



REGERINGSKANSLIET

Swedish Ministry of the Environment

Cooperation on the EIA Convention in the Baltic Sea subregion

Report of a Seminar in Copenhagen 8 November 2006

The Seminar

The work plan for the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context (EIA Convention) for the period up to the fourth meeting of the Parties was adopted at the Third Meeting of the Parties 2004. Subregional cooperation to strengthen contacts between the Parties is an activity in the work plan and the overall objective is improved and developed application of the Convention in the subregions. Denmark, Estonia, Finland and Sweden made a commitment at the Meeting of the Parties to perform this activity for the Baltic Sea in 2005.

Within the framework of this activity Sweden on behalf of the other lead countries arranged a Seminar on Cooperation on the EIA Convention in the Baltic Sea subregion on 20 – 21 October 2005 in Stockholm for the Focal Points and Points of Contact of the Convention from the states bordering the Baltic Sea. Sweden arranged a second Seminar on the same subject on 8 November 2006 in Copenhagen. The fourteen participants at the meeting represented eight of the nine states around the Baltic Sea (Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland and Sweden) and the Secretariat of the EIA Convention. A list of the participants is found in the end of this report. The Seminar was held back to back with a meeting with the Parties of Origin and the Affected parties on the Espoo process for the Nord Stream Gas Pipeline project.

The seminar consisted of an update of Espoo activities in the subregion and discussions on a number of issues that were considered of interest for the cooperation in the Baltic Sea subregion. The agenda for the seminar is found in the end of this report.

Introduction

The seminar was opened by its chair Mr. Sten Jerdenius from the Swedish Ministry of Sustainable Development, who welcomed the participants to this second meeting on the EIA Convention for the states around the Baltic Sea. Since the first meeting the Parties have met several times for discussions on the Espoo procedure for the Nord Stream Gas Pipeline project and they have gained quite some experience and knowledge from these exercises. The base for future cooperation by all Parties in the subregion was founded at the first Seminar. Future Seminars like this one can build upon that and contribute to the development of a common knowledge of conditions for Espoo application in the different Baltic Sea States. The items of the agenda was the result of earlier requests by the participants. The agenda for the meeting was approved.

EIA Convention

The representative for the Secretariat of the EIA Convention Mr. Nicholas Bonvoisin informed about recent developments of the Convention. His presentation with interventions on other items is to be found in Annex I. The inquiry procedure concerning the Bystroe Canal (Romania, Ukraine) has been completed. The decision of the European Court of Justice concerning Ireland could have consequences for the application of Article 15 in the Convention by Member States of the European Union. He informed about the status of replies to the Questionnaire on compliance with the Convention, about other seminars on the activity subregional cooperation and on reports to the next working group. There was information about activities for the ECCA-countries, on the Protocol on Strategic Environmental Assessment to the Convention and on the next Meeting of the Parties.

There was some discussion concerning the ECJ ruling and further opinions were expected by the European Commission. There was also some discussion on the proposed reporting to the working group on the proceedings of the Nord Stream project.

Espoo aspects on the Nord Stream project

The representative from Denmark informed of the process of applying the Convention for the Nord Stream Gas Pipeline project. The four Parties of Origin (Finland, Sweden, Denmark and Germany) and Russia has had several meetings for more than half a year with the aim of obtaining a coordinated notification and a first consultation with all nine Baltic States that were all considered to be Affected Parties. The Affected Parties who were not also Parties of Origin had been invited to some of the meetings. The notification and first early consultation on the content of the EIA was soon to begin.

In the discussion Affected Parties noted that there was ample time given for the consultation, that it was positive that the Parties of Origin were so coordinated and that they sent out the reports of their meetings to all Parties. Overall it was thought that this was a good start of the scoping phase. According to the Parties of Origin this was the result of hard work and many discussions but also of a common will to be transparent and achieve an effective consultation process.

Poland does not have public participation in this phase but thought they might consider it in this case. It was noted that there is political interest in this case and the ministries are engaged. The Russian efforts to participate and to notify although they are not yet a party to the Convention were appreciated.

There were some views that there were some issues that had not been satisfactory presented in the material that was to be sent out for notification such as the presentation of alternatives. The representative of the Secretariat informed of the Baku Pipeline where this question had been important and where the IFI demanded information on not only alternatives but also on alternative ways of transporting energy. Some noted that if the project had applied for TEN financial support a wider range of alternatives would have been asked for.

The relations between the EIA Convention, EG legislation and UNCLOS (UN Convention on The Law of the Sea) were discussed and there were different opinions on the legal consequences of these relation in the EEZ. According to some there exists only a rather narrow range for the decision on a project like this in the EEZ. The lack of relevance of an Espoo process in such a case was questioned by others.

Update on Espoo projects

Since a thorough presentation of Espoo cases was made at the first Seminar, there was only information of cases or matters that had emerged since then. Germany informed that a legal act and adoption by Parliament was needed for their agreement with Poland and that it might be in force in the spring 2007. The document is to be found on the Convention's home page. There has been some onshore projects and for an offshore windmill farm the Polish public was given the right to participate in the process. For Sweden an Encapsulation Plant and Final repository for spent nuclear fuel was still an open case where no EIA has been produced. A windmill farm in Kattegat where Denmark was notified has not been decided on yet and another farm in the Gulf of Bothnia was a new case with Finland as possible Affected Party. The final decision for the windmill farm at Kriegers Flak in the Baltic Sea has been sent to Denmark and Germany and Germany has sent the final decision for its part of Krieger's Flak.

Lithuania informed of the ongoing project of the establishment of a surface repository for short-lived radioactive waste near Ignalina nuclear power plant where Latvia and Belarus was notified. There is also a case concerning a small harbour near Latvia. Poland has no new cases. There is no decision yet on the mineral extraction on the Southern Central Shoal near Kriegers Flak where Sweden was notified and asked that effects on birds etc.

be studied. Projects with two windmill farms near the coast was not given a permit, a decision which has been challenged.

Latvia has so far not had a project as a Party of Origin but was Affected Party for projects in Lithuania. Estonia has had no new cases, has been notified but declined to be Affected Party. Discussions on an agreement with Lithuania is ongoing. In Denmark there are plans for windmill farms at Kriegers Flak where notification awaits a decision from the permitting agency to go ahead with the project due to conflicting interests. Finland has notified Russia of a waste water treatment installation near the border but Russia declined to participate. There is a road building project in northern Lapland near the Russian border which could be an Espoo case.

Marine spatial planning

A representative from the German Federal Maritime and Hydrographic Agency presented an almost finalised draft spatial plan for their EEZ in the Baltic Sea which was initiated in 2001. An SEA has to be produced for the plan and the environmental report will probably be finalised at the end of the year. A number of maps were presented on issues such as Sea vessel activities, Offshore windmill parks, Areas for mineral extraction, Areas reserved for scientific surveys and Natura 2000 areas. Areas for fishery are not shown. Public participation and transboundary consultations will start in the beginning of 2007.

The Act on Spatial Planning entitles the agency to develop such plans. There were a number of applications for windmill farms and a major reason for this plan was to bring some order to the permit giving procedures. The indicated navigation routes are meant to safeguard navigation against windmill parks and they are to be seen as recommendations for shipping to use these routes. The German Federal states are responsible for planning of the territorial waters but this Offshore plan has not been harmonized with those federal plans.

Public participation and how to promote it

There was a broad and general discussion on experiences of efforts to promote public participation. The Swedish Point of Contact informed that she always tried to find out which NGOs might be interested in a case. Some of them never replied but others that have a regional organisation always responded and performed well. From Poland it was reported that in a meeting concerning a case with offshore gravel extraction there was no participation from the public, not even from fishermen. The need to send information on cases and meeting to the groups and organisations concerned was pointed out. Some said that when a project involved matters of health and significant environmental impacts, there was greater public interest.

The representative from the Secretariat noted the problems that occur when information is not easy accessible for the public. He stressed the need for adequate translation which seems to be an important issue in this subregion. The company has a responsibility to translate its reports. The documents should be easy to read and there should be appropriate time frames for the public to express their opinion. At public hearings there

should be adequate time for questions. Sometimes it could happen that it is not the expected public that participate but rather persons interested in policy issues that are not relevant for the actual case. Lithuania referred to a project where public interest started only after several years after the project was initiated.

Some noted that there is often a need for the public to get an opportunity to express themselves even if their message is not particularly relevant for the issue. Others said that the first meeting often was rather successful but that subsequent meetings often failed. The importance of drafting very clear and simple announcements for meetings was pointed out. These are often too complicated and cryptic. The potentials of raising interest by informing the press was highlighted but there was also the experiences of the difficulty of getting attention in the media.

Impacts on the environment and cumulative impacts – Effectiveness of transboundary EIA for reducing environmental effects

Windmill farms have become frequent Espoo cases and the Guidance produced by OSPAR on these was referred to even if there was the opinion that they were not particularly concrete on monitoring which is an important issue in this context. There was concern over the fact that although there are different methods developed and various databases exist, the studies made on the effects of windmill parks do not help to identify cumulative effects. There were worries that a continuing permit giving for windmill parks will seriously affect the flow of water into the Baltic Sea. It was said that these permits are given without a clear picture of how the new parks could add to the environmental impacts of the existing ones.

Article 7 of the Convention calls for the determination of the concerned Parties to carry out post-project analysis, although this is rarely done. There were references to a study by the Nordic Council on the effectiveness of EIA and to work done within IAIA. EIAs for Swedish road building projects are discussed for relatively long periods by the road agency and the county administrative board which has to approve the EIA and the project is modified according to these discussions. Some thought effectiveness should be an issue in the Convention's work plan, while others were sceptical because of the lack of unbiased methods. It was also said that perhaps due to the adverse effects shown in the EIA some projects just die.

Appeals against decisions, Access to justice and the Aarhus Convention

The representative of the Secretariat showed some slides and informed of the status of ratification of the Aarhus Convention in the subregion. He also pointed to Article 6 on Public participation in decision on specific and Article 9 on Access to justice paragraph 2 which states that certain members of the public concerned ... have access to a review procedure ... to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of Article 6. He also referred to findings on the status in different states of legal challenge of final decision for an Affected Party and its public in the review of implementation in 2003. The right to challenge varies significantly among the states. The representative of Germany announced that Germany this day

adopted a number of acts that implemented the Aarhus convention and Directive 2003/35/EC and Germany will thus become a Party to the Convention.

The representatives from each country informed of the national system for challenging decisions. It was considered important to identify the rights to challenge in the different countries in order to get a clear picture of how an Affected Party can have influence on decisions.

The SEA Protocol

The representative of the Secretariat earlier informed on the status of ratification of the SEA Protocol in the subregion. So far Finland and Sweden have ratified and the rest of the countries except the Russian Federation have signed. The Danish representative informed that Denmark has received a notification from the UK and Ireland on nuclear waste and some material concerning the Wadden Sea. In Germany it is the Federal Ministry for the Environment, nature Conservation and Nuclear Safety that has the responsibility for matters concerning SEA. Finland has had a case with Norway. Latvia has received a notification from Estonia on a water management plan and there are two towns at the border that are doing comprehensive planning. Poland has made an agreement with Lithuania on not doing consultations on the structural funds programs.

Continued cooperation

The parties will continue their cooperation on the Nord Stream Gas pipeline project and will have opportunities to decide on further seminars like this one. There was a common understanding that this meetings should continue.

Seminar II on Cooperation on the EIA Convention in the Baltic Sea subregion

Copenhagen 8 November 2006

Agenda

09:00-10.30 Welcome and practicalities

Work on the EIA Convention - other subregional activities, questionnaire etc.

Nicholas Bonvoisin – Secretariat EIA Convention

Update on Espoo Projects – tour de table

10.30–10.50 Break

10.50-12.30 Espoo aspects on the Nord Stream project – joint projects

Public participation and how to promote it

12:30-13.30 Lunch

13.30-15.00 Impacts on the environment and cumulative impacts

Effectiveness of transboundary EIA for reducing environmental effects

The European Commission’s Green Paper “Towards a future Maritime Policy for the Union” – consequences for Espoo

15.00-15.20 Break

15.20-17.00 Appeals against decisions, Access to justice and the Aarhus Convention

The SEA Protocol – implementation, points of contact, application, cooperation

Continued cooperation - reporting to MOP 4, further meetings, next lead countries

A.O.B.

*Seminar on Cooperation on the EIA Convention in the Baltic Sea subregion
Copenhagen 8 October 2006*

Participants

Country	Name	Authority	Adress
Denmark	Laila Wieth-Knudsen	Danish Forest and Nature Agency	Haraldsgade 53, DK 2100, Copenhagen, Denmark tel: +45 39 472562 fax: +45 3927 9899 e-mail: lwk@sns.dk
Denmark	Hanne Rådeker	Danish Energy Authority	Amaliegade 44, DK 1256, Copenhagen K, Denmark tel: +45 33 926713 fax: +45 33 927908 e-mail: hre@ens.dk
Estonia	Irma Pakkonen	Ministry of the Environment	Narva mnt 7a, 15172 Tallinn, Estonia tel: +372 6262 974 fax: e-mail: irma.pakkonen@envir.ee
Finland	Seija Rantakallio	Ministry of the Environment	PO Box 35, FIN-00023 Government, Finland tel: +358 9 160 39448 fax: +358 9 160 39365 e-mail: seija.rantakallio@ymparisto.fi
Germany	Matthias Sauer	Federal Ministry for the Environment, Nature Conservation and Nuclear Safety	Division G I 4, Alexanderplatz 6, 10178 Berlin, Germany tel: +49 1888 305 2253 fax: +49 1888 305 3331 e-mail: matthias.sauer@bmu.bund.de
Germany	Christian Dahlke	Federal Maritime and Hydrographic Agency – BSH	Bernhard-Nocht-Str. 78, 20359 Hamburg, Germany tel: +49 40 3190 2100 fax: +49 40 3190 5000 e-mail: christian.dahlke@bsh.de
Germany	Carolin Abromeit	Federal Maritime and Hydrographic Agency – BSH	Bernhard-Nocht-Str. 78, 20359 Hamburg, Germany tel: +49 40 3190 2192 fax: +49 40 3190 5000 e-mail: carolin.abromeit@bsh.de
Latvia	Sandra Ruza	Ministry of Environment	Peldu str. 25, Riga – LV 1494, Latvia tel: +371 7 026526 fax: +371 7 820442 e-mail: Sandra.Ruza.@vidm.gov.lv

Lithuania	Vitalijus Auglys	Ministry of the Environment	A Jaksto 4/9, Vilnius, Lithuania tel: +370 52 663 651 fax: +370 52 663 663 e-mail: v.auglys@am.lt
Poland	Artur Kawicki	Ministry of the Environment, Department of Environmental Protection Instruments	Wawelska str. 52/54, 00-922 Warsaw, Poland tel: +48 22 5792228 fax: +48 e-mail: artur.kawicki@mos.gov.pl
Sweden	Sten Jerdenius	Ministry of Sustainable Development	S-103 33 Stockholm, Sweden tel: +46 8 4053910 fax: +46 8 14 09 87 e-mail: sten.jerdenius@sustainable.ministry.se
Sweden	Inger Alness	Swedish Environmental Protection Agency	SE-106 48 Stockholm, Sweden tel: +46 8 6981358 fax: +46 8 6981480 e-mail: inger.alness@naturvardsverket.se
Sweden	Egon Enocksson	Swedish Environmental Protection Agency	SE-106 48 Stockholm, Sweden tel: +46 8 6981412 fax: +46 8 6981480 e-mail: kristina.labba@naturvardsverket.se
UNECE	Nicholas Bonvoisin	Secretariat EIA Convention	UNECE, Palais des Nations, 1211 Geneva 10, Switzerland tel: +41 22 917 fax: +41 22 917 0107 e-mail: nicholas.bonvoisin@unece.org

Annex

I. Presentation by the Secretariat