



**Economic and Social  
Council**

Distr.  
GENERAL

ECE/MP.EIA/4  
7 August 2001

ORIGINAL: ENGLISH

**ECONOMIC COMMISSION FOR EUROPE**

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

**REPORT OF THE SECOND MEETING**

held in Sofia from 26 to 27 February 2001  
at the invitation of the Government of Bulgaria

The second meeting of the Parties to the Convention on Environmental Impact Assessment (EIA) in a Transboundary Context took place in February 2001 in Bulgaria, ten years after the signing of the Convention. The Meeting established an Implementation Committee to review the Parties' compliance with their obligations under the Convention in an effort to assist them to meet these obligations fully. The Meeting of the Parties also established a Working Group to prepare a protocol on strategic environmental assessment for possible adoption at the fifth Ministerial Conference "Environment for Europe" (Kiev, Ukraine, May 2003). The Meeting further decided to undertake a comprehensive review of experience with the implementation of the Convention and prepare possible amendments for its third meeting. The Meeting of the Parties adopted its work-plan and amended the Convention to allow other Member States of the United Nations to become Party to it upon approval by the Meeting of the Parties.

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## Introduction

1. The second meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context took place in Sofia (Bulgaria) from 26 to 27 February 2001 at the invitation of the Government of Bulgaria.
2. The meeting was attended by delegations from the following Parties to the Convention and ECE member countries: Albania, Armenia, Austria, Azerbaijan, Belgium, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Turkey, United Kingdom, Uzbekistan and the European Community.
3. The following international organizations were represented: United Nations Environment Programme (UNEP), the secretariat of the United Nations Convention to Combat Desertification and the Regional Office for Europe of the World Health Organization (WHO/EURO). A representative of the European Bank for Reconstruction and Development (EBRD) also attended. The following non-governmental organizations were represented: Ecoterra, International Association for Impact Assessment (IAIA) and Regional Environmental Center for Central and Eastern Europe (REC).

### **I. OPENING CEREMONY**

4. Ms. Evdokia Maneva, Minister of Environment and Water of Bulgaria, opened the meeting and welcomed the participants on behalf of the Government of Bulgaria. She informed the Meeting that the Convention was regarded in Bulgaria as a timely and important international instrument, able to stimulate sustainable development both in long-established European States and in those which had become independent since 1989. Ms. Maneva also indicated that the Convention would become increasingly influential as it was used by more and more countries as an efficient tool to promote active, direct and action-oriented international cooperation at the regional level.
5. Ms. Danuta Hübner, Executive Secretary of the United Nations Economic Commission for Europe (ECE), also addressed the Meeting. She underlined the importance that ECE attached to the Convention as a legally binding instrument to deal with the problem of transboundary pollution, and also because environmental impact assessment (EIA) was a cross-sectoral instrument that took an integrated approach to protecting the environment and required a comprehensive assessment of the impacts on the environment. She noted that the decisions before the Meeting required additional tasks from the secretariat and welcomed the proposals by Parties to strengthen the secretariat with additional resources.
6. Ms. Vania Grigorova, President of the Bureau of the Meeting of the Parties, reported on the Seminar on the tenth anniversary of the Convention, which had been held on Sunday, 25 February 2001, preceding the meeting of the Parties. She indicated that the following three invited speakers had prepared written presentations, which had been made available to the

participants: Ms. Ulla-Riitta Soveri (Finland) on “The Road from Espoo to Sofia”, Mr. Patrick Szell (United Kingdom) on “Legal aspects of the Espoo Convention compared to other multilateral environmental agreements” and Mr. Eliot Laniado (Italy) on “A methodology for EIA”. The networking facility attached to the database on environmental impact assessment was then presented, as was a brochure which had been prepared for the second meeting of the Parties.

## **II. CONSTITUTION OF THE SECOND MEETING OF THE PARTIES**

### **A. Election of officers**

7. Following the rules of procedure, the Meeting of the Parties elected Ms. Maneva as Chairperson and Mr. Bozo Kovacevic, Minister for Environmental Protection and Physical Planning of Croatia, as Vice-Chairperson.

### **B. Status of ratification and credentials**

#### Background document:

Note by the secretariat: Status of ratification of the Convention

8. The secretariat informed the Meeting of the Parties about the status of ratification of the Convention, the declarations made by the Parties upon deposit of their instruments of ratification, the representation at the second meeting and the credentials submitted by the Parties. The Meeting of the Parties took note of this information.

### **C. Adoption of the agenda**

#### Document for adoption

Provisional agenda for the second meeting of the Parties: ECE/MP.EIA/3

9. Ms. Maneva introduced the provisional agenda. Mr. Kovacevic introduced a technical amendment to draft decision II/14 on the amendment to the Espoo Convention (MP.EIA/2001/14). The secretariat informed the Meeting that the documentation for agenda item 5 on discussion and amendments included a proposal for amendment prepared by the delegation of Azerbaijan (MP.EIA/2001/16). The Meeting of the Parties adopted the agenda with the above amendments.

## **III. STATEMENTS BY MINISTERS AND HEADS OF DELEGATION**

10. Ms. Maneva delivered a statement on behalf of the Government of Bulgaria and thereafter representatives of the following Parties delivered statements: Albania, Austria, Azerbaijan, Belgium, Canada, Croatia, Czech Republic, Denmark, Finland, Hungary, Italy, Latvia, Lithuania, Netherlands, Norway, Poland, Portugal, Republic of Moldova, Romania, Slovakia, Slovenia, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom and the European Community. Delegations from the following ECE member countries and organizations also delivered statements: France, Germany, Ireland, Russian Federation, Tajikistan, Turkey, Uzbekistan, UNEP, the secretariat of the United Nations Convention to Combat Desertification, WHO/EURO, EBRD and IAIA.

#### **IV. REVIEW OF WORK CARRIED OUT BY THE WORKING GROUP AND ADOPTION OF DECISIONS**

11. Mr. Kovacevic presided over the discussions on item 4 of the agenda on the review of work carried out by the Working Group and the adoption of decisions.

##### **A. Bilateral and multilateral cooperation**

Document for adoption: MP.EIA/2001/1

12. The delegation of the Netherlands, in its introduction of draft decision II/1, drew the attention to the objective of the work carried out on this issue, which was to share information and experiences on what Parties and non-Parties had achieved through bilateral and multilateral agreements or arrangements to implement the Convention, including the guidance on bilateral and multilateral cooperation in the framework of the Convention.

13. The Meeting of the Parties adopted decision II/1 on bilateral and multilateral cooperation (see annex I below).

##### **B. Practical application of the Convention**

Document for adoption: MP.EIA/2001/2

14. Draft decision II/2 was introduced by the delegation of Finland, which pointed to the case studies, which have been analysed, and the suggestions made for strengthening the practical application of the Convention. It also mentioned that the proposed work-plan contained an item on the preparation of guidelines on good practice based on the work on this issue.

15. The Meeting adopted decision II/2 on the practical application of the Convention on Environmental Impact Assessment in a Transboundary Context (see annex II below).

##### **C. Public participation**

Document for adoption: MP.EIA/2001/3

16. In introducing draft decision II/3, the delegation of the Russian Federation thanked the delegation of Italy and the secretariat for their support. It stated that public participation was an important part of the Convention and, in order to assist competent authorities and the public in organizing effective public participation in environmental impact assessment in a transboundary context under the Convention, draft guidance had been prepared. The delegation also indicated that it was ready to continue to work on this issue as indicated in the work-plan. The delegation of the United Kingdom expressed its appreciation for the work undertaken and indicated that it would be able to support further work.

17. The Meeting adopted decision II/3 on draft guidance on public participation in environmental impact assessment in a transboundary context (see annex III below).

D. Review of compliance

Document for adoption: MP.EIA/2001/4

18. The delegation of the United Kingdom introduced draft decision II/4 on this issue, which would allow the review of Parties' compliance with their obligations under the Convention in an effort to assist them to meet these obligations fully. The structure and functions of this system would be reviewed at the next meeting of the Parties.

19. The Meeting adopted decision II/4 on the review of compliance (see annex IV below). It also established the Implementation Committee and elected the delegations of Canada, Netherlands, Republic of Moldova and United Kingdom for one term. The delegations of Armenia, Finland, Slovakia and the former Yugoslav Republic of Macedonia were elected for two terms. As the United Kingdom was lead country for this activity, Mr. Alistair McGlone was elected as president.

E. Recent developments and links with other ECE Conventions

Document for adoption: MP.EIA/2001/5

20. The delegation of Italy, in introducing draft decision II/5, drew the attention of the meeting to the fact that, since the signing of the Convention, environmental impact assessment had continued to evolve and that the Convention had a number of elements in common with other ECE conventions, as environmental impact assessment was a cross-sectoral issue.

21. The Meeting adopted decision II/5 on recent developments and links with other ECE conventions (see annex V below).

F. The database on environmental impact assessment

Document for adoption: MP.EIA/2001/6

22. The delegation of Poland, in its introduction of draft decision II/6, thanked the delegations which had supported the implementation of the database and the delegation of Hungary for undertaking an evaluation of the database. It also called upon Parties and non-Parties to submit information, including projects, the database and indicated that it was ready to continue to operate the database.

23. The Meeting adopted decision II/6 on the database on environmental impact assessment (see annex VI below).

G. Networking facility attached to the database on environmental impact assessment

Document for adoption: MP.EIA/2001/7

24. In introducing draft decision II/7, the delegation of Switzerland indicated that interactive communication among Parties and non-Parties contributed to the effective implementation of the

Convention. It therefore proposed the adoption of the networking facility. It also thanked the delegation of Poland for the work undertaken to link this facility to the database.

25. The Meeting adopted decision II/7 on the networking facility attached to the database on environmental impact assessment (see annex VII below).

#### H. Strengthening of subregional cooperation

Document for adoption: MP.EIA/2001/8

26. The delegation of Bulgaria, in introducing draft decision II/8, thanked the delegation of Norway and the secretariat for their support. It pointed out that subregional cooperation stimulated the ratification process and the practical application of the Convention. Attention was paid in particular to the recommendations for strengthening subregional cooperation.

27. The Meeting adopted decision II/8 on the strengthening of subregional cooperation (see annex VIII below).

#### I. Strategic environmental assessment

Document for adoption: MP.EIA/2001/9

28. In her introduction to draft decision II/9, Ms. Maneva recalled Article 2, paragraph 7, of the Convention and paragraph 10 of the Oslo Ministerial Declaration. She also mentioned that the decision to start the negotiations on a protocol on strategic environmental assessment was a major new development under the Convention. Such a protocol would further underline the cross-sectoral approach of the Convention. All delegations taking part in the discussion welcomed the proposal to start work on a protocol. The delegations of Italy, Norway, Poland and the former Yugoslav Republic of Macedonia offered to host a meeting of the ad hoc Working Group on the Protocol.

29. The Meeting adopted decision II/9 on strategic environmental assessment (see annex IX below).

#### J. Review of the Convention and possible amendments

Document for adoption: MP.EIA/2001/10

30. The delegation of Italy introduced draft decision II/10 and drew the attention of the Meeting to the need to take into account all the experience gained in the implementation of the Convention. It stated that a task force would be established to prepare a comprehensive package of amendments. The delegation of Sweden circulated an amendment to the draft decision.

31. The Meeting adopted decision II/10 on the review of the Convention as amended (see annex X below).



K. Work-plan

Document for adoption: MP.EIA/2001/11

32. The delegation of Bulgaria introduced draft decision II/11 and stressed that the role of lead countries in the implementation of the work-plan was important. The delegations of Romania, Slovakia and the former Yugoslav Republic of Macedonia proposed to be lead countries for item 3 of the work-plan. The delegation of Sweden circulated changes to item 8 of the work-plan in order to reflect the amendments to decision II/10. The delegation of the Russian Federation proposed to be lead country for item 9 of the work-plan. The delegation of the United Kingdom offered to support this activity.

33. The Meeting adopted decision II/11 on the work-plan with the above amendments (see annex XI below).

L. Financial assistance to the countries with economies in transition

Document for adoption: MP.EIA/2001/12

34. In the introduction of draft decision II/12 the importance of broad participation by all delegations was underlined and therefore the need to facilitate the participation of certain countries with economies in transition. It was proposed that support would also be provided, where possible, to representatives of non-governmental organizations. It was moreover proposed that the Bureau of the Meeting of the Parties, with the assistance of the secretariat, would prepare a proposal for the revision of the financial assistance to countries in transition.

35. The Meeting adopted decision II/12 with the above amendments (see annex XII below).

M. Budget and financial arrangements for the period until the third meeting

Document for adoption: MP.EIA/2001/13

36. Ms. Maneva presided over the discussion on draft decision II/13. Representatives from countries in transition willing to act as lead country indicated that additional funding would have to be found in order to allow them to implement these activities. For items 3 and 6 included in the document additional funding would have to be found and the Meeting requested the secretariat to help the lead countries do so. The delegations of the Netherlands and the Commission of the European Communities stated that they would be able to strengthen the secretariat. The delegation of Switzerland indicated that it would contribute to the Trust Fund. The delegation of the United Kingdom reiterated that it would provide financial support for item 9 on public participation.

37. The Meeting adopted decision II/13 with the above amendments (see annex XIII below).

## **V. ADOPTION OF AMENDMENTS**

Documents for adoption: MP.EIA/2001/14 and /16

38. Ms. Maneva introduced the revised text of draft decision II/14 indicating that this amendment would allow for a new definition of the public as well as non-ECE member countries to become a Party to the Convention. All delegations welcomed this proposal. During the discussion it was decided that the proposal for amendments by the delegation of Azerbaijan would be taken up by the Task Force on amendments.
39. The Meeting adopted the revised text of decision II/14 (see annex XIV below).

## **VI. ADOPTION OF THE SOFIA MINISTERIAL DECLARATION**

Documentation: MP.EIA/2001/15

40. The delegation of Bulgaria introduced the Sofia Ministerial Declaration, which sets out the main directions for the implementation of the Convention and underlines its objectives.
41. The Meeting adopted the Declaration as included in document MP.EIA/2001/15 (see annex XV below).

## **VII. DATE, VENUE AND ELECTION OF OFFICERS FOR THE THIRD MEETING OF THE PARTIES**

42. The delegation of Croatia proposed to host the third meeting of the Parties. All delegations taking part in the discussion welcomed the offer by the delegation of Croatia. In accordance with rule 4 of the rules of procedure, the Meeting decided that its third meeting would be held in Croatia in 2003. In accordance with rule 19, the Meeting elected the following officers: Mr. N. Mikulic (Croatia), Chairperson, and Ms. V. Grigorova (Bulgaria), Ms. I. Buciunaite (Lithuania), Mr. T. Lind (Chairperson of the Ad hoc Working Group on the SEA Protocol, Norway), Mr. Z. Kamienski (Poland), Mr. S. Jerdenius (Sweden), Mr. S. Ruchti (Chairperson of the Working Group on EIA, Switzerland) and Mr. A. McGlone (Chairperson of the Implementation Committee), Vice-Chairpersons.

## **VIII. CLOSING OF THE MEETING**

43. In closing the meeting, Ms. Maneva thanked all delegations for their constructive approach and recalled the important decisions taken. Ms. C. Von Schweinichen, Deputy Director of the ECE Environment and Human Settlements Division, thanked the delegation of Bulgaria for the excellent organization of this meeting and underlined the substantial input that this meeting would provide for the implementation of the Convention. The meeting was closed on 27 February 2001.

**Annex I**

**DECISION II/1  
BILATERAL AND MULTILATERAL COOPERATION**

The Meeting,

Having considered the most appropriate ways of effectively applying the Convention,

Recalling Article 8 of the Convention stipulating that the Parties may continue existing or enter into new bilateral or multilateral agreements or other arrangements in order to implement their obligations under the Convention and Appendix VI to the Convention containing elements for bilateral and multilateral cooperation,

Having considered the outcome of the workshop on bilateral and multilateral cooperation (practice and guidance) on questions of environmental impact assessment in a transboundary context,

1. Endorses the general conclusion of the workshop that, although bilateral or multilateral agreements or arrangements are not a prerequisite for the implementation of the Convention, they have proven to be a valuable tool for promoting the proper application of the Convention and decides that those agreements or arrangements are useful and effective for promoting and establishing contacts and cooperation between countries;
2. Adopts the document appended to this decision;
3. Recommends Parties to use the guidance set out in the document when preparing bilateral or multilateral agreements or arrangements as meant under Article 8 of the Convention;
4. Requests the secretariat to publish this document in the UN/ECE Environmental Series in the official languages of the Convention;
5. Decides to take into account in its work-plan for the 2001-2003 period the outcome of the work on bilateral and multilateral cooperation and the guidance prepared in connection with the outcome of the workshop on the practical application of the Convention.

## Appendix

### **BILATERAL AND MULTILATERAL COOPERATION IN THE FRAMEWORK OF THE CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT \*/**

#### Summary

1. A project on bilateral and multilateral cooperation was carried out within the framework of the work-plan for the implementation of the Espoo Convention (1998-2000). A request for information resulted in a compendium, a workshop in which presentations were made and experiences discussed, and ultimately in this document.
2. A general conclusion of the workshop was that bilateral (or multilateral) agreements or arrangements were and had already proven to be a valuable tool for promoting the proper application of the Convention.
3. Although at the workshop it was noted that the Convention applied not only to transboundary impacts between neighbouring countries but also to long-range transboundary impacts, attention was focused on bilateral agreements and arrangements between neighbouring countries.
4. The first step in preparing such agreements is to establish a bilateral forum, for example a working group. This can be done:
  - On the basis of an already existing bilateral cooperation instrument; or
  - Ad hoc, at the initiative of one or more countries.
5. The material provided showed that there were different types of agreements. First, there are general agreements which contain a statement or declaration of intent to apply the Convention. These agreements are prepared at the national government level and their text refers to the text of the Convention. Practical details will have to be dealt with in a different way, for example by creating a joint body or a joint commission.
6. Another possibility is a more specific agreement or arrangement. These agreements contain detailed guidance or recommendations for the application of the Convention. Both national governments and regional authorities should be involved in preparing them.
7. The establishment of a forum or mechanism for discussion, such as working group, should lead to an exchange of information on national legal and administrative EIA systems and on the interpretation of the provisions of the Espoo Convention.

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\*/ The annexes to the guidance, the compendium, the questionnaire and the texts of the (draft) agreements will be available in the Database on Environmental Impact Assessment (Enimpas) and can be found at <http://www.mos.gov.pl/enimpas>

8. This can be done by:
- Initiating methodological research by independent experts to prepare a number of options as a start for further negotiations; or
  - By the working group itself (the working group can be ad hoc or have a formal status and be based on an environmental cooperation agreement).
9. It is advisable to compare the provisions of the Convention and the national procedural steps. If necessary, the national procedures will have to be brought in line with the Convention. This comparison will lead to the identification of possible constraints and problems which can be overcome by the drafting of a bilateral agreement. Based on the report of the workshop in Baarn (Netherlands), key issues for inclusion in the agreement can be determined and solutions can be formulated.
10. Agreement should be reached on general principles of application of the Convention. Details of the procedure that should be followed whenever the Convention applies and the responsibilities of the respective authorities can also be covered.
11. One option is first to work out at high government level a formalized agreement on the main principles of the application of the Convention and then to establish a mechanism to work out the details of the process by establishing a joint body or commission representing also the regional and local authorities.
12. Another option is to start involving the regional level and prepare detailed practical step-by-step guidelines for the participants in the EIA process in a transboundary context answering the questions of practical application.
13. Practice has shown that (informal) contact between the authorities at an early stage of the process is important and a key to the successful application of the Convention. It is therefore recommended that good working relations should be created on a permanent basis between countries at national and regional levels.

### **Introduction**

14. At the first meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (18-20 May 1998, Oslo, Norway), the work-plan for the implementation of the Convention for the period 1998-2000 was adopted. This work-plan contains, inter alia, an activity on aspects of bilateral and multilateral cooperation.
15. The objective was to share information and experiences on what Parties and non-Parties had achieved through bilateral and multilateral agreements or arrangements and other forms of cooperation in attempting to implement their obligations under the Convention. On the basis of the information and experiences collected, further guidance should be developed.

16. As a first step in carrying out this activity, the focal points for the Convention were requested to provide information on bilateral and multilateral agreements or arrangements or other forms of cooperation in the implementation of the Convention through a questionnaire which included process and content elements.

17. On the basis of the compendium a workshop was held in Oegstgeest, Netherlands (20-22 February 2000), on experiences with bilateral or multilateral cooperation in the framework of the Espoo Convention. The participants exchanged views on the need for such cooperation, its form, on the process of preparing bilateral or multilateral agreements or arrangements, on the content of those agreements and on other specific issues of concern to them.

18. In response to the questionnaire, the following texts of (draft) agreements were provided:

- Agreement between the Government of the Republic of Latvia and the Government of the Republic of Estonia on Environmental Impact Assessment in a Transboundary Context;
- Draft agreement between the Government of the Republic of Estonia and the Government of the Republic of Finland on Environmental Impact Assessment in a Transboundary Context;
- Study draft of an Austrian-Hungarian bilateral agreement on the EIA Convention;
- Draft agreement between the Federal Republic of Germany and the Republic of Poland on the implementation of the Espoo Convention (version of July 1999). At the workshop the Polish delegation presented additional information on the January 2000 version of this draft agreement;
- Draft agreement between the Netherlands and the Federal Republic of Germany on EIA in a Transboundary Context (draft 1995);
- Draft agreement between the Netherlands and Belgium (Region of Flanders) (trial period from 1995).

19. All available material concerns agreements between neighbouring countries. However, it should be noted that the Convention applies not only to transboundary impacts between neighbouring countries but also to long-range transboundary impacts.

20. This document will cover the following issues: the process of initiating negotiations and drafting bilateral agreements; the form of such agreements; their content; and other forms of bilateral cooperation of relevance to the application of the Convention.

## I. BACKGROUND AND HISTORY

21. The Convention provides a legal basis for bilateral or multilateral agreements or arrangements. Article 8 of the Convention provides that the Parties may continue existing or enter into new bilateral or multilateral agreements or arrangements or other arrangements in order to implement their obligations under the Convention. Appendix VI to the Convention contains elements for such agreements or arrangements. These agreements or arrangements are not a precondition for the application or the ratification of the Convention but should be seen as tools for its effective application.

22. By signing and ratifying the Convention, the Parties have accepted the obligation to carry out its provisions. The Convention sets out the principles and the procedural steps for the application of EIA in a transboundary context. The process contains the standard elements of an EIA process. The flow chart in figure I presents the procedure of the Convention for the application of EIA in a transboundary situation. The national implementation regulations on environmental impact assessment in a transboundary context are in most cases limited in detail. As a consequence, many practical questions about the application remain to be solved. Generally the need for more detailed arrangements is strongly felt by the various participants in the process of EIA in a transboundary context.

23. Even before the entry into force of the Convention, attention was paid to the topic of bilateral or multilateral agreements or arrangements on EIA in a transboundary context. In 1994 a workshop devoted to this issue took place in Baarn (Netherlands). In this workshop key elements were identified for inclusion in bilateral or multilateral agreements or arrangements. These elements include the field of application and practical issues such as the designation of contact points, the establishment of a joint body, how to notify, how to inform and involve the public, how to arrange the consultations between the Parties, translations and financial aspects. The report of the Baarn workshop was published in "Current Policies, Strategies and Aspects of Environmental Impact Assessment in a Transboundary Context Environmental Series" (No. 6 ECE/CEP/9).

24. The general conclusion of the Baarn workshop was that, in particular, problems of a practical and logistical nature could be overcome by bilateral or multilateral agreements. Another conclusion was that the effective application of EIA in a transboundary context seemed to require countries to have a more or less common understanding of the provisions of the Espoo Convention and to have incorporated the Convention into their legal and administrative system. Also, a good knowledge of the other countries' legal and administrative systems is important.

25. After the Convention came into force in 1997, a case-study analysis was carried out and a workshop took place in Helsinki (Finland) on the practical application of the Convention. The general observation regarding the application of the Convention at the Helsinki workshop was that it was crucial to clearly organize the process, to clearly define and specify responsibilities and to introduce clear routines, practices or rules.

26. At the time of the Baarn Workshop in 1994, experience with the preparation of bilateral agreements was virtually non-existent. Since the Convention entered into force, the need to solve practical problems by bilateral cooperation with neighbouring countries and the need to solve problems of a general nature and to get a common understanding have been strongly felt by the various actors in EIA processes in a transboundary context throughout the ECE region.

27. It has become clear that, although some Parties and non-Parties are involved in preparing bilateral or multilateral agreements on the application of the Convention, as yet there is only one formalized agreement. Nevertheless, the answers to the questionnaire, the draft agreements provided and the exchange of information and experiences at the workshop made it possible to define guidance, also making use of the general principles of international law such as the principles of sovereignty, equality, reciprocity, the polluter-pays and the precautionary principles.

## **II. INITIATING NEGOTIATIONS AND DRAFTING BILATERAL OR MULTILATERAL AGREEMENTS**

28. The reason for starting negotiations on a bilateral or multilateral agreement is, in most cases, that countries are aware that such agreements may promote the efficient and timely application of the Convention by creating clarity, routines and rules. The material provided makes it clear that there are different ways to start preparations and to conduct negotiations on a bilateral or multilateral agreement on the application of the Espoo Convention.

29. The first step is to define the substance of the future agreement and to decide on the authorities to be involved in the preparatory work and on the structure of a body (for example a working group or commission) to carry out the preparatory work.

30. It is crucial, both in preparing and drafting the agreement and for the application of the Convention in practice, to create good working relations between government authorities on a national and regional level. A working group could be established either:

- On the basis of an already existing formal bilateral or multilateral environmental cooperation mechanism (working group with a mandate); or
- On an ad hoc basis.

31. The first option entails an obligation to report or present the outcome of the work to a higher body, which could lead to a more result-oriented approach. The second option demands that special attention should be given to the group's mandate and reporting.

32. It is recommended that the national or federal government should be involved in negotiating and drafting the agreement as it regards the implementation and application of a convention between States. It is also strongly recommended that the regional authorities should be involved in this process since they too are concerned by the application of EIA. Consideration could be given to the possibility of consulting also other stakeholders in the process of EIA in a transboundary context during the drafting process.



33. At the beginning of the drafting process it is important to have a good grasp of the national EIA systems and the legal and administrative systems involved and to arrive at a common understanding of the provisions of the Convention. An approach that has proven its value is to carry out methodological research, including a comparative analysis, before the start of the negotiations. Such an approach provides an opportunity for a comparative analysis of the EIA legislations and administrative practices of the Parties involved and for formulating different options and possible solutions. The outcome of this research could form an input and a basis for further work by a drafting group.

### III. TYPES OF AGREEMENTS OR ARRANGEMENTS

34. From the material provided it can be concluded that there are agreements with a general content and those with a specific content.

#### General agreement

35. The text of the agreement is short and refers back to the Convention. Those agreements are negotiated and signed at high level (national or federal government level). They have the character of a reciprocal statement of intent to apply the Convention in practice. The key elements are mentioned only in a general way. The agreement gives a mandate and creates a mechanism for dealing with detailed practical questions at a later stage, for example by creating a joint body or commission to work out practical details and in some cases even to handle individual cases.

#### Specific agreement/administrative arrangement

36. These agreements or arrangements are mostly meant to give practical guidance on the application of the Convention. They include a number of general issues and a more or less detailed scheme with practical guidance for each step in the procedure for all participants in the process. Those agreements do not reformulate the text of the Convention but supplement it with practical details. They include the key elements and give detailed information on every element identified. Such agreements are prepared with the cooperation of regional authorities and may be in the form of a handbook, guideline or recommendation for applying the provisions of the Convention in practice.

37. A general agreement refers back to the provisions of the already signed or ratified Convention. Therefore, it is likely that such an agreement can be reached within a reasonable time. The only formalized agreement provided (Agreement between Estonia and Latvia) and the draft agreement between Estonia and Finland are examples of this approach. Both set up a joint commission on EIA in a transboundary context. These commissions will have the task of solving the practical problems of applying the Convention, either on a case-by-case basis (by establishing an ad hoc working group per case) or by developing further guidance for the process.

38. A specific agreement provides solutions to questions about the application of the Convention in practice. A prerequisite for the formulation of such an agreement or arrangement is a detailed comparison between the procedural requirements of the Convention and the (national)

procedural steps in the EIA procedures of the Parties involved. This approach is focused on solving practical questions and on providing detailed guidance for the procedure. Involving regional authorities can be important, if, for example, the national legislation gives them a role in the application.

39. Experience shows that regardless of the outcome of the negotiations and discussions in preparing a bilateral agreement or arrangement, the process itself promotes cooperation between authorities on both sides of the borders and creates opportunities for better understanding and a more effective application of the Convention. Another observation is that it might be advisable to include a trial period with an evaluation before formalizing agreements containing detailed practical guidance. It should be noted that, whatever type of agreement is chosen, a regular update will be necessary to respect changes in the EIA legislation and other relevant legislation. This may influence the choice of the form of the agreement.

#### **IV. CONTENT OF THE AGREEMENTS**

##### Elements to be included in the agreement

40. The report of the Baarn workshop lists the key elements for inclusion in bilateral and or multilateral agreements or arrangements for the application of EIA in a transboundary context and puts forward possible solutions:

- The area of application of the Convention (activities listed in Appendix I, activities not listed in Appendix I, the determination of “significance”);
- Institutional arrangements (designation of contact points, establishment of a joint body);
- Procedural aspects such as: notification; how to involve the public of the affected Party; submission of comments; public hearings and consultations between the Parties (participants, subjects); decision (how to reflect comments of the authorities and the public, publication, possibilities for appeal); post-project analysis; dispute prevention and settlement; joint EIA; translation; financial aspects.

41. From the (draft) agreements and from the other material provided in response to the questionnaire, it can generally be concluded that most of these key elements have guided the work in this field. In all the available drafts the above-mentioned key elements are included to some extent. “Timing” evolved as a new key element.

##### Activities to be included in the agreement

42. The description of activities in Appendix I to the Convention is in some cases rather general (for example, by the use of words as “large” or “major”). To ensure a common interpretation, countries could specify what they understand by the terms used in the Convention, for instance by agreeing on threshold values. By mutual agreement, countries could also treat activities not listed in Appendix I as if they were listed. There are different ways of doing this, such as drawing up a common catalogue of additional activities; developing further detailed

criteria for such additional activities; agreeing that the Convention applies to all activities under the EIA procedure of the country of origin or deciding on a case-by-case basis whether or not the Convention applies.

43. The material provided shows that the countries try to define the activities mentioned in Appendix I more precisely than in the Convention, and to extend the field of application. They use the different approaches mentioned above. New sources for lists of activities are also the annexes to the EC Directive on EIA (97/11/EC) and the Aarhus Convention.

44. Another issue affecting the applicability of the Convention concerns the “sensitive areas”. It is important that countries should inform each other on “sensitive areas” in the border region in order to be able to decide on the applicability of the Convention. As far as the determination of “significance” is concerned, the criterion “location in an area within a certain distance from the border” is included in several draft agreements (the examples include distances of 5 or 15 kilometres from the border). It should be noted that this is only a very rough indication, as the relevance may differ per activity. Activities with long-range impacts should also be included. In fact, a different distance could be set for every activity, based on its possible impacts. Reference should be made to earlier work under the Convention described in part three (Specific methodological issues of environmental impact assessment in a transboundary context) of ECE Environmental Series No. 6. It contains information on the determination of “significance”.

#### Institutional arrangements (nomination of contact points and joint bodies)

45. Several articles of the Convention require the country of origin to transmit documents to the affected country and vice versa. The Convention does not contain more specific information on the authority to be addressed. So a list of points of contact has been prepared in accordance with Article 3 of the Convention (notification). The list is included in annex III to the report of the first meeting of the Parties to the Espoo Convention (ECE/MP.EIA/2). It contains contact points at national or central government level. In addition, it could be useful for the effective application of the Convention to designate contact points at the regional level. Decision I/3 taken at the first meeting of the Parties provides for this. The importance of clarity on the contact point should be stressed because the contact point has the important role of deciding on the participation of the possibly affected Party in the EIA procedure.

46. In addition, the contact point may be given other responsibilities and functions. It is usually the first contact for the Party of origin to which it sends the notification. The contact point may have different functions such as: a mail-box function (the contact point submits all the information it receives from the country of origin to the respective authorities, which then take action); an executive function (the contact point distributes the information to the respective authorities and the public of the affected country, and collects their comments and reactions and submits them to the country of origin); and an initiating function (the contact point is responsible merely for the first formal contact between the Parties and submits a list of authorities in the affected country to be directly addressed by the authorities of the country of origin).

47. All agreements laid down institutional arrangements: either contact points were designated or joint bodies were established to perform the role of contact point. The contact points

established have mainly intermediary, facilitating functions.

48. Special attention may be required when authorities at different governmental levels could perform the tasks of contact point. For example, in a federal State an agreement may provide that a contact point should be appointed at the regional level, whereas, when consultations are held, the federal government should be involved, given its responsibility for international affairs. This level should then also be informed (e.g. by sending a copy of the notification to the federal point of contact).

49. The responsibilities of the different government levels in the process of EIA in a transboundary context are at present not always clearly defined. It is, therefore recommended that they should be defined either in the bilateral or multilateral agreement itself or, where appropriate, in an internal administrative order or recommendation of the respective country. For the sake of timely application, this clarification is important.

50. In some (draft) agreements an important role is given to joint bodies. For example, the Joint Commission on EIA in a Transboundary Context in the Estonian-Latvian agreement is a permanent and open-ended institution and has the right to establish ad hoc working groups. The Commission has been given the task of drawing up a set of mandatory elements for the notification; establishing the exact procedure for informing the public; deciding on the procedure for the participation of the public of the affected Party; and setting the time frame for the duration of the consultations between the Parties. Furthermore, the Joint Commission has a role in post-project analysis and joint EIA. A comparable role is given to the commission in the draft Estonian-Finnish agreement. Taking into account the possible workload, the establishment of a joint commission could be a good solution if the number of cases to which the Espoo Convention will apply is expected to be limited and for a country that does not have too many neighbouring countries.

#### Procedural aspects

51. The Convention requires a number of procedural steps, most of which are standard in any EIA procedure. Given that there are considerable differences in the various EIA systems and in the legal and administrative systems in the ECE region, the Convention itself cannot go into much detail. Practice has shown that there is therefore a need to work out the different steps on a bilateral or multilateral basis. Such a schedule or step-by-step description could contain information on time frames, on the tasks of the various participants, on which authority sends which information to whom at what stages of the process, on the tasks related to organizing the public participation, etc.

52. Some agreements contain only a general description of the steps (for example, the agreement between Estonia and Latvia and the draft agreement between Estonia and Finland). On the basis of those agreements the preparation of further detailed guidance, either ad hoc for each specific case or generic, is a task for the joint commission. Other agreements contain a step-by-step description of the tasks for the participants in the process and the timing (for example, the draft agreement between Germany and Poland, the draft agreement between the Netherlands and Germany and the draft agreement between the Netherlands and Belgium/Flanders). Such an

agreement does not require more detailed guidance in the application.

### Notification

53. Article 3, paragraph 1, of the Convention requires the Party of origin, in cases where a proposed activity (listed in Appendix I) is likely to cause a significant adverse transboundary impact, to notify any Party which it considers may be an affected Party “as early as possible and no later than when informing its own public about that proposed activity”. It is important to note that the Convention requires public participation after the notification and the decision of the affected Party to join in the procedure. The precise time of notification depends on whether the EIA procedure of the Party of origin includes:

- A scoping process with mandatory public participation;
- A scoping process without such participation;
- No scoping process at all.

54. Some situations provide good opportunities for an early notification, whereas others might pose difficulties and could even be out of line with the requirements of the Convention. The definition of the moment of notification is an important one and could be agreed upon in a bilateral or multilateral agreement or arrangement.

55. The information to be given with the notification documentation is defined in Article 3, paragraph 2, of the Convention: information about the proposed activity, available information on its possible transboundary impact, the nature of the decision and a time frame for response. Scoping documents could easily be used for such a notification. A format for the content of a notification was developed and agreed at the first meeting of the Parties (ECE/MP.EIA/2, annex IV, decision I/4). That annex contains detailed information on the content and the form of a notification.

56. After a positive response on the participation of the possibly affected country, further information can be given according to Article 3, paragraph 5. It might be possible and useful in some cases to give this information already in the first step. The affected Party would then have more information at an earlier stage and could react more promptly and in more detail. It might also be helpful for the affected country to receive a document with a separate chapter dedicated to the possible transboundary impacts or a report highlighting the relevant passages if they are contained elsewhere.

57. Article 3, paragraph 6, of the Convention provides that the Party of origin may ask the affected Party for “reasonably obtainable information” about the affected environment for the preparation of the EIA documentation. To obtain this information as soon as possible, it is useful to ask for it in the notification. In that case the affected Party could, with its response to the notification, provide at least the available information about obviously affected areas (e.g. protected areas). Available data could also be properly presented during the scoping process, where such a process is carried out.

58. A bilateral or multilateral arrangement could specify what is meant by “reasonably obtainable information”. For instance, it could lay down that the environmental information relating to the state of the environment in the affected areas of the affected Party and available to its official bodies can be transmitted. In that case a contact point with an executive task could play a supporting role in collecting the available information within the affected country and in submitting it to the country of origin. As this stage of the EIA process can be very important for the preparation of the EIA documentation, it would be useful to have an exchange of views by experts.

59. Countries may wish to include in a bilateral or multilateral arrangement a provision concerning the possibility of ending the information and participation process mentioned in Article 3, paragraphs 1 to 6, of the Convention. If the affected Party has indicated that it intends to participate in the EIA procedure but later wants to end its participation, a specific bilateral clause may state that “the affected country shall inform the country of origin to that effect in the same way as it has stated its intention to take part in the procedure”.

60. The material provided shows that those parts of the agreements concerning notification deal mainly with its timing and do not contain much detail on the content. The above-mentioned format for notification may be used as guidance.

#### Information and public involvement

61. The Convention contains several provisions with regard to the information and involvement of the public of the affected Party (Art. 2, para. 6, Art. 3, para. 8, Art. 4, para. 2). To fulfil these requirements, the concerned Parties should inform the public clearly about these opportunities. A capacity-building programme could be considered. As the opportunities for the public to be involved differ from country to country, information should be given to the public in the affected Party about the participation process and the formal procedure in each case. This could, for example, be given either in a public advertisement, in the publication announcing the public hearing or in a special information brochure. More detailed arrangements could be made in a bilateral or multilateral agreement on this issue.

62. There are considerable differences in the formal national obligations concerning public participation (e.g. different forms of public involvement). This may lead to asymmetric situations, although the requirements of the Convention will limit them. In the future the Aarhus Convention may also limit these differences. Countries may want to investigate to what extent it is beneficial to coordinate their provisions on public participation. There is general agreement that the EIA procedure and decision-making procedure of the Party of origin should be followed.

63. Another issue is how and by whom the public of the affected Party should be informed and how the comments of that public should be submitted to the competent authority of the country of origin. There are various options:

- The responsibility lies with an authority of the affected Party (contact point or other authority); it is possible that the public of the affected Party sends comments either directly to the competent authority of the Party of origin or through the contact

point or other authority in its own country;

- Responsibility for informing the public of the affected country lies with the authority in the Party of origin (competent authority) or the proponent; the public of the affected Party sends comments directly to the competent authority of the Party of origin;
- There is a shared responsibility between the authorities in both countries.

64. The advantage of the first option is that the authority of the affected Party is usually well informed of the ways of publishing and making the EIA documents available for public inspection, etc. A drawback, depending on the specific arrangements, could be the timing, especially when the comments of the public are first sent to the authority in the affected Party.

65. The advantage of the second option is that the information can be provided directly to the public and that the comments can be sent directly to the country of origin. This will speed up the process. A disadvantage may be that the authority of the country of origin is not familiar with local ways of publishing and practice regarding making documents available for public inspection. The advantages of both options could be combined by sharing the responsibility between the authorities in both countries.

66. Various approaches are taken. In most cases there is close cooperation between the authorities of the countries concerned. New opportunities for a timely flow of information may result from the use of the Internet.

67. Although public hearings are not explicitly mentioned in the Convention with regard to public participation, several countries use them in this way. The question arises whether public hearings should be held in the country of origin or in the affected country. It is important that this question should be solved in close cooperation between the Parties. Consultations should not be held in the affected country, if this country does not wish it. If the Parties opt for a public hearing in the affected country, it is recommended that the country of origin finances the necessary translation. If the Parties decide on a public hearing only in the country of origin, it is recommended that interpretation should be provided to the participants from abroad, where necessary.

68. If (affected) individuals of the affected Party are given a right to appeal against the decision, extra information on these possibilities may be necessary, for instance in a special information brochure.

#### Consultations between the Parties

69. Article 5 of the Convention provides that, after the completion of the EIA documentation, the Party of origin should enter into consultations with the affected Party. It is not stated, however, at which level such consultations should take place.

70. In general, official consultations are at the highest level because they take place between

national States, where the responsibility for foreign affairs lies. The participation is up to the respective States to decide and could, for example, be indicated in the reply to the request for consultations.

71. On the subject of consultations, Article 5 of the Convention already mentions some issues to be dealt with. There can, of course, be more issues, depending on the situation. It seems likely that the country that asks for consultations will also propose items that should be discussed (e.g. specific mitigation measures, monitoring, post-project analysis) and that the other country in responding to the request will also propose others. In accordance with the provisions of the Convention, the consultations take place before the final decision is taken so that their outcome can be taken into account.

72. Article 5 provides that at the beginning of the consultations a reasonable time frame should be set for their duration. One way could be to agree on a deadline for the end of consultations on a case-by-case basis.

73. In many cases it may be useful and even essential to meet more often and to start with an exchange of information at expert level (e.g. experts of sectoral authorities). To ensure that the consultations will focus on the most important items, these experts may discuss subjects of common interest in order to find solutions. Parties should be able to ask for such an expert exchange whenever there is a need for it. As already indicated above and according to Article 3, paragraph 6, it is possible to meet and exchange information about the affected environment in the affected country for the preparation of the documentation. Another possibility is to meet at the level of an (existing) joint body.

74. The draft agreement between Germany and the Netherlands contains a detailed description of the consultation. It defines it as a formal contact between States (i.e. the national and federal levels are involved). If one of the countries concerned asks for a consultation, there is an exchange of information at the expert level first. If this does not lead to an acceptable solution, the consultation will continue on the national and federal level.

### Decision

75. Often the question is raised as to how the comments of the authorities and the public of the affected country are taken into account. According to the Convention (Art. 6), due account has to be taken of the outcome of the EIA, including the documentation, as well as the comments received on it and the outcome of the consultations. How this is done in detail is up to the different national systems to decide. At least it means that the comments of the authorities and the public of the affected country and the outcome of the consultations are taken into consideration in the same way as comments from the authorities and the public of the Party of origin.

76. The Party of origin has to provide the final decision with reasons and considerations to the affected Party. These should also reflect the impact on the affected country. For the dissemination of the decision to the relevant bodies of the affected country or for giving information on it to the public, the contact point could again be useful. The competent authority of the country of origin can also be responsible for publishing the decision in the affected country,



if the Parties agree. In a bilateral or multilateral agreement this could be dealt with in detail, e.g. in the same way as with the publication of the EIA documents.

77. In some cases the (affected) individuals of the affected Party have the right to appeal against the decision in the Party of origin. Information about such a right of appeal could be given in the decision or in an annex to it.

#### Post-project analysis

78. Article 7 of the Convention stipulates that the concerned Parties, at the request of any such Party, shall determine whether, and if so to what extent, a post-project analysis shall be carried out, taking into account the likely significant adverse transboundary impact of the activity.

79. As mentioned in Appendix V to the Convention, the objectives of post-project analysis are to monitor the compliance with the conditions set out in the approval of the activity, review an impact for proper management and in order to deal with uncertainties and verify past predictions in order to transfer experience to future activities of the same type. The requirements in national legislation on post-project analysis vary considerably. In a limited number of countries post-project analysis is a mandatory part of the EIA and the decision-making process.

80. The need for post-project analysis should be raised as early as possible, but at the latest in the decision-making phase. It is necessary to determine the role of the affected Party in carrying out the post-project analysis, in deciding the responsibility for the post-project analysis, how to inform the affected Party of the outcome, and whether the public will be informed. Alternatively, these aspects could also be decided on a case-by-case basis by the concerned Parties.

81. The bilateral or multilateral arrangements provided contain only limited information on this topic.

#### Dispute prevention and settlement

82. The dispute settlement mechanisms in the Convention (Art. 3, para. 7, and Art. 15) may take a long time. For example, arbitration according to Appendix VII to the Convention or the submission of the case to the International Court of Justice may be very time-consuming. Article 15, paragraph 1, makes it possible to try to find quicker mechanisms than those provided for in the Convention.

83. In a bilateral or multilateral agreement such a mechanism could be included. One agreement provides that if a dispute arises between the Parties about the interpretation or the application of the agreement, they shall seek a solution by negotiation or by any other method of dispute settlement acceptable by them. Another draft agreement gives a role to the joint commission. It states that if a dispute arises between the Parties over the interpretation or application of the agreement, the Parties shall seek a solution through negotiations in the joint commission or through any other method of dispute settlement acceptable to both Parties.

84. At their first meeting, the Parties to the EIA Convention decided to include in the work-plan an activity to establish non-compliance guidelines for the Convention. The results of this activity may offer further guidance on this subject.

#### Joint EIA

85. With regard to transboundary EIA, there are cases where the project itself crosses the border (e.g. a linear project such as a highway, railroad or waterway, cables or pipelines). Either of the concerned Parties is then at the same time Party of origin and affected Party. In those cases a new form of EIA cooperation and coordination could be developed. The question is whether there is a need to identify the applicable procedure or to develop a new coordinated procedure. It has to be decided which steps and elements (for example, timing, alternatives, impacts, baseline studies) really need joint action and which can be done according to either national system.

86. In a bilateral or multilateral agreement for joint EIAs, a role could be given to a joint body. It could be stated that the joint body should decide on the necessity of the joint EIA and define the procedure of the joint EIA for each case separately.

87. Another possibility would be for the competent authorities of both Parties to decide on the necessity for and the procedure and content of a joint EIA. Otherwise, for EIA processes for linear projects crossing the border of the Parties or other activities that need EIA processes in both countries, both Parties could run separate EIA processes but they may combine or coordinate the scope of the EIA documentation, the public hearings and discussions relating to the two processes and they may combine the consultations on the EIA documentation.

#### Translation of documents

88. It has become apparent that language differences will need specific attention in transboundary EIAs. It is important that both the authorities and the public in the affected Party understand the information transmitted by the Party of origin, as well as the procedural steps and legal aspects.

89. On the other hand, given the cost of translation, it may be necessary to distinguish between documents that require translation and other documents which need not be translated. Bilateral and multilateral agreements could specify which documents should be translated.

90. Often the question is raised as to who is responsible for translations and/or the costs of these. In general, the Party of origin is responsible for the translations as well as for the costs. Concerning the safeguarding of the quality of translations, one possibility could be to establish or nominate an organization to translate and guarantee professional standards.

91. Another aspect that a bilateral or multilateral agreement should deal with is the additional time needed for the translation in many cases. For example, the agreement could state that the documents should be translated before they are transmitted or that the respective (national) legal time frames can be respected for this purpose (probably extended by a postal delivery time frame, where appropriate).

92. For consultations or public hearings, interpretation should be provided. A bilateral or multilateral agreement could state that it is the responsibility of either the Party of origin or the country which hosts the meeting.

93. In a bilateral agreement Parties can also state that the Party of origin is responsible for providing the affected Party with the information and documentation to be evaluated in a mutually agreed language instead of in the language of the affected Party.

94. Alternatively, an agreement may determine the need for translations and interpretation following the principle that, as a rule, the Party of origin submits any document in the language of the affected Party, whereas the affected Party may respond in its own language. Regarding the EIA documentation, the agreement could restrict the translation to parts concerning the environment of the affected Party or to those parts of the EIA documentation that enable the affected Party to evaluate the transboundary impacts and the non-technical summary. With regard to the hearings and consultations and other meetings, the agreement could state that the Party of origin should provide for interpretation and that the costs of translation and interpretation should be borne by that Party.

#### Financial aspects

95. The application of the Convention has several financial implications. The question of who pays for the translation of the various EIA documents, the comments and the interpretation in meetings has already been covered. The general principle that “the polluter pays” is the leading principle. Furthermore, there are some procedural steps with financial implications (publication in the affected country, presentation of the documentation for public inspection, public hearings, etc.).

96. The agreement between Estonia and Latvia states that the Party of origin shall be responsible for bearing the costs of the EIA procedure according to national legislation and that the Parties shall finance the expenses of their members of ad hoc working groups. The draft agreement between Estonia and Finland provides that both Parties are responsible for (arranging and) bearing the costs of public participation in their respective countries unless the Parties agree on other arrangements. The Austrian-Hungarian study draft agreement suggests that any costs in connection with the participation of the affected Party in public hearings should be borne by the participants.

97. The costs of EIA in a transboundary context could cause a problem for smaller, regional authorities. National funding may be a solution.

#### Timing

98. In the practical application of the Convention, time is of the essence, perhaps more so than costs. Lack of preparation, lack of clarity and unawareness of the steps and duties may easily delay the application of the EIA and the decision-making procedure. The exchange of documents, especially the notification, may be delayed and this may have consequences for the timing of the

EIA procedure in the country of origin. Late answers and reactions resulting from a late involvement of authorities or the public may also lead to the need for extra time to complete the EIA procedure.

99. The authorities involved can prevent or minimize these delays by including in bilateral agreements opportunities for combining steps of the EIA procedure of the Convention. For example, providing extra information after a confirmation of the participation by the affected Party may be unnecessary if the notification already contains this information.

100. In the preparation of a bilateral agreement or arrangement, timing should be included as a key element. Preventing delays without reducing the quality of the involvement of the public and the authorities in the affected Party will have a positive impact on the proponent and the decision maker. A more efficient application resulting from the attention paid to these time aspects will contribute to a positive attitude to the application of the Convention.

## **V. OTHER FORMS OF BILATERAL OR MULTILATERAL COOPERATION OF RELEVANCE TO THE APPLICATION OF THE EIA CONVENTION**

101. In response to the questionnaire, overviews of existing agreements on transboundary environmental cooperation were presented and other mechanisms for transboundary cooperation in the field of EIA were listed.

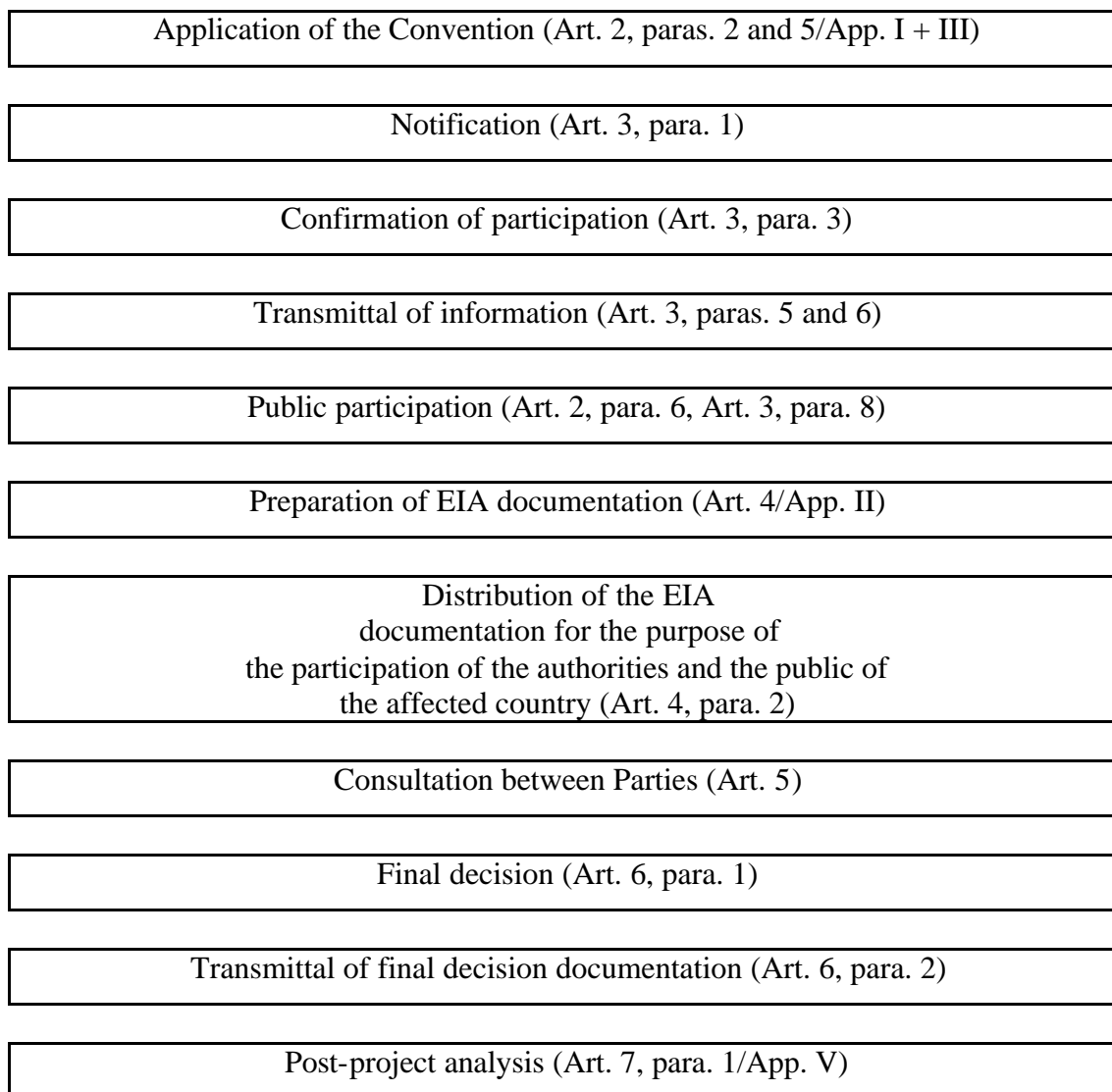
102. General cooperation agreements may, as has been mentioned above, form the formal basis for setting up working groups to draft an agreement on the practical application of the Espoo Convention.

103. Agreements which focus on items other than EIA may, however, partly meet the provisions of the Convention by recommending that their Parties should inform and consult each other on activities which are likely to cause significant transboundary impacts without making reference to the Convention. If such agreements exist parallel to EIA agreements, it may be useful or even necessary to find a way to integrate such other agreements into the EIA procedure to avoid double work and conflicts. Other agreements may also serve the purposes of the Convention by providing forums for discussing transboundary impacts.

104. Finally, Parties should be aware of the possibilities for incorporating the provisions of the Convention in other new or existing agreements or for making an explicit connection.

Figure I

**Flow chart**  
**Convention: main procedural steps**



**Annex II**

**DECISION II/2  
PRACTICAL APPLICATION OF THE CONVENTION ON  
ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT**

The Meeting,

Emphasizing that it is imperative for Parties to ensure full practical and effective application of the Convention,

Noting in this regard the potential for further improving the application of the Convention,

Having considered the outcome of the workshop on the practical application of the Convention,

1. Recommends that more attention should be paid to the exchange of information in all stages of the procedure. In addition to the official contacts between the focal points and the points of contact, informal communication should be encouraged between authorities at different levels within a Party and between Parties, as well as between other stakeholders such as international financing institutions and NGOs. This could be achieved by building communication networks and by organizing training for the focal points and the points of contact;
2. Calls on Parties that are in the position of country of origin to be more proactive when notifying the affected country according to Article 3 of the Convention. In this regard they should pay particular attention to the requirements concerning timing and content of the notification so that the procedure may be started in a satisfactory way, enabling it to be implemented within the prescribed time frames and in line with other obligations;
3. Recommends the Parties to continue the exchange of information on the practical application of the Convention and to prepare guidelines on good practice;
4. Invites the Parties to provide cases to the database on environment impact assessment (ENIMPAS);
5. Adopts the document on the practical application as appended to this decision;
6. Requests the secretariat to publish this document in the UN/ECE Environmental Series in the official languages of the Convention;
7. Decides to take into account in the work-plan for the 2001-2003 period the outcome of the work on the practical application of the Convention and the document prepared in connection with the workshop on bilateral and multilateral cooperation (MP.EIA/2001/1).

## **Appendix I**

### **I. ANALYSIS OF THE CASE STUDIES AND THE OUTCOME OF THE WORKSHOP**

#### **Introduction**

1. As part of the work-plan agreed upon at the first meeting of the Parties, it was decided to carry out a study and hold a workshop on the practical application of the Convention. Terms of reference for submitting cases for a study on transboundary EIAs were sent to those who had indicated an interest as well as to all the points of contact of the Convention. The terms of reference appeared as a questionnaire structured around 13 different issues related to the practical application of the Convention. Countries were encouraged to cooperate in describing the cases with the other countries involved. The workshop was held in Helsinki, on 31 May and 1 June 1999. There were 44 participants from 27 different countries.
2. This document consists of a general analysis of the study of the cases submitted by the participants of the workshop itself. Specific articles of the Espoo Convention are also dealt with. The study of the cases is appended to the report. The findings indicate that the practical implementation of the Espoo Convention still needs improving. The report identifies problems and seeks solutions by analysing practical experience in ECE countries. It can be concluded that further guidance on good practice is needed.

#### **A. Ad hoc application vs organized system**

3. The practical application has many steps and involves a wide array of authorities. Documents and issues easily get lost in the system, unless it is clearly organized with clearly specified responsibilities. Some cases also show that there are several ways of streamlining procedures. One of the more successful ways appears to be informal meetings between points of contact, where the Parties plan the coming procedure in detail. The meetings could be broadened to include other stakeholders, such as local and regional authorities, and in some cases NGOs and international financing institutions (IFIs). Participation in setting the rules strengthens commitment to the procedure. The meeting documentation can serve as guidelines for the implementation of the Convention.
4. A generalization of the available information and experiences does not suggest that the Convention as such is difficult to apply in practice, but many examples show that difficulties arise unless clear routines or practices or rules are prepared for its application. The reason is simply that the application of the Convention can confront developers, authorities on both sides of the border and the public with a completely new situation and a new set of questions to which there are no standard answers. Finding answers ad hoc both to procedural and to substance matters takes time and easily creates confusion. If the procedural side of the practical application is clearly specified, the substance matter can also proceed more smoothly.

## **B. Differences in EIA procedures**

5. The case studies clearly indicate that the differences in environmental impact assessment (EIA) procedures between neighbouring countries, or even between States and federal systems in federal countries, are sufficiently large to create difficulties for the application of the Convention. The Convention implicitly assumes that the EIA systems are similar in both the country of origin and the affected country and does not really give any guidance on how to deal with differences. These differences may relate to:

(a) Criteria for screening (which is often related to the whole EIA philosophy, see below);

(b) Criteria on significance;

(c) Philosophy of EIA with major differences arising, for instance, in connection with permit procedures. In some countries EIA is mainly connected with planning and only loosely attached to the permit procedure, in others the main connection is with the permit procedure. This leads to significantly different views on the appropriate timing of the EIA, the amount of work expected and the level of detail in EIAs. In some countries EIA is used very broadly on a wide range of activities, big and small, whereas other countries have reserved EIA procedures for large-scale activities only. This means that a demand for an EIA can have a very different meaning in two neighbouring countries;

(d) Type and tradition of public consultation and public participation;

(e) The role of the developer and different authorities. In some countries the developer submits material, but the EIA is largely carried out by the authorities, e.g. as part of land-use planning. In other countries the developer submits a full EIA to the authorities for evaluation. The competent authorities can be general environmental authorities or specific sectoral authorities. Further differences may arise in federal States in which EIA responsibilities can be divided differently between federal and State authorities depending on the type of activity.

6. Contacts and careful planning in advance between countries are necessary to make the practical application of the Convention work smoothly without delays, especially when significant differences exist between the EIA legislation and procedures. Some of the problems can be solved through bilateral agreements that specify in sufficient detail the transboundary procedures, but the cases suggest that internal "issue management" documentation is also necessary. This is so because many countries and authorities may go through transboundary assessments infrequently and thus routines do not develop on their own.

## **C. Informal vs formal contacts and procedures**

7. The Convention applies whenever "significant" impacts are expected. This means that the application has many discretionary elements, which call for negotiations between countries. The Convention specifies the formal negotiations and points of contact, but does not mention the informal contacts and negotiations that are common and useful in many border areas between



authorities at different levels. The administrative structures and traditions create differences with respect to negotiation mandates. The data seem to suggest that informal negotiations between local EIA authorities in border regions as well as with IFIs and NGOs should be encouraged throughout the process and especially in the starting phase, because they make it possible to exclude minor activities from the rather heavy, formal application of the Convention. In addition, contacts play a major role in building trust and goodwill along the implementation of the Convention. At the same time the links to the application should be sufficiently clear so that application can proceed as smoothly as possible, when the likely impacts are considered significant in the sense of the Convention. This creates a demand for formal contacts between the points of contact, but also informal contacts between local/regional authorities and the point of contact on a national and cross-border level. This balancing act between formal and informal treatment of activities is virtually impossible to regulate. It can be facilitated through education and meetings, but in the end regional and local environmental authorities will carry a significant part of the responsibility.

## **II. COMMENTS ON SPECIFIC ARTICLES ACCORDING TO THE OUTCOME OF THE CASE STUDIES AND THE WORKSHOP**

8. This chapter contains the analysis of the comments on the specific articles of the Convention as they were collected during the preparation and analysis of the case studies and during the discussion held at the workshop.

### **A. Article 1: Definitions**

9. International financing institutions (IFIs) are likely to be major actors in activities requiring EIAs, especially in countries in transition. The IFIs have their own routines and demand specific assessments (e.g. Environmental Procedure, EBRD, 1992). The IFIs are important actors in many transboundary activities but do not quite fit into the framework provided by the Convention. Special negotiations are needed to ensure agreement on how to use the Convention. The role of the IFI in the process that takes place between the countries should be clearly defined. The IFIs could serve as bodies that build contacts between the different stakeholders and promote the application of the Convention.

### **B. Article 2: General provisions**

10. Differences in legislation between countries cause problems for determining the significance of likely impacts. General guidelines for determining significance are needed but are difficult to develop. Regional and national environmental programmes could be used as a basis for finding thresholds and criteria. Also, the list of activities in Appendix I to the Convention could be extended. The material from the study and the workshop did not include experience of implementing the Convention at the level of policies, plans and programmes. Implementation of the Convention at that level could solve some issues. A formal inclusion of policies, plans and programmes in the Convention is, however, not easy to achieve as has been demonstrated by the difficult task of developing an EU directive on the assessment of plans and programmes. Other issues raised under this Article are dealt with in detail under the respective procedural Articles.

### **C. Article 3: Notification**

11. The workshop material and the discussions suggest some uncertainty with respect to what constitutes an informal contact and what is considered a formal notification. Standardized formats have not always been used and thus potentially affected Parties have been uncertain as to how to react. There are also some differences in the timing of the notification regarding the EIA procedure. The results show further that affected countries use several channels of information on environmental impacts and that not all information has been supplied by the country of origin. Situations in which key information is provided by an NGO suggest deficiencies in the information provided.

12. The results indicate that the official points of contact could be more proactive in informing potentially affected Parties and that there is potential for reducing confusion by using standardized formats and procedures for official notification, for example following the format adopted at the first meeting of the Parties (decision I/4), to distinguish it from unofficial contacts and to clarify the procedure. It is recommended that the official notification should be preceded by unofficial contacts, made firstly by the regional authorities to the point of contact in the country of origin and secondly by the country of origin to the affected country. The differences in EIA procedures between countries of origin and affected countries call for very explicit descriptions of the procedure to avoid misunderstandings and to focus requests for additional information on appropriate issues and appropriate levels of detail. Starting with a notification that is presented promptly in the right context gives the procedure an opportunity to succeed.

### **D. Articles 3 and 4: Public participation**

13. The workshop material and discussions illustrate many different ways of organizing public participation. The practical arrangements of the public participation vary. In some cases the country of origin is actively involved; in others the authorities of the affected country take nearly full responsibility for arranging public participation. It is remarkable that there are cases in which public participation is better organized in transboundary EIAs than in national EIAs.

14. Two recurring issues are the amount of material to be translated and the language of translation. The cases show variation in both. There is also variation in who commissions the translations.

15. The material shows different approaches to the treatment of the results of public consultations. In one case the material was sent directly to the developer; in another the comments were sent to the official point of contact. The affected country did not make a summary of the comments from the public and did not provide a systematic examination of the input from the public. In one case the affected country appeared to agree with some of the public concerns by officially taking a stand against the activity.

16. The variation in the practical arrangements, issues concerning translation and the treatment of public input suggests that the practical application of the Convention can be greatly assisted by

negotiations and agreements in advance on burden sharing between the country of origin and the affected country concerning public participation. This could be an element of a formal bilateral or multilateral EIA agreement based on the Convention, or a separate practical agreement based for instance on minutes of meetings by points of contact or a joint body. Unofficial communication before notifying could assist in providing time to prepare for organizing public participation. A recommendable way of sharing responsibilities is that the affected country organizes the participation but the country of origin bears the cost. Similarly, it would probably be beneficial for countries to agree on the general principles for the treatment of the public input: should the authorities of the affected country summarize the information, raise key points or take a stand with respect to all issues before submitting the information to the country of origin or the developer.

17. In transboundary participation it is important to pay attention to the target group. This rules what needs to be translated, into which language and to what extent, and what the requirements are for timing.

#### **E. Article 4: Environmental impact documentation**

18. For this article, material received was limited to five cases. It showed, however, that although the documentation met most requirements of the Convention, the issue of alternatives was in most cases neglected. Consulting officially and unofficially with the affected Party at an early stage could assist in setting alternatives.

#### **F. Article 5: Consultations**

19. The material from the study and the workshop shows that consultations have generally been held and that several different means and media have been used. In some cases there have been some uncertainties over which authorities and/or bodies can or should participate in consultations. However, information on how comments and considerations have been taken into account in the activity itself has been transmitted to a varying degree. There are also examples of complete lack of information to the affected country on how comments have been considered.

20. The results suggest that the practical application of the Convention could be improved by developing a common understanding between countries not only on how consultations are to be held but also on how the results of comments and consultations are distributed across the border and which authority carries this responsibility. Attention should be paid to capacity-building of decision makers for the use of transboundary EIA material.

#### **G. Article 6: Final decision**

21. The final decision has in all case studies but one been sent to the affected country, but to different receiving authorities. The contents of the final decision vary depending on the decision procedure in the country of origin.

22. The workshop material and the discussions indicate that there is a potential source of confusion in the identification of the addressees of the final decision. In practice this risk is, however, fairly small if the other steps of the transboundary assessment have worked and created necessary contacts and routines. Countries may, however, wish to raise the issue in bilateral or multilateral negotiations to clarify this part of the process. This may be particularly useful in federal States or in countries whose final decision-making bodies are clearly separate from those supervising the EIA process.

#### **H. Article 7: Post-project analysis**

23. There is virtually no material on this in the case studies, nor was there any experience of it among the participants of the workshop. Post-project analysis is seen as a non-mandatory and demanding process. Instead, in many applications demand for joint monitoring has been included in the final decision as a result of consultations. The earlier conclusions on the need for and the usefulness of a clarification of responsibilities, ways and procedures for transmitting information and the role of different authorities on both sides of the border appear appropriate under this article as well.

## Appendix II

### CASE STUDIES ON THE IMPLEMENTATION OF THE CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

#### Introduction

1. This appendix gives detailed information on the case studies provided. The Convention has been in force since 1997. The experience of countries in implementing the Convention varies. Some countries have been involved in several procedures, some have experience only of a single transboundary EIA. This is not surprising, since many countries have only recently ratified the Convention (table 1).

Table 1. Status of countries that submitted a case

Country	Involvement as an affected country	Involvement as the country of origin	Date of signing the Espoo Convention	Date of ratifying the Espoo Convention
Italy	2	2-3	26 February 1991	19 January 1995
Croatia	2	2	-	8 July 1996
Ukraine	1	2	26 February 1991	19 March 1999
Hungary	0 (1)	0	26 February 1991	11 July 1997
Bulgaria	0	1	26 February 1991	12 May 1995
Sweden	7	2	26 February 1991	24 January 1992
Norway	0	1	26 February 1991	23 June 1993
Finland	0	6	26 February 1991	10 August 1995
Russian Federation	3	0	6 June 1991	-
Netherlands	10	20	26 February 1991	28 February 1995
Belgium	several	several	26 February 1991	2 July 1999

## I. THE ARTICLES OF THE CONVENTION AND THEIR IMPLEMENTATION AS SUGGESTED BY THE CASES

### A. A general description of the cases used in the study

2. Eleven cases were submitted to this study. In one case three countries were affected, while in the others there was only one affected country.

Table 2. Actors responsible for the submitted cases

Case-setting	Number of cases
Cases submitted by the affected country	4
Cases submitted by the country of origin	2
Cases submitted by the country of origin in cooperation with the affected country(ies)	2
Cases submitted by the country of origin as well as by the affected country	3 (2 cases described the same proposed project)

3. In the cases submitted, the developers were either private national companies (4) or public bodies or enterprises (7). In two cases the proposed project was going to be financed by an international body. The numbers in parentheses refer to the number of cases.

4. The proposed projects concerned:

- A flood dam;
- Dredging;
- An integrated installation for building materials;
- The exploitation of gas fields (2);
- Road construction (2);
- A nuclear power plant (2);
- Nuclear waste; and
- Intensive poultry rearing.

Table 3. Time schedule of the procedures

Cases	National EIA started	National EIA closed	National EIA in progress	Transboundary EIA started	Transboundary EIA closed	Transboundary EIA in progress
A	1996	1997		1998	1998	
B	1998	1998		1998		Final decision imminent
C	1992	1993		1992	1993	Held up
D	1996	1998		1997		EIS under preparation
E	1998		EIS under preparation	1999		EIS under preparation
F	1991	1998		1998		EIS under preparation
G	1998		In scoping phase	1998		In scoping phase
H	1998		EIS under preparation	1998		EIS under preparation
I	1997	1998		1997		Consultations taking place
J	1997	1998		1997	1998	
K	1994	1994		1994	1994	

5. The transboundary EIA process was said to have an effect on the time schedule of the EIA procedure in half the cases (3) where this item was mentioned, while in only one case was the transboundary EIA said to have an effect on the outcome of the EIA procedure.

### **B. The practical application of the Convention**

6. The text from the Convention is in quotation marks and boldfaced, and the numbering follows the Articles of the Convention. Normal text describes the experiences from the cases. The maximum number of cases varies because:

(a) Information was not given in each case for each question (partly due to the fact that the countries cooperated in filling in the questionnaire in only two cases);

(b) One case is analysed in some parts as a single case and in other parts as two cases since the two countries involved are both affected countries as well as countries of origin;

(c) In one case there is one country of origin but three affected countries.

## Article 1

### DEFINITIONS

**“For the purposes of this Convention,**

**(i) "Parties" means, unless the text otherwise indicates, the Contracting Parties to this Convention;”**

7. In two cases the proposed activity in the country of origin was financed by an international body (EBRD and PHARE). These bodies played a major role in the transboundary EIA and affected for instance the determination of significance and the language used in the transmission of information.

## Article 2

### GENERAL PROVISIONS

**“1. The Parties shall, either individually or jointly, take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities.”**

8. No comments on this.

**“2. Each Party shall take the necessary legal, administrative or other measures to implement the provisions of this Convention, including, with respect to proposed activities listed in Appendix I that are likely to cause significant adverse transboundary impact, the establishment of an environmental impact assessment procedure that permits public participation and preparation of the environmental impact assessment documentation described in Appendix II.”**

9. In three cases, the procedure has come to an end. The procedure lasted 1 to 2 years. The other cases are in progress. One has been suspended owing to a controversy concerning the significance of the transboundary effects, four are waiting for the environmental impact statement (EIS), one is in the scoping and one in the consultation phase. One is waiting for the final decision.

10. The question of transboundary impact was raised in the country of origin by: the developer (2); the national authorities (3); or the regional authorities (3); or the local authorities (1) - generally two of them in the same case. The question was often raised by the affected country, either by its State authorities (2), the public (1) or by a non-governmental organization (NGO) (2). In one case the question was raised by an international financing body.

11. The applicability was considered most often by the national authorities (4), but the



developer (1), local authorities (2) and the regional authorities (3) in the country of origin were also involved. In the affected country the applicability was considered most often by the regional authorities (5) or by the national authorities (3), but there were examples of both local authorities (2) and federal authorities (1) taking part as well.

**“3. The Party of origin shall ensure that in accordance with the provisions of this Convention an environmental impact assessment is undertaken prior to a decision to authorize or undertake a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact.”**

12. In eight of the eleven cases the proposed project was listed in Appendix I. In none of the cases was the proposed activity started before the transboundary EIA (TEIA) was closed.

13. In four cases it was mentioned how the “significance” was determined: (i) through an existing EIA procedure; (ii) according to documentation from the international financing body; (iii) the project type determined it, the bilateral agreement demanded it; (iv) through best professional judgement.

14. In one case there was controversy over whether the proposed activity would have significant effects.

**“4. The Party of origin shall, consistent with the provisions of this Convention, ensure that affected Parties are notified of a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact.”**

15. The notification was sent in eight cases, in two cases it was not sent. In one case the countries disagree on whether a formal notification was sent or not.

**“5. Concerned Parties shall, at the initiative of any such Party, enter into discussions on whether one or more proposed activities not listed in Appendix I is or are likely to cause a significant adverse transboundary impact and thus should be treated as if it or they were so listed. Where those Parties so agree, the activity or activities shall be thus treated. General guidance for identifying criteria to determine significant adverse impact is set forth in Appendix II.”**

16. In three of the eleven cases the proposed project was not listed in Appendix I. In two of these cases this article was considered. In one case it was mentioned that the significance was determined according to the existing information on the environmental status and on a report on the expected environmental effects of the expansion. In the case where Article 2, paragraph 5, was not considered, transboundary EIA was carried out since it was listed in the provincial legislation of the affected country.

**“6. The Party of origin shall provide, in accordance with the provisions of this Convention, an opportunity to the public in the areas likely to be affected to participate in relevant environmental impact assessment procedures regarding**

**proposed activities and shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin.”**

Table 4. Opportunity to participate in EIA and transboundary EIA (TEIA)

Opportunity given (number of cases)	Only in EIA	Only in TEIA notification	Both EIA and TEIA notification	In TEIA documentation	Both in EIA and TEIA documentation
EIA competent authorities	not relevant	8	not relevant	4	not relevant
Other authorities	3	1	5	2	2
NGO sectoral	2	2	3	-	1
NGO environm.	1	3	4	2	2
The public	3	2	4	2	2
Specialists	3	1	-	-	-
Municipalities	-	1	-	-	-
None	-	1	-	-	-

Note: The questionnaires filled in by the affected country alone lacked information on national EIA in two cases, while the country of origin did not answer the question of participation in TEIA in one case for notification and in two cases for EIA documentation. The question of participation in documentation was not relevant to four cases which had not yet reached this phase. The results from the case with three affected countries have been merged. There were, however, large differences in the opportunities given to participate.

17. It seems from the data that there is still a large variation in opportunity given to participate in the national EIA and the transboundary EIA. It was not, however, always the case that more opportunities were given nationally than in the affected country. Some national EIA procedures are purely authority-oriented.

Table 5. Means of consultation

Means of consultation in national EIA and transboundary EIA	Informal meetings	Hearings	Written statements	Formal negotiations
Local authorities				
• in EIA	2	2	2	-
• in TEIA	1	1	1	1
• in both	1	1	4	-
State, national authorities				
• in EIA	2	-	2	-
• in TEIA	1	2	1	2
• in both	2	-	3	1
State, regional authorities				
• in EIA	2	1	1	-
• in TEIA	1	2	2	1
• in both	2	-	3	-
Federal authorities				
• in TEIA	-	-	2	-
The public				
• in EIA	1	2	3	-
• in TEIA	-	3	2	1
• in both	1	1	2	-
Other				
• NGOs in EIA	-	2	2	-

Note: There were no data for three cases in EIA and four cases in TEIA. The results from the case with three affected countries have been merged. There were, however, large differences in their means of consultation.

18. There seems to be a difference in the means used when consulting in national EIA and in the transboundary EIA. In some countries the national EIA procedure have strict regulations on how consultations are to be carried out.

**“7. Environmental impact assessments as required by this Convention shall, as a minimum requirement, be undertaken at the project level of the proposed activity. To the extent appropriate, the Parties endeavour to apply the principles of environmental impact assessment to policies, plans and programmes.”**

19. All cases were at the project level.

**“8. The provisions of this Convention shall not affect the right of Parties to implement national laws, regulations, administrative provisions or accepted legal practices protecting information the supply of which would be prejudicial to industrial and commercial secrecy or national security.”**

20. No points raised.

**“9. The provisions of this Convention shall not affect the right of particular Parties to implement, by bilateral or multilateral agreement where appropriate, more stringent measures than those of this Convention.”**

21. This matter is dealt with in item 2 of the work-plan.

**“10. The provisions of this Convention shall not prejudice any obligations of the Parties under international law with regard to activities having or likely to have a transboundary impact.”**

22. No points raised.

### Article 3

#### NOTIFICATION

**“1. For a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact, the Party of origin shall, for the purposes of ensuring adequate and effective consultations under Article 5, notify any Party which it considers may be an affected Party as early as possible and no later than when informing its own public about that proposed activity.”**

23. The question of starting a transboundary EIA was raised and settled simultaneously with the question of a national EIA in six cases, in one case before and in two cases after the question of a national EIA was raised and settled. The national and transboundary EIAs were carried out simultaneously in seven cases, in one case the national EIA had come to an end before the transboundary EIA started. Information was lacking from two cases that were submitted by an affected country.

24. Notification was sent in one case before (not a formal notification), in six cases simultaneously and in two cases after the public in the country of origin had been informed about the proposed activity (national EIA). In two cases no notification was sent. There seem to be differences in how formal the notification is/should be. In two cases no formal notification was sent, however, the same information was provided informally.

**“2. This notification shall contain, inter alia:**

**(a) Information on the proposed activity, including any available information on its possible transboundary impact;”**

25. All notifications contained information on the proposed activity, in three of them information on possible transboundary effects was included as well.

**“(b) The nature of the possible decision; and”**

26. This was true in one case. Information is missing from five cases.

**"(c) An indication of a reasonable time within which a response under paragraph 3 of this Article is required, taking into account the nature of the proposed activity;"**

27. This was included in four cases, but was missing from five notifications.

**“and may include the information set out in paragraph 5 of this Article.”**

28. Other information on the project was sent with the notification in five cases.

**“3. The affected Party shall respond to the Party of origin within the time specified in the notification, acknowledging receipt of the notification, and shall indicate whether it intends to participate in the environmental impact assessment procedure.”**

29. In six of the nine cases where notification (formal or informal) was sent, the affected country did respond to it. Additionally, in two cases the procedure was started by a contact from the affected country. The reason for not responding in one of the three cases was that the country of origin had not asked for a response.

**“4. If the affected Party indicates that it does not intend to participate in the environmental impact assessment procedure, or if it does not respond within the time specified in the notification, the provisions in paragraphs 5, 6, 7 and 8 of this Article and in Articles 4 to 7 will not apply. In such circumstances the right of a Party of origin to determine whether to carry out an environmental impact assessment on the basis of its national law and practice is not prejudiced.”**

30. No comments on this.

**“5. Upon receipt of a response from the affected Party indicating its desire to participate in the environmental impact assessment procedure, the Party of origin shall, if it has not already done so, provide to the affected Party:”**

31. The affected countries requested additional information in five cases, while in six cases they did not. (In one of these, the opportunity was not offered in the notification.) Other information was sent after the notification in two cases and in response to a request in another. In one case the kind of additional information was not defined.

**“(a) Relevant information regarding the environmental impact assessment procedure, including an indication of the time schedule for transmittal of comments;**

**and”**

32. The country of origin provided this information in seven cases.

**“(b) Relevant information on the proposed activity and its possible significant adverse transboundary impact.”**

33. The country of origin provided information on the proposed activity in seven cases and on significant adverse transboundary impact in three. Additionally, the country of origin provided information on safety assessment, possible risk and related consequences in one case.

34. The country of origin got hold of this information from:

- The point of contact in the affected country (4);
- Other authorities in the affected country (2);
- An NGO in the affected country (1);
- Literature (2);
- Investigations (3).

35. The possible transboundary impacts were assessed by the country of origin on the basis of literature (4), with help of the affected country (2), with EIA tools (2) or by using NGO results (1).

**“6. An affected Party shall, at the request of the Party of origin, provide the latter with reasonably obtainable information relating to the potentially affected environment under the jurisdiction of the affected Party, where such information is necessary for the preparation of the environmental impact assessment documentation. The information shall be furnished promptly and, as appropriate, through a joint body where one exists.”**

36. The country of origin asked for additional information from the affected country in two cases. In six cases it did not. Information was lacking from three cases. The affected country, however, provided information in six cases, but did not do so in four others. In one case this was not mentioned. A joint body acted in two cases.

37. Information was collected by the affected country:

- From regional environmental bodies;
- From neighbouring country's Internet pages, experts in ministries, NGOs;
- Via e-mail;
- From authorities, county and municipal government, etc.;
- Through a public enquiry.

**“7. When a Party considers that it would be affected by a significant adverse transboundary impact of a proposed activity listed in Appendix I, and when no notification has taken place in accordance with paragraph 1 of this Article, the concerned Parties shall, at the request of the affected Party, exchange sufficient information for the purposes of holding discussions on whether there is likely to be a significant adverse transboundary impact. If those Parties agree that there is likely to be a significant adverse transboundary impact, the provisions of this Convention shall apply accordingly. If those Parties cannot agree whether there is likely to be a significant adverse transboundary impact, any such Party may submit that question to an inquiry commission in accordance with the provisions of Appendix IV to advise on the likelihood of significant adverse transboundary impact, unless they agree on another method of settling this question.”**

38. Apart from the requested discussions, in five cases there were other discussions between the countries on whether transboundary impacts were likely to arise (meetings and coordinating bodies, including experts from both countries). In five cases no other discussions were held. Information was lacking from one case. In one case other information was provided at the request of the affected country.

39. Before the notification was sent cooperation between the countries was:

- Non-existent (3);
- Official (7);
- Unofficial-letter (5);
- Unofficial-phone (5);
- Unofficial e-mail (3);
- Unofficial-fax (1);
- Unofficial-meeting (5);
- Unofficial-through a bilateral agreement (1).

**“8. The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be provided with possibilities for making comments or objections on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin.”**

40. Information was transmitted through:

- Reports (7);
- Official letters (7);
- Personal contacts (phonecalls, e-mails, letters...) (7);
- Meetings (3).

Table 6. Translations in transboundary EIA

Translation of the information	Into affected country's language (notification)	Into English (notification)	Into affected country's language (EIA documentation)	Into English (EIA documentation)
Not translated	3	1	2	3
Translated	1	-	2	3
Partly translated	2	5	1	1

Note: Translation was not an issue in four cases, where there was no language barrier between the countries. Data were missing from one case on notification.

41. In the cases where translation was relevant, it was missing from half the notifications, but was compensated with a translation into English. This was seen as useful when the document was addressed to administrators or where several countries were affected (common language). Also, the involvement of international financing bodies brought about the use of English. Especially the EIA document was more frequently translated into English than into the language of the affected country.

42. In the cases where language was an issue, the affected country used, in communication with the country of origin, its own language in four cases and English in five cases, often with a combination of the two. In one case the affected country used in some parts the language of the country of origin. In notification, the affected country commissioned the translations in two cases and the country of origin in six, while responsibility for the translation of the EIA documentation was borne by the country of origin in four cases and by the affected country in three. There was some contradictory information about the country bearing responsibility for the translations. This could mean that both countries had responsibility for some parts of the translation.

43. Participation took place mainly at the stages of notification, EIA documentation and consultation (see tables 4 and 7). In three cases there was participation at other stages as well, namely through a public inspection of the draft study programme as well as through informal contacts.

44. The affected country played an active role in ensuring public participation in most cases (8). This was carried out in two cases through the NGOs in the affected country. One affected country admitted that it had not played an active role in ensuring public participation. In one case transboundary participation did not work: public participation took place only on the national level. Data were missing from another case.

45. The affected country helped the public participation in the following ways:

- By encouraging the active participation of citizens;



- Its ministry of the environment provided translations, organized hearings and invited the country of origin to the hearings;
- By coordinating the participation through an environmental NGO;
- By providing publications and putting announcements in the newspapers;
- There was a public enquiry.

46. The countries cooperated in ensuring the participation in the affected country in the following ways:

- Experts from the country of origin took part in the hearing;
- The affected country provided the country of origin with a list of authorities and NGOs that should receive the information and gave the country of origin advice on newspaper advertising.

Table 7. A comparison between the opportunity for public participation given and the opportunity used. (See note in table 4)

Participation opportunity/ practice (number of cases)	Opportunity to participate (notification)	Participated in practice (notification)	Opportunity to participate (EIA documentation)	Participated in practice (EIA documentation)	Participated in practice (consultation)
EIA competent authorities	8	8	5	4	5
Other authorities	6	5	5	2	3
Sectoral NGOs	5	4	1	1	1
Environmental NGOs	7	6	5	2	2
The public	6	4	5	3	2
Other: - specialists	1	2			
- municipalities on the coast	1	1			
- mass media	-	-			
None	1	1			
Data missing	1	2	2	2	-
Not at this stage	-	-	4	3	4

47. In most cases those stakeholders that were provided with an opportunity to participate used it. This reflects the need of the public to participate.

Table 8. The means of consultation in notification and EIA documentation for different stakeholders

Means of consultation	Informal meetings	Hearings	Written statements	Formal negotiations
Local authorities				
- in notification	2	2	4	1
- in documentation	1	-	3	-
State, national authorities				
- in notification	2	1	3	3
- in documentation	2	1	2	2
State, regional authorities				
- in notification	2	1	3	1
- in documentation	2	1	2	-
Federal authorities				
- in notification	-	-	2	-
The public				
- in notification	1	2	2	1
- in documentation	-	3	3	-
NGOs, specialists				
- in notification	-	-	1	-
- in documentation	-	2	1	-

Note: There were no data from four cases in notification and from two cases in documentation. The documentation phase had not yet been reached in four cases. The results from the case with three affected countries have been merged. There were, however, large differences in their means used in consulting.

48. Written statements were the most common means in consulting in notification and EIA documentation. Face-to-face meetings were used as well, especially in the notification phase.

#### Article 4

### PREPARATION OF THE ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTATION

**“1. The environmental impact assessment documentation to be submitted to the competent authority of the Party of origin shall contain, as a minimum, the information described in Appendix II.”**

**CONTENT OF THE ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTATION  
(APPENDIX II)**

**“Information to be included in the environmental impact assessment documentation shall, as a minimum, contain, in accordance with Article 4:”**

49. Data received from five cases.

**“(a) A description of the proposed activity and its purpose;”**

50. In four cases out of five.

**“(b) A description, where appropriate, of reasonable alternatives (for example, locational or technological) to the proposed activity and also the no -action alternative;”**

51. In two cases out of five.

**“(c) A description of the environment likely to be significantly affected by the proposed activity and its alternatives;”**

52. In four cases out of five, although in one case the alternatives were not discussed.

**“(d) A description of the potential environmental impact of the proposed activity and its alternatives and an estimation of its significance;”**

53. In three cases out of five.

**“(e) A description of mitigation measures to keep adverse environmental impact to a minimum;”**

54. In four cases out of five.

**“(f) An explicit indication of predictive methods and underlying assumptions as well as the relevant environmental data used;”**

55. In three out of five.

**“(g) An identification of gaps in knowledge and uncertainties encountered in compiling the required information;”**

56. In three out of five.

**“(h) Where appropriate, an outline for monitoring and management programmes and any plans for post-project analysis;”**

57. In all five cases.

**“(i) A non-technical summary including a visual presentation as appropriate (maps, graphs, etc.)”**

58. In all five cases.

**“2. The Party of origin shall furnish the affected Party, as appropriate through a joint body where one exists, with the environmental impact assessment documentation. The concerned Parties shall arrange for distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity.”**

59. These are some of the comments and statements made to the affected country by those who participated:

- Destabilization of the ecological state, damage to lakes in a national park;
- Environmental effect to be taken into account, comparison of alternatives for energy development in the country of origin;
- Impact on the brown bear population;
- Effects of high water level, impact on estuarine biodiversity, impact on protected areas.

60. The comments were sent unchanged to the developer (1) or to the country of origin (2). In the first case, the affected country sent a general disapproval of the project to the country of origin.

61. The communication of the EIA documentation is discussed under Article 5.

### Article 5

#### **CONSULTATIONS ON THE BASIS OF THE ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTATION**

**“The Party of origin shall, after completion of the environmental impact assessment documentation, without undue delay enter into consultations with the affected Party concerning, inter alia, the potential transboundary impact of the proposed activity and measures to reduce or eliminate its impact.”**

62. From the eleven cases, six have reached the phase of consultations on EIA documentation. In five of these consultations have been taken place and in one case there was no consultation.

63. The consultations included the following:

- A joint body formed by EIA authorities held meetings to consult the TEIA document;
- Materials on TEIA were widely discussed in the affected country by local environmental bodies experts as well as local State authorities;
- Meeting of experts were held, letters were exchanged through diplomatic channels;
- E-mail were exchanged.

**“Consultations may relate to:**

**(a) Possible alternatives to the proposed activity, including the no-action alternative and possible measures to mitigate significant adverse transboundary impact and to monitor the effects of such measures at the expense of the Party of origin;”**

64. As a result of the consultations:

- It was decided to establish a common monitoring programme;
- There was a clarification of the positions and attitudes of both sides and of the ways to reach a common understanding;
- The comments from the consultations were partly taken into account in the decision-making process.

**“(b) Other forms of possible mutual assistance in reducing any significant adverse transboundary impact of the proposed activity; and**

**(c) Any other appropriate matters relating to the proposed activity.**

**The Parties shall agree, at the commencement of such consultations, on a reasonable time-frame for the duration of the consultation period. Any such consultations may be conducted through an appropriate joint body, where one exists.”**

65. In four cases the affected country was informed of how its comments had been taken into account; two affected countries were promised that they would receive this information later, in two cases the affected country was not informed at all. The affected country was informed in meetings, discussions, hearings and through letters.

## Article 6

### FINAL DECISION

**“1. The Parties shall ensure that, in the final decision on the proposed activity, due account is taken of the outcome of the environmental impact assessment, including the environmental impact assessment documentation, as well as the comments thereon received pursuant to Article 3, paragraph 8 and Article 4, paragraph 2, and the outcome of the consultations as referred to in Article 5.”**

66. There is information from two cases on how the comments from the affected country were considered in the EIA by the country of origin:

- The comments were considered, relevant points were made and a reply was given;
- The project implementation has been suspended until the EIS is finalized and approved;
- The EIS from the other country has been considered in the decision-making process;
- The comments and statements made by the affected country can be found in the explanatory part of the decision document.

**“2. The Party of origin shall provide to the affected Party the final decision on the proposed activity along with the reasons and considerations on which it was based.”**

67. The final decision was conveyed by the country of origin to the affected country in five cases and soon will be in a sixth. In one case the decision was not provided to the affected country. In another there was no final decision, because the country of origin held that the proposed activity would not have any transboundary effects.

68. The final decision contained:

- Approval of the project and measures to protect the environment as well as a monitoring plan;
- Information that the project was stopped for economic reasons;
- Approval (with conditions on the implementation) of the project on the country of origin's side of the border;
- A decision to go ahead with the proposed project.

69. The final decision was distributed in the affected country to:

- The ministry of the environment (2);
- The regional environmental body (1);
- The point of contact and provincial government authorities (1).

70. In one case the appeal from the affected country against the decision to go ahead with the project resulted in a suspension of the building works.

**“3. If additional information on the significant transboundary impact of a proposed activity, which was not available at the time a decision was made with respect to that activity and which could have materially affected the decision, becomes available to a concerned Party before work on that activity commences, that Party shall immediately inform the other concerned Party or Parties. If one of the concerned Parties so requests, consultations shall be held as to whether the decision needs to be revised.”**

### Article 7

#### POST-PROJECT ANALYSIS

**“1. The concerned Parties, at the request of any such Party, shall determine whether, and if so to what extent, a post-project analysis shall be carried out, taking into account the likely significant adverse transboundary impact of the activity for which an environmental impact assessment has been undertaken pursuant to this Convention. Any post-project analysis undertaken shall include, in particular, the surveillance of the activity and the determination of any adverse transboundary impact. Such surveillance and determination may be undertaken with a view to achieving the objectives listed in Appendix V.”**

71. In one case out of the six that had reached this phase, a post-project analysis has been requested (by the affected country). However, the consultations are still taking place and thus the contents and arrangements will be defined later. Additionally, in one case environmental monitoring was requested.

**“2. When, as a result of post-project analysis, the Party of origin or the affected Party has reasonable grounds for concluding that there is a significant adverse transboundary impact or factors have been discovered which may result in such an impact, it shall immediately inform the other Party. The concerned Parties shall then consult on necessary measures to reduce or eliminate the impact.”**

### Article 15

#### SETTLEMENT OF DISPUTES

**“1. If a dispute arises between two or more Parties about the interpretation or application of this Convention, they shall seek a solution by negotiation or by any other method of dispute settlement acceptable to the parties to the dispute.”**

72. In one case the countries did not agree on whether there was a significant transboundary impact or not. Consequently, the procedure is not moving forward. The proposed activity is listed in Appendix I to the Convention.

**“2. When signing, ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party may declare in writing to the Depository that for a dispute not resolved in accordance with paragraph 1 of this Article, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:**

- (a) Submission of the dispute to the International Court of Justice;**
- (b) Arbitration in accordance with the procedure set out in Appendix VII.”**

**“3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 of this Article, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.”**



**Annex III**

**DECISION II/3  
GUIDANCE ON PUBLIC PARTICIPATION IN ENVIRONMENTAL  
IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT**

The Meeting,

Recalling decision I/6 on the adoption of the work plan taken at its first meeting,

Convinced that public participation forms an important part of transboundary environmental impact assessment,

Acknowledging that the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters may contribute significantly to the further strengthening of public participation in the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context,

1. Recognizes the need for guidance to assist competent authorities and the public in organizing effective public participation in environmental impact assessment in a transboundary context;
2. Welcomes the work carried out by the Russian Federation in developing draft guidance on public participation in environmental impact assessment in a transboundary context as appended to this decision;
3. Recommends the Parties to develop this guidance further, inter alia on the basis of case studies, and to put forward proposals for consideration at the third meeting of the Parties;
4. Decides to take the outcome of the Workshop held in Moscow in June 2000 into account in its work plan for the period 2001-2003.

## Appendix I

### Introduction

1. Principle 10 of the Declaration of the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, Brazil, emphasizes that environmental issues are best handled with the participation of all concerned citizens, at the relevant level. 1/ Item 23.2 of Agenda 21, adopted at the Rio de Janeiro Conference, recognizes the important role of public participation in environmental impact assessment in achieving sustainable development. 2/
2. The Convention on Environmental Impact Assessment in a Transboundary Context (EIA Convention) 3/ is one of the basic documents in the implementation of ideas and principles of UNCED on sustainable development and in the development of the principles of civil society and democracy in the region of UN/ECE.
3. At the first meeting of the Parties to the EIA Convention (Oslo, 18-20 May 1998), it was agreed that the work plan for the implementation of the Convention in 1998-2000 should include work on public participation in (environmental impact assessment in) a transboundary context.
4. Guidance was developed by the Russian Federation, as lead country, with financial support from Italy, and with assistance from the secretariat of the EIA Convention and an international group of experts from Armenia, Azerbaijan, Bulgaria, Estonia, Finland, Georgia, Germany, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Russian Federation, Slovakia, the former Yugoslav Republic of Macedonia, Turkmenistan, Ukraine, United Kingdom, United States of America, European Bank for Reconstruction and Development, European Commission and international NGOs: European ECO-Forum, Global Environment, International Public Network for Environmental Impact Assessment (IPNEIA) and International Social-Ecological Union (SEU).
5. Most of these experts from the ECE region, including many from NGOs and countries in transition, took part in the international Workshop in Moscow (18-20 June 2000) where the draft Guidance was discussed, further developed and generally approved.

#### I. GOALS AND OBJECTIVES OF THE GUIDANCE

6. The main goal of this Guidance is to assist competent authorities and the public in organizing effective public participation in environmental impact assessment in a transboundary context (below: “transboundary EIA”) under the EIA Convention. The authorities in the UN/ECE member countries (including Parties and non-Parties to the EIA Convention) may use this Guidance to further develop national regulations and bilateral and multilateral agreements pursuant to the EIA Convention.
7. The main objectives of public participation in transboundary EIA are to:
  - (a) Improve the quality of decisions with transboundary impacts;

- (b) Stimulate comprehensively balanced and open environmental decision-making;
- (c) Stimulate public debate of proposed activities among all interested groups at an early stage of decision-making, and to prevent conflicts;
- (d) Help to prevent or mitigate adverse global and regional environmental consequences of decisions with transboundary impacts;
- (e) Develop an understanding of final decisions with transboundary impacts at international and national levels.

8. Public participation in EIA in a transboundary context will help to:

- (a) Improve relations between peoples and countries, and prevent transboundary environmental conflicts;
- (b) Develop civil society and democracy in the countries of the ECE region;
- (c) Promote the timely disclosure of relevant information to participants in the environmental decision-making process;
- (d) Make people understand and respect the final decisions on projects;
- (e) Give an insight into environmental protection and long-term environmental problems.

## II. RECOMMENDATIONS DEALING WITH THE PUBLIC PARTICIPATION PROVISIONS OF THE CONVENTION

9. The EIA Convention states (art. 2, para. 2) that “Each Party shall take the necessary legal, administrative or other measures to implement the provisions of this Convention, including... the establishment of an environmental impact assessment procedure that permits public participation ...”. This implies that:

- (a) The Party of origin should support participation by its own public and the public of the affected Party in transboundary EIA by taking the necessary legal, administrative or other measures; and
- (b) The affected Party should support participation by its own public in transboundary EIA, including, if necessary, participation by the public of the affected Party in appropriate procedures in the Party of origin, by taking the necessary legal, administrative or other measures.

10. The EIA Convention also states (art. 2, para. 6) that “The Party of origin shall provide, in accordance with the provisions of this Convention, an opportunity to the public in the areas likely to be affected to participate in relevant environmental impact assessment procedures

regarding proposed activities and shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin.” This is the main provision on public participation in the Convention, and is especially important because it indicates that the public participation procedures should be equivalent for both Parties. This implies, for example, that if the public in the Party of origin has an opportunity to take part in public hearings on proposed activities, the Party of origin should provide the same opportunity to the public in the affected Party.

11. The EIA Convention stipulates (art. 3, para. 1) that “For a proposed activity ... the Party of origin shall ... notify any Party which it considers may be an affected Party as early as possible and no later than when informing its own public about that proposed activity.” This implies that:

(a) The Party of origin should notify its own public as early as possible about the proposed activity and about the start of the EIA procedure; and

(b) The Party of origin should notify any Party which it considers may be an affected Party (including the public in that Party) as early as possible and no later than when informing its own public about the proposed activity.

12. According to the EIA Convention (art. 3, para. 2), “This notification shall contain, inter alia:

(a) Information on the proposed activity, including any available information on its possible transboundary impact;

(b) The nature of the possible decision; and

(c) An indication of a reasonable time within which a response under paragraph 3 of this article is required, taking into account the nature of the proposed activity;

and may include the information set out in paragraph 5 of this article.”

13. The information mentioned in article 3, paragraph 5, of the Convention includes:

“(a) Relevant information regarding the environmental impact assessment procedure, including an indication of the time schedule for transmittal of comments; and

(b) Relevant information on the proposed activity and its possible significant adverse transboundary impact.”

This implies that the Party of origin should send the information mentioned in paragraph 12 above to its own public and to the public in any Party which it considers may be an affected Party (translated into the language of that Party) as early as possible and no later than when informing its own public about the proposed activity.

14. The EIA Convention states (art. 3, para. 8) that “The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be provided with possibilities for making comments or objections on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin.”

This paragraph is part of the article dealing with notification and makes it clear that public participation should begin as early as possible. The Parties concerned are expected to make the practical arrangements for such public participation.

15. This implies that:

(a) The Party of origin is responsible for the translation into the language of the affected Party of all documentation disseminated as part of the transboundary EIA procedure, for providing the information and for receiving comments from the affected Party and the public there;

(b) The Party of origin, if necessary, can recover the cost from the proponent of the activity;

(c) The Party of origin can distribute the information to the public by means of the mass media, e-mail, the Internet, public hearings or in other appropriate ways;

(d) The affected Party is responsible for collecting comments from the public, analysing them and forwarding them to the Party of origin.

16. The EIA Convention lays down (art. 4, para. 2) that “The Party of origin shall furnish the affected Party, as appropriate through a joint body where one exists, with the environmental impact assessment documentation. The concerned Parties shall arrange for distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity.”

This implies that:

(a) The Party of origin must transmit the EIA documentation to the affected Party and receive comments;

(b) The Party of origin is responsible for the translation of the EIA documentation, the comments received from the affected Party, and all the documentation which the Parties concerned send each other during the transboundary EIA procedure;

(c) The Party of origin undertakes to ensure that the comments received from the affected Party, including the comments from the public, will be reflected in the final decision;

(d) The affected Party must specify the arrangements for distributing the EIA documentation to its own authorities and the public and for collecting comments and forwarding them to the Party of origin or its competent authorities.

### III. GENERAL RECOMMENDATIONS

17. The competent authorities and the public in the Parties concerned and joint bodies (where they exist) should consider public participation in transboundary EIA as one of the most important elements of this procedure, helping to make environmental decision-making of this kind more effective.

18. Public participation in transboundary EIA should take place in a manner that takes full account of the rights and responsibilities of the competent authorities and the public. It should also take into account national traditions, institutions and social structure.

19. The EIA Convention defines (art. 1 (x)) “The public” as “one or more natural or legal persons”. This is a broad definition, but the Convention also imposes some restrictions on public involvement in transboundary EIA. <sup>4/</sup> That is why it is recommended that the Parties concerned should where possible use, for the purpose of this Guidance, a definition of the public developed by UN/ECE for the 1998 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters:

“The public means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups” (art. 2, para. 2) and “the public shall have the possibility to participate in decision-making in environmental matters, [including transboundary EIA] without discrimination as to citizenship, nationality or domicile” (art. 3, para. 9).

20. The information for the public on transboundary EIA should be readily available for inspection free of charge. Means of accomplishing this include the establishment of international and national documentation centres, libraries, databases, Web sites on the Internet, e-mail and other means of communicating and disseminating information.

21. Procedures for public participation in transboundary EIA should allow the public to submit, in writing or, as appropriate, at a public hearing or inquiry with the proponent of proposed activity, any comments, information, analyses or opinions that it considers relevant to the proposed activity. The Parties, the competent authorities, public and the secretariat of the EIA Convention must foster the creation of international and national public networks and centres on EIA to facilitate public participation in EIA at the international and national levels. The details of public participation in transboundary EIA may be incorporated into bilateral and multilateral agreements or other arrangements in order to give the Convention full effect. Cooperation between the public and the competent authorities of the Parties concerned should be encouraged so as to make public participation in transboundary EIA more effective.

22. The participation of the proponent of the proposed activity in the transboundary EIA procedure, including financial support for public participation in this procedure, is very

important for the implementation of the EIA Convention. Proponents should provide financial support for public participation in transboundary EIA. This support may be used for:

- (a) Translating the EIA documentation into the language of the affected Party and the comments and recommendations of the public in the affected Party into the language of the Party of origin;
- (b) Distributing materials within the affected Party;
- (c) Public meetings in the Parties concerned; and
- (d) Other purposes relevant to public participation in transboundary EIA.

#### IV. RECOMMENDATIONS TO THE PARTIES

23. The Parties concerned should notify the public in the Party of origin and in the affected Party as early as possible about a proposed activity, about the start of the transboundary EIA procedure and about opportunities for the public to participate in that procedure. This is a prerequisite for effective public participation in transboundary EIA.

24. The notification should include the following:

(a) Information on the proposed activity and the application on which a decision will be taken, including any available information on its possible transboundary impact. This information shall, as a minimum, contain:

- (i) A description of the proposed activity and its purpose;
- (ii) A description, where appropriate, of reasonable alternatives (for example, geographical or technological) to the proposed activity and the zero-action alternative;
- (iii) A description of the features of the environment likely to be significantly affected by the proposed activity and alternatives;
- (iv) A description of the potential environmental impact of the proposed activity and alternatives, and an estimation of its significance;
- (v) A description of mitigation measures to keep adverse environmental impact to a minimum;
- (vi) An explicit indication of predictive methods and underlying assumptions and of the environmental data to be used;

- (vii) An identification of gaps in knowledge and uncertainties encountered in compiling the required information;
  - (viii) Where appropriate, an outline of monitoring and management programmes and any plans for post-project analysis; and
  - (ix) A non-technical summary including a visual presentation as appropriate (maps, graphs, etc.);
- (b) The nature of the possible decisions and information about other forms of possible mutual assistance in reducing any significant adverse transboundary impact of the proposed activity;
- (c) An estimate of a reasonable time for receiving comments from the public, taking into account the nature of the proposed activity;
- (d) The public authority responsible for making the decision;
- (e) The envisaged transboundary EIA procedure, including, as and when this information can be provided:
- (i) The commencement of the procedure;
  - (ii) Opportunities for the public to participate;
  - (iii) The time and venue of any public hearing envisaged;
  - (iv) An indication of the public authority from which relevant information can be obtained and of where the relevant information has been deposited for examination by the public;
  - (v) An indication of the relevant public authority or any other official body to which comments or questions can be submitted and of deadlines for transmittal of comments or questions; and
  - (vi) An indication of what environmental information relevant to the proposed activity is available.

25. The Parties are called upon to ensure that all members of the public have access to the transboundary EIA procedure. In particular, they are encouraged to:

- (a) Promote the application of the principles of public participation in transboundary EIA at all levels of the decision-making process;
- (b) Develop ways to involve the public further in transboundary EIA;



(c) Keep the public informed of their activities so that they can work as partners in decision-making and the implementation of the EIA Convention;

(d) Support the participation of representatives of the public as observers in meetings of joint bodies (when they exist) and subsidiary bodies of the EIA Convention.

Where appropriate, the Parties should give the public additional assistance with and explanations of public participation in transboundary EIA.

26. The Parties concerned should provide for public participation at the outset of transboundary EIA, when all options are open and effective public participation can take place. They should provide reasonable time-frames for the public to participate in the different phases of transboundary EIA, allowing sufficient time for informing the public and for the public to prepare and participate effectively during the transboundary EIA procedure.

27. In designing the procedure for public participation in transboundary EIA, attention should be paid to the following: who the public will be (by impact and interest, sector or location); what techniques should be used and at what stages of the project, taking into account the purpose of public participation.

28. The Parties concerned should ensure that in the decision on the proposed activity due account is taken of the outcome of the public participation in the transboundary EIA. The Party of origin should ensure that, when the decision has been taken by the competent authority, the public is promptly informed of the decision in accordance with the appropriate procedures. The Party of origin should make accessible to the public the text of the decision along with the reasons and considerations on which it is based, including information about which recommendations from the public were used and which were not, and the reasons for this.

29. The Parties should promote environmental education and training for the general public, specified target groups and competent authorities, especially regarding the methods and techniques of organizing public participation in transboundary EIA and the implementation of this Guidance. Joint training and education of representatives of the competent authorities and the public is the most effective.

30. The Parties should actively publicize available information about the implementation of the EIA Convention, together with relevant resolutions, recommendations and other documents concerning events and structures under the EIA Convention, in the official languages of UN/ECE and in their own languages.

31. The Parties are urged to give effect to legal rights to the dissemination of information about proposed activities and possible public participation in transboundary EIA. They should facilitate public participation in transboundary EIA. Special efforts should be made to involve local communities that live near the border in this procedure.

32. The Parties are urged to involve the public in the process of determining whether, and to what extent, a post-project analysis should be carried out according to the provisions of the EIA

Convention<sup>5/</sup> and national legislation.

33. They are urged to support public participation in the preparation of decisions on plans and programmes with potential adverse transboundary impact, and in the preparation of international treaties relating to transboundary EIA. They must ensure that those involved in a transboundary EIA procedure are not penalized in any way for activities that are otherwise lawful.

34. The Parties concerned should, within the framework of their national legislation, ensure that any person who considers that his or her request for participation in transboundary EIA has been ignored, wrongfully refused, whether in part or in full, or inadequately answered, has access to a review procedure before a court of law or another independent and impartial body established by law.

## V. RECOMMENDATIONS TO THE PUBLIC

35. The public should participate in transboundary EIA to increase the quality of environmental decisions.

36. The public should organize itself for effective participation in transboundary EIA by:

- (a) Developing contacts and cooperation with local, national, foreign and international NGOs and experts that may be involved in transboundary EIA;
- (b) Organizing and participating in activities of national and international public networks and public centres on EIA;
- (c) Taking part in education and training programmes on EIA;
- (d) Supporting the dissemination of information about the provisions and the implementation of the EIA Convention, case studies, and other pertinent information about transboundary EIA.

37. If the public in a Party considers it may be affected by the significant adverse transboundary impact of a proposed activity and no notification has taken place in accordance with the EIA Convention, <sup>6/</sup> it should apply to its competent authority to enter into a process of discussions with the competent authorities of the Party of origin on whether there is likely to be a significant adverse transboundary impact within the meaning of the Convention. <sup>7/</sup> In this situation, the public in the Party considering that it may be so affected may request the competent authorities of the Parties concerned to allow it to participate in a transboundary EIA procedure under the provisions of the EIA Convention and this Guidance. In such cases the Parties concerned are urged to include the public that made the request in the transboundary EIA procedure.

38. If the public in an affected Party sends its comments to the competent authority of the

Party of origin, either directly or, where appropriate, through the Party of origin, 8/ it should also send copies of those comments to the competent authorities of the affected Party.

39. The public should take part in transboundary EIA together with representatives of the competent authorities of the Parties concerned, the public of their own and other countries and the secretariat of the EIA Convention on a basis of partnership, cooperation and objectivity.

#### VI. RECOMMENDATIONS TO THE SECRETARIAT OF THE CONVENTION

40. The secretariat of the EIA Convention must play an important role in disseminating information about the application of the Convention and projects being implemented under the Convention in the UN/ECE region, and in supporting public participation in transboundary EIA. For that purpose, it should have a budget that allows it to support the development and maintenance of Web sites on the Internet, databases, the distribution of information and other activities relating to public participation in transboundary EIA under the provisions of the Convention and this Guidance.

#### VII. IMPLEMENTATION OF THE GUIDANCE

41. The Parties, the competent authorities, the public and the secretariat of the EIA Convention are urged to adopt the necessary measures for the implementation of this Guidance. These include the establishment of a clear regulatory framework providing procedural and institutional mechanisms and proper compliance programmes. Special regard should be had to the role of regional and local authorities and populations and indigenous people.

42. The Guidance should be placed in the Convention's database (ENIMPAS). Nothing in this Guidance shall be construed as diminishing any rights of the public to participate in impact assessment or in other environmental decision-making processes which are or may be guaranteed under the laws of any Parties or under any agreement to which it is a Party. The provisions of this Guidance shall not affect the right of a Party to maintain or introduce measures providing for more extensive public participation in environmental impact assessment than required by this Guidance.

#### VIII. REVIEW

43. The Parties, the competent authorities and the public (at national, regional and local levels), and the secretariat of the EIA Convention should collect and disseminate information on all aspects of public participation in transboundary EIA. Such information will be used to develop and review this Guidance.

44. The Parties should consider the extent to which this Guidance has been implemented, and review it at their third meeting on the basis of national reports to be submitted to the secretariat by June 2002 at the latest.

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Notes

1/ Declaration of the United Nations Conference on Environment and Development (UNCED), Rio de Janeiro, 1992.

2/ Agenda 21. Adopted by the United Nations conference on Environment and Development (UNCED), Rio de Janeiro, 1992.

3/ Convention on Environmental Impact Assessment in a Transboundary context (Espoo, 25 February 1991). UN/ECE. 1991.

4/ Only the “public in the areas likely to be affected” may be involved in transboundary EIA under the convention (art. 2, para. 6, art.3, para. 8, and art. 4, para. 2).

5/ EIA Convention, article 7 and appendix V.

6/ EIA Convention, article 3, paragraph 1.

7/ EIA Convention, article 3, paragraph 7.

8/ EIA Convention, article 4, paragraph 2.

## Appendix II

### LIST OF INTERNATIONAL REGULATIONS, METHODOLOGIES, INFORMATION AND OTHER MATERIALS USED FOR THE DEVELOPMENT OF THE DRAFT GUIDANCE

1. Agenda 21. Adopted by the United Nations Conference on Environment and Development (UNCED), Rio de Janeiro, 1992.
2. Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus, 25 June 1998). UN/ECE. 1999.
3. Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 25 February 1991). UN/ECE. 1991.
4. Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki, 17 March 1992). UN/ECE. 1994.
5. Convention on the Transboundary Effects of Industrial Accidents (Helsinki, 17 March 1992). UN/ECE. 1994.
6. Council Directive 85/337 of 27 June 1985, on the assessment of the effect of certain public and private projects on the environment. Official Journal of the European Communities. 1985. No L 175.
7. Council Directive 90/313 of 7 June 1990, on the freedom of access to information on the environment. Official Journal of the European Communities. 1990. No L 158.
8. Council Directive 97/11 of 3 March 1997 amending, Directive 85/337/EEC on the assessment of the effect of certain public and private projects on the environment. Official Journal of the European Communities. 1997. No L 73.
9. Declaration of the United Nations Conference on Environment and Development (UNCED), Rio de Janeiro, 1992.
10. Draft Guidelines on Public Participation in Water Management. Second Meeting of the Parties to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (The Hague, Netherlands, 23-25 March 2000). UN/ECE. MP.WAT/2000/6. 20 December 1999.
11. Draft report: Practical application of the UN/ECE Convention on Environmental Impact Assessment in a Transboundary Context. Circular fax of the Secretariat to the EIA Convention to the focal points to the EIA Convention of 21.10.1999.

12. Economic Commission for Europe. Environmental Series. No. 1. Application of Environmental Impact Assessment: Highways and dams. Geneva. UN/ECE. 1987.
13. Economic Commission for Europe. Environmental Series. No. 3. Post-project Analysis in Environmental Impact Assessment. Geneva. UN/ECE. 1990.
14. Economic Commission for Europe. Environmental Series. No. 4. Policies and Systems of Environmental Impact Assessment. Geneva. UN/ECE. 1991.
15. Economic Commission for Europe. Environmental Series. No. 5. Application of Environmental Impact Assessment Principles to Policies, Plans and Programmes. Geneva. UN/ECE. 1992.
16. Economic Commission for Europe. Environmental Series. No. 6. Current Policies, Strategies and Aspects of Environmental Impact Assessment in a Transboundary Context. Geneva. UN/ECE. 1996.
17. Environmental Assessment Sourcebook. V.1. World Bank technical paper N 139. Washington, D.C. World Bank. 1991.
18. Environmental Action Programme for Central and Eastern Europe. Document submitted to the Ministerial Conference, Lucerne, Switzerland. Lucerne. OECD and World Bank. 1993.
19. Environmental Impact Assessment: Issues, Trends and Practice. UNEP. 1996.
20. Environmental Impact Assessment Training Resource Manual. UNEP. 1996.
21. Environmental Procedures. European Bank for Reconstruction and Development. London. 1992, 1996.
22. Guidelines for Environmental Impact Assessment (EIA) in the Arctic. Arctic Environmental Protection Strategy. Finnish Ministry of the Environment. 1997.
23. Guidelines on Access to Environmental Information and Public Participation in Environmental Decision-Making. As endorsed by the Third Ministerial Conference "Environment for Europe" (23-25 October 1995, Sofia, Bulgaria). Geneva. UN/ECE. 1996.
24. Guidelines on Integrated Environmental Management in Countries in Transition (ECE/UNEP). Geneva. UN/ECE. 1994.
25. Manual on Public Participation in Environmental Decision-making. Regional Environmental Center. Budapest. 1994.

26. Methodology, focalization, evaluation and scope of Environmental Impact Assessment. Third report. Evaluation of the public participation in EIA. NATO CCMS Pilot Study. Verheyen R. (Coordinator), Nagels K. (Redaction). University of Antwerp. 1995.
27. Proposal for a Council Directive on assessment of the effect of certain plans and programmes on the environment. Official Journal of the European Communities. 1997. No C 129.
28. Public Participation and Consultation in EIA and SEA. Workshop report (Athens, 23-24 September 1999). European Commission - DG Environment. ERM. London. 2000.
29. Public participation in environmental impact assessment. Report submitted by the delegation of the Russian Federation. Fourth Meeting of the Signatories to the Convention on Environmental Impact Assessment in a Transboundary Context (Geneva, 14-17 March 1995). UN/ECE. CEP/WG.3/R.5.
30. Recommendations to ECE Governments. In book: Methods and Techniques for Prediction of Environmental Impact. UN/ECE. ECE/ENVA/21. Geneva. 1992.
31. Strategic Environmental Assessment. Note by the secretariat. Working Group on Environmental Impact Assessment (Second meeting, Geneva, 29-31 May 2000), Meeting of the Signatories to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Second meeting, Dubrovnik, Croatia, 3-5 July 2000. MP.EIA/WG.1/2000/16; CEP/WG.5/2000/9. UN/ECE. 17 April 2000.
32. Towards Sustainability. A European Community programme of policy and action in relation to the environment and sustainable development. Official Journal of the European Communities. 17.5.1993. No C 138.

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Note: These references have been reproduced as received.

**Annex IV**

**DECISION II/4  
REVIEW OF COMPLIANCE**

The Meeting,

Determined to promote and improve compliance with the Convention and recalling Article 11, paragraph 2, of the Convention and decision I/6,

Recognizing the importance for rigorous reporting by Parties of their compliance with the Convention,

1. Establishes the Implementation Committee for the review of compliance by the Parties with their obligations under the Convention with a view to assisting them fully to meet their commitments;
2. Decides that the structure and functions of the Implementation Committee and the procedures for review of compliance shall be those set out in the appendix to this decision;
3. Resolves that the Implementation Committee as well as the structure, functions and procedures set out in the appendix to this decision shall be available for the review of compliance with any future amendments or protocols to the Convention;
4. Decides to review the structure and functions of the Committee at the third meeting of the Parties, bearing in mind the possible involvement of the public and requests in this context the Implementation Committee to prepare the necessary proposals for the third meeting of the Parties;
5. Recommends that further measures should be taken to strengthen reporting under the Convention and in this respect welcomes decision II/11 on the work-plan.



## Appendix

### **STRUCTURE AND FUNCTIONS OF THE IMPLEMENTATION COMMITTEE AND PROCEDURES FOR REVIEW OF COMPLIANCE**

#### Structure

1. (a) The Committee shall consist of eight Parties to the Convention. Each of the eight Parties shall appoint a member of the Committee. The Parties shall, as soon as practicable, elect four Parties to the Committee for two terms and four Parties for one term. At each session thereafter, the Meeting of the Parties shall elect four new Parties for two terms. Outgoing Parties may be re-elected once, unless in a given case the Meeting of the Parties decides otherwise. The Committee shall elect its own President and Vice-President;

(b) For the purposes of this paragraph "term(s)" means the period that begins at the end of one meeting of the Parties and ends at the end of the next meeting of the Parties.

#### Meetings

2. The Committee shall, unless it decides otherwise, meet at least once a year. The secretariat shall arrange for and service its meetings.

#### Objective and functions of the Committee

3. The objective of the Committee shall be to assist Parties fully to comply with their obligations under the Convention, and to this end it shall:

(a) Consider any submission made in accordance with paragraph 4 below or any other possible non-compliance by a Party with its obligations that the Committee decides to consider in accordance with paragraph 5, with a view to securing a constructive solution;

(b) Review periodically, in accordance with any guidelines or criteria formulated by the Meeting of the Parties, compliance by the Parties with their obligations under the Convention on the basis of the information provided in their reports;

(c) Prepare the reports referred to in paragraph 9 with a view to providing any appropriate assistance to the Party or Parties concerned, for example by clarifying and assisting in the resolution of questions; providing advice and recommendations relating to procedural, technical or administrative matters; and providing advice on the compilation and communication of information; and

(d) Prepare, at the request of the Meeting of the Parties, and based on any relevant

experience acquired in the performance of its functions under subparagraphs (a), (b) and (c) above, a report on compliance with or implementation of specified obligations in the provisions of the Convention.

#### Submission by Parties

4. A submission may be brought before the Committee by:

(a) One or more Parties to the Convention that have concerns about another Party's compliance with its obligations under that instrument. Such a submission shall relate specifically to those concerns and shall be addressed in writing by the focal point of the Party in question to the secretariat and supported by corroborating information. The secretariat shall, within two weeks of receiving a submission, send a copy of it to the focal point of the Party whose compliance is at issue. Any reply and information in support thereof shall be submitted to the secretariat and to the focal points of the Parties involved within three months or such longer period as the Parties involved agree. The secretariat shall transmit the submission and the reply, as well as all corroborating and supporting information, to the Committee, which shall consider the matter as soon as possible; or

(b) A Party that concludes that, despite its best endeavours, it is or will be unable to comply fully with its obligations under the Convention. Such a submission shall be addressed in writing to the secretariat and explain, in particular, the specific circumstances that the Party considers to be the cause of its non-compliance. The secretariat shall transmit the submission to the Committee, which shall consider it as soon as possible.

#### Committee initiative

5. Where the Committee becomes aware of possible non-compliance by a Party with its obligations, it may request the Party concerned to furnish necessary information about the matter. Any reply and information in support shall be provided to the Committee within three months or such longer period as the circumstances of a particular case may require. The Committee shall consider the matter as soon as possible in the light of any reply that the Party may provide.

#### Information gathering

6. To assist the performance of its functions under paragraph 3 above, the Committee may:

(a) Request further information on matters under its consideration, through the secretariat;

(b) Undertake, at the invitation of the Party of origin and/or the affected Party, information gathering in the territory of that Party;

(c) Consider any information forwarded by the secretariat concerning compliance with the Convention;

- (d) Consult the information in the database under the Convention; and
- (e) Seek the services of scientific experts and other technical advice as appropriate.

7. The Committee shall ensure the confidentiality of any information that has been provided to it in confidence.

#### Entitlement to participate

8. A Party in respect of which a submission is made or which makes a submission shall be entitled to participate in the consideration by the Committee of that submission, but shall not take part in the preparation and adoption of any report or recommendations of the Committee. The Committee shall decide on the content of any report or recommendations by consensus, send a copy of the draft report or recommendations to the Parties concerned, and shall take into account any representations from such Parties in the finalization of the report.

#### Committee reports to the Meeting of the Parties

9. The Committee shall report on its activities at each meeting of the Parties through the secretariat and make such recommendations as it considers appropriate, taking into account the circumstances of the matter, regarding compliance with the Convention. Each report shall be finalized by the Committee not later than ten weeks in advance of the session of the Meeting of the Parties at which it is to be considered. Every effort shall be made to adopt the report by consensus. Where this is not possible the report shall reflect the views of all the Committee members.

#### Competence of Committee members

10. If as a result of the operation of paragraph 8 the size of the Committee is reduced to five members or less, the Committee shall forthwith refer the matter in question to the Meeting of the Parties.

#### Consideration by the Meeting of the Parties

11. The Parties may, upon consideration of a report and any recommendations of the Committee, decide upon appropriate general measures to bring about compliance with the Convention and measures to assist an individual Party's compliance. The Parties shall make every effort to reach a decision by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the decision shall, as a last resort, be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.

Relationship to settlement of disputes and the inquiry procedure

12. The present compliance procedure, as a non-adversarial and assistance-oriented procedure, shall be without prejudice to the settlement of disputes provisions in Article 15 of the Convention.
13. Where a matter is being considered under an inquiry procedure under Article 3, paragraph 7, that matter may not be the subject of a submission under this decision.

## Annex V

### **DECISION II/5 RECENT DEVELOPMENTS AND LINKS WITH OTHER ECE CONVENTIONS**

#### The Meeting,

Acknowledging the since the signing of the Convention environmental impact assessment (EIA) has continued to evolve and that there have been numerous recent developments in this field,

Noting that the ECE environmental conventions have a number of common elements and aware of the links between the Convention and these other conventions,

Having considered the outcome of the workshop on recent EIA developments and links with other conventions,

1. Endorses the main findings of the workshop, which state, inter alia, that recent developments in other ECE conventions, such as annex I to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, and European Union Directive 97/11/EC suggest that the field of application of the Convention as set out in its Appendix I should be reconsidered;
2. Decides that the links among the ECE conventions should be further investigated in order to identify other possible synergies and to make proposals for concrete action;
3. Endorses the document on recent EIA developments and links with other conventions as appended to this decision;
4. Requests its Bureau to transmit this document to the governing bodies of the other ECE environmental conventions;
5. Decides to take into account the outcome of the workshop in its work-plan for the 2001-2003 period;
6. Requests the secretariat to publish this document in the UN/ECE Environmental Series in the official languages of the Convention.

## **Appendix I**

### **RECENT EIA DEVELOPMENTS AND LINKS WITH OTHER ECE CONVENTIONS**

#### **Introduction**

1. In accordance with the work plan adopted by the Meeting of the Parties at its first meeting (ECE/MP.EIA/2, annex VI), an activity on recent environmental impact assessment (EIA) developments and links with other ECE Conventions was undertaken. This report presents the results of the analysis of the links between the EIA Convention and other ECE Conventions by the task force led by Italy. The European Union's EIA Directive 85/337/EEC, as amended by Directive 97/11/EC, has also been considered. These legal instruments have a number of elements in common. They aim at preventing and/or reducing adverse impacts on the environment from specific activities and are concerned with the responsibility of States not to cause damage to the environment of other States, as enshrined in the Declaration of the Stockholm Conference on the Human Environment. All instruments also underline the important issue of public participation in the different phases of environment-related decision-making and to this effect they establish provisions to promote the participation of the public, including access to information.

2. In particular the EIA Convention lays down that Parties shall take "all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities".

3. The Convention on the Transboundary Effects of Industrial Accidents (hereinafter called the Industrial Accidents Convention) provides for Parties to take "appropriate measures [...] to protect human beings and the environment against industrial accidents by preventing such accidents as far as possible, by reducing their frequency and severity and by mitigating their effects".

4. The objective of the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (hereinafter called the Water Convention) is to "prevent, control and reduce pollution of waters causing or likely to cause transboundary impact". Its other aims are: the ecological use of transboundary waters; the conservation of water resources; the reasonable and equitable use of water. To this aim the Convention stipulates that the Parties shall develop, adopt, implement and render compatible "relevant legal, administrative, economic, financial and technical measures".

5. The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (hereinafter called the Public Participation Convention) aims at guaranteeing "the rights of access to information, public participation in

decision-making, and access to justice in environmental matters”. To this end the Convention lays down that each Party shall take “the necessary legislative, regulatory and other measures to [...] to establish and maintain a clear, transparent and consistent framework to implement the provisions of the Convention”.

6. The EIA Directive aims at preventing relevant environmental impacts caused by public or private projects “likely to have significant effects on the environment”.

7. All legal instruments considered aim for an integrated approach by underlining the relationship between the different components of the environment. The task force was not aware of an activity which would fall under the scope of two or more Conventions. All Conventions represent a response by ECE member countries to the need to reinforce international cooperation and they are aimed at harmonizing national measures and at formulating a basic framework for international cooperation.

### **EIA and industrial accidents**

8. The two Conventions have similar subject matters, approaches and procedures. Both Conventions adopt a preventive approach, seeking to prevent impacts or minimize them. Both Conventions codify the procedural duties of notification and consultation, which, where the activities within one Party are likely to affect the environment, rights and interests of another, are recognized as obligations under international law.

9. The application of the two Conventions is different. The EIA Convention directly identifies the activities on the basis of clearly identified thresholds. In some cases, these thresholds are identified by using words such as “large” or “major”, while the Industrial Accident Convention refers to activities involving hazardous substances, listed in annex I. On the other hand, their application to new activities largely overlaps, as most of the proposed activities within the scope of the Industrial Accidents Convention are hazardous activities that are capable of causing transboundary effects, and so are likely to require an EIA under the EIA Convention. Appendix I to the EIA Convention contains some activities in which the hazardous substances of annex I to the Industrial Accidents Convention are produced or used.

10. The Industrial Accidents Convention includes a transboundary procedure for assessing the risk of transboundary effects in the event of an industrial accident. This assessment procedure is very similar to the procedure of the EIA Convention. Because of the overlap in scope of the two Conventions, there is a possibility that a Party to both Conventions would have to carry out an EIA and a risk assessment for the same proposed activity. To avoid such duplication, the Industrial Accidents Convention allows a Party that has already performed an EIA for the proposed hazardous activity in conformity with the EIA Convention to waive the requirement to perform the risk assessment procedure pursuant to

the Industrial Accidents Convention. In fact, article 4, paragraph 4, of the Industrial Accidents Convention establishes that "the final decision taken for the purposes of the Convention on Environmental Impact Assessment in a Transboundary Context shall fulfil the relevant requirement of this Convention".

11. The requirement that the EIA should comply with the procedures of both Conventions requires further study as there are differences between the content of the information in the procedure of the EIA Convention and the assessment procedure of the Industrial Accidents Convention. In particular, the EIA documentation should include the information requested under the Industrial Accident Convention. In this respect appendix II to the EIA Convention only prescribes in general terms the minimum content of the environmental documentation and should include a reference to risk analysis as required by the Industrial Accidents Convention (annex V).

12. If a proposed hazardous activity with the scope of the Industrial Accidents Convention is not listed in appendix I to the EIA Convention and a risk assessment has found that it is likely to have a transboundary impact in the event of an accident, it should be subject to an EIA if a consultation has been started in accordance with article 2, paragraph 5, of the EIA Convention.

### **EIA and water**

13. The definition of "transboundary impact" of the EIA Convention (art. 1 (viii)) implies that the environmental documentation should include, where appropriate, a description of the likely impacts on water. Article 1 (vii) of the EIA Convention also refers to impacts on water.

14. Another link between the EIA Convention and the Water Convention is the provision in the Water Convention for the application of EIA. To reach an appropriate protection of transboundary watercourses, the Water Convention commits Parties to undertaking EIA, both at the national and at the international level. The Water Convention contains two Articles dealing with EIA for transboundary waters (art. 3, para. 1 (h), and art. 9, para. 2 (j)).

15. According to article 3, paragraph 1 (h), Parties shall develop, adopt, implement and, as far as possible, render compatible relevant legal, administrative, economic, financial, and technical measures, in order to ensure, inter alia, that EIA and other means of assessment are applied. With this provision the Water Convention commits Parties to undertaking EIA at the national level. Consequently, if an activity is likely to have a transboundary impact on waters and it is included in appendix I to the EIA Convention or subject to consultation under its article 2, paragraph 5, the provisions of the EIA Convention shall apply to that activity.

16. Furthermore, article 9, paragraph 1, of the Water Convention stipulates that Riparian Parties shall enter into bilateral or multilateral agreements in order to cooperate and



harmonize their conduct. The specific commitment is set in paragraph 2 (j) of article 9, according to which the agreements shall provide for the establishment of joint bodies that shall inter alia participate in the implementation of EIAs relating to transboundary waters, in accordance with appropriate international regulations. It is understood that these regulations refer to the EIA Convention with its procedures.

17. Several other requirements of the Water Convention, such as the elaboration of proper objectives for water quality and waste-water discharges, may be more effectively fulfilled by applying the EIA principles. Water-quality objectives are increasingly used as an important policy instrument to prevent, control and reduce pollution in internal and transboundary waters. Therefore, the Water Convention repeatedly refers to water-quality criteria and objectives. The use of EIA principles in the overall process would increase the reliability of assumptions made and results achieved. In addition, it would help in the decision-making process.

18. Licensing waste-water discharges into transboundary waters is another basic tool to ensure their protection, conservation and restoration. The Water Convention refers to this in its articles 3, paragraph 1 (b), and 9, paragraph 2 (d). The decision to grant or to refuse a permit for waste-water discharges generally requires adequate information on the characteristics of the installation, which must be provided by the operator. Therefore, there is a need for a sound licensing system to be based on a case-by-case consideration of emission sources and on the outcome of EIAs where applicable. EIA should be an integral part of a permit procedure for proposed activities, if the expected discharges may have a significant impact on the environment. Projects for waste discharges may be added to the activities listed in appendix I to the EIA Convention.

19. The need to continuously monitor environmental conditions, in particular once an activity with a likely impact on the environment has been started up, has generally been accepted. Therefore, the EIA Convention as well as the Water Convention contain provisions to regularly verify the change in the environmental conditions and to take care of the environmental impacts once an activity has been started. The EIA Convention contains provisions for post-project analysis (art. 7 and appendix V), although they are not mandatory, where the Water Convention requires water-related monitoring (arts. 4, 9, para. 2 (b), and 11). As post-project analysis may be considered one of the most cost-effective tools for improving the efficiency of EIA, strengthening these provisions should be considered. The relationship between the requirement for post-project analysis under the EIA Convention and the monitoring requirement under the Water Convention should be further considered.

### **EIA and public participation**

20. The Public Participation Convention is based on three pillars: (i) access to information, (ii) public participation and (iii) access to justice.

21. As public participation is an integral part of EIA, there is a strong link between it and the Public Participation Convention. Article 3, paragraph 8 and article 4, paragraph 2, of the EIA Convention include provisions for public participation in the different phases of the EIA procedure. Provisions for public participation are further elaborated in the Public Participation Convention, in particular in its articles 6, 7 and 8. Article 6 of the Public Participation Convention applies to the activities listed in annex I to the Convention; this annex includes almost all the activities listed in the appendix I to the EIA Convention and other activities that may be relevant in the transboundary context. In this respect an update of appendix I to the EIA Convention may be considered.

22. The Public Participation Convention introduces a definition of the public and of the public concerned (art. 2, paras. 4 and 5). The EIA Convention also has a definition of the public, which may be revised in the light of the definition in the Public Participation Convention to make the application of the related EIA provisions more effective.

23. Access to information is closely linked to public participation, as the public cannot participate without being properly informed. The EIA Convention in its article 3 provides in general terms that the public has the right to receive information regarding the proposed activity and its likely transboundary impacts. It can be expected that the provisions on access to information of the Public Participation Convention could be useful when applying the EIA Convention.

24. In relation to public participation, article 6, paragraph 2 (e), of the Public Participation Convention reinforces the link between the two Conventions, stating that in the notification procedure the public concerned shall be informed of the fact that the activity is subject to a national or transboundary environmental impact assessment. Concerning proposed activities, the provisions of article 6 contain more detailed obligations for effective public participation during the decision-making process. If the two Conventions apply to the same proposed activity, the public participation requirements of the Public Participation Convention apply. Consequently, an updating of the public participation requirements of the EIA Convention should be considered.

25. The EIA Convention does not include provisions on access to justice. However, as already indicated in the Environmental Series No. 6 “Current policies, strategies and aspects of environmental impact assessment in a transboundary context”, it can be expected that members of the public concerned will try to challenge the substantive and procedural legality of a decision on a proposed activity under the EIA Convention. Article 9 of the Public Participation Convention may therefore be used to update and amend the EIA Convention.

26. The Public Participation Convention introduces provisions to: (i) amend the Convention (art. 14); (ii) allow NGOs qualified in the field of the Convention to take part in the meetings of the Parties (art. 10, para. 5); (iii) review compliance (art. 15); (iv) open up the Convention to all States Members of the United Nations (art. 19, para. 3). These provisions may help to update, facilitate and make more effective the application of the EIA Convention.

To this extent the task force noted that rules 6 and 7 of the rules of procedure of the Meeting of the Parties to the EIA Convention have provisions concerning the participation of NGOs. Work is also underway to provide proposals for the opening-up of the Convention to Member States of the United Nations that are not members of ECE, following the 1998 Oslo Ministerial Declaration (see document MP.EIA/WG.1/2000/14). A task force led by the United Kingdom is working on compliance mechanisms (see document MP.EIA/WG.1/2000/9).

### **EIA and new EC Directive on environmental assessment**

27. Directive 97/11/EC substantially amended Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, which largely inspired many provisions of the EIA Convention. The main changes concern the field of application, the introduction of a scoping phase and of criteria to determine the significance of impacts. The introduction of a scoping phase also in the EIA Convention may facilitate the notification and consultation phases between Parties and the public participation procedure and make them more effective. An updating of the criteria to determine the significance of the impacts may be considered.

28. Recently the European Union reached a common position on a Directive on the environmental assessment of plans and programmes that contains provisions on transboundary public participation on plans and programmes. Article 2, paragraph 7, of the EIA Convention already states that Parties shall endeavour to apply the principles of EIA to policies, plans and programmes. The EIA Convention may be revised in the light of these recent EIA developments.

### **Main findings**

29. Recent developments in other ECE Conventions and EC Directives on EIA, such as the recent EC Directive 97/11/EC or annex I to the Public Participation Convention, suggest that the field of application of the EIA Convention as set out included in its appendix I should be reconsidered.

30. “Scoping” may improve the quality of the EIA documentation. A “scoping” phase has been included in EC Directive 97/11/EC. It is therefore important to consider the issue of scoping (involvement of both the Party of origin and the affected Party) also under the EIA Convention.

31. In the Water Convention, post-project analysis is an important tool for the monitoring and assessment of environmental changes. Therefore, it is proposed that further work should be undertaken to strengthen the EIA Convention’s provisions on post-project analysis.

32. All Conventions considered have provisions on public participation, in particular the EIA Convention. It is suggested that the definition of the public in the EIA Convention should be revised to provide for more openness, as set out in the Public Participation Convention.

33. The ongoing work in the European Union on a proposed directive on the environmental assessment of plans and programmes implies that it may be necessary to update the EIA Convention in this regard.

34. The procedure for the adoption of amendments as set out in the Public Participation Convention provides for a new approach. This should also be considered in relation to the EIA Convention.

35. The task force noted that rules 6 and 7 of the rules of procedure under EIA Convention (ECE/MP.EIA/3) have provisions concerning the participation of NGOs. Work is also under way to open up the Convention to Member States of the United Nations not Members of ECE, following the 1998 Oslo Ministerial Declaration. A task force led by the United Kingdom is also working on compliance mechanisms.

36. Appendix III on environmental impact assessment documentation should be revised in the light of Directive 97/11/EC and the Industrial Accidents Convention.

37. The analysis of the links between the EIA and Public Participation Conventions suggests that article 9 of the Public Participation Convention may be considered as a source of inspiration for updating and amending the EIA Convention.

38. The task force also suggests that more work should be undertaken to further investigate the links between different ECE Conventions in order to find possible synergies and make proposals for concrete actions. In this respect the round table organized by the Committee on Environmental policy at its seventh session in 2000 on support of ECE multilateral environmental agreements could also provide input. It is suggested that joint groups on issues of a specific or general nature may be set up.

39. The task force also suggests that the focal points for each of the ECE Conventions at the national level meet regularly to exchange views on the application of these Conventions and work together on activities that fall within the scope of two or more Conventions.

## Appendix II

### SYNOPTIC TABLE OF COMPARISON OF THE RELEVANT ARTICLES

Items	EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive
1. Aims and objectives	Art.2, para.1	Art.3	Art.2 Art.3	Art.1 Art.3	Art.1
2. Field of application	Art.2, para.3 Art.2, para.4 (see also appendix I)	Art.1 Art.2	Art.1, para.1 Art.1, para.2	Art.6, para.1 (see also annex I)	Art.2, para.1 Art.4, para.1 Art.4, para.2 (see also annexes I and II)
3. Relevant environmental information	Art.3, para.5 Art.3, para.6 Art.4, para.1 Art.4, para.2	Art.9, para.1 (see also annex V, para.2(1)-(9) and annex VIII)	Art.13 Art.16	Art.6, para.6.	Art.5 (see also annex IV)
4. Public participation	Art.3, para.8	Art.9, para.1 Art.9, para.2 Art.9, para.3	Art.16, para.1 Art.16, para.2	Art.6, para.2	Art.6, para.2 Art.7
5. Amendments	Art.14	Art.26	Art.21	Art.14	
6. Inquiry commission (non-compliance)	Art.3, para.7	Art.4 Art.5 (see also annex II)		Art.15	



**Appendix III**

**COMPARISON OF LEGAL TEXTS**

1. AIMS AND OBJECTIVES				
EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
<p>Article 2 General provisions</p> <p>1. The Parties shall, either individually or jointly, take all appropriate and effective measures to prevent, reduce and control significant transboundary environmental impact from proposed activities.</p>	<p>Article 3 General provisions</p> <p>1. The Parties shall, taking into account efforts already made at national and international levels, take appropriate measures and cooperate within the framework of this Convention, to protect human beings and the environment against industrial accidents by preventing such accidents as far as possible, by reducing their frequency and severity and by mitigating their effects. To this end, preventive, preparedness and response measures, including restoration measures, shall be applied.</p> <p>2. The Parties shall, by means of exchange of information, consultation and other cooperative measures and without undue delay, develop and implement policies and strategies for reducing the risks of industrial accidents and improving preventive, preparedness and response measures, including restoration measures, taking into account, in order to avoid unnecessary duplication, efforts already made at national and international levels.</p>	<p>Article 2 General provisions</p> <p>1. The Parties shall take all appropriate measures to prevent, control and reduce any transboundary impact.</p> <p>2. The Parties shall, in particular, take all appropriate measures:</p> <p>(a) To prevent, control and reduce pollution of waters causing or likely to cause transboundary impact;</p> <p>(b) To ensure that transboundary waters are used with the aim of ecologically sound and rational water management, conservation of water resources and environmental protection;</p> <p>(c) To ensure that transboundary waters are used in a reasonable and equitable way, taking into particular account their transboundary character, in the case of activities which cause or are likely to cause transboundary impact;</p>	<p>Article 1 Objective</p> <p>In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.</p> <p>Article 3 General provisions</p> <p>1. Each Party shall take the necessary legislative, regulatory and other measures, including measures to achieve compatibility between the provisions implementing the information, public participation and access-to-justice provisions in this Convention, as well as proper enforcement measures, to establish and maintain a clear, transparent and consistent framework to implement the provisions of this Convention.</p>	<p>Article 1</p> <p>This Directive shall apply to the assessment of the environmental effects of those public and private projects which are likely to have significant effects on the environment.</p>

1. AIMS AND OBJECTIVES				
EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
	<p>3. The Parties shall ensure that the operator is obliged to take all measures necessary for the safe performance of the hazardous activity and for the prevention of industrial accidents.</p> <p>4. To implement the provisions of this Convention, the Parties shall take appropriate legislative, regulatory, administrative and financial measures for the prevention of, preparedness for and response to industrial accidents.</p> <p>5. The provisions of this Convention shall not prejudice any obligations of the Parties under international law with regard to industrial accidents and hazardous activities.</p>	<p>(d) To ensure conservation and, where necessary, restoration of ecosystems.</p> <p>Article 3</p> <p>Prevention, control and reduction</p> <p>1. To prevent, control and reduce transboundary impact, the Parties shall develop, adopt, implement and, as far as possible, render compatible relevant administrative, economic, financial and technical measures, in order to ensure, <u>inter alia</u>, that:</p> <p>(a) The emission of pollutants is prevented, controlled and reduced at source through the application of, <u>inter alia</u>, low- and non-waste technology;</p> <p>(b) Transboundary waters are protected against pollution from point sources through the prior licensing of waste-water discharges by the competent national authorities, and that the authorized discharges are monitored and controlled;</p> <p>(c) Limits for waste-water discharges stated in permits are based on the best available technology for discharges of hazardous substances;</p>	<p>2. Each Party shall endeavour to ensure that officials and authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters.</p> <p>3. Each Party shall promote environmental education and environmental awareness among the public, especially on how to obtain access to information, to participate in decision-making and to obtain access to justice in environmental matters.</p> <p>4. Each Party shall provide for appropriate recognition of and support to associations, organizations or groups promoting environmental protection and ensure that its national legal system is consistent with this obligation.</p> <p>5. The provisions of this Convention shall not affect the right of a Party to maintain or introduce measures providing for broader access to information, more extensive public participation in decision-making and wider access to justice in environmental matters than required by this Convention.</p>	



1. AIMS AND OBJECTIVES

EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
		<p>(d) Stricter requirements, even leading to prohibition in individual cases, are imposed when the quality of the receiving water or the ecosystem so requires;</p> <p>(e) At least biological treatment or equivalent processes are applied to municipal waste water, where necessary in a step-by-step approach;</p> <p>(f) Appropriate measures are taken, such as the application of the best available technology, in order to reduce nutrient inputs from industrial and municipal sources;</p> <p>(g) Appropriate measures and best environmental practices are developed and implemented for the reduction of inputs of nutrients and hazardous substances from diffuse sources, especially where the main sources are from agriculture (guidelines for developing best environmental practices are given in annex II to this Convention;</p> <p>(h) Environmental impact assessment and other means of assessment are applied;</p> <p>(i) Sustainable water-resources management, including the application of the ecosystems approach, is promoted;</p> <p>(j) Contingency planning is developed;</p> <p>(k) Additional specific measures are taken to prevent the pollution of groundwaters;</p> <p>(l) The risk of accidental pollution is minimized.</p>	<p>6. This Convention shall not require any derogation from existing rights of access to information, public participation in decision-making and access to justice in environmental matters.</p> <p>7. Each Party shall promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment.</p> <p>8. Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.</p> <p>9. Within the scope of the relevant provisions of this Convention, the public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.</p>	

2. FIELD OF APPLICATION				
EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
<p>Article 2</p> <p>3. The Party of origin shall ensure that in accordance with the provisions of this Convention an environmental impact assessment is undertaken prior to a decision to authorize or undertake a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact.</p> <p>4. The Party of origin shall, consistent with the provisions of this Convention, ensure that affected Parties are notified of a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact. (See also Appendix I.)</p>	<p>Article 1</p> <p>Definitions</p> <p>For the purposes of this Convention,</p> <p>(a) "Industrial accident" means an event resulting from an uncontrolled development in the course of any activity involving hazardous substances either:</p> <p>(i) In an installation, for example during manufacture, use, storage, handling, or disposal; or</p> <p>(ii) During transportation in so far as it is covered by para. 2(d) of Article 2;</p> <p>(b) "Hazardous activity" means any activity in which one or more hazardous substances are present or may be present in quantities at or in excess of the threshold quantities listed in Annex I hereto, and which is capable of causing transboundary effects;</p> <p>(c) "Effects" means any direct or indirect, immediate or delayed adverse consequences caused by an industrial accident on, <u>inter alia</u>:</p> <p>(i) Human beings, flora and fauna;</p> <p>(ii) Soil, water, air and landscape;</p> <p>(iii) The interaction between the factors in (i) and (ii);</p>	<p>Article 1</p> <p>Definitions</p> <p>For the purposes of this Convention,</p> <p>1. "Transboundary waters" means any surface or ground waters which mark, cross or are located on boundaries between two or more States; wherever transboundary waters flow directly into the sea, these transboundary waters end at a straight line across their respective mouths between points on the low-water line of their banks;</p> <p>2. "Transboundary impact" means any significant adverse effect on the environment resulting from a change in the conditions of transboundary waters caused by a human activity, the physical origin of which is situated wholly or in part within an area under the jurisdiction of a Party, within an area under the jurisdiction of another Party. Such effects on the environment include effects on human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; they also include effects on the cultural heritage or socio-economic conditions resulting from alterations to those factors.</p>	<p>Article 6</p> <p>Public participation in decisions on specific activities</p> <p>1. Each Party:</p> <p>(a) Shall apply the provisions of this article with respect to decisions on whether to permit proposed activities listed in annex I;</p> <p>(b) Shall, in accordance with its national law, also apply the provisions of this article to decisions on proposed activities not listed in annex I which may have a significant effect on the environment. To this end, Parties shall determine whether such a proposed activity is subject to these provisions; and</p>	<p>Article 2</p> <p>1. Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, <u>inter alia</u>, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects. These projects are defined in Art. 4.</p> <p>Article 4</p> <p>1. Subject to Article 2(3), projects listed in Annex I shall be made subject to an assessment in accordance with Articles 5 to 10.</p> <p>2. Subject to Article 2(3), for projects listed in Annex II, the Member States shall determine through:</p> <p>(a) a case-by-case examination, or</p>

2. FIELD OF APPLICATION

EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
	<p>(iv) Material assets and cultural heritage, including historical monuments;</p> <p>(d) "Transboundary effects" means serious effects within the jurisdiction of a Party as a result of an industrial accident occurring within the jurisdiction of another Party;</p> <p>(e) "Operator" means any natural or legal person, including public authorities, in charge of an activity, e.g. supervising, planning to carry out or carrying out an activity;</p> <p>(f) "Party" means, unless the text otherwise indicates, a Contracting Party to this Convention;</p> <p>(g) "Party of origin" means any Party or Parties under whose jurisdiction an industrial accident occurs or is capable of occurring;</p> <p>(h) "Affected Party" means any Party or Parties affected or capable of being affected by transboundary effects of an industrial accident;</p> <p>(i) "Parties concerned" means any Party of origin and any affected Party;</p> <p>(j) "The public" means one or more natural or legal persons.</p>		<p>(c) May decide, on a case-by-case basis if so provided under national law, not to apply the provisions of this article to proposed activities serving national defence purposes, if that Party deems that such application would have an adverse effect on these purposes. (See also annex I.)</p>	<p>(b) thresholds or criteria set by the Member State whether the project shall be made subject to an assessment in accordance with Articles 5 to 10. Member States may decide to apply both procedures referred to in (a) and (b). (See also Annexes I and II.)</p>

2. FIELD OF APPLICATION

EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
	<p style="text-align: center;">Article 2 Scope</p> <p>1. This Convention shall apply to the prevention of, preparedness for and response to industrial accidents capable of causing transboundary effects, including the effects of such accidents caused by natural disasters, and to international cooperation concerning mutual assistance, research and development, exchange of information and exchange of technology in the area of prevention of, preparedness for and response to industrial accidents.</p> <p>2. This Convention shall not apply to:</p> <ul style="list-style-type: none"> <li>(a) Nuclear accidents or radiological emergencies;</li> <li>(b) Accidents at military installations;</li> <li>(c) Dam failures, with the exception of the effects of industrial accidents caused by such failures;</li> <li>(d) Land-based transport accidents with the exception of: <ul style="list-style-type: none"> <li>(i) Emergency response to such accidents;</li> <li>(ii) Transportation on the site of the hazardous activity;</li> </ul> </li> <li>(e) Accidental release of genetically modified organisms;</li> <li>(f) Accidents caused by activities in the marine environment, including seabed exploration or exploitation;</li> <li>(g) Spills of oil or other harmful substances at sea.</li> </ul>			

### 3. RELEVANT ENVIRONMENTAL INFORMATION

EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
<p style="text-align: center;">Article 3</p> <p>5. Upon receipt of a response from the affected Party indicating its desire to participate in the environmental impact assessment procedure, the Party of origin shall, if it has not already done so, provide to the affected Party:</p> <p>(a) Relevant information regarding the environmental impact assessment procedure, including an indication of the time schedule for transmittal of comments; and</p> <p>(b) Relevant information on the proposed activity and its possible significant adverse transboundary impact.</p> <p>6. An affected Party shall, at the request of the Party of origin, provide the latter with reasonably obtainable information relating to the potentially affected environment under the jurisdiction of the affected Party, where such information is necessary for the preparation of the environmental impact assessment documentation. The information shall be furnished promptly and, as appropriate, through a joint body where one exists.</p>	<p style="text-align: center;">Article 9</p> <p>Information to, and participation of the public</p> <p>1. The Parties shall ensure that adequate information is given to the public in the areas capable of being affected by an industrial accident arising out of a hazardous activity. This information shall be transmitted through such channels as the Parties deem appropriate, shall include the elements contained in Annex VIII hereto and should take into account matters set out in Annex V, para.2, subparagraphs. (1) to (4) and (9).</p>	<p style="text-align: center;">Article 13</p> <p style="text-align: center;">Exchange of information between Riparian Parties</p> <p>1. The Riparian Parties shall, within the framework of relevant agreements or other arrangements according to article 9 of this Convention, exchange reasonably available data, <u>inter alia</u>, on:</p> <p>(a) Environmental conditions of transboundary waters;</p> <p>(b) Experience gained in the application and operation of best available technology and results of research and development;</p> <p>(c) Emission and monitoring data;</p> <p>(d) Measures taken and planned to be taken to prevent, control and reduce transboundary impact;</p> <p>(e) Permits or regulations for waste-water discharges issued by the competent authority or appropriate body.</p> <p>2. In order to harmonize emission limits, the Riparian Parties shall undertake the exchange of information on their national regulations.</p>	<p style="text-align: center;">Article 6</p> <p>6. Each Party shall require the competent public authorities to give the public concerned access for examination, upon request where so required under national law, free of charge and as soon as it becomes available, to all information relevant to the decision-making referred to in this article that is available at the time of the public participation procedure, without prejudice to the right of Parties to refuse to disclose certain information in accordance with article 4, paras. 3 and 4. The relevant information shall include at least, and without prejudice to the provisions of article 4:</p> <p>(a) A description of the site and the physical and technical characteristic of the proposed activity, including an estimate of the expected residues and emissions;</p>	<p style="text-align: center;">Article 5</p> <p>1. In the case of projects which, pursuant to Article 4, subjected to an enviro assessment in accordance Articles 5 to 10, Member States shall ensure that the developer shall take appropriate form the information specified in Annex IV</p> <p>(a) the Member States shall ensure that the information is released at the stage of the consent procedure and to the specific characteristics of a particular project or type of project and of the environmental features likely to be affected;</p> <p>(b) the Member States shall consider that a developer may reasonably be required to compile this information having regard <u>inter alia</u> to current knowledge and methods of assessment.</p>

3. RELEVANT ENVIRONMENTAL INFORMATION

EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
<p>Article 4 Preparation of the environmental impact assessment documentation</p> <p>1. The environmental impact assessment documentation to be submitted to the competent authority of the Party of origin shall contain, as a minimum, the information described in Appendix II.</p> <p>2. The Party of origin shall furnish the affected Party, as appropriate through a joint body where one exists, with the environmental impact assessment documentation. The concerned Parties shall arrange for distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity. (See also Appendix II)</p>		<p>3. If a Riparian Party is requested by another Riparian Party to provide data or information that is not available, the former shall endeavour to comply with the request but may condition its compliance upon the payment, by the requesting Party, of reasonable charges for collecting and, where appropriate, processing such data or information.</p> <p>4. For the purposes of the implementation of this Convention, the Riparian Parties shall facilitate the exchange of available technology, particularly through the promotion of: the commercial exchange of available technology; direct industrial contacts and cooperation, including joint ventures; the exchange of information and experience; and the provision of technical assistance. The Riparian Parties shall also undertake joint training programmes and the organization of relevant seminars and meetings.</p>	<p>(b) A description of the significant effects of the proposed activity on the environment;</p> <p>(c) A description of the measures envisaged to prevent and/or reduce the effects, including emissions;</p> <p>(d) A non-technical summary of the above;</p> <p>(e) An outline of the main alternatives studied by the applicant; and</p> <p>(f) In accordance with national legislation, the main reports and advice issued to the public authority at the time when the public concerned shall be informed in accordance with para. 2 above.</p>	<p>2. Member States shall take the necessary measures to ensure that, if the developer so requests before submitting an application for development consent, the competent authority shall give an opinion on the information to be applied by the developer in accordance with para. 1. The competent authority shall consult the developer and authorities referred to in Article 6(1) before it gives its opinion. The fact that the authority has given an opinion under this paragraph shall not preclude it from subsequently requiring the developer to submit further information.</p> <p>Member States may require the competent authorities to give such an opinion, irrespective of whether the developer so requests.</p> <p>3. The information to be provided by the developer in accordance with para. 1 shall include at least:</p>

3. RELEVANT ENVIRONMENTAL INFORMATION				
EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
		<p>Article 16 Public information</p> <p>1. The Riparian Parties shall ensure that information on the conditions of transboundary waters, measures taken or planned to be taken to prevent, control and reduce transboundary impact, and the effectiveness of those measures, is made available to the public. For this purpose, the Riparian Parties shall ensure that the following information is made available to the public:</p> <p>(a) Water-quality objectives;</p> <p>(b) Permits issued and the conditions required to be met;</p> <p>(c) Results of water and effluent sampling carried out for the purposes of monitoring and assessment, as well as results of checking compliance with the water-quality objectives or the permit conditions.</p> <p>2. The Riparian Parties shall ensure that this information shall be available to the public at all reasonable times for inspection free of charge, and shall provide members of the public with reasonable facilities for obtaining from the Riparian Parties, on payment of reasonable charges, copies of such information.</p>		<ul style="list-style-type: none"> <li>- a description of the project comprising information on the site, design and size of the project,</li> <li>- a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects,</li> <li>- the data required to identify and assess the main effects which the project is likely to have on the environment,</li> <li>- an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects,</li> <li>- a non-technical summary of the information mentioned in the previous indents.</li> </ul> <p>4. Member States shall, if necessary, ensure that any authorities holding relevant information, with particular reference to Article 3, shall make this information available to the developer. (See also Annex IV.)</p>

4. PUBLIC PARTICIPATION

EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
<p>Article 3 Notification</p> <p>8. The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be provided with possibilities for making comments or objection on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin.</p>	<p>Article 9 Information to, and participation of the public</p> <p>1. The Parties shall ensure that adequate information is given to the public in the areas capable of being affected by an industrial accident arising out of a hazardous activity. This information shall be transmitted through such channels as the Parties deem appropriate, shall include the elements contained in Annex VIII hereto and should take into account matters set out in Annex V, para. 2, subparas. (1) to (4) and (9).</p> <p>2. The Party of origin shall, in accordance with the provisions of this Convention, give the public in the areas capable of being affected an opportunity to participate in relevant procedures with the aim of making known its views and concerns on prevention and preparedness measures, and shall ensure that the opportunity given to the public of the affected Party is equivalent to that given to the public of the Party of origin.</p>	<p>Article 16 Public information</p> <p>1. The Riparian Parties shall ensure that information on the conditions of transboundary impact, and the effectiveness of those measures, is made available to the public. For this purpose, the Riparian Parties shall ensure that the following information is made available to the public:</p> <p>(a) Water-quality objectives;</p> <p>(b) Permits issued and the conditions required to be met;</p> <p>(c) Results of water and effluent sampling carried out for the purposes of monitoring and assessment, as well as results of checking compliance with the water-quality objectives or the permit conditions.</p>	<p>Article 6 Public participation in decisions on specific activities</p> <p>2. The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, <u>inter alia</u>, of:</p> <p>(a) The proposed activity and the application on which a decision will be taken;</p> <p>(b) The nature of possible decisions or the draft decision;</p> <p><b>(c) The public authority responsible for making the decision;</b></p> <p>(d) The envisaged procedure, including, as and when this information can be provided:</p> <p>(i) The commencement of the procedure;</p> <p>(ii) The opportunities for the public to participate;</p> <p>(iii) The time and venue of any envisaged public hearing;</p> <p>(iv) An indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public;</p>	<p>Article 6</p> <p>2. Member States shall ensure that any request for development consent and any information gathered pursuant to Article 5 are made available to the public within a reasonable time in order to give the public concerned the opportunity to express an opinion before the development consent is granted.</p> <p>Article 7</p> <p>1. Where a Member State is aware that a project is likely to have significant effects on the environment in another Member State or where a Member State likely to be significantly affected so requests, the Member State in whose territory the project is intended to be carried out shall send to the affected Member State as soon as possible and no later than when informing its own public, <u>inter alia</u>:</p> <p>(a) a description of the project, together with any available information on its possible transboundary impact;</p> <p><b>(b) information on the nature of the decision which may be taken,</b></p> <p>and shall give the other Member State a reasonable time in which to indicate whether it wishes to participate in the Environmental Impact Assessment procedure, and may include the information referred to in para. 2.</p> <p>2. If a Member State which receives information pursuant to para. 1 indicates that it intends to participate in the Environmental Impact Assessment procedure,</p>



4. PUBLIC PARTICIPATION

EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
	<p>3. The Parties shall, in accordance with their legal systems and, if desired, on a reciprocal basis provide natural or legal persons who are being or are capable of being adversely affected by the transboundary effects of an industrial accident in the territory of a Party, with access to, and treatment in the relevant administrative and judicial proceedings, including the possibilities of starting a legal action and appealing a decision affecting their rights, equivalent to those available to persons within their own jurisdiction.</p>	<p>2. The Riparian Parties shall ensure that this information shall be available to the public at all reasonable times for inspection free of charge, and shall provide members of the public with reasonable facilities for obtaining from the Riparian Parties, on payment of reasonable charges, copies of such information.</p>	<p>(v) An indication of the relevant public authority or any other official body to which comments or questions can be submitted and of the time schedule for transmittal of comments or questions; and  (vi) An indication of what environmental information relevant to the proposed activity is available; and  (e) The fact that the activity is subject to a national or transboundary environmental impact assessment procedure.</p>	<p>the Member State in whose territory the project is intended to be carried out shall, if it has not already done so, send to the affected Member State the information gathered pursuant to Article 5 and relevant information regarding the said procedure, including the request for development consent.</p> <p>3. The Member States concerned, each insofar as it is concerned, shall also:</p> <p>(a) arrange for the information referred to in paras. 1 and 2 to be made available, within a reasonable time, to the authorities referred to in Article 6(1) and the public concerned in the territory of the Member State likely to be significantly affected; and  (b) ensure that those authorities and the public concerned are given an opportunity, before development consent for the project is granted, to forward their opinion within a reasonable time on the information supplied to the competent authority in the Member State in whose territory the project is intended to be carried out.</p> <p>4. The Member States concerned shall enter into consultations regarding, <u>inter alia</u>, the potential transboundary effects of the project and the measures envisaged to reduce or eliminate such effects and shall agree on a reasonable time frame for the duration of the consultation period.</p> <p>5. The detailed arrangements for implementing the provisions of this Article may be determined by the Member States concerned.</p>

5. AMENDMENTS				
EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
<p>Article 14</p> <p>Amendments to the Convention</p> <p>1. Any Party may propose amendments to this Convention.</p> <p>2. Proposed amendments shall be submitted in writing to the secretariat, which shall communicate them to all Parties. The proposed amendments shall be discussed at the next meeting of the Parties, provided these proposals have been circulated by the secretariat to the Parties at last ninety days in advance.</p> <p>3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.</p> <p>4. Amendments to this Convention adopted in accordance with para. 3 of this Article shall be submitted by the Depositary</p>	<p>Article 26</p> <p>Amendments to the Convention</p> <p>1. Any Party may propose amendments to this Convention.</p> <p>2. The text of any proposed amendment to this Convention shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall circulate it to all Parties. The Conference of the Parties shall discuss proposed amendments at its next annual meeting, provided that such proposals have been circulated to the Parties by the Executive Secretary of the Economic Commission for Europe at least ninety days in advance.</p> <p>3. For amendments to this Convention - other than those to annex I, for which the procedure is described in para. 4 of this Article:</p> <p>(a) Amendments shall be adopted by consensus of the Parties present at the meeting and shall be submitted by the Depositary to all Parties for ratification, acceptance or approval;</p>	<p>Article 21</p> <p>Amendments to the Convention</p> <p>1. Any Party may propose amendments to this Convention.</p> <p>2. Proposals for amendments to this Convention shall be considered at a meeting of the Parties.</p> <p>3. The text of any proposed amendment to this Convention shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall communicate it to all Parties at least ninety days before the meeting at which it is proposed for adoption.</p> <p>4. An amendment to the present Convention shall be adopted by consensus of the representatives of the Parties to this Convention present at a meeting of the Parties, and shall enter into force for the Parties to the Convention which have accepted it on the ninetieth day after the date on which two thirds of those Parties have deposited with the Depositary their instruments of acceptance of the amendment. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of acceptance of the amendment.</p>	<p>Article 14</p> <p>Amendments to the Convention</p> <p>1. Any Party may propose amendments to this Convention.</p> <p>2. The text of any proposed amendment to this Convention shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall communicate it to all Parties at least ninety days before the meeting of the Parties at which it is proposed for adoption.</p> <p>3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.</p> <p>4. Amendments to this Convention adopted in accordance with para. 3 above shall be communicated by the Depositary to all Parties for ratification, approval or acceptance. Amendments to this Convention other than those to an annex shall enter into force for Parties having ratified, approved or accepted them on the ninetieth day</p>	

5. AMENDMENTS				
EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
<p>to all Parties for ratification, approval or acceptance. They shall enter into force for Parties having ratified, approved or accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three fourths of these Parties. Thereafter they shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.</p> <p>5. For the purpose of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.</p> <p>6. The voting procedure set forth in para. 3 of this Article is not intended to constitute a precedent for future agreements negotiated within the Economic Commission for Europe.</p>	<p>(b) Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments adopted in accordance with this Article shall enter into force for Parties that have accepted them on the ninetieth day following the day of receipt by the Depositary of the sixteenth instrument of ratification, acceptance or approval;</p> <p>(c) Thereafter, amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instruments of ratification, acceptance or approval of the amendments.</p> <p>4. For amendments to Annex I:</p> <p>(a) The Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted and no agreement reached, the amendments shall, as a last resort, be adopted by a nine-tenths majority vote of the Parties present and voting at the meeting. If adopted by the Conference of the Parties, the amendments shall be communicated to the Parties and recommended for approval;</p>		<p>after that Party deposits its instrument of ratification, approval or acceptance of the amendments.</p> <p>5. Any Party that is unable to approve an amendment to an annex to this Convention shall so notify the Depositary in writing within twelve months from the date of the communication of the adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendments to such an annex shall become effective for that Party.</p> <p>6. On the expiry of twelve months from the date of its communication by the Depositary as provided for in para. 4 above an amendment to an annex shall become effective for those Parties which have not submitted a notification to the Depositary in accordance with the provisions of para. 5 above, provided that not more than one third of the Parties have submitted such a notification.</p> <p>7. For the purposes of this article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.</p>	

5. AMENDMENTS				
EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
	<p>(b) On the expiry of twelve months from the date of their communication by the Executive Secretary of the Economic Commission for Europe, the amendments to Annex I shall become effective for those Parties to this Convention which have not submitted a notification in accordance with the provisions of para. 4(c) of this Article, provided that at least sixteen Parties have not submitted such a notification;</p> <p>(c) Any Party that is unable to approve an amendment to Annex I of this Convention shall so notify the Executive Secretary of the Economic Commission for Europe in writing within twelve months from the date of the communication of the adoption. The Executive Secretary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and the amendment to Annex I shall thereupon enter into force for that Party;</p> <p>(d) For the purpose of this paragraph "Parties present and voting" means Parties present and casting an affirmative or negative vote.</p>			

6. INQUIRY COMMISSION (NON-COMPLIANCE)				
EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
<p style="text-align: center;">Article 3</p> <p>7. When a Party considers that it would be affected by a significant adverse transboundary impact of a proposed activity listed in Appendix I, and when no notification has taken place in accordance with para. 1 of this Article, the concerned Parties shall, at the request of the affected Party, exchange sufficient information for the purposes of holding discussions on whether there is likely to be a significant adverse transboundary impact. If those Parties agree that there is likely to be a significant adverse transboundary impact, the provisions of this Convention shall apply accordingly. If those Parties cannot agree whether there is likely to be a significant adverse transboundary impact, any such Party may submit that question to an inquiry commission in accordance with the provisions of Appendix IV to advise on the likelihood of significant adverse transboundary impact, unless they agree on another method of settling this question.</p>	<p style="text-align: center;">Article 4</p> <p style="text-align: center;">Identification, consultation and advice</p> <p>1. For the purpose of undertaking preventive measures and setting up preparedness measures, the Party of origin shall take measures, as appropriate, to identify hazardous activities within its jurisdiction and to ensure that affected Parties are notified of any such proposed or existing activity.</p> <p>2. Parties concerned shall, at the initiative of any such Party, enter into discussions on the identification of those hazardous activities that are, reasonably capable of causing transboundary effects. If the Parties concerned do not agree on whether an activity is such a hazardous activity, any such Party may, unless the Parties concerned agree on another method of resolving the question, submit that question to an inquiry commission in accordance with the provisions of Annex II hereto for advice.</p> <p>3. The Parties shall, with respect to proposed or existing hazardous activities, apply the procedures set out in Annex III hereto.</p> <p>4. When a hazardous activity is subject to an environmental impact assessment in accordance with the Convention on Environmental Impact Assessment in a Transboundary Context and that assessment includes an evaluation of the transboundary</p>		<p style="text-align: center;">Article 15</p> <p style="text-align: center;">Review of compliance</p> <p>The Meeting of the Parties shall establish, on a consensus basis, optional arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention. These arrangements shall allow for appropriate public involvement and may include the option of considering communications from members of the public on matters related to this Convention.</p>	

6. INQUIRY COMMISSION (NON-COMPLIANCE)				
EIA Convention	Industrial Accidents Convention	Water Convention	Public Participation Convention	EIA Directive 85/337/EEC as amended by 97/11/EC
	<p>effects of industrial accidents from the hazardous activity which is performed in conformity with the terms of this Convention, the final decision taken for the purposes of the Convention on Environmental Impact Assessment in a Transboundary Context shall fulfil the relevant requirements of this Convention.</p> <p style="text-align: center;">Article 5 Voluntary extension</p> <p>Parties concerned should, at the initiative of any of them, enter into discussions on whether to treat an activity not covered by Annex I as a hazardous activity. Upon mutual agreement, they may use an advisory mechanism of their choice, or an inquiry commission in accordance with Annex II, to advise them. Where the Parties concerned so agree, this Convention, or any part thereof, shall apply to the activity in question as if it were a hazardous activity. (See also annex II).</p>			



Annex VI

**DECISION II/6**

**THE DATABASE ON ENVIRONMENTAL IMPACT ASSESSMENT**

The Meeting,

Recognizing the value of the information currently in the database on environmental impact assessment,

Recognizing also the important role that a comprehensive database could play in the implementation of the Convention,

Having considered the report on the use of the database on environmental impact assessment in a transboundary context during the two-year trial period between the first and the second meeting of the Parties,

Having also considered the report on the evaluation of the database,

1. Decides that the database on environmental impact assessment in a transboundary context will continue to operate under the auspices of the Convention for the period up to the third meeting of the Parties;

2. Welcomes and accepts the offer of the Polish Government to continue to host the database on its server and to provide the technical and staff support necessary for running the database;

3. Decides that during the period up to the third meeting of the Parties the database should be available to the public via the Internet, and be expanded in the three official languages of the Convention, and that the secretariat should arrange for translation;

4. Urges the Parties to be proactive in entering information into the database;

5. Encourages the Parties to update the information included in the database on a regular basis, and recommends that information on the actual cases should be submitted as soon as possible after the time of notification as well as information on legislation, research and training;

6. Adopts the reports on the ENIMPAS database as appended to this decision.



## **Appendix I**

### **ENIMPAS DATABASE EVALUATION**

#### **Introduction**

1. At their first meeting in Oslo in 1998, the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (the Convention) agreed to establish, for a two-year trial period, a database (ENIMPAS, <http://www.mos.gov.pl/Enimpas>) to record data on EIA projects with transboundary effects, EIA legislation, institutions, etc. They also decided that the database would be evaluated and a report prepared for their second meeting. Hungary agreed to act as lead country for the evaluation.
2. At its first meeting (17-18 May 1999, Budapest, Hungary), the Evaluation Group decided that it would consider the following issues: the need for the database; the database structure; the quantity and quality of the information; the content of the database; its uses; the capacity and willingness of countries to provide information for the database; the management of the database; its user-friendliness; and its costs and benefits.
3. Two methods were selected to collect and analyse information regarding the ENIMPAS database: (a) a user survey focusing on all the important aspects of the structure and function of the database, and (b) an Internet-technology-related survey, focusing on the major aspects of the Internet version (the web site of the ENIMPAS database), since that is the dominant way of accessing the database.

#### **I. RESULTS OF THE SURVEY**

##### **Questionnaire**

4. Chapter I was compiled by the lead country of the Evaluation Group. It is based on the responses to a questionnaire and comments received from countries in the Evaluation Group.
5. A questionnaire was developed to cover all the important areas of the ENIMPAS database's structure and functions, according to the aspects identified at the Evaluation Group's first meeting. The following sub-titles reflect these aspects. The questionnaire contained some 55 questions grouped into: personal identification, technical background of users, experience using ENIMPAS, recommended improvements, authorized ENIMPAS users' section. It was aimed at collecting relevant information about the ENIMPAS database in order to objectively assess its trial period. Therefore, no hypothesis was put forward and checked in developing and evaluating the responses to the questionnaire. At the end of the following headings, short summaries are boldfaced; they do not necessarily reflect the opinion of the Evaluation Group. The "Options for the Future" at the end of this report are based on the Evaluation Group's analysis of the responses.

##### **A. Country responses and users' backgrounds**

6. The questionnaire was distributed to all 55 UN/ECE countries and the European Commission, and made available on the ENIMPAS web site. Of the targeted countries, 21

responded (appendix II). The following results reflect these 21 sets of answers. Except for two answer sheets, most of the respondents answered about 75% of the questions, providing relevant information for the evaluation. Each of the answer sheets represents one country's opinion. The responses reflect the state of the ENIMPAS database in October to early November 1999.

7. All the respondents are from the government sector and, except one, all are aware of the Oslo decision about the ENIMPAS database. Regarding the technical background of the users, they have an average work experience with the Internet of two and a half years. 55% of users regularly use information technology, while 44% do so occasionally. All the users work in EIA, and on average have an EIA experience of 5.5 years and experience with the Espoo Convention for almost three years. The number of Espoo cases that have occurred so far in their countries vary significantly from 0 to 5, with an average of almost 2.

### **B. Need for the database**

8. Almost 90% of the users say that the ENIMPAS database can help their Espoo-related work, and only 10% report that the database is not useful from this perspective. The ENIMPAS database is mainly used for obtaining information, whereas both obtaining and providing information comes in second place. The use of the database only for providing information by authorized contact points is not typical.

9. Only 50% of users think that the database can improve the implementation of the Espoo Convention, and 50% state that the database can only partly improve such work.

10. Some of the users specified the usefulness of the database: the easy accessibility for countries and NGOs, the opportunity to gain a widerange of information on the application of EIA, its projects and other practical information.

11. The most useful features for users are its information on other EIA cases and on relevant institutions and people. Finding pieces of legislation in other countries comes second.

**12. There is a clear need for the database to contain broad information assisting the Espoo-related work. On the other hand, the database is not seen as a powerful means for assisting the implementation of the Espoo Convention.**

### **C. Use of the database**

13. 63% of the users use the database a few times a year, 16% on a weekly basis and 16% never. The number of hits on the Internet homepage was not taken into account, because it does not reflect the real use of the database and may therefore bias the evaluation.

**14. Many users access the ENIMPAS database a few times a year, which may indicate that its information is not attractive enough and does not entice them to visit it more frequently.**

#### **D. Database structure**

15. Two users rate the structure of the database "excellent", 13 users "good" and 1 user "poor". **The database structure is thought appropriate for serving the implementation of the Espoo Convention.**

#### **E. Quantity and quality of information - content of the database**

16. 82% of the users do not find inaccuracies in the database, however 18% do (e.g. list of Signatories and dates), and use other UN/ECE homepages to find the correct information. 75% of the users report that they do not use the database as a resource. According to the answers received, the database does not contain enough relevant information. Almost 70% of the users do not find the information they are looking for when searching for specific projects, institutions, legislation or research/training.

17. Regarding information about EIA legislation, 4 out of 18 users say it is very useful, 8 fairly useful and 8 not useful at all. Regarding information about transboundary projects, 5 out of 18 users think it is very useful, 6 fairly useful and 8 not useful at all. Regarding information on research and training in other countries, 2 out of 18 believe it to be very useful, 6 fairly useful and 9 not useful at all. Regarding information about EIA institutions in other countries, 7 out of 18 users find it very useful, 6 fairly useful and 6 not useful at all. Some of the users did not fully complete the questionnaire.

18. Almost 61% of the respondents find the amount of information in the database unsatisfactory. Half the users state that information in the database is not useful in their work at all, 38% say it is fairly useful and only 11% assess it to be very useful.

19. Users suggest additional categories of information that can be useful, such as:

- Activities under the Convention's work-plan (incl. small working groups);
- Different progress reports;
- List of country data managers;
- New documents under "What's New" regarding bilateral and multilateral agreements;
- Available EIA guidance.

However, one user believes that additional categories should be included only at a later stage.

20. By the end of the evaluation period the quality of information was acceptable. However, countries are in a position to judge the accuracy of their own information only. The usefulness of the information of the database is poor in the main branches of the services it provides so that half the users do not see the database as being useful in their work.

#### **F. User-friendliness**

21. 62% of users find the database very easy to use, while 31% have needed some time to get acquainted with it. 10 users out of 19 find the access via Internet fast, 5 think it is usually slow

and 3 report it to be slow and sometimes not available.

22. ENIMPAS users also report some, mainly technical, hitches with the search facilities in the database, case-sensitivity, etc. Also, the preferred Internet browser (Netscape) is criticized, because it is not seen as mainstream software for the future. The right to enter information about a certain project into the database is sometimes considered to be a problem.

23. User responses show that the database generally has the technical and structural design to serve users effectively. However, authorized users indicate several problems when providing information and placing it in the database.

### **G. Database management**

24. Almost three quarters of users do not contact the Polish database manager; the ones who do tend to get a good or excellent response. Some difficulties are perceived in some cases when opening the software and due to a lack of training in using the database.

### **H. Cost-benefit aspects**

25. User opinions are not unanimous on whether the time and costs involved in using the ENIMPAS database are worth it: 64% say yes, while 36% say no. This seems to be in contradiction with the opinions regarding the poor amount of information available in the database.

26. Evaluating the direct operating costs of the database management was not part of the study.

**27. There is very limited information available regarding the cost-benefit aspects of the database. On the users' side, there is very little cost involved in obtaining information from the database once the hardware and software are in place. Major costs are foreseen for collecting and arranging information on the country level. Further steps could be taken to assess the database management costs, for which the start-up figures may serve as a starting point. The overall benefit of the database seems to be acceptable.**

### **I. Capacity and willingness of countries to provide information for the database**

28. Regarding the special experience of authorized ENIMPAS users, more than half state that all the necessary information is available in their organizations, less than half say it is only partly available. The equipment and Internet connection are easily available to more than 70% of the users. Technical assistance is generally available in all organizations, though sometimes not easily.

29. The mechanisms for providing information for the database are reported to be fairly country-specific and in many cases still lack established procedures. Obstacles to providing

information to the database, beyond the technical and procedural aspects, are the lack of direct Internet connection, frequent staff changes and the lack of capacity.

30. Users foresee about three Espoo cases on average before the second meeting of the Parties. Out of the four service areas of the ENIMPAS database, "Projects", "Institutions" and "Legislation" are used the most; "Research and training" is not a priority. Six users out of 15 find better information on the same EIA issues elsewhere (www.europa.int, www.unece.org/env/eia or EU DGXI homepage).

31. Three quarters of authorized users do not specify further obstacles to providing information to the database beyond Internet access and in-country information management. **Generally, there are no major obstacles to providing relevant information for the database. Incentives and overall database management are needed for future improvement of the database.**

#### **J. Other potential users**

32. Users provided very limited contact information on potentially interested actors on Espoo-related issues. Altogether 8 university contacts were mentioned and 3 NGO contacts.

## **II. RESULTS OF THE TECHNICAL EVALUATION OF THE ENIMPAS DATABASE WEB SITE**

33. The evaluation of the ENIMPAS database includes an assessment of its Internet technology (see appendix IV). The Hungarian expert team has conducted a survey of the ENIMPAS web site from a technical perspective. (The content of the database, the structure, detail, accuracy or credibility of the information stored in the database are not part of this assessment.)

#### **A. Methodology**

34. The web site and the technology of the database were assessed according to the following criteria:

- The database's context on the Internet, and its trends;
- Accessibility;
- How fast does the database download, what specific requirements does it have on the user's side and how easy is it to find it through search engines;
- Database structure;
- Data structure and performance of the database;
- Web site design and construction;
- The Internet technology and design used;
- Navigation;
- How easy is it to find a piece of information in the database;
- Providing input;
- How can those who have permission enter information into the database.

35. The detailed assessment can be found in appendix IV.

### **B. Recommendations**

36. The recommendations from the users targeted three areas: (a) database content, (b) database layout and (c) database management.

37. Database content:

- Provide more information for the database;
- Enter information into the database;
- Obtain full text legislation with comments for the database;
- Make full text search available;
- Show links to other relevant sites;
- Put bilateral and multilateral agreements into the database or provide for links to these agreements;
- Facilitate the practical implementation of the Espoo Convention, do not develop ENIMPAS into a primary source about EIA in Europe and beyond.

38. Database layout:

- “What’s New” should take the user directly to the new item;
- Show link to Espoo Convention and ECE homepage;
- Show links to national relevant web sites.

39. Database management:

- Develop and deliver training course on using ENIMPAS;
- Database manager should assist in entering data into the database;
- Organize country data managers’ training course.

40. In technical terms, the ENIMPAS database is a well-designed, well-implemented, standard, interactive, on-line database. Its technological solutions are appropriate for its purpose and are functioning well. No real mistakes or errors were found. A few peripheral elements are not yet completed. There are some aspects that can be improved to ensure better accessibility or navigability.

41. The main recommendations for improvement are:

- Create a text-only or a combined version of the front page;
- Improve headings and register in search engines;
- Improve the information content of front page;
- Complete missing elements;
- Improve navigation assistance (add navigation bar).

### III. OPTIONS FOR THE FUTURE

42. This section was compiled by the lead country of the Evaluation Group based on comments received from the countries involved in the Evaluation Group.

43. The usefulness of the ENIMPAS database is based on two key factors. First, ENIMPAS as an Internet-based database was found to be a proper technical means of contributing to the implementation of the Espoo Convention. Second, the actual content, quantity and quality of the information in the ENIMPAS database were considered to be its main weaknesses. The management system with country data managers and one database manager does not seem to be effective in gathering all the relevant information into the database. So the profile and the usefulness of the database were considered to be low.

44. The following scenario was considered viable and concentrates on the management and capacity on country-level issues, since the technical aspects of the ENIMPAS database are well established and relatively well managed.

45. The information gathering and provision are centralized and assigned to the database manager. He regularly requests information from countries, collects this information for the database, and assists to integrate information into the database in terms of both content and (Internet-based) technology. The database concentrates on providing links to other EIA-relevant sites, in particular to the ECE web site on the Convention, and serves as a meta-database. The database focuses on Espoo projects; training and legislation are of secondary importance.

46. This scenario requires countries to be willing to cooperate with the database manager in a timely manner. The database manager must be prepared for the extensive communication and support functions, and additional international funds have to be available to cover all database management operating expenses. This option is considered viable.

**Appendix II**

**COUNTRIES THAT RESPONDED TO THE QUESTIONNAIRE**

Albania  
Austria  
Azerbaijan  
Bulgaria  
Czech Republic  
Denmark  
Finland  
Georgia  
Germany  
Hungary  
Italy  
Latvia  
Liechtenstein  
Lithuania  
Poland  
Republic of Moldova  
Russian Federation  
Slovakia  
Sweden  
Turkey  
United Kingdom



### Appendix III

## TECHNICAL EVALUATION OF THE ENIMPAS DATABASE WEB SITE

### I. CONTEXT

1. The Internet is the most extensive, global computer network. Any information service which is put on the Internet without special restrictions can be accessed by any one of the many millions of computer users around the world. The Internet is changing extremely rapidly in terms of volume (number of users, services and traffic) and technology. However, many users, mostly in less developed countries, do not have access to the newest technology, fastest computers and high bandwidth and are not skilled in or accustomed to using the state-of-the-art Internet technology. Both these factors must be taken into account when developing an Internet information service.
2. The ENIMPAS database is an interactive, on-line Internet database. This means that it is permanently accessible on the Internet, and can be searched for pieces of information in an interactive way, according to several search criteria (countries, keywords, institutions, events, etc.). There are so-called "privileged users", who have special permission (password) to feed new pieces of information, or modify earlier ones, in the database.
3. Such databases are relatively common on the Internet. They are widely used in the business, government or NGO sectors, on all sorts of topics. There are standard and customized elements of technology, and many Internet users are familiar with these.
4. From this point of view, an application which is user-friendly, i.e. does not require any special training or skills from its users and is easy to use, should meet the following criteria:
  - Be accessible with many different web browsers and computer platforms;
  - Be accessible by users with poor Internet access, i.e. who use lower-capacity computers or have a slow connection to the Internet (low bandwidth, noisy lines, etc.);
  - Be attractive also to experienced Internet users with fast computers and high bandwidth, who can use and are accustomed to state-of-the-art applications with lots of graphics, moving pictures, sound effects and other special features;
  - Be easy to navigate, search and feed information into.
5. The primary target group of the ENIMPAS database includes:
  - Focal points, responsible for the implementation of the Espoo Convention in each UN/ECE country;
  - Institutions and companies dealing with Espoo cases.
6. Others who might be interested in the information of the database can therefore be regarded as secondary target groups:

- Affected populations and their organizations;
- EIA experts and students, even outside the UN/ECE region;
- Other interested parties.

These target groups represent a very broad range in terms of technical equipment, quality of Internet access, computer skills and experience.

7. In comparison with other on-line databases, the ENIMPAS database is a well functioning, standard application, and is easily accessible without any special skills or training.

## II. ACCESSIBILITY

8. In this chapter, the experts looked in more detail at how easily the ENIMPAS database is accessed from different parts of the world and with different technologies. Specifically, they looked at:

- (a) Downloading speed;
- (b) Browser compatibility;
- (c) Accessibility with poor Internet access; and
- (d) Accessibility through search engines.

### A. Downloading speed

9. One key to the success of any Internet service is that it should not require much time to appear on the user's screen. Large files, especially images, and complex pages significantly increase downloading time.

10. When users access an Internet service, they are downloading files from a remote computer, which may be on another continent. The information usually goes through dozens of computers, so-called gateways. The capacity of the line between each gateway, the so-called bandwidth, may vary widely.

11. In this respect, the downloading speed of a specific Internet service very much depends on where the user is geographically: how many gateways are needed to reach the service's server computer and what is the smallest bandwidth en route. Therefore, the organization providing the service should:

- Put its service onto a high-capacity server with a high bandwidth;
- Keep files small.

12. The files on the ENIMPAS database are reasonably small; the use of graphics on the pages is not excessive. A few trace route tests were performed from Hungary and a few other places. These tests, which list the gateways and access speeds step by step en route, gave good results. From this point of view, the accessibility of the ENIMPAS database seems to be fairly good.

## B. Browser compatibility

13. The target group of the ENIMPAS database includes users with many different computer platforms and software versions. Thus it is essential that the database should not contain any technical solution which is not supported by all browser software. The ENIMPAS database can be used with all graphic browser software. It does not contain frames, java scripts or other special features which are not supported by older software versions. The only problem occurs on the

front page with text-only platforms, or with users who have problems downloading images, because the main page contains information and links only on the images.

14. Some of the pages (the thematic search pages) are wide. This causes difficulty for users who do not have high-resolution screens. They are not prevented from using these pages, but it is very inconvenient for them.

15. The browser compatibility of the ENIMPAS database is close to excellent. It could be improved by a text-only version of the front page and by reducing the width of the thematic search pages.

## C. Accessibility with poor Internet access

16. The UN/ECE region includes countries where Internet access is still poor even for government officials. This means slow and unreliable connections and/or low-capacity computers, which can run only older versions of software. These people may have serious problems with downloading large files or graphics. Usually these users switch off automatic downloading of images.

17. The front page of the ENIMPAS database does not have a text-only version, any information or link appears only when the user has downloaded the images. This may be a problem for some users. All of the other pages on the site are usable without downloading graphics. A text-only main navigation page (front page) would be a good improvement.

## D. Accessibility through search engines

18. Search engines are special services on the Internet where a user can enter names or keywords and the engines perform an automated search in millions of web pages. This is the most effective way of finding information or important sites on certain topics.

19. Admittedly, the primary target groups of the ENIMPAS database, i.e. government officials and relevant institutions, are expected to learn about the database in official ways, not by searching the Internet. However, the affected population, its organizations, interested students and experts could make use of information in the ENIMPAS database, if they could find it through search engines.

20. A few test searches were carried out on three of the largest search engines on the Internet (Altavista, Yahoo and Excite), in order to see whether the ENIMPAS database could be found through them. Several combinations of keywords were searched for, thus making general and more specific searches as well.

The results of the searching tests are shown in the following table:

Keywords searched	Result in Altavista	Result in Yahoo	Result in Excite
Environmental impact assessment	Over 1.2 million matches, ENIMPAS not among the top 200	ENIMPAS did not show up among the results	ENIMPAS not among the top 100 matches
Environmental impact assessment database	266000 matches, ENIMPAS not among the top 10	ENIMPAS did not show up among the results	ENIMPAS not among the top 100 matches
Environmental impact assessment database transboundary	255000 matches, ENIMPAS not among top 100	ENIMPAS not among the top 100	ENIMPAS not among the top 80 matches
ENIMPAS	The only page that appeared was the ENIMPAS Manual page, which is empty (under construction)	ENIMPAS front page appeared on the top of the list	The only page that appeared was the UN/ECE secretariat (Bulletin board, which is empty)

21. The occurrence of the ENIMPAS database in search engines could easily be improved by including relevant keywords in the title headings of the pages and by manual registration in the major search engines. This is not a requirement to achieve the main goal of ENIMPAS, but could greatly increase its contribution to professional information on the Internet.

### III. DATABASE STRUCTURE

22. A database contains comparable pieces of information that are stored in a specific format and structure. This makes searching, updating, combining and processing information much more effective. With an electronic database data are stored in a computer, and if it is accessible on the Internet, it is an on-line database.

23. Designing and building the structure is the most important part of the ENIMPAS database, and the one which requires the most programming expertise. The main categories of the ENIMPAS database are: countries; projects; institutions; pieces of legislation; research and training events.

24. The structure and the construction of the database, inasmuch as can be seen from a user's perspective, seem perfect. Different searches have compatible outputs. Cross linking between projects, institutions, countries, legislation, research and training events, and between the English and Russian versions works well.

25. On the page for searching by country, the only mistake found was in the country data: the dates of ratification and coming into effect on the main Convention page ([http://www.mos.gov.pl/ENIMPAS-db/legislation?leg\\_text\\_id=23](http://www.mos.gov.pl/ENIMPAS-db/legislation?leg_text_id=23)) seem to be updated (although the "last modification date" on the bottom of the page is not), but those data do not appear on the search pages by legislation.
26. The data structure of the ENIMPAS database is appropriate for its purpose and is performing well.

#### IV. WEB SITE DESIGN AND CONSTRUCTION

27. The design and construction of a web site covers aspects like how the information is broken into separate pages, how graphics are used, the quality and functionality of graphic elements, the use of colours and their function, the coherence of the layout of separate pages, how attractive the pages are, the layout of pages, how navigation is facilitated among the pages, how general information is provided.
28. Web design is very much a matter of taste. There are no standards which can be used as universal references. However, from a practical point of view, some benchmarks can be useful.
29. As the main purpose of the ENIMPAS database is to provide professional information (and not entertainment, for instance), the web site should primarily be functional and easy to use. Its attractiveness is secondary. The ENIMPAS web site has a good solid design. However, it uses many different background images and title graphics, and this may not be advantageous: it decreases identification with the whole site and generates unnecessary extra traffic.
30. The front page aims to be attractive with its picture composition. However, all the information and further links are on the images. For the user who does not automatically download images (because of a slow connection, for instance) not a single piece of information appears on the screen.
31. The information content of the first page is weak. It says "Database on Environmental Impact Assessment in a Transboundary Context", and has the UN/ECE-EIA logo. This may not tell all visitors enough. On the other pages, visited links, not-yet-visited links and underlined text appear in exactly the same way. This might be confusing for users.
32. Several items on the "General information" page are empty, such as "The UN/ECE secretariat bulletin board" and the "ENIMPAS manual and related documents", which are linked. Probably, the first one is due to the lack of input from the secretariat, but this is not obvious.
33. The "What's New" page gives a good searching possibility for projects and research/training sessions entered into the database within the past year.

34. The design of the ENIMPAS web site is simple and functional. A more homogeneous design could better connect the separate pages, but this is partly a question of taste.
35. The front page could be significantly improved in the following two ways:
- (a) A text-only version, or a combined solution, would make it possible to access the database by those who do not download images. This is especially recommended, since none of the further pages requires the use of graphics;
  - (b) Some explanation of the role of UN/ECE and the Espoo Convention could prevent misunderstandings; so could a brief description of what kind of information from what sources can be found in the database.
36. On the "What's New" page an explanation or even a link to projects that are older than one year (but maybe still open) could help visitors to find what they did not find there.
37. A "© by Authors" note is placed at the bottom of each page, just below the main content of the page. This may be misleading, as it is not clear what the copyright refers to. If the "© by Authors" note was in the first column on the left, below the small ENIMPAS logo, some misunderstandings could be prevented.

#### V. NAVIGATION ON THE WEB SITE

38. The navigability of a web site refers to how easy it is to get to the relevant page, how clear it is on each page where the users are within the site, and how clear it is what they will find on the site and what they will not. It is very important that users always know what they can find on the web site and where. To assist in this, web sites usually include a navigation bar on each page, or at least a "back" button, or a site map.
39. The ENIMPAS web site is relatively small and not very complicated. Navigation starts from the front page. On each of the other pages, a small ENIMPAS logo links back to the front page. No other navigation tools are used.
40. Because all links from the front page are on the images, navigation is possible only after downloading the large graphic images. Most links point to an interim page (an html file), which then immediately takes the user to another (shtml) one. As a result, clicking on the "back" button in the browser does not take the user back to the previous page, but after a few seconds the user ends up on the same page again.
41. There is no "New search" button on the search pages, although this would be very helpful in many cases.
42. In general, navigation on the ENIMPAS site is fairly straightforward. It could nevertheless be improved by:

- (a) Adding an alternative text-only or a combined version of the front page;
- (b) Adding a navigation bar on each page;
- (c) Excluding the interim html pages between the front page links and the real shtml pages;
- (d) Adding a "New search" button on the search pages.

## VI. PROVIDING INPUT

43. National focal points for the Espoo Convention, and maybe some other "privileged" users, have special permission to enter or change information in the database. These people have individual passwords, with which they can access the input forms. The input forms run on a secure server; this ensures that the passwords cannot be stolen. The input forms can be accessed only with the Netscape browser; Microsoft Internet Explorer cannot be used.

44. A four-page, illustrated manual was prepared by the ENIMPAS operators. It describes in detail how one can enter or change data in the database. With this manual, providing information is simple, no special technical skills or training is required. The input forms are simple and easy to use. Text can be typed in or copied and pasted from another file. Additional HTML formatting (character and paragraph formats) is possible for those who are familiar with the html code setting.

45. After the completed forms are submitted, the information is not automatically published, but goes to the operators, who check it before forwarding it to the database. This ensures that no fake or accidentally entered information is published. Only those who entered a piece of information can change it later.

46. One issue was raised about providing input. It is a policy question rather than a technical one. Until a project is entered into the database by its country of origin, the affected countries are not able to enter their data on that project. This kind of access issue may need to be revised at the policy level. A proposed technical improvement is to mark the fields of "obligatory text" in the input forms more strikingly.

## Appendix IV

### EVALUATION REPORT ON THE USE, COST-EFFECTIVENESS AND POSSIBLE FUTURE DEVELOPMENTS

1. Poland was responsible during the two-year trial period, i.e. until the second meeting of the Parties in 2000 in Sofia, for maintaining the database for EIA in a transboundary context. The financial support necessary to accomplish this task was provided via the secretariat of the Convention in Geneva or directly by the supporting countries. Poland agreed to:
  - (a) Make database accessible on the Internet via the server of its Ministry of Environment;
  - (b) Administer the database and provide the technical staff support necessary for operating it.
  
2. The database, ENIMPAS, set up in Poland in accordance with decision I/5 taken at the first meeting of the Parties in Oslo, was made available via the Internet in June 1998, although its demo version had been available a few months earlier. Before the meeting information about logging on as an authorized user and a short self-tutor guide had been distributed among the interested Parties.
  
3. The database is available at the following two Internet addresses:
  - (a) <http://www.mos.gov.pl/enimpas/> allows for public access and does not require any log-in. It allows users to surf throughout the database and to write an e-mail to the database administrator;
  - (b) <http://www.mos.gov.pl/auth/enimpas-db/> provides restricted access and available to authorized users only, e.g. database administrator, database content administrator and country data managers.
  
4. It was also decided that, during the trial period, the operation of the database would be monitored and assessed by an Evaluation Group (led by Hungary) and the results would be presented at the second meeting of the Parties in Sofia.

### Information required from the Parties to the Convention

5. The Parties to the Convention were asked to provide the following information about their activities regarding the implementation of the Espoo Convention:
  - (a) **Information on projects likely to have a transboundary effect.** The Party of origin should provide the following information: project name, type of activity, key words, brief description of the project, proponent's name, competent authority, affected countries and time frames of the procedure. The affected Party should provide: date of notification, date of confirmation, decision on whether it intends to participate in the procedure, description of its affected environment, likely impacts, date of public consultations and comments;



(b) **Information on the institutions involved**, such as focal point for the implementation of the Convention, contact point for notification, project proponent, type of proponent, name of chief executive, postal address, address of WWW home page, phone and fax numbers and e-mail address of proponent;

(c) **Information on legal acts**, such as national EIA act, bilateral or multilateral agreement, etc.: name of legal act, type of legal act, key words, countries that have signed, ratified and/or implemented the agreement or legal act, description (or full text) of the legal act;

(d) **Information on EIA research & training**: date when information was entered, date after which the information is not valid, title's of publications, subjects, training courses or conferences, key words, type of training (1. assistance projects on EIA, 2. training courses in UN/ECE countries on EIA, 3. research initiatives, 4. major publications on EIA, 5. conferences and seminars), country submitting information, organizer, description.

6. Provided it is constantly fed with current information and properly administered, the database should constitute:

- An archive of projects processed under the Espoo Convention;
- A uniform archive of legal acts pertinent to EIA (national and international);
- An address directory of environmental authorities as well as persons and institutions involved in transboundary EIA;
- A platform of communication between focal points from the different countries;
- A source of "good examples" (for environmental administration);
- A source of methodological information (for experts engaged in EIA);
- A source of information (for the media and the general public).

### **Database management**

7. The database is made available on the server of the Polish Ministry of Environment in the professionally maintained computer centre, which is well protected against hackers. The constantly upgraded capacity of Internet lines allows for easy and efficient access to the database from any site anywhere in the world.

8. The persons responsible for the operation of the database are:

(a) **The database administrator**: his task is to ensure the everyday management of the database, specifically:

- Checking data format and entering new or modified data into the database from the user buffer or from disks sent by users of the stand alone version (consulting with the database content administrator if in doubt);
- Providing translations of all the documents arriving in only one language and entering them into the database;
- Ensuring the formal content and integrity of the database;
- Copying new versions of the database onto disks for MS-Access and sending them to the users, who do not have access to the Internet;

- Answering users requests sent via e-mail, resolving their problems in entering data, explaining how best to use EnImpAs;
- Training country data managers;
- Acting as moderator for the EIA discussion forum (with the help of the database content administrator, if needed);
- Administering the database;
- Management of privileged users' access rights;
- Gathering comments on the necessary changes to the structure and content of the database;
- Reporting to the Bureau of the Convention;

**(b) The database content administrator:** duties may include verification of submitted data;

**(c) The technical consultant** is responsible for:

- Administering the server (and all installed software) in the Internet computer network;
- Periodic back-ups of the database resources;
- Accepting by e-mail upgrades of EnImpAs pages and files;
- Helping in database recovery after crash;
- Monitoring security measures in the site;

**(d) Country data manager:** one person in each country nominated by the focal point for the Implementation of the Convention to administer the data pertinent to her/his country.

### **Funds allotted**

9. To perform the tasks Poland received a grant of US\$ 9800 from the Government of Italy in 1998 and a grant of US\$ 18000 from the Government of Germany in 1999.

10. Additionally, in 2000 the Government of Denmark granted US\$ 9000. According to the work plan, the above funds were used to cover the expenses up to June 2000. The Government of Poland has covered the remaining expenses from July 2000 up to February 2001 and partially covered the costs of the course for country data managers held in Warsaw in February 2000. Poland received the first instalment in May 1999 via the secretariat in Geneva and the second one in January 2000 directly from the donor country.

### **Initiatives by the database management**

11. Following the first meeting of the Parties to the Convention the database administrator entered the data relating to the focal points from all Parties and Signatories and other institutions as obtained from the secretariat of the Convention.

12. Polish programmers also added "UN/ECE Documents Discussion Forum" designated for authorized users. An authorized user, e.g. a focal point, can enter her/his intervention, which will be attached at the end of the discussion on the selected document. The discussion list in the actual form will eventually be expanded into a "networking" capability allowing groups of authorized users to communicate on subjects that interest them.

13. In June 1999 the secretariat of the Convention sent a letter to the focal points on behalf of the database administrator asking them to nominate country data managers and to provide data on the legal systems, correspondent institutions and ongoing activities related to EIA projects.

14. The database administrator personally contacted focal points and country data managers by phone and e-mail offering help in entering the data into the database. In September 1999 a short self-tutor guide was prepared and distributed among the Parties to the Convention. At the same time the database authors completed a comprehensive manual for the database and sent it for translation.

15. The focal points identified the following three main reasons for not entering data to the database:

- Their departments were currently busy with other tasks and the Espoo-related activity was regarded as a low priority. This situation will change soon and the data administrator should expect a surge in interest;
- Their departments had a shortage of personnel sufficiently skilled in computer and Internet applications;
- Information was available only in the local language and needed to be translated before it could be entered into the database.

16. Starting from the summer 1999 the database administrator started to introduce information on research initiatives and training courses, on conferences and seminars and on the literature, as found on the Internet and from other sources.

17. In February 2000 a three-day training course for country data managers was organized in Warsaw by the Ministry of Environment. It covered the following subjects:

- Introduction: Espoo Convention, role of EnImpAs in transboundary EIA;
- Information relevant to transboundary EIA (legislation, project, procedure, methodology, expertise, training);
- Data structures of EnImpAs;
- Basics on Internet and World Wide Web;
- html formatting;
- Tutorial: entering legal acts, entering project data, entering research and training data, modification of above, introducing of a privileged user, cancellation of a record of data, participation in the discussion forum;
- Network security.

18. Twenty people from 15 countries participated in the course. During the course the manual in English and Russian was distributed. The database manager added the following data and information:

- Environmental impact checklists for all the activities listed in Appendix I to the Convention (in research and training: assistance projects on EIA);
- On-line help on database pages (in English and Russian);
- Links to the UN/ECE pages and documents as well as to other sites containing information useful for transboundary EIA;
- A loadable file containing the notification form (in the database for authorized users);

- A table from the report prepared by Finland and Sweden describing the practical implementation of the Convention;
- Some smaller modifications to the descriptions and labels on database pages, accordingly to the suggestions made by users.

### **Use of the database**

19. During the first period the Parties to the Convention entered no real data into the database. The questionnaire prepared by the Hungarian Evaluation Group shows that the Parties to the Convention are parties of origin of a few dozen projects. Similar conclusions emerge from the Draft Report: Practical application of the UN/ECE Convention on EIA in a Transboundary Context prepared by Finland and Sweden (November 1999), showing that not less than 35 projects have been initiated according to the Espoo procedure. However, few have been entered by the Parties into the database.

20. By 10 June 2000 country data managers had entered seven projects being processed under the provisions of the Espoo Convention. Moreover, 16 records in the category research and training have been added as have 25 legal acts and 122 records on institutions. The quantity and quality of information started to increase as a result of the training course for the country data managers.

21. At present the EnImpAs database does not include much information and therefore its usefulness is limited. This evaluation report is in the opinion of the Polish database management an objective and useful tool for future database improvement and in general Poland shares its findings and conclusions.

**Annex VII**

**DECISION II/7  
THE NETWORKING FACILITY ATTACHED TO THE DATABASE  
ON ENVIRONMENTAL IMPACT ASSESSMENT**

**The Meeting,**

Recognizing that interactive communication among Parties and non-Parties will contribute towards the full application of the provisions of the Convention,

Also recognizing the opportunities, the ease and cost-effectiveness offered to this end by the Internet,

1. Welcomes the setting-up of the networking facility attached to the database on environmental impact assessment, adding to it a new interactive feature, allowing for the exchange of ideas (discussion forum) and facilitating the dissemination of information by both E-mail and the use of an electronic bulletin board;
2. Encourages Parties, non-Parties and all other stakeholders to use the networking facility;
3. Endorses the document appended below, which explains the interactive features of the networking facility and how it may be used.

## Appendix

### **NETWORKING FACILITY ATTACHED TO THE DATABASE ON ENVIRONMENTAL IMPACT ASSESSMENT**

#### Introduction

1. The implementation of the Espoo Convention relies on contacts at the bilateral and multilateral level. Cooperation between the Parties, necessary to achieve the goals set out in the Convention, would in fact not be possible without such interactions.
2. These interactions are of a multiple nature: through meetings, by letter, by telephone, by fax, etc. Recent years have seen the emergence of a new medium: the Internet has provided many of us with a new means of contact. It has facilitated contact from one individual to another. At the same time it has provided a new means to share information among many recipients. The Internet has generally proven to be fast, reliable and inexpensive.
3. Aware of the new opportunities offered by the Internet, Parties, at their first meeting, decided to establish a networking facility to take full advantage of the Internet and facilitate the exchange of information among the Espoo community.
4. The project and its implementation are based on a proposal by Finland and Switzerland and are funded by Switzerland (Swiss Agency for the Environment, Forests and Landscape) as the lead country. Project design and implementation are executed under the guidance of the Polish Ministry of Environment, Department of Environmental Protection.

#### **I. GENERAL CONTENT**

5. The networking facility is intended to be a communication tool for the entire Espoo community. It consists on the one hand of a discussion forum in the EnImpAs database which is accessible to anyone. On the other it offers specific services and communication tools to authorized users of the EnImpAs database. Authorized users are: the Focal Points, the Country Data Managers and other persons appointed by the Focal Points in each country (Parties and Signatories). Selected functions of the networking facility will be accessible to these authorized users only after they log on to the authorized (restricted) part of EnImpAs.
6. The basic components of the networking facility are:
  - (a) A discussion forum via World Wide Web pages (both for the Espoo community at large and for those having access to the authorized (restricted) part of EnImpAs);
  - (b) E-mail message distribution lists, possibly to be considered for a future upgrade of the networking facility;
  - (c) An announcement board for authorized users.

## II. COMPONENTS OF THE NETWORKING FACILITY

### A. Discussion forum via World Wide Web pages

#### 1. General access discussion forum

7. A general-access discussion forum will be created in the non-restricted area of the EnImpAs database. This forum will be available from the link to “General Information” and then “EIA forum”. Any user of the EnImpAs database can join the discussion group after his/her introduction to the system. The introduction procedure is the following:

- (a) A new user can join the forum after filling in the introduction form with, in particular, his/her e-mail address, a unique network name and a password;
- (b) The system checks the accuracy of the e-mail address as part of the procedure under subparagraph (a) above;
- (c) Once introduced to the networking facility, a user can (i) join an existing topic by sending his/her intervention; (ii) can create his/her own topic by filling in the proper form;
- (d) A discussion topic is defined by the following set of information:
  - Title of the topic;
  - Language(s) in which the discussion is conducted;
  - Introductory message.

#### 2. Restricted discussion forum

8. A similar discussion forum will be created inside the restricted EnImpAs, which is accessible only to authorized users of EnImpAs. It will allow communication between groups of authorized users who are interested in a certain activity (e.g. gas main pipelines across the territory of several countries), a document (e.g. draft bilateral agreement), the organization of a joint meeting (e.g. a conference), etc.

9. Such a group of authorized users can, for instance, be a group put together for the evaluation of the EnImpAs database, or a group of people preparing a training course on EIA methodology. These persons may wish to communicate in a way that allows them to access/read a particular document, read up on past discussions, and enter their own interventions.

10. No special registration is necessary for authorized users – each one of them can participate in any topic of the forum. Each authorized user will be able to propose a new topic for discussion. The activity of the forum’s participants (including the opening of a new topic for discussion) will not be stored in the buffer; so each intervention will immediately be entered into the database and visible for other authorized users. A discussion topic is defined by the same set of information as described above in paragraph 7 (d).

11. Each discussion topic will have a folder of documents associated to it. A document in the folder may be a Microsoft-Word file, a graph, a drawing, a photograph, etc. Each document will be inserted into the folder as an attachment to an individual user’s intervention. Its insertion will require the filling in of a short form containing the file name and a brief description of its content.

12. All ongoing topics will be gathered on a separate main page of the discussion forum. References to the discussion topics will be arranged by the date they were started. A page containing references to past discussions will also be available in the forum.

13. A new intervention will appear at the bottom of the page containing the current discussion topic. Added messages will not be stored in the buffer, i.e. every new intervention will be immediately visible to all participants. Information about the new intervention will contain:

- Date of intervention;
- Author;
- Heading;
- Contents;
- Optional: attached document.

14. It will be possible to send a message containing information that a new intervention has been made or even quote its content and attachments. To this end, the users' e-mail message distribution lists (see below) will be used. This feature is optional and can be used if a sender wants to make sure that other people interested in the discussion topic will notice the intervention.

15. The database moderator can close the discussion topic if participants agree to do so. Discussion will also be closed if there are no new interventions for a sufficiently long period. A closed discussion will be transferred to the archives. Complete information on past discussions will be available to all authorized users of the EnImpAs database.

### **B. E-mail message distribution lists**

16. E-mail message distribution lists make it possible to send messages to a predetermined set of recipients. The definition of a distribution list will contain:

- The name of the list;
- A short description of the list;
- A set of participants (subset of authorized users of the EnImpAs database).

17. Sending a message using a distribution list will be done with the help of a special form provided within the networking facility. Replying to messages received through the distribution lists that are addressed to all members of the distribution list will equally be done using the form provided. Messages sent through a distribution list will not be archived.

#### **1. Predefined distribution lists**

18. The networking facility will contain predefined distribution lists available to any authorized user. These will include:

- Country Data Managers of Parties – Signatories,
- Focal Points of Parties – Signatories,
- Points of Contact for Notification of Parties – Signatories,
- Database administrator and moderator.

19. The need for new predefined lists can be communicated to the administrator and/or



moderator, who may then introduce new predefined lists.

## 2. Personal distribution lists

20. Every authorized user of the EnImpAs database will be able to create his/her own private distribution lists. These private distribution lists will be created from the lists of Parties/Signatories in such a way that clicking with a mouse on the country name will expand it to the list of the addresses available in this country. Clicking on the selected address will move it to the user's distribution list.

21. Personal distribution lists will be visible only to the user who created them.

## C. Bulletin board for authorized users

22. Possibly to be considered for a future upgrade of the networking facility is the inclusion of a bulletin board for authorized users.

23. The bulletin board may contain announcements and documents provided for all authorized users. The board would have a tree-like structure of categories and sub-categories, e.g.:

- (a) Information by the secretariat of the Convention;
- (b) Meeting of a working group:
  - Documents;
  - Provisional agenda;
- (c) Announcements of the Bureau of the Convention.

24. A page of the announcement board would be identified by its category and sub-category name path, e.g. meeting of a working group > Provisional agenda.

25. Authorized users would also be able to propose information for specific pages of the bulletin board.

## III. LOCATION OF THE NETWORKING FACILITY

26. At this time, the best way to implement the networking facility is to do so as a component of the EnImpAs database. The reasons for this choice are:

(a) The UN/ECE web site and the EnImpAs web site are the two sites providing information and access to documentation and allow for an exchange of information related to the Espoo Convention. This makes the EnImpAs web site attractive as the host site for the networking facility;

(b) EnImpAs already relies on a programmed database system and a variety of tools that would be necessary to implement the networking facility – this will reduce its implementation costs. To restrict particular areas of the EnImpAs database to authorized users, EnImpAs already contains a log-in mechanism – this will guarantee more security.

**Annex VIII**

**DECISION II/8  
STRENGTHENING SUBREGIONAL COOPERATION**

The Meeting,

Recognizing the importance of an effective implementation of the Convention,

Mindful of the need to stimulate the ratification and the application of the Convention in subregions,

Bearing in mind the desirability for non-UN/ECE countries to implement the principles of the Convention,

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

Taking into account the results of the subregional pilot workshop in the Balkan and the Black Sea regions,

1. Agrees with the general conclusion of the workshop that subregional cooperation stimulates the ratification process and the practical application of the Convention;
2. Adopts the recommendations appended to this decision;
3. Invites Parties, non-Parties and, in particular, countries in transition to apply these recommendations to proposed activities that are within the scope of the Convention;
4. Decides to take into account in item 6 of its 2001 – 2003 workplan the outcome of the work on subregional cooperation.

## Appendix

### **RECOMMENDATIONS FOR STRENGTHENING SUBREGIONAL COOPERATION**

1. It is generally accepted that the practical experience gained by implementing the Convention is strengthening the ratification process. The Convention should be applied to actual cases through the implementation of provisions in national legislation, even by countries that are not yet a Party to it.
2. Parties and non-Parties are urged to designate a point of contact to which notifications in accordance with Article 3 of the Convention should be submitted. The point of contact should be an institution with responsibilities related to environmental impact assessment and the implementation of the provisions of the Convention. To apply the procedures of the Convention effectively, the points of contact should meet periodically within their subregions to investigate how these responsibilities could be met.
3. Parties and non-Parties should continue to analyse the practical experience with the implementation of the Convention to identify difficulties and successful solutions for the management of transboundary EIAs. Workshops should be organized during which the authorities that deal with the practical application of transboundary EIAs analyse projects with a transboundary impact.
4. Although bilateral and multilateral agreements or arrangements are not a precondition for the implementation of the Convention, certain aspects, such as the consideration of the “significance” of an adverse transboundary impact, which are not clearly determined in the Convention, could be further elaborated through bilateral and multilateral cooperation. To identify similarities and differences between national EIA systems, Governments should cooperate bilaterally or multilaterally, taking into account Appendix VI to the Convention. Such an arrangement should involve the authorities designated by a Party to perform tasks covered by the Convention.
5. As the proposed activities listed in Appendix I to the Convention might require further identification, it is suggested that more work should be done and guidance provided for this “screening”, both at the national and at the international level. The provisions of the Convention should also be applied to projects that are themselves transboundary and not only to proposed activities with a transboundary impact.
6. Non-governmental organizations (NGOs) should play an important role in the implementation of the EIA Convention. In the light of the recent adoption and signing of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), governmental authorities and representatives of NGOs in the different subregions should meet to discuss the strengthening of the role of the NGOs in the procedures of the EIA Convention.

7. The format for notification as included in decision I/4 of the Meeting of the Parties (ECE/MP.EIA/2, annex IV) should be used in order to facilitate the notification of a Party likely to be affected by the transboundary impact of a proposed activity. The competent authorities, as defined in the Convention, should consider the practical experience gained with the application of the Convention when deciding on the specific arrangements for the flow of information related to Article 3.

8. It is recognized that there is a general need for better EIA methodological guidance, in particular for the countries in transition. In this respect, the final results of the earlier work included in the publication "Current Policies, Strategies and Aspects of Environmental Impact Assessment in a Transboundary Context" (ECE/CEP/9, Environmental Series No. 6) should be used as background information by a group of experts, in particular to draw up guidance on prediction methods and methodological approaches.

9. The EIA database under the Convention offers Parties and non-Parties an opportunity for promoting the dissemination of information and knowledge related to the Convention. The EIA database also contributes to capacity building, supports the application of EIA and makes related management systems more effective. To further strengthen the practical experience with the application of the Convention, it is recommended that countries should make better use of the database and ensure that its information is regularly updated by their data managers.

**Annex IX**

**DECISION II/ 9  
STRATEGIC ENVIRONMENTAL ASSESSMENT**

**The Meeting,**

Recalling Article 2, paragraph 7, of the Convention, which stipulates that, to the extent appropriate, the Parties shall endeavour to apply the principles of environmental impact assessment (EIA) to policies, plans and programmes,

Recalling also paragraph 10 of the Oslo Ministerial Declaration in which the Ministers recognized that a systematic analysis of the environmental impact of proposed policies, plans and programmes was enabled by the application of EIA principles and recommended that the principles of EIA in a transboundary context should also be applied to the strategic level, and to this end invited Parties and non-Parties to introduce those principles into their national systems,

Taking into account the work undertaken on strategic environmental assessment in other international forums, including the ongoing negotiations on the EC directive on the assessment of the effects of certain plans and programmes on the environment and the findings of the Sofia initiative on EIA,

Welcoming the offer by the Sofia initiative on EIA to organize subregional activities in order to facilitate the preparation of a protocol on strategic environmental assessment and to benefit from the experiences of countries in transition,

Having considered the paper on strategic environmental assessment (MP.EIA/WG.1/2000/16),

Having taken note of the Working Group's reports (MP.EIA/WG.1/2000/2 and MP.EIA/WG.1/2000/18) and in particular the views expressed concerning the development of a legally binding instrument on strategic environmental assessment (SEA),

Having considered that a Protocol on strategic environmental assessment could be potentially important for the integration of environmental, including relevant health, concerns into strategic decision-making as part of the process towards achieving sustainable development in line with Agenda 21, and that such a protocol would supplement the existing provisions on EIA of the Convention,

Noting the reports of the seventh session of the Committee on Environmental Policy and the second meeting of the Signatories to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters,

1. Establishes a subsidiary body, called the open-ended ad hoc Working Group on the Protocol, with a mandate to prepare a legally binding instrument in the form of a protocol on strategic environmental assessment to the Convention, with the objective of finalizing it so that it can possibly be adopted at an extraordinary meeting of the Parties to the Convention to be convened on the occasion of the fifth Ministerial Conference "Environment for Europe" to be held in Kiev, Ukraine;

2. Calls on the Parties to the Convention and non-Parties to participate actively in the preparation of the protocol;

3. Urges the Meeting of the Signatories to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) to contribute to the preparation of the protocol;

4. Calls on the UN/ECE secretariat to ensure that invitations to the Working Group negotiating the SEA protocol are sent to all focal points of both the Espoo Convention and the Aarhus Convention;

5. Invites all interested intergovernmental organizations, in particular the World Health Organization/Regional Office for Europe (WHO/EURO) and the United Nations Environment Programme (UNEP), as well as non-governmental organizations, to contribute to this process.

**Annex X**

**DECISION II/10  
REVIEW OF THE CONVENTION**

The Meeting,

Acknowledging the review of the implementation of Agenda 21 and in particular principle 17 of the Rio Declaration on environmental impact assessment,

Having considered the results of the activities undertaken in accordance with the work-plan adopted at the first meeting, in particular the outcome of the workshop on recent EIA developments and links with other ECE conventions as well as of the workshop on amendments to the Convention and its proposal for particular amendments,

Welcoming the substantial findings of these workshops,

Stressing the need to take into account all experience gained in the implementation of the Convention,

Recalling its commitment to providing for further and more active participation of the public and NGOs in the activities and the meetings under the Convention,

Recognizing the value of a comprehensive package of amendments,

1. Decides that the Convention merits review to make it more effective;
2. Establishes a task force with the following mandate:
  - (a) To undertake a comprehensive review of the Convention based on: (i) experience gained in its implementation; and (ii) recent developments in environmental impact assessment at national and international levels as well as in other ECE environmental conventions;
  - (b) To identify the areas in need of amendment; and
  - (c) To develop proposals for possible amendments including their rationale;
3. Decides that the Task Force will report to the Working Group on Environmental Impact Assessment before 2002. The Working Group will prepare a draft decision for possible adoption at the third meeting of the Parties.

**Annex XI**

**DECISION II/11  
ADOPTION OF THE WORK-PLAN**

**The Meeting,**

**Recalling** Articles 9 and 11, paragraph 2 (f), of the Convention, stipulating that further research as well as additional action that may be required to achieve the purposes of the Convention shall be undertaken,

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

**Recognizing also** that Parties should strive to go beyond their mere legal obligations and should take action to maximize the effectiveness of their application of the Convention so that the best possible practical results are achieved,

**Recalling** decision II/9 on strategic environmental assessment,

**Recognizing** the need to strengthen cooperation with other conventions,

1. **Adopts** the work-plan for the period up to its third meeting, as appended to this decision;
2. **Suggests** that lead countries which carry out the relevant activities should consult each other in order to avoid overlap;
3. **Calls** on the Parties and invites non-Parties to arrange, host and participate actively in task forces and meetings in order to facilitate the implementation of the Convention;
4. **Invites** every relevant body or agency, whether national or international, governmental or non-governmental, to participate actively in the activities included in the work-plan.



## Appendix

### WORK-PLAN FOR THE IMPLEMENTATION OF THE CONVENTION FOR THE PERIOD 2001 TO 2003

#### **1. REVIEWS OF THE IMPLEMENTATION OF THE CONVENTION**

Objective: Parties and non-Parties will submit information on recent developments in their implementation of the Convention.

Method of work: A draft review will be considered at the third meeting of the Parties to review the implementation of the Convention.

Organizational aspects: The secretariat will prepare a draft review based on the information provided by Parties and non-Parties pursuant to the reporting system adopted by the Working Group, for discussion and possible adoption at the third meeting of the Parties.

Time schedule: The draft review will be prepared in 2003 and incorporate the information received for consideration at the third meeting of the Parties, at least nine months before this third meeting.

#### **2. REPORTING SYSTEM**

Objective: The Implementation Committee will prepare recommendations for a revision of the questionnaire used for reporting for future reviews of the implementation of the Convention. The capacity and technical possibilities of the Enimpas database will be used in the reporting system. The objective is to improve the questionnaire so that it provides information on how the obligations of the Convention have been complied with, both at the general level and by particular Parties. The Committee will also consider whether any further steps might be recommended to improve the monitoring of, and compliance with, the obligations arising under the Convention.

Method of work: The delegation of the United Kingdom will act as lead country, with the assistance of the secretariat. The Implementation Committee established by the Meeting of the Parties in accordance with decision II/4 will meet with a view to preparing its recommendation.

Organizational aspects: The Committee will present its recommendation for a new reporting mechanism at the fourth meeting of the Working Group.

Time schedule: to be specified.

### **3. STRENGTHENING COOPERATION WITH OTHER ECE CONVENTIONS**

Objective: To strengthen cooperation between the Convention and the other ECE conventions with the aim of further strengthening their implementation and application and in particular to further improve the application of environmental impact assessment in a transboundary context.

Method of work: On the basis of national and regional experiences and research:

(a) To compile and analyse relevant information taking into account document MP.EIA/WG.1/2000/10 and furthermore to study the relationship with the Convention on Long-range Transboundary Air Pollution;

(b) To identify opportunities for improving the application of the Convention *inter alia* to public participation, content requirements for EIA documentation, risk assessment, post-project analysis and monitoring.

Organizational aspects: Romania, Slovakia and the former Yugoslav Republic of Macedonia will act as lead countries, with the assistance of the secretariat, and will organize a workshop to identify areas for cooperation in the application of the Convention and other UN/ECE environmental conventions. A report with proposals on how to improve the application of environmental impact assessment in a transboundary context through the provisions of the conventions will be presented to the Working Group for consideration and thereafter at the third meeting of the Parties for possible adoption.

Time schedule: to be specified.

### **4. GUIDELINES ON GOOD PRACTICE AND ON BILATERAL OR MULTILATERAL AGREEMENTS**

Objective: On the basis of document MP.EIA/WG.1/2000/7/Rev.1 and MP.EIA/WG.1/2000/6/Rev.1 to discuss the experience and review and update guidelines on the practical application of the Convention and on the preparation of bilateral or multilateral agreements.

Method of work: Based on the previous work (see documents above) and giving also attention to the work under item "Subregional cooperation" in the work-plan, the experience in the practical application and in bilateral or multilateral agreements will be discussed at workshops and the guidelines will be updated.

Organizational aspects: Finland, Sweden and the Netherlands will act as lead countries, with the assistance of the secretariat. A report containing the guidelines with relevant background information (compendium) will be presented to the Working Group for consideration and thereafter to the Parties at their third meeting for possible adoption.

Time schedule: to be specified.

## **5. STRATEGIC ENVIRONMENTAL ASSESSMENT**

Objective: To prepare a legally binding protocol on strategic environmental assessment (SEA) to the Convention.

Method of work: On the basis of relevant national and international experience, a draft protocol on SEA will be prepared by the open-ended ad hoc Working Group on the Protocol.

Organizational aspects: The Working Group, with the assistance of the secretariat, will prepare a draft protocol in accordance with decision II/9 and present for possible adoption at an extraordinary meeting of the Parties to be held in conjunction with the fifth Ministerial Conference "Environment for Europe" (Kiev, Ukraine, 2003).

Time schedule: Spring 2001 - Spring 2003.

## **6. SUBREGIONAL COOPERATION**

Objective: To support the application of environmental impact assessment in a transboundary context through the provisions of the Convention, in particular in countries in transition: central and eastern Europe and the newly independent States.

Method of work: Workshops, seminars, training courses, etc. will be organized, and guidelines and other material will be produced, in order to introduce or improve EIA systems and practice, covering the specific needs of countries in transition, in particular with regard to methodological support.

Organizational aspects: Croatia and Poland will act as lead countries, with the assistance of the secretariat. Poland will provide for a facility enabling countries in transition to address their needs regarding transboundary EIA. Workshops and other activities will be organized in central and eastern Europe and the newly independent States, with the participation of experts from the countries of these regions, as well as from other countries in line with paragraph 14 of the Oslo Ministerial Declaration. Support will be sought from different sources for specific regions.

Time schedule: to be specified.

## **7. DATABASE ON ENVIRONMENTAL IMPACT ASSESSMENT**

Objective: To allow an exchange of information on matters related to EIA in a transboundary context and to provide support to Parties and non-Parties in the establishment and maintenance of a system of networking, by setting up, as a central resource, a computer database, accessible to users through the Internet in order to strengthen the application of EIA in a

transboundary context in accordance with the provisions of the Convention.

Method of work: The lead country will maintain the database on environmental impact assessment up to the third meeting of the Parties.

Organizational aspects: Poland will act as lead country, with the assistance of the secretariat, in particular in relation to the translation of information. For the next meeting of the Parties, Poland will prepare a report analysing the use of the database.

Time schedule: to be specified.

## **8. AMENDMENTS TO THE CONVENTION**

Objective: To assess the effectiveness of the Convention in the light of developments, at national and international levels, in the field of environmental impact assessment.

Method of work: To review and analyse the implementation of the Convention, in accordance with decision II/10.

Organizational aspects: A task force with Italy as lead country will organize meetings and prepare a report on its findings, including amendments and supporting rationale, for consideration by the Working Group, which will prepare a draft decision for possible adoption by the Parties at their third meeting.

Time schedule: Before December 2002.

## **9. PUBLIC PARTICIPATION IN EIA IN A TRANSBOUNDARY CONTEXT**

Objective: To develop further the draft guidance on public participation as included in decision II/3 with the aim of improving its practical application under the Convention.

Method of work: Parties and non-Parties will be requested to provide case studies on public participation in EIA in a transboundary context to be analysed by the lead countries.

Organizational aspects: The Russian Federation with the assistance of the United Kingdom will act as lead countries, with the help of the secretariat, to prepare a final version of the draft guidance on public participation in a transboundary context based on information to be provided by Parties and non-Parties.

Time schedule: to be specified.

**Annex XII**

**DECISION II/12  
FINANCIAL ASSISTANCE TO THE COUNTRIES  
WITH ECONOMIES IN TRANSITION**

**The Meeting,**

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

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

1. Calls upon countries in transition to finance to the extent possible their own participation in the activities under the Convention in order to ensure that the limited funds available are used efficiently;
2. Urges Parties and encourages non-Parties and relevant international organizations to contribute financial resources, in accordance with decision II/13 on the budget, earmarked for the activities under the Convention, to the Trust Fund for Assistance to Countries in Transition (TFACT) and to provide the secretariat with information on other financial support given on a bilateral basis to enable countries with economies in transition to participate in the meetings under the Convention;
3. Recommends that there should be no differentiation between Parties and non-Parties for the purposes of providing financial assistance;
4. Requests the secretariat to grant, subject to the resources available in TFACT, a lump sum for the participation in meetings under the Convention of one governmentally designated expert from each of the following countries: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Romania, Russian Federation, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan, Ukraine, and Uzbekistan;
5. Requests the Working Group on EIA, together with the secretariat, to review the list of countries in paragraph 4 and prepare a revised draft decision on this issue for adoption at the third meeting of the Parties.

**Annex XIII**

**DECISION II/13  
THE BUDGET AND FINANCIAL ARRANGEMENTS FOR THE PERIOD  
UP TO THE THIRD MEETING OF THE PARTIES**

The Meeting,

Recalling its decision II/11 on the work-plan covering the activities under the Convention during the period up to its third meeting,

Recalling also its decision II/12 on arrangements to support the participation of experts from countries in transition,

Recalling further Article 13 of the Convention, which stipulates that the Executive Secretary of ECE shall carry out the secretariat functions,

Recognizing that the successful implementation of the Convention depends on adequate administrative and financial resources being made available to support and maintain the initiatives necessary to achieve its goals,

1. Decides that the Parties will contribute to the budget of the Convention and urges them to pay contributions on a voluntary basis;
2. Approves the budget of the Convention for the period up to the third meeting of the Parties as set out in the table below;
3. Urges Parties and non-Parties that participate in the Convention's activities to ensure that the resources necessary to meet the programme of activities which are agreed upon are provided;
4. Invites the Executive Secretary, strengthened with additional extra budgetary resources to be provided by the Parties, to continue to provide secretariat support for the tasks outlined in the work-plan, as included in decision II/11;
5. Requests the ECE secretariat to manage the voluntary financial contributions in agreement with the donor countries/institutions;
6. Requests the Bureau, with the support of the secretariat, to prepare a budget for adoption by consensus at the third meeting of the Parties.

**WORK-PLAN 2001-2003**

<b>I. ACTIVITIES</b>	<b>LEAD COUNTRY</b>	<b>SUPPORT COUNTRY</b>	<b>BUDGET</b>	<b>COVERAGE</b>	<b>OUTCOME</b>	<b>Approximate time schedule</b>
1. Review	Secretariat	All	UN/ECE	100%	Review	1. Revised reporting, Autumn 2001 2. Country reporting Autumn 2003
2. Reporting system	United Kingdom	All	See No.II.2 below	100%	Report on revised reporting system	Final report, summer 2001
3. Cooperation with other conventions	Romania, Slovakia, the former Yugoslav Republic of Macedonia	All	Costs of participants from countries in transition (lead country) for the workshop + US\$ 35,000 for lead country		Reports on common elements	Autumn 2002
4. Guidelines of good practice	Finland Netherlands Sweden	All	US\$ 70,000 (lead countries) + Costs of participants from countries in transition (lead countries)	100%	Draft guidelines	Spring 2001 Autumn 2002
5. Strategic environmental assessment	All	All	See No. II.3 below		Draft protocol on strategic environmental assessment (SEA)	Spring 2001 to 2002
6. Sub regional cooperation	Croatia Poland	All	Costs of participants from countries in transition per meeting (lead countries) + US\$ 30,000 for lead country		Guidelines for strengthened implementation and increased capacity to implement the Convention	2002
7. Database	Poland	All	US\$ 20,000 - 2001 US\$ 20,000 - 2002 US\$ 20,000 - 2003	25% (Poland) 25% (Poland) 25% (Poland)	Full implementation of database	
8. Amendments to the Convention	Italy	All	Costs of participants from countries in transition per meeting - costs for lead country + US\$ 30,000 for lead country	100%	Report on possible amendments to the Convention	Spring 2001 to spring 2003
9. Public participation in a transboundary context	Russian Federation	United Kingdom	Costs of participants from countries in transition (lead countries) + US\$ 30,000 for lead country		Final version of the draft guidance	2002

II. MEETINGS UNDER THE CONVENTION	LEAD COUNTRY	SUPPORT COUNTRY	BUDGET	COVERAGE	OUTCOME	Approximate time schedule
1. Meetings (2) Working Group on EIA	All	All	US\$ 25,000 for participants from countries in transition per meeting		Effective management of the Convention	
2. Meetings Implementation Committee	United Kingdom	Armenia, Canada, Finland, Netherlands, Republic of Moldova, Slovakia and the former Yugoslav Republic of Macedonia	US\$ 5,000 for participants from countries in transition per meeting	100%	Report on review of the Convention	Summer 2001 to summer 2003
3. Open-ended ad hoc Working group on the Protocol	All	All	US\$ 25,000 for participants from countries in transition per meeting		Draft protocol on SEA	Spring 2001 to early 2003
4. Third meeting of the Parties	All	All	US\$ 42,000 (Italy) US\$ 200,000		Decision-making related to the Convention	
5. Meetings of the Bureau (4 meetings)			Approximately US\$ 1500.- per representative from a country in transition per meeting		Administer the work under the Convention	



SECRETARIAT COSTS	BUDGET	COVERAGE	OUTCOME
Secretariat travel (note 4) Promotional material, etc. Consultancy	US\$ 52,150		Promotion and support

Notes:

1. The budget period is the period between the second and the third meeting of the Parties.
2. Other expenses associated with organizing the third meeting of the Parties are to be borne by the host country, as appropriate in cooperation with other countries. The host country may also wish to cover the participation of delegations from countries in transition.
3. According to the Bureau, Government(s) would have to contribute in kind second experts to the secretariat.
4. Secretariat travel to seminars, task forces and workshops should be covered by the host country. The budget covers secretariat travel not immediately foreseen in the work-plan.

**Annex XIV**

**DECISION II/14  
AMENDMENT TO THE ESPOO CONVENTION**

The Meeting,

Wishing to modify the Espoo Convention with a view to clarifying that the public that may participate in procedures under the Convention includes civil society and, in particular, non-governmental organizations,

Recalling paragraph 13 of the Oslo Declaration of the Ministers of the Environment and the European Community Commissioner for the Environment assembled at Oslo on the occasion of the first meeting of the Parties to the Espoo Convention,

Wishing to allow States situated outside the UN/ECE region to become Parties to the Convention,

Adopts the following amendments to the Convention:

- (a) At the end of Article 1 (x), after persons insert  
and, in accordance with national legislation or practice, their associations, organizations or groups
- (b) In Article 17, after paragraph 2, insert a new paragraph reading  
3. Any other State, not referred to in paragraph 2 of this Article, that is a Member of the United Nations may accede to the Convention upon approval by the Meeting of the Parties. The Meeting of the Parties shall not consider or approve any request for accession by such a State until this paragraph has entered into force for all the States and organizations that were Parties to the Convention on 27 February 2001.  
and renumber the remaining paragraphs accordingly.
- (c) At the end of Article 17, insert a new paragraph reading  
7. Any State or organization that ratifies, accepts or approves this Convention shall be deemed simultaneously to ratify, accept or approve the amendment to the Convention set out in decision II/14 taken at the second meeting of the Parties.

## Annex XV

### **SOFIA MINISTERIAL DECLARATION**

We, the Ministers of the Environment and the European Union Commissioner for the Environment, gathered in Sofia, Bulgaria, from 26 to 27 February 2001 on the occasion of the second meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention),

1. Celebrate the tenth anniversary of the adoption of the Espoo Convention;
2. Pay tribute to the efforts of all countries and stakeholders involved in the implementation of the Convention;
3. Note with great satisfaction that the Convention was the first significant international legally binding instrument dedicated to environmental impact assessment;
4. Note with satisfaction the valuable work carried out under the work-plan adopted at the first meeting of the Parties;
5. Recognize with appreciation the significant achievements of the Convention. Its considerable impact on international environmental law and its promotion of environmental impact assessment within the UN/ECE region and at the global level have led to:
  - (a) The promotion of environmental impact assessment as an effective international instrument for environmental protection in support of sustainable development;
  - (b) Closer international cooperation, which has prevented and mitigated adverse environmental impacts at both transboundary and national levels;
  - (c) The widespread introduction of the requirement that there should be full consideration of environmental factors at an early stage in decision-making processes relating to particular projects;
  - (d) The introduction of effective laws, at the level of the UN/ECE member States and the European Community, implementing the requirements of the Convention;
  - (e) The recognition by the international community of the importance of environmental impact assessment, as witnessed by principle 17 of the Rio Declaration on Environment and Development, adopted in 1992, the year following the adoption of the Convention;
  - (f) Its international recognition at a global level, inter alia by the International Law Commission, as a pioneering Convention enshrining the principles of environmental impact assessment;

(g) Its use as a precedent for other environmental instruments, both at the regional and the global level;

6. Recognize that the Convention has been practically applied to a number of activities, including some that are not included in its Appendix I;

7. Welcome the contribution that the Convention has made to promoting public participation pursuant to principle 10 of the Rio Declaration and greater transparency in decision-making;

8. Invite civil society and all stakeholders to contribute further to the development of the Convention, in particular by taking full advantage of its rules of procedure, which provide for national and international non-governmental bodies and agencies qualified in fields relating to environmental impact assessment to participate in meetings of its Parties and its subsidiary bodies;

9. Encourage international financing institutions, such as the European Investment Bank (EIB), the European Bank for Reconstruction and Development (EBRD), the Asian Development Bank (ADB) and the World Bank, to introduce and apply fully environmental impact assessment procedures that are consistent with the Convention to investment projects with national and transboundary effects and also encourage these institutions to assist authorities in the country of origin to carry out EIA according to those principles and procedures;

10. Urge the Parties to hold national coordination meetings between national focal points of the UN/ECE environmental conventions to discuss how they could best work together to strengthen the implementation of these conventions and thus contribute to a better protection of the environment;

11. Encourage the continuing process promoting the exchange of information between the various bodies of the different conventions adopted under the aegis of UN/ECE;

12. Call upon States that are entitled to become Parties to the Convention but that have not yet done so to take all appropriate steps to ratify the Convention and to become part of the Espoo family of nations;

13. Welcome closer cooperation with States outside the UN/ECE region in an effort to extend the area of application of the principles of the Convention;

14. Emphasize that, in order to reap the full benefit of the Convention, the Parties must not only ratify it, but also introduce all the necessary national measures, both practical and legal, to meet their obligations fully;

15. Encourage Parties and non-Parties to enter into appropriate bilateral or multilateral agreements or other arrangements in order to facilitate the effective application of the Convention, if they have not yet done so;

16. Acclaim the establishment of a mechanism to improve the implementation of the Convention, and trust that all Parties, especially those that are having difficulties meeting their obligations under the Convention, will welcome the efforts of the new Implementation Committee to support States in their efforts to improve their performance in that respect;

17. Welcome the establishment of a subsidiary body, called the open-ended ad hoc Working Group on the Protocol, with a mandate to prepare a legally binding instrument, in the form of a protocol on strategic environmental assessment to the Convention with the objective of finalizing it so that it can possibly be adopted at an extraordinary meeting of the Parties to the Convention to be convened on the occasion of the fifth Ministerial Conference "Environment for Europe" to be held in Kiev, Ukraine;

18. Note with appreciation the important step forward made by the recent work on the EC directive on the assessment of the effects of certain plans and programmes on the environment;

19. Look forward to the results of the work to develop further the Convention in the light of the experience gained during the past 10 years;

20. Encourage the Parties to carry out the activities under the new work-plan efficiently and constructively;

21. Recognize that the successful implementation of the Convention on Environmental Impact Assessment in a Transboundary Context depends on adequate administrative and financial resources being made available to support and maintain the initiatives necessary to achieve its goals and, in that respect and bearing in mind the special situation of the countries in transition, call upon Parties, Signatories and international financing institutions to ensure that the resources necessary to carry out the programme of activities are provided.