



**Economic and Social
Council**

Distr.
GENERAL

ECE/MP.EIA/WG.1/2009/4
2 March 2009

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

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

Working Group on Environmental Impact Assessment

Twelfth meeting
Geneva, 11–13 May 2009
Item 5(a) of the provisional agenda

EXCHANGE OF GOOD PRACTICES

LARGE-SCALE TRANSBOUNDARY PROJECTS

Application of the Convention to complex activities

Note by the secretariat

Summary

The present note has been prepared at the request of the Commission of the European Communities, further to the workplan adopted at the fourth meeting of the Parties (ECE/MP.EIA/10, decision IV/7, annex). Given the sharp increase in the frequency of major infrastructure projects affecting many Parties in the past decade, the note's purpose is to outline the challenges of applying the Convention to complex activities and to propose possible solutions. Although size might determine the complexity of a project, a larger project may not necessarily be more complex with regard to the Convention's application. For this reason, this note considers the application of the Convention to "complex" rather than "large-scale" activities, and sets out the characteristics of complex activities. It describes the challenges involved and identifies the existing mechanisms that can address these challenges. Finally, recommendations are made regarding both procedures and methodology.

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INTRODUCTION

1. The Convention on Environmental Impact Assessment (EIA) in a Transboundary Context (Espoo, Finland, 1991) entered into force in 1997. Since that date, the Convention has been applied more frequently as the number of Parties has increased (the Convention had 42 Parties at the end of 2008) and as Parties have gained experience in the application of the Convention. Information contained in the national reports used to produce the Second Review of Implementation (ECE/MP.EIA/10, decision IV/1, annex) suggests that the Convention is now being applied to approximately 30 to 50 new planned activities each year.

2. The Second Review of Implementation noted the increasing application of the Convention and the continuing development of bilateral and multilateral agreements to support its implementation. The Review also noted practical examples of how implementation of the Convention had supported the prevention, reduction or control of possible significant transboundary environmental impacts. Although the Review revealed a number of possible weaknesses or shortcomings in this regard, the Convention generally appears to function as intended. However, new challenges may arise when the Convention is applied to a particular type of activity, which in this document is characterized as “complex”.

3. Some examples of complex activities are:

- (a) Pipelines, roads or other linear infrastructure projects that are part of an energy or transport network crossing several Parties;
- (b) Nuclear power plants and related installations, such as waste storage facilities, which generate concerns in several Parties or that might have long-range impacts;
- (c) Large industrial installations located on the banks of water bodies shared by several Parties;
- (d) Large energy projects that could affect subregional policies.

4. As can be seen from these examples, a complex activity could be a transboundary project crossing the territory of several Parties, or could be a project in one Party that generates concerns or controversy in several other Parties. It could also be a project with a relatively low impact on the physical environment, but with important consequences for subregional policy. In the case of a long pipeline, there may be several Parties that are simultaneously both Parties of origin and affected Parties. For an industry on the banks of a water body shared by several Parties, there may be one Party of origin and several affected Parties. In all these situations, the challenges posed by complex activities are both analytical and procedural. This note concentrates on the procedural challenges.

5. When applying the Convention, the complexity of the transboundary EIA procedure will increase as the number of Parties increases because, among other things, the number of decision makers and other stakeholders increases. Another factor that adds to complexity is the strategic dimension of complex activities; this dimension is difficult, though not impossible, to assess at the EIA level. For example, the sometimes important relationship between a planned activity and

already determined policies, plans and programmes can often be assessed in an EIA. The above-mentioned factors could cause difficulties in decision-making, and in the environmental assessment and public participation within the transboundary EIA procedure.

I. COMPLEX ACTIVITIES

6. A generally and widely applied definition of complex activities does not exist. This is mainly because the definition depends on the context. In order to determine whether an activity is considered complex in the context of the Convention, criteria need to be developed.

7. Before analysing the characteristics of complex activities that could pose challenges to the Convention's application, it is useful to review past studies of complex activities. This can help us to understand project complexity outside the context of the Convention. For example, large-scale (or "mega") projects generally have some of the following attributes¹:

- (a) They are proposed by government, or a consortium of private companies, or a mixture of the two;
- (b) Due to their significant impacts on the economy and environment, a Government is involved even if it is not one of the proponents;
- (c) They take a long time to implement and have a long life. Construction might take more than four years, after a period of three or more years for research and authorization;
- (d) They usually are of public interest because of their considerable socio-economic and environmental impacts, which give them political importance;
- (e) They are inherently risky due to long planning horizons and complex interfaces with other activities;
- (f) They have a major impact on markets;
- (g) There are several actors with conflicting interests in decision-making;
- (h) There is frequently misinformation about benefits, costs and risks;
- (i) In the case of international large-scale projects, there are additional complications (several Governments and languages, and cultural differences), and these complications compound as the number of concerned countries increases.

8. Although size might determine the project's complexity, a larger project will not necessarily be more complex with regard to the Convention's application. A large-scale project,

¹ See Sykes, A. (1990), "Macro projects: status, prospects, and the need for international cooperation", *Technology in Society*, no. 12, pp. 157–172; Flyvbjerg, B. (2005), Policy and planning for large Infrastructure projects: problems, causes, cures. World Bank Policy Research Working Paper 3781; and Bruzelius, N., B. Flyvbjerg and W. Rothengatter (2002), "Big decisions, big risks. improving accountability in mega projects", *Transport Policy*, no. 9, pp. 143–154.

such as a container terminal located on the banks of a river shared by two Parties and extending over 100 hectares, could be assessed without difficulty if there is consensus between the concerned Parties. Conversely, a small (covering a few hectares) but potentially risky activity could raise concerns in several neighbouring Parties with different opinions, thus complicating the transboundary EIA procedure. The present document therefore refers to complex activities rather than large-scale ones.

9. In applying the Convention, activities can be characterized as “complex” if they come under either or both of the following categories:

(a) Activities with an important “strategic dimension”, i.e. activities for which those participating in the transboundary EIA procedure are likely to be concerned to a large degree by the policy setting of the activity, and other more strategic decisions that have preceded the project proposal;

(b) Activities for which the transboundary EIA procedure involves more than two concerned Parties (both Parties of origin and affected Parties), including activities with long-range impacts (see, for example, the Guidance on the Practical Application of the Convention, ECE/MP.EIA/8, section 3.2), which will lead to complications such as a large number of languages.

10. The following sections describe the characteristics mentioned above in more detail, explaining how they could be challenging, alone or in combination, for the application of the Convention. The relationship between the characteristics of complex activities and the Convention’s transboundary EIA procedure is examined in chapter II below.

11. A further possible source of complexity can be identified, but is not examined further in this note: the Convention is not the only multilateral agreement in the region that refers to EIA. However, as recalled in the Cavtat Declaration, the Convention is the most significant international legally binding instrument dedicated to EIA in a transboundary context (ECE/MP.EIA/6, annex XIII, para. 3). Where other agreements apply, their obligations, as well as those of the Convention, need to be complied with. Situations may arise where the different obligations complicate the transboundary EIA procedure. This matter was discussed by the Working Group on EIA at its ninth meeting (ECE/MP.EIA/WG.1/2006/2, para. 52) on the basis of information provided by the secretariat². It may now be appropriate to identify possible synergies between the Convention and agreements that include provisions on EIA only at a general level.

A. Strategic dimension

12. For the purpose of the present analysis, the strategic dimension will be related to political influences, strategic views, and the connections between the activity and policies, plans and programmes (PPP) or other projects. In general terms, any activity has to some extent a strategic dimension; only those in which the strategic dimension is predominant, however, will be considered to be complex activities here.

² The information is available on the Convention website at: <http://www.unece.org/env/eia/workinggroup.htm>

13. An example of the strategic dimension for a large-scale energy project concerning several countries might be the routing of a gas pipeline. Geopolitical issues, economic interests and relations between Parties could influence the pipeline route, thus diminishing the alternatives considered in the EIA. In addition, the pipeline project could significantly influence the regional energy market, affecting countries' energy and climate policies and strategies. Finally, a large energy project could also make regional integration more difficult if there is no consensus among affected Parties. All these aspects form parts of the project's strategic dimension.

14. The strategic dimension of a planned activity would ideally be considered in the strategic environmental assessment (SEA) of the PPP, which sets the framework for the activity. Here an EIA might examine the compatibility of the planned activity, including decisions taken in early planning, with the PPP and with other projects. However, in practice, a complex activity might not be planned on the basis of a PPP, or if it is, the PPP might not be subject to SEA. Complex projects might arise from an informal or non-statutory process, i.e. not following an established planning scheme of PPP.³ In this case, the strategic dimension of complex projects is best analysed at the EIA stage.

15. The PPP setting of an activity may not include PPPs indirectly linked with the activity. For example, certain energy PPPs could set the framework for a complex energy activity, but the activity could in turn affect a climate change policy. For this reason, the relation between the activity and PPPs should be considered in a broad sense.

16. The strategic dimension increases procedural and analytical complexity because it is not generally included within the framework of EIA. However, the Convention does not stop Parties from assessing strategic issues within EIA.

17. The strategic dimension of an activity may also contribute to the determination of impact significance. For example, the influence of activities on regional policies or government strategies could be considered as significant impacts. Hence, these impacts should be analysed in the EIA provided they have not already been included in an SEA. Conversely, a significant impact that affects several Parties can identify an activity as complex.

B. Number of concerned Parties

18. The most common application of the Convention has been between two countries, generally with only one Party of origin (i.e. not a transboundary activity). With more than two Parties involved, the complexity increases due to the greater number of stakeholders participating in the transboundary EIA procedure and in decision-making processes. Similarly, when long-range impacts are in question, the setting is far more complicated than in a two-Party transboundary assessment.

19. As the number of concerned Parties rises, there will be more authorities to take the corresponding decisions, e.g. to decide how the EIA procedure should be carried out, to agree on the scope of the EIA and so on. Procedures and methodologies usually vary between Parties, and

³ As explained in Cherp, A., A. Watt and V. Vinichenko (2007), "SEA and strategy formation theories: from three Ps to five Ps", *Environmental Impact Assessment Review*, no. 27, pp. 624–644.

often between different authorities within Parties, so the more Parties that are involved, the more complex is the transboundary EIA procedure. Additionally, the competent authorities may be from different sectors in different Parties (e.g. water, environmental and energy authorities), which can further complicate consultations.

20. The transboundary EIA procedure may be further complicated when one or more of the States concerned is not a Party to the Convention. A non-Party is not legally bound to follow the provisions of the Convention. Similarly, a Party is not legally bound to notify a non-Party; different Parties appear to apply different policies in this regard. Indeed, the Second Review of Implementation (decision IV/1) confirms that non-Parties are sometimes involved in procedures under the Convention. The Oslo Ministerial Declaration (ECE/MP.EIA/2, annex IX) emphasized that “States have the responsibility to take all appropriate and effective measures to ensure that activities within their jurisdiction or control do not have a significant adverse environmental impact on the environment of other States or on areas beyond the limits of their own national jurisdiction”.

21. The discussions foreseen under the Convention regarding an activity not listed in appendix I but likely to have significant adverse transboundary impact (art. 2, para. 5) may be particularly difficult to apply when there are more than two concerned Parties. To support such discussions, the Convention provides general guidance for identifying criteria to determine significant adverse impact (appendix III). For example, a proposed activity to be located in or close to an area of special environmental sensitivity or importance, even if not listed in appendix I, could be considered likely to have significant adverse transboundary impact by virtue of its location (appendix III, para. 1 (b)). However, the concerned Parties may differ in their legal views on the impact's significance.

22. Besides the decision-making authority in each Party, other governmental authorities from different levels of government and from different sectors may be involved in the transboundary EIA procedure. For example, for a large energy project, apart from the energy sector, the commerce and industry sectors may wish to participate in the procedure. In addition, local authorities in areas close to a planned activity generally participate in the transboundary EIA procedure.

23. Finally, the number of non-governmental organizations and members of the general public participating will increase in line with the number of concerned Parties. This is especially the case for more controversial projects, such as nuclear power plants or activities that will modify well-preserved natural areas. However, large projects crossing several Parties are less likely to generate controversy when located far from inhabited areas and not having direct impacts on the population or on sensitive areas.

24. Another characteristic of complex activities directly associated with the number of Parties is the number of languages (ECE/MP.EIA/8, section 3.2.3). The Parties to the Convention use a large number of official languages, and their populations an even larger number. Hence, the number of languages often increases with the number of Parties involved in transboundary EIA procedures.

25. Linked with the number of Parties, and adding to translation difficulties, is the number of documents to be translated. As listed in the 1996 publication, *Current Policies, Strategies and Aspects of EIA in a Transboundary Context* (ECE/CEP/9, part two, chapter IV), translations might be required for between three and nine different types of documentation, from letters of a few pages to extensive documents. Each type of documentation may in turn include several documents, e.g. the category “comments and objections by the public” might include hundreds of letters from the public. Translation issues mainly affect communication among stakeholders, but also increase the cost and the time for the procedure. This matter is discussed further in section E of chapter II below.

II. CHALLENGES IN THE APPLICATION OF THE CONVENTION TO COMPLEX ACTIVITIES

26. This chapter discusses how the characteristics of complex activities described above can pose challenges to the Convention’s application. Key stages in the transboundary procedure are discussed in turn: early planning, preparation of EIA documentation, public participation and decision-making. Finally, the resulting costs of these challenges are examined.

27. Before referring specifically to complex activities, it is worth noting some of the well-known challenges to the application of the Convention: (a) the provision of equal opportunities in different Parties for the public to participate; (b) language problems regarding translations, including disagreements on how much documentation should be translated, into which languages, etc.; (c) delays in implementing the activity due to lengthy transboundary consultations; and (d) incompatibility of national EIA systems. More fundamentally, national interests sometimes interfere with the transboundary EIA procedure. These challenges may be more severe for complex activities.

28. In addition to the challenges of applying the Convention’s procedure to complex activities, as discussed below, complex activities may highlight the interrelationship between EIA and SEA. Complex activities with a predominantly strategic dimension not previously assessed in a SEA present the challenge of evaluating this dimension within the Convention framework. EIA reports usually do not include strategic issues such as the impact of the activity on policies, which could be the case for complex projects. These strategic factors are relevant to assessing the actual environmental impact of a project. However, as was previously mentioned, the Convention does allow the assessment of strategic issues; these can be included in an EIA.

29. Complex activities with a predominantly strategic dimension can be subject to a procedure somewhere between an EIA and an SEA, or to combined or parallel EIA and SEA procedures, i.e. if the activity is a project, then an EIA is required, but if there is a strong link with policies and governmental strategic views, an SEA might be required or be appropriate. The overlap between EIA and SEA for large-scale projects has already been identified for the corresponding European Union Directives⁴ and in a paper by the secretariat on the Protocol⁵. It

⁴ Sheate, W. and others (2005), The relationship between EIA and SEA Directives. Final report to the European Commission.

⁵ UNECE (2003), Background paper presenting possible elements for a workplan for the SEA Protocol (MP.EIA/AC.3/2003/3).

has also been recommended that more explicit connections be made between EIA and SEA in the Convention and Protocol, respectively.⁶

A. Early planning

30. During early project planning, many important decisions are taken, e.g. the definition of the project's main objectives, the means to achieve these objectives, the decision to initiate a project and the project location.

31. Complex projects can be subject to political influences involving Governments and large companies. In this context, it can be that the main decisions in very early planning, including how to achieve the main objectives and where to locate the project, are taken considering only strategic, commercial and political factors, not environmental ones. As an example, for a large-scale project whose objective is to increase energy supply, the early decisions might be about the source of energy, the type of energy, and the means of transport. All these decisions would be very important, as they would greatly influence the environmental impact of the project.

32. Continuing the example, one country in need of energy might make an agreement, through its authorities or industry, with another country that would provide the energy. The agreement might determine the type of energy: the one the supplier could provide. Then the companies involved in the energy business would decide on the means of transport (e.g. pipelines or shipping) according to their interests. Finally, the location – of, say, a pipeline crossing several States – would be highly influenced by the political and economic interests of the supplier and recipient countries. Before taking these important decisions, the country in need of energy should analyse ways to solve its problem of how to meet its energy needs. Possible solutions might include reducing consumption, improving efficiency, implementing new technologies or importing energy. If it was decided to import energy, then what kind of energy and how to transport it should be considered, e.g. if gas is imported, should it be transported by pipeline and or as liquefied natural gas? If the decision is to transport gas via a pipeline, the optimal route would need to be identified. All these decisions would be taken considering the economic costs and benefits.

33. All the decisions mentioned in the previous paragraph can also be very important from the environmental point of view; however, they would normally be taken before the transboundary EIA procedure begins. As mentioned in section A of chapter I, this is the case when decisions originate in informal processes with no SEA considering strategic factors. In such cases, there is no guarantee that environmental factors are considered, and there is no public participation. As a result, authorities and the public may feel frustrated as important decisions have been taken and cannot be changed, and only a narrow range of alternatives remains open for discussion. This feeling may be amplified in complex activities because of their important strategic dimension.

34. Nonetheless, the Convention is clear in its preamble stating “the need to give explicit consideration to environmental factors at an early stage in the decision-making process”.

⁶ Sheate, W. (2008) EIA and SEA: their interrelationship and role as instruments for sustainable development. Presentation at the fourth meeting of the Parties to the Convention, Bucharest, 20 May 2008.

35. Besides certain decisions regarding the project, decisions regarding the transboundary EIA procedure are also taken at an early stage. These decisions will determine how the project is assessed both at the national and transboundary levels. Returning to the previous example, Governments and companies can influence the assessment procedure both directly or indirectly. For complex activities concerning more than two Parties, they might decide how to coordinate the EIA documentation and how to link decision-making with the EIA procedure, e.g. the decision of whether to prepare one set of transboundary EIA documentation for the whole project or one set for each Party.

B. Preparation of EIA documentation

36. When more than two Parties are involved in a transboundary EIA procedure, the preparation of EIA documentation can encounter different challenges depending on the approach chosen, namely:

- (a) Fitting one set of EIA documentation into different EIA systems and to agree on its content among several competent authorities (if it is decided to prepare one set of EIA documentation);
- (b) Integrating several national sets of EIA documentation (if it is decided to prepare one set for each concerned Party);
- (c) Providing a combination of the above two options, e.g. detailed national documentation plus an overall non-technical summary with a special focus on transboundary impacts.

37. As countries have different, if sometimes similar, EIA systems, the preparation of one set of EIA documentation satisfying several EIA systems may pose a major challenge. Different EIA procedures may have requirements that are contradictory. In addition, it is not always easy for the competent authorities to agree on the scope of the transboundary EIA, which may include recommendations from each authority and which may in turn have to consider stakeholder comments from their own country and from other Parties. Finally, once the EIA documentation has been submitted, each authority may require different revisions, making it very complicated to produce a single final set of EIA documentation.

38. To avoid the above-mentioned difficulties, different EIA documentation for the same project may be required by each Party. In this case, the coordination of the different national sets of EIA documentation is essential to avoid contradictions in decision-making and to assess the project accurately. Aspects of this coordination can include: (a) homogeneous methodologies to determine impacts and their significance; (b) coordination of project location and alternatives; (c) recognition of different EIA requirements and environmental norms and standards; and (d) recognition of differences in compensatory and mitigatory measures.

39. In relation to this coordination, the Convention encourages Parties to enter into bilateral and multilateral agreements and other arrangements, inter alia, to harmonize standards and methods related to the implementation of EIA (appendix VI, para. (c)). The Guidance on the Practical Application of the Convention recommends open discussions at an early stage in order

to minimize difficulties that might arise from differences in EIA legislation (ECE/MP.EIA/8, section 2.2, para. 16). The Guidance also recognizes the issue of different EIA systems in the case of complex projects (section 3.2.3).

40. A simple example of the necessity of such coordination would be a transboundary road project. In such a project, the EIA should necessarily be carried out in a way that enables identification of the best alternative route in each Party, while ensuring that the road sections join at the border.

41. This coordination will become more difficult as the number of Parties involved increases. For example, if a project crosses four Parties, the developer might submit four sets of EIA documentation for the same project with different requirements and formats. After the submission, concerned Parties would send each other their EIA documentation and would send and receive comments to and from the other Parties. This need not be complicated in itself, but authorities would probably require different information, so the resulting assessment might be confusing.

C. Public participation

42. If several national sets of EIA documentation for the same activity are prepared, public participation could be affected because the more sets there are, the more documents there will be for the public to read. In the same vein, with national sets of documentation there are naturally more translations needed, which can lead to difficulties in keeping consistency between the documents. For example, if there are four EIA reports (for four Parties with different languages), there might be 12 translations needed. If we add all the comments from the various stakeholders and letters and communications from Governments during the transboundary EIA procedure, the number of translations and documents can be very large. Even in the case of having everything correctly translated, the public may be frustrated by the amount of documentation.

43. The Convention does consider the possibility of undertaking, where appropriate, joint EIA (appendix VI, item (g)). If there are several Parties of origin, joint assessment may help avoid extensive EIA documentation, reducing problems for public participation.

44. General guidelines about translations are given in the Guidance on the Practical Application of the Convention (ECE/MP.EIA/8, section 2.6.4). However, the above-mentioned challenges for public participation, that result from having to provide for several languages and a large number of EIA documents are considered neither in that Guidance nor in the Guidance on Public Participation under the Convention (ECE/MP.EIA/7).

45. As mentioned above, for complex activities with an important strategic dimension that has not been subject to SEA, the public and other stakeholders may be excluded from early decision-making, and thus from the possibility of participating when the most important decisions are made. The strategic dimension of activities is particularly challenging in a transboundary context, as preceding PPP are even less likely to have been decided upon taking into account the opinions of the public and authorities in affected Parties. In contrast, the public and the authorities in the Party of origin may already have been able to comment on or otherwise contribute to development of some PPP.

D. Decision-making

46. Complex activities can cause particular challenges at the decision-making stage (or development consent). The first potential challenge is related to the preparation of the EIA documentation. For an activity with several Parties of origin and where the different national EIA reports are not well integrated (see para. 36 (b)), i.e. if they use heterogeneous methodologies or do not recognize different national norms and standards, the decisions (for the same project) in each Party may be based on different grounds.

47. The second potential challenge in decision-making is related to different national EIA reports for the same project as well as an overall summary with a focus on transboundary impacts. The EIA reports from other Parties and the overall summary might document impacts coming from other Parties. Decision makers therefore may consider not only the impacts originating in their own territory, but also those coming from the other Parties. This situation may lead to a decision in which a Party does not approve a project (section) in its territory due to the impact that the same project could generate from outside the Party's territory. The Party might also refuse development consent if it is not satisfied with how the EIA in another Party was conducted. Such a situation is not contemplated in the Convention or in its guidance.

48. One example of such a situation would be an undersea pipeline crossing the territorial waters (or exclusive economic zones) of several Parties. In such a case, each section of the pipeline in each Party might affect all of the other Parties because they all share the same water body. As a result, the Parties would simultaneously be both affected Parties and Parties of origin. This might mean that at the time of taking the decision, each Party might consider not only the environmental assessment of the pipeline section in its own waters, but the EIA prepared for and the impact arising in the waters of the other Parties.

49. Furthermore, it is notable that, even if the pipeline technology and materials are constant along the whole route, the characteristics of the water body might be highly heterogeneous. Hence, the pipe-laying work and resulting impacts in each section will vary. One Party might be satisfied with the project in its own waters, but concerned about the project in other Party. This could be the case if the water body contains an area with polluted sediments, and these sediments are removed and dispersed during pipeline construction work (including dredging, trenching, and filling and blasting activities). If this is the case, the concerned Party might be reluctant to approve its own section due to the transboundary impacts originating in another section that may finally affect its own waters. This example may be relevant to a number of built and planned pipelines, e.g. in the Baltic, Black, North and Mediterranean Seas.

50. In the above-mentioned example, if the EIA reports are not integrated the transboundary EIA procedure may be even more difficult. Having several sets of EIA documentation for the same activity can interfere with good environmental assessment and decision-making. In particular, the decision maker may be confronted by a confusing and complex range of documentation. As mentioned earlier, the Convention provides for the undertaking of a joint EIA report, which can help facilitate the decision-making as well as the public participation.

51. A third challenge relates to the timing of the decision, at which stage many Parties are involved. National procedures may differ in length and advance at different rates in different Parties, so national consents for development may be given at different times. This can create uncertainty for all concerned.

52. Another challenge to overcome is how the strategic dimension is considered in decision-making when, as normally would be the case, it is not addressed in the EIA documentation.

53. The final challenge in the decision-making stage relates to political influences. According to the Convention, the final decision should take due account of the findings in the EIA documentation and the comments of stakeholders. However, scientific information and the public's comments may receive less attention due to political issues, especially in complex activities. This is a broad and recognized problem in EIA practice⁷; the more politics and other interests are at stake, the more likely they are to influence decision-making.

E. Resulting costs

54. The challenges described above can increase the cost of the transboundary EIA procedure. Some of the identified costs of transboundary EIA are: (a) translations of documents and comments and opinions from affected Parties; (b) additional printing and other publication costs; (c) distribution of documents; (d) organization of public hearings; (e) interpretation costs; and (f) travel and accommodation. Complex projects are likely to increase costs if the challenges are not overcome. Conversely, by avoiding challenges, substantial savings may be made, especially by the proponent, who generally covers the EIA procedure costs.

III. CONCLUSIONS AND RECOMMENDATIONS

55. Complex activities such as these have become increasingly common and challenge the application of the Convention. The challenges posed by complex activities need to be tackled in order to achieve the Convention's objectives. At the same time, Parties can profit from the opportunities that complex activities offer in terms of strengthening subregional cooperation.

56. For the Convention to be better applied to complex activities, new situations generated by these activities should be contemplated, challenges acknowledged and guidance perhaps given. In the Guidance on the Practical Application of the Convention (ECE/MP.EIA/8), certain challenges are mentioned for long-range impacts, making explicit reference to the "complexity" created if there are more than two concerned Parties (section 3.2.3). The challenges of having several languages and different EIA systems requirements are also cited.

57. Finding solutions in the above-mentioned situations will provide support to the authorities, developers and other stakeholders who apply the Convention. If the identified challenges of complex activities are not addressed, there is a risk that problems will be encountered in the transboundary EIA procedures of future complex activities.

⁷ Jay, S. and others (2007), "Environmental impact assessment: Retrospect and prospect", *Environmental Impact Assessment Review*, no. 27, pp. 287–300.

58. To overcome the challenges identified above, it is recommended that the following issues be considered, inter alia, in future guidance:

- (a) Regarding the procedure⁸:
 - (i) Review the Guidance on the Practical Application of the Convention (ECE/MP.EIA/8) in the light of experience gained in applying the Convention to complex activities.
 - (ii) Establish clearer links between SEA and EIA procedures. These links might be addressed in revising the Guidance on the Practical Application of the Convention (ECE/MP.EIA/8, chapter II).
 - (iii) Provide guidance on how public participation should be implemented in relation to complex activities, by reviewing the Guidance on Public Participation in EIA in a Transboundary Context (ECE/MP.EIA/7).
 - (iv) Provide guidance on decision-making and its links with the different EIA reports, and on how to make a joint decision for activities crossing the territory of several Parties.
 - (v) Provide guidance on how to conduct joint EIA processes and elaborate joint EIA reports when several Parties are concerned. Joint EIA is mentioned in the Convention (appendix VI, para. 2 (b)); in the Guidance on the Practical Application of the Convention (ECE/MP.EIA/8, section 3.3), there is also guidance for activities with two Parties of origin.
 - (vi) Increase the transparency of preparatory meetings between focal points of concerned Parties, e.g. by making meeting reports available to the public. This would allow all stakeholders to know how the EIA procedure for complex activities would be coordinated and, possibly, how to make comments.
- (b) Regarding methodology:
 - (i) Define how to proceed when the strategic dimension of a complex activity was not assessed in a previous SEA, and give guidance on how to incorporate a formal analysis of strategic issues at the EIA stage. This would allow formal and transparent discussion of all important early decisions, such as the project's final aim and the means to achieve it, and for public participation at early stages of decision-making.
 - (ii) Provide guidance of how to enhance the preparation of consistent EIA documentation, including through the elaboration of joint terms of reference, when it is decided to prepare separate EIA reports. Some guidance on

⁸ See also ECE/CEP/9, part four.

harmonization is provided in *Current Policies, Strategies and Aspects of EIA in a Transboundary Context* (ECE/CEP/9, part three, chapter III).

(iii) Prepare further guidance on specific issues regarding impact significance and complex activities (see paras. 17 and 21), based on the guidance on impact significance in *Current Policies, Strategies and Aspects of EIA in a Transboundary Context* (ECE/CEP/9, part three, chapter II). In particular, provide guidance on the significance of long-range impacts.
