



**Economic and Social
Council**

Distr.
GENERAL

MP.EIA/2004/9/Add.1
31 March 2004

ORIGINAL: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

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

Third meeting

(Cavtat, 1-4 June 2004)

(Item 7(h) of the provisional agenda)

DRAFT DECISION III/8 TO BE TAKEN AT THE THIRD MEETING OF THE PARTIES
Submitted by the Working Group on Environmental Impact Assessment

DECISION III/8
GUIDANCE ON PUBLIC PARTICIPATION IN ENVIRONMENTAL IMPACT
ASSESSMENT IN A TRANSBOUNDARY CONTEXT ^{*/}

Addendum

2.4 Notification of affected Party and public of Party of origin. Timing

1. Article 3.1 of the Convention requires the Party of origin to notify the affected Party as early as possible about a proposed activity that is likely to have a significant adverse transboundary impact. It shall do this no later than when informing its own public about that proposed activity.
2. Notifications shall be sent to the special Points of contact regarding notification of affected Parties. A list of such points of contact is in the web site of the Convention (<http://www.unece.org/env/eia/contacts.htm>). It is necessary to emphasize that Points of contact regarding notification are not always the same as the national Focal points (<http://www.unece.org/env/eia/focalpoints.htm>), which are used only for administrative matters regarding the Convention. Where the contacts are different it may be appropriate to copy the notification to the Focal point for information and to facilitate the procedure.
3. In terms of the obligations under the Convention, the purpose of the notification is to enable a potentially affected Party to decide whether it wishes to be involved in the EIA procedure

^{*/} The Guidance has been reproduced as received by the secretariat.

of the Party of origin for the proposed activity that is likely to cause a significant adverse transboundary impact (Article 3.3). A notification shall contain, *inter alia*, information listed in Article 3 of the Convention (Annex 1). In addition, the first meeting of the Parties of the Convention recommended Parties to use to the extent possible the format approved by this Meeting when transmitting a notification according to Article 3 of the Convention (decision I/4). Details of this format can be found in the web site of the Convention (<http://www.unece.org/env/eia/notification.htm>).

4. Neither the notification format nor the Convention specifies a period of time that must be allowed for the affected Party to decide whether it wishes to take part in the EIA procedure. It is for the Party of origin to set a timeframe consistent with its national procedures. But in doing so, the Party of origin should recognize that in forming its view on whether it wishes to take part in the EIA procedure, the authorities in the potentially affected Party may wish, or be required by its own national legislation, to consult with regional or local competent authorities, statutory environmental authorities and members of the public. To ensure the affected Party is able to form a considered view, the Party of origin may have to allow a significantly longer period for a response than would normally be allowed in the case of non-transboundary EIA.

5. The Estonian-Finnish case study (2.4) is a positive example of how this was done in practice, with the competent authorities in the Party of origin providing a more generous time limit for comment from the affected Party than for the public in its own country (Box 5).

6. How much additional time should be allowed for the affected Party is a matter for agreement between the concerned Parties. But, typically, a Party of origin that allows a three-week period for such consultation under its national EIA procedures might need to allow between six and seven weeks in the case of a transboundary EIA. This additional time will be required particularly if the Party of origin invites the authorities in the affected Party to make the arrangements and it is to allow for an equivalent period of public participation in the affected Party. The extended period will allow for transmission of documents to the authorities in the affected Party, arrangements for public advertising, an equivalent time period for public participation, and receipt and transfer of comments from the affected Party to the authorities in the Party of origin (Box 5).

7. It is recommended that the notification allow adequate time for consultation within the affected Party's administration before that Party responds. If it responds positively to an invitation to take part in the EIA procedure, it is recommended that the authority in the affected Party should provide information to the authority in the Party of origin about the way(s) in which public participation may most effectively be carried out in the affected Party.

8. The case studies revealed that, in those cases where the affected Party decided that it wished to take part in the EIA procedure, the information provided at the notification stage usually contained sufficient information to allow for early discussion with the public of the affected Party on the EIA programme.

9. The term "as early as possible", which is used in the Convention, was clarified by the analysis of the case studies. They showed that in some cases "as early as possible" might mean the very beginning of the EIA procedure (Box 2). The participation of the public of the affected Parties was most effective in cases where it began during discussion of the EIA programmes, and then continued as the results of EIA procedures or EIA reports were discussed. Precisely this form

of public participation was realized in the Estonian-Finnish (case study 2.4), Finnish-Russian (case study 2.5) and Finnish-Swedish (case studies 2.6 and 2.7) projects (Box 5). The operator of the Azerbaijan-Georgian-Turkish project (case study 2.1) also notified the public of the affected Parties at the start of the EIA procedure.

Box 5. Time limits established for receiving comments or obligations from public of affected Party on EIA programme and on EIA report			
Case study reference (in Annex 2)	Party of origin / Affected Party	Time limits (days) established for receiving comments or obligations from public of affected Party on:	
		EIA programme	EIA report
2.1	Azerbaijan / Georgia / Turkey ^{*/}	60	45-90
2.2	Bulgaria / Romania ^{*/}		30-31
2.3	Croatia / Hungary		30+30 (in addition)
2.4	Estonia / Finland	30 / 14 ^{**/}	30 / 21 ^{**/}
2.5	Finland / Russia	60	60
2.6	Finland / Sweden	28 (4 weeks)	49 (7 weeks) + 42 (extension)
2.7	Finland / Sweden	42 (6 weeks)	49 (7 weeks); 28 – for a new alternative
2.8	Italy / Croatia ^{*/}		30 ^{***/}
2.10	United Kingdom / France, Belgium, Denmark, Germany, Netherlands		70 (10 weeks) for initial consultations + 42 (6 weeks) to comment additional materials

10. In all the case studies received, notifications were sent to the competent authorities of the affected Parties before the final decisions about proposed activities were made, so that they had the opportunity to inform members of their own public.

11. The extent to which there is scope for involving the public of the Party of origin in the screening and scoping stages of the EIA procedure for a specific project depends on the provisions within the national EIA legislation and procedures. If these are provided for in national

^{*/} All concerned Parties are the Party of origin and the affected Party.

^{**/} For the public of the Party of origin.

^{***/} Time limit is interpreted in a flexible way; all comments were taken into account if they were submitted before final decision.

legislation, the stage at which they begin in the Party of origin may provide a suitable moment for “early notification” of the proposed activity to the public in the affected Party.

12. The concerned Parties shall provide reasonable timeframes 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.

13. There are two main options for determining reasonable time limits for the response of the public in an affected Party:

- **Timing should be determined as a result of preliminary consultations of the competent authorities of concerned Parties;**
- **Timing may be based on timing of national EIA procedures of concerned Parties.**

14. As discussed earlier (section 2.2 of this guidance), the Convention states (Article 2.6) that the Party of origin must 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. In practical terms this means that unless they communicate directly with members of the public in the affected Party, the authorities in the Party of origin will need to allow additional time to provide for the transfer of documents to the authorities in the affected Party and for these authorities to communicate information to the public likely to be affected; and of course for a similar additional period after expiry of the period of time allowed for public participation in the Party of origin for receiving comments or objections from the public of affected Party (case study 2.5).

15. Usually in practice (Box 5), the time limits established for receiving the comments or objections on the EIA programmes (about 30-40 days) do not differ very much from the time limits established for receiving such responses on EIA reports (about 40-60 days). Shorter time limits (about 2 weeks for the EIA programme and 3 weeks for the EIA report) may be established for those countries that have good communication and similar national EIA systems (see, for example, case study 2.4).

16. It may be recommended that:

- **The concerned Parties should provide for early public participation in a transboundary EIA, when all options are open and effective public participation can take place;**
- **Time-limits for notifying and for receiving the responses of the public of the affected Party should be determined as a result of preliminary consultations of the concerned Parties or fixed in bi- or multi-lateral agreements of these Parties;**
- **Usually such time limits for receiving the public responses may be about 30-40 days for the EIA programme and about 40-60 days for the EIA report (Box 5).**

2.5 Joint responsibility of concerned Parties for participation of the public of the affected Party in a transboundary EIA

17. According to Article 3.8 of the Convention, the concerned Parties (Party of origin and affected Party) shall ensure that the public of the affected Party in the areas likely to be affected:

- (a) be informed of the proposed activity, and
- (b) be provided with possibilities for making comments or objections on the proposed activity, and

shall be responsible 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.

18. This section of the guidance develops the obligation of the Party of origin to inform the affected Party about a proposed activity (paragraph 2.4 of the guidance); but if the affected Party responds affirmatively to the notification, there is then a joint obligation on all concerned Parties for the participation of the public of the affected Party in a transboundary EIA. The concerned Parties are expected to make the practical arrangements for such public participation. Different aspects of such arrangements that were made in practice appear in the case studies (Box 6).

19. The case studies demonstrated that for effective participation, the public must be able to understand the information, and this leads to the conclusion that the documentation should be available in a language that is understandable to them as discussed in section 2.3. This could require translation of the documents, or relevant parts of documents, or/and non-technical summaries of documents. It means that the same information should be provided to the public of the affected Party as to the public of the Party of origin.

20. The following recommendations are made for the concerned Parties:

- (a) the Party of origin should be responsible for the translation (into the language(s) of the affected Parties) of all the documents that are disseminated within the procedure of a transboundary EIA, for providing the information and for receiving the comments;

- (b) if the Party of origin distributes the information this should happen in cooperation with or according to arrangements agreed with the affected Party; affected Parties may decide to handle the distribution of information via particular authorities or nominated organizations; the concerned Parties could distribute the information to the public by means of the mass media, e-mail, the Internet, public hearings or by other appropriate means;

- (c) the Party of origin and the affected Party should make arrangements for collecting the comments from the public, and sending them to the Party of origin; there may be a need for translating the comments of the public so that the competent authority of the Party of origin can understand these comments;

- (d) if costs are a problem, the Party of origin may be able to recover the cost from different sources, for example the proponent of the activity.

21. It should be strictly recommended that, if the public of the affected Party sends its comments or objections to the competent authority of the Party of origin, it should also send copies of these comments or objections to the competent authority of the affected Party. This recommendation is made because only states are Parties to the Convention, and the competent authorities of the Party of origin and affected Party are responsible for carrying out the procedure of transboundary EIA. That is why the competent authorities of both Parties – Party of origin and affected Party – should have all information dealing with this procedure (including the comments or objections of the public of the affected Party).

Box 6. The concerned Parties have joint responsibility for participation of public of affected Party in a transboundary EIA and they have to work together for this

- The operator (one of the proponents of the project, a transnational corporation) of the international oil pipeline Baku-Tbilisi-Ceyhan (Azerbaijan-Georgia-Turkey, case study 2.1) made equivalent arrangements for organizing public involvement in transboundary EIA procedure in all the concerned Parties by:
 - informing the public about the start of the EIA procedure;
 - advertisements in local, regional and national newspapers;
 - informing the public by post, TV and radio;
 - posters along the pipeline route;
 - organizing public hearings and meetings with the proponent;
 - publishing and dissemination booklets with EIA information;
 - organizing about 30 points of contact with the public along the pipeline route.
- The proponent of the construction of the nuclear plant “Loviisa-3” (a private firm from Finland, case study 2.5) translated, published and sent to the affected Party (to the competent authority and to the NGO responsible for organizing public involvement in the transboundary EIA) the volume of EIA material (booklets) that had been requested in the language of the affected Party (Russian).
- The proponent of dredging for aggregates in the English Channel/La Manche (a private firm from the United Kingdom, case study 2.10) translated EIA material into the languages of the affected Parties (Danish, French, German and Dutch) and spent about US\$ 80,000 for this purpose.
- The Parties (Bulgaria and Romania) of a joint project – a bridge over the Danube River (case study 2.2) – organized a special unit for the implementation of the project, including work with the public of both Parties (translation of material into the languages of the concerned Parties, organizing public hearings and informing, receiving comments and objections of the public).
- The Party of origin (Finland) invited the public of the affected Party (Sweden) to participate in public hearings on proposed activities (case studies 2.6).
- Usually the proponent from the Party of origin met the cost for translation of the EIA material and its publishing (often as booklets) for the public of the affected Party (Box 4).

22. It should be mentioned that the Convention provides that the Party of origin is responsible for presenting the EIA material to the affected Party. There may be situations when the Party of origin receives a response from the affected Party, but the Party of origin does not know whether

the views of the public of the affected Party are reflected in this response. However, it is recommended that the Party of origin should be in close contact with the affected Party as it has an interest that public participation took place. This derives from Article 3.8 of the Convention, which clearly puts the burden on ensuring public participation on the concerned Parties, i.e. Party of origin and affected Party.

2.6 Distribution of the EIA documentation and submission of comments of public of affected Party

23. The Convention lays down (Article 4.2) that:

- The Party of origin shall furnish the affected Party, as appropriate through a joint body where one exists, with the EIA documentation.
- The concerned Parties (the Party of origin and the affected Party) shall arrange for:
 - (a) distribution of the EIA documentation to the authorities and the public of the affected Party in the areas likely to be affected, and
 - (b) 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.

24. This suggests that:

- The Party of origin should transmit the EIA documentation to the affected Party and receive comments;
- The Party of origin usually should be responsible for the translation of the EIA documentation, of the comments received from the affected Party and of all the documentation that the concerned Parties send each other during the transboundary EIA procedure;
- The Party of origin and the affected Party should specify the arrangements for distributing the EIA documentation to the authorities and the public of the affected Party in the areas likely to be affected, and collect these comments and transmit them to the Party of origin or its competent authorities.

25. Such very important practical aspects regarding public participation in transboundary EIA as financing and translation, and their implementation in practice, are discussed in section 2.3 of this guidance. Financial responsibility and translation of EIA documents by the Party of origin is good practice but is not a requirement of the Convention. But analysis of received case studies suggests that this concept is broadly supported by the proponents (Box 4) or it may be requirement of national EIA legislation (for, example, in Finland).

26. Different methods of informing the public, distributing the EIA documentation and receiving public comments may be recommended for effective public participation in a transboundary EIA (Box 7). These recommendations were developed from analysis of good practice in applying the Convention (see case studies, Annex 2) and some experts' assessments. It

is obvious that the effectiveness, benefits and/or disadvantages of each method or combination of methods depend on the circumstances of the particular projects.

27. Because the Convention deals with relations between Parties (i.e. States), it does not set out the practical information about the process of public participation, which is necessary for effective public participation. Some Parties may have national laws containing these information requirements, in some cases derived from the Aarhus Convention, or from the EU EIA Directive. Box 8 lists, first, the Convention's requirements for the content of the EIA documentation and, second, recommendations derived from regulations of the Russian Federation and the United Kingdom. It should be mentioned that examination of the documents – i.e. the opportunity to study the EIA documentation and to make notes – should be free of charge. This obligation can be met through the establishment of a convenient location where the information can be kept in an accessible form and consulted at reasonable hours. As regards copies or other photocopying services the authority can impose reasonable charges consistent with the main aim of providing for effective public participation.

Box 7: Methods used for effective public information (I), distribution of the EIA documentation (D) and receipt of comments from the public (R) (the methods were ranked by mean of expert assessments according to the ratio efficiency/cost)

- development of web sites or web pages with EIA information on the Internet with proposals on public participation and used for receipt of comments from the public (I, D, R);
- dissemination of EIA information and receipt of responses from public by e-mail (I, D, R);
- notification of stakeholders in the region likely to be effected (owners, the public, NGOs) and national and international NGOs by post with request to answer a questionnaire (I, D, R);
- organizing points of contact with the public in and around the site of the proposed activity and its possible effects (I, D, R);
- organizing public hearings and public meetings with representatives of proponent and authorities and preparing reports of such meetings (I, D, R);
- publishing and disseminating booklets and other materials with EIA information with request to answer a questionnaire (I, D, R);
- advertisements in local, regional and national newspapers (I) and (I, R) if the request for public response was done;
- informing by TV and radio (I) and (I,R) if the request for public response was done;
- posters in and around the site of the proposed activity and its possible effects (I) and (I,R) if the request for public response was done.

A combination of these methods depending on the circumstances of the particular project may be most effective.

Box 8: The content of the EIA documentation and recommendations on the information which should be provided to the public in order to organize effective public participation

Content of EIA documentation which should be provided to the public in accordance with the Convention (Appendix II):

- (a) a description of the proposed activity and its purpose;
- (b) a description, where appropriate, of reasonable alternatives (for example, locational or technological) to the proposed activity and also the no-action alternative;
- (c) a description of the environment likely to be significantly affected by the proposed activity and its alternatives;
- (d) a description of the potential environmental impact of the proposed activity and its alternatives and an estimation of its significance;
- (e) a description of mitigation measures to keep adverse environmental impact to a minimum;
- (f) an explicit indication of predictive methods and underlying assumptions as well as the relevant environmental data used;
- (g) an identification of gaps in knowledge and uncertainties encountered in compiling the required information;
- (h) where appropriate, an outline for monitoring and management programmes and any plans for post-project analysis; and
- (i) a non-technical summary including a visual presentation as appropriate (maps, graphs, etc.).

Practical information for organizing effective public participation:

- (j) the name and address of the proponent;
- (k) the name and address of the competent authority that will make the decision on proposed activity;
- (l) location of the proposed activity;
- (m) an address in the Party or origin or affected Party where the EIA documents relating to the proposed activity may be inspected, and the latest date on which they are available for inspection;
- (n) whether copies of the EIA documentation, including the non-technical summary, are available and if so whether they are free;
- (o) if there is a charge, the amount of the charge;
- (p) the address to which comment or objections about the proposed activity and/or EIA documentation should be made and
- (q) the final date for such comments.

2.7 Final decision and results of public participation

28. The Convention states (Article 6.1) that the Parties shall ensure that, in the final decision on the proposed activity, due account is taken of:

- (a) the outcome of the EIA, including the EIA documentation,
- (b) the comments thereon received pursuant to Article 3.8 and Article 4.2, and
- (c) the outcome of the consultations as referred to in Article 5.

29. The comments received pursuant to Article 3.8 should include any comments or objections from the public of the affected Party on the proposed activity. The comments received pursuant to Article 4.2 should include any comments from the public of the affected Party on the EIA documentation.

30. The comments or objections of the public of the affected Party on the proposed activity and on the EIA documentation, resulting from the consultation, should be taken into account in the final decision on the proposed activity

31. This provision is implemented in practice in different ways.

32. In Azerbaijan and Georgia, the public was informed about this by the proponent and by the competent authorities of these countries (case study 2.1). In the case of the bridge over the Danube (case study 2.3), the Bulgarian Ministry of Environment and Water (the competent authority of one of the concerned Parties) reflected in the decision on the preliminary EIA the results of public consultations.

33. The information on the EIA decision was published in a national Bulgarian newspaper and copies were given to the proponent (Bulgarian Ministry of Transport and Communications), the local municipality and the authorities concerned. The decision was translated into English and was sent to the Romanian Party through Project Implementation and Management Units that were established within the administrative structures of the competent authorities of both Parties.

34. In accordance with the Finnish national EIA law, the coordination authority must include a summary of the views expressed by the public on its statement on the EIA programme and EIA report (case study 2.6). The final decision is given separately and later, pursuant to other Acts, which stipulate the announcement of the final decision. The authority that grants the permit will announce the final decision. The competent authority will send the final decision to the point of contact of Finland, who will send it to the point of contact of the affected Party.

35. According to the national law of Croatia and of Italy (case study 2.8), the proponent has the obligation to make publicly available the decision for the public of its own country.

36. In the United Kingdom (case study 2.10), the procedure is specifically designed to ensure that the views expressed by the public are taken into account. United Kingdom EIA legislation requires the competent authority to publish decisions and in doing so to state that in reaching a decision it has taken the environmental information into account. Environmental information includes representations made the public. The proponent prepares a summary of all comments received and of any discussions held in an effort to resolve concerns that may have been raised. As necessary a supplement to the Environmental Statement is also prepared. These documents are

copied to all those who commented, with a period of six weeks allowed for comments to these documents. The final decision should be made available to the authorities of the affected Parties as required under Article 9 of the amended EU EIA Directive and of Article 6.2 of the Convention.

37. Decision II/1 (“Bilateral and Multilateral Cooperation”) recommended that 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 (ECE/MP.EIA/4, paragraph 68). The Guidance on the Practical Application of the Espoo Convention (appended to decision III/4) recommends that the information about such a right of appeal should be given in an annex to the decision.

3. RECOMMENDATIONS ON INCREASING EFFECTIVENESS OF PUBLIC PARTICIPATION IN A TRANSBOUNDARY EIA

38. Analysis of the case studies shows that there are some aspects of public participation in a transboundary EIA that are not described in the Convention directly, but which may increase the effectiveness of public participation in this procedure.

3.1 Preliminary work with potential participants

39. Projects that have transboundary effects generally have to be determined within the legal framework established for EIA within the Party of origin. The principles of good administration require that applications are dealt with efficiently and that decisions are taken as quickly as possible. Usually there are time constraints within which a decision is expected to be taken. Consequently the procedures for transboundary EIA and public participation will also have limited time scales. To maximize the time available, and to ensure an effective procedure for transboundary EIA, the following preliminary measures or activities may be useful:

- (a) to establish effective relations with national focal points of the Convention and with points of contact regarding notification in their own countries for a clear understanding of how they should interact in cases of transboundary EIA;
- (b) to inform potential proponents of projects with possible transboundary effects about the need for transboundary EIA with public participation according to the provisions of the Convention;
- (c) to recommend to potential proponents of projects with possible transboundary effects to include in the budgets of these projects adequate resources for financing measures aimed at public participation in a transboundary EIA;
- (d) to recommend to potential proponents of an activity with possible transboundary effects to be in contact with the competent authorities from the very beginning of the EIA procedures for these projects so that they have early knowledge of whether these projects requires a transboundary EIA with participation of the public of the affected Party;
- (e) to establish effective relations with relevant authorities involved in transboundary EIA procedures in their own countries;

(f) to understand which NGOs and groups of the public may be interested in and have relevant skills for participation in transboundary EIA; to establish contacts (by e-mail, fax, telephone and so on) with these NGOs and groups of the public.

40. It would be useful if Parties (competent authorities, points of contact regarding notification and focal points) were to establish effective relations with their counterparts in potential affected Parties (neighbouring countries). These would help promote and develop an understanding of the legislative background and practice of carrying out national procedures of EIA in potential affected Parties. In preparing for future transboundary EIAs, it could be very useful to receive information about the criteria used for identifying activities that should be subject to EIA, time scales for EIA, the manner in which public participation is organized, methods of informing the public and collecting public comments and, objections and so on. Preliminary work by the competent authorities of Finland (Party of origin) and the Russian Federation (affected Party) in the planning of the Nuclear Power Plant “Loviisa-3” may be taken as an example of good practice (case study 2.5). Contacts between the relevant authorities were established before the start of this project. The affected Party nominated an organization (an NGO) that agreed to be responsible for organizing the future involvement of the Russian public in the transboundary EIA procedure. That is why the Party of origin and the proponent received the comments of the public of the affected Party on time (within the 60-day limit established by Party of origin).

41. It would be useful if competent authorities of concerned Parties would develop a special web page on their existing web site dealing with transboundary EIA and would inform all potential participants in EIA procedures in its own country and in potential affected Parties about this. Such web pages may contain information about proposed activities with likely transboundary effects and the modalities for public participation in transboundary EIA (timetable, points of contact, sources of additional information, public hearings and so on).

42. An order of a Russian competent authority issued in summer 2003 ^{*/} may be taken as an example of moving in this direction. According to this order, information about all applications received for expertise (checking) and permission by federal and regional bodies of state environmental expertise should be presented on the web site of these bodies of the Ministry. These would include activities that may have transboundary effects. Having such information, the public may decide whether to participate in these projects.

3.2 Contacts with potential affected Parties: Bilateral and multilateral agreements; Joint bodies

43. Bilateral or multilateral agreements concerning transboundary EIA between potential affected Parties may be a practical way to overcome difficulties due to differences between legislation and EIA practice of the different Parties.

44. Decision II/1 (“Bilateral and multilateral cooperation in the framework of the Convention on environmental impact assessment in a transboundary context”) has a chapter on “Information and public involvement” (ECE/MP.EIA/4) that may lead to a better understanding of the different aspects of public involvement in transboundary EIA.

^{*/} Order of the Russian Federation Ministry of Nature Resources of 01.08.2003 No 683 “On dissemination information about carrying out state environmental review”. The State environmental review included quality control of all EIA documentation.

45. In regions where direct communication between countries is politically sensitive or difficult, there can often still be cooperation on environmental issues. In these circumstances, it is sometimes more effective to use a third party or joint body to help with the notification. For example, transboundary impacts are often in bodies of water with several littoral states. UNEP's Regional Seas Programme has set up structures around the world that might be useful for communication in transboundary EIA (for example, the Black Sea Environmental Programme and Caspian Environment Programme).

46. In addition to the items mentioned in the document "Bilateral and multilateral cooperation" (ECE/MP.EIA/4), it may be recommended to include in bilateral or multilateral agreements such details of public involvement as:

- responsibility for organizing public participation;
- time scale;
- financial aspects of public participation;
- translation of materials for the public;
- methods of informing the public and receiving their comments;
- volume and format of EIA materials presented to public;
- methods of informing the public about final decision on a proposed activity, etc.

47. Parties are recommended to establish, where appropriate, joint bodies for better management of the transboundary EIA procedure, and, in particular, public participation in this procedure. These joint bodies may be useful and important in regions where joint EIAs are common. It would be useful to provide a status for such joint bodies that would permit them to receive financial support from project proponents for public participation in transboundary EIA.

48. In the case studies presented, there was an example of such cooperation in the joint project dealing with the construction of a bridge over the Danube between the cities of Vidin in Bulgaria and Calafate in Romania (case study 2.2). A special agreement was signed between the Governments of Bulgaria and Romania for construction of the bridge. This agreement included obligations on joint EIA. A Joint Working Group on environmental problems was established to coordinate the environmental procedures. Project Implementation and Management Units were established within the administrative structures of the competent authorities for better implementation of the project, including public involvement. Establishment of these bodies improved matters in relation to public participation, for example, the Units organized translation of the EIA documentation.

3.3 Organizing points of contact for the public

49. One of the first tasks of the Parties of the Convention is to establish effective working national points of contact for notification and focal points, which have different obligations in the application of the Convention. Some Parties to the Convention decided to have one point, which serves as the point of contact for notification and as the focal point for administrative matters. This may lead to a useful saving of time during the EIA procedure.

50. In practice it might also be useful to establish a point of contact for each specific project for the public, so they would always be communicating with someone knowledgeable about the

proposed project, and thereby increasing the effectiveness of public involvement overall. Such a point of contact may be a person or a division of the competent authority or other authorities, a private firm, an institution, an NGO, etc. In the case study of the oil pipeline Baku-Tbilisi-Ceyhan (case 2.1) the proponent invited a private firm to organize public participation in transboundary EIA in two countries (Azerbaijan and Georgia) and used its own special division for work with the public.

51. In the case studies there were two situations where NGOs were invited by the competent authority to be responsible for organizing public involvement in the transboundary EIA: the Nuclear power plant "Lovissa 3" (case study 2.5; Finland-Russia) and a paper mill (case study 2.9; Kyrgyzstan-Kazakhstan). In these case studies, NGOs worked effectively and they did not ask for financial support from the authorities of the affected Parties. The cost of these actions was relatively small (about US\$ 500, Box 4). The main benefit of establishing such points of contact with the public is in fact that they can act quickly and effectively so that the procedure is not unduly delayed; comments of the public of the affected Parties were received and transmitted to the Parties of origin on time.

52. It may be recommended that a special body or a special person should be created or nominated on behalf of the authorities to coordinate public participation in transboundary EIA. At the same time, final responsibility lies with state authorities.

3.4. Role of the public

53. The public should participate fully in transboundary EIA in order to make both the process of environmental decision-making on projects with transboundary effects and the final decisions on such projects more transparent and legitimate. The public should organize itself for effective participation in a transboundary EIA by:

(a) developing contacts and cooperation with relevant 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 Convention, case studies, and other relevant information dealing with transboundary EIA.

54. When the public of a Party considers that it would be affected by a significant adverse transboundary impact of a proposed activity, and when no notification has taken place in accordance with the provisions of the Convention (Article 3.1), the public of the affected Party should be able to 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 according to the provisions of the Convention (Article 3.7). In this situation, if the public of a Party considers that it would be affected by a significant adverse transboundary impact of a proposed activity, it may request the competent authorities of the concerned Parties to allow public participation in a transboundary EIA procedure under the provisions of the Convention, and in accordance with this guidance. In these cases the Parties concerned are encouraged to include the public that made the request in the procedure of transboundary EIA.

55. The public should be encouraged to take part in transboundary EIA together with representatives of the competent authorities of the concerned Parties, the public of other countries on a basis of partnerships, cooperation and objectivity.

4. FINAL PROVISIONS

4.1 Implementation of the guidance

56. The Parties, the competent authorities, the public and the secretariat of the Convention are encouraged to adopt the necessary measures to put this guidance into practice. These include the establishment of a clear regulatory framework providing procedural and institutional mechanisms and proper compliance programmes.

57. The guidance should be made available by putting it on the Convention's web site.

58. Nothing in this guidance shall be construed as diminishing any of the rights of public participation in EIA or in other environmental decision-making processes that are or may be guaranteed under the laws of any Parties or under any agreement to which it is a Party.

59. 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 EIA than recommended by this guidance.

4.2 Review

60. The Parties, the competent authorities and the public (at national, regional and local levels), and the secretariat of the Convention are encouraged to collect and disseminate information dealing with any aspects of public participation in transboundary EIA. This information will be used for further developing and reviewing this guidance.

61. The Parties should consider the extent to which this guidance has been implemented, and review it at their fourth meeting on the basis of national reports to be provided to the secretariat of the Convention by November 2006 at the latest.