

National implementation of SEA and EIA in Romania

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Workshop on SEA and EIA
implementation in Bulgaria, Romania
and Turkey

Hungary, 30th November – 1st December 2010

SEA Current Legal Framework

SEA Protocol has been ratified recently, by Law no.349/2009

- Governmental Decision (GD) no. 1076 of 8 July 2004 for setting up the environmental assessment procedure of certain plans and programmes (published in the Official Journal no. 707 of 5 August 2004)- transposition of the SEA Directive
- MO no.117/2006 – approves the European Commission Guidelines on the implementation of the SEA Directive, translated and adapted to the Romanian legislation in force (GD 1076/2004)
- MO no. 995/2006 - approved an indicative and non-exhaustive list of plans/programmes that can be subject to the SEA procedure (they are compulsory brought to the attention of the environmental competent authority for screening).

EIA Current Legal Framework

- Law no 22/2001-Romania became party to the Espoo Convention
- GD no 445/2009 on environmental impact assessment for certain public and private projects – transposition of EIA Directive, as amended;
- Order of the Ministry of Environment and Forests, of the Ministry of Interior and Administration, of the Ministry of Regional Development and Tourism, of the Minister of Agriculture and Rural Development no.135/76/84/1284/2010 published in Of. J. no274/27.04.2010, which repeals the former Order of the Minister of Waters and Environmental Protection no. 860/2002
- Order of the Minister of Waters and Environmental Protection no.863/2002 for the approval of the methodological guidelines to be applied to the procedure for environmental impact assessment (Of.J.no 52/30.01.2003);

- MO no.864/2002 -environmental impact assessment procedure in transboundary context and public participation to the decision-making for the projects likely to have a transboundary impact
- Order of the Minister of Environment and Forests no. 405/2010 on setting-up the technical review committee (TRC) at central level (Of. J. no 231/13.04.2010) - this order contributed to the capacity - building for transboundary EIA procedure. The TRC is responsible for carrying out the screening, scoping and review stages for big projects (the responsible authorities for these projects are the central ones). This order repeals the previous piece of legislation on this matter.
- GD no.564/2006 on public participation to the preparation of plans and programmes related to environment and subsequent legislation
- MO no. 19/2010 approves the methodological guidelines for appropriate assessment as required by the Habitats Directive
- No forthcoming legislation for the moment

Important experiences so far in the SEA field

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Strategic Environmental Assessment for Operational Programmes

GD 1076/2005: Screening phase: 4 out of 7
OPs needed to carry out an SEA:
Transport, Environment, Competitiveness,
Regional OPs

Sea Methodology applied

- Analysis of the main environmental issues and trends
- Analysis of relevant environmental strategic documents on national, EU and international levels
- Determination of the relevant environmental objectives
- Environmental assessment and recommendations for the strategy: objectives, priority axis and key areas of intervention.
- Proposals for environmental selection of projects and environmental monitoring systems of the OPs
- Drafting environmental report
- Consultation process

- Stakeholders in SEA:
- MA, environmental authority (SEA authority), SEA WG, SEA experts, public, other public authorities al national/regional level

- **The SEA process:**
- Interactive and inclusive: stakeholders and public
- Meetings along the evaluation with all stakeholders (WGs)
- Documents permanently circulated
- Public announcements published according to the legislation in force
- Documents posted for consultation on the web-sites of the MAs and REC
- Public debates
- Active participation and feed back of both relevant environmental authority and health authority
- Transfer of know-how on the local evaluation market (positive side effect)

SEA OUTPUT

- Proposals for OPs improving (in the form of recommendations, since the final decision was with the SEA managing authority, GD 1076/2004, Art. 25 (4))
- Recommendations for a project environmental evaluation and selection system (e.g. env. criteria for project selection or roles for env. authorities within the selection and management systems)
- Recommendations for OP monitoring system (to include or expand it with environmental indicators)
- SEA report

Main conclusions of the SEA Reports

- **SOPE:** Analysis demonstrated that measures foreseen under the key areas of intervention in the SOPE will likely have significant positive effects. Exceptions may occur during the construction phase of some of the activities
- **SOPT** will likely have negative effects on the environment (PAs 1 and 2) and positive effects (PAs 3 and 4)
- **ROP:** Mostly neutral and positive effects are expected; Some negative effects may occur under PAs 1 and 3.
- **SOP IEC:** Mostly neutral and positive effects are expected from implementation of the measures to be carried out under SOP IEC.

Proposed mitigation measures

- Projects have to be screen for EIA and if EIAs are carried out, special focus should be given to the mitigation of any negative impact on Natura 2000, landscape fragmentation and green-field developments;
- Tourism development projects should undergo the EIA;
- Priority support should be given to the investments that:
 - Promote BATs
 - Promote minimization of energy consumption, increase energy efficiency (e.g. oil and gas), reduction of environmental emissions (especially air) and promote conservation and reuse of the natural resources
 - Enable PT development and use (e.g. rail versus road and measures aimed at PT promotion)
- Proposed environmental selection criteria should be used to prioritise the projects submitted for funding
- Projects that help to fulfil Romania's environmental obligations assumed by international agreements and treaties

Lessons learnt

- Clear division of responsibilities in the SEA process
- Capacity building for supporting the SEA process and output
- Better coordination between programming-ex-ante evaluation-SEA
- Degree of awareness as regards environmental issues vs. useful and flexible instruments for contributing to improving environmental “thinking”

Interconnection Strategy for the National Gas Transmission System

- Interconnection with the natural gas transportation systems in neighboring countries
- Owner- SC TRANSGAZ SA Mediaș, according to Law no.346/2007 on measures to ensure safety in gas supply (transposition of Directive 2004/67/CE)
- The Romanian Ministry of Economy will approve this strategy by GD, after the SEA is done.
- The Ministry of Economy is participating in the SEA process.
- October 2009 – the SEA process has started, the Ministry of Environment was notified and the first draft of the strategy was submitted.
- A WG was established – 3 meetings took place until now (November 2009 – September 2010)

The European context

- "A new energy policy for Europe" was published in January 2007, at European level – a document meant to achieve the objectives for a sustainable developed, secure and competitive energy sector
- One of the objective is the creation of a truly competitive internal market for energy.
- A competitive internal market for energy needs infrastructure investments especially(production, storage, transmission and distribution) in order to reduce EU energy dependence from other markets

The European context

- Note the favorable geographical position of the South Eastern Europe, a position that allows it to become a crucial transit area between natural gas producing countries and Central and Western European markets which are major consumers.
- Based on the Treaty signed in October 2005 by the EU on the one hand and a group of nine countries in the region, including Romania, on the other hand, there was created the Energy Community of South – Eastern Europe.
- The main purpose of the Energy Community is to expand the establishment of the *acquis communautaire* in the region, creating a regulatory and market mechanisms for the entire area, which ultimately lead to the creation of an integrated energy market.

The first draft of the strategy proposed the following identified aspects within the SEA process:

- Interconnection with Serbia .
- At the initiative of NISGAS Serbia in 2003- it is possible the interconnection between natural gas transmission systems in Romania and Serbia, collaborative project that has stoped.
- within the WG was decided to be discussed at the strategic level this option, even if the governments of two countries are not yet available/prepared for such a joint project.
- MFA's representative in WG has begun the first contacts through diplomatic channels with Serbia (at the state level)- cooperation at a higher level due to the SEA process.
- Within the appropriate assessment were identified three possible routes of interconnection out of which two were to cross the protected areas of community interest with priority species and habitats. This reason prompted the decision to exclude these possible future interconnections routes and take into consideration only those without affecting Natura 2000 sites.

The first draft of the strategy proposed the following identified aspects within the SEA process:

- Interconnection with Hungary is already realized by the existing pipeline Szeged (Hungary) – Arad (România) and by the new proposed Nabucco pipeline.
- Within SEA - an assessment of the effects caused by the transit of natural gas in normal operating situations, but also in situations of failure due to accidents on the interconnection route, will take place. The cumulative effect will be assessed within the protected areas , Seveso objectives, archeological sites and flood plaines.

The first draft of the strategy proposed the following identified aspects within the SEA process:

- Interconnection with Bulgaria -with the transmission system in Bulgaria in the direction Russe - Giurgiu and interconnections to diversify import points, namely the import section Negru Voda IV.
- Inteconnection with Nabucco pipeline, 471 km in Romania, connection with Bulgaria near Bechet and connection with Hungary near Arad (Nădlac).

- Interconnection with Moldova – existing pipelines, development of storage capacities (proposed underground natural gas storage warehouse at Margineni). For this interconnection project the diplomatic consultations are not yet finalized.
- Interconnection with Ukraine - diversification of natural gas import point in the direction Tekovo Ukraine - Medieșu Aurit (Romania)

The SEA transboundary procedure for this strategy will take place:

- With Bulgaria, Hungary and Ukraine for the existing projects and the proposed ones: Nabucco pipeline, interconnection pipelines and the transit points within natural gas import system.
- With Moldova for underground natural gas storage warehouse at Margineni
- With Serbia – there is no firm intention to develop a gas pipeline

EIA of Large Energy Projects in the Black Sea subregion

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Seminar

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Upcoming/ongoing important cases

- Nabucco project- a Gas Bridge Asia-Europe



White Stream

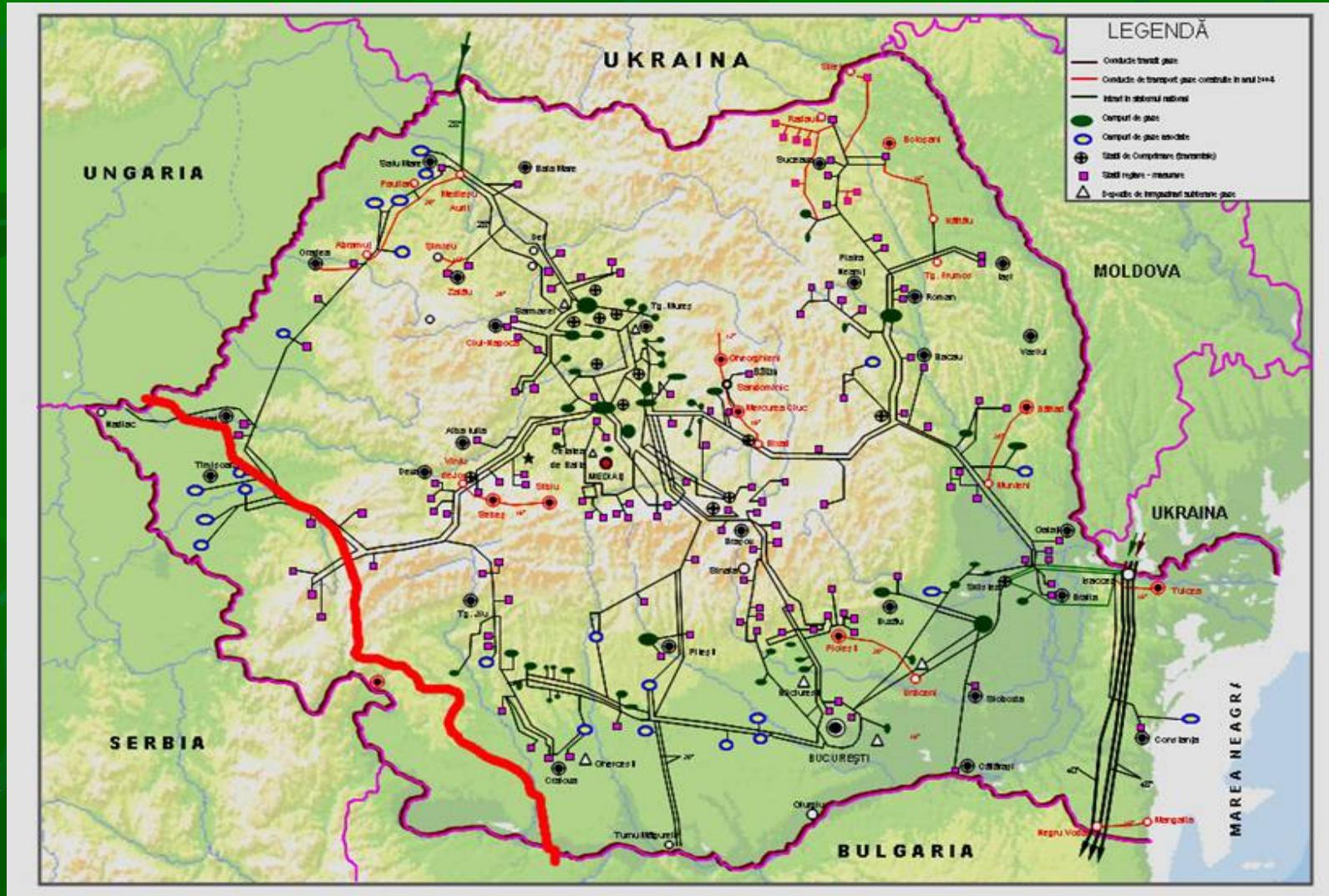
Traseul gazoductului White Stream



Nabucco pipeline



Nabucco route in România



Technical Data about Nabucco Project

- Potential sources of gas: the Caspian Sea area, Iran, Irak, Rusia, Egipt
- Length of the pipeline: 2481 km (main pipeline):
 - Turkish sector: 1558km (main pipeline+supply pipelines)
 - Bulgarian sector: 392 km
 - România sector: 469,15 km
 - Hungarian sector: 388 km
 - Austrian sector: 46 km
- Natural gas transport capacity: 25,5 - 31 billion Nm³/year

- The connection point between the Romanian-Bulgarian borders (Km 0 of the Romanian section of the pipeline) is located at 6 km upstream of Bechet Port (Danube km 685+300).
- The Romanian pipeline's route crosses:
 - 58 rivers (Jiu, Timiș, Cerna, Mureș and their tributaries)
 - channels for irrigation and draining
 - 77 national, counties and local roads
 - 12 railways

Environmental impact assessment for the Romanian section of the Nabucco Gas Pipeline

- The EIA procedure has been triggered by the application for the EIA agreement on July 30th 2010, submitted to the National Environment Protection Agency – in charge with undertaking the EIA and appropriate assessment (in case of NATURA 2000 sites) at national level.
- The notification for the investment project has been submitted to NEPA on 30th of July 2010. Attached, the urbanism certificates, issued by the local councils of the five counties crossed by the pipeline, were also submitted, including drawings of the pipeline's route.
- The proposed route crosses five counties, as follows: Arad, Timiș, Mehedinți, Caraș-Severin and Dolj. For this reason, the local environmental protection agencies will be involved in the ongoing EIA process.

- Following the notification, in accordance with the legislation in force, the environmental authorities have finalized the following actions:
- Site checking (field visit), in 5 counties, to view the proposed route
- Preliminary analysis of the submitted documentation
- Site localization in the urbanism plan
- Site localization with respect to the protected areas

- Protected areas near the project or crossed by it:
 - 1) Arad County:
 - Mlastina Satchinez ROSCI 0115
 - Hunedoara Timisana ROSPA 0047
 - Lunca Muresului Inferior ROSPA0069 and ROSCI 0108
 - Parcul Natural Lunca Muresului
 - ROSCI0108 "Lunca Muresului Inferior"
 - ROSPA0069 "Lunca Muresului Inferior"
 - 2) Timiș County:
 - ROSCI 0109 Lunca Timisului
 - ROSPA0047 Hunedoara Timisana
 - ROSCI 0115 Mlastina Satchinez
 - ROSPA 0078 Mlastina Satchinez

- 3) Mehedinți County:
ROSCI 0198 Platoul Mehedinti
- 4) Dolj County:
ROSPA 0023 Confluenta Jiu Dunare
ROSCI 0045 Coridorul Jiului
- 5) Caraș-Severin County:
ROSPA 0035 Domogled – Valea Cernei
ROSCI 0069 Domogled – Valea Cernei

- Currently the Romanian authorities are drawing up the scoping report.
- Romania has notified (week 22-26 November 2010) Bulgaria and Hungary in order to receive their possible interest in participating in the EIA procedure for the Romanian section of the pipeline.
- Waiting for the response at the Espoo notification: comments and proposals of the notified countries for the scoping document will be available for the developer.

- After that, other important steps are: submission of the EIA Report and organizing the public hearings in every 5 Romanian counties, including if needed, public hearings in Bulgaria and Hungary for the cross border sections.
- Roughly, we estimate to finalize the EIA process in spring 2011.
- At the level of the environmental authorities Romania intends to foster the discussions with Bulgaria on the common sector of the Danube.
- **Issue to be discussed** within this seminar: the final decision of the EIA procedure for the national section of the pipeline should be issued after finalizing the national EIAs. What is the exact relation with the integrated EIA report ?

Participant Companies to the project

- BOTAS – Turcia
- Bulgarian Energy Holding – Bulgaria
- TRANSGAZ – România
- MOL – Ungaria
- OMV GAS – Austria
- RWE - Germania



- ***ROMANIA's contribution, as requested by the European Commission, for the Status of the Environmental impact assessment procedure for the NABUCCO project***
- Two major aims are observed by the Romanian environmental authorities with the purpose of fulfilling the EU environmental protection legislation for the NABUCCO project. First, an EIA will be required for the national section of the gas pipeline, including transboundary issues (if Hungary and Bulgaria intends to participate). The developer for this section is Nabucco Romania. Secondly, taking into account the transboundary feature of the project, Romania will participate in the EIA procedures of Hungary and Bulgaria. Hopefully, this will ensure a coherent and clear process for the Bulgarian-Hungarian-Romanian sections of the pipeline.
- **The Romanian EIA procedure.**
- *In Romania the contact persons for the EIA process for the project, subject to discussions, are representatives from the Environmental Impact Unit within the Ministry of Environment and Forestry: Head of Unit: Daniela Pineta, and counselor Constantin Pulpere.*

- There will be a permanent contact with the Romanian stakeholders, including with the National Environmental Protection Agency.
- In order for a project to be implemented in Romania, the developer must obtain the development consent, i.e. the construction authorization. In this process, an integrated part is the environmental impact assessment procedure. Therefore, the developer must obtain, at the end of the EIA process, the environmental permit, issued by the environmental authorities. Next, he must obtain the development consent.
- Both administrative acts (environmental permit, construction authorization), are subject to public participation, as required by the EIA Directive.
- The EIA procedure is provided by Governmental Decision 445/2009 on the environmental impact assessment of certain public and private projects, and Ministerial Order 135/76/84/1.284 from 2010 on approving the methodology of the EIA process.

- The EIA process starts when the developer submits a request for the EIA permit, together with the urbanistic certificate and a technical memoire which presents the projects. The urbanistic certificate is the first step in the procedure for obtaining the construction authorization so the technical memoire has to be in correlation with this act.
- The EIA process has 3 stages: screening, scoping and review. In the screening phase, the Romanian authorities will take the decision that the national pipeline of the project is subject to an EIA and, as well, to a transboundary EIA process. Therefore this stage is envisaged to run quickly, the main focus will be on informing the public and authorities that the procedure has started.
- In the scoping stage the public and authorities (including Hungary and Bulgaria) will have the opportunity to comment on what has to be included in the EIA report. National Environmental Protection Agency will transmit to the developer the Terms of Reference for the EIA Report and for the appropriate assessment study (required by the Habitats Directive).
- On the basis of ToR, the developer submits the EIA documentation and therefore the review stage will be triggered. The entire documentation will be reviewed by the national authorities and public, as well as Hungary and Bulgaria. Public hearings to discuss the EIA documentation will be organized. EIA documentation will be translated both in Hungarian and Bulgarian.

- When the Romanian EIA documentation will be finalized it will be submitted to NIC in order to prepare the environmental integrated report. This will have to be translated in Romanian so that the Romanian public and authorities could comment on it.
- When all the requirements will be fully and properly addressed, NEPA will issue the environmental permit which will allow, subsequently, the obtaining of the construction authorization (development consent).

- **Facts:**
- The Ministry of Environment and Forestry (MEF) organized a meeting at its headquarters in order to have a clear view on the status and expectations of all the Romanian stakeholders. The meeting was held on 26th of April 2010. The participants were representatives from the following entities:
 - Nabucco Romania;
 - Ministry of Environment and Forestry: personnel in charge with the transboundary EIA procedure; water sector; nature sector; European affairs department;
 - Ministry of Foreign Affairs;
 - National Environmental Protection Agency, personnel in charge with undertaking the EIA national procedure; nature department.
 - The Romanian EIA expert who will draw-up the EIA report and, if necessary, the appropriate assessment.
- The meeting gathered officially for the first time all the major stakeholders and was beneficial for outlining the responsibilities.
- The developer presented the project, which will cross 5 counties: Dolj, Mehedinți, Caraș-Severin, Timiș, Arad. According with the Romanian legislation on the development consent procedure, the developer has to request and obtain the Urbanistic certificate from each county.

- The Urbanistic certificate is required also by the EIA legislation, as it contains the technical features for the area where the project is proposed to be implemented.
- The developer informed at the above mentioned meeting that the submission for the EIA permit (the environmental act which allows requesting the development consent) is foreseen after the obtaining of all the urbanistic certificates, in order to have a full documentation to start the EIA procedure. A technical memoire for the presentation of the project is already drawn-up.
- The EIA expert informed that the work for drawing-up the EIA report already started. The major assessment will be done for the construction phase, considered to have likely significant effects in comparison with the operational phase.

- The environmental authorities expressed their demands to fully apply the EU legislation and not to have a cut-corners procedure. There is a need for an appropriate assessment in accordance with the Habitats Directive. Nevertheless, there isn't any expectation for the project to cross priority habitats. Altogether the assessment must include all related works and sub-activities and an appropriate non-technical summary. There could be several elements which must be included in the EIA report as a result of the scoping stage (comments from the authorities, public and Parties Affected: Hungary and Bulgaria).
- The EIA documentation will be subject to public participation and MEF envisage a public debate in every county. Also, it is expected for Hungary and Bulgaria to participate in the Romanian EIA procedure and thus, the participation is to be extended to their public and authorities.

- We participate in the transboundary EIA procedure of Hungary. We have sent to the Hungarian party our comments with respect to the Preliminary EIA report. Thus, it is necessary that the Hungarian party to consider other important projects proposed or existing in the area in order to assess the cumulative impact, as well as the risk assessment. The issues of protective area near the border with Romania should be tackled in the EIA Report, as well. With respect to the water field, it is important to have protection measures, during the construction and operation phases, for the underground water near/within the border area.
- Supplementary information on the environment can be requested from the Romanian Ministry and the EIA expert.

- We are also expecting the notification from Bulgaria. For our sections a special focus will be put on the Danube subsection of the pipeline. In terms of environmental view, this subsection is partially Romanian, partially Bulgarian. Thus, the environmental authorities will issue the regulation permit each for their section. For the Romanian authorities it is impossible to regulate a section outside the Romania territory. However, in terms of tackling the assessment for this subsection, the Romanian party propose that both the Romanian and Bulgarian EIAs is to assess this part of the project, and hopefully to conclude in a similar manner. The EIA experts could be in permanent contact to exchange quickly information from the other one's territory. Both EIAs should be clear and coherent.



Thank you for
your attention!