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## **Economic Commission for Europe**

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**

#### **Twelfth meeting**

Geneva, 13-15 June 2023

Item 4 (b) of the provisional agenda

#### **Preparations for the next sessions of the Meetings of the Parties:**

#### **Provisional agenda**

### **Preparations for the high-level event on energy transition, circular economy and green financing**

#### **Note by the secretariat prepared with support from a consultant**

#### *Summary*

The present note focuses on the thematic event on the role of the Convention and the Protocol regarding energy transition, circular economy and green financing to be organized during the high-level segment of the next sessions of the Meetings of the Parties (Geneva, 12-15 December 2023) and involving the preparation of a related background/discussion/advocacy paper. The organization of the event and the drafting of the related document will be supported by consultants to the secretariat funded by Italy. The present note has been prepared taking into account the recommendations from the Bureau and the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment and in consultation with representatives of volunteering Parties and stakeholders.

This note presents for consideration of the Working Group:

- (a) An initial outline of the background document that will contain information on the role of the Convention and the Protocol with respect to the topics in question; and suggest points of discussion/key guiding questions for the thematic event. Overall conclusions will be provided setting out the benefits of the Convention and Protocol, their further potential in relation to enhancing the three topic areas, and implementation challenges. (Once finalized, taking account of the comments from the Working Group, the background document will be issued as an official document ahead of the Meetings of the Parties' sessions);
- (b) An initial outline of the programme for the thematic event. (Ultimately, the

final programme with a confirmed list of speakers (and their short biographies) will be issued as an informal document before the MOP sessions);

(c) An indicative timeline for the preparatory steps for the event and its background paper ahead of the Meetings of the Parties' sessions.

The Working Group will be invited to consider the note and provide guidance on the preparation of the thematic event and its background material, including with a view to attracting high-level interest and participation. Delegations are also invited to suggest further panellists for the event, as well as high-level representatives to deliver brief statements from the floor, with a recommended time limit of 3 minutes

The provisional annotated agenda for the next sessions of the Meetings of the Parties, as agreed by the Bureau, is contained in a separate document (ECE/MP.EIA/WG.2/2023/INF.5) for agreement by the Working Group.

## **I. An initial outline of the background document for the high-level thematic event**

### **A. Introduction**

1. The Working Group on Environmental Impact Assessment and Strategic Environmental Assessment at its meeting in Geneva, 19–21 December 2022 agreed that the thematic event be held during the high-level segment of the Meetings of the Parties' next sessions (Geneva, 12–15 December 2023) and focus on the role and the practical application of the Convention and the Protocol for promoting energy transition and circular economy<sup>1</sup>. The Bureau at its meeting 22–23 February 2023 decided to add the topic of green financing (initially suggested as a separate topic at the Working Group meeting December 2022) as a key component for energy transition and circular economy to the themes of the high-level thematic event. These topics are of relevance for meeting the global commitments under the Paris Agreement and the 2030 Agenda for Sustainable Development, including, in particular, the SDGs 7 and 13 on energy and climate action, respectively.

2. Many countries worldwide are pursuing energy transition, and policies and/or legal instruments are emerging to implement the circular economy and green financing. As such, nations are having to deal with significant development pressures accompanied by increasingly stringent sustainability assessment requirements and associated reporting. There is significant potential for the Convention<sup>2</sup> and the Protocol<sup>3</sup> to assist with obligations associated with these emerging topics, and a need to ensure compatibility between them. This document contributes to meeting these emerging opportunities by outlining the treaties' benefits, further potential and any implementation challenges and suggested solutions in this regard. The document aims to provide the basis for discussions during the high-level segment event and suggest some key guiding questions/issues on each of the three topics for consideration of the invited speakers and the audience. Secondly, the document is intended to serve as advocacy material for promoting awareness and effective application of the two treaties by their Parties, future Parties and stakeholders within and beyond the UNECE region, including in cooperation and coordination with relevant partner organizations and international financial institutions. The document therefore presents an opportunity to help shape future practice under the Convention and the Protocol to better meet emerging developments associated with the topics of energy transition, circular economy, and green financing.

3. The consultancy support funded by Italy for the preparation of the thematic event and the present document is welcomed, together with inputs from: the Chair of the Bureau and Chair of the Meetings of the Parties sessions of 2017, 2019, 2020, and possibly of 2023; representatives of Italy, Spain and the International Association for Impact Assessment.

4. There is considerable overlap of the related provisions and practices under each instrument as they relate to the three topics considered in this paper. In order to prevent repetition, the key provisions are briefly outlined in the next section, before

<sup>1</sup> Report of the Working Group on its eleventh meeting (post-session). Accessed 29 March 2023 at [https://unece.org/sites/default/files/2023-01/ece\\_mp\\_eia\\_wg\\_2\\_2022\\_2\\_adv\\_copy.pdf](https://unece.org/sites/default/files/2023-01/ece_mp_eia_wg_2_2022_2_adv_copy.pdf), para 57-58.

<sup>2</sup> ECE/MP.EIA/21/Amend.1

<sup>3</sup> ECE/MP.EIA/SEA/8

each of the topics are introduced in turn in the following three sections, with suggested points of discussion/key guiding questions provided for each of them. The document ends with an initial outline of the programme for the high-level thematic event and an indicative timeline for the preparatory steps for the thematic event and its background paper.

## B. Relevant provisions and practices under each instrument

5. The Espoo Convention and its Protocol on Strategic Environmental Assessment were elaborated under the auspices of the United Nations Economic Commission for Europe (ECE). The Protocol is accessible to all State Members of the United Nations, and the Convention is expected to become a global instrument in the next few years. The two treaties offer international legal frameworks and well-established practical procedures for preventing, controlling and mitigating adverse cross-border environmental impacts of projects; and for ensuring that, environmental, including health, considerations are thoroughly taken into account in plans and programmes, and possibly to policies and legislation, respectively. Both instruments apply across multiple economic sectors, contribute to environmental governance and transparency in planning and decision-making, through their requirements for public participation and stakeholder consultation, and promote international cooperation. Transboundary Environmental Impact Assessment under the Convention and Strategic Environmental Assessment under the Protocol are actively used by their Parties to green projects, plans and programmes, including in the field of energy, and have the potential to play an increasingly important role in promoting energy transition and circular economy and in creating enabling conditions for green financing within the ECE region and globally. ECE is also developing an assessment report on the identification of synergies and possible cooperation activities in marine regions, focussing on regional sea conventions or bodies<sup>4</sup>; recognising the importance of marine regions for hosting renewable energy infrastructure, there is potential for some integration of findings from this background paper into the “way forward” planning coming from that process, and vice versa.

6. A brief explanation of the relevant provisions of the Convention and the Protocol will be included in this section.

## C. Energy transition

7. The issues under the topic of energy transition will be introduced under three headings as set out below, with an initial introduction to the key areas of focus.

### 1. What is an energy transition? /Introduction to the concept

8. Transition is defined by the Intergovernmental Panel on Climate Change in their sixth assessment report as “*The process of changing from one state or condition to another in a given period of time. Transition can occur in individuals, firms, cities, regions and nations, and can be based on incremental or transformative change*”<sup>5</sup>. Sustainable Development Goal 7<sup>6</sup> aims, by 2030, to ensure universal access to energy, substantially increase the renewable energy share, double the rate of improvement of energy efficiency, enhance international cooperation to facilitate access to clean energy, and expand infrastructure and upgrade technology for supplying modern and sustainable energy services for all

<sup>4</sup> ECE.MP.EIA.WG2.2022.INF.10

<sup>5</sup> IPCC, 2022: Annex I: Glossary. Cambridge University Press, Cambridge, UK and New York, NY, USA

<sup>6</sup> UN Sustainable Development Goal 7 Affordable and Clean Energy. Accessed 29 March 2023 at: <https://www.un.org/sustainabledevelopment/energy/>

developing countries. A key pillar in the energy transition is therefore a global shift towards renewable energy.

## 2. Policy frameworks, goals and targets for energy transition

9. The 2015 Paris Agreement goal<sup>7</sup> is to reduce energy-related CO<sub>2</sub> emissions such that global mean temperature rises are held well below 2 °C, and that efforts are pursued to limit the rise to within 1.5°C of pre-industrial levels.

10. The Energy Transitions Commission calculate that global capital investment will need to average \$3.5 trillion per annum between 2023 and 2050 (from starting levels between \$0.9-1.2 trillion)<sup>8</sup>. The Convention and Protocol are therefore well placed to assess the potential impacts resulting from the plans, programmes and projects resulting from this investment. Green financing rules are also being adopted worldwide to ensure the sustainable allocation of investments (see section E). Furthermore, the European Green Deal, as one example of a strategy for delivering the energy transition, incorporates a circular economy action plan adopted in 2020<sup>9</sup> (see section D). Therefore, the three topics of energy transition, circular economy, and green financing are interlinked.

## 3. Role, benefits and further potential of the Convention and Protocol in promoting energy transition

11. Considerable investment in new energy infrastructure is expected as part of the energy transition and many of the proposals for new infrastructure will likely cross national borders and therefore require transboundary environmental impact assessment. Within this context, it is notable that wind farms accounted for the largest number of transboundary consultation procedures by a considerable margin that took place between 2019-2021, according to data reported by the Parties to the Convention<sup>10</sup>. This indicates that the Convention is already playing an important role in the energy transition.

12. Energy transition will necessarily involve a wide range of interventions, including plans, programmes and projects, in order to make the changes required to meet the obligations of the Paris Agreement. Both the Convention and Protocol contain a requirement to include mitigation measures in the environmental reports produced. Whilst both the Convention and the Protocol require a consideration of climate impacts, there is less clarification over the scope of 'climate' than is found in, for example, the European Union Environmental Impact Assessment Directive which refers to the need to consider adaptation to climate change, vulnerability to climate change, and to include the nature and magnitude of greenhouse gas emissions<sup>11</sup>. Green finance requirements introduced through green finance

<sup>7</sup> The Paris Agreement. Accessed 29 March 2023 at: <https://unfccc.int/process-and-meetings/the-paris-agreement>

<sup>8</sup> Energy Transitions Commission (2023), "Financing the Transition: How to Make the Money Flow for a Net-Zero Economy", available at <[https://www.energy-transitions.org/wp-content/uploads/2023/03/ETC-Financing-the-Transition\\_MainReport-.pdf](https://www.energy-transitions.org/wp-content/uploads/2023/03/ETC-Financing-the-Transition_MainReport-.pdf)>, last accessed 19 April 2023.

<sup>9</sup> European Commission (2020), "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A new Circular Economy Action Plan For a cleaner and more competitive Europe", available at <[https://eur-lex.europa.eu/resource.html?uri=cellar:9903b325-6388-11ea-b735-01aa75ed71a1.0017.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:9903b325-6388-11ea-b735-01aa75ed71a1.0017.02/DOC_1&format=PDF)>, last accessed 19 April 2023.

<sup>10</sup> [https://unece.org/sites/default/files/2022-11/ece\\_mp.eia\\_wg.2\\_2022\\_3\\_eng.pdf](https://unece.org/sites/default/files/2022-11/ece_mp.eia_wg.2_2022_3_eng.pdf)

<sup>11</sup> European Parliament and the Council of the European Union (2014), "Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive

taxonomies (for example, the European Union Taxonomy<sup>12</sup>) also include equivalent emphasis on climate adaptation as well as climate mitigation, as do emerging international sustainability reporting standards (see section E below), which are broader in scope than assessment requirements under the Convention and Protocol.

13. Many businesses worldwide make use of the Greenhouse Gas Protocol<sup>13</sup> to help account for and manage their emissions through classification of emissions into three categories: Scope 1 emissions are direct emissions from operations of a business (including the fleet transport and emissions from manufacturing processes), Scope 2 emissions are indirect emissions (including any electricity/heating/cooling that is purchased), and Scope 3 emissions are also indirect emissions but are those from customers and suppliers (including everything emitted by suppliers and customers across the value chain of a business). Scope 3 emissions are not explicitly listed in the Convention or Protocol as environmental impacts to be considered. The significant indirect impacts of a proposed project usually do have to be considered under other environmental impact assessment legislation, for example, under article 3(1) of Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (as amended)<sup>14</sup>. The lack of specific focus on Scope 3 emission in the Convention and Protocol could restrict the ability of assessments to gain the greatest benefits in terms of reduced emissions.

14. Taking the European Union as an example, many European Union Green Deal-related strategies focus on compensation, or offsetting. For example, the European Union 'Fit for 55'<sup>15</sup> package includes the removal of CO<sub>2</sub> from the atmosphere, and a revised land use, land use change and forestry regulation was adopted in March 2023<sup>16</sup> that set an increased European Union-wide target for carbon removals in line with Paris Agreement commitments. The European Union Emissions Trading System<sup>17</sup>, as a cornerstone of European Union climate change policy, allows countries to trade emissions based on a cap-and-trade system. The European Union Biodiversity strategy for 2030<sup>18</sup> states that "the world should commit to the net-gain principle to give nature back more than it takes". Carbon removals through, for example, tree planting, are classed as compensation, or offsetting; the European Union Emissions Trading System is also a form of offsetting for some businesses; and biodiversity net gain is considered to be an offsetting strategy. This focus on offsetting contrasts with mitigation as defined under the Convention and the Protocol which does not include compensation or offsetting; this may be restrictive in terms of the ability of measures that might be proposed under the Convention and/or Protocol to help achieve other carbon-reduction commitments and is potentially inconsistent with other carbon reduction strategies. Some civil society organizations dispute the value of emissions trading in advancing climate resilient development if appropriate safeguards are not incorporated, citing Finding C.5.2 of an IPCC Synthesis Report.<sup>19</sup>

**Commented [NTW1]:** Amnesty International, the Center for International Environmental Law (CIEL), Climate Action Network-Europe (CAN-E), Earthjustice, the European Environmental Bureau (EEB), Human Rights Watch (HRW) and Association Justice & Environment have expressed concern about the risks to communities with high vulnerability to climate hazards associated with carbon trading mechanisms.

2011/92/EU on the assessment of the effects of certain public and private projects on the environment", *Official Journal of the European Communities*, **L124**, pages 1-18.

<sup>12</sup> European Union (2020), "Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088", *Official Journal of the European Communities*, **L198**, pages 13-43

<sup>13</sup> <https://ghgprotocol.org/>

<sup>14</sup> European Parliament and the Council of the European Union (2014), "Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment", *Official Journal of the European Communities*, **L124**, 1-18.

<sup>15</sup> <https://www.consilium.europa.eu/en/policies/green-deal/fit-for-55-the-eu-plan-for-a-green-transition/#:~:text=The%20European%20climate%20law%20makes,EU%20climate%20neutral%20by%202050.>

<sup>16</sup> [https://www.europarl.europa.eu/doceo/document/TA-9-2023-0066\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2023-0066_EN.html)

<sup>17</sup> [https://climate.ec.europa.eu/eu-action/eu-emissions-trading-system-eu-ets\\_en](https://climate.ec.europa.eu/eu-action/eu-emissions-trading-system-eu-ets_en)

<sup>18</sup> [https://environment.ec.europa.eu/strategy/biodiversity-strategy-2030\\_en](https://environment.ec.europa.eu/strategy/biodiversity-strategy-2030_en)

<sup>19</sup> Synthesis Report of the IPCC Sixth Assessment Report (AR6).  
[https://report.ipcc.ch/ar6syrr/pdf/IPCC\\_AR6\\_SYR\\_SPM.pdf](https://report.ipcc.ch/ar6syrr/pdf/IPCC_AR6_SYR_SPM.pdf)

15. Concerns have been raised globally over the time and cost implications of conducting environmental impact assessment, and recent research has suggested a weakening of some legislation to save time and costs associated with the process<sup>20</sup>. Given the scale of the energy transition, opportunities to streamline assessments, or to use the Convention and Protocol to streamline other mandatory assessments (for example, those associated with green taxonomies), would be welcomed. However, impact assessment resource allocation considerations should not subvert the purpose of the process, which is to prevent much greater resource-intensive reparations for damage to the global climate and environment.

16. Recent experience in Saskatchewan, Canada, has used a specific transition-based strategic environmental assessment approach to address the wider capacity needs, opportunities, risks and obstacles in existing governance arrangements<sup>21</sup>. This illustrates a case where strategic environmental assessment is applied more strategically as recommended by the Protocol on Strategic Environmental Assessment, to consider the suite of policies and plans required to facilitate energy transition. Case studies of the application of strategic environmental assessment at the policy level have also been published based on European experience<sup>22</sup>.

*Suggested points of discussion/key guiding questions*

1. Should life cycle impacts, including indirect impacts (and specifically emissions), be more clearly included in the scope of the Convention and Protocol to fully capture emissions that occur outside the Party of origin, but are contingent on a plan, programme or project, and to the extent appropriate policies and legislation, in the Party of origin (to prevent export of Scope 3 emissions to other countries)?
2. Does the consideration of climate impacts under the Convention and Protocol need clarifying to better reflect the need to consider adaptation to climate change, and vulnerability to climate change, e.g., through agreement by Parties that climate impacts include the nature and magnitude of greenhouse gas emissions?
3. What best-practice cases exist for the use of strategic environmental assessment and environmental impact assessment in promoting energy transition? What can we learn from these cases about opportunities for conducting more efficient (i.e., taking less time and costing less) assessments at the strategic and project-levels, and for ensuring proposals for energy transition plans, programmes and projects can be determined in a timely and cost-effective manner?
4. How can the consideration of the SDG7 targets, as part of the evaluation of the significance of impacts within transboundary environmental impact assessment and strategic environmental assessment conducted under the Protocol, be advanced and promoted?
5. Given the high-level nature of planning for energy transition, incorporating a range of different interventions, is a specific transition-based strategic environmental assessment approach needed to support energy transition planning? If so, how can this be delivered under the Protocol?
6. Given that most environmental impact assessment practice has extended the

<sup>20</sup> Fischer, T. B., et al. (2023). "Simplification of environmental and other impact assessments – results from an international online survey." *Impact Assessment and Project Appraisal* **41**(3): 181-189.

<sup>21</sup> Nwankezie, K, B Noble and G Poelzer (2022), "Strategic assessment for energy transitions: A case study of renewable energy development in Saskatchewan, Canada", *Environmental Impact Assessment Review*, **92**.

<sup>22</sup> Sadler, B, (editor). (2005), *Strategic Environmental Assessment at the Policy Level: Recent progress, current status and future prospects*. (Ministry of the Environment, Czech Republic, Prague).

mitigation hierarchy to include compensation and enhancement (offsets), and biodiversity net gain requirements are becoming mandatory in many countries, should the Convention and Protocol also promote consideration of offsets as allowable mitigation measures? If yes, how should this be done?

## D. Circular Economy

17. The issues under the topic of circular economy will be introduced under three headings as set out below, with an initial introduction to the key areas of focus.

### 1. What is circular economy? /Introduction to the concept

18. "The CE [circular economy] concept is generally understood as a transition from a linear (take, make, use, dispose) model to a circular (restorative and regenerative) model"<sup>23</sup>. The World Bank reported in 2018 that 2.01 billion tonnes of municipal solid waste were produced, with this amount forecast to rise up to 3.4 billion tonnes per year by 2050<sup>24</sup>. The United Nations Conference on Trade and Development had previously indicated that, globally, waste production was based on manufacturing processes using 54% of the world's energy<sup>25</sup>. Linear production systems therefore act as a barrier to energy transition that rely on reducing energy need. The same report points to imbalances between countries in their production of goods, or their use of them – leading to further transboundary implications of trade.

19. The circular economy has been argued to rest on three key principles<sup>26</sup>: 1) eliminate waste and pollution; 2) circulate products and materials; 3) regenerate nature. In terms of climate, eliminating waste reduces emissions across the value chain; circulating products and materials retains their embodied energy, and regenerating nature sequesters carbon.

### 2. Policy frameworks for a circular economy and implementation status

20. Planning is already underway to transition to a circular economy. For the European Union Member States this is evidenced through the Action Plan for Circular Economy<sup>27</sup> which has embedded circular economy as an overarching model for delivering key elements of the European Green Deal: the new industrial strategy for Europe, leading to green growth and digital transition<sup>28</sup>; and the blue economy (circular economy examples include renewing standards for fishing gear design, ship recycling, decommissioning offshore platforms)<sup>29</sup>. In addition, the proposal for a regulation of the European Parliament and of the Council establishing

<sup>23</sup> WHO Regional Office for Europe (2019), "Assessing the health impacts of a circular economy", available at <<https://apps.who.int/iris/bitstream/handle/10665/346222/WHO-EURO-2019-3504-43263-60634-eng.pdf?sequence=3&isAllowed=y>>, last accessed 17 April 2023.

<sup>24</sup> <https://openknowledge.worldbank.org/bitstream/handle/10986/30317/9781464813290.pdf>

<sup>25</sup> UNCTAD (2018) Circular Economy: the new normal? Policy Brief No. 61, May 2018. Accessed 2023 March 28. [https://unctad.org/system/files/official-document/presspb2017d10\\_en.pdf](https://unctad.org/system/files/official-document/presspb2017d10_en.pdf)

<sup>26</sup> <https://ellenmacarthurfoundation.org/topics/circular-economy-introduction/overview#:~:text=The%20circular%20economy%20gives%20us,emissions%2C%20waste%2C%20and%20pollution.>

<sup>27</sup> European Commission (2020), "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A new Circular Economy Action Plan For a cleaner and more competitive Europe", available at <[https://eur-lex.europa.eu/resource.html?uri=cellar:9903b325-6388-11ea-b735-01aa75ed71a1.0017.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:9903b325-6388-11ea-b735-01aa75ed71a1.0017.02/DOC_1&format=PDF)>, last accessed 19 April 2023.

<sup>28</sup> [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/industry-and-green-deal\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/industry-and-green-deal_en)

<sup>29</sup> [https://oceans-and-fisheries.ec.europa.eu/ocean/blue-economy/sustainable-blue-economy\\_en](https://oceans-and-fisheries.ec.europa.eu/ocean/blue-economy/sustainable-blue-economy_en)



a framework for ensuring a secure and sustainable supply of critical raw materials<sup>30</sup> has a chapter on circularity aiming to reduce dependence on primary raw materials for use in, amongst others, the renewable energy sector. Circular economy strategies have been developed in, amongst other countries, the United States, China and Japan<sup>31</sup>. Networks of businesses have been established, like the Ellen MacArthur Foundation (United Kingdom), Circle Economy in the Netherlands, Circular Change in Slovenia, and increasing numbers of circular economy initiatives are in place at regional and city levels (for example, see the Circular City Funding Guide<sup>32</sup>). And standards [including BS8001<sup>33</sup> (United Kingdom) and XP X30-901<sup>34</sup> (France)] are being established to harmonise concepts, terminology, approaches and metrics.

### 3. Role, benefits and further potential of the Convention and Protocol in promoting a circular economy

21. The development of the circular economy requires both vertical (from policies down to projects) and horizontal (across sector) implementation. The European Economic and Social Committee made some recommendations based on research into emerging circular economy strategies across Europe (European Union member states plus Norway and the United Kingdom) and argued for “*stronger involvement of civil society organisations in earlier phases of strategy development*”<sup>35</sup>. As both the Convention and the Protocol apply across multiple sectors and have comprehensive public participation requirements, they are ideally placed to help with the implementation of the circular economy.

22. A transition to a circular economy can have many implications, including changes in: trade patterns; manufacturing approaches; location of manufacturing industries; amongst others. These changes are facilitated through plans, programmes and projects potentially subject, respectively, to strategic environmental assessment and transboundary environmental impact assessment. Therefore, there are opportunities for these tools to inform and influence the transition to the circular economy.

23. The European Commission has recognised the supportive role in delivering a circular economy that environmental impact assessment plays<sup>36</sup>. In addition, the WHO, Regional Office for Europe, recognize the role that both strategic environmental assessment and environmental impact assessment can play in

<sup>30</sup> [https://eur-lex.europa.eu/resource.html?uri=cellar:903d35cc-c4a2-11ed-a05c-01aa75ed71a1.0001.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:903d35cc-c4a2-11ed-a05c-01aa75ed71a1.0001.02/DOC_1&format=PDF)

<sup>31</sup> <https://www.oecd-ilibrary.org/uea.idm.oclc.org/docserver/ae4a2176-en.pdf?expires=1684071635&id=id&acname=oid033621&checksum=C57DCC65998B6A61CAE871C5FBEAC8AC>

<sup>32</sup> Circular City Funding Guide (undated), “Circular city initiative and resources”, available at <<https://www.circularcityfundingguide.eu/circular-city-initiatives-and-resources/>>, last accessed 21 April 2023.

<sup>33</sup> bsi (2017), “The rise of the circular economy: BS8001”, available at <<https://www.bsigroup.com/en-GB/standards/benefits-of-using-standards/becoming-more-sustainable-with-standards/BS8001-Circular-Economy/>>, last accessed 21 April 2023.

<sup>34</sup> Groupe, a (2020), “A practical guide to getting into circular economy”, available at <<https://www.afnor.org/en/news/practical-guide-circular-economy/>>, last accessed 21 April 2023.

<sup>35</sup> <https://www.eesc.europa.eu/sites/default/files/files/qe-01-19-425-en-n.pdf>

<sup>36</sup> European Commission (2014), “Scoping study to identify potential circular economy actions, priority sectors, material flows and value chains”, available at <<file:///C:/Users/eressci19/e183/data/Downloads/scoping%20study%20to%20identify%20potential%20circular%20economy-KH0114775ENN.pdf>>, last accessed 17 April 2023.

considering the human health implications of moving towards a circular economy. The International Association for Impact Assessment recognize that some alignment is needed between impact assessment and circular economy approaches<sup>37</sup>.

24. Whilst the Convention and Protocol are ideally placed to facilitate examinations of the impacts of proposed interventions across a broad range of environmental, and health, components, they were designed at a time before circularity emerged as an important design concept. Their requirements to report on the significance of potential impacts of reasonable alternatives, and to suggest mitigation measures for any significant impact, falls short of embedding circularity principles into the assessment. That is, whilst impacts may be avoided, circularity opportunities are not the focus. Indeed, research has suggested that advancement towards developing a circular economy across European Union countries is varied, leading to "the existence of a two-speed Europe" in this regard<sup>38</sup>.

*Suggested points of discussion/key guiding questions*

1. How can transboundary environmental impact assessment under the Convention be made to identify and promote circular economy opportunities (e.g., where waste generated by the Party of origin can be used as a raw material by any of the concerned Parties)? And what good practices can be learnt from the experiences of the Parties?
2. How can consideration of whether a proposed action will enable/disable progress towards circularity be secured in strategic environmental assessment under the Protocol and transboundary environmental impact assessment under the Convention? Should the consideration of circularity be recommended as good practice in applying the Convention and/or the Protocol by the Parties through a decision by the Meeting of the Parties? Or is there a more effective way of ensuring progress towards circularity under the Convention and Protocol?
3. Does the lack of international legally binding agreements on delivering the circular economy threaten short- and medium-term economic imbalances to the benefit of those countries still pursuing linear models of development? Can the Convention and/or Protocol be used to avoid such imbalances?
4. Should environmental reports (under the Protocol) and environmental impact assessment documentation (under the Convention) be required to include circular economy alternatives as part of the consideration of reasonable alternatives? And how can such a requirement be defined, codified and implemented?
5. How can the Convention and Protocol be used to stimulate best practice approaches to the circular economy, encompassing both vertical and horizontal integration and civil society engagement?

## **E. Green Financing**

25. The issues under the topic of green financing will be introduced under three headings as set out below, with an initial introduction to the key areas of focus.

<sup>37</sup> Fothergill, J and J Murphy (2021), "IAIA FasTips No.22: An Introduction to the Circular Economy for Impact Assessment Professionals", available at [https://www.iaia.org/uploads/pdf/Fastips\\_22%20Circular%20Economy\\_5.pdf](https://www.iaia.org/uploads/pdf/Fastips_22%20Circular%20Economy_5.pdf), last accessed 17 April 2023.

<sup>38</sup> Mazur-Wierzbicka, E (2021), "Circular economy: advancement of European Union countries", *Environmental Sciences Europe*, **33**(1), pages 111.

## 1. What is green financing? /Introduction to the concept

26. Green financing involves the alignment of financial investments with climate and sustainability goals. Such financing can be subject to voluntary high-level principles such as those agreed at the G20 Sustainable Finance Working Group:

Principle 1: Ensure material positive contributions to sustainability goals and focus on outcomes;

Principle 2: Avoid negative contribution to other sustainability goals (e.g., through “do no significant harm” principle to any sustainability goal requirements);

Principle 3: Be dynamic in adjustments reflecting changes in policies, technologies, and state of the transition;

Principle 4: Reflect good governance and transparency;

Principle 5: Be science-based for environmental goals and science or evidence-based for other sustainability issues; and

Principle 6: Address transition considerations<sup>39</sup>.

27. More than 30 different taxonomies are known to exist globally, each with different definitions of what does or does not constitute a green investment.

## 2. Policy frameworks for green financing and implementation status

28. An example of one of the many green taxonomies being developed is the European Union Regulation 2020/852 on the establishment of a framework to facilitate (environmentally) sustainable investment, commonly referred to as the European Union Taxonomy for sustainable activities<sup>40</sup>. This has six policy objectives including: climate change mitigation; climate change adaptation; the sustainable use and protection of water and marine resources; the transition to a circular economy; pollution prevention and control; the protection and restoration of biodiversity and ecosystems. It defines economic activity as being sustainable only where it:

- Makes a substantial contribution to at least one of these environmental objectives;
- Does no significant harm to any other environmental objectives;
- Complies with minimum social safeguards; and
- Complies with technical screening criteria established by the European Commission through Delegated Acts.

29. The European Union sustainable finance taxonomy sets out “*substantial requirements*” in relation to each of the six policy objectives listed in paragraph 32 in articles 10-15<sup>40a</sup>. As such, there is a need to ensure consistency between the taxonomy and the assessment of significance in transboundary environmental impact assessment under the Convention, and in strategic environmental assessment under the Protocol, in relation to evaluation of impacts and to reflect the taxonomy policy objectives to make a substantial contribution to climate (climate change

<sup>39</sup> SFWG (2021). ‘G20 sustainable finance working group – 2021 synthesis report. 2021 Oct 7, Accessed 2021 Oct 27. <https://g20sfwg.org/wp-content/uploads/2021/10/G20-SFWG-Synthesis-Report.pdf>.

<sup>40</sup> European Union (2020), “Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088”, *Official Journal of the European Communities*, **L198**, pages 13-43.

mitigation, and adaptation), water (the protection of water and marine resources), soil and air (pollution prevention and control), biodiversity (Protocol only) and fauna and flora (the protection and restoration of biodiversity and ecosystems).

~~30. The European Union Taxonomy is supported by Delegated Acts which set out technical screening criteria which must be satisfied in order for an economic activity to be considered sustainable.~~

30. The greatest obstacles to a successful sustainable finance regulatory system are misleading policies and communications about energy sustainability profiles. According to the European Banking Authority, recent quantitative analyses shows a "clear increase in the total number of potential cases of greenwashing across all sectors, including for EU banks."<sup>41</sup> This could be countered by encouraging methodological transparency and ensuring through statutory safeguards that only independent scientific data is sourced.

**Commented [NTW2]:** The legality of the Delegated Acts is still being litigated by environmental NGOs before the European Court of Justice.

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31. In January 2023 the Corporate Sustainability Directive<sup>42</sup> entered into force and requires sustainability reporting by businesses of a certain size. Reporting will be governed by European Sustainability Reporting Standards (the first draft set has been published<sup>43</sup>) produced by the European Financial Reporting Advisory Group, an independent body which is also building on, and contributing to, international sustainability reporting standards being produced by the International Sustainability Standards Board (launched on 3 November 2021 at 26th United Nations Climate Change Conference of the Parties held in Glasgow). These reporting standards incorporate the concept of 'double materiality', which means that both the impact of the business (and its activities) on sustainability matters should be considered (called impact materiality), but also how sustainability matters affect the business and its activities (called financial materiality).

### 3. Role, benefits and further potential of the Convention and Protocol in promoting green financing

32. There is an expectation of increasing conditionality of financing based on the sustainability performance of proposed investments, for example, the European Bank for Reconstruction and Development raised its target to achieving a green finance ratio of at least 50% of annual investments by 2025<sup>44</sup>. Therefore, it is anticipated that green taxonomies will become increasingly important benchmarks underpinning investment decisions. This raises the potential for projects subject to transboundary environmental impact assessment, or plans and/or programmes subject to strategic environmental assessment, being adopted based on acceptance of the competent authorities of the impacts and mitigation measures identified; but then the same interventions may be refused finance if they cannot demonstrate DNSH and/or a positive contribution.

33. Suggestions have already been made that environmental impact assessment can have a significant role in examining whether proposed investments meet the requirements of the European Union Taxonomy during several stages of the environmental impact assessment process<sup>45</sup>, including the consideration of alternatives and mitigation measures (Article 4/Appendix II); Environmental Impact Assessment review/Environmental Impact Statement publication (Article 4/Appendix II). It is argued that the evidence-based nature of environmental impact

<sup>41</sup> ESAs present common understanding of greenwashing and warn on related risks, 01 June 2023, <https://www.esa.europa.eu/esas-present-common-understanding-greenwashing-and-warn-related-risks>

<sup>42</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022L2464>

<sup>43</sup> <https://www.efrag.org/lab6>

<sup>44</sup> <file:///ueahome/eressci19/e183/data/Downloads/ebd-sustainability-report-2020.pdf>.

<sup>45</sup> Dusik, J and A Bond (2022), "Environmental assessments and sustainable finance frameworks: will the EU Taxonomy change the mindset over the contribution of EIA to sustainable development?", *Impact Assessment and Project Appraisal*, **40**(2), pages 90-98.

assessment is ideally suited to assessing whether a proposed activity meets the criteria laid down in the Taxonomy<sup>4543</sup>.

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34. Sustainable financing directly overlaps with both energy transition (through the climate change mitigation and adaptation objectives) and with the transition to a circular economy. The policy objectives overlap also with the environmental components that are the focus of both transboundary environmental impact assessment under the Convention and strategic environmental assessment under the Protocol and will likely involve significant planning and project development to implement.

35. As the Sustainable Finance Taxonomy is relatively new, there is little in the way of case applications that have explored the overlap between the application of a green taxonomy and the practice of either strategic environmental assessment or environmental impact assessment. One example reported from Czechia concluded that a proposed systematic alignment between the strategic environmental assessment for an operational programme and the technical screening criteria associated with the European Union sustainable finance Taxonomy "is indeed useful"<sup>46</sup>.

36. Sustainability Reporting Standards will require evidence to be gathered on sustainability matters, and assessments conducted under the Convention and Protocol are likely to be able to contribute to this reporting obligation, improving the efficiency of the process. The focus on double materiality is not reflected in the text of the Convention or Protocol.

*Suggested points of discussion/key guiding questions*

1. How should the key concepts of green taxonomies (notably, "Do No Significant Harm" and "Makes a substantial contribution to at least one of these environmental objectives" [on climate change mitigation, climate change adaptation, the sustainable use and protection of water and marine resources, the transition to a circular economy, pollution prevention and control, and the protection and restoration of biodiversity and ecosystems]) be best aligned with the Convention and the Protocol to ensure consistent decision-making throughout planning and financing stages?
2. Is there merit in determining commonalities between emerging taxonomies as a basis for better understanding how any screening criteria supporting their application can be aligned with assessment obligations under the Convention and the Protocol?
3. In line with question 2 from the energy transition topic, does the meaning of 'climate' under the Convention and Protocol need to be harmonized with the understanding under other green finance taxonomies?
4. What role can the Convention and the Protocol play in assisting with emerging sustainability reporting standards?
5. Is the concept of double materiality as embedded in sustainability reporting standards relevant to transboundary environmental impact assessment conducted under the Convention, and strategic environmental assessment conducted under the Protocol? If so, what can be done to improve the linkages between the operation of these instruments and sustainability reporting standards requirements?

<sup>46</sup> Bond, A and J Dusík (2022), "Environmental assessments and sustainable finance taxonomies – a riposte", *Impact Assessment and Project Appraisal*, **40(2)**, pages 123-128

## Conclusions

Table 1.

**Summary of benefits, further potential and implementation challenges of the Convention and Protocol in relation to energy transition, circular economy and green financing**

Topic	Benefits of the Convention and Protocol	Further potential	Implementation challenges
<b>Energy transition</b>	<ul style="list-style-type: none"> <li>Operational frameworks that cover energy transition plans, programmes and projects: data indicate that the Convention is playing an active role in securing transboundary consultations for renewable energy projects.</li> <li>Comprehensive provisions for consultation and public participation exist, and there is associated guidance.</li> <li>Strong emphasis on health (especially in the Protocol).</li> <li>Existence of bi- and multi-lateral implementation agreements provides an opportunity for efficient and effective implementation of best practices.</li> </ul>	<ul style="list-style-type: none"> <li>More detailed consideration of climate change: e.g., a requirement to address climate resilience (including adaptation and vulnerability to climate change).</li> <li>Quantification of direct and indirect transboundary carbon emissions (including Scope 3 emissions in particular).</li> <li>Inclusion of compensation and offsetting measures, alongside mitigation measures (e.g., in appendix II &amp; IV of the Convention).</li> <li><del>Faster</del> <u>Faster, —Lifecycle risk early screening, better transparency and more focussed—robust project planning assessments</u> to facilitate more <del>timely</del> <u>effective assessments and paths transition to planning and consent</u>.</li> <li>Direct reference to SDG7 targets and indicators in consideration of impacts when applying the Convention &amp; Protocol.</li> </ul>	<ul style="list-style-type: none"> <li>Political resistance to extending the factors to be considered under the Convention &amp; Protocol.</li> <li>Methodological challenges in quantifying indirect emissions.</li> <li>Capacity development requirements to ensure adequate practice.</li> <li><del>Fast</del> <u>Escalation of public pressure to increase the</u> pace of related policy change (e.g., overlapping requirements for green finance and circular economy, Kyoto Protocol implications for countries, etc.).</li> </ul>
<b>Circular economy</b>	<ul style="list-style-type: none"> <li>Convention and Protocol already embedded vertically and horizontally in State Parties – clear pathway exists to influence development of circular economy in plans, programmes and projects.</li> <li>Comprehensive provisions for consultation and public participation, and associated guidance all help to deliver the necessary civil society involvement.</li> <li>WHO recognizes role of environmental impact assessment and strategic environmental assessment in delivering health opportunities through circular economy.</li> <li>Convention and Protocol already require assessments of impacts on a broad range of environmental components,</li> </ul>	<ul style="list-style-type: none"> <li>Evaluation of circularity of proposed plans, programmes and/or projects to ensure maximum carbon reductions.</li> <li>More consideration of circularity opportunities across borders (especially using transboundary provisions of Convention).</li> <li>Opportunity to deliver more consistent and timely adoption of circular economy principles across Parties.</li> <li>Potential to change the mindset over linear models of development to them being an action of last resort.</li> <li>Double materiality requirements of sustainability reporting standards (see green financing) has potential for identifying circularity opportunities associated with</li> </ul>	<ul style="list-style-type: none"> <li>Uneven progress towards development of circular economy in Parties and future Parties could lead to political resistance to a more formal mandate.</li> <li>Scope 3 emissions certification system would potentially need to be agreed.</li> <li>Arguments over the short-term cost implications of moving towards a circular economy threatening the achievement of energy transition target deadlines.</li> <li>Lack of experience in embedding circular economy principles into environmental impact assessment and strategic environmental assessment.</li> <li>Lack of current supply</li> </ul>

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	and health, which are fundamental to delivering three key circular economy principles.	financial risks to businesses.	chain solutions for delivering the circular economy.
<b>Green financing</b>	<ul style="list-style-type: none"> <li>• Transboundary environmental impact assessment under the Convention and strategic environmental assessment under the Protocol potentially have an important role to play in certifying the sustainability of investments against green finance taxonomies' technical screening criteria.</li> <li>• The Convention and Protocol already have requirements to investigate impacts on specific environmental components which green financing requirements list as being protected from harm, including climate, water, biodiversity and the implications of pollution on a variety of additional environmental components.</li> <li>• Early attempts at alignment of strategic environmental assessment and the European Union Taxonomy have been found to be useful.</li> </ul>	<ul style="list-style-type: none"> <li>• The Convention and the Protocol can help provide the data to help comply with the "do no significant harm" and "positive contribution" requirements from green financing</li> <li>• Assessments under the Convention and the Protocol can potentially provide some of the data needed by businesses obliged to report under sustainability reporting standards.</li> <li>• "Do no significant harm" and "positive contribution" requirements from green financing could enhance environmental protection.</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of understanding of how environmental impact assessment and strategic environmental assessment can support implementation of Taxonomies, and sustainability reporting standards, jeopardises their effectiveness.</li> <li>• Accounting firms may develop their own systems for reporting or sustainability reporting standards which are not aligned with the requirements of the Convention and the Protocol. This could create inefficiencies and may potentially exclude more rigorous scientific evidence gathered under the UNECE instruments.</li> <li>• Sourcing of data from intergovernmental institutions producing biased sustainability profiles.</li> <li>• Emerging conditionality requirement for sustainable funding (i.e., target percentage of funding to be classed as sustainable under the taxonomies) could mean financing is harder to achieve (given "do no significant harm" and "positive contribution" requirements) than development consent or plan approval under the Convention or Protocol – this could create inconsistencies in decision-making.</li> </ul>

**Commented [NTW3]:** Consider also that in many cases the standards of green asset managers are superior to those of government instruments

## II. An initial outline of the programme for the high-level thematic event

Tentative timing: Thursday, 14 December 3.30-5.30 p.m.

Activity	Timing
Introduction to the structure of high-level event by moderator	15.30
Introduction to the [six] panellists by the moderator	15.34
1. .... (Italy) 2. H.E Ms Iordanov, Environment Minister, (Republic of Moldova) 3. .... (Spain) 4. .... (High-level representative of a non-UNECE country) 5. .... (High-level representative of a State Party) 6. .... (NGO representative to present coordinated views of NGOs active under the treaties)	
Presentations from two [of the six] panellists illustrating good practice and setting out key points in relation to the topics of energy transition, circular economy and green financing	15.37
1. .... (Spain) 2. H.E Ms Iordanov, Environment Minister, (Republic of Moldova)	
Facilitated panel discussions on pre-agreed questions on energy transition	15.51
Statements and questions from the floor related to energy transition. Two statements and/or questions	16.01
Presentations from two [of the six] panellists illustrating good practice and setting out key points in relation to the topics of energy transition, circular economy and green financing	16.08
3. .... (High-level representative of a State Party) 4. .... (NGO representative to present coordinated views of NGOs active under the treaties)	
Facilitated panel discussions on pre-agreed questions on the circular economy	16.22
Statements and questions from the floor related to the circular economy. Two statements and/or questions	16.32
Presentations from two [of the six] panellists illustrating good practice and setting out key points in relation to the topics of energy transition, circular economy and green financing	16.39
5. .... (Italy) 6. .... (High-level representative of a non-UNECE country)	
Facilitated panel discussions on pre-agreed questions on green financing	16.53
Statements and questions from the floor related to green financing. Two statements and/or questions	17.03
One or two open questions, or additional statements from the floor, time permitting	17.10
Moderator summarises key points from the discussion, incorporating 1-2 key points from each presentation, and any critical issues raised in statements/questions	17.17
Close	17.30



### III. An indicative timeline for the preparatory steps for the thematic event and its background paper

Activity	Responsible	Deadline/Date
<b>2022</b>		
<b>Working Group on Environmental Impact Assessment and Strategic Environmental Assessment, 11<sup>th</sup> meeting:</b> Conclusions on the thematic event and offers of inputs by delegations	Working Group; Spain, EIB, IAIA, WHO and Nuclear Transparency Watch	<b>19–21 December</b>
<b>2023</b>		
<b>Bureau meeting</b> Conclusions on the thematic event; and further offers of inputs to the event by Bureau members	Bureau; Italy; Switzerland	<b>22–23 February</b>
Suggestions of further panellists and high-level representatives to deliver brief (max. 3-minute) statements from the floor	All delegations	[15 May (proposals to the secretariat)]
(The present) Informal note on the event and its background document	Secretariat with support from a consultant and inputs from volunteering delegates	<b>By 17 May</b>
<b>Working Group on Environmental Impact Assessment and Strategic Environmental Assessment</b> (12 <sup>th</sup> meeting) presentation of the informal note; and guidance on the event and its background	Consultant to the secretariat; Working Group	<b>13–15 June</b>
<b>Background paper development</b> —taking into consideration feedback from Working Group meeting	Consultant to the secretariat; secretariat; Bureau	<b>16 June – 14 August</b>
<b>Final draft paper and draft questions for panellists</b>	Consultant to the secretariat	<b>14 August</b>
<b>Programme and scenario development</b> - for high level event, including suggested speakers	Consultant to the secretariat; secretariat; Bureau	<b>31 August – 26 September</b>
<b>Background document for the event and draft questions for panellists (as an official document)</b>	Secretariat supported by consultants	<i>For editing by 19 September; Available in English by 4 October</i>
Confirmation of panellists with instructions including a request for short bios and interventions in writing (including Key points/conclusions/take-aways by the speakers (max 2-3 bullet points) for moderator's summary), based on questions sent, to be received by <b>23 November</b>	Secretariat supported by consultants	<b>29 September</b>
The preliminary programme (as an informal document) will be posted online ( <i>updated as needed until the HL event</i> )	Secretariat supported by consultants	<b>3 October</b>

Request for(max 3 min.) statements from the floor including instructions for the speakers to be received by <b>30 November</b>	All delegations	<b>30 October</b>
Final programme for the event (as an informal document) uploaded	Secretariat supported by consultants	<b>23 November (3 weeks before the MOPs)</b>
Online meeting with panellists to discuss interventions	Consultant to the secretariat	<b>30 November</b>
Prepare moderation script	Consultant to the secretariat for comments by the secretariat	<b>4 December</b>
<b>Bureau meeting</b> (addressing any possible last-minute issues regarding the event, as needed)	Bureau	<b>Geneva, ½-1 day, 11 December 2023</b>
<b>Meetings of the Parties to the Convention and the Protocol – high-level segment</b>	<b>MOP9 and MOP/MOP5</b>	<b>Geneva, 12-15 December 2023; High-level segment event 14 December p.m.</b>
Prepare 2–3-page summary of key points from the high-level event	Consultant to the secretariat	<b>22 December</b>