of the Ministry of Nature Protection, and solicits professional conclusions from certified experts in order to make a professional decision. "Environmental Expertise" is subordinate to the Minister of Nature Protection; it organizes environmental impact expertise activities and prepares draft expertise conclusions. On the basis of received documentation, the draft conclusion is prepared and presented to the Ministry of Nature Protection for discussion. It is then transferred to the Minister for approval.
14. The Law provides for public participation within different stages of the procedure.
15. The Law foresees adoption of a number of implementing regulations, some of which have not been adopted including a procedure on public hearings.

²⁵ The anglicized Russian acronym for EIA is OVOS.

16. The Law, in its Article 5, paragraph 1, implies a definition of impact by requiring prediction, description and assessment of possible direct and indirect impacts of a planned activity on:

- (a) Climate conditions, flora and fauna, individual elements of ecosystems, their interrelations and stability, specially protected natural areas, landscapes, geomorphological structures, air, surface and ground waters, and soil;
- (b) The health and well-being of the population;
- (c) The environment of settlements;
- (d) Use of natural resources;
- (e) Historical and cultural monuments.

Transboundary issues

17. Article 14 of the Law, entitled “Expertise of activities having transboundary impacts”, stipulates that the drafting of expertise conclusions by the authorized body, regarding a proposed activity with environmental impacts outside the borders of Armenia, shall be guided by the requirements of international treaties adopted by Armenia and that the expertise conclusions shall be approved by the Government of Armenia.

18. According to Article 6 of the Constitution of Armenia, international treaties ratified by Armenia are integral parts of the national legal system, and have supremacy over national laws.

19. The Law on Environmental Impact Expertise has one more reference to provisions on transboundary EIA regarding the deadline for issuing the Environmental Impact Expertise conclusion. Article 11, paragraph 2, allows extension of the deadline for issuing of the conclusion if this is required according to Article 14.

C. Draft Law

20. The draft Law on SER would establish a new legal and administrative framework for EIA and SEA in Armenia and, after its adoption, is intended to replace the Law on Environmental Impact Expertise and its implementing regulations.

Transboundary issues

21. The draft Law provides measures to identify transboundary impact and formally acknowledge this fact. For the rest of the procedure, the draft Law merely refers to applicable international instruments.

22. The article of the draft Law entitled “Review of the Fundamental Document and the Proposed Activity with Likely Transboundary Impact” states that, in case of likely transboundary impact on another country, the SER of the fundamental document or the proposed activity shall

be carried out in accordance with international agreements of Armenia. For every case of a transboundary impact of the fundamental document or proposed activity, the Government of Armenia shall adopt a procedure of SER in accordance with international agreements of Armenia and this Law. The decision on the fundamental document and the proposed activity with likely transboundary impact shall be made by the Government of Armenia with consideration of the SER conclusion.

23. In comparison with the current Law on Environmental Impact Expertise the draft Law on SER has fewer procedural provisions. For some EIA issues (e.g. public participation and development of EIA documentation), the draft Law does not envisage all the necessary details, but expects implementing regulations to do so within one year of adoption of the Law. No such implementing regulations had been drafted by the Committee's thirteenth meeting. However, in the representations to the Committee provided by Armenia in response to the draft findings and recommendations, Armenia indicated that the drafting of implementing regulations on public participation was ongoing. However, the draft regulations were not made available to the Committee.

III. CONSIDERATION AND EVALUATION

24. Compliance concerns both legal implementation and practical application. In this instance, and in the absence of practical experience, the Committee has examined the legal implementation of the Convention, particularly with regard to its Article 2, paragraph 2.

25. The Committee considers that the lack of some procedural provisions and some implementing regulations, as well as insufficient control mechanisms, may reduce the effectiveness of the existing EIA legislation and may explain in part the reported lack of practical experience with EIA.

26. There are some concerns regarding the adequacy of the draft Law, especially with respect to the transboundary procedure. For some other EIA issues (see para. 23 above), the draft law does not envisage all the necessary details, but expects implementing regulations to do so.

IV. FINDINGS

27. Having considered the above, the Committee adopts the following findings, with a view to bringing them to the attention of the Meeting of the Parties.

28. The provision in the Constitution to directly apply international agreements is considered by the Committee as being insufficient for proper implementation of the Convention without more detailed provisions in the legislation.

29. Furthermore, the Committee is not convinced that the current EIA framework would be capable of identifying activities likely to have a significant adverse transboundary impact that would trigger the transboundary EIA procedure envisaged by the Convention. Nevertheless, the current Law, which provides more procedural provisions, seems better able to implement EIA for projects as foreseen by the Convention than the draft Law on SER.

30. The Committee considered that the following areas are insufficiently addressed or are unclear:
- (a) The situation in which Armenia is the affected Party, particularly regarding the reception of a notification and of EIA documentation, as neither the current legislation nor the proposed draft Law appear to address this situation;
 - (b) Identification of the responsible authorities;
 - (c) Sending a notification as a Party of origin;
 - (d) The detailed content of the EIA documentation;
 - (e) Sending the EIA documentation;
 - (f) Consultations;
 - (g) The procedure for public hearings, although the issue of regulations in this regard is envisaged by the current Law;
 - (h) Timeframes for public participation and modalities of participation at different stages;
 - (i) The definition of impact, which in the current Law is not in line with that in the Convention, but may be resolved by definitions in the proposed draft Law.

31. The Committee is of the opinion that procedural differences between EIA and SEA imply that separate provisions on EIA and SEA are preferable and that the same provisions should not attempt to address both issues.

32. The Committee is also of the opinion that details of the EIA procedure, for example regarding public participation, should rather be included in the legislation than left for implementing regulations.

V. RECOMMENDATIONS

33. The Committee recommends that the Meeting of the Parties:
- (a) Endorse the findings of the Implementation Committee regarding Armenia;
 - (b) Request Armenia to revise its legislation in accordance with the Committee's findings to ensure full implementation of the Convention;
 - (c) Include in the workplan an activity supporting Armenia through technical assistance in drafting the necessary legislation. This technical assistance shall be undertaken by a consultant to be nominated by the Implementation Committee and financed from the budget of the Convention;

- (d) Welcome Armenia's plan to carry out a pilot project on transboundary EIA and to elaborate a bilateral agreement to support implementation of the Convention, further to the outcome of the capacity-building workshop held in Yerevan in September 2007;
- (e) Request Armenia to report to the Implementation Committee by the end of 2009 on actions taken to implement the above recommendations.

Annex III

Report on the activities of the Implementation Committee

I. INTRODUCTION

A. Membership and meetings of the Implementation Committee

1. The members of the Committee and the Parties they represented were: Armenia (Ms. Margarita Korkhmazyan); Croatia (Mr. Nenad Mikulic, replaced by Ms. Vesna Montan at the twelfth meeting); Finland (Ms. Seija Rantakallio); Germany (Mr. Matthias Sauer); Kyrgyzstan (Ms. Gulfiya Shabaeva, replaced by Ms. Tatiana Filkova at the twelfth meeting and by Mr. Kubanychbek Noruzbaev at the thirteenth and fourteenth meetings); Poland (Mr. Jerzy Jendroska); Slovakia (Mr. Tomáš Černohous); and The former Yugoslav Republic of Macedonia (Ms. Menka Spirovska, until and including the eleventh meeting, replaced by Ms. Daniela Stefkova prior to the fourteenth meeting).
2. The third meeting of the Parties appointed Ms. Rantakallio as Chair of the Committee. The Committee nominated Ms. Spirovska as its Vice-Chair.
3. The Committee met nine times in the period between the third and fourth meetings of the Parties: from 3 to 5 November 2004 in Geneva (MP.EIA/WG.1/2005/3); on 3 and 4 March 2005 in Helsinki (MP.EIA/WG.1/2005/4); on 14 and 15 November 2005 in Geneva (ECE/MP.EIA/WG.1/2006/3); from 6 to 8 February 2006 in Geneva (ECE/MP.EIA/WG.1/2006/4); on 9 and 10 October 2006 in Berlin (ECE/MP.EIA/WG.1/2007/3); on 13 and 14 February 2007 in Skopje (ECE/MP.EIA/WG.1/2007/4); from 26 to 28 June 2007 in Geneva (ECE/MP.EIA/2008/1); from 30 October to 1 November 2007 in Geneva (ECE/MP.EIA/2008/2); and from 15 to 17 January 2008 in Geneva (ECE/MP.EIA/2008/3).
4. Both the workplan (appended to decision III/9) and budget (appended to decision III/10) specified that the Committee should meet six times in the period between the third and fourth meetings of the Parties. The Committee agreed to meet on three further occasions, taking into account the postponement of the fourth meetings of the Parties from 2007 to 2008 and the need to consider a submission by Romania, and having secured funding from Parties represented by members of the Committee.
5. Reports of the Committee's meetings were made available to the Working Group on Environmental Impact Assessment (EIA) and are referenced in this report.

B. Activities assigned to the Committee

6. In the workplan appended to decision III/9 on the adoption of the workplan up to the fourth meeting of the Parties, the Meeting of the Parties assigned to the Committee certain items of an activity on compliance with and implementation of the Convention. The workplan specified the following method of work, reflected in the structure of the present report:

- (a) Consideration by the Committee of received compliance submissions (see chapter II);
- (b) Examination of the Committee's structure and functions (see chapter IV);
- (c) Report on the Committee's activities to the fourth meeting of the Parties (the present report);
- (d) Examination of the outcome of the first review of implementation (see chapter V);
- (e) Preparation of a revised and simplified questionnaire (see chapter VI).

7. The Committee undertook the items above with the support of the secretariat. Additionally, the workplan included the following that were assigned to the secretariat, but progress was followed up on by the Committee:

- (a) Distribution of the questionnaire to the Parties to the Convention for them to complete and return (see Part VI);
- (b) Preparation of a draft review of implementation (see chapter VI).

8. Besides these requirements in the workplan, the Committee addressed the following issues, among others, as reported below:

- (a) Committee initiative (further to para. 6 of the Committee's structure and functions)
- (b) Encouraging Parties to bring issues concerning their own compliance before the Committee (further to para. 1 of decision III/2);
- (c) Public involvement in the activities of the Committee (further to para. 5 of decision III/2);
- (d) Criteria for dealing with information other than submissions by Parties (further to para. 7 of decision III/2);
- (e) Membership of the Committee when considering matters related to the Protocol on Strategic Environmental Assessment (SEA) (further to para. 7 of decision III/2);
- (f) Addressing compliance issues in the intersessional period;
- (g) Operating rules;
- (h) Other multilateral environmental agreements (MEAs) providing for transboundary EIA.

9. Item (a) above is covered in chapter III below. Items (b) to (g) above are addressed in chapter IV below on the examination of the Committee's structure and functions. Item (h) above is addressed in chapter VII below.

10. In addition, the Committee contributed to draft decisions proposed for adoption at the fourth meeting of the Parties to the Convention:

(a) On adoption of the workplan (ECE/MP.EIA/WG.1/2007/3, para. 29);

(b) On the review of compliance, to which the present report is annexed (ECE/MP.EIA/WG.1/2007/3, para. 28, and ECE/MP.EIA/WG.1/2007/4, para. 19);

(c) On the review of implementation (ECE/MP.EIA/WG.1/2007/3, para. 27, and ECE/MP.EIA/WG.1/2007/4, para. 20).

II. SUBMISSIONS BY PARTIES

11. Paragraph 5 of the Committee's structure and functions provides for submissions by Parties.

12. Romania made a submission to the Committee regarding the compliance of Ukraine with its obligations under the Convention with respect to the Danube-Black Sea Deep-Water Navigation Canal in the Ukrainian sector of the Danube Delta (the "Bystroe Canal Project"). The Committee prepared findings and recommendations further to the submission (ECE/MP.EIA/2008/6). Regarding the inquiry procedure, and in light of the submission by Romania, **the Committee recommended that all Parties immediately notify other concerned Parties following a positive conclusion of an inquiry commission.**

13. There were no submissions by Parties regarding their own compliance.

III. COMMITTEE INITIATIVE

14. Paragraph 6 of the Committee's structure and functions provides for a Committee initiative. On the basis of the previous review of implementation (chapter V below), the Committee considered supporting the strengthening of Armenia's capacities to comply with its obligations under the Convention. The Committee prepared findings and recommendations further to its initiative on Armenia (ECE/MP.EIA/2008/7).

IV. EXAMINATION OF THE COMMITTEE'S STRUCTURE AND FUNCTIONS

15. In paragraph 5 of decision III/2 on the review of compliance, the Meeting of the Parties decided to keep under review and develop if necessary the structure and functions of the Committee. In addition, in paragraph 7 of the same decision, the Meeting of the Parties requested the Committee to consider developing criteria for dealing with information other than submissions from Parties and proposals on membership of the Committee when considering matters under the Protocol on SEA. The issues raised in these two decisions, together with other

procedural issues identified by the Committee (see para. 8 above), are addressed in this chapter of the report.

A. Encouraging Parties to bring issues concerning their own compliance before the Committee

16. The Committee noted that in paragraph 1 of decision III/2, the Meeting of the Parties encouraged Parties to bring issues concerning their own compliance before the Committee. The Committee understood that the Meeting of the Parties wished to encourage Parties to seek assistance with their implementation of and compliance with the Convention through the Committee's function provided in paragraph 5(b) of the description of its structure and functions.

17. The Committee noted that Parties might prefer to make such a submission rather than be the subject of a submission by another Party or of a Committee initiative. In addition, such a submission might be a channel for receiving expert help. The Committee identified other remedial measures that might be offered (ECE/MP.EIA/WG.1/2006/3, para. 29).

18. Further, the Committee considered that, by changing paragraph 5 (b) of the description of its structure and functions, the Meeting of the Parties might be able to encourage Parties to make submissions regarding their own compliance with their obligations under the Convention. There should be a clear inducement to Parties to make such submissions. **The Committee concluded that it would therefore wish to come back to this matter in the light of any experience** with the activity on country-specific performance reviews that it proposed be included in the draft decision on the adoption of the workplan (ECE/MP.EIA/WG.1/2007/4, para. 17).

B. Public involvement

19. In discussing public involvement in its work, the Committee took into consideration the discussion on public participation included in the report of its third meeting (MP.EIA/WG.1/2003/8, chapter II) and the advice of the Working Group on EIA on the criteria for dealing with information other than submissions from Parties (see section C below). The Committee recalled that it had:

(a) Requested the secretariat to make publicly available on the Convention website the provisional agendas of Committee meetings and the correspondence regarding the specific compliance issues presented in chapter V, section B, below;

(b) Not received any requests for participation in its meeting from the public since the third meeting of the Parties.

20. The Committee also examined material provided by the secretariat to the Aarhus Convention²⁶, and took note of experience of public involvement under other MEAs. The Committee agreed not to propose amendments to its structure and functions in the light of its

²⁶ The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

current experience in public involvement. However, the Committee wished to continue keeping this matter under review in the light of future experience (ECE/MP.EIA/WG.1/2007/4, para. 16).

C. Criteria for dealing with information other than submissions from Parties

21. The Committee saw that the development of criteria for dealing with information other than submissions from Parties was linked to its discretionary function of Committee initiative, defined in paragraph 6 of the description of its structure and functions, and this function was potentially linked in turn to its examination of specific compliance issues identified in the previous review of implementation (ECE/MP.EIA/WG.1/2006/3, para. 13). The Committee also took note of the reports of its previous meetings in this regard (notably in MP.EIA/WG.1/2004/4, para. 7).

22. The Committee considered and identified a number of possible sources of information by which the Committee might become aware of possible non-compliance by a Party. It also considered and identified a number of possible criteria for starting a Committee initiative. The Committee drafted proposals for possible sources and criteria, sought and accepted the advice of the Working Group on EIA on the proposals, and incorporated the amended proposals in the proposed operating rules annexed to the draft decision on the review of compliance to be considered by the fourth meeting of the Parties (ECE/MP.EIA/WG.1/2006/2, para. 9, and ECE/MP.EIA/WG.1/2007/3, para. 7).

D. Membership of the Committee when considering matters under the Protocol on Strategic Environmental Assessment

23. The Committee discussed proposals regarding the membership of the Committee when considering matters under the Protocol on SEA after the first meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol. In this regard, the Committee worked with a small working group, comprising the delegations of Germany, the Netherlands and the United Kingdom, established by the Meeting of the Signatories of the Protocol. The Committee member representing Germany was also a member of the small working group and so acted as a link between the two bodies (ECE/MP.EIA/WG.1/2007/3, para. 22, and ECE/MP.EIA/WG.1/2007/4, para. 17). The Working Group on EIA, at its tenth meeting, supported the resulting proposal by the small group, including a draft decision addressing the composition of the Committee when considering matters under the Protocol (ECE/MP.EIA/WG.1/2007/2, para. 35 and annex).

E. Addressing compliance issues in the intersessional period

24. The Committee discussed an informal paper, prepared by the United Kingdom for the Working Group on EIA, regarding the frequency of future meetings of the Parties. The Committee considered that it could adjust as required to whatever frequency or level of meetings of the Parties was decided on. However, the longer the interval between meetings of the Parties, the greater would be the delay before the Meeting of the Parties could adopt the Committee's draft recommendations regarding compliance with the Convention. A longer interval would also further delay the examination of the Committee's report on the prior review of implementation. On the other hand, a longer interval would provide greater continuity in the Committee's

membership (ECE/MP.EIA/WG.1/2006/4, para. 35). The Committee agreed to recommend addressing this issue in the proposed operating rules annexed to the draft decision on the review of compliance to be considered by the fourth meeting of the Parties.

F. Operating rules

25. The Committee considered that paragraph 5 of decision III/2 provided the mandate for the development of operating rules that could provide practical arrangements for the conduct of the Committee's meetings (ECE/MP.EIA/WG.1/2006/4, para. 28). The Committee therefore drafted such rules and decided to ask the Meeting of the Parties to approve the draft operating rules as a separate legal document (ECE/MP.EIA/WG.1/2006/4, para. 28). The Committee also sought the advice of the Working Group on EIA on the mandate for developing such rules and whether and how they required adoption. The Working Group on EIA advised that a legally sound and evidence-based justification was required for proposing operating rules (ECE/MP.EIA/WG.1/2007/3, para. 23). The Committee provided such a justification in a preambular paragraph to the proposed operating rules. The Working Group subsequently welcomed the draft operating rules, while providing a period for detailed comments by delegations (ECE/MP.EIA/WG.1/2007/2, para. 15); no such comments were received. The proposed operating rules are annexed to the draft decision on the review of compliance to be considered by the fourth meeting of the Parties.

V. EXAMINATION OF THE OUTCOME OF THE FIRST REVIEW OF IMPLEMENTATION

A. General compliance issues

26. Taking note of paragraph 5 of decision III/1 on the review of implementation, the Committee discussed general compliance issues reported in the previous review of implementation²⁷. The Committee decided that general compliance issues as well as possible remedies should be reported to the Working Group on EIA for possible action within the framework of the workplan, to be put forward for adoption by the fourth meeting of Parties (ECE/MP.EIA/WG.1/2006/3, para. 12). Further, the Committee agreed that general compliance issues and possible recommendations should also be addressed in the present report (ECE/MP.EIA/WG.1/2006/4, para. 19); such recommendations are indicated in bold in this section.

27. Members of the Committee were each assigned one chapter of the first review of implementation. These were examined to identify possible general compliance issues, referring also to decision III/1, paragraph 3, and initial suggestions by the secretariat. The Committee then discussed the reports of the individual members and so made the following recommendations.

²⁷ The full 2003 review of implementation is available at: <http://www.unece.org/env/eia/review2006.htm>.

1. Notification

28. The Committee examined compliance issues related to the implementation of the Convention's notification requirements. **The Committee recommended that each Party:**

- (a) **Clarify the timing of notification in bilateral and multilateral agreements or directly bilaterally and multilaterally**, noting that Parties send the notification at different stages in their EIA procedure and recalling Article 3, paragraph 1 (“as early as possible and no later than when informing its own public about the proposed activity”);
- (b) **Inform the secretariat of any necessary changes to the information on the points of contact presented on the Convention's website (further to decision I/3)** (ECE/MP.EIA/WG.1/2006/4, para. 13 (a)), so as to ensure notifications are correctly addressed;
- (c) **As a Party of origin, consult potential affected Parties early as to whether notification was necessary, in order to avoid problems when a notification comes at a very late stage in the procedure** (ECE/MP.EIA/WG.1/2007/3, para. 13);
- (d) **As a Party of origin, send the notification both by post and by electronic means**, taking into account the legal limitations on electronic communications in some countries (ECE/MP.EIA/WG.1/2007/4, para. 28);
- (e) **As a Party of origin, specify a reasonable time frame for a response to a notification (Art. 3.2(c)) and, as a matter of good practice, request an acknowledgement of the notification** (ECE/MP.EIA/WG.1/2006/4, para. 13 (b));
- (f) **As an affected Party, always respond within the deadline specified in a notification (Art. 3.3)** (ECE/MP.EIA/WG.1/2006/4, para. 13 (c));
- (g) **As a Party of origin, and as a matter of good practice, take action to confirm that the notification has been received before assuming that the lack of a response indicates that an affected Party does not wish to participate** (ECE/MP.EIA/WG.1/2006/4, para. 13 (d)).

2. Preparation of the environmental impact assessment documentation

29. The main compliance problems identified were: the time required for a response from the affected Party to a notification; and the adequacy of the content of the EIA documentation in terms of whether the information met the needs of the affected Party and whether it was in line with the Convention. The Committee agreed that these problems might lead to delays for the Party of origin and the project proponent, as well as limiting public information in the affected Party, and that Parties might need guidance on how to overcome the problems (ECE/MP.EIA/WG.1/2006/3, para. 10). **The Committee recommended that:**

- (a) **A workshop be provided in the workplan for the exchange of good practices in legal measures to implement the provisions of the Convention;**

(b) **Concerned Parties maximize direct contact between them to resolve timing problems, for example, by verifying that the documentation had been received (e.g. by requesting acknowledgement);**

(c) **Parties, as a Party of origin, make early contact with the affected Party regarding the content of the documentation might help avoid serious difficulties later in the transboundary EIA procedure, including the provision of effective public participation and reasonable time frames. Consultation might also be used to resolve perceived problems with the EIA documentation;**

(d) **Parties ensure that the EIA documentation meets the requirements of Appendix II to the Convention and, as a matter of good practice, is of sufficient quality** (ECE/MP.EIA/WG.1/2006/4, para. 18). The documentation should properly address issues that the affected Party identifies in response to the notification, if they are reasonable and based on Appendix II.

3. Transfer and distribution of the environmental impact assessment documentation

30. Based on the very limited number of answers to this part of the questionnaire, the Committee examined timing and organizational problems with the transfer and distribution of the EIA documentation, and highlighted difficulties with Article 4, paragraph 2, of the Convention. The secretariat noted that difficulties with this provision had also been identified in the guidance on public participation (decision III/8, appendix). **The Committee recommended that this provision be addressed in bilateral and multilateral agreements, and agreed that interpretative guidance might be required** (ECE/MP.EIA/WG.1/2006/3, para. 11).

4. Public participation

31. The Committee examined general compliance issues related to public participation. The Committee recognized that Parties had experienced difficulties regarding joint responsibility for organizing public participation (“the concerned Parties” in Art. 3, para. 8, and Art. 4, para. 2), and noted that public participation is an integral part of transboundary EIA. **The Committee therefore urged Parties to clarify responsibilities regarding public participation case by case and in bilateral and multilateral agreements**, taking into account the guidance on public participation in transboundary EIA (decision III/8, appendix, particularly section 2.5). The Committee agreed to give particular attention to public participation when it examines the next review of implementation (ECE/MP.EIA/WG.1/2006/4, para. 16).

5. Consultation

32. **The Committee discussed possible non-compliance issues related to consultation (Art. 5), emphasizing the need to clarify practical arrangements case by case and in bilateral and multilateral agreements.** The Committee agreed to also give particular attention to consultation when it examines the next review of implementation (ECE/MP.EIA/WG.1/2006/4, para. 17).

6. Final decision

33. The Committee then examined general compliance issues related to the final decision (Art. 6). The Committee concluded that there were few difficulties with the implementation of this provision, though Parties perhaps needed more practice in its application. It was noted that it was difficult to assess the influence of EIA on decision-making (ECE/MP.EIA/WG.1/2007/3, para. 14).

7. Research programmes

34. Finally, the Committee discussed general compliance issues related to research programmes (Art. 9). It observed that there had been very little experience in implementing this provision. **The Committee agreed that Parties should be urged to share research results**, not only from research into transboundary EIA but also from research in connection with national EIA that could also be useful to others in the transboundary context, e.g. in the areas of evaluation, monitoring and methodological research. This sharing could be done, inter alia, through responding to the questionnaire, including by indicating where results would be found, preferably in official languages of UNECE. **The Committee also suggested that future workplans might reflect Article 9 with the aim to encourage good practice** (ECE/MP.EIA/WG.1/2007/3, para. 15).

B. Specific compliance issues

35. On the basis of the previous review of implementation, the secretariat had identified four specific compliance issues regarding which the Committee decided to write to the Parties concerned (Armenia, Finland, Kyrgyzstan and Moldova) requesting clarification with regard to their implementation of or compliance with the Convention. The Committee asked these Parties to clarify their situation, and how it had developed since 2003, and agreed to offer assistance if needed (MP.EIA/WG.1/2005/4, para. 7).

36. The Committee considered these issues to be pilot cases, with three of the four Parties concerned (Armenia, Finland and Kyrgyzstan) being represented by members of the Committee. The Committee decided that a member whose country's compliance was being discussed should be allowed to participate in the discussion, though it might choose not to do so. Should recommendations be drawn up, paragraphs 9 and 10 of the description of the structure and functions should be applied, *mutatis mutandis*, to avoid a conflict of interest (ECE/MP.EIA/WG.1/2006/3, para. 19).

37. The Committee later agreed that relevant correspondence should be placed on the Convention's website as an illustration of the Committee's approach and of responses from Parties (ECE/MP.EIA/WG.1/2006/3, para. 17).

38. The Committee also agreed that the examination of the different parts of the review of implementation, being undertaken by the members to identify general compliance issues, should be extended to specific compliance matters. To avoid any conflict of interest, a second member was identified for each part of the review to examine only compliance with provisions in that part by the country of the first member. The Committee agreed on a set of principles to be borne

in mind when considering specific compliance issues arising from the review of implementation: issues should be within the Committee's mandate, and their consideration should promote credibility, predictability, transparency and consistency and should be unbiased and fair to all (ECE/MP.EIA/WG.1/2006/3, para. 20). The Chair volunteered to identify those Parties that had indicated a lack of experience in applying the Convention so that the Committee might discuss why this might be the case (ECE/MP.EIA/WG.1/2006/3, para. 22).

39. The Committee reviewed the specific compliance issues identified by members and noted that it was not always clear whether the information gathered indicated compliance. The Committee therefore agreed that, in examining the responses to the next questionnaire, it would pay particular attention to Parties' answers regarding the implementation of Article 2, paragraph 6, Article 3, paragraph 8 (see also para. 31 above), and Article 6, paragraph 1, as well as responses indicating a lack of practical experience (ECE/MP.EIA/WG.1/2006/4, para. 21).

40. To avoid any conflict of interest, the Chair (from Finland) asked the Vice-Chair to act as Chair during the discussion of the response received from Finland in October 2005. The Chair was not present during the discussion or the decision-making. The remaining members considered Finland's response to be sufficient and asked the Vice-Chair to send a letter to Finland, thanking it for its response, informing it of the Committee's discussion and asking to be informed of progress with planned measures to strengthen compliance (ECE/MP.EIA/WG.1/2006/3, para. 17). The Committee took note of an e-mail reply in October 2006 from Finland indicating that: (a) Finland had not been the affected Party for any projects subject to the Convention since its letter to the Committee in October 2005; and (b) it would inform the Committee when it had been able to apply the principles for public participation set out in that letter (ECE/MP.EIA/WG.1/2007/3, para. 18).

41. The Committee reviewed the written response provided by Kyrgyzstan. The Committee noted that the Convention was not yet in force in Kyrgyzstan at the time of the case for which a transboundary EIA procedure was described in the questionnaire, and that Kyrgyzstan had since developed its EIA regulations to ensure full implementation of the Convention. The Committee agreed that the Chair write to Kyrgyzstan stating that the Committee was satisfied with the information provided and would not consider the matter further. The member representing Kyrgyzstan did not take part in this decision (ECE/MP.EIA/WG.1/2006/4, para. 20, and ECE/MP.EIA/WG.1/2007/3, para. 19).

42. The Committee noted the response from Moldova. Having considered the response and having the possibility to examine at the same time the completed revised questionnaire submitted in April 2006 by Moldova, the Committee agreed that it was satisfied with the information. The Committee asked the secretariat to write to Moldova on behalf of the Chair: (a) thanking it for its response; (b) noting that the Committee had, by reference to the completed revised questionnaire, concluded that it had no specific concerns regarding the transboundary EIA procedure in Moldova; and (c) requesting that the correspondence between the Committee and Moldova be placed on the Convention's website (ECE/MP.EIA/WG.1/2007/3, para. 20).

43. The Committee's consideration of strengthening Armenia's capacities to comply with its obligations under the Convention is addressed in chapter III above.

VI. REVISED AND SIMPLIFIED QUESTIONNAIRE

A. Preparation of the revised and simplified questionnaire

44. In paragraph 6 of decision III/1 on the review of implementation, the Meeting of the Parties requested the Committee to prepare a revised and simplified questionnaire on the implementation of the Convention for consideration by the Working Group on EIA and for circulation by the secretariat thereafter.

45. In addition, in paragraph 6 of decision III/2 on the review of compliance, the Meeting of the Parties recommended that further measures be taken to strengthen reporting, and in this respect welcomed decision III/9 on the workplan.

46. In the light of the above decisions, the Committee decided to establish a structure for a reporting system, based on the first review of the implementation of the Convention, that would include two main parts. One would deal with national legal, institutional and administrative frameworks and be based on the first questionnaire. This part would only have to be updated by Parties. The second part would deal with the application of the Convention and was expected to include new information. Together, the two parts would form a national report from each country and also a basis for the Committee to review implementation of, and compliance with, the Convention (MP.EIA/WG.1/2005/3, para. 7).

47. The Committee revised the draft questionnaire for the report on implementation, taking into account the general compliance issues that the Committee members had identified when reading their designated chapters from the review of implementation 2003 (see chapter V above).

48. Following the review and amendment of the draft questionnaire by the Working Group on EIA (MP.EIA/WG.1/2005/2, paras.10–12), the secretariat sent out the finalized questionnaire in October 2005, with a deadline of 30 April 2006 for returning the reports on implementation. The Working Group agreed that the reports would be placed on the Convention's website.

B. Responses to the revised and simplified questionnaire: Reporting by Parties on their implementation of the Convention

49. By the eleventh meeting of the Committee (13–14 February 2007), 36 responses had been received from the European Commission and 35 States, including reports on their implementation by 33 States Parties to the Convention (ECE/MP.EIA/WG.1/2007/4, para. 4).

50. The second amendment to the Convention, adopted in decision III/7, provides in Article 14 bis an obligation to report. The Meeting of the Parties shall decide on the frequency of regular reporting required by the Parties and the information to be included in those regular reports (Art. 14 bis, para. 1). Though the amendment was not yet in force, the Committee considered that the Meeting of the Parties had expressed a strong wish for Parties to report. Therefore, the failure to submit reports, or inadequate reporting, might be considered as a compliance matter in the future (MP.EIA/WG.1/2005/3, para. 8). The Committee therefore expressed its concern that many Parties had not responded to the revised questionnaire. At its tenth meeting, **the Committee agreed to report to the fourth meeting of the Parties on those Parties that had not**

responded to the revised questionnaire, noting that most had also not responded to the original questionnaire (ECE/MP.EIA/WG.1/2007/3, para. 9), even if they subsequently submitted reports on their implementation of the Convention (ECE/MP.EIA/WG.1/2007/4, para. 7).

51. Furthermore, **the Committee agreed that it might consider approaching Parties that do not respond to questionnaires to enquire how they are implementing the Convention** (ECE/MP.EIA/WG.1/2007/3, para. 9). At the Committee's eleventh meeting, the secretariat presented the draft of a letter that it proposed be sent by the Committee to those Parties that had not completed the revised questionnaire. The Committee requested its Chair to send the letter, suggesting that the letter require that an explanation be provided as to why the revised questionnaire had not been completed by the Party and to indicate that the Committee might look into the Party's compliance with the Convention (ECE/MP.EIA/WG.1/2007/4, para. 6). The letter led to further information, including completed questionnaires in each case, being provided by Belgium, Greece, Luxembourg and Portugal in the period May to July 2007. However, no completed questionnaire was received from the following Parties:

(a) Albania;

(b) Ireland.

52. **The Committee considered that it should, in the period between the fourth and fifth meetings of the Parties, examine the implementation of the Convention by those Parties that had failed to respond to the questionnaire.**

53. To facilitate reporting, **the Committee also suggested that in future the Working Group on EIA agree a detailed timetable not only for the submission of completed questionnaires, but also for the generation of the subsequent draft review of implementation** (ECE/MP.EIA/WG.1/2007/4, para. 7).

54. The secretariat was responsible for drafting the second review of implementation. Nonetheless, the Committee considered it important that members of the Committee assist the secretariat in editing the draft second review of implementation, as the Committee would be examining the document after the fourth meeting of the Parties (ECE/MP.EIA/WG.1/2007/3, para. 11). The review is annexed to the draft decision on the review of implementation to be considered by the fourth meeting of the Parties.

55. The Committee considered that the possibility for Parties to complete future questionnaires via the Internet might be reflected in the draft decision on the review of implementation (ECE/MP.EIA/WG.1/2006/4, para. 39).

VII. OTHER MULTILATERAL ENVIRONMENTAL AGREEMENTS PROVIDING FOR TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT

56. The Committee discussed examples of other multilateral agreements providing for transboundary EIA (MP.EIA/WG.1/2005/3, para. 18, and ECE/MP.EIA/WG.1/2006/4, para. 38). The secretariat made proposals on how the Committee might have a role in advising Parties to the Convention on how they could ensure compliance with the Convention if they were also

party to another agreement that contained provisions related to transboundary EIA. The Committee agreed that if a contradiction were to be identified between provisions in the Convention and provisions in other agreements to which a Party to the Convention is also a Party, then it might consider it as a compliance matter provided that such a contradiction can be construed as a compliance issue under the Convention (ECE/MP.EIA/WG.1/2007/4, para. 26). The Committee considered it useful to identify any potential conflicts between provisions in other MEAs and provisions in the Convention that might impede Parties' compliance with the Convention. The Committee requested the secretariat to inform it of any such potential compliance issues of which it became aware (ECE/MP.EIA/WG.1/2006/3, para. 32).

Annex IV

Operating rules of the Implementation Committee

PREAMBLE

The second meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context decided to establish an Implementation Committee for the review of compliance by the Parties with their obligations under the Convention, with a view to assisting them fully to meet their commitments (decision II/4). The third meeting of the Parties decided to revise the structure and functions of the Committee and the procedures for review of compliance (decision III/2).

These operating rules guide the Implementation Committee in the execution of its functions and provide more detail on how the Committee should operate within its structure and functions. The Committee considers that the rules are needed to facilitate its work. The rules incorporate decisions made by the Committee in its meetings and reflected in their reports. It is intended that the rules promote consistency, predictability, credibility, transparency, accountability and efficiency in the work of the Committee, particularly with regard to procedures for the review of compliance. It is also intended that the rules will provide a flexible means of adapting the Committee's mode of operation in the light of its experience.

PURPOSES

*Rule 1*²⁸

These operating rules should apply to any meeting and to any other conduct of business of the Implementation Committee under the Convention and should be read together with and in furtherance of the structure, functions and procedures set out in the appendix to decision III/2 of the Meeting of the Parties to the Convention.

Rule 2

The following rules of procedure of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context, should apply, *mutatis mutandis*, to any meeting of the Implementation Committee under the Convention on Environmental Impact Assessment in a Transboundary Context, except as otherwise provided in the rules set out herein and in the appendix to decision III/2: rule 3 (Place of meetings); rules 12 and 13 (Agenda); rules 20 to 22 (Officers); rules 24 and 25(c) (Secretariat); rules 28 and 30 to 35 (Conduct of business), except rule 32, paragraph 2; and rules 38 to 46 (Voting).

²⁸ The Committee should refer here to paragraph 4 of the appendix to decision III/2.

DEFINITIONS

Rule 3

For the purposes of these rules:

- (a) “Convention” means the Convention on Environmental Impact Assessment in a Transboundary Context, adopted at Espoo (Finland) on 25 February 1991;
- (b) “Parties” means Contracting Parties to the Convention;
- (c) “Meeting of the Parties” means the Meeting of the Parties established in accordance with Article 11 of the Convention;
- (d) “Committee” means the Implementation Committee first established by decision II/4 of the Meeting of the Parties;
- (e) “Submitting Party” means one or more Parties that have concerns about another Party’s compliance with its obligations under the Convention and accordingly bring a submission before the Committee in accordance with paragraph 5 (a) of the appendix to decision III/2 of the Meeting of the Parties;
- (f) “Parties involved” means the Party whose compliance with its obligations under the Convention is in question and, as appropriate, the submitting Party;
- (g) “Chair” and “Vice-Chair” mean, respectively, the Chairperson and the Vice-Chairperson elected in accordance with rule 6 and with paragraph 1 (a) of the appendix to decision III/2;
- (h) “Member” means a member of the Committee appointed in accordance with paragraph 1 of the appendix to decision III/2 or a replacement appointed in accordance with of rule 4;
- (i) “Secretariat” means, in accordance with Article 13 of the Convention, the Executive Secretary of the United Nations Economic Commission for Europe;
- (j) “Official language” means one of the official languages of the United Nations Economic Commission for Europe: English, French and Russian.

MEMBERS

Rule 4²⁹

1. The Meeting of the Parties should elect Parties for serving two terms in the Committee. Each Party elected by the Meeting of the Parties should appoint a member of the Committee for

²⁹ The Committee should refer here to the first four sentences of paragraph 1 (a), and to paragraph 1 (b), of the appendix to decision III/2.

two terms. The term of office of a member shall commence with the appointment by a Party. This paragraph should apply without prejudice to the right of a Party elected by the Meeting of the Parties to appoint in exceptional cases a permanent replacement for that member.

2. Members are expected to participate in every meeting of the Committee. If in exceptional cases a member is unable to participate in a meeting of the Committee, the respective Party should make all efforts to provide a suitable replacement of that member for the meeting of the Committee, informing the Chair and the secretariat accordingly well in advance of the meeting.
3. Each member should ensure the confidentiality of information in accordance with these rules.

Rule 5

1. Each member should, with respect to any matter that is under consideration by the Committee, avoid direct or indirect conflict of interest. Where a member finds himself or herself faced with a direct or indirect conflict of interest, that member should bring the conflict of interest to the attention of the Committee before consideration of that particular matter. The concerned member should not participate in the elaboration and adoption of a finding or recommendation of the Committee in relation to that matter.
2. A member that represents a Party in respect of which a submission is made or which makes a submission should be entitled to participate in the consideration by the Committee of that submission but should not participate in, or be present during, the preparation and adoption of any part of a report, finding or recommendation of the Committee that relates to that submission³⁰. This paragraph should be applied, *mutatis mutandis*, in the case of a Committee initiative.
3. The members and the secretariat might accept invitations to present the Convention's compliance mechanism at appropriate events, such as conferences and workshops.

OFFICERS

Rule 6

1. The Committee should elect a Chair and a Vice-Chair for one term³¹. They should serve in those capacities until their successors are elected. The Chair and Vice-Chair could be re-elected. If an officer resigns during, or is unable to complete, his or her term of office, the Committee should elect a successor until the end of the term.

³⁰ The Committee should refer here to paragraph 10 of the appendix to decision III/2.

³¹ The Committee should refer here to the fifth sentence of paragraph 1 (a), and to paragraph 1 (b), of the appendix to decision III/2.

2. In the case that a Party intends to provide a permanent replacement for a member elected as a Chair or Vice-Chair, it should notify the Committee well in advance in order to allow a new election of the respective officer.
3. No officer should serve for more than two consecutive terms.

MEETINGS³²

Rule 7³³

1. At each meeting, the Committee, taking into account the current workplan adopted by the Meeting of the Parties, should set the indicative date for the opening and the duration of its next meeting.
2. The Committee should decide on the date, duration and venue of its meetings having regard to the budget adopted by the Meeting of the Parties. If the Committee considers necessary for the execution of its functions the holding of meetings for which no budget has been adopted by the Meeting of the Parties, it should first ensure that the necessary additional funding is available.

Rule 8

The secretariat should notify all members of the dates and venue of a meeting at least four weeks before the meeting is due to take place.

AGENDA

Rule 9

In agreement with the Chair, the secretariat should prepare the provisional agenda of each meeting. The provisional agenda should include items arising from the Committee's functions as specified by the Meeting of the Parties and other matters related thereto. The provisional agenda for each meeting should indicate which items are closed to the public in accordance with rule 17, paragraph 1.

Rule 10

To the extent possible, the provisional agenda should be distributed by the secretariat to all members at least four weeks before the meeting takes place. Other documents, prepared by the secretariat or by members, should be distributed, to the extent possible, at least two weeks before the meeting begins.

³² The Committee should refer here to the second sentence of paragraph 2 of the appendix to decision III/2.

³³ The Committee should refer here to the first sentence of paragraph 2 of the appendix to decision III/2.

PROCEDURES FOR SUBMISSIONS³⁴

Rule 11

1. Generally, the Committee should not begin the formal discussion on a matter at any meeting that takes place before any requested reply has been received from the Party whose compliance is in question or the applicable deadline for replying has passed. This paragraph should be applied, *mutatis mutandis*, in the case that the Committee requests additional information from the Submitting Party.
2. When it is known that the Committee will discuss the matter of any submission at a particular meeting, the secretariat should notify the Parties involved that the matter will be discussed as well as of their right to participate in the discussion and to present to the Committee information and opinions on the matter under consideration.
3. Generally, the Parties involved should present any new substantial information to the Committee through the secretariat at least two weeks in advance of the meeting at which the matter will be discussed.

Rule 12³⁵

1. The Committee should prepare draft findings and recommendations in closed session, taking into account, *inter alia*, any submission, reply, corroborating and supporting information and presentations to the Committee by the Parties involved. The Committee should start by considering and drawing appropriate conclusions as to whether or not the Party concerned is in compliance. It might distinguish at this point between failure to establish the necessary implementing measures and failure to apply such measures.
2. If the Committee provisionally finds that the Party whose compliance is in question is not in compliance, it should then consider and agree upon possible recommendations to the Meeting of the Parties, recalling that the present compliance procedure is non-adversarial and assistance-orientated. Possible recommendations to bring about compliance might include:
 - (a) Recommendations to the Party concerned on what legislation, procedures or institutions require strengthening and how;
 - (b) A recommendation to the Party concerned to submit to the Committee a strategy, with time schedule, for action to bring about compliance, and to report to the Committee on its implementation of the strategy;
 - (c) A recommendation to the Meeting of the Parties, and to potential donors, to provide assistance to the Party concerned through national or subregional workshops, training, seminars or technical assistance;

³⁴ The Committee should refer here to paragraphs 5 (a), 5 (b) and 7 of the appendix to decision III/2.

³⁵ The Committee should refer here to the second sentence of paragraph 9 of the appendix to decision III/2.

(d) A recommendation to the Meeting of the Parties to issue a declaration of non-compliance or a caution;

(e) In exceptional circumstances, a recommendation to the Meeting of the Parties to suspend, in accordance with the applicable rules of international law concerning the suspension of the operation of a treaty, the special rights and privileges accorded to the Party concerned under the Convention.³⁶

*Rule 13*³⁷

1. Once prepared, the draft findings and recommendations should be transmitted to the Parties involved inviting them to comment (or make representations) within a reasonable deadline, and to submit their comments through the secretariat. The draft findings and recommendations should not be publicly available at this stage. If possible and if necessary to help the Parties involved to comment, the Committee might arrange for the draft findings and recommendations to be translated into another official language.

2. Within two weeks of receiving any comments, the secretariat should transmit the comments to the Committee and the other Parties involved, unless the Party providing the comments requested otherwise, in which case those comments should be forwarded only to the Committee.

³⁶ See Article 60 of the Convention on the Law of Treaties (Vienna, 1969), which provides for the termination or suspension of the operation of a treaty as a consequence of its breach:

1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.
2. A material breach of a multilateral treaty by one of the parties entitles:
 - (a) The other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either:
 - (i) In the relations between themselves and the defaulting State, or
 - (ii) As between all the parties;
 - (b) A party specially affected by the breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;
 - (c) Any party other than the defaulting State to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.
3. A material breach of a treaty, for the purposes of this article, consists in:
 - (a) A repudiation of the treaty not sanctioned by the present Convention; or
 - (b) The violation of a provision essential to the accomplishment of the object or purpose of the treaty.
4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.
5. Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.

³⁷ The Committee should refer here to the second sentence of paragraph 9 of the appendix to decision III/2.

3. At its meeting following the deadline for comments, the Committee should review and finalize the draft findings and recommendations taking into account the comments received. The findings and recommendations should be prepared as an addendum to the report of the meeting (i.e. as an official document), and transmitted to the Parties involved and to the Meeting of the Parties.

*Rule 14*³⁸

Pending consideration by the Meeting of the Parties, with a view to addressing compliance issues without delay, the Committee might:

- (a) Provide advice and facilitate assistance to a Party whose compliance is in question regarding its implementation of the Convention, in consultation with that Party;
- (b) Make recommendations to a Party whose compliance is in question, subject to agreement with that Party.

PROCEDURES FOR COMMITTEE INITIATIVES³⁹

Rule 15

1. The sources of information by which the Committee might become aware of a possible non-compliance could be:

- (a) Parties' work under the Convention;
- (b) Any other source.

2. In determining whether to begin a Committee initiative, in accordance with paragraph 6 of the appendix to decision III/2, the Committee should take into account, inter alia, the following:

- (a) The source of the information is known and not anonymous;
- (b) The information relates to an activity listed in Appendix I to the Convention likely to have a significant adverse transboundary impact;
- (c) The information is the basis for a profound suspicion of non-compliance;
- (d) The information relates to the implementation of Convention provisions;
- (e) Committee time and resources are available.

³⁸ The Committee should refer here to paragraph 11 of the appendix to decision III/2.

³⁹ The Committee should refer here to paragraphs 6 and 7 of the appendix to decision III/2.

3. The Committee should consider the information on a non-discriminatory, non-arbitrary and unbiased basis.
4. Rules 11 to 14 should be applied, *mutatis mutandis*, in the case of a Committee initiative.

PUBLICATION OF DOCUMENTS AND INFORMATION

*Rule 16*⁴⁰

1. The provisional agenda, together with related official documents (other than confidential items) of a meeting of the Committee, should be publicly available on the Convention website.
2. Meeting reports, together with other related official documents (other than confidential items), should be publicly available on the Convention website once agreed by the Committee.
3. Discussion papers prepared by the secretariat or by members for meetings of the Committee should not be publicly available unless the Committee decides otherwise.
4. Submissions and related documents should not be publicly available on the Convention website, but the secretariat should prepare a short summary of each submission (including in particular the names of the Parties involved, the date of the submission, and the name and type of the activity in question). This short summary should be publicly available on the Convention website once agreed by the Committee. Apart from this short summary, working documents and further information related to specific submissions should not be published and their contents should be treated as confidential if requested. This paragraph should be applied, *mutatis mutandis*, in the case of a Committee initiative.

PARTICIPATION IN MEETINGS OF THE COMMITTEE

*Rule 17*⁴¹

1. Meetings of the Committee should be open to observers (other Parties, States, bodies, agencies and the public), unless the Committee decides otherwise. Parts of meetings dealing with specific submissions relating to compliance should not be open to observers, unless the Committee and the Party whose compliance is in question agree otherwise. Observers should register with the secretariat in advance of each meeting.
2. A Party in respect of which a submission is made or which makes a submission should be entitled to participate in, or be present during, the consideration by the Committee of that submission, but should not take part in the preparation and adoption of any report, finding or recommendation of the Committee.

⁴⁰ The Committee should refer here to the third sentence of paragraph 2 and to paragraph 8 of the appendix to decision III/2

⁴¹ The Committee should refer here to paragraphs 3 and 9 of the appendix to decision III/2.

3. This rule should be applied, *mutatis mutandis*, in case of a Committee initiative.

DECISION-MAKING

Rule 18⁴²

1. The Committee should make every effort to reach its decisions by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, any other decision should, as a last resort, be taken by a majority vote of the members present and voting, if at least five members are present. For decision-making, each member should have one vote. Where consensus is not possible, the report should reflect the views of all members.
2. Without prejudice to rule 19 for the purposes of these rules, the phrase “members present and voting” means members present at the meeting at which voting takes place and casting an affirmative or negative vote. Members abstaining from voting should be considered as not voting.

Rule 19

In between meetings, electronic means of communication might be used by the members for the purpose of decision-making and of conducting informal consultations on issues under consideration. Decisions could only be taken by electronic means of communication, if the issue is urgent, if no member opposes using such means in a particular case, and if all eight members participate in decision-making by submitting to the Chair and the secretariat their vote or informing the Chair and the secretariat that they are abstaining from voting. Any decisions taken by electronic means of communication should be reflected in the report of the meeting of the Committee that follows the taking of the decision.

LANGUAGE

Rule 20

1. The working language of the Committee should be English. The secretariat, for meetings of the Committee held at the United Nations Office at Geneva, or the host country, for meetings held elsewhere, might arrange interpretation in one of the other official languages, if needed and agreed by the Committee.
2. The Committee might allow members to be accompanied by their own interpreters at their own cost. Members are responsible for ensuring that their own interpreters ensure the confidentiality of information in accordance with these rules.
3. Communication by electronic means and informal Committee papers should be in English. Official documents of the meetings should be drawn up in English and translated into the other official languages.

⁴² The Committee should refer here to paragraphs 9, 11 and 12 of the appendix to decision III/2.

Rule 21

A submission from a Party, the reply and further documents and information should be in English.

AMENDMENTS TO THE OPERATING RULES

Rule 22

Any amendment to these rules shall be adopted by consensus by the Committee and submitted to the Meeting of the Parties for consideration and approval. These rules shall be amended to reflect, as necessary, any amendment to decision III/2.

OVERRIDING AUTHORITY OF THE CONVENTION AND DECISION III/2

Rule 23

In the event of a conflict between any provision in these rules and any provision in the Convention or decision III/2, the provisions of the Convention or decision III/2 shall prevail.

Decision IV/3
Inquiry procedure

The Meeting of the Parties,

Recalling Article 3, paragraph 7, and Appendix IV of the Convention, which provide for an inquiry procedure,

Taking note of the report of the first inquiry commission established under the Convention,

Having considered a review by the secretariat of the first inquiry procedure (ECE/MP.EIA/WG.1/2007/5),

Wishing to improve the effectiveness of the inquiry procedure in the light of the first inquiry procedure, without amending the Convention at this time,

1. *Decides* that the secretariat shall support the work of any inquiry commission established in accordance with the provisions of Appendix IV to the Convention, if requested by the Parties concerned;
2. *Also decides* that in item 13 of Appendix IV to the Convention, the date on which the inquiry commission was established shall be taken to mean the date on which all members of the inquiry commission have been designated in accordance with the Appendix;
3. *Proposes* that the Bureau allow the use of funds from the Convention's Trust Fund, up to a limit of US\$ 20,000, which might be used to initiate the work of an inquiry commission pending the deposit by the Parties concerned, in a fund established for this purpose, of sufficient funds to cover in full the anticipated expenses of the inquiry commission;
4. *Decides* that the amount indicated in paragraph 3 shall only be used for the purpose specified in paragraph 3 and in the understanding that this would create an obligation on the Parties concerned to replenish the Trust Fund without delay, in accordance with the agreed budget for the procedure and before the decision-making by the inquiry commission.

Decision IV/4

Strengthening subregional cooperation

The Meeting of the Parties,

Recalling its decision III/5 on strengthening subregional cooperation,

Having considered the outcome of the workshops on subregional cooperation in South-Eastern Europe and the Baltic Sea area,

Recognizing that subregional cooperation promotes the regular exchange of information within the subregion and improves the practical application of the Convention,

Recognizing also that bilateral and multilateral agreements facilitate the effective implementation of the Convention,

Wishing to encourage the development of bilateral and multilateral agreements through subregional cooperation under the Convention,

1. *Welcomes* the signing by the countries of South-Eastern Europe of the subregional agreement implementing the Convention (ECE/MP.EIA/2008/8, annex);
2. *Welcomes* the reports prepared by the lead countries for the workshops on subregional cooperation, as made available on the website of the Convention;
3. *Proposes* that activities on subregional cooperation should be included in the workplan;
4. *Invites* Parties and non-Parties, especially in Central Asia and around the Black Sea, to host workshops or take other appropriate measures to promote cooperation in their subregions;
5. *Also invites* Parties to nominate lead countries on subregional cooperation, where appropriate, and further invites these lead countries to consider ways to coordinate their activities;
6. *Requests* lead countries to prepare a one-page summary of the findings of each workshop held for inclusion in a report on subregional cooperation;
7. *Encourages* Parties to develop bilateral or multilateral agreements and report to the Meeting of the Parties accordingly.

Decision IV/5

Capacity-building in Eastern Europe, Caucasus and Central Asia

The Meeting of the Parties,

Recalling its decision III/4 on guidelines on good practice and on bilateral and multilateral agreements and its decision III/9 on adoption of the workplan up to the fourth meeting of the Parties,

Having considered the outcome of the workshops for the development of guidelines for transboundary environmental impact assessment in Central Asia, national workshops and training courses in Central Asia, the pilot study involving Kyrgyzstan and Kazakhstan, and subregional workshops in Caucasus and Central Asia,

Recognizing that these activities promote the implementation and practical application of the Convention in the subregion,

1. *Welcomes* the reports prepared by the lead countries for the capacity-building workshops, as made available on the website of the Convention;
2. *Notes* the Guidelines on environmental impact assessment in a transboundary context for Central Asian countries (ECE/MP.EIA/WG.1/2007/6);
3. *Proposes* that activities for further capacity-building in Eastern Europe, Caucasus and Central Asia should be included in the workplan;
4. *Invites* Parties and non-Parties to lead and contribute to work under this activity;
5. *Requests* the lead countries to prepare a one-page summary of the findings of each workshop held for inclusion in a report on capacity-building in Eastern Europe, Caucasus and Central Asia;
6. *Invites* Parties, non-Parties, multilateral lending institutions and bilateral aid agencies to take other appropriate measures to support capacity-building in Eastern Europe, Caucasus and Central Asia.

Decision IV/6

Exchange of good practices

The Meeting of the Parties,

Recalling its decision III/4 on guidelines on good practice and on bilateral and multilateral agreements and its decision III/9 on adoption of the workplan up to the fourth meeting of the Parties,

Having considered the outcome of the workshops for the exchange of good practices in transboundary projects, post-project analysis and transboundary environmental impact assessment methodology,

Recognizing that such workshops promote the regular exchange of information within the region and improve the practical application of the Convention,

1. *Welcomes* the reports prepared by the lead countries for the workshops on the exchange of good practices, as made available on the website of the Convention;
2. *Proposes* that an activity for further workshops on the exchange of good practices should be included in the workplan;
3. *Invites* Parties and non-Parties to lead workshops, if possible back-to-back with other meetings under the Convention, or to contribute to such workshops;
4. *Requests* lead countries to prepare a one-page summary of the findings of each workshop held, for inclusion in a report on the exchange of good practices.

Decision IV/7

Adoption of the workplan up to the fifth meeting of the Parties

The Meeting of the Parties,

Recalling Article 11, paragraph 2 (f), of the Convention, stipulating that additional action that may be required to achieve the purposes of the Convention shall be undertaken,

Recognizing that it is essential for Parties to meet fully their legal obligations arising under the Convention,

Recognizing also that Parties should take action to maximize the effectiveness of their application of the Convention so that the best possible practical results are achieved,

Recognizing with appreciation the valuable work carried out under the workplan adopted at the third meeting of the Parties (decision III/9), particularly:

- (a) The steps taken by Parties and non-Parties to ensure their environmental impact assessment systems are consistent with the provisions of the Convention and to report accordingly,
- (b) The valuable guidance on transboundary environmental impact assessment in Central Asia prepared by the Governments of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, with assistance from the Government of Switzerland,
- (c) The subregional workshops organized by the Governments of Bulgaria, Denmark, Estonia, Finland, Serbia, Sweden and The former Yugoslav Republic of Macedonia,
- (d) The workshops for the exchange of good practices organized by the Governments of Bulgaria, Switzerland and Tajikistan, in cooperation with Kyrgyzstan,
- (e) The workshops for building capacity in Eastern Europe, Caucasus and Central Asia organized by the Governments of Armenia and Kyrgyzstan, with assistance from the Government of Switzerland,

Noting with satisfaction that the activities in the workplan adopted at the third meeting of the Parties were approximately 85 per cent completed: specifically, close to 100 per cent of priority 1 activities were completed, approximately 85 per cent of priority 2 activities were completed, and approximately 60 per cent of priority 3 activities were completed,

1. *Adopts* the workplan for the period up to its fifth meeting, as annexed to this decision, including activities to assist the entry into force of the Protocol on Strategic Environmental Assessment;

2. *Suggests* that lead countries that carry out the relevant activities should consult each other in order to benefit from each other's experience and to avoid unnecessary overlap;
3. *Calls on* the Parties, and also invites non-Parties, to arrange, host and participate actively in seminars, workshops and meetings, to facilitate implementation of and compliance with the Convention and the Protocol;
4. *Invites* every relevant body or agency, whether national or international, governmental or non-governmental, to participate actively in the activities included in the workplan;
5. *Welcomes* the Belgrade Initiative on Strategic Environmental Assessment (ECE/BELGRADE.CONF/2007/18), of which the Sixth Ministerial Conference "Environment for Europe" took note with interest.

Annex

Workplan for the implementation of the Convention and its Protocol for the period up to the fifth meeting of the Parties

<i>Activity</i>	<i>Objectives</i>	<i>Method of work (sub-activities)</i>	<i>Organizational arrangements</i>	<i>Expected outcome</i>	<i>Time schedule</i>	<i>Budget</i>
Compliance with and implementation of the Convention	Enhance the implementation of and compliance with the Convention	<ol style="list-style-type: none"> 1. Consideration by the Implementation Committee of received compliance submissions 2. Report on the Committee's activities to the fifth meeting of the Parties 3. If necessary, review of the Committee's structure and functions and operating rules 4. Examination of the outcome of the second review of implementation 5. Modification of the questionnaire for the report on implementation 6. Distribution of the questionnaire to the Parties to the Convention for them to complete and return 	<ol style="list-style-type: none"> 1–5. Undertaken by the Implementation Committee (six meetings in 2008–2011), with the support of the secretariat. 6. Carried out by the secretariat. 	<ol style="list-style-type: none"> 1. Recommendations on compliance submissions 2. Reports of the Implementation Committee meetings and a synthesis report to fifth meeting of the Parties 3. Possible revision of the Committee's structure and functions and operating rules 4. Summary on compliance issues from the second review of implementation 5–6. Modified questionnaire 	<ol style="list-style-type: none"> 1–3. 2008–2011, presented to fifth meeting of the Parties 4. By the end of 2008 5. Presentation of draft modified questionnaire to Working Group by the end of 2009 6. Issue of questionnaire, early 2010. Return of questionnaires by mid-2010 	<p>Most items included in Implementation Committee and secretariat costs.</p> <p>However:</p> <ol style="list-style-type: none"> 1. Requires budget for translation of submissions: US\$ 10,000.

<i>Activity</i>	<i>Objectives</i>	<i>Method of work (sub-activities)</i>	<i>Organizational arrangements</i>	<i>Expected outcome</i>	<i>Time schedule</i>	<i>Budget</i>
Compliance with and implementation of the Convention (continued)		<p>7. Preparation of a draft review of implementation</p> <p>8. Country-specific performance reviews and technical assistance in drafting legislation, in agreement with Parties wishing to strengthen their implementation of and compliance with the Convention. Review would include a period in-country examining legislation, procedures and practice (case study)</p>	<p>7. Carried out by the secretariat.</p> <p>8. Undertaken by external consultant(s) under supervision of members of the Committee, with support of the secretariat. One performance review would be in support of Ukraine. Technical assistance in drafting legislation would be provided to Armenia.</p>	<p>7. Draft third review of implementation for consideration by the Working Group on EIA and the fourth meeting of the Parties.</p> <p>8. Recommendations to the country on strengthening capacity, including amendments to legislation, procedures and institutional arrangements. Follow-up reports to decision IV/2.</p>	<p>7. Presentation of draft review to Working Group at the end of 2010 and to the fifth meeting of the Parties in 2011</p> <p>8. As decided by the Implementation Committee. Review in Ukraine to be completed by mid-2009. Technical assistance to Armenia to be completed by mid-2009.</p>	<p>7. Requires an external consultant, budget: \$20,000.</p> <p>8. \$90,000 (approx. \$30,000 per review), plus in-kind contributions from Parties providing experts and from target country providing interpretation, translation, etc.</p>

<i>Activity</i>	<i>Objectives</i>	<i>Method of work (sub-activities)</i>	<i>Organizational arrangements</i>	<i>Expected outcome</i>	<i>Time schedule</i>	<i>Budget</i>
Subregional cooperation and capacity-building to strengthen contacts between the Parties and others, including States outside the UNECE region	Improved and developed application of the Convention within subregions Promotion of subregional cooperation Increased awareness and professional skills of officials and of the public in relation to transboundary EIA and to the application of the Convention	Eastern Europe subregion Capacity-building workshop based on results of pilot projects (Convention/ Protocol)	Lead country: Belarus, with support from the secretariat	For each event: (a) Possible evaluation of relevant Convention guidance; (b) Possible guidance on the role of non-governmental organizations	September 2008– July 2009	Participants cover their own travel and accommodation costs, while host countries cover organizational and venue costs in kind (approx. \$20,000 per workshop).
		Central Asia subregion (a) Capacity-building workshop based on results of pilot projects (Convention/Protocol) (b) Capacity-building workshop	(a) Lead country: Kyrgyzstan, with support from the secretariat and with in-kind funding; (b) Lead country: Tajikistan, with support of Regional Environmental Centre for Central Asia	(a) Elaboration of recommendations based on pilot projects; (b) Elaboration of recommendations based on pilot projects	(a) Autumn 2008 (b) September 2009	
		Caucasus subregion Capacity-building workshop (Convention/Protocol)	Lead country: Georgia, with support from the secretariat	Subregional guidelines	Until September 2009	

<i>Activity</i>	<i>Objectives</i>	<i>Method of work (sub-activities)</i>	<i>Organizational arrangements</i>	<i>Expected outcome</i>	<i>Time schedule</i>	<i>Budget</i>
Subregional cooperation and capacity-building to strengthen contacts between the Parties and others, including States outside the UNECE region (continued)		Black Sea subregion Seminar on EIA of large energy project in the subregion	Lead country: Romania, with support of European Commission (EC)	Awareness paper and possible specific methodology	Late 2009, early 2010	In-kind
		South-Eastern Europe subregion Holding meeting, including on the relationship between EIA and SEA	Lead country: Bulgaria	Short awareness-raising paper on the topic	Autumn 2008	
		Mediterranean subregion (a) Workshop in Morocco on practical application of the Convention in the subregion (b) Follow-up workshop on a specific topic	Lead countries: France, Portugal and Spain, in collaboration with Croatia and Slovenia	Workshop reports and raising of awareness	(a) Before end 2008; (b) 2009 or 2010	
		Baltic Sea subregion Holding two meetings, including on climate change in EIA and SEA, biodiversity, cumulative impacts, marine ecosystems, protected marine areas, marine spatial planning, transboundary EIAs, public participation, post-project analysis, access to justice, application of transboundary SEA	Lead countries: Sweden, Finland, Lithuania and Germany	Report on EIA and SEA application in the subregion.	Early 2009, 2010	

<i>Activity</i>	<i>Objectives</i>	<i>Method of work (sub-activities)</i>	<i>Organizational arrangements</i>	<i>Expected outcome</i>	<i>Time schedule</i>	<i>Budget</i>
Exchange of good practices	<p>Shared knowledge and experience in appropriate legislation for implementation of the Convention, leading to better national legislation and application</p> <p>Improved implementation and application of the Convention by learning from Parties' experiences</p>	<p>1. One-day seminar, possibly back-to-back with another meeting under the Convention, on legislation and procedures for implementation of the Convention in Armenia</p> <p>Half-day seminars on:</p> <p>2. Projects with long-range transboundary impacts / risk of accidents</p> <p>3. Climate change in EIA and SEA</p> <p>4. International Association for Impact Assessment study on the effectiveness of environmental assessment</p> <p>5. Biodiversity</p> <p>6. Desertification</p> <p>7. Large-scale projects crossing several countries</p> <p>8. Guidance note and checklist for financial institutions on projects with transboundary impacts</p>	<p>1. Lead country: Armenia, with support of the Implementation Committee and the secretariat</p> <p>2-6.. Each might include:</p> <p>(a) A report back by lead country from a subregional meeting</p> <p>(b) A background paper prepared by Regional Environmental Center for Central and Eastern Europe (REC-CEE) with support of Latvia and Poland</p> <p>(c) A presentation by the relevant convention secretariat</p> <p>7. Lead organization: EC</p> <p>8. Lead organization: EBRD</p>	<p>1. Seminar report</p> <p>2-7. One-page summary from each seminar, posted on the website and presented to the next meetings of the Parties</p> <p>8. Guidance note and checklist</p>	<p>1. 2010</p> <p>2-7. Back-to-back with meetings of the Working Group</p> <p>8. 2008-2009</p>	<p>8. To be clarified by EBRD in cooperation with the secretariat</p>

<i>Activity</i>	<i>Objectives</i>	<i>Method of work (sub-activities)</i>	<i>Organizational arrangements</i>	<i>Expected outcome</i>	<i>Time schedule</i>	<i>Budget</i>
Promoting ratification and application of the Protocol on SEA	Early ratification and entry into force	1. Two national awareness workshops, training using the Resource Manual and pilot projects to provide assistance to countries in ratification	1. Lead countries: Slovenia, Kyrgyzstan and Tajikistan, with support of outside experts 2. Secretariat	Ratifications Workshop and training reports	1. 2009-2010 2 and 3. Ongoing 4. September 2008	1. \$3,000 per workshop with translation. Further donor support might be sought with the assistance of the secretariat.
	Full legal implementation and practical application of the Protocol	2. Maintenance of the Resource Manual 3. Coordination with the Belgrade SEA Initiative	3. Secretariat, in cooperation with United Nations Development Programme (UNDP) and REC-CEE			4. \$30,000 in-kind by UNDP
	Greater awareness and use of the Resource Manual to support application of the Protocol	4. Subregional training workshop for countries of South-Eastern Europe	4. UNDP			
	Increased awareness and professional skills of officials and of the public in relation to SEA and to the application of the Protocol					

Decision IV/8

Budget and financial arrangements for the period up to the fifth meeting of the Parties

The Meeting of the Parties,

Recalling its decision III/10 on the budget and financial arrangements for the period up to the fourth meeting of the Parties,

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

Welcoming the report reviewing the UNECE and its recommendations to improve the effective use of resources, including the UNECE General Fund,

Welcoming the biannual financial reports prepared by the secretariat since the third meeting of Parties, with biannual reporting best addressing the schedule of the meetings of the Working Groups and the Meeting of the Parties, 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 third and fourth meetings of the Parties,

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,

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

Acknowledging decision IV/7 and its endorsement of the need to prioritize expenditure on activities addressing substantive issues of compliance, implementation and capacity-building,

1. *Confirms* the system of shares endorsed by decision III/10, whereby countries choose to make contributions equivalent in value to a number of shares of the budget;

2. *Adopts* the report prepared by the secretariat on the budget and financial arrangements in the period since the third meeting of Parties, as annexed to this decision, and notes its recommendations:

(a) To make the workplan and budget more consistent, including in the setting of priorities and the earmarking of contributions;

(b) To include an estimated budget for each activity, whether funded in-kind or through the Convention's Trust Fund;

(c) To give further attention to fund-raising and, for this reason, to request the Bureau to assist the secretariat in fund-raising;

3. *Decides* that activities under the workplan for the period up to the fifth meeting of the Parties not covered by the United Nations regular budget should be covered by contributions of 1,740 shares of one thousand United States dollars each, of which 949 shares would cover the core (priority 1) requirements and 791 shares would cover the remaining non-core (priority 2 and 3) requirements;

4. *Agrees* the budget of the Convention and its Protocol for the period up to the fifth meeting of the Parties to the Convention and the second meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol as set out in the table below;

5. *Agrees* 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;

6. *Requests* 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;

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

8. *Encourages* 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 requests the Bureau to contact such Parties for this purpose;

9. *Requests* the secretariat to continue to prepare and submit to the Bureau biannual reports with the view to assisting in the preparation of the report to the fifth meeting of the Parties, as requested in paragraph 13 below, and further requests the Bureau to consider the biannual reports prepared by the secretariat and to agree their circulation to the Parties;

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

11. *Requests* the secretariat to provide Parties with timely reminders concerning outstanding pledges;

12. *Decides* 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 relevant Working Group or subsidiary body, at which time Parties should be invited to indicate confirmation of the adjustments;

13. *Requests* 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;

14. *Decides* that the Working Group on Environmental Impact Assessment and a future subsidiary body established under the Convention's Protocol to assist in the management of the workplan shall jointly prepare a further draft decision on financial arrangements under the Convention for adoption at the fifth meeting of the Parties, based on experience gained in the meantime under the financial arrangements adopted by this meeting.

Budget for the implementation of the Convention and its Protocol for the period up to the fifth meeting of the Parties

<i>Priority</i>	<i>Activity</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>
<i>Organizational activities (with most meetings taking place in Geneva), funded from the Convention's Trust Fund</i>							
1	Fifth meeting of the Parties to the Convention, probably together with the second meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol	Participation of CITs ¹	Meeting	20	45	1	45
		Participation of NGOs		10			
		Invited speakers		5			
		Participation of non-UNECE countries		10			
1	First meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol	Participation of CITs	Meeting	20	45	1	45
		Participation of NGOs		10			
		Invited speakers		5			
		Participation of non-UNECE countries		10			
1	Third meeting of the Signatories to the Protocol, prior to the first meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol	Participation of CITs	Meeting	20	35	1	35
		Participation of NGOs		10			
		Participation of non-UNECE countries		5			
1	Meetings of Working Group on EIA (taking into account likely savings of meetings being held back to back)	Participation of CITs	Meeting	20	35	4	140
		Participation of NGOs		10			
		Participation of non-UNECE countries		5			
1	Meetings of Working Group on SEA (taking into account likely savings of meetings being held back to back)	Participation of CITs	Meeting	20	35	2	70
		Participation of NGOs		10			
		Participation of non-UNECE countries		5			
1	Bureau meetings (free-standing)	Participation of CITs	Meeting		5	4	20
1	Meetings of the Implementation Committee	Participation of CITs	Meeting		5	6	30
1	External expert to provide secretariat support for the implementation of the Convention and the Protocol (including coordination of SEA capacity development, development and maintenance of website, operation of clearing house, modification of questionnaire, drafting of third review of implementation and of other	External expert (United Nations Standard Salary Cost, including net salary, taxes and common staff costs)	Year		148	3	444

¹ Countries with economies in transition.

<i>Priority</i>	<i>Activity</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>
	documents)						
2	Informal translations of informal papers for meetings listed above		Meeting		5	10	50
2	Further secretariat support for the implementation of the Convention and the Protocol	Consultants	Year	20	50	3	150
		Promotional materials		10			
		Secretariat travel in relation to the workplan		20			
3	Further secretariat support for the implementation of the Convention and the Protocol	Consultants	Year	20	50	3	150
		Promotional materials		10			
		Secretariat travel in relation to the workplan		20			
2	Promotion of contacts with countries outside the UNECE region (with reporting of results to the Working Group)	Travel of secretariat and Chair	Mission		5	5	25
Total (organizational)							1 204
<i>Substantive activities, funded primarily by in-kind contributions (see workplan in annex VII for details)</i>							
1	Compliance with and implementation of the Convention	Informal translations of submissions					10
		Drafting of third review of the implementation of the Convention	Consultant				20
		Country-specific performance reviews	Review		30	3	90
2	Subregional cooperation and capacity-building	Subregional meetings	Meeting		20	10	200
		Pilot projects	Project		50	2	100
2	Exchange of good practices	Informal translations for one-day seminar on "Legislation and procedures for implementation of the Convention"			20	1	20
		One-day seminars	Seminar		20	2	40
		Half-day seminars during other meetings	Seminar		5	4	20
2	Promoting ratification and application of the Protocol	National awareness-raising workshops	Workshop		3	2	6
		Subregional training workshop	Workshop		30	1	30
Total (substantive)							536
Grand total (in shares, 1 share = US\$ 1,000):							1 740

Annex

Financial report prepared by the secretariat

1. The Meeting of the Parties to the Convention requested 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, including information on how much Parties and other participating States contributed to the budget of the Convention in cash and in kind, and on how the contributions were spent (decision III/10, para. 10).
2. A small group, comprising representatives of Bulgaria, Switzerland and the United Kingdom, was formed by the Convention's Bureau to prepare an informal paper on financing. That informal paper was presented to the Working Group on EIA at its eighth meeting (27–29 April 2005). The Working Group welcomed the informal paper and decided, inter alia, that the secretariat would report on income and expenditure on a six-monthly basis to the Bureau (MP.EIA/WG.1/2005/2). Six biannual financial reports were prepared, for the periods to 30 June 2005, 31 December 2005, 30 June 2006, 31 December 2006, 30 June 2007 and 31 December 2007. A further financial report, for the period to 31 January 2008, was provided in annex to the draft decision on budget and financial arrangements (ECE/MP.EIA/2008/11).
3. This document is an update on the financial report to 31 January 2008, extended to include income and expenditure up to and including the holding of the fourth meeting of the Parties, prepared at the request of the Meeting of the Parties at their fourth meeting. This document therefore provides a financial report for the complete intersessional period between the end of the third meeting of the Parties and the end of the fourth meeting. Outstanding activities and related expenditures are identified below. Income received in advance of the fourth meeting of the Parties but intended for the following intersessional period has not been included here; it will be included in the first biannual financial report of that intersessional period.
4. Table 1 provides a summary of income and expenditure, and indicates, with explanations, which budget lines have been overspent and where savings have been made, including as a result of a decision made by a body under the Convention. The details of income and expenditure are presented in tables 2 to 8. The following text provides a description of table 1.
5. The total budget for activities under the workplan, in the period between the third and fourth meetings of the Parties, was \$1,312,000. The activities were assigned priorities of 1, 2 or 3 (see table 2), with the budgets for the priorities being:

<i>BUDGET</i>	<i>Priority 1</i>	<i>Priority 2</i>	<i>Priority 3</i>	<i>TOTAL</i>
	US\$ 520 000	\$541 000	\$251 000	\$1 312 000

6. Parties made “cash” contributions to the Convention's Trust Fund (tables 3 and 4), either fulfilling pledges made at the third meeting of the Parties, or in response to later appeals by the secretariat. There were no outstanding pledges for the period 2004–2007. Cash contributions net of the United Nations programme support costs, totalled \$855,326. Some contributors imposed conditions on their contributions, including \$78,081 earmarked for priority 2 activities.

<i>TRUST FUND</i>	<i>Priority 1</i>	<i>Priority 2</i>	<i>Priority 3</i>	<i>TOTAL</i>
<i>INCOME</i>	\$777 245	\$78 081	–	\$855 326

7. \$538,595 was spent from the Trust Fund in accordance with the budget (Table 5, with further details in tables 6 and 7). The funds were spent on:

- (a) Four priority 1 activities (the fourth meeting of the Parties to the Convention, the second meeting of the Signatories to the Protocol on SEA, four meetings of the Working Group on EIA and nine meetings of the Convention's Implementation Committee);
- (b) Six priority 2 activities (three free-standing meetings of the Bureau, secretariat travel in relation to the workplan, an external expert to provide secretariat support, SEA capacity-building needs analysis and capacity development in SEA, including creation of a capacity-development manual and a subregional workshop in Caucasus);
- (c) Three priority 3 activities (a consultant to translate completed questionnaires and the external expert to provide secretariat support, further secretariat travel in relation to the workplan and promotion of contacts with countries outside the UNECE region).

<i>TRUST FUND</i>	<i>Priority 1</i>	<i>Priority 2</i>	<i>Priority 3</i>	<i>TOTAL</i>
<i>EXPENDITURE, excluding overspend</i>	\$199 822	\$244 540	\$94 233	\$538 595

8. In addition, \$14,546 was spent beyond the budget allocation on additional free-standing Bureau meetings, overspend on the workshop in Armenia (10% over budget) and on three additional meetings of the Implementation Committee because of the decision to delay the fourth meeting of the Parties by one year and because of the need to consider the submission by Romania:

<i>OVERSPEND</i>	<i>Priority 1</i>	<i>Priority 2</i>	<i>Priority 3</i>	<i>TOTAL</i>
	\$10 326	\$4 220	–	\$14 546

9. However, there were also savings against the expected budget for some workplan activities, totalling \$280,442 (see table 2 for details):

- (a) The first meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol was not held and only one meeting of the Signatories to the Protocol was held, costing less than budgeted (priority 1);
- (b) The four meetings of the Working Group cost less than budgeted (priority 1);
- (c) Only three workshops on the exchange of good practices were held (priority 2);
- (d) The preparation of promotional materials was without cost to the Trust Fund (priorities 2 and 3);

- (e) Further distribution of the Russian-language journal was expected to be without cost to the Trust Fund (priority 3);
- (f) The activity on the examination of the substantive relationship between the Convention and the Protocol was postponed (priority 3);
- (g) Secretariat travel in relation to the workplan and promotion of contacts with countries outside the UNECE region cost less than budgeted (priority 3).

<i>SAVINGS</i>	<i>Priority 1</i>	<i>Priority 2</i>	<i>Priority 3</i>	<i>TOTAL</i>
	\$187 215	\$13 460	\$79 767	\$280 442

10. Parties and organizations also undertook workplan activities by providing in-kind contributions (table 8). These activities have been valued at \$462,963, according to the budget indicated by the Meeting of the Parties:

- (a) Three workshops for the exchange of good practices and five workshops for subregional cooperation (priority 2);
- (b) Transboundary EIA capacity-building in the countries of Eastern Europe, Caucasus and Central Asia (EECCA) and in other countries (including workshops and development of guidance) (priorities 2 and 3);
- (c) Addressing institutional and procedural activities for the Protocol (priority 1);
- (d) SEA capacity-building needs analysis and capacity development in SEA, including creation of a capacity-development manual (priority 2);
- (e) Providing the venue and other support for the holding of the fourth meeting of the Parties (priority 1).

11. The holding of the fourth meeting of the Parties was supported by Romania, as host country, with financial support from other Parties, as set out in tables 9 and 10. Of the contribution by other Parties, €11,400 remained unspent and will be transferred to the Convention's Trust Fund.

<i>IN-KIND CONTRIBUTIONS</i>	<i>Priority 1</i>	<i>Priority 2</i>	<i>Priority 3</i>	<i>TOTAL</i>
	\$132 963	\$253 000	\$77 000	\$462 963

12. The remaining expenditure expected in the period between the third and fourth meetings of the Parties, according to the budget,¹ was \$53,869, to cover two outstanding activities: a capacity-building workshop for Eastern Europe and a subregional cooperation workshop for the

¹ The priority 2 and total expenditures have both been increased by \$20,000 as the lead country for the Mediterranean Sea subregional workshop has provided funding through the Fund, rather than in-kind. No budget was anticipated, but the workplan assigned a cost of \$20,000.

Mediterranean Sea area. The budget for these two activities will be carried forward to provide funding for the corresponding activities early in the following intersessional period.

<i>OUTSTANDING EXPENDITURE</i>	<i>Priority 1</i>	<i>Priority 2</i>	<i>Priority 3</i>	<i>TOTAL</i>
	--	\$53 869	--	\$53 869

13. The balance in the Trust Fund (income less expenditure, including overspend) was \$316,731, i.e. enough to cover the two outstanding activities.

14. The unallocated balance in the Trust Fund to be carried forward as an operating reserve, totalling \$262,862, was the difference between the balance in the Fund and the outstanding expenditure.

Table 1. Summary of income and expenditure

<i>Description</i>	<i>Amount by activity priority (US\$)</i>			<i>Total US\$</i>	<i>Line</i>
	<i>1</i>	<i>2</i>	<i>3</i>		
Budget for period between third and fourth meetings of the Parties (ECE/MP.EIA/6, annex X) (from table 2)	520 000	541 000	251 000	1 312 000	(a)
Contributions made to the Trust Fund, after deduction of United Nations programme support costs, with non-earmarked contributions being allocated first to priority 1 activities (from table 4)	777 245	78 081	--	855 326	(b)
Expenditure from the Trust Fund for budgeted workplan activities (from table 5), with any overspend removed (see line (d) below)	199 822	244 540	94 233	538 595	(c)
Overspend against budget on workplan activities (from table 2)	10 326	4 220	--	14 546	(d)
Savings against budget for workplan activities (from table 2)	187 215	13 460	79 767	280 442	(e)
In-kind contributions made, valued according to the budgeted activity cost (from table 8) ²	132 963	253 000	77 000	462 963	(f)
Outstanding budget requirements ((a)-(c)-(e)-(f)) ^{2, 3}	--	53 869	--	53 869	(g)
Available funds in the Trust Fund (lesser of (g) and (b)-(c)-(d))	--	--	--	316 731	(h)
Current shortfall against budget ((g)-(h))	--	--	--	--	(i)
Outstanding pledged contributions to the Trust Fund, after deduction of United Nations programme support costs (from Table 4)	--	--	--	--	(j)

² Some in-kind contributions were for activities for which no cost was specified in the budget, though they may have been in the workplan (ECE/MP.EIA/6, annex IX).

³ Italy paid €20,000 to the Trust Fund (\$23,869 at that time) to cover the costs of a Mediterranean subregional workshop (which was initially to be paid in-kind, costing \$20,000). The outstanding budget requirements (priority 2 and total) have been increased by \$23,869 accordingly. The outstanding budget requirements are for: a capacity-building workshop for Eastern Europe and a subregional cooperation workshop for the Mediterranean Sea area.

Outstanding, pledged in-kind contributions, valued according to the budgeted activity cost (from table 8)	–	–	–	–	(k)
Expected shortfall against budget ((g)-(h)-(i))	–	–	–	–	(l)
or Unallocated balance in Trust Fund, to be transferred into the operating reserve ((h)-(g))				252 862	(m)

Table 2. Budget (after ECE/MP.EIA/6, annex X) together with savings and overspend (in US dollars)

#	Activity	Pri- ority	Sub-activity	Budget	Savings	Over- spend	Explanation or justifi- cation
1	Fourth meeting of the Parties to the Convention, Bucharest	1	–	170 000	0	0	Completed
2	First meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol, Geneva (if to be held before the fourth meeting of the Parties to the Convention)	1	–	40 000	40 000	0	Meeting not held in this budget period, following decision by Working Group on EIA.
3	Meetings of the Signatories to the Protocol, Geneva (3 meetings in budget, but decision III/12 limits to 2 meetings)	1	–	120 000	97 043	0	No further meetings in this budget period, following decision by Working Group on EIA. Only one meeting held.
4	Meetings of Working Group on EIA, Geneva (4 meetings)	1	–	160 000	50 172	0	Actual savings on meetings.
5	Bureau meetings (back to back with other meetings)	1	–	0	0	0	Not applicable.
5a	Meetings of the Bureau (free-standing, only one budgeted)	2	–	5 000	0	420	As decided by the Bureau.
6	Meetings of the Implementation Committee, Geneva (6 meetings)	1	–	30 000	0	10 326	Overspend arising from delay in the fourth meeting of the Parties and the continuing work of the Committee.
7	External expert to provide secretariat support for the implementation of the Convention and the Protocol	2	–	120 000	0	0	Completed.
8.1	Further secretariat support for the implementation of the Convention and the Protocol	2	Promotional materials	10 000	10 000	0	Not required.
8.2			Secretariat travel in relation to the workplan	40 000	460	0	Closing balance on budget line
8a.1	Further secretariat support for the implementation of the	3	Consultants	60 000	0	0	Completed.
8a.2			Promotional materials	20 000	20 000	0	Not required.

#	Activity	Pri- ority	Sub-activity	Budget	Savings	Over- spend	Explanation or justifi- cation
8a.3	Convention and the Protocol		Secretariat travel in relation to the workplan	20 000	2 638	0	Not required.
9	Promotion of contacts with countries outside the UNECE region	3	–	25 000	8 130	0	Not required.
11	Review of the implementation of the Convention	1	–	0	0	0	Not applicable.
12	Exchange of best practice (6 meetings)	2	–	6 000	3 000	0	No further workshops expected.
13	Subregional cooperation	2	–	0	0	0	Not applicable.
14.1	Capacity-building in EECCA countries, and others	2	Preparation of draft guidance	20 000	0	0	Completed.
14.2			Start-up workshop in Kyrgyzstan	30 000	0	0	Completed.
14.3			Subregional workshop in Armenia	30 000	0	3 800	Over budget.
14.4			Subregional workshop in Ukraine	30 000	0	0	To be held in Moldova in September 2008
14.5			National workshops	0	0	0	Completed.
15.1	Capacity-building in the countries of EECCA, and others	3	Distribution of a relevant Russian-language journal (Environmental Expertise and EIA)	51 000	34 000	0	First of three years funded in kind, from summer 2007. Further issues not funded.
15.2			Training course, Tajikistan	60 000	0	0	Completed.
16.1	Examination of the substantive relationship between the Convention and the Protocol	3	Workshop back-to-back with other meetings in Geneva	5 000	5 000	0	Activity postponed by Working Group on EIA
16.2			Preparation of a report by a consultant	10 000	10 000	0	
17	Institutional and procedural activities	1	–	0	0	0	Completed.
18.1	SEA capacity-building needs analysis	3	National and subregional needs analyses	20 000	0	0	Completed.
18.2			Preparation of action plans	20 000	0	0	Completed.
19.1	Capacity development in SEA, including creation	2	Drafting of manual	45 000	0	0	Completed.

#	Activity	Pri- ority	Sub-activity	Budget	Savings	Over- spend	Explanation or justifi- cation
19.2	of a capacity development manual		Subregional workshops	130 000	0	0	Completed.
19.3			Finalization of manual	35 000	0	0	Completed.
Totals				1 312 000	280 442	14 546	

Table 3. Income to the Trust Fund by date: (a) workplan budget and (b) other

Date	Donor (Purpose)	Currency	Amount (US\$)
<i>(a) Income for workplan budget</i>			
29 April 2004	Italy	USD 30842.5	30 843
25 May	Norway	USD 10846.49	10 846
02 July	European Commission	USD 60360	60 360
09 August	Germany	USD 15000	15 000
21 September	Hungary	USD 2980.5	2 981
13 October	Finland	EUR 6700	8 251
06 December	United Kingdom	USD 50000	50 000
10 December	Croatia	EUR 1500	1 989
21 December	Poland	USD 2000	2 000
05 January 2005	Austria	USD 5000	5 000
10 January	Switzerland	USD 14975	14 975
12 January	Luxembourg	EUR 8000	10 855
20 February	Germany	USD 15000	15 000
15 March	Ireland	EUR 10000	13 210
22 March	Cyprus	USD 3000	3 000
08 April	Netherlands	EUR 30000	38 911
15 April	Canada	USD 8029.55	8 030
26 April	Hungary	USD 2979.5	2 980
02 May	Switzerland	USD 17475	17 475
04 May	Croatia	EUR 1500	1 940
10 May	United Kingdom	USD 50000	50 000
17 May	Ireland	EUR 10000	12 937
14 June	Romania	USD 5000	5 000
05 October	Slovenia	USD 3000	3 000
24 October	Italy	GBP 13534	23 869
22 November	European Commission	EUR 50000	58 480
30 November	Austria	USD 5000	5 000
02 December	Finland	USD 15000	15 000
27 December	Switzerland	USD 7606	7 606
07 March 2006	Switzerland	USD 17475	17 475
21 March	Ireland	EUR 10000	11 848
19 April	Croatia	USD 1304.82	1 305
02 May	Norway	USD 39872.41	39 872
08 May	Hungary	USD 3000	3 000
08 May	Hungary	USD 2000	2 000
17 May	Romania	USD 5000	5 000
01 June	Finland	USD 12230	12 230
26 July	Czech Republic	USD 10000	10 000
11 August	European Commission	EUR 50000	63 776
15 September	Germany	USD 14980	14 980
03 October	Norway	USD 17427.68	17 428
15 November	United Kingdom	USD 50000	50 000
17 November	Estonia	USD 5000	5 000
17 November	Austria	USD 5000	5 000
04 December	Switzerland	USD 14141.89	14 142
end of 2006	Romania		5 865
end of 2006	Ukraine		5 865
12 April 2007	Canada	USD 4390.22	4 390
20 April	Finland	EUR 5000	6 667

<i>Date</i>	<i>Donor (Purpose)</i>	<i>Currency</i>	<i>Amount (US\$)</i>
08 June	Slovenia	USD 6000	6 000
03 July	Italy	EUR 20000	27 027
24 July	France	EUR 5000	6 757
31 August	Hungary	USD 3000	3 000
01 November	Norway	USD 10002.36	10 002
21 November	Germany	USD 14000	14 000
06 December	Switzerland	USD 17475	17 475
10 December	Austria	EUR 10000	14 749
21 December	European Commission	EUR 50000	73 746
2 January 2008	Estonia	USD 1400	1 400
26 February	Norway	EUR 12569.76	18 594
	Total		983 131
<i>(b) Other contributions (not in budget)</i>			
23 March 2005	United Kingdom (for extrabudgetary post)	USD 40000	40 000
06 January 2006	Switzerland (for study tour, April 2006)	CHF 50000	38 168

Table 4. Overview of pledges and actual contributions to the Trust Fund (in US dollars)

<i>Party</i>	<i>Description of pledge in ECE/MP.EIA/6, plus additional contributions</i>	<i>2004–2005</i>		<i>2005–2006</i>		<i>2006–2007</i>		<i>2007–2008</i>
		<i>Pledge</i>	<i>Receipt</i>	<i>Pledge</i>	<i>Receipt</i>	<i>Pledge</i>	<i>Receipt</i>	<i>Receipt</i>
Albania	None	0	0	0	0	0	0	0
Armenia	None	0	0	0	0	0	0	0
Austria	5 shares per year for three years. Additional, non-pledged contribution of EUR 10,000 in 2007.	5 000	5 000	5 000	5 000	5 000	5 000	14 749
Azerbaijan	None	0	0	0	0	0	0	0
Belarus	None (became Party in 2005)	0	0	0	0	0	0	0
Belgium	None	0	0	0	0	0	0	0
Bulgaria	A contribution in-kind to host a subregional cooperation meeting in 2005.	0	0	0	0	0	0	0
Canada	A total of CAD 15,000 for the three-year period, earmarked for activities related to the Convention only. An initial CAD 5,000 will be provided in 2004 to be followed by a CAD 5,000 contribution for each of the subsequent 2 years. (This contribution is subject to currency exchanges.)	3 650	8 030	3 650	0	3 650	4 390	0
Croatia	A total of 5 shares for the three-year period.	2 000	1 989	2 000	1 940	1 000	1 305	0
Cyprus	None. Non-pledged contribution in 2005.	0	3 000	0	0	0	0	0
Czech Republic	5 shares in 2005 earmarked for the activity "Production of a capacity development manual, and provision of training, to support implementation of the SEA" and 5 shares in 2006 (not earmarked).	0	0	5 000	10 000	5 000	0	0
Denmark	None	0	0	0	0	0	0	0
Estonia	None. Non-pledged contribution in 2006 and 2008.	0	0	0	0	0	5 000	1 400

Party	Description of pledge in ECE/MP.EIA/6, plus additional contributions	2004–2005		2005–2006		2006–2007		2007–2008
		Pledge	Receipt	Pledge	Receipt	Pledge	Receipt	Receipt
Finland	A total of 30 to 35 shares for the three-year period. Non-pledged contribution of EUR 5,000 in 2007.	10 833	8 251	10 833	15 000	10 833	12 230	6 667
France	None, Non-pledged contribution of EUR 5,000 in 2007.	0	0	0	0	0	0	6 757
Germany	A total of 30 shares for the three-year period, half of which to be paid in 2004. Half of pledge earmarked for Implementation Committee activities and half for participation in meetings by NGOs and countries with economies in transition (CITs). Non-pledged contributions in 2006 and 2007.	15 000	15 000	15 000	15 000	0	14 980	14 000
Greece	None	0	0	0	0	0	0	0
Hungary	3 shares per year for three years. Non-pledged contribution of 2 shares in 2006 for an EECCA capacity-building workshop, and 3 shares in 2007.	3 000	2 981	3 000	2 980	3 000	5 000	3 000
Ireland	Approximately 12 shares (EUR 10,000) per year for three years, earmarked for capacity development in SEA, including creation of a capacity - development manual; sub-activity: drafting of manual.	12 200	13 210	12 200	12 937	12 200	11 848	0
Italy	Approximately 32 shares (EUR 25,000) in 2004, plus approximately EUR 20,000 earmarked for subregional cooperation activities (Mediterranean meeting). Italy made a further non-pledged contribution of EUR 20,000 in 2007.	30 500	30 843	24 400	23 869	0	0	27 027
Kazakhstan	None	0	0	0	0	0	0	0
Kyrgyzstan	None	0	0	0	0	0	0	0
Latvia	None	0	0	0	0	0	0	0
Liechtenstein	None	0	0	0	0	0	0	0
Lithuania	None	0	0	0	0	0	0	0
Luxembourg	None. Non-pledged contribution of EUR 8,000.	0	10 855	0	0	0	0	0
Moldova	None	0	0	0	0	0	0	0
Netherlands	Approximately 12 shares (EUR 10,000) per year for three years, earmarked for the activity “Compliance with and implementation of the Convention”.	12 200	38 911	12 200	0	12 200	0	0

Party	Description of pledge in ECE/MP.EIA/6, plus additional contributions	2004–2005		2005–2006		2006–2007		2007–2008
		Pledge	Receipt	Pledge	Receipt	Pledge	Receipt	Receipt
Norway	20 to 25 shares per year for three years, subject to approval. Non-pledged contributions of NOK 115,000 in 2006 to support participation by countries with economies in transition, of NOK 55,000 in 2007 and of NOK 100,00 in 2008.	22 500	10 846	22 500	39 872	22 500	17 428	28 597
Poland	2 shares in 2004.	2 000	2 000	0	0	0	0	0
Portugal	None	0	0	0	0	0	0	0
Romania	5 shares in 2005 and again in 2006. Non-pledged contribution of USD 5,865 provided from balance of Inquiry Procedure budget.	0	0	5 000	5 000	5 000	5 000	5 865
Slovakia	None	0	0	0	0	0	0	0
Slovenia	3 shares per year from 2005.	0	0	3 000	3 000	3 000	3 000	3 000
Spain	None	0	0	0	0	0	0	0
Sweden	A total of USD 20,000 for the three-year period (equivalent to 20 shares), in cash or in kind, earmarked for subregional cooperation around the Baltic Sea.	0	0	0	0	0	0	0
Switzerland	15 shares in 2004, plus contributions in kind. 15 to 20 shares per year in subsequent years, subject to approval. Non-pledged contributions of CHF 10,000 earmarked for capacity-building workshop in Ukraine, of USD 14,142 for capacity-building workshop in Armenia, and of CHF 50,000 for study tour (last outside workplan and budget)	15 000	14 975	17 500	25 081	17 500	31 617	17 475
The former Yugoslav Republic of Macedonia	In-kind contribution to subregional cooperation workshop, as indicated in table 8.	0	0	0	0	0	0	0
Ukraine	None. Non-pledged contribution of USD 5,865 provided from balance of Inquiry Procedure budget.	0	0	0	0	0	0	5 865
United Kingdom	50 shares in 2004, with similar contributions indicated in 2005 and 2006 but subject to approval. Non-pledged contribution of USD 40,000 to the secretariat's extrabudgetary post in 2005 (outside workplan and budget).	50 000	50 000	50 000	50 000	50 000	50 000	0
European Community	Approximately 61 shares (EUR 50,000) in 2004. Non-pledged contributions of the same amount in 2005, 2006 and 2007.	61 000	60 360	0	58 480	0	63 776	73 746
Total		244 883	276 251	191 283	268 159	150 883	230 574	208 148
13% UN programme support costs			35 913		34 861		29 975	27 059

Party	Description of pledge in ECE/MP.EIA/6, plus additional contributions	2004–2005		2005–2006		2006–2007		2007–2008
		Pledge	Receipt	Pledge	Receipt	Pledge	Receipt	Receipt
Net Income			240 338		233 299		200 600	181 089

Notes:

- a) All Parties to the Convention are listed, whether or not contributing to the Trust Fund.
b) Shares (in second column) are USD 1,000 in value. United Nations programme support costs at 13 per cent are deducted at the foot of this table.
c) The distribution of pledges across the three-year period is approximate where not specified in the pledge (second column); the amounts of the annual pledges are approximate if the total pledge was not in USD.
d) The final column was added in response to the delay of the fourth meeting of the Parties from 2007 to 2008.
e) Income by date is presented in table 3.

Table 5. Expenditure from the Trust Fund (in US dollars)

#	Activity	Sub-activity	Cost type	Amount (US\$)	Totals by priority (US\$)		
					1	2	3
1	4th meeting of the Parties to the Espoo Convention, Bucharest	19–21 May 2008	CIT travel and daily subsistence allowance (DSA)	13 670			
			NGO travel and DSA	6 429			
			Non-UNECE travel and DSA	2 791			
			Speaker travel and DSA	3 941			
			Interpreter travel and DSA	10 206			
	Activity total						37 037
3.1	Meetings of the Signatories to the Protocol, Geneva	2 nd meeting (costs halved with 8 th meeting of Working Group), 25–26 Apr. 2005	CIT travel and DSA	16 296			
			NGO travel and DSA	4 479			
			Non-UNECE travel and DSA	2 182			
	Activity total						22 957
4.1	Meetings of Working Group on EIA, Geneva	8 th meeting (costs halved with 2 nd meeting of Signatories), 27–29 Apr. 2005	CIT travel and DSA	16 296			
			NGO travel and DSA	4 479			
			Non-UNECE travel and DSA	2 182			
4.2		9 th meeting, 3–6 Apr. 2006	CIT travel and DSA	27 404			
			NGO travel and DSA	7 157			
			Non-UNECE travel and DSA	2 719			
4.3		10 th meeting, 21–23 May 2007	CIT travel and DSA	19 371			
			NGO travel and DSA	5 268			
			Non-UNECE travel and DSA	3 128			
4.4		11 th meeting, 21–23 Nov. 2007	CIT travel and DSA	13 031			
			NGO travel and DSA	5 531			
			Non-UNECE travel and DSA	3 262			
	Activity total						109 828
5a.1	Meetings of the Bureau (free-standing, only one budgeted)	1 st meeting, 8–10 Nov. 2004, Geneva	CIT travel and DSA	3 310			
5a.2		2 nd meeting, 21 Feb. 2005, Geneva		1 453			
5a.3		3 rd meeting, 13–14 Feb. 2006, Bucharest		657			
	Activity total						5 420

#	Activity	Sub-activity	Cost type	Amount (US\$)	Totals by priority (US\$)		
					1	2	3
6.1	Meetings of the Implementation Committee, Geneva	6 th meeting, 3–5 Nov. 2004	CIT travel and DSA	5 657			
6.2		7 th meeting, 3–4 Mar. 2005, Helsinki		4 079			
6.3		8 th meeting, 14–15 Nov. 2005		4 812			
6.4		9 th meeting, 6–8 Feb 2006		5 492			
6.5		10 th meeting, 9–10 Oct. 2006, Berlin		4 852			
6.6		11 th meeting, 13–14 Feb. 2007, Skopje		1 400			
6.7		12 th meeting, 26–28 June 2007		4 547			
6.8		13 th meeting, 30 Oct.–1 Nov. 2007		5 334			
6.9		14 th meeting, 15–17 Jan. 2008		4 153			
Activity total					40 326		
7	External expert to provide secretariat support for the implementation of the Convention and the Protocol	Extrabudgetary post, 2006		120 000			
Activity total					120 000		
8	Further secretariat support: Secretariat travel in relation to the workplan	See Table 6 below	Secretariat travel and DSA	39 540			
Activity total					39 540		
8a.1.1	Further secretariat support: Consultants	Translation of completed questionnaires from Russian to English		2 000			
8a.1.2		Further translation of questionnaires from Russian to English		595			
8a.1.3		Towards extrabudgetary post, Jan.–Jun. 2007		15 000			
8a.1.4		Towards extrabudgetary post, Jul.–Dec. 2007		42 405			
Activity total					60 000		
8a	Further secretariat support: Secretariat travel in relation to the workplan	See Table 6 below	Secretariat travel and DSA	17 362			
Activity total					17 362		
9	Promotion of contacts with countries outside the UNECE region	See Table 6 below	Secretariat travel and DSA	16 870			
Activity total					16 870		
13.5	Subregional cooperation	Workshop for Mediterranean					

#	Activity	Sub-activity	Cost type	Amount (US\$)	Totals by priority (US\$)		
					1	2	3
		subregion, 2008					
	Activity total						–
14.3	Capacity-building in countries of Eastern Europe, Caucasus and	Subregional workshop in Armenia, 17–19 Sept. 2007		33 800			
14.4	Central Asia, and others	Subregional workshop in Eastern Europe, 2008					
	Activity total						33 800
18.2	SEA capacity-building needs analysis	Preparation of action plans (strategies)		20 000			
	Activity total						20 000
19.3	Capacity development in SEA, including creation of a capacity development manual	Finalization of manual		30 000			
	Activity total						30 000
	Totals			516 104	210 148	248 760	94 233

Note: Costs for participation in meetings are broken down by travel and DSA in table 7 below.

Table 6. Secretariat travel and DSA for activities listed in table 5

Activity Sub-activity	Secretariat travel and DSA (US\$)
Further secretariat support: Secretariat travel in relation to the workplan, priority 2 (# 8 in Table 5)	
EIA capacity building (Issyk-Kul, Kyrgyzstan), 5–7 Oct. 2004	3 076
SEA Manual review (Brussels), 2 Dec. 2004	1 070
Subregional cooperation (Belgrade), 16–17 Dec. 2004 (paid by hosts)	–
Workshop on SEA (Berne), 19 Jan. 2005	350
Implementation Committee (Helsinki), 3–4 Mar. 2005	1 504
Caspian Protocol (Moscow), 9–11 Mar. 2005	1 495
Caspian Sea training (Baku), 4–5 Apr. 2005	2 674
Transboundary public participation (Mistelbach, Austria), 14 Apr. 2005	930
SEA Manual review (Tbilisi), 21–22 Apr. 2005	1 103
Subregional cooperation in transboundary river basins (Dushanbe), 20 May – 4 June 2005	3 099
Subregional cooperation (Ohrid, The former Yugoslav Republic of Macedonia), 30 June – 1 July 2005	1 175
Black Sea Commission (Istanbul, Turkey), 7–9 Sept. 2005	1 253
Subregional cooperation (Stockholm), 20–21 Oct. 2005	1 304
PlanNet seminar on urban SEA (Brussels), 24–25 Oct. 2005 (paid by hosts)	–
Caspian Protocol (Moscow), 24–26 Oct. 2005	1 658
Subregional cooperation (Koprivshitz, Bulgaria), 3–4 Nov. 2005	1 093
Kick-off seminar for transboundary EIA pilot project between Kazakhstan and Kyrgyzstan (Bishkek), 26–27 January 2006	4 288
Meeting with Swiss Federal Office for the Environment to discuss funding of activities under the Convention (Berne), 9 February 2006	332
Bureau (Bucharest), 13–14 February 2006	1 328
SEA capacity-building (Minsk), 21–22 Mar. 2006	1 686
Caspian Protocol (Moscow), 7–8 June 2006	1 893
Subregional cooperation (Copenhagen), 8 Nov. 2006	1 079
Implementation Committee (Skopje), 13–14 Feb. 2007	1 322
Transboundary EIA training course (Dushanbe), 19–21 Feb. 2007	4 081

<i>Activity</i>	<i>Secretariat travel and DSA (US\$)</i>
<i>Sub-activity</i>	
Environmental Action Plan Task Force workshop (Brussels), 13–14 Mar. 2007	1 389
Meeting to review Swiss EIA capacity-building in Central Asia (Lausanne, Switzerland), 15 Mar. 2007	206
European Union EIA/SEA training programme workshop (Brussels), 28 Mar. 2007 (mostly paid by hosts)	152
Total for activity	39 540
Further secretariat support: Secretariat travel in relation to the workplan, priority 3 (# 8a in Table 5)	
Implementation Committee (Berlin), 9–10 October 2006	972
Conference on Enforcement of Environmental Regulations (Carrigaline, County Cork, Ireland), 29–30 Mar. 2007 (paid by hosts)	–
Workshop on transboundary EIA capacity-building in Caucasus (Yerevan), 17–19 Sept. + Workshop on the Espoo Convention in the Russian Federation (Moscow), 21 Sept. 2007	3 753
Meetings of Advisory Groups on Integrated Coastal Zone Management and Land-based Sources under the Black Sea Commission (Istanbul, Turkey), 3–5 Oct. 2007	1 209
Ministerial Conference “Environment for Europe” (side-events) (Belgrade), 10–12 Oct. 2007	1 692
Conference on SEA and climate change (Lisbon), 24 Oct. 2007 (costs largely to be reimbursed by hosts)	255
Workshop on Kazakhstan-Kyrgyzstan pilot project for capacity-building in EECCA region, plus EIA training workshop (Bishkek), 26–30 Nov. 2007	1 597
Workshop on public participation in strategic decision-making (Sofia), 3–4 Dec. 2007 (paid by Trust Fund of UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters)	–
Seminar on SEA and integration into decision-making (University of Padova, Italy), 6 Dec. 2007 (paid by hosts)	–
Meeting with host authorities for the fourth meeting of the Parties (Bucharest), 29–30 January 2008 (paid from the United Nations regular budget)	–
Fourth meeting of the Parties (Bucharest) and preparations, 15/17-22 May 2008 (UNECE secretariat: 4 persons)	7 885
Total for activity	17 362
Promotion of contacts with countries outside the UNECE region, priority 3 (#9 in Table 5)	
Caspian Sea training (Gorgan, Islamic Republic of Iran), 11–12 July 2005	2 158
International Association for Impact Assessment (IAIA) Conference on SEA (Prague), 26–30 Sept. 2005	1 779
IAIA Annual Conference (Stavanger, Norway), 22–26 May 2006	1 909
IAIA Annual Conference (Stavanger, Norway), 20–23 May 2006	1 395
IAIA Annual Conference (Seoul), 1–8 Jun. 2007	4 047
IAIA Annual Conference (Seoul), 3–8 Jun. 2007	3 364
Meeting of SEA Task Team, Development Assistance Committee, OECD (Paris), 4–5 Sept. 2007	1 081
Meeting of SEA Task Team, Development Assistance Committee, OECD (Bratislava), 13–14 Feb. 2008	1 136
Total for activity	16 870

Table 7. Breakdown of meeting costs (US\$).

#	Activity	Sub-activity	Cost type	Amount (US\$)	Breakdown (US\$)	
					Travel	DSA
1	Fourth meeting of the Parties to the Espoo Convention, Bucharest	19–21 May 2008	CIT delegates	13 670	8 265	5 405
			NGO representatives	5 111	3 231	1 880
			Non-UNECE delegates	2 791	1 616	1 175
			Speakers	3 941	1 840	2 101
			Interpreters	10 206	3 654	6 552
Activity total				33 718	18 605	17 113
3.1	Meetings of the Signatories to the Protocol, Geneva	2nd meeting (costs halved with 8th meeting of Working Group), 25–26 Apr. 2005	CIT delegates	16 296	5 485	10,811
			NGO representatives	4 479	1 607	2,872
			Non-UNECE delegates	2 182	862	1,320
Activity total				22 957	7 954	15,003
4.1	Meetings of Working Group on EIA, Geneva	8th meeting (costs halved with 2nd meeting of Signatories), 27–29 Apr 2005	CIT delegates	16 296	5 485	10,811
			NGO representatives	4 479	1 607	2,872
			Non-UNECE delegates	2 182	862	1,320
4.2		9th meeting, 3–6 Apr. 2006	CIT delegates	27 404	10 717	16,687
			NGO representatives	7 157	3 433	3,724
			Non-UNECE delegates	2 719	1 655	1,064

#	Activity	Sub-activity	Cost type	Amount (US\$)	Breakdown (US\$)		
					Travel	DSA	
4.3		10th meeting, 21–23 May 2007	CIT delegates	19 371	8 972	10,399	
			NGO representatives	5 268	2 591	2,678	
			Non-UNECE delegates	3 128	1 640	1,488	
4.4		11th meeting, 21–23 November 2007	CIT delegates	13 031	6 300	6,731	
			NGO representatives	5 531	2 786	2,745	
			Non-UNECE delegates	3 262	1 737	1,525	
Activity total				88 003	47 785	62,043	
5a.1	Meetings of the	1st meeting, 8–10 Nov. 2004	CIT delegates	3 310	750	2,560	
5a.2	Bureau (free-	2nd meeting, 21 Feb. 2005		1 453	750	703	
5a.3	standing, only one budgeted), Geneva	3rd meeting, 13–14 Feb. 2006, Bucharest		657	–	657	
Activity total				5 420	1 500	3,920	
6.1	Meetings of the Implementation Committee, Geneva	6th meeting, 3–5 Nov. 2004	CIT delegates	5 657	2 349	3,308	
6.2		7th meeting, 3–4 Mar. 2005, Helsinki		4 079	2 119	1,960	
6.3		8th meeting, 14–15 Nov. 2005		4 812	1 957	2,855	
6.4		9th meeting, 6–8 Feb 2006		5 492	2 086	3,406	
6.5		10th meeting, 9–10 Oct 2006, Berlin		4 852	2 482	2,370	
6.6		11th meeting, 13–14 Feb 2007, Skopje		1 400	828	572	
6.7		12th meeting, 26–28 June 2007 (incl. Prof. Terwindt)		4 547	2 674	1,873	
6.8		13th meeting, 30 Oct–1 Nov 2007 (incl. consultant)		5 334	2 915	2,419	
6.9		14th meeting, 15–17 Jan 2008		4 153	2 239	1,914	
Activity total				40 326	19 649	20,677	

Table 8. In-kind contributions

#	Activity	Sub-activity	Date	Source	Value (US\$)	Notes
1	4 th meeting of the Parties to the Convention, Bucharest	Venue, etc. (including conference facilities, meals, travel and accommodation for additional participants, promotional materials, and services)	May-08	Romania, with support of Austria (€3,990), Hungary (€10,000), Italy (€20,000), Portugal (€5,000), Slovenia (€3,420, for EU coordination room) and Switzerland (€8,000) – see tables 9 and 10 for details.	132 963	Balance of cost foreseen in budget, after deduction of expenditure from Trust Fund
12.1	Exchange of best practice	Workshop on trans- boundary projects	Apr-05	Switzerland	1 000	According to budget
12.2		Workshop on post- project analysis	Apr-06	Bulgaria	1 000	According to budget
12.3		Workshop on methodologies	May-07	Tajikistan	1 000	According to budget
13.1	Subregional cooperation	Belgrade, for South-Eastern Europe	Dec-04	Serbia and Montenegro Switzerland	0 0	No budget, but workplan indicates costs of \$20,000

#	Activity	Sub-activity	Date	Source	Value (US\$)	Notes
13.2		Ohrid, for South-East Europe	June–July 05	The former Yugoslav Republic of Macedonia	0	No budget, but workplan indicates costs of \$20,000
				Switzerland	0	
13.3		Stockholm, for the Baltic Sea region	Oct-05	Sweden, Denmark, Finland and Estonia	0	No budget, but workplan indicates costs of \$20,000
13.4		Koprivshitzta, for Black Sea and Balkans region	Nov-05	Bulgaria	0	No budget, but workplan indicates costs of \$20,000
13.5		Copenhagen, for the Baltic Sea region	Nov-06	Sweden, Denmark, Finland and Estonia	0	No budget, but workplan indicates costs of \$20,000
13.6	Subregional cooperation	Workshop for Mediterranean subregion		Italy, Croatia and United Nations Environment Programme's Mediterranean Action Plan	0	No budget, but workplan indicates costs of \$20,000; Italy later made a €20,000 contribution to the Trust Fund to cover this activity.
14.1	Capacity-building in countries of Eastern Europe, Caucasus and Central Asia, and others	Preparation of draft guidance	2004	Organization for Security and Co-operation in Europe (OSCE) and Switzerland	20 000	According to budget
14.2		1st workshop (Kyrgyzstan)	Oct-04	OSCE and Switzerland	30 000	According to budget
14.5		National workshops ...			0	No budget, but workplan indicates costs of \$5,000 per meeting
15.1	Capacity-building in the countries of Eastern Europe, Caucasus and Central Asia, and others	Distribution of a relevant Russian-language journal (Environmental Expertise and EIA)		NordStream, for first of three years	17 000	According to budget
15.2		Training course, Tajikistan (and in other Central Asian States)		Switzerland	60 000	According to budget
17	Institutional and procedural activities for the Protocol			Germany, Netherlands and the United Kingdom	0	No budget
18.1	SEA capacity-building needs analysis	National and subregional needs analyses	2004	United Nations Development Programme's Regional Bureau for Europe and the Commonwealth of Independent States	20 000	According to budget
19.1	Capacity development in SEA, including creation of a capacity development manual	Drafting of manual	Summer 2004–April 2005	Regional Environmental Center for Central and Eastern Europe (REC-CEE)	45 000	According to budget
19.2		Subregional workshops	Dec-04–Apr-05	REC-CEE	130 000	According to budget
19.3		Finalization of manual	Spring 2005	REC-CEE	5 000	Remaining \$30,000 from Espoo Trust Fund

#	Activity	Sub-activity	Date	Source	Value (US\$)	Notes
Total					462 963	

Notes:

a) Indicated value (US\$) is that indicated in the current budget (ECE/MP.EIA/6, annex X); the total value according to the budget is presented in the summary table 1.

b) In the "Notes" column, "workplan" refers to ECE/MP.EIA, annex IX.

c) There were no outstanding pledged in-kind contributions.

Table 9. Expenditure by the Government of Romania in support of the holding of the fourth meeting of the Parties, Bucharest (in euros)

<i>Services provided</i>	<i>Service provider</i>	<i>Cost (EUR), approximate</i>
1) Rent from Parliament Palace of:	Parliament	22 250
• Nicolae Balcescu Hall	Palace,	
• Human Rights Hall	Bucharest	
• Take Ionescu Hall		
• I C Bratianu Hall		
2) Services from the Parliament Palace:		
• Conference system for Bratianu Hall		
• Registration desks		
• Podium and lectern		
• Video projector, screens		
• Translation booths and 200 headphones		
• Telephone line, fax line		
• Wardrobe		
• Interior flag and staff, exterior flag		
• Mobile microphones		
• Installation for press conference (audio equipment, etc)		
• Telephone calls and faxes in secretariat room		
• Computer equipment hire (7 laptop computers, photocopier, video camera) and support	Fortuna Business	49 620
• Large banner, 3 roll-up banners, small flags, bags, badges, notebooks, pens, stationary/writing materials	Travel, Bucharest	
• Transfers by bus and car from/to airport and between hotels and Parliament Palace		
• Catering, catering equipment		
• 2 translators, Romanian-English		
• Souvenirs		
• Flowers		
Total		71 870

Table 10. Income to and expenditure from a special fund established by Romania to support further the holding of the fourth meeting of the Parties, Bucharest (EUR)

<i>Description</i>	<i>Income (EUR)</i>	<i>Expenditure (EUR)</i>
Contribution by		
	Hungary	10 000
	Austria	3 990
	Italy	20 000
	Slovenia	3 420
	Switzerland	8 000
	Portugal	5 000

Printing of documentation, for inclusion in delegate bags		2 520
Cultural visit (Village Museum)		550
Air tickets for supported participants		9 700
Subsistence payments (meal allowances) for supported participants		3 425
Services by Fortuna Business Travel, Bucharest:		22 562
• Accommodation for supported participants		
• Organizational expenses and additional transfers		
• Photographer, 5 hostesses		
• Internet connections in Balcesu Hall		
• Colour printing, souvenirs, T-shirts for hostesses		
• Music in Take Ionescu Hall, bottled water		
Commission		253
Totals	50 410	39 010
Balance to be transferred to the Convention's Trust Fund		11 400

Decision IV/9**Financial assistance to representatives of countries with economies in transition, non-governmental organizations and countries outside the UNECE region**

The Meeting of the Parties,

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), which allows United Nations Member States that are not members of UNECE 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. *Calls 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;

2. *Urges* Parties and encourages 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;

3. *Recommends* that there should be no differentiation between Parties and non-Parties within the UNECE region for the purposes of providing financial assistance;

4. *Also recommends* 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;

5. *Requests* 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 (5) such experts for each instrument, unless otherwise decided by the Working Group on Environmental Impact Assessment or a subsidiary body established under the Protocol to assist in the management of the workplan, respectively;

6. *Decides* that its Bureau shall, depending on the availability of funding, and subject to priority being given to funding (a) the workplan and (b) the participation of experts and representatives referred to in paragraphs 4 and 5, 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.

Annex

Pledges of cash contributions to the Convention's Trust Fund

<i>Party</i>	<i>Shares (each of 1,000 United States dollars)</i>
Albania	A total of USD 1,000 for the period to the next meeting of the Parties.
Armenia	Either a contribution in kind by hosting the forthcoming meeting of the Implementation Committee, or 1 share for the three-year period.
Austria	USD 6,000 per year from 2009 until the fifth meeting of the Parties.
Azerbaijan	A total of USD 1,000 for the period to the next meeting of the Parties.
Belarus	
Belgium	
Bulgaria	A total of USD 5,000 (5 shares) for the period to the next meeting of the Parties.
Canada	A total of CAD 15,000 for the three-year period.
Croatia	A total of 5 shares for the three-year period.
Cyprus	
Czech Republic	USD 5,000 per year until the fifth meeting of the Parties.
Denmark	
Estonia	No contribution.
Finland	A total of 35 shares for the period to the next meeting of the Parties. The contribution is subject to the availability of funds in the national budget.
France	No contribution in 2008. EUR 10,000 per year in 2009 and 2010
Germany	A minimum of 30 shares. 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	USD 4,000 per year for the period to the next meeting of the Parties.
Ireland	
Italy	EUR 20,000 in 2008.
Kazakhstan	
Kyrgyzstan	
Latvia	EUR 1000 per year, starting from 2009.
Liechtenstein	
Lithuania	
Luxembourg	
Moldova	
Netherlands	EUR 10,000 per year for three years, subject to approval
Norway	10–15 shares per year for three years. The contribution is subject to approval.
Poland	No contribution in 2008.
Portugal	EUR 5,000 per year for three years.
Romania	USD 6,000 in 2009.
Serbia	
Slovakia	
Slovenia	3 shares per year (USD 3,000 per year), of which 6 shares earmarked for promoting ratification and application of the Protocol.
Spain	
Sweden	20 shares (USD 20,000) in kind for subregional cooperation in the Baltic Sea

<i>Party</i>	<i>Shares (each of 1,000 United States dollars)</i>
Switzerland	Likely USD 17,500 (17.5 shares) per year for the period to the next meeting of the Parties. This contribution is subject to approval.
The former Yugoslav Republic of Macedonia	
Ukraine	EUR 6,000 for the period to the next meeting of the Parties.
United Kingdom	30 shares (USD 30,000) for the period to the next meeting of the Parties.
European Community	EUR 50,000 per year, 2008–2010, which may be subject to earmarking.
