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

Meeting of the Parties to the Convention
on Environmental Impact Assessment in
a Transboundary Context serving as the
Meeting of the Parties to the Protocol on
Strategic Environmental Assessment

Working Group on Environmental Impact Assessment and Strategic Environmental Assessment

First meeting

Geneva, 24–26 April 2012

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

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I. Introduction

1. The first meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment (Protocol on SEA) was held from 24 to 26 April 2012 in Geneva, Switzerland.

A. Attendance

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

3. Representatives of the Convention secretariat attended the meeting. A representative of the United Nations Environment Programme (UNEP) also attended the meeting. The following non-governmental organizations (NGOs) were represented: Caucasus Environmental NGO Network (CENN); Ecoglobe (Armenia); European ECO Forum; International Association for Impact Assessment (IAIA); and Justice and Environment Association.

B. Organizational matters

4. The Chair of the Bureau, Mr. D. Mormul (Ukraine), opened the meeting.

5. The Chief of the Environment for Europe and Sustainable Development Section of the ECE Environment Division welcomed the delegations and provided an update on the recent changes in the Espoo Convention secretariat, including the departure of the Secretary to the Convention, and his replacement by another secretariat staff member, pending the completion of the recruitment of the Secretary.

6. The Working Group was reminded that the fifth session of the Meeting of the Parties to the Convention (MOP-5) and the first session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol (MOP/MOP-1) had elected four Vice Chairs of the Working Group as follows: Ms. M. Masaityte of Lithuania, replaced by Ms. R. Revoldiene; Mr. P. Otawski of Poland; a representative of Ukraine, named later as Mr. V. Buchko; and Mr. G. Kremlis of the European Commission. Furthermore, the two MOPs had invited the Working Group to elect its own Chair from among the Vice-Chairs when it first met, in the expectation that Mr. Otawski would be chosen. The Working Group elected Mr. Otawski, accordingly.

7. The Working Group adopted its agenda (ECE/MP.EIA/WG.2/2012/1), which had been prepared by the secretariat in agreement with the Bureau.

8. The Chair informed the Working Group that further to a decision by MOP-5, the Bureau had, at its last meeting, considered, but not reached a consensus on, whether to allow a representative of the European ECO Forum to attend its meetings as an observer. The Working Group advised the Bureau that that should not be permitted, but that the

Bureau could invite representatives of NGOs to its meetings for specific matters. The Bureau might also decide on the participation of observers on a case-by-case basis, possibly based on clear criteria to be established. As part of its consideration of the matter, the Working Group took note of the practice to allow the participation of observers from NGOs at meetings of the Bureau under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). It also noted that the representatives of Armenia and Ecoglobe were in favour of granting European ECO Forum observer status on the Bureau.

II. Status of ratification of the Convention, its amendments and its Protocol on Strategic Environmental Assessment

9. The Working Group welcomed the information provided by the secretariat on the status of ratification of the Convention, its two amendments and its Protocol, including on the accession of Poland to the Protocol and the ratifications of France, Poland and Portugal of the second amendment to the Convention.

10. The Chair invited the Signatories of the Protocol to report on their preparations for its ratification and implementation. The delegations of Armenia, Azerbaijan, Belgium, Denmark, France and Ukraine reported that procedures for ratification of the Protocol were under way, with those in Denmark being the most advanced. Switzerland expected to ratify the Protocol at the earliest in 2014, upon the completion of the revision of its national legislation on land-use and spatial planning. The delegation of Ukraine expressed the need for pre-accession assistance for the preparation of its draft legislation on strategic environmental assessment (SEA). The delegation of the Republic of Moldova reported that the preparations for the ratification of the Protocol would be initiated once the new draft law on environmental impact assessment (EIA) was adopted.

11. The Chair then invited Parties to the Convention to report on any planned ratifications of the two amendments to the Convention. In Denmark, Finland, Latvia and Slovenia the ratifications of both amendments and, in Switzerland, of the second amendment, were foreseen in 2012. In the Republic of Moldova, the preparation of implementing legislation for the ratification of the two amendments was under way.

12. Following consultations with the United Nations Treaty Office, the secretariat clarified how the entry into force of the amendments to the Convention could be accelerated. With reference to decision V/2 of the Meeting of the Parties (MOP), on interpretation of article 14 of the Convention (amendments), the Working Group confirmed that “by at least three fourths of these Parties” should be interpreted as “by at least three fourths of the number of Parties at the time of their adoption”, and not three fourths of the States that were actually Parties at time of adoption. The Working Group invited the ECE Executive Secretary to write to the United Nations Legal Counsel for it to take that into account when determining the entry into force of the amendments. The letter should be formulated as set out in informal document No. 2, and should also specify that the Working Group was comprised of experts without national credentials. It was noted that that interpretation of article 14 would above all speed up the entry into force of the first amendment, but it would not substantially affect that of the second amendment.

13. Moreover, the secretariat reminded the Working Group that the entry into force of the first amendment in itself would not open the Convention to countries outside the ECE region: in line with the restrictive formulation of that amendment, the MOP could consider and approve any request for accession only after all of the States and organizations that had been Parties to the Convention at the time of the adoption the amendment in 2001 had ratified the amendment. In that connection, the Meeting of the Parties to the ECE

Convention on the Protection and the Use of Transboundary Watercourses and International Lakes (Water Convention), which faced similar hurdles, was expected to consider a draft decision aimed at facilitating the accession procedure for countries outside the ECE region later in 2012. The secretariat would share the approach chosen under the Water Convention with the Working Group for it to consider whether it wished to follow a similar path.

14. The Working Group noted the Republic of Korea's interest in acceding to the Protocol.

III. Compliance and implementation

15. The Working Group noted the reports of the Implementation Committee under the Convention and the Protocol on its twenty-second, twenty-third and twenty-fourth sessions (ECE/MP.EIA/IC/2011/6, ECE/MP.EIA/IC/2011/8 and ECE/MP.EIA/IC/2012/2, respectively), as well as the oral report by the Chair of the Implementation Committee, including on:

- (a) Participation and procedural issues;
- (b) Submissions currently under consideration (by Azerbaijan regarding Armenia; by Lithuania regarding Belarus and by Armenia regarding Azerbaijan);
- (c) Committee initiatives on Azerbaijan and Albania;
- (d) Follow-up to MOP decision V/4 regarding Ukraine;
- (e) Information-gathering cases;
- (f) Potential specific compliance issues from the Third Review of Implementation;
- (g) A draft questionnaire for implementation of the Convention and the Protocol for the period 2010–2012.

16. The Working Group supported the request of the Implementation Committee for all the Committee members to attend all the sessions, in line with the Committee's operating rules.

17. The Working Group then discussed the proposals of the Implementation Committee for simplifying the EIA questionnaire and extending it to the Protocol.

18. The Working Group approved the EIA part of the questionnaire with a number of amendments and requested the secretariat to revise the document based on the amendments and to annex it to the present report of the Working Group, so that it would be translated into the other official languages of ECE.

19. Following its consideration of the draft SEA questionnaire, the Working Group invited the Implementation Committee to further revise the draft reflecting the comments made during and after the session and to resubmit it by e-mail for consideration by national focal points. Based on the feedback received, the Implementation Committee was invited to finalize the draft at its twenty-fifth session, in September 2012, and to annex it to the report of its session, with a view to its translation into the other official ECE languages. To that end, The Working Group invited:

- (a) Delegations to forward their further comments to the appointed Committee members (J. Brun and L. Papajova-Majeska) and the secretariat by 14 May 2012;
- (b) The Committee to agree on a revised draft, and the secretariat to forward it to national focal points by the end of June 2012;

(c) The national focal points to submit their comments to Committee through the secretariat by 13 August 2012.

20. The Working Group also agreed a timetable for distribution and return of the EIA and SEA parts of the questionnaire and for the preparation of the draft fourth review of implementation by the secretariat on the basis of the responses received, as set out in informal document No. 5. It requested, however, that the EIA questions be sent to Parties by 30 October 2012 for completion by 31 March 2013 and the SEA questions by 31 December 2012 for completion by 27 May 2013.

21. Finally, the Working Group invited the secretariat to have the questionnaire translated and to circulate it to the Parties, and reminded the Parties to respond in line with the timetable.

22. The Working Group welcomed the information on the preparations for the legislative reviews, as requested by Belarus and Ukraine, with regard to implementation of the Protocol, and by Uzbekistan with regard to the future ratification and implementation of the Convention:

(a) Regarding Belarus, a project would be implemented under the Environment and Security Initiative (ENVSEC), with funding from Sweden and with the support of the United Nations Development Programme (UNDP) office in Minsk and Zoï Environment Network. The project would comprise a legislative review and training on SEA and also include a pilot project on post-project analysis of a transboundary EIA between Belarus and Ukraine;

(b) With respect to Ukraine, the secretariat reported that it had no formal commitments on project funding, but that informal discussions were under way with the European Commission's Directorate General for Cooperation and Development ("EuropeAid"), the Organization of Economic Development Cooperation (OECD), UNEP and the United Nations Industrial Development Organization (UNIDO) for the launching of a large project, Greening Economies in the Eastern Neighbourhood (EaP-GREEN), for the Eastern Partnership Countries (Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine), focusing on sustainable consumption and production as a mechanism for the transition to a green economy. That project would enable the secretariat to support the implementation not only of a legislative review in Ukraine, but also many other activities in the workplan for building capacities on EIA and SEA. However, that was possible only provided that the substantial contractual difficulties involved could be resolved;

(c) Regarding Uzbekistan, the Working Group welcomed the availability of Swiss funds for developing the EIA system in that country and invited Switzerland and Uzbekistan, together with the secretariat, to continue the discussions on the project implementation.

23. The Working Group raised concerns about inconsistencies in the three authentic language versions of the Convention and the Protocol. France pointed out one error in the French version of the Protocol: the last sentence of article 4, paragraph 2, should refer to "any other project listed in annex II that requires *environmental impact assessment* under national legislation", and not to "*évaluation strategique*". To bring the different language versions into line, starting with the Convention, the Working Group invited the secretariat to try and arrange for a review of the text to be undertaken by the United Nations, which would list all the inconsistencies. It noted that, alternatively, that work might also be done by a consultant to the European Commission. It also decided to set up a task force, including lawyers and native speakers of English, French and Russian, that would work through electronic means to consider the listed inconsistencies. The task force should aim at distinguishing between the linguistic and typographical errors to be corrected and the

possible substantive interpretation issues that could be subject to a MOP decision. It should specify the legal consequences, if any, of the possible changes to the Convention. The Working Group welcomed the participation of the European Commission, France, Switzerland, and Ukraine and observers from the European ECO Forum and Ecoglobe in the task force, and encouraged others to join, by informing the Bureau. In addition, the secretariat was invited to contact the United Kingdom of Great Britain and Northern Ireland, Canada and Ireland to encourage their participation in the task force. Finally, the Working Group agreed that the proposals from the task force should be first considered by the Working Group and the Implementation Committee in 2013, prior to their submission to the next MOP in 2014.

24. The Working Group commented the checklist prepared by the European Bank for Reconstruction and Development (EBRD) and invited the secretariat to contact also other international financial institutions (IFIs) for their comments and inputs with a view to developing a consolidated list reflecting common practice of IFIs for submission to the Working Group at its next session.

25. The Working Group welcomed the electronic publication by the secretariat of the opinions of the Implementation Committee, the amended operating rules of the Committee and the Third Review of Implementation.

26. Finally, the Working Group discussed the conduct of business under the Convention and its Protocol, in particular regarding compliance matters. As part of its conclusions, it:

(a) Stressed the need for parties to respect the procedures and methods of work agreed under the two legal instruments;

(b) Supported the Implementation Committee's initiative to prepare draft proposals for the next MOPs to adjust the Implementation Committee's rules of procedure for enhanced clarity.

27. The delegation of Armenia supported by Ecoglobe proposed the establishment of a small group to examine how to apply the Convention between Parties that had no diplomatic relations. The Working Group agreed that it might come back to that proposal later, following the finalization by the Implementation Committee of its findings and recommendations on related submissions.

IV. Subregional cooperation and capacity-building

28. The Working Group welcomed reports provided by:

(a) Poland, on the Fifth Seminar on Cooperation on the EIA Convention in the Baltic Sea Region, held in Sopot, Poland, in October 2011;

(b) Estonia, on the arrangements for the Sixth Seminar in the Baltic Sea Region to be held in Tallinn on 20 and 21 September 2012;

(c) The secretariat and France, on their efforts to plan workshops for the Mediterranean Sea area, recognizing the difficulties of organizing a workshop at present due to the political situation in Morocco and several other south Mediterranean countries.

29. The Meeting was informed about the implementation of the several other activities for subregional cooperation and capacity-building foreseen in the workplan.

30. No funding had yet been identified for organizing a workshop on the implementation of the Convention, the Protocol and the multilateral agreement among the countries of South-Eastern Europe for the implementation of the Convention (Bucharest Agreement), with Bosnia and Herzegovina as the lead country. However, UNEP had

expressed an interest in co-organizing an event in South-Eastern Europe. Moreover, the secretariat was hopeful that the contacts in Bosnia and Herzegovina would be further strengthened following the appointment of its former Foreign Minister as the new Executive Secretary of ECE.

31. Serbia reported that its law for the ratification of the Bucharest Agreement was before Parliament and was expected to be adopted by spring 2013. In practice, Serbia was already implementing several transboundary EIAs in line with the Bucharest Agreement

32. With respect to the Eastern Europe, Caucasus and Central Asia subregion, the secretariat pointed out that, with the exception of the pilot transboundary EIA between Belarus and Ukraine already mentioned and a seminar in Belarus to be funded through ENVSEC, progress in implementing the other activities was weak. No funding had yet been identified for the possible pilot transboundary EIA between Kyrgyzstan and Kazakhstan. Moreover, the concerned countries had not yet specified a target project to which that pilot could be applied. No funding was available either for the subregional workshop for which Kazakhstan had offered to be the lead country. Regarding the subregional seminars that Georgia and Ukraine had wished to host, those might be implemented within the large European Commission-funded project (see para. 22 (b) above), provided that that went ahead. As to the Conference on Climate Change and EIA that the Republic of Moldova had proposed, the secretariat expected that funding for it would be difficult within the context of both ENVSEC and the European Commission project. The situation looked somewhat better for the “Silk Road: development and environmental protection in EIA” conference in Uzbekistan, as the Swiss funds, together with the potential support from UNDP for the legislative review, could possibly be stretched to cover the event. To that end, the secretariat suggested linking the topic of the Conference to the UNDP project in Uzbekistan, which focused on biodiversity, to discuss for example the application of EIA in a desert environment.

V. Exchange of good practices

A. Practices in States outside the region

33. The Working Group welcomed the presentation by the Republic of Korea on its EIA and SEA systems and practice and asked the secretariat to place it on the website. The presentation raised much interest and prompted further questions from the delegations on the carrying out of EIA and SEA in the Republic of Korea.

B. Application to nuclear energy-related activities

34. The secretariat introduced informal document No. 7, presenting actions suggested by the Bureau relating to the application of the Convention to nuclear energy-related activities, including to follow-up to the outcomes of the panel discussion on that theme held at the MOP session in June 2011. The Working Group supported the eventual development of guidance to codify practical experience and the collection of case studies to support the application of the Convention to nuclear energy-related activities. It noted that the secretariat’s background note prepared for the panel discussion (ECE/MP.EIA.2011/5), could provide the basis for such guidance. It also noted that the seminar to be organized by Austria, Finland and Sweden for the exchange good practice on the nuclear energy-related activities could offer a forum for sharing experience in that regard. Finally, the Meeting was informed that an Aarhus Convention workshop on public participation in the nuclear

sector was expected to be held in spring 2013, and that its outcomes would be made available to it.

C. Other activities foreseen in workplan

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

(a) Belgium reported that it had begun discussions with the European Commission for agreeing on specific topics and practical matters with respect to a workshop on biodiversity;

(b) Poland reported that it would pursue its efforts for initiating joint preparations with Portugal for a workshop on renewable energy. It expected its own contribution to the workshop to focus in particular on wind energy;

(c) Austria reported that initial discussions with Finland and Sweden had started for the preparation of a joint workshop on nuclear energy, but that a considerable amount of work was still required for the organization of the event. It was planned to collect case studies for presentation at the workshop that would illustrate challenges and good practice, notably in relation to the topics outlined in the secretariat's background paper on nuclear-energy issues. The delegation of Sweden suggested inviting presentations from the European Atomic Energy Community (Euratom) and the Russian State Atomic Energy Corporation (Rosatom). European ECO Forum called for an event that would allow for an open and transparent sharing of views.

36. In the light of the difficulties reported by the lead countries in organizing a seminar in spring 2013, the Working Group decided to merge the seminars on biodiversity and on renewable energy into one full-day seminar. It also agreed to hold one of the seminars at the meeting of the Working Group in November 2013, and to postponing the other to the next MOP. The Working Group acknowledged, however, that the postponing of the seminar on nuclear energy would prevent the preparation of the related guidance for the next MOP (see para. 34 above). The lead countries were invited to decide on the timing of their seminar as soon as possible in consultation with the secretariat.

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

37. The secretariat reported on the maintenance of the resource manual to support the application of the Protocol, and on its publication in electronic format. The Working Group invited the secretariat to provide the health annex of the manual in English and Russian to the next meeting of the Working Group.

38. The Working Group welcomed the draft simplified resource manual prepared by the secretariat with the editorial group members from Austria, Finland, the Netherlands, the European Commission and the World Health Organization (WHO). It invited the editorial group, with the support of the secretariat, to take into account the changes proposed by Germany and Sweden. Once the changes were incorporated, it requested that the secretariat to publish the simplified resource manual, as amended. The Working Group also encouraged countries to translate the simplified manual into their national languages.

39. The IAIA representative presented the first two informal pamphlets, or "Fastips", it had prepared on key issues in impact assessment practice, entitled "What is Impact Assessment?" and "Ethics". The focus of the third pamphlet that was being prepared was

on climate change. The Working Group invited IAIA to produce pamphlets that would be in line with the mandate set out in the workplan, that is, the promotion of the practical application of the SEA Protocol, and focused on the key issues listed in the workplan: how to diversify alternatives; stakeholder engagement; assessment tools; and health and SEA. Delegations were encouraged to submit comments to IAIA either directly or through the secretariat for the further development of the pamphlets.

40. The secretariat informed the Working Group about the preparations of workshops, including training on SEA in Armenia, Belarus, Georgia, Kazakhstan, the Republic of Moldova, the Russian Federation and Ukraine, as foreseen in the workplan. The Working Group noted that, except for the workshop in Belarus, which would be financed through the ENVSEC project, no funding had been identified for the other events, and it encouraged donors to support them. Belarus thanked Poland for providing it with information on the SEA procedure with respect to the national nuclear energy programme, which allowed Belarus to gain experience and assisted it in its efforts to ratify the Protocol on SEA in the future. The secretariat again referred to the European Commission-funded "EaP-Green" project as a potential source of funding for training and workshops in Armenia, Georgia, the Republic of Moldova and Ukraine, if its implementation went ahead. The main concept would then be to provide training and transfer of knowledge from international to national trainers, involving also training at the local level. For the Russian Federation, Sweden had made available some resources, but the arrangements for their use had not yet been made. Those should be coordinated with the capacity-building in environmental assessment undertaken by the World Wildlife Fund (WWF) in the Russian Federation that was supported by Germany. Regarding Kazakhstan, the secretariat reported that, as EBRD was carrying out SEA-like procedures related to the development of the energy sector in that country, the secretariat had expressed its interest in collaborating with EBRD in providing SEA training in Kazakhstan.

41. The Working Group was informed that no funding had yet been secured for pilot SEA projects in Armenia, Azerbaijan and the Republic of Moldova, and it encouraged donors to support those projects. For the possible pilot application of SEA, Armenia had suggested a landfill plan across a large river basin and the Republic of Moldova had identified the national waste strategy. The delegation of the Republic of Moldova also informed the meeting of its plans to develop SEA legislation that could be facilitated by the pilot application of SEA.

42. The Working Group welcomed the draft format for SEA notification presented by the members of the editorial group from Austria and Germany. It approved the draft format without modifications and agreed to forward it to the next MOP for adoption. The secretariat was invited to post the format on the website and Parties were invited to use it for their notifications in the interim.

43. The secretariat informed the meeting of the preparations for the workshop on public participation in SEA to be held jointly with the Aarhus Convention in Geneva, on 29 and 30 October 2012. The Working Group thanked Germany for its pledge to finance a consultant to produce good practice recommendations for discussion at the workshop and to cover the costs for several participants to attend the workshop.

44. The Working Group encouraged delegations to submit case studies on public participation in environmental decision-making, called for by the Aarhus Convention, by 15 September.

45. The Working Group welcomed Poland's proposal of a case on the Protocol's application to regional spatial land-use planning for a case study fact sheet to be published by the secretariat. The case illustrated successful application of the Protocol, including of its article 10 on transboundary consultations, with Germany being the affected Party. It also

demonstrated how the existing bilateral agreement between the two countries had been made use of to significantly speed up the transboundary procedures. The Working Group encouraged other Parties to submit case studies as well.

46. The secretariat reported on behalf of WHO on a workshop organized by the WHO European Centre for Environment and Health in Riga in March 2011 for representatives of health and environmental sectors involved in impact assessment from the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. The workshop had showed the importance of joint trainings to enhance networking between the different sectors involved in impact assessments. WHO was willing to continue to support the implementation of the SEA Protocol through assisting countries in designing and conducting further joint trainings for environment and health experts.

VII. Budget and financial arrangements and financial assistance

A. Budget and financial arrangements

47. The Working Group took note of the financial report and the list of recent contributions to the Convention's trust fund presented by secretariat. It also noted the information from Poland and Serbia on the contributions to the Trust Fund they had made after the list of contributions had been issued. In the light of the report, the Working Group acknowledged the shortfall between the financial contributions received and the expenditure necessary to fulfil the workplan and the expected functions of the secretariat. The Working Group was also made aware that due to the reduced staffing of the secretariat in the coming months, its fund-raising possibilities were more limited.

48. The secretariat reminded the Working Group of the request by the Meeting of the Parties last year for the Bureau, possibly with the aid of a small group, to develop a financial strategy for carrying out the work under the Convention and the Protocol given the financial constraints. The Bureau had decided to seek clarifications from the Working Group on what that strategy might comprise. Following discussion, the Working Group considered that part IV of informal paper No. 10 prepared by the secretariat could provide the basis for the development by the Bureau of such a strategy. Ukraine also stressed the importance of setting priorities for the financing of the individual activities, which could be spelled out in the strategy. The Working Group also took note of the information presented by the secretariat on the financial mechanisms in use under the other ECE multilateral environmental agreements. In that respect, a number of delegations stressed that the activities under the Espoo Convention should continue to be financed on a voluntary basis.

49. The secretariat reported on travel outside the ECE region, which had included a trip by the Convention Secretary to the Republic of Korea that had been paid for by the Korean Environment Institute, except for approximately \$100 charged to the Convention Trust Fund. The secretariat had also participated at the Special Conference of IAIA on SEA in Prague in September 2011 as one of the co-organizers of the event, to present the Protocol on SEA and to co-chair with the World Bank several sessions focusing on SEA in policymaking. The participation of one member of the secretariat at the Prague Conference was funded from the Trust Fund.

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

50. The Working Group took note of the following five NGOs that the Bureau had agreed should receive assistance for their participation in the meetings under the Convention and its Protocol: Caucasus Environmental NGOs Network, Ecoglobe (Armenia), Environment and Justice, European ECO Forum and IAIA.

51. The Working Group was informed of the Bureau's decision not to provide financial support to representatives and experts from States outside ECE region for the Working Group's present meeting, as a necessary money-saving measure given the lack of funds. For future meetings, the Bureau had encouraged donors to provide financial support for representatives of those countries whenever they would draw clear benefits from their participation.

52. The Working Group took note of the letters sent by the Bureau to the Parties that had neither pledged nor made contributions in the current intersessional period and of the use by the Bureau of the United Nations scale of assessments to indicate a possible amount for their contributions.

VIII. Staffing of the secretariat

53. The Working Group noted the staff changes in the secretariat since the Meetings of the Parties, already referred to at the start of the meeting. It extended its heartfelt thanks to the outgoing Secretary for his dedicated work over the past 10 years in serving the Convention and its Protocol.

54. The Working Group also welcomed the arrival of a new Associate Expert in March 2012, a post that was being funded by Finland for two consecutive years.

55. Finally, the Working Group recognized the present reduced staffing level in the secretariat, which currently consisted of only two instead of three members, pending the completion of the recruitment procedures.

IX. Preparations for the next sessions of the Meetings of the Parties

56. The delegation of Ukraine reported on the initiation of practical arrangements for the sixth session of the Meeting of the Parties to the Convention and the second session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol, expected to be held in Ukraine in May or June 2014. Among the issues being considered by the working group established by Ukraine for the preparatory work, were the cost-sharing arrangements and the support to be provided by ECE as well as by the European Union. The Working Group noted the information provided by the secretariat on financing the next sessions of the Meetings of the Parties, drawing attention to the budget agreed by the last Meeting of the Parties for the next Meetings of the Parties, which allocated the available funding from the Convention for the participation of countries with economies in transition, NGOs, invited speakers and non-ECE countries. It also noted the information from the secretariat that a detailed host country agreement to be concluded between ECE and Ukraine would set out the obligations of the two Parties to the agreement, including on financial issues.

57. To initiate the discussions on the substantive matters to be considered, Ukraine invited delegations to propose topics for the Meetings of the Parties, including for seminars. The representative of Ecoglobe proposed the organization of a seminar or a side event on public participation in EIA and SEA.

X. Inputs to related international processes

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

(a) The Seventh “Environment for Europe” Ministerial Conference held in Astana, in September 2011, and the side event organized by the Convention secretariat with the support of Switzerland on the importance of impact assessment in planning related to the two main themes of the Conference — greening of the economy and sustainable water management;

(b) The Regional Preparatory Meeting for the United Nations Conference on Environment and Development (Rio+20 Conference), held in December 2011, where the Espoo Convention and in particular its Protocol were presented as key tools for furthering sustainable development and the transition to a green economy;

(c) The informal meetings between the representatives of the governing bodies of the ECE environmental conventions and the Committee on Environmental Policy, held in Geneva on 22 November 2011 and on 16 April 2012, to share opinions and to promote coordination and common approaches between the secretariats for increased efficiency. The next meeting was expected to provide the opportunity to meet with Mr. Falkenberg, the Director for the environment of the European Commission, and also to follow up on the decisions of the Executive Committee of ECE in terms of possible adjustments in the allocation of resources within the ECE. The secretariat stressed that the informal meetings had no decision-making power, given that the Convention and its Protocol were fully answerable to the Parties.

59. The delegations agreed to support, through their national negotiators for the Rio+20 Conference, the references to the ECE environmental agreements and EIA in the negotiating document.

XI. Other business

60. With reference to the information-gathering case currently before the Implementation Committee, the delegation of France stated that it did not agree that the Convention should apply to planned extensions of the life-time of nuclear facilities. Other Parties expressed differing views on the matter and suggested that it be considered at the planned seminar on nuclear energy-related activities. The secretariat invited France, if it so wished, to provide its full statement to the secretariat to be made available on the Convention website and to inform the Implementation Committee. The secretariat also explained that the opinions of the Committee were included in the draft decision for the review of compliance submitted to the Meetings of the Parties for consideration and possible adoption by the Governments.

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

61. The Working Group agreed on the main decisions taken at the meeting, as presented by the secretariat. The Chair closed the meeting on Thursday, 26 April 2012.

Annex

Questionnaire for the report of [name of country] on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context in the period 2010–2012

Information on the focal point for the Convention

1. Name and contact information:

Information on the point of contact for the Convention

2. Name and contact information (if different from above):

Information on the person responsible for preparing the report

3. Country:
4. Surname:
5. Forename:
6. Institution:
7. Postal address
8. E-mail address
9. Telephone number
10. Fax number
11. Date on which report was completed:

Part one Current legal and administrative framework for the implementation of the Convention

12. In this part, please provide the information requested, or revise any information relative to the previous report. Describe the legal, administrative and other measures taken in your country to implement the provisions of the Convention. This part should describe the framework for your country's implementation, and not experience in the application of the Convention.

Article 2

General provisions

13. List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2).
14. Indicate any further measures to implement the provisions of the Convention that are planned for the near future.

15. List the different authorities that are named responsible for the implementation of the EIA procedure in the transboundary context and domestically.

16. Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it.

17. Does your country have special provisions for transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?

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

18. Is appendix I to the Convention transposed fully into your country's national legislation? Please describe any differences between the national list and appendix I to the Convention.

19. Does your country's legislation already cover fully the revised appendix I in the second amendment (ECE/MP.EIA/6, decision III/7)?

Public participation

20. How does your country, 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 country's public as required in article 2, paragraph 6?

Article 3

Notification

Questions to Party of origin

21. Describe how your country determines when to send the notification to the affected Party, which is to occur "as early as possible as and no later than when informing its own public".

22. Indicate whether and how the following provisions are reflected in your national legislation:

(a) The stage in the EIA procedure when your country usually notifies the affected Party (art. 3.1);

(b) The format for notification. Please indicate whether this is the format as decided by the first meeting of the Parties in its decision I/4 (ECE/MP.EIA/2, annex IV, appendix). If not, does your country use a format of its own (in which case, please attach a copy of it)?

(c) The time frame for the response to the notification from the affected Party (cf. art. 3, para. 3, "within the time specified in the notification"), the consequence if an affected Party does not comply with the time frame, and the possibility of extending a deadline;

(d) The request for information from the affected Party (art. 3, para. 6), necessary for the preparation of the EIA documentation;

(e) How your country cooperates with the authorities of the affected Party on public participation (art. 3, para. 8);

(f) When and how the public in the affected Party is notified (what kinds of media, etc., are usually used). What is normally the content of the public notification?

(g) When and how the public in the Party of origin is notified (what kinds of media, etc. are usually used). What is normally the content of the public notification?

(h) Whether the notification to the public of the affected Party has the same content as the notification to your country's public. If not, describe why not.

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

Questions to affected Party

24. Indicate whether and how the following provisions are reflected in your national legislation:

(a) How your country decides whether or not to participate in the EIA procedure (art. 3, para. 3);

(b) The request from the Party of origin for information (art. 3, para. 6), necessary for the preparation of the EIA documentation;

(c) How your country cooperates with the authorities of the Party of origin on public participation (art. 3, para. 8);

(d) When and how the public is notified (e.g., what kinds of media, etc., are usually used).

Article 4

Preparation of the environmental impact assessment documentation

Questions to Party of origin

25. Indicate the legal requirements in your country, if any, related to:

(a) The content of the EIA documentation (art. 4, para. 1; appendix II);

(b) The procedures for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (art. 4, para. 1);

(c) The identification of "reasonable alternatives" in accordance with appendix II, paragraph (b);

(d) The procedures and format for providing the EIA documentation domestically;

(e) The procedures and format for providing the EIA documentation to the affected Party. If there is a difference between the procedures and format domestically and for the affected Party, please explain;

(f) The procedures for the examination of, and the deadlines for comments on, the EIA documentation domestically, and how the comments submitted domestically are addressed;

(g) The procedures for the examination of, and the deadlines for comments on, the EIA documentation from the affected Party, and how the comments submitted by the affected Party are addressed;

(h) The procedures for public hearings domestically;

(i) The procedures for public hearings held on the territory of the affected Party.

Questions to affected Party

26. Indicate the legal requirements in your country, if any, related to:

- (a) The procedures and deadlines for comments on the EIA documentation to be submitted to the Party of origin;
- (b) The procedures for public participation in the review of the EIA documentation domestically, and the authority responsible for the execution of the aforementioned procedures;
- (c) The procedures for the examination of the EIA documentation domestically.

Article 5**Consultations***Questions to Party of origin*

27. Indicate the legal requirements in your country, if any, related to the following provisions:

- (a) The procedures for cooperation with the affected Party related to consultations;
- (b) The stages, procedures and deadlines for consultations with the affected Party;
- (c) The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.

Questions to affected Party

28. Indicate the legal requirements in your country, if any, related to the following provisions:

- (a) The procedures for interaction with the Party of origin related to consultations;
- (b) The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.

Article 6**Final decision***Questions to Party of origin*

29. Indicate the legal requirements in your country, if any, related to the following provisions:

- (a) The definition of the “final decision” related to the implementation of the planned activity; the content of decisions; and procedures for their adoption;
- (b) For each type of activity listed in appendix I, identify what is regarded as the “final decision” to authorize or undertake a proposed activity (art. 6 in conjunction with art. 2, para. 3); also provide the term used in the national legislation in the original language. Do all projects listed in appendix I require such a decision?

(c) The procedures for informing of the “final decision” domestically and for the affected Party;

(d) 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 the public in your country (art. 6, para. 1)?

(e) The opportunity to review the decision if, before the activity is implemented, additional information becomes available according to article 6, paragraph 3.

Article 7

Post-project analysis

30. Indicate the legal requirements in your country, if any, related to:

(a) Post-project analysis (art. 7, para. 1);

(b) Procedures for informing of the results of post-project analysis.

Article 8

Bilateral and multilateral agreements

31. Does your country have any bilateral or multilateral agreements based on the 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.

32. Has your country established any supplementary points of contact pursuant to bilateral or multilateral agreements?

Article 9

Research programmes

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

Ratification of the amendments to the Convention and of the Protocol on Strategic Environmental Assessment

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

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

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

Part two

Practical application during the period 2010–2012

37. Please report on your country's practical experiences in applying the Convention (not your country's procedures described in part one), whether as Party of origin or affected Party. The focus here is on identifying good practices as well as difficulties Parties have encountered in applying the Convention in practice; and the goal is to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve its application.

Cases during the period 2010–2012

38. If your country's national administration has a list of transboundary EIA procedures that were under way during the reporting period, in which your country was either Party of origin or affected Party, please provide this list.

39. Does your country object to the inclusion of the above list of transboundary EIA procedures in a compilation of such procedures to be made available on the website of the Convention? (Indicate "yes" if you object.)

40. Provide information and explanations on the average duration of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.

Experience in the transboundary environmental impact assessment procedure during the period 2006–2009

41. If your country has had practical experience in the transboundary EIA procedure during the reporting period, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.

42. Please share with other Parties your country's experience of using the Convention in practice. In response to each of the questions below, either provide one or two practical examples or describe your country's general experience. You might also include examples of lessons learned in order to help others:

(a) Indicate whether a separate chapter is provided on transboundary issues in the EIA documentation. How does your country determine how much information to include in the EIA documentation?

(b) Translation is not addressed in the Convention. How has your country addressed the question of translation? What does your country usually translate? What difficulties has your country experienced relating to translation and interpretation, and what solutions has your country applied?

(c) How has your country organized transboundary public participation in practice? As Party of origin, has your country organized public participation in affected Parties and, if so, how? Has your country experienced difficulties with the participation of its public or the public of another Party (e.g., have there been complaints from the public about the procedure)?

(d) Describe any difficulties that your country has encountered during consultations, for example over timing, language and the need for additional information. As an affected Party, have consultations under article 5 supported the prevention, reduction or control of possible significant transboundary environmental impacts?

(e) 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;

(f) Has your country carried out post-project analyses and, if so, on what kinds of project?

(g) Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your country's experiences describing, for example, means of cooperation (e.g., contact points, joint bodies, bilateral agreements), institutional arrangements, and how practical matters are dealt with (e.g., translation, interpretation, transmission of documents, etc.);

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

(i) Identify the most common means of applying the Convention (e.g., through focal points, joint bodies, multilateral agreements).

Cooperation between parties in 2010–2012

43. Does your country have any successful examples of how it has overcome difficulties arising from different legal systems in neighbouring countries? If so, please specify.

Experience in using the guidance in 2010–2012

44. Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online:

(a) Guidance on public participation in EIA in a transboundary context (ECE/MP.EIA/7);

(b) Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendix);

(c) Guidelines on good practice and on bilateral and multilateral agreements (ECE/MP.EIA/6, annex IV, appendix).

Describe your country's experience with using these guidance documents and how they might be improved or supplemented.

Clarity of the Convention

45. Has your country 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?

Awareness of the Convention

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

47. Does your country see a need to improve the application of the Convention in your country and, if so, how does it intend to do so?

Suggested improvements to the report

48. Please provide suggestions on how this report may be improved.
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