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

**Third meeting
(Cavtat, 1-4 June 2004)
(Item 7 (d) of the provisional agenda)**

**DRAFT DECISION III/4 TO BE TAKEN AT THE THIRD MEETING OF THE PARTIES
Submitted by the Working Group on Environmental Impact Assessment**

**DECISION III/4
GUIDELINES ON GOOD PRACTICE AND ON BILATERAL AND
MULTILATERAL AGREEMENTS**

The Meeting,

Recalling its decision II/1 on bilateral and multilateral cooperation and its decision II/2 on the practical application of the Convention on Environmental Impact Assessment in a Transboundary Context,

Also 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 a workshop on good practice and on bilateral and multilateral agreements,

1. Endorses the Guidance on the Practical Application of the Espoo Convention, as appended to this decision;
2. Notes that the Parties can facilitate and greatly improve the practical application of the Convention through the appropriate organization of tasks and responsibilities within their

countries;

3. Recommends that the Parties should take into account the contents of the Guidance when defining national procedures for the implementation of the Convention and when applying the Convention to specific cases;

4. Calls on the Parties to distribute the Guidance to authorities, specialists, developers, non-governmental organizations and other stakeholders to raise awareness of the contents of the Convention and to support them in applying the Convention;

5. Invites the Parties to provide information to the Working Group on Environmental Impact Assessment on activities to which they have applied the Guidance;

6. Also invites the Parties to submit to the secretariat their bilateral and multilateral agreements and arrangements, or electronic links thereto, which the secretariat shall make available on the Convention's web site.

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GUIDANCE ON THE PRACTICAL APPLICATION OF THE ESPOO CONVENTION ^{*/}

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^{*/} The Guidance has been reproduced as received by the secretariat. Chapters II to V are set out in an addendum to this document (MP.EIA/2004/5/Add.1).

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I. INTRODUCTION

1. The Convention on Environmental Impact Assessment in a Transboundary Context, the so-called Espoo Convention (<http://www.unece.org>), hereafter the Convention, was signed in 1991. It requires that assessments be extended across borders between Parties of the Convention when a planned activity may cause significant adverse transboundary impacts. The Convention was a response to a growing concern about transboundary emissions and the emergence of environmental impact assessment as a tool to reduce the negative environmental effects of new activities.

2. The Convention came into force in 1997. Since then the number of Parties and the practical application of the Convention have increased steadily. This guidance document has been written for competent authorities in the Parties to the Convention. It provides hints and suggestions that can improve the practical application of the Convention and that may be used in forming bi- and multilateral agreements among Parties that have to deal with transboundary impacts on a regular basis. The overall approach taken in this guide is that the application of the Convention can and preferably should be part of a systematic way of managing international environmental requirements. In practice this means that all procedural stages should be documented and that clear responsibilities should be identified in advance for all the stages of the application of the Convention.

3. The guide may also be useful to the national Points of Contact regarding the notification as well as other local, regional, state or national authorities and to Non-Governmental Organisations (NGO), International Financing Institutions (IFI) and the public who are likely to become involved in the practical application of the Convention. The guide goes through each of the steps in the application of the Convention and identifies good practices based on accumulated experiences from the different Parties to the Convention.

4. The guide focuses on issues that

- have been identified to cause difficulties when applying the Convention, or that
- are important to take into consideration when developing bi- or multilateral agreements to support the application of the Convention.

(i) The mandate

5. The Second Meeting of the Parties (Sofia, February 2001) to the Convention on Environmental Impact Assessment in a Transboundary Context – the Convention, decided to include the elaboration of guidance on practical application of the Convention and on bilateral and multilateral agreements and arrangements in the work plan for 2001-2004. The Netherlands, Finland and Sweden took the responsibility of acting as lead countries of the activity. The lead countries contracted the Finnish Environment Institute (SYKE) to co-ordinate the practical work.

6. Previous work under the work plan for 1998-2000 of the Convention has provided material to support the practical implementation of the Convention. The reports "Practical Application of the Espoo Convention" (Report of the second Meeting of the Parties, Annex II, <http://www.unece.org/env/eia>), "Bilateral and Multilateral co-operation in the framework of the Espoo Convention" (Report of the second Meeting of the Parties, Annex I, <http://www.unece.org/env/eia>) and "Current Policies, Strategies and Aspects of Environmental Impact Assessment in a Transboundary Context" (Environmental Series No. 6, UN/ECE, 1996)

(<http://www.unece.org>) give background information and additional suggestions. This guide provides a compilation of practical ideas for those involved in transboundary EIAs according to the Convention.

(ii) The need for systematic approaches in applying the Convention

7. Transboundary assessments according to the Convention have proved worthwhile. The transboundary approach ensures that assessments analyse entire spatial scale of impacts. In addition, transboundary assessments mitigate tensions between concerned Parties by providing information before rumours develop and by letting citizens in the affected Party present their opinions on activities that may have an impact on their environment.

8. Environmental impact assessments (EIA) are multidisciplinary in nature. The issues that arise are also affected by the knowledge and values of the different stakeholders and the public. EIAs in a transboundary context (henceforth transboundary assessments) are even more complex. In neighbouring Parties the EIA-process may be differently structured in legislation or carried out in practice in different ways depending on the historical and cultural background. Differences are commonly seen in criteria for identifying activities that should be subject to EIA, in the criteria for what is regarded as a significant environmental impact and in the philosophy of EIA including issues such as the role of EIA in decision making and the role of the public in the EIA.

9. Neighbouring Parties can reduce difficulties that arise due to differences in legislation and practice by increasing the exchange of information on legislation and practices. Difficulties in applying the Convention have also arisen due to too complicated or poor organisation within a Party. Clear rules of procedure and with clearly identified responsibilities to organise the transboundary assessments have proved to help in carrying out the assessments.

10. For those Parties that frequently apply the Convention, bilateral or multilateral agreements/arrangements may be a practical way to overcome difficulties due to discrepancies between legislation and practice of the Parties. Henceforth the term "agreement" will be used to mean any kind of "bilateral and multilateral agreement or other arrangement" for transboundary assessments. Such agreements can provide a tailored framework for running the assessment procedure between the two Parties. These agreements are also important in regions where joint EIAs are common.

(iii) The Convention in the context of international environmental law

11. The Convention introduced a new way of dealing with transboundary impacts: the transboundary environmental impacts assessment (EIA). Environmental impact assessment existed in the national legislation of most Parties and thus it was technically possible to extend the assessment across the border under the Convention. This extension had also been made in the Council Directive on the assessment of the effects of certain public and private projects on the environment (No. 85/337/EEC, 03 2175, 5.7.1985, p. 40) as amended by Council Directive (No. 97/11/EC, 03 273, 14.3.1997, p.5) (<http://europa.eu.int/comm/environment/eia>) of the European Union and with the Convention this demand has been extended to cover all Parties to the Convention.

12. Although the Convention is the most specific piece of international legislation for transboundary impacts it is not the only one. For example the Convention on Long-range

Transboundary Air Pollution (1979) (<http://www.unece.org/env/lrtap/>), the Convention on early notification on nuclear accidents (1986) (<http://www.iaea.or.at/worldatom/Documents/Infcircs/Others/inf335.shtml>) and the Convention on the control of transboundary movements of hazardous wastes and their disposal (1989) (http://untreaty.un.org/English/TreatyEvent2002/Basel_Conv_16.htm) also deal with related issues. There are also three UN/ECE environmental conventions that refer to the Convention. These are the Convention on the Transboundary Effects of Industrial Accidents (<http://www.unece.org/env/teia>), The Convention of the Protection and Use of Transboundary Watercourses and International Lakes (<http://www.unece.org/env/water>) and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (<http://www.unece.org/env/pp>). Many general environmental global conventions such as the Biodiversity Convention (1992) (<http://www.biodiv.org/>) set requirements for environmental impact assessments and explicitly encourage also transboundary assessments.