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ECONOMIC COMMISSION FOR EUROPE

MEETING OF THE PARTIES TO THE CONVENTION
ON ENVIRONMENTAL IMPACT ASSESSMENT
IN A TRANSBOUNDARY CONTEXT

Fourth meeting
Bucharest, 19–21 May 2008
Item 8(d) of the provisional agenda

REVIEW OF THE WORK DONE BY THE WORKING GROUP ON ENVIRONMENTAL
IMPACT ASSESSMENT AND ADOPTION OF DECISIONS

STRENGTHENING SUBREGIONAL COOPERATION

Draft decision IV/4 on strengthening subregional cooperation

Draft decision proposed by the Working Group on Environmental Impact Assessment

The following draft decision, which was discussed and endorsed by the Working Group on Environmental Impact Assessment at its eleventh meeting (Geneva, 21–23 November 2007), is recommended for adoption by the Meeting of the Parties at its fourth meeting.

The Meeting of the Parties,

Recalling its decision III/5 on strengthening subregional cooperation,

Having considered the outcome of the workshops on subregional cooperation in South-Eastern Europe, the Baltic Sea area and the Mediterranean Sea area,

Recognizing that subregional cooperation promotes the regular exchange of information within the subregion and improves the practical application of the Convention,

Recognizing also that bilateral and multilateral agreements facilitate the effective implementation of the Convention,

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

1. *Welcomes* the signing by the countries of South-Eastern Europe of the subregional agreement implementing the Convention as annexed to this decision;
2. *Welcomes* the reports prepared by the lead countries for the workshops on subregional cooperation, as made available on the website of the Convention;
3. *Proposes* that activities on subregional cooperation should be included in the workplan;
4. *Invites* Parties and non-Parties, especially in Central Asia and around the Black Sea, to host workshops or take other appropriate measures to promote cooperation in their subregions;
5. *Also invites* Parties to nominate lead countries on subregional cooperation, where appropriate, and further invites these lead countries to consider ways to coordinate their activities;
6. *Requests* lead countries to prepare a one-page summary of the findings of each workshop held for inclusion in a report on subregional cooperation;
7. *Encourages* Parties to develop bilateral or multilateral agreements and report to the Meeting of the Parties accordingly.

Annex

Multilateral agreement among the countries of South-Eastern Europe for implementation of the Convention on Environmental Impact Assessment in a Transboundary Context

Draft agreement prepared by the countries of South-Eastern Europe*

Summary

This draft agreement, prepared further to article 8 of the Convention on Environmental Impact in a Transboundary Context, will be proposed for adoption and signature by the countries of South-Eastern Europe on the occasion of the fourth meeting of the Parties, to be held in Bucharest on 20 and 21 May 2008.

The Parties to this Agreement,

Recognizing that not all Parties to this Agreement are Parties to the Convention on Environmental Impact Assessment in a Transboundary Context,

Wishing to implement the provisions of this Convention in detail,

Have agreed as follows:

Article 1

For the purposes of this Agreement,

1. “Party” means, unless the text otherwise indicates, a Contracting Party to this Agreement.
2. “Party of origin” means the Contracting Party or Parties to this Agreement under whose jurisdiction a proposed activity is envisaged to take place.
3. “Affected Party” means the Contracting Party or Parties to this Agreement likely to be affected by the transboundary impact of a proposed activity.
4. “Concerned Parties” means the Party of origin and the affected Party of an environmental impact assessment pursuant to this Agreement.

* The countries of South-Eastern Europe include Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Montenegro, Romania, Serbia and The former Yugoslav Republic of Macedonia.

5. “Proposed activity” means any activity or any major change to an activity subject to a decision of a competent authority in accordance with an applicable national procedure.
6. “Joint proposed activity” means a proposed activity that is envisaged to take place under the jurisdiction of more than one Party.
7. “Environmental impact assessment” means a national procedure for evaluating the likely impact of a proposed activity on the environment.
8. “Impact” means any effect caused by a proposed activity on the environment including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors.
9. “Transboundary impact” means any impact, not exclusively of a global nature, within an area under the jurisdiction of a Party caused by a proposed activity the physical origin of which is situated wholly or in part within the area under the jurisdiction of another Party.
10. “Competent authority” means the national authority or authorities designated by a Party as responsible for performing the tasks covered by this Agreement and/or the authority or authorities entrusted by a Party with decision-making powers regarding a proposed activity.
11. “Point of contact” means a person responsible for sending and receiving notifications under this Agreement.
12. “The public” means one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organizations or groups.
13. “The Convention” means the Convention on Environmental Impact Assessment in a Transboundary Context done at Espoo (Finland) on 25 February 1991.

Article 2

1. Each Party shall designate their competent authority and point of contact, and shall inform the other Parties to this Agreement and the secretariat to the Convention accordingly, within 30 days of the entry into force of this Agreement.
2. Within 30 days of any subsequent change of their competent authority or point of contact, each Party shall inform the other Parties to this Agreement and the secretariat to the Convention accordingly.

Article 3

The Parties shall take the necessary legal, administrative or other measures to implement the provisions of the Convention among them.

Article 4

Each Party shall take the necessary legal, administrative or other measures to implement the provisions of this Agreement to proposed activities listed in Appendix I of the Convention that are likely to cause significant adverse transboundary impact.

Article 5

1. The Parties shall adopt criteria for the identification of significant adverse transboundary impact, based on the general criteria set forth in Appendix III of the Convention.
2. The Parties shall develop guidelines on the implementation of this Agreement, based on the following elements, amongst others: screening, notification, confirmation of participation, transmittal of information, preparation of environmental impact assessment documentation and its distribution, public participation, consultations between Parties, decision and transmittal of final decision, post-project analysis and translation.
3. The criteria adopted pursuant to paragraph 1 shall be used in developing the guidelines as provided for in paragraph 2.

Article 6

1. For a joint proposed activity, each of the Parties, under the jurisdiction of which the proposed activity is envisaged to take place, shall be considered both Party of origin and affected Party. Those Parties shall establish one or more joint working groups to determine the detailed arrangements for communication and consultations.
2. Where those Parties so agree, articles 7 to 11 shall not apply to the joint proposed activity for those Parties.

Article 7

1. The point of contact of the Party of origin shall, when becoming aware that a proposed activity falls under article 4, without undue delay notify the point of contact of the affected Party.
2. If the national environmental impact assessment legislation of the Party of origin includes a scoping stage, the point of contact of the Party of origin shall notify the point of contact of the affected Party at that stage, or earlier.
3. The point of contact of the affected Party shall respond to the point of contact of the Party of origin within 30 days upon receipt of the notification, and shall indicate whether the affected Party intends to participate in the environmental impact assessment procedure.
4. The notification shall contain the information included in the annex.

5. If the affected Party indicates that it does not intend to participate in the environmental impact assessment procedure, or does not respond in time, the provisions in articles 9 to 14 will not apply.

Article 8

1. The Party of origin shall make available the notification in English and shall specify whether the response shall be in English.
2. The affected Party shall respond to the notification, provide information relating to the potentially affected environment, and provide the comments by the public and the authorities of the affected party, in English if so requested by the Party of origin.
3. The affected Party may specify that subsequent communications and the environmental impact assessment documentation shall be made available in English.
4. The following documentation shall be translated by the proponent of the proposed activity into the official language of, and specified by, the affected Party:
 - (a) The description of the proposed activity and its purpose;
 - (b) The non-technical summary;
 - (c) The description of the potential transboundary environmental impact of the proposed activity and its alternatives and an estimation of its significance;
 - (d) The description of mitigation measures to keep adverse transboundary environmental impact to a minimum.

Article 9

The concerned Parties may establish one or more joint working groups for subsequent communication and the exchange of information between the concerned Parties.

Article 10

1. The competent authority of the Party of origin shall consult with the competent authority of the affected Party, through joint working groups if established, on the arrangement for the distribution of the environmental impact assessment documentation to the authorities and the public of the affected Party, including:
 - (a) The number of copies of the environmental impact assessment documentation necessary for the affected Party as well as on the particular arrangements, such as location and timing, for making the environmental impact assessment documentation available to the public of the affected Party;

(b) Whether the comments submitted by the public of the affected Party shall be sent directly to the competent authority of the Party of origin, or if they shall be received by the competent authority of the affected Party and then passed on in their entirety to the competent authority of the Party of origin.

2. To guarantee a process in line with the timing of the national environmental impact assessment procedure of the Party of origin, the concerned Parties shall seek to submit the environmental impact assessment documentation to the authorities and the public of the affected Party parallel to its submission to the authorities and the public in the Party of origin.

Article 11

The environmental impact assessment documentation shall contain, as a minimum, the information described in appendix II of the Convention.

Article 12

The Parties shall ensure that the final decision on the proposed activity specifies how the comments by the public and the authorities of the affected Party have been taken into account. Comments shall be treated equally and irrespective of national boundaries.

Article 13

If the legislation of the Party of origin includes the possibility for the public or authorities of the affected Party to have access to administrative or judicial procedures to challenge final decisions on a proposed activity, the final decision shall include information about this possibility.

Article 14

The competent authorities of the concerned Parties may agree to carry out a post-project analysis or monitoring. The specific content of the post-project analysis shall be agreed among them and according to their national legislation.

Article 15

If a potentially affected Party wishes to be notified about a proposed activity, the affected Party and the Party of origin shall without undue delay enter into consultations in order to find a common agreement on whether the proposed activity is subject to article 4.

Article 16

The Parties shall meet at the written request of any Party, provided that, within 90 days of the request being communicated to them, it is supported by at least one other Party.

Article 17

The annex to this Agreement shall constitute an integral part thereof.

Article 18

1. Any Party may propose amendments to this Agreement. The proposed amendments shall be submitted in writing to all Parties.
2. The Parties shall meet according to article 16 to discuss the proposed amendments.
3. Articles 20 to 24 shall apply, mutatis mutandis, to amendments to this Agreement, adopted by consensus between the Parties.

Article 19

This Agreement shall be open for signature at Bucharest on 20 and 21 May 2008.

Article 20

The Government of Romania shall act as the Depositary of this Agreement.

Article 21

1. This Agreement shall be subject to ratification, acceptance or approval by signatory States.
2. This Agreement shall be open for accession as from 22 May 2008.
3. Instruments of ratification, acceptance, approval or accession shall be deposited as soon as possible with the Depositary. The Depositary shall inform the Parties of the date of deposit of each instrument of ratification, acceptance, approval or accession.

Article 22

1. This Agreement shall enter into force on the thirtieth day after the date of deposit of the third instrument of ratification, acceptance, approval or accession.
2. For each State that ratifies, accepts, approves or accedes to this Agreement after the deposit of the third instrument of ratification, acceptance, approval or accession, the Agreement shall enter into force on the thirtieth day after the date of deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 23

At any time after two years from the date on which this Agreement has come into force with respect to a Party, that Party may withdraw from the Agreement by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depositary. Any such withdrawal shall not affect the application of articles 7 to 13 to a proposed activity in respect of which a notification has already been made pursuant to article 7, paragraph 1, before such withdrawal takes effect.

Article 24

The original of this Agreement, of which the English version is the authentic text, shall be deposited with the Government of Romania

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at Bucharest this twentieth day of May, two thousand and eight.

Annex**Information referred to in article 7, paragraph 4**

1. Information on the proposed activity:
 - (a) Information on the nature of the proposed activity:
 - (i) Type of activity proposed;
 - (ii) Whether the proposed activity is listed in Appendix I to the Convention (Yes/No);
 - (iii) Scope of proposed activity (e.g. main activity and any or all peripheral activities requiring assessment);
 - (iv) Scale of proposed activity (e.g. size, production capacity);
 - (v) Description of proposed activity (e.g. technology used);
 - (vi) Description of purpose of proposed activity;
 - (vii) Rationale for proposed activity (e.g. socio-economic, physical geographic basis);
 - (viii) Additional information and comments;
 - (b) Information on the spatial and temporal boundaries of the proposed activity:
 - (i) Location;
 - (ii) Description of the location (e.g. physical-geographic or socio-economic characteristics);

- (iii) Rationale for location of proposed activity (e.g. socio-economic or physical-geographic basis);
 - (iv) Time frame for proposed activity (e.g. start and duration of construction and operation);
 - (v) Maps and other pictorial documents connected with the information on the proposed activity;
 - (vi) Additional information and comments;
- (c) Information on expected environmental impacts and proposed mitigation measures:
- (i) Scope of assessment (e.g. consideration of cumulative impacts, evaluation of alternatives, sustainable development issues, impact of peripheral activities);
 - (ii) Expected environmental impacts of proposed activity (e.g. types, locations, magnitudes);
 - (iii) Inputs (e.g. land, water, raw material, power sources);
 - (iv) Outputs (e.g. amounts and types of emissions into the atmosphere, discharges into the water system, solid waste);
 - (v) Transboundary impacts (e.g. types, locations, magnitudes);
 - (vi) Proposed mitigation measures (e.g. if known, mitigation measures to prevent, eliminate, minimize, compensate for environmental effects);
 - (vii) Additional information and comments;
- (d) Summary and timing of proposed consultation including a summary of complaint process or grievance procedure;
- (e) Proponent or developer (contact details):
- (i) Name, address, telephone and fax numbers;
- (f) Environmental Impact Assessment (EIA) documentation and procedure:
- (i) Whether the EIA documentation (e.g. EIA report or environmental impact statement) is included in the notification (Yes/No/Partially);
 - (ii) If no or partially, whether the description of additional documentation is to be forwarded and, if so, (approximate) date(s) when documentation will be available;
 - (iii) Time schedule;
 - (iv) Contact details (Party of origin);
 - (v) Authority responsible for coordinating activities relating to the environmental impact assessment procedure;
 - (vi) Name, address, telephone and fax numbers;
 - (vii) Additional information and comments.

2. Points of contact:
 - (a) Points of contact for the possible affected Party or Parties:
 - (i) Authority responsible for coordinating activities relating to the EIA;
 - (ii) Name, address, telephone and fax numbers;
 - (iii) List of affected Parties to whom notification is being sent;
 - (b) Points of contact for the Party of origin:
 - (i) Authority responsible for coordinating activities relating to the EIA, with name, address, telephone and fax numbers;
 - (ii) Decision-making authority, if different than authority responsible for coordinating activities relating to the EIA, with name, address, telephone and fax numbers.
3. Information on the environmental impact assessment process in the Party of origin that will be applied to the proposed activity:
 - (a) Time schedule;
 - (b) Opportunities for the affected Party or Parties to be involved in the EIA process;
 - (c) Opportunities for the affected Party or Parties to review and comment on the notification and the EIA documentation;
 - (d) Nature and timing of the possible decision;
 - (e) Process for approval of the proposed activity;
 - (f) Additional information and comments.
4. Information on the public participation process in the Party of origin:
 - (a) Public participation procedures;
 - (b) Expected start and duration of public consultation;
 - (c) Additional information and comments.
5. Deadline for response.

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