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Legal basis, nature and scope of bilateral / multilateral agreements under the Espoo Convention

Training Workshop on the Practical Application of Transboundary Environmental Impact Assessment
(EIA): Bilateral Agreements on Transboundary EIA
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Action implemented by:

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- Former Secretary of the UNECE Aarhus Convention
- Member of the Permanent Court of Arbitrage in the Hague (2001-2016)
- Member of the Implementation Committee of the Espoo Convention (2004-2017)
- Member of the Compliance Committee of the Aarhus Convention (since 2005)
- Member of the State Environmental Council in Poland (since 2014)
- Member of National EIA/SEA Commission in Poland (1992-2006)
- Drafter of EIA/SEA/Aarhus/GMO legislation in Poland
- Legal consultant for environmental reforms in Balkans, Eastern Europe, Caucasus , Central Asia, China and Latin America

Action implemented by:



Legal basis

- International law
 - Espoo Convention
 - Art. 8 and Appendix VI
 - List of activities and procedure
 - Protocol on SEA (?)
 - Vienna Law of the Treaties
- EU law
- National law

Action implemented by:

Article 8 of the Espoo Convention

The Parties may

- continue **existing** or enter into **new**
- **bilateral** or **multilateral**
- **agreements** or **other arrangements**

in order to implement their obligations under this Convention and under any of its protocols to which they are a Party. Such agreements or other arrangements may be based on the elements listed in Appendix VI

Action implemented by:

Appendix VI – para 1

1. Concerned Parties may set up, where appropriate, institutional arrangements or enlarge the mandate of existing institutional arrangements within the framework of bilateral and multilateral agreements in order to give full effect to this Convention.

Action implemented by:

Appendix VI – para 2 (a)-(d)

2. Bilateral and multilateral agreements or other arrangements may include:

(a) Any additional requirements for the implementation of this Convention, taking into account the specific conditions of the subregion concerned;

(b) Institutional, administrative and other arrangements, to be made on a reciprocal and equivalent basis;

(c) Harmonization of their policies and measures for the protection of the environment in order to attain the greatest possible similarity in standards and methods related to the implementation of environmental impact assessment;

(d) Developing, improving, and/or harmonizing methods for the identification, measurement, prediction and assessment of impacts, and for post-project analysis;

Action implemented by:



Appendix VI – para 2 (e)-(g)

(e) Developing and/or improving methods and programmes for the collection, analysis, storage and timely dissemination of comparable data regarding environmental quality in order to provide input into environmental impact assessment;

(f) The establishment of threshold levels and more specified criteria for **defining the significance of transboundary impacts related to the location, nature or size of proposed activities, for which environmental impact assessment in accordance with the provisions of this Convention shall be applied**; and the establishment of critical loads of transboundary pollution;

(g) Undertaking, where appropriate, joint environmental impact assessment, development of joint monitoring programmes, intercalibration of monitoring devices and harmonization of methodologies with a view to rendering the data and information obtained compatible.

Action implemented by:

Appendix VI – para 3

3. Paragraphs 1 and 2 may be applied, mutatis mutandis, to any protocol to the Convention.

Action implemented by:

EU law

- EIA Directive
 - List of activities and procedure
 - No special requirements regarding bilateral/multilateral agreements
- SEA Directive (?)

Action implemented by:

Legal nature of agreements

- Binding agreements (international treaties)
 - Estonia-Finland
 - Estonia-Latvia
 - Germany-Poland
 - Lithuania-Poland
- Non-binding agreements
 - Germany-Netherlands (Joint declaration)
 - Germany-France-Switzerland (Guidelines)

Action implemented by:

Scope

- EIA
 - Germany-Poland (2006)
 - Estonia-Finland
 - Estonia-Latvia
 - Lithuania-Poland
- EIA/SEA
 - Germany-Poland (2018)
 - Germany-Netherlands
 - Germany-France-Switzerland

Action implemented by: