

Planning new activities in transboundary basins: Role of Water & Espoo Conventions

International High Level Conference
Strengthening transboundary water cooperation in Central Asia:
the role of international water law and the UNECE Water Convention

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Water Convention: planning new activities

- The principles of “no significant harm”, “equitable and reasonable utilization” and “cooperation” – a relevant substantive framework for cooperating on planned activities
- No specific procedures for planned activities but...

Water Convention: planning new activities

- Cooperation through mandatory specific agreements and joint bodies (art. 9):
 - Joint bodies serve as a forum to discuss planned activities, to exchange information
 - Joint bodies participate in EIA
- Consultations between Riparian Parties upon request on any issues covered by the Convention (art. 10):
 - Includes consultations on planned activities
 - Does not provide for procedures (see UN Convention part III “planned measures” and Espoo Convention)

Espoo: Introduction

- Convention on Environmental Impact Assessment in a Transboundary Context
- Adopted and signed in Espoo (Finland) in 1991
- Came into force in 1997, with 16 Parties
- Now has 45 Parties



UNECE



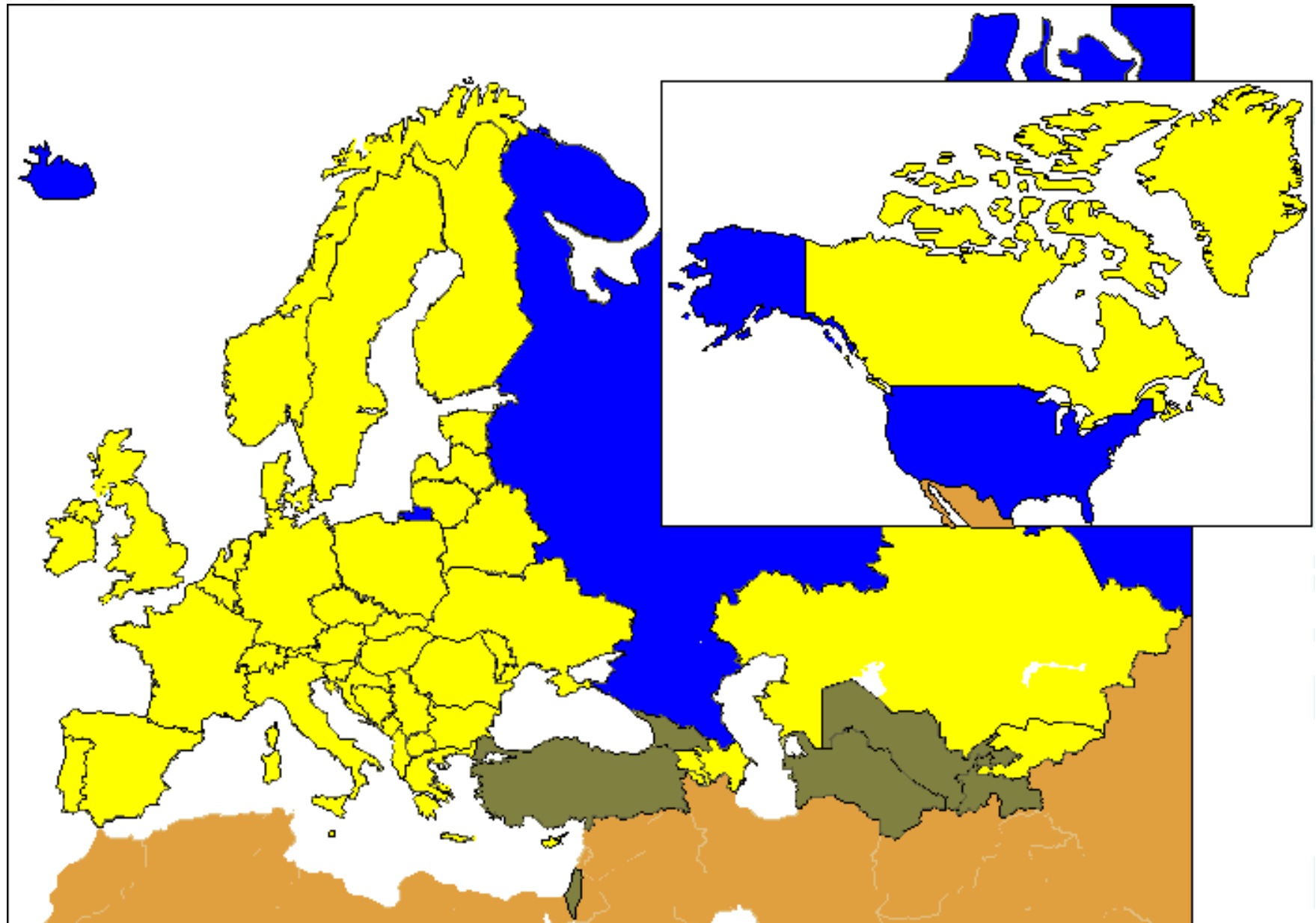
Espoo Parties



Signatories



other UNECE



Status of ratification

State	UNECE	Water	Espoo
Afghanistan	-	-	-
Iran (Islamic Republic of)	-	-	-
Kazakhstan	Yes	Party	Party
Kyrgyzstan	Yes	-	Party
Russian Federation	Yes	Party	Signatory
Tajikistan	Yes	-	-
Turkmenistan	Yes	-	-
Uzbekistan	Yes	Party	-

Espoo: Objectives (*implied*)

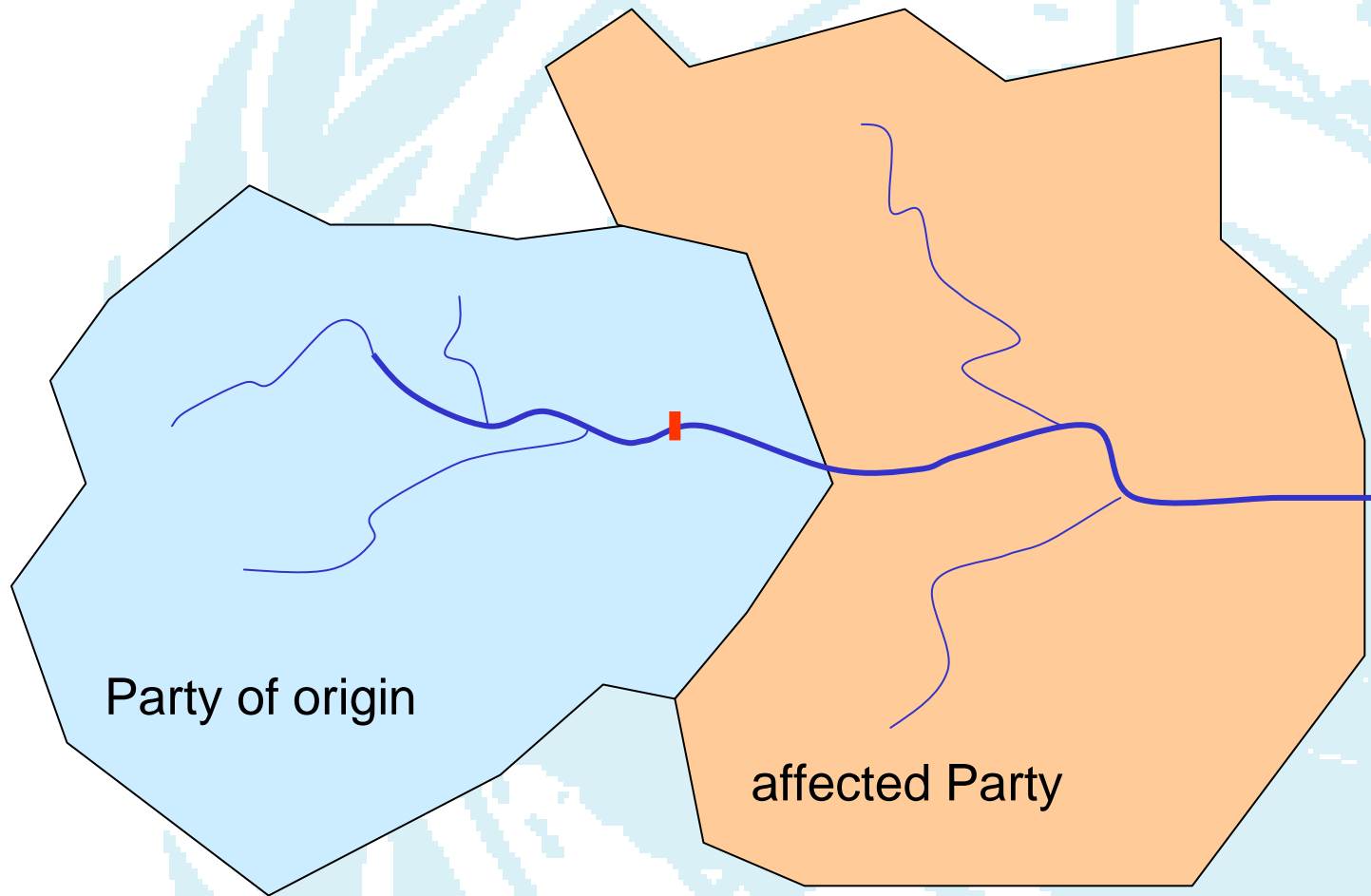
- To ensure environmentally sound & **sustainable development**
 - To enhance **international co-operation** in assessing environmental impact*
- To **prevent**, mitigate & monitor significant adverse environmental **impact** in general, and more specifically in transboundary context
 - To give explicit **consideration** to environmental factors at early stage **in decision-making** process by applying environmental impact assessment, at all appropriate administrative levels
 - To improve **quality of information** presented to decision makers so that environmentally sound **decisions** can be made paying careful attention to minimizing significant adverse impact*

* particularly in a transboundary context

Espoo: Practical application

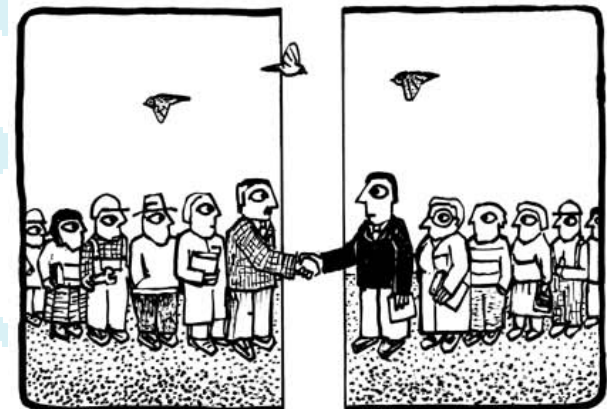
- Over 800 cases to date
 - Growth from 10 cases per year a decade ago to almost 100 now
- Common examples
 - Power plants: nuclear, coal, hydropower, gas, wind
 - Cross-border infrastructure: road, rail, power lines, pipelines
 - Mining, major quarries & on-site processing
- In water sector:
 - Hydroelectric power plants (often major changes)
 - Navigation
 - Flood protection
 - Groundwater abstraction
 - Reservoirs





Espoo: General obligation

- The Parties shall, either individually or jointly, take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities



Espoo: Obligations 1/2 (*simplified*)

- Establishment of environmental impact assessment (**EIA**) procedure
- For a planned activity:
 - Party of origin
 - Identification of planned activity likely with transboundary impact
 - Send **notification** to affected Party on planned activity, asking for response by a certain date
 - Affected Party
 - Inform own authorities and public
 - Decide whether participate in procedure
 - Respond within deadline, perhaps with comments on and objections to planned activity

*Joint
responsibility*

.../...

Espoo: Obligations 2/2 (*simplified*)

- Party of origin
 - Receive **EIA documentation** from developer/proponent
 - Send EIA documentation to affected Party
 - Affected Party
 - Distribute EIA documentation to own authorities and **public**
 - Arrange for **comments** on EIA documentation, sent directly to Party of origin or through own competent authority
- Joint responsibility*
- Together: Hold bilateral consultations
 - Party of origin
 - Make **final decision**, taking into due account comments received and results of EIA and bilateral consultations
 - Send final decision to affected Party
 - Together: Agree on need for post-project analysis

Espoo: Scope

- Party of origin **must notify** for a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact
- Also covers **major changes** to existing activities
- *Good practice:* notify also if affected Party requests

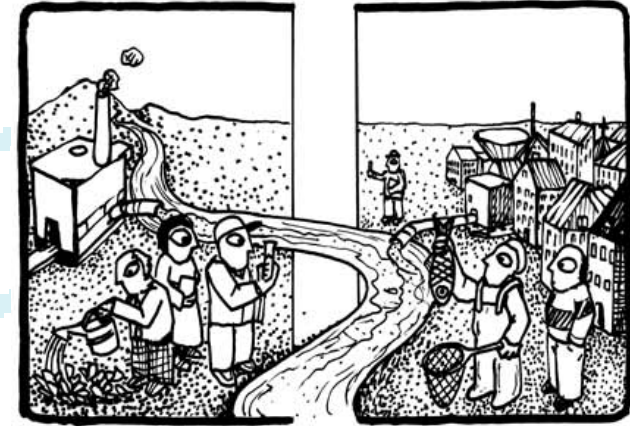


Espoo: List of activities (appendix I)

- Includes “Large dams and reservoirs”
- Need to refer to other sources to define what is “large”, but recall link with significant adverse transboundary impact
- International Commission on Large Dams (ICOLD) defines a large dam as a dam with a height of 15m or more from the foundation. If dams are between 5-15 metres high and have a reservoir volume of more than 3 million cubic metres, they are also classified as large dams
- EU Directive: “Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres”

Espoo: Final decision

- Party of origin makes final decision
- Decision-maker must **take into due account**
 - comments received
 - by authorities & public of affected Party
 - on proposed activities & on EIA documentation
 - outcome of environmental impact assessment
 - outcome of bilateral consultations
- Final decision is sent to affected Party
 - along with reasons and considerations on which was based



Benefits: cooperation & sovereignty

- Provides framework for discussing planned developments with neighbouring States
- Being a Party obliges other Parties to notify & consult you about planned developments on their territory that are likely to have a significant adverse impact on your country's environment
- Can enhance international cooperation, including awareness of importance of the environment, and so help to avoid conflict
- Sovereignty is retained: decision-making power remains in country where the development is planned
- Confidentiality is respected: not prejudicial to industrial & commercial secrecy or national security
- Project design can be improved, including by identification of better project alternatives
- Better environmental protection, with impacts avoided or reduced by revising project design
- Decision-making better informed & more objective, providing a framework for preparing conditions to govern future project operation

Technical assistance



- Technical advice
 - Country-specific performance reviews
 - Armenia (2008-9), Azerbaijan (2011-12), Ukraine (2009-...)
 - Pre-accession legislative advice
 - Tajikistan (2010), Uzbekistan (planned)
 - Belarus, Ukraine (planned, for Convention's Protocol)
- Pilot projects
 - Kyrgyzstan-Kazakhstan (mining)
 - Belarus-Lithuania (hydroelectric power)
- Subregional cooperation workshops
 - Exchanges of experiences
 - Dialogue
- Guidance documents, including for Central Asia

Planning new activities in transboundary basins: Role of Water & Espoo Conventions

- The two Conventions guide towards better development
- They require to consult on activities with 'significant' transboundary impact
- The Party of origin makes the final decision
- The procedures do lead to better decisions

For more about the Espoo Convention

- Visit our website: www.unece.org/env/eia
- Or email: eia.conv@unece.org / nicholas.bonvoisin@unece.org

For more about the Water Convention

- Visit our website: www.unece.org/env/water
- Or email: water.convention@unece.org / francesca.bernardini@unece.org