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Implementation Committee of the EIA Convention
c/o Wiek Schrage, Secretary to the EIA Convention
Division for Environment and Human Settlements
United Nations Economic Commission for Europe
Palais des Nations
CH-1211 Geneva 10, Switzerland

Viite
Hänvisning

Implementation Committee letter on compliance with the EIA Convention

Asia
Ärende

Compliance with the EIA Convention's articles on public participation in projects where Finland has been an affected party

Finland has received a letter from the Implementation Committee of the EIA Convention referring to the questionnaire on the first review of the implementation of the EIA Convention. In the letter it is pointed out that in the answer concerning itself as the affected party, Finland had indicated that it had distributed the EIA documentation to different competent bodies and NGOs, but not to the public. The letter makes reference to the relevant articles in the Convention that state that the public should have the right to receive and comment on the EIA documentation.

Finland has received a notification as an affected party five times since the Convention entered into force in 1997 until mid-2003, which is during the time covered by the first review of implementation. These notifications concerned the projects below.

1. Waste incineration plant in Haparanda, Sweden (notification in 2000)
2. Gas pipeline linking Germany, Denmark and Sweden (notification in 2000)
3. Gas pipeline linking Poland and Denmark (notification in 2000)
4. Wind farm in the Swedish economic zone (notification in 2001)
5. Reconstruction of two oil-shale power plants in northeast Estonia (notification in 2001)

Two of the projects were interrupted and did not enter into the EIA documentation stage. These two were the waste incineration plant in Haparanda (1) and the wind farm project in the Swedish economic zone (4).

The two gas pipelines, one linking Germany, Denmark and Sweden (2) and the other one linking Poland and Denmark (3) were both projects where Finland stated that it was unlikely that there would be any significant adverse environmental impacts in Finland. However, Finland wanted to have the opportunity to receive information on the gas pipeline projects and their environmental impacts in general.

The gas pipeline activities were located in the southern part of the Baltic Sea, which is geographically quite distant from Finland. Since there were no significant impacts foreseen in Finland, the projects were not regarded as being of interest to the general public in Finland.

It was therefore considered sufficient to distribute the EIA documentation only to authorities and two nationwide NGOs.

Reconstruction of the oil-shale power plant in northeast Estonia (5) has so far been the only project where Finland has indicated its willingness to participate in another party's EIA procedure and where the project actually reached the EIA documentation stage. The aim of the project was to replace existing dust combustion boilers with two new atmospheric circulation fluidized bed boilers. The project fell under number 2, thermal power station, on the list of activities of the Convention. The project took place in northeast Estonia, and was situated on the other side of the Gulf of Finland.

The time frame for giving comments on the EIA documentation was very tight. Finland received the documentation on 13 August 2002 and was requested to comment by the 30th of August. Within the given time frame, it was seen as impossible to make arrangements for general public comments to be given on the project. Instead, Finland distributed the EIA documentation to authorities and to two major NGOs, the Finnish Association for Nature Conservation and WWF Finland, who, it was believed, would be able to react on short notice.

The Convention defines "the public" as being one or more natural or legal persons in article 1(x). Non-governmental organizations are legal persons and therefore also representatives of the public. Given the fact that

- the time frame for giving comments was extremely tight,
- the project's location was across the sea, over 100 kilometres from the coast of Finland,
- the impacts were foreseen to be mostly airborne, which always makes it more difficult to determine explicitly the affected public,

it was regarded that non-governmental organizations could represent the public sufficiently in this particular case.

Finland and Estonia have a bilateral agreement on EIA in a Transboundary Context, which came into force in February 2002. The Estonian EIA on the power plant activity was already in process at the time and the agreement was not yet applied to this case. This bilateral agreement provides better guarantees for the participation of the public in the country of the affected party in the future. The agreement reserves, for the affected party, a two-month period from the receipt of the EIA documentation to arrange for transmittal of comments from authorities and the public to the competent authority of the party of origin.

Finland recognises that its answer to the questionnaire on the first review of implementation in connection with public involvement when Finland itself is the affected party was too general. The answer should have specified that it referred to the procedure followed

- when receiving EIA documentation mainly for information purposes only, as in the two gas pipeline projects (linking Germany, Denmark and Sweden (2) and between Poland and Denmark(3)), where Finland did not foresee any significant adverse environmental impacts from the projects and thus could not be regarded fully as an affected party; and
- in the transboundary EIA process concerning the reconstruction of the power plant in northeast Estonia (6), which should be regarded as an exceptional case for the above-mentioned reasons.

The answer should have also stated that out of the five projects two were interrupted before the EIA documentation stage (waste incineration plant in Haparanda, Sweden (1) and wind farm in the Swedish economic zone (4)).

Finland has been learning from these experiences and has been developing the procedures to apply the Convention when it is an affected Party. The following procedures for public participation will be utilized:

- The Point of Contact's public announcement will be sent to relevant newspapers.
- The Point of Contact's press release on the activity will be published, if regarded as necessary.
- A public information meeting about the project and its potential impact will be held, if regarded as necessary.
- EIA documentation will be available for public review at the Point of Contact's office and other relevant places and it will also be on the Internet if the material is available in the correct format.
- The public can send comments to the Point of Contact during a given time frame.

Finland hopes that the above information clarifies the issues mentioned in your letter of 26 August 2005.

Yours sincerely,

Director General

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