Current Policies, Strategies and Aspects of Environmental Impact Assessment in a Transboundary Context

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It is expected that the Working Group on Environmental Impact Assessment, under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991), will use this document in its consideration of the application of the Convention to complex activities.

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NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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CONTENTS

		Page
PREFACE		vii

Part One. POLICIES AND STRATEGIES PROMOTING ENVIRONMENTAL IMPACT ASSESSMENT

INTRODUCTION		1
Chapter		
I.	LEGAL AND ADMINISTRATIVE MEASURES FOR THE APPLICATION OF EIA	1
	A. Current legislation on EIA	1
	B. Lists of proposed activities requiring EIA	8
	C. Criteria for determining the significance of impact	9
	D. Time-frames for various phases of the EIA process	10
	E. Public participation procedures	13
	F. Post-project analysis	15
II.	MECHANISMS FOR THE IMPLEMENTATION OF THE CONVENTION	16
III.	EXPERIENCES WITH TRANSBOUNDARY EIA	19
IV.	BILATERAL AND MULTILATERAL AGREEMENTS OR OTHER ARRANGEMENTS OF RELEVANCE TO THE CONVENTION	20
V.	OTHER ASPECTS	22
	A. Application of EIA principles to policies, plans and programmes	22
	B. Research initiatives	24
	C. National centres on EIA	25

ANNEXES

I.	Examples of lists of projects in relation to environmental impact assessment in the ECE region	26
II.	Transboundary EIA experiences in the Netherlands	36
III.	Centres of expertise on EIA	38

Part Two. LEGAL AND ADMINISTRATIVE ASPECTS OF THE PRACTICAL APPLICATION OF RELEVANT PROVISIONS OF THE CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

INTRODUCTION		41
Chapter		
I.	PROVISIONS ON TIME-LIMITS FOR NOTIFICATION AND SUBMISSION OF INFORMATION	41
	A. Notification in accordance with Article 3, paragraph 1, of the Convention	41
	B. Time-frame for responses in accordance with Article 3, paragraph 3, of the Convention	42

Chapter *Page*

C. Time-frame for the transmittal of information in accordance with Article 2, paragraph 6, of the Convention 42
D. Time-frame for comments under Article 4, paragraph 2, of the Convention 41

II. THE CONTENT OF THE NOTIFICATION UNDER ARTICLE 3, PARAGRAPH 2, OF THE CONVENTION 43

III. RESPONSIBILITY FOR THE PROCEDURAL STEPS TO ENSURE THE PARTICIPATION OF THE PUBLIC OF THE AFFECTED PARTY IN THE EIA PROCEDURES OF THE PARTY OF ORIGIN 43

IV. RESPONSIBILITY FOR TRANSLATIONS AND THE COSTS OF TRANSLATIONS 44

A. Necessary translations 44
B. Responsibility for and costs of translations 45

IV. ORGANIZATIONAL QUESTIONS 45

VI. CONCLUSION 46

Part Three. SPECIFIC METHOLODOGICAL ISSUES OF ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

INTRODUCTION 47

I. CLEARER IDENTIFICATION OF PROPOSED ACTIVITIES REQUIRING EIA 47

II. "SIGNIFICANCE" OF ADVERSE TRANSBOUNDARY IMPACT 48

III. HARMONIZATION OF METHODS AND STANDARDIZATION 50

ANNEXES

I. Possible types and parameters to be considered for activities listed in Appendix I to the Convention for which no specific threshold is given therein 51

II. Indicative questionnaire for the identification of adverse transboundary impact 52

III. Examples of major types of emissions and other causes of impacts connected with proposed activities listed in Appendix I to the Convention 54

IV. Selected international instruments which may provide guidance in determining the significance of transboundary impacts of an activity 57

V. Framework for considering the significance of a transboundary impact 59

VI. A conceptual tool for determining the significance of a transboundary impact 60

VII. Characterization of the context of a proposed activity 61

VIII. Flow chart for the determination of the likely significant adverse transboundary impact for the purpose of notification 62

Part Four. BILATERAL AND MULTILATERAL COOPERATION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

INTRODUCTION 63

BUILDING BRIDGES 63

KEY ELEMENTS 64

A. General issues 64
B. Procedural steps 64
C. Application of the Convention 65

		Page
D.	Institutional arrangements	65
E.	Notification	66
F.	Informing the public	67
G.	Consultations between the Parties	67
H.	Decision	68
I.	Post-project analysis	68
J.	Dispute prevention and settlement	68
K.	Joint EIA	69
L.	Translation	69
M.	Financial aspects	69
N.	Concluding remarks	70
ANNEX:	Key elements for an agreement on transboundary EIA between Austria and Slovakia	71

Part Two

LEGAL AND ADMINISTRATIVE ASPECTS OF THE PRACTICAL APPLICATION OF RELEVANT PROVISIONS OF THE CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

INTRODUCTION

In accordance with a decision by the Senior Advisers on Environmental and Water Problems at their fifth session, a task force, with Germany as lead country, was set up to prepare a report on ways and means of developing and further strengthening the legal and administrative measures for the practical application of the provisions of the Convention on Environmental Impact Assessment in a Transboundary Context. Experts from Albania, Austria, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Finland, Germany, Greece, Italy, the Netherlands, Norway, Poland, Romania, the Russian Federation, Slovakia, Spain, the United Kingdom and the European Community (EC) participated in the task force. The task force met four times: in Geneva (Switzerland) from 13 to 15 July 1992, in Berlin (Germany) from 7 to 9 September 1992, in Maastricht (Netherlands) from 24 to 27 May 1993, and in Freiburg (Germany) from 10 to 12 August 1993. Its interim report was submitted to the Signatories at their second meeting in December 1992 (ENVWA/WG.3/R.6). On the basis of a survey of the text of the Convention and existing experience, the task force identified a number of items requiring further clarification. These related either to clauses with a very general meaning (e.g. "reasonable time") or to situations which were not explicitly mentioned in the Convention (e.g. public hearings). Although the task force was aware that methodological aspects (such as clearer identification of proposed activities and significance of transboundary impact) could have legal consequences, it did not discuss these issues as they were dealt with in detail within another activity under the implementation of the Convention pending its entry into force (see part three of this publication). For reasons of time, the task force concentrated its discussions on:

(*a*) Provisions on time-limits for notification and submission of information;

(*b*) The content of the notification under Article 3, paragraph 2, of the Convention;

(*c*) Responsibility for the procedural steps that aim at participation of the public of the affected Party in the EIA procedures of the Party of origin;

(*d*) Responsibility for translations and the cost of translations.

This part of the publication describes possible ways and means of dealing with the above issues so as to facilitate the practical application of the Convention. Matters of more general interest have been addressed. Problems related to exceptional cases have been given specific consideration. Nevertheless, bilateral or multilateral agreements or other arrangements containing detailed provisions on the issues in question could also facilitate the practical application of the Convention.

I. PROVISIONS ON TIME-LIMITS FOR NOTIFICATION AND SUBMISSION OF INFORMATION

The Convention provides in Articles 3 and 4 for a series of procedural steps by which the Party of origin notifies any Party which it considers may be an affected Party about a proposed activity, obtains information about the potential transboundary environmental impact of the proposed activity and submits the EIA documentation. The concerned Parties also have to arrange for public participation. Each of these steps needs to be taken within an appropriate time-scale.

A. Notification in accordance with Article 3, paragraph 1, of the Convention

Article 3, paragraph 1, provides that the Party of origin shall, for a proposed activity listed in Appendix I that is likely to cause a significant transboundary impact, notify any Party which it considers may be an affected Party "as early as possible and no later than when informing its own public about that proposed activity". The purpose of the notification under Article 3, paragraph 1, is to alert the affected Party at the earliest possible stage to the fact that an activity which is likely to cause a significant adverse transboundary impact is proposed, and to give the affected Party the opportunity of indicating (under Art. 3, para. 3) whether it wishes to participate in the EIA procedure.

The earlier it is given, the more useful the notification will be. The timing of the notification depends also on the moment that the authorities in the Party of origin become aware of the proposed project. The application of this provision may therefore vary according to the procedural system in the Party of origin, depending especially on whether there is a scoping procedure. Basically, three different types of procedures can be distinguished:

(*a*) Procedures including a formal scoping procedure with mandatory public participation;

(*b*) Procedures including a formal scoping procedure without mandatory public participation; and

(*c*) Procedures without a formal scoping procedure.

The wording of Article 3, paragraph 1, of the Convention should, in principle, pose no problem for countries that have introduced a national scoping procedure as part of the EIA procedure which includes the mandatory participation of the public. These countries will have to notify affected countries no later than when informing their own public in the scoping procedure.

For other countries the situation is less clear. If they have introduced a scoping procedure without public participation, there will be an opportunity, following a notification under Article 3, paragraph 1, for the affected Party to make comments to assist in the scoping procedure. It will generally be beneficial for the Party of origin to involve the affected Party in that procedure in order to clarify the issues to be studied. Therefore, Parties of origin that have a scoping procedure without public participation should notify an affected Party during that scoping procedure.

In countries where no formal scoping procedure is required, it may not always be possible to notify an affected Party at the time that is most expedient for the purposes of Article 3. In these countries proponents of activities are not required to inform the authorities about their plans before preparing the EIA information required under domestic provisions. If no scoping procedure exists, the Party of origin should notify any Party that it deems an affected Party as soon as the authorities of the Party of origin are informed about the proposed activity and before the EIA documentation is completed.

A Party of origin may discover that a proposed activity is likely to cause a significant adverse transboundary impact only after informing its own public. In such situations, which are contrary to the provisions included in Article 3, paragraph 1, of the Convention, the Party of origin should notify the affected Party immediately. Furthermore, the Party of origin should recognize that its EIA procedure may be delayed to accommodate the interests of the affected Party pursuant to the provisions and time-frames of the Convention.

The issues dealt with here are also related to such questions as which Party is responsible for informing the affected Party's public, and how this public is to be informed about the activity and its potential environmental impact. These matters will be considered separately in chapters III, IV and V below.

B. Time-frame for responses in accordance with Article 3, paragraph 3, of the Convention

Article 3, paragraph 3, of the Convention requires the affected Party to respond to the Party of origin "within the time specified in the notification", and to indicate whether or not it intends to participate in the EIA procedure. The length of this time is not left entirely to the discretion of the Party of origin; in accordance with Article 3, paragraph 2, it must be "reasonable".

One of the criteria for whether a period is "reasonable" is stated in the Convention: the Party of origin shall take the nature of the proposed activity into account (Art. 3, para. 2 (c)). Another important consideration in this context is the extent to which it is necessary for the affected Party to contact specific authorities within its jurisdiction, or experts, before it can decide whether or not to participate in the EIA procedure. On the other hand, it is desirable to avoid unnecessary delays in the EIA procedure in the Party of origin. The time specified by the Party of origin should always be sufficient to allow the affected Party to take an informed decision. A time of one to four months would seem reasonable.

C. Time-frame for the transmittal of information in accordance with Article 3, paragraph 6, of the Convention

Article 3, paragraph 6, of the Convention provides that an "affected Party shall, at the request of the Party of origin, provide the latter with reasonably obtainable information relating to the potentially affected environment under the jurisdiction of the affected Party. . .". The purpose of this provision is to help the Party of origin to prepare the EIA documentation. The information shall be furnished "promptly".

The definition of the term "promptly" in this context depends on many individual aspects of the proposed activity in question; so it is difficult to specify how much time the affected Party has to transmit the information. However, a number of criteria can be given on which this specification should be based. These include the nature, size and location of the proposed activity; the extent of the area in question; the environmental status of this area; existing information systems; the type and state of the licensing process for the activity; information access and ways and means of information transmittal, etc. Article 3, paragraph 6, does not require the affected Party to carry out lengthy research, but only to provide the Party of origin with "reasonably obtainable information".

Due to the fact that all these criteria are to be considered, it is suggested that it should be left to the concerned Parties in each case to specify the meaning of the term "promptly". However, in general, a period of up to four months might be sufficient.

Where the affected Party considers that the reasonably obtainable information relating to the affected environment is insufficient for the purposes of the prepara-

tion of the EIA documentation, the Party of origin should allow the affected Party to specify either:

(*a*) The additional time that the affected Party will require to obtain this information; or

(*b*) Which additional information is required, so that the Party of origin may obtain it.

D. Time-frame for comments under Article 4, paragraph 2, of the Convention

Article 4, paragraph 2, of the Convention requires the concerned Parties to arrange for the distribution of the EIA documentation to the authorities and the public of the affected Party in the areas likely to be affected, and for the submission of comments to the competent authority of the Party of origin "within a reasonable time before the final decision is taken on the proposed activity". It seems difficult to specify the length of time that is "reasonable" in this context. The provisions aim at:

(*a*) Ensuring that the time granted to the authorities and the public of the affected Party is adequate for their comments; and

(*b*) Allowing the Party of origin sufficient time to consider these comments before it takes its decision on the activity.

There seems to be almost no experience related to the length of time granted to the authorities and the public in affected countries to prepare their comments. Where the public of affected countries has been given an opportunity to participate in EIA procedures in a country of origin, the time allowed for comments was the same as that for the public of the country of origin.

Basically, the authorities and the public in the affected Party should be granted the same length of time for their comments as the authorities and the public in the Party of origin. However, in the case of comments from the authorities and the public in the affected Party, additional time may be needed for the translation of the EIA documentation and for the translation and transmittal of comments to the competent authority of the Party of origin. The time required for these administrative tasks should not be included in the period allowed for comments, but should be added to it. Thus, if the authorities and the public in the Party of origin have a month to comment on the EIA documentation, the authorities and the public in the affected Party should also be given a month for their comments; the time for translation and transmittal should be counted separately.

In any case, it seems advisable that, when applying the Convention, a clearly defined time-frame for comments should be set, based on the time-frame of the EIA and the decision-making process in the Party of origin. This limit should be adequate, i.e. long enough, for:

(*a*) The translation of the EIA documentation (if the documentation is not translated before transmittal to the affected Party);

(*b*) The examination of this documentation by the authorities and the public of the affected Party;

(*c*) The formulation of comments by the authorities and the public;

(*d*) The translation of the comments;

(*e*) The transmittal of these comments to the competent authority of the Party of origin.

Therefore, it is suggested that:

(*a*) In each case a definite time-frame for comments from the authorities and the public in the affected Party should be specified;

(*b*) The amount of time granted for these comments should be equal to that given to the authorities and the public in the Party of origin, and should not include any time required for translation and transmittal.

II. THE CONTENT OF THE NOTIFICATION UNDER ARTICLE 3, PARAGRAPH 2, OF THE CONVENTION

Article 3, paragraph 2, describes the required content of the notification. In practice, the information included in the notification may, however, vary in detail, due, for instance, to the nature of the proposed activity. If the affected Party is notified very early on, such information could be comparatively brief, since the Party of origin will have no detailed data available. A notification given later in the process will probably contain more specific information. Thus, the actual content of the notification would depend on the particular moment in the EIA process when the affected Party is notified.

The notification should include sufficient information for the affected Party to arrive at an informed decision on whether or not to take part in the EIA procedure. In addition, the Convention requires that the notification should contain as much information as possible in each specific case. Furthermore, it would be useful for the Party of origin to address the subject of translation in the notification.

III. RESPONSIBILITY FOR THE PROCEDURAL STEPS TO ENSURE THE PARTICIPATION OF THE PUBLIC OF THE AFFECTED PARTY IN THE EIA PROCEDURES OF THE PARTY OF ORIGIN

Article 3, paragraph 8, of the Convention requires the concerned Parties to ensure that the public of the affected Party in the areas likely to be affected is informed of, and provided with possibilities for, making comments or objections on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin. Similarly, under Article 4, paragraph 2, the concerned Parties shall arrange

for the distribution of the EIA documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin. In either case the following questions should be answered:

(*a*) Are the concerned Parties to carry out those tasks jointly; or, if not,

(*b*) Which Party is to be responsible for which tasks?

In this matter, the rights and obligations of each Party under international law should be borne in mind; for instance, the Party of origin will be able to conduct public hearings in the territory of the affected Party only with the consent of the latter Party.

For reasons of expediency and unless the concerned Parties agree otherwise, the tasks should be divided between them, and each Party should fulfil the tasks that fall within its own range of competence. Thus, the Party of origin should, in the context of Article 3, paragraph 8, provide the relevant information on the proposed activity to the affected Party; and receive these comments and objections unless the comments and objections by the public of the affected Party are to be sent directly to the competent authority. The affected Party, on the other hand, should be responsible for specifying the arrangements for distributing the information on the proposed activity in its own country (by means of the press, posters, or other media); and, unless the comments and objections are to be transmitted directly to the Party of origin or its competent authority, should collect these comments and objections and forward them to the Party of origin or to its competent authority.

Likewise, in the context of Article 4, paragraph 2, the Party of origin should transmit the EIA documentation to the affected Party and, unless the comments are transmitted directly to the competent authority, receive these comments. The affected Party should specify the arrangements for distributing the documentation to its own authorities and the public, and, unless the comments are to be forwarded directly to the Party of origin or its competent authority, collect these comments and transmit them to the Party of origin or its competent authority.

To the extent possible, the transboundary information exchange should be carried out by the concerned Parties in the most direct way.

The way in which the tasks mentioned in Article 4, paragraph 2, are fulfilled should conform to the EIA procedure of the Party of origin, as this procedure is relevant to the proposed activity. The information should be made available to the public of the affected Party in accordance with the normal practice of that Party for the distribution of information.

Specific bodies, like coordination centres, or different procedures which may be expedient in some cases may be agreed upon by the concerned Parties.

IV. RESPONSIBILITY FOR TRANSLATIONS AND THE COSTS OF TRANSLATIONS

Participation of the affected Party, its authorities and its public in the EIA procedure in the Party of origin, as well as effective cooperation under the Convention, will often require documents and verbal statements to be translated. In particular, one or all concerned Parties may be interested in the translation of the following matter:

—Notification of a proposed activity (Art. 3, paras. 1 and 2);

—Response to that notification (Art. 3, para. 3);

—Information to be given by the Party of origin upon receipt of a response from the affected Party (Art. 3, para. 5);

—Information relating to the potentially affected environment (Art. 3, para. 6);

—Information to the public about the proposed activity (Art. 3, para. 8);

—Comments and objections by the public of the affected Party on the proposed activity (Art. 3, para. 8);

—The EIA documentation (Art. 4, para. 1);

—Comments on the EIA documentation by the authorities and the public of the affected Party (Art. 4, para. 2); and

—The final decision on the proposed activity (Art. 6, para. 2).

In each of these cases, the following questions should be answered:

—Is translation necessary?

—Which of the concerned Parties should be responsible for and bear the cost of translation?

A. Necessary translations

The documentation mentioned above varies considerably in length. While information under Art. 3, para. 1, of the Convention may be relatively brief, the EIA documentation (Art. 4, para. 1) may consist of several hundred pages, depending on the national requirements in the Party of origin. Also, the final decision on the proposed activity may, together with the reasons and considerations on which it is based, be a rather extensive document; although this again varies from country to country and from case to case.

However, translation is required in all cases where language differences exist and where the language in which a document is produced may not be understood by those who should read it.

As far as the translation of the EIA documentation (Art. 4 and Appendix II) is concerned, those parts of the EIA documentation that, in addition to the summary, deal with the environmental impact of the proposed activity in the territory of the affected Party or have a bearing on this impact should be translated. This would mean

that, of the information listed in Appendix II, the following items would have to be translated:

—The description of the proposed activity and its purpose (para. *a*);

—The description, where appropriate, of reasonable alternatives (for example, locational or technological) to the proposed activity and also the no-action alternative (para. *b*);

—The non-technical summary including a visual presentation, as appropriate (maps, graphs, etc.) (para. *i*).

The following information, listed in Appendix II, would have to be translated only in so far as it concerns environmental impact in the affected Party:

—The description of the environment likely to be significantly affected by the proposed activity and its alternatives (para. *c*);

—The description of the potential environmental impact of the proposed activity and its alternatives and an estimate of its significance (para. *d*);

—The description of mitigation measures to keep adverse environmental impact to a minimum (para. *e*);

—The explicit indication of predictive methods and underlying assumptions as well as the relevant environmental data used (para. *f*);

—The identification of gaps in knowledge, and the uncertainties encountered in compiling the required information (para. *g*);

—The outline for monitoring and management programmes and any plans for post-project analysis, when included in the EIA documentation (para. *h*).

For the other items of information specified in the Convention, the need for translation should be determined as early as possible by the concerned Parties on a case-by-case basis. However, as a general rule, information addressed to the general public is more likely to require translation. In short, three categories of information can be distinguished:

(*a*) Documents which are likely to require translation, such as:

—The notification to be given by the Party of origin (Art. 3, para. 1);

—The response to be given by the affected Party (Art. 3, para. 3);

—The information to be given by the Party of origin (Art. 3, para. 5);

—The information to be given by the affected Party (Art. 3, para. 6);

(*b*) Information which is likely to require translation, but may need to be translated in full only in so far as it concerns transboundary impact, otherwise a summary translation, relating to the following, may be sufficient:

—Information about the proposed activity (Art. 3, para. 8);

—The final decision on the proposed activity (Art. 6, para. 2);

(*c*) Information which will need to be translated in full where this is required by the administrative or legal procedures of the Party of origin, relating to the following:

—Comments and objections by the public of the affected Party, under Article 3, paragraph 8;

—Comments by the authorities and the public of the affected Party, under Article 4, paragraph 2.

B. Responsibility for and costs of translations

Opinions may differ as to whether it is more expedient (less time-consuming and less costly) for the Party giving the information (the Party of origin in the case of Article 3, paragraph 1, and the affected Party in that of Article 3, paragraph 6, of the Convention), or for the Party receiving the information to be responsible for the translations. On the other hand, the Party responsible for translation should also bear the cost of translation. A case can be made for the Party of origin for which the EIA is being carried out and whose domestic law governs the EIA procedure to be responsible for the translations. The affected Party will only participate in the EIA procedure. Therefore, the Party of origin should be competent and responsible for the whole of the EIA procedure (except those merely procedural steps which, under international law, only the affected Party can carry out). Finally, in general, it would be easier for the Party of origin than for the affected Party to recover these costs from the proponent.

Consequently the Party of origin should be responsible for the translations and should also bear the related costs, unless the concerned Parties have agreed otherwise. The concerned Parties may jointly establish or authorize organizations to translate the relevant documents. Such organizations would have to guarantee professional standards.

V. ORGANIZATIONAL QUESTIONS

Although it is self-evident that each Party may decide for itself which of its authorities should be charged with the tasks under the Convention, it is advisable that those authorities that already have responsibilities in relation to the EIA or similar procedures under domestic law should also assume the tasks described in the Convention. Such an arrangement would seem useful since, under the Convention, the EIA will, in practice, follow the domestic procedures of the Party of origin; and transboundary cooperation under Articles 2 to 7 of the Convention will take place within the framework of these procedures.

VI. CONCLUSION

Current practice does not reflect the full implementation of the provisions of the Convention. There is at present a diverse experience in EIA in a transboundary context, and it can be concluded that until now no uniform approach to transboundary information exchange has been followed. The approaches proposed could serve as guidance to competent national authorities in the practical application of relevant provisions of the Convention. Experience gained in following these approaches could be examined in due course.

In the meantime, further legal and administrative aspects which have not been highlighted could be considered in depth. Future activities could aim, for instance, at:

(*a*) The drawing-up of a harmonized format for the notification documents under Article 3 of the Convention;

(*b*) The development of guidance in cases where the concerned Parties have different environmental quality standards;

(*c*) The consideration of mechanisms for quality control of the EIA documentation in a transboundary context;

(*d*) The drawing-up of recommendations for the undertaking of public hearings in a transboundary context;

(*e*) The development of a model for bilateral or multilateral agreements, taking into account Appendix VI to the Convention and the findings described above.

Part Three

SPECIFIC METHODOLOGICAL ISSUES OF ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

INTRODUCTION

This part focuses on issues relevant to a clearer identification of proposed activities requiring environmental impact assessment (EIA), as listed in Appendix I to the Convention on Environmental Impact Assessment in a Transboundary Context, and to the determination of the significance of transboundary impact. It attempts to provide general guidance on these issues to competent national authorities in the practical application of the Convention. It also addresses specific aspects concerning the harmonization of methods for predicting environmental impact and identifies priority areas for further work. It takes into account the information contained in the document prepared at the workshop on methodological aspects of EIA held in Stockholm in 1992 and comments on that document by the delegations of Croatia, Estonia, Finland, the Netherlands, Norway, Poland, the Republic of Moldova, the Russian Federation, the United Kingdom, and the Commission of the European Communities. It is also based on the results of the consultation of governmentally designated experts from Canada, Finland, Germany, Hungary, Norway, Slovakia, Spain, Sweden, the United Kingdom and the United States of America, held in Geneva from 7 to 9 June 1993.

I. CLEARER IDENTIFICATION OF PROPOSED ACTIVITIES REQUIRING EIA

Many of the activities listed in Appendix I to the Convention are fairly well defined. The most important exception is the activity "*integrated chemical installations*". At the Stockholm workshop it was suggested that six different types of chemical installations could be identified under this activity. However, the United Nations International Standard Industrial Classification of All Economic Activities (ST/ESA/STAT/SER.M/4/Rev.3) lists nine classes of activities under "Manufacture of chemicals and chemical products":

2411 Manufacture of basic chemicals, except fertilizers and nitrogen compounds

2412 Manufacture of fertilizers and nitrogen compounds

2413 Manufacture of plastics in primary forms and of synthetic rubber

2421 Manufacture of pesticides and other agrochemical products

2422 Manufacture of paints, varnishes and similar coatings, printing ink and mastics

2423 Manufacture of pharmaceuticals, medicinal chemicals and botanical products

2424 Manufacture of soap and detergents, cleaning and polishing preparations, perfumes and toilet preparations

2429 Manufacture of other chemical products not elsewhere classified

2430 Manufacture of man-made fibres.

Both the six types of chemical installations identified at the Stockholm workshop and the nine classes of chemical manufacturing activities under the United Nations Standard Classification would need further specification if applied for the purposes of the Convention. It is unlikely, for instance, that all installations (small ones, particularly) involved in the manufacture of chemicals and chemical products would cause a transboundary impact. Reasonable production or other thresholds would have to be looked at.

In that respect, the very word "integrated" in Appendix I to the Convention may serve as a threshold. In some ECE countries, an integrated installation is generally understood to be *an installation or a group of installations in the same geographical location*, where *two or more linked chemical or physical processes* are employed on *an industrial scale*. This definition might be helpful for the identification of integrated chemical installations for the purposes of the Convention. Of all the planned chemical manufacturing activities that are scrutinized, those which involve several inter-linked types of chemical production in the same geographical location may become the primary subjects of transboundary EIA. Additional thresholds would be needed to narrow down, as far as possible, any remaining ambiguity.

The words "*major*" and "*large*" are used to set a threshold for several activities in Appendix I to the Convention. The wording suggests that the Convention applies only to a subset of all possible units of activities under consideration. More specific thresholds for "major" and "large" could be found by examining the activities with respect to their size measured in appropriate units. Difficulties in determining thresholds may arise, *inter alia*, due to the differences in environmental, social and economic conditions in a geographical area under consideration for the purposes of the Convention.

Numerous difficulties notwithstanding, specific thresholds would serve as useful initial guidance in the application of the Convention. It will have to be decided

whether or not an activity belongs to the list of proposed activities in Appendix I to the Convention, before the significance of the likely transboundary impact can be considered. Therefore, annex I below proposes types and parameters for those activities listed in Appendix I to the Convention for which no thresholds have been specified.

According to the definition of "proposed activity" (Art. 1 (v)), the Convention deals also with any *major change to an activity* subject to a decision of a competent authority in accordance with an applicable national procedure. The Convention does not define what a major change is, and the decision on the applicability of the Convention will therefore be partly based on judgement. The basic criteria would be that the existing activity subject to a major change is included in Appendix I to the Convention, and that authorization from a competent authority is required for that change.

Examples of major changes may include building on additional production capacities, large-scale employment of new technology in an existing activity, re-routing of motorways, express roads or airport runways changing the direction of take-off and landing. Consideration would have to be given to a change in investments and production (volume and/or type), physical structure or emissions. Cases where the major change would represent an increase of the same magnitude as the threshold specified in Appendix I to the Convention or of a threshold proposed in annex I below, as appropriate, could be examined first of all. Particular consideration should also be given to cases where the proposed changes would bring existing activities up to such thresholds.

II. "SIGNIFICANCE" OF ADVERSE TRANSBOUNDARY IMPACT

The consideration of the "significance" of an adverse transboundary impact will always be part of the decision to apply the Convention. Criteria on the significance of any impact should be set in a general decision-making framework. In some cases, it may be possible to establish generally acceptable *criteria on significance*. In most cases, however, the decision that an adverse transboundary impact is likely to be significant would be based on a comprehensive consideration of the characteristics of the activity and its possible impact. An element of judgement would always be present.

At the national level, various approaches to the determination of the significance of an impact have been developed in ECE countries. They are described in the ECE publication *Policies and Systems of Environmental Impact Assessment* (Environmental Series, No. 4). Within a country, detailed criteria can be used taking into account specifics of the national EIA legislation, administrative practices, and environmental conditions. In some countries, particular criteria have been used to draw up lists of activities subject to an EIA at the national level. These lists are usually more extensive than the one included in Appendix I to the Convention. The advantage of establishing and applying lists of activities, considered a priori to have a significant adverse impact, is that both authorities and proponents know when an EIA has to be carried out.

In some countries, the application of EIA is at least partly based on a case-by-case judgement. This approach is more flexible, but still calls for guidance in order to increase the predictability of decisions, provided that information on the type of activity is available. Guidance on decisions can be given, for example, by identifying locations/areas where proposed activities are subject to special scrutiny. Other criteria used as a basis for decisions on significance include the size of the activity, the nature of the impact, the degree of risk, public interest and environmental values.

A regional framework for a transboundary EIA would be less detailed than national frameworks, bearing in mind, in particular, that it has to be flexible enough to cover different national frameworks and approaches. Bilateral or multilateral agreements concluded according to Article 8 of the Convention could provide further arrangements for the implementation of obligations under the Convention.

The decision to notify other Parties is a central decision in EIA in a transboundary context. At this stage, the determination of whether or not the proposed activity is likely to cause a significant adverse transboundary impact would be based on limited available information, normally supplied by the proponent of the activity. Detailed knowledge of the extent and magnitude of impacts would not be generally available.

To minimize delays in carrying out a transboundary EIA, the decision to notify and the notification should be accompanied by a concise motivation for the decision. The motivation could depend on the identification and ranking of transboundary impacts with respect to their significance and would thus to a large extent determine the focus of the transboundary EIA. Without a clear focus, which is determined at an early stage in the EIA process, resources could be wasted on assessing in detail impacts of secondary importance.

In many cases, the first step could be to consider *a range of possible impacts and causes of impacts* associated with the proposed activity. Using preliminary information on the proposed activity and its alternatives, the questionnaire presented in annex II below could be helpful in identifying the likely adverse impacts of a proposed activity on the transboundary environment. Examples of major types of emissions and other causes of impacts, as included in annex III below, may provide guidance in completing this questionnaire.

Many of the activities listed in Appendix I to the Convention have a wide range of possible impacts. The general guidance for the decisions related to the initiation of a transboundary EIA should, therefore, not be too specific. The relative importance of the emissions associated with an activity will change with the development of technology and practices as well as with a better knowledge of the impacts. For example, knowledge of chemicals and their impacts is rapidly expanding. The criteria for the initiation of a transboundary EIA related to the use and likely release of chemicals should therefore be continuously updated. On the other hand, there is

no point in selecting a limited set of chemicals as criteria, because such an approach could define transboundary impacts too narrowly.

For many activities the related major emissions and other causes of impacts are well-known. For a transboundary EIA, it could be argued that the focus should in general be on emissions having long-distance effects and on emissions covered by international environmental agreements or supranational regulations such as European Community directives. For example, the Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1992, establishes the following list of harmful substances which should be given priority in preventive measures:

—Heavy metals and their compounds;

—Organohalogen compounds;

—Organic compounds of phosphorus and tin;

—Pesticides, such as fungicides, herbicides, insecticides, slimicides, and chemicals used for the preservation of wood, timber, wood pulp, cellulose, paper, hides and textiles;

—Oils and hydrocarbons of petroleum origin;

—Other organic compounds especially harmful to the marine environment;

—Nitrogen and phosphorus compounds;

—Radioactive substances, including wastes;

—Persistent materials which may float, remain in suspension or sink;

—Substances which cause serious effects on the taste and/or smell of products for human consumption from the sea, or effects on the taste, smell, colour, transparency or other characteristics of water.

Similar lists have been developed in other conventions and agreements such as the ECE Convention on the Transboundary Effects of Industrial Accidents (Helsinki, 1992). These conventions and agreements may help to focus the transboundary EIA, because pollution substances listed in international legal instruments reflect accumulated knowledge and general international concern. A systematic check of relevant international instruments in the field of the environment could be useful in identifying the likely transboundary impact of a proposed activity. A reference list of selected instruments in that respect is presented in annex IV below.

When a set of likely transboundary impacts has been comprehensively identified, the *significance of each impact* will have to be examined, by using, for example, the framework proposed in annex V below.

The *extent and magnitude* of a likely impact related to a proposed activity may contribute to the significance of an impact. In that regard, annex VI below provides a conceptual tool for making the necessary judgement. An overall conclusion on the degree of significance would require combining the consideration of the geographical scale of a likely impact and its magnitude in areas under the jurisdiction of other countries with information on environmental conditions in these areas and the duration, frequency, probability and reversibility of the impact. The possibility that an activity may lead to a significant adverse transboundary impact by contributing to the cumulative effect of existing, individually insignificant impacts, should also be considered.

Likely affected areas may differ with respect to their *environmental importance* such as ecological value and sensitivity. For example, critical loads of acidifying substances vary and significant loads will accordingly differ between regions. Site-specific environmental conditions may for that purpose require the application of more stringent limits than those prescribed in relevant international instruments. These considerations will have to be taken into account in judging the significance of a likely transboundary impact.

The *duration* of an impact may in some cases be restricted to a particular phase. Dredging waterways and ports may, for example, cause temporary transboundary turbidity or release hazardous substances from sediments. Other activities, such as the construction of a motorway, represent a virtually permanent change of the environment. The *frequency* of the impact may depend on the activity. For example, the impact of an inland waterway would be dependent on both the number and tonnage of the vessels utilizing it.

Further categorization of an impact could be made regarding its *probability*. This will serve to categorize the continuum of impacts, ranging from those that would arise with certainty to those which are unlikely, but which do represent risks related to the activity. Different thresholds of significance are likely to be applied to the different categories of impacts.

Impacts which are highly likely to occur are usually those which arise due to continuous emissions or due to an immediate physical restructuring of the environment as a consequence of the activity. Impacts which are much less likely to occur would require a different type of consideration from that used for highly probable impacts. Some impacts may occur only in the event of an accident or abnormal operation, whereas others may occur due to normal emissions which under special circumstances cause extensive impacts. Examples include the wide distribution of pollutants in surface waters during specific hydrological regimes or the accumulation of airborne pollutants in limited areas due to weather conditions.

The risk of an impact could be defined as the consequences of the impact multiplied by the probability of occurrence. If environmental risks in relation to a proposed activity are relevant, the transboundary EIA would have to involve discussions on acceptable levels of risk. In some cases, the probability of impacts could be assessed in terms of the frequency of occurrence. For most environmental risks related to the activities listed in Appendix I to the Convention, a frequency approach would however not be sufficient in an analysis of risks as part of a transboundary EIA. Many risks related to transboundary impacts are characterized by low probability. Thus, there would be no or very weak empirical justification for an analysis based on frequencies. For example, estimates of risks of nuclear accidents, explosions at integrated chemical installations or the breaking of dams could only to a limited extent be based on

empirical data for frequency of occurrence. A systematic evaluation of potential impacts of low probability and of factors influencing the probability is likely to be important.

If specific information on the likely impacts of a proposed activity is insufficient for determining the significance of a transboundary impact, the characterization of the *context of a proposed activity* (annex VII below may help to make the final decision).

When considering the general characteristics of an activity, the distance to an international frontier is an important starting-point. If an activity is planned for a site close to a frontier, the nature of the activity and its associated transboundary impact can be sufficient to require a notification according to the Convention. Many activities listed in Appendix I to the Convention would inevitably require notification if the planned site was close to a frontier.

If the site for the planned activity is at a considerable distance from the frontier, the distance alone would not be a sufficient basis for a decision on notification. The next aspect that could be considered would be the existence of transfer mechanisms for the impact, such as transboundary watercourses and international lakes, coastlines or sea areas, prevailing winds and migration of organisms which may provide indications of the likely transboundary impact. (Some experts took the view that areas in all countries which could be affected by long-range transmission of pollutants should be considered in that respect.)

In a situation where neither specific information on the likely impacts nor the general characteristics of the activity are considered sufficient to arrive at a definite conclusion on the significance of a transboundary impact, but where the level of uncertainty is high, the country of origin may still notify affected countries in order to reach a mutual understanding on the significance of the impact of the proposed activity.

Final determination of the significance could be based on explicit or implicit weighing of different types of likely impacts. The development of methods to rank the different impacts and their relevant dimensions may be useful in determining the overall significance of the transboundary impact associated with an activity. *Weighing and ranking* could be more complex than the identification of all likely "major" and "minor" impacts, because it would frequently involve a trade-off between different types of impacts. There is no definite common scale for comparing, for example, effects on flora and fauna with effects on landscape and historic monuments. While there are various difficulties in developing sound ranking methods, ranking could nevertheless allow a more systematic approach to determine the significance of impacts and guide decision-making on transboundary EIA.

Consequently, it could be concluded that there would be no automatic application of the Convention, as the possibility of a significant adverse transboundary impact would always be reviewed carefully. The determination of the possibility of such an impact for the purpose of notification could be hierarchically structured following the sequence of the flow chart presented in annex VIII below.

III. HARMONIZATION OF METHODS AND STANDARDIZATION

Harmonization activities in the context of transboundary EIA could ensure a common understanding of concepts and terms, remove incompatibilities, improve the quality of EIA, and save resources. Harmonization can refer to the harmonization of methods, the harmonization of legal and administrative procedures, and the development of relevant standards.

Harmonization of EIA methods in a transboundary context involves the development of common frameworks to assist decision-making at all stages of the EIA process. The frameworks could include the determination of the spatial and temporal boundaries for the assessment and evaluation criteria for impact predictions. Since the significance of an impact will be assessed using a multi-dimensional framework, it is unlikely that evaluation criteria could always give unambiguous answers on the interpretation of impact predictions. Although such criteria may provide useful reference points in evaluating the predictions, specific consideration would have to play an important role in the final decision-making on the proposed activity. Harmonization could also be helpful with respect to the specific terminology used in EIA documentation, the structure of such documentation, etc.

In order to help common understanding, it would be helpful to use, wherever applicable, internationally accepted units and standards in transboundary EIA. It should be noted in that respect that the International Organization for Standardization (ISO) and the European Committee for Standardization (CEN) have recently initiated discussions on the standardization of environmental management tools such as EIA. So far, standardization activities have focused on such items as: sampling and monitoring methods, descriptive units (e.g. micro g/m^3 for air quality), spatial and temporal scales (e.g. volume of soil samples) and criteria for data quality control. Enlarging the scope of the ongoing standardization activities seems to be necessary.

ANNEXES

Annex I

POSSIBLE TYPES AND PARAMETERS TO BE CONSIDERED FOR ACTIVITIES LISTED IN APPENDIX I TO THE CONVENTION FOR WHICH NO SPECIFIC THRESHOLD IS GIVEN THEREIN

Major installations for the initial smelting of cast-iron and steel and for the production of non-ferrous metals

(i) The roasting and sintering and calcining of iron ores in installations designed for the processing of 1 million tonnes or more of ore a year

(ii) All coke ovens

(iii) Installations for the production of pig iron and crude steel designed for a production of 1 million tonnes or more of iron per year

(iv) Installations for steel production from scrap designed for a production of 200,000 tonnes or more of steel per year

(v) Installations for the processing of non-ferrous heavy metal ores designed for a production of 100,000 tonnes or more per year

(vi) Installations for the production, recovery or processing of non-ferrous metals, their compounds or other alloys by thermal, chemical or electrolytics designed for a production of 100,000 tonnes or more per year

Integrated chemical installations

Industrial installations or groups of installations in the same geographical location where two or more linked chemical or physical processes are employed on an industrial scale for the manufacture of chemicals or chemical products. These installations may represent one or more chemical installations

Large-diameter oil and gas pipelines

Pipelines with a diameter of 600 mm or more

Large dams and reservoirs

Dams with a height of 15 m or higher and/or reservoirs with a surface of 2 km^2 or more

Major mining, on-site extraction and processing of metals ores or coal

(i) Installations for the mining, on-site extraction and processing of 1 million tonnes or more of iron ore per year

(ii) Installations for the mining, on-site extraction and processing of 100,000 tonnes or more of non-iron ore per year

(iii) Installations for the mining, on-site extraction and processing of 100,000 tonnes or more of coal per year

Major storage facilities for petroleum, petrochemical and chemical products

Installations designed for the storage of 50,000 m^3 or more of petroleum; of 50,000 m^3 or more of petrochemical products; and of 50,000 m^3 or more of chemical products

Deforestation of large areas

Areas of 2 km^2 or more

Annex II

INDICATIVE QUESTIONNAIRE FOR THE IDENTIFICATION OF ADVERSE TRANSBOUNDARY IMPACT

1. Can the proposed activity or its reasonable alternatives result in one or more of the following adverse transboundary impacts:

AIR

—Changes in ambient air quality
—Release of any toxic or hazardous air pollutant, radiation, or genetically engineered organisms

WATER

—Surface water: Changes in water quality or water quantity
—Groundwater: Changes in water quality or quantity
—Coastal water: Changes in quality
—Sediments: Changes in quality and quantity (riverine, estuarine, coastal)
—Release of any toxic or hazardous water pollutant, radiation, or genetically engineered organisms

CLIMATE

—Microclimatic changes (temperature, rainfall, wind)

2. Can the proposed activity, or the related effects listed above, result in one or more of the following adverse transboundary impacts:

SOIL

—Changes in soil acidification, contamination, or erosion

LANDSCAPE/HISTORIC MONUMENTS OR OTHER PHYSICAL STRUCTURES

—Changes in land use
—Decreased aesthetic appeal or changes in visual amenities
—Changes in historical, archaeological, paleontological, or architectural resources
—Changes to well-being and quality of life
—Changes in quality and quantity of recreational opportunities or amenities
—Changes to present or potential use of natural resources (e.g. fisheries, recreational use, agriculture/forestry)
—Impacts on sensitive lands or areas of special environmental or cultural importance

HUMAN HEALTH AND SAFETY

—Changes in ambient noise levels
—Changes in disease incidence

FLORA, FAUNA —Changes in migratory patterns (birds, fish, mammals, etc.) —Disturbance of habitat —Decrease in bio-diversity —Impacts on threatened species —Changes in species composition
3. Can the proposed activity present any transboundary catastrophic risk?
4. Can the proposed activity invoke any existing international agreement on environmental matters?
5. Can the proposed activity affect interactions among environmental factors?

Annex III

EXAMPLES OF MAJOR TYPES OF EMISSIONS AND OTHER CAUSES OF IMPACTS CONNECTED WITH PROPOSED ACTIVITIES LISTED IN APPENDIX I TO THE CONVENTION

Crude oil refineries and installations for the gasification and liquefaction of coal or bituminous shale	*Human health and safety*: Increased risk of accidents *Air:* SO_2, NO_x, and volatile organic compounds (VOC) *Water:* Oil, nutrients, chemical oxygen demand/total organic carbon (COD/TOC), phenolic compounds and other hazardous substances *Soil/Landscape*: Changes in land use by related infrastructure *Flora and fauna:* Disturbance of habitats
Thermal power stations and other combustion installations and nuclear power stations and other nuclear reactors	*Human health and safety:* Increased risk of accidents *Air*: SO_2, NO_x, particles and hazardous substances *Water*: Hazardous substances and changes in temperature *Soil/Landscape*: Changes in land use by related infrastructure *Flora and fauna*: Disturbance of habitats
Installations for the production or enrichment of nuclear fuels, the reprocessing of irradiated nuclear fuels or the storage, disposal and processing of radioactive waste	*Human health and safety*: Increased risk of accidents *Air*: Radionuclides *Water*: Radionuclides *Soil/Landscape*: Changes in land use by related infrastructure *Flora and fauna*: Disturbance of habitats
Major installations for the initial smelting of cast-iron and steel and for the production of non-ferrous metals	*Air*: SO_2, NO_x, particles, heavy metals, fluorides, poly-aromatic hydrocarbons (PAH) and other hazardous substances *Water*: Nutrients, NH_4, COD/TOC, PAH, heavy metals, cyanide and other hazardous substances *Soil/Landscape*: Changes in land use by related infrastructure *Flora and fauna*: Disturbance of habitats
Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos	*Air*: Asbestos fibres *Water*: Suspended solids
Integrated chemical installations	*Human health and safety:* Increased risk of accidents *Air*: SO_2, NO_x, heavy metals, and other hazardous substances *Water*: Nutrients, COD/TOC, heavy metals, adsorbable organic halogenated compounds and other hazardous substances *Soil/Landscape*: Changes in land use by related infrastructure

Construction of motorways, express roads and lines for long-distance railway traffic and of airports	*Human health and safety*: Increased risk of accidents *Air*: NO_x, VOC, noise and vibration *Water*: Nutrients, oil and other hazardous substance *Soil/Landscape*: Changes in land use *Flora and fauna*: Erosion, barriers for fauna, disturbance in habitats
Large-diameter oil and gas pipelines	*Human health and safety*: Increased risk of accidents *Air*: VOC *Water*: Oil *Soil/Landscape*: Changes in land use *Flora and fauna*: Disturbance in habitats
Trading ports and also inland waterways and ports for inland-waterway traffic	*Human health and safety*: Increased risk of accidents *Air*: SO_2, NO_x and hazardous substances *Water*: Dredge spoils, ballast water, oil and other hazardous substances *Soil/Landscape*: Changes in land use, coastal erosion *Flora and fauna*: Disturbance in habitats
Waste-disposal installations for the incineration, chemical treatment or landfill of toxic and dangerous wastes	*Human health and safety*: Increased risk of accidents *Air*: NO_x, VOC, heavy metals and other hazardous substances *Water*: COD/TOC, heavy metals, and other hazardous substances
Large dams and reservoirs	*Human health and safety*: Increased risk of accidents *Water*: Nutrients, COD/TOC, heavy metals *Soil/Landscape*: Changes in land use, sediments *Flora and fauna*: Erosion, barriers, disturbance iin habitats
Groundwater abstraction activities	*Water*: Change in water table
Pulp and paper manufacturing	*Human health and safety*: Increased risk of accidents *Air*: SO_2, NO_x, smell *Water*: Nutrients, biochemical oxygen demand (BOD), COD/TOC, adsorbable organic halogenated compounds (AOX) and other hazardous substances *Soil/Landscape*: Changes in land use by related infrastructure

Major mining, on-site extraction and processing of metals ores or coal	*Air*: SO_2, NO_x, noise, particles, heavy metals, and other hazardous substances *Water*: Nutrients, heavy metals and other hazardous substances *Soil/Landscape*: Changes in land use by related infrastructure *Flora and fauna*: Disturbance of habitats
Offshore hydrocarbon production	*Human health and safety*: Increased risk of accidents *Air*: SO_x, NO_x, VOC and other hazardous substances *Water*: COD/TOC, oil and other hazardous substances *Soil/Landscape*: Changes in land use by related infrastructure
Major storage facilities for petroleum, petrochemical and chemical products	*Human health and safety*: Increased risk of accidents *Water*: COD/TOC, AOX, oil and other hazardous substances
Deforestation of large areas	*Water*: Nutrients, heavy metals, suspended solids and COD/TOC *Soil/Landscape*: Erosion, desertification *Flora and fauna*: Change in habitats

Annex IV

SELECTED INTERNATIONAL INSTRUMENTS WHICH MAY PROVIDE GUIDANCE IN DETERMINING THE SIGNIFICANCE OF TRANSBOUNDARY IMPACTS OF AN ACTIVITY

Object of impact	*International instruments*
Human health and safety	—European Agreement concenring the International Carriage of Dangerous Goods by Road (ADR), 1957 —Agreements related to the use of nuclear energy —Convention on the Transboundary Effects of Industrial Accidents, 1992 —Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment, 1993 —EC directives, WHO recommendations
Flora and fauna	—Convention on Wetlands of International Importance Especially as Waterfowl Habitat, 1971 —Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and Belts, 1973 —Convention on the Conservation of European Wildlife and Natural Habitats, 1979 —Convention on the Conservation of Migratory Species of Wild Animals, 1979 —United Nations Convention on the Law of the Sea, 1982 —Convention on Biological Diversity, 1992 —EC directives
Air	—Convention on Long-range Transboundary Air Pollution, 1979 —Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent, 1985 —Protocol to the 1979 Convention on Long-range Transboundary Air Pollution concerning the Control of Emissions of Nitrogen Oxides or their Transboundary Fluxes, 1988 —Protocol to the 1979 Convention on Long-range Transboundary Air Pollution concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes, 1991 —Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Further Reduction of Sulphur Emissions, 1994 —EC directives, WHO recommendations
Water	—Convention on the Protection and Use of Transboundary Watercourses and International Lakes, 1992 —Transboundary water agreements such as the Rhine Action Programme, 1987 —International Convention on Civil Liability for Oil Pollution Damage, 1969 —International Convention relating to Intervention on the High Seas in Case of Oil Pollution Casualties, 1969 —Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 —Convention on the Prevention of Marine Pollution from Land-based Sources, 1974

	—Convention for the Protection of the Mediterranean Sea against Pollution, 1976 (and related protocols) —United Nations Convention on the Law of the Sea, 1982 —Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1974, 1992
Climate	—Convention for the Protection of the Ozone Layer, 1985, and Protocol on Substances that Deplete the Ozone Layer, 1987 —Framework Convention on Climate Change, 1992
Landscape and historic monuments or other physical structures	—Convention on the Protection of the Architectural Heritage of Europe, 1985
Cultural heritage and socio-economic conditions	—Convention Concerning the Protection of World Cultural and Natural Heritage, 1972 —Stockholm Declaration on the Human Environment, 1972 —Rio Declaration on Environment and Development, 1992

Annex V

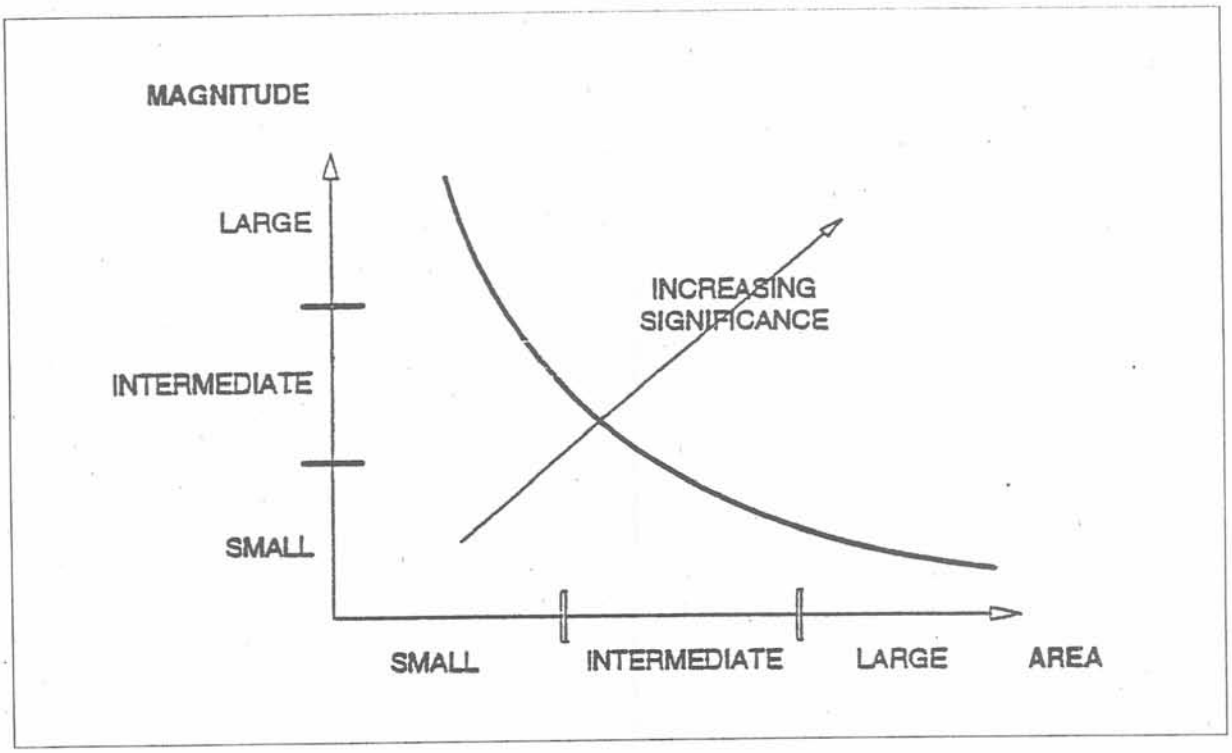
FRAMEWORK FOR CONSIDERING THE SIGNIFICANCE OF A TRANSBOUNDARY IMPACT

Dimension of impact	*Relevant considerations*
Geographical area	What is the extent of the area of a likely impact under the jurisdiction of another country?
Environmental importance	Are particular environmental values (e.g. protected areas) likely to be affected?
Magnitude	What will be the likely magnitude of the change in relevant variables relative to the status quo, taking into account the sensitivity of the variable?
Probability	What is the degree of probability of the impact? Is the impact likely to occur as a consequence of normal conditions or exceptional situations, such as accidents?
Duration	Is the impact likely to be temporary, short-term or long-term? Is the impact likely to relate to the construction, operation or decommissioning phase of the activity?
Frequency	What is likely to be the temporal pattern of the impact?
Reversibility	Is the impact likely to be reversible or irreversible?

Annex VI

A CONCEPTUAL TOOL FOR DETERMINING THE SIGNIFICANCE OF A TRANSBOUNDARY IMPACT

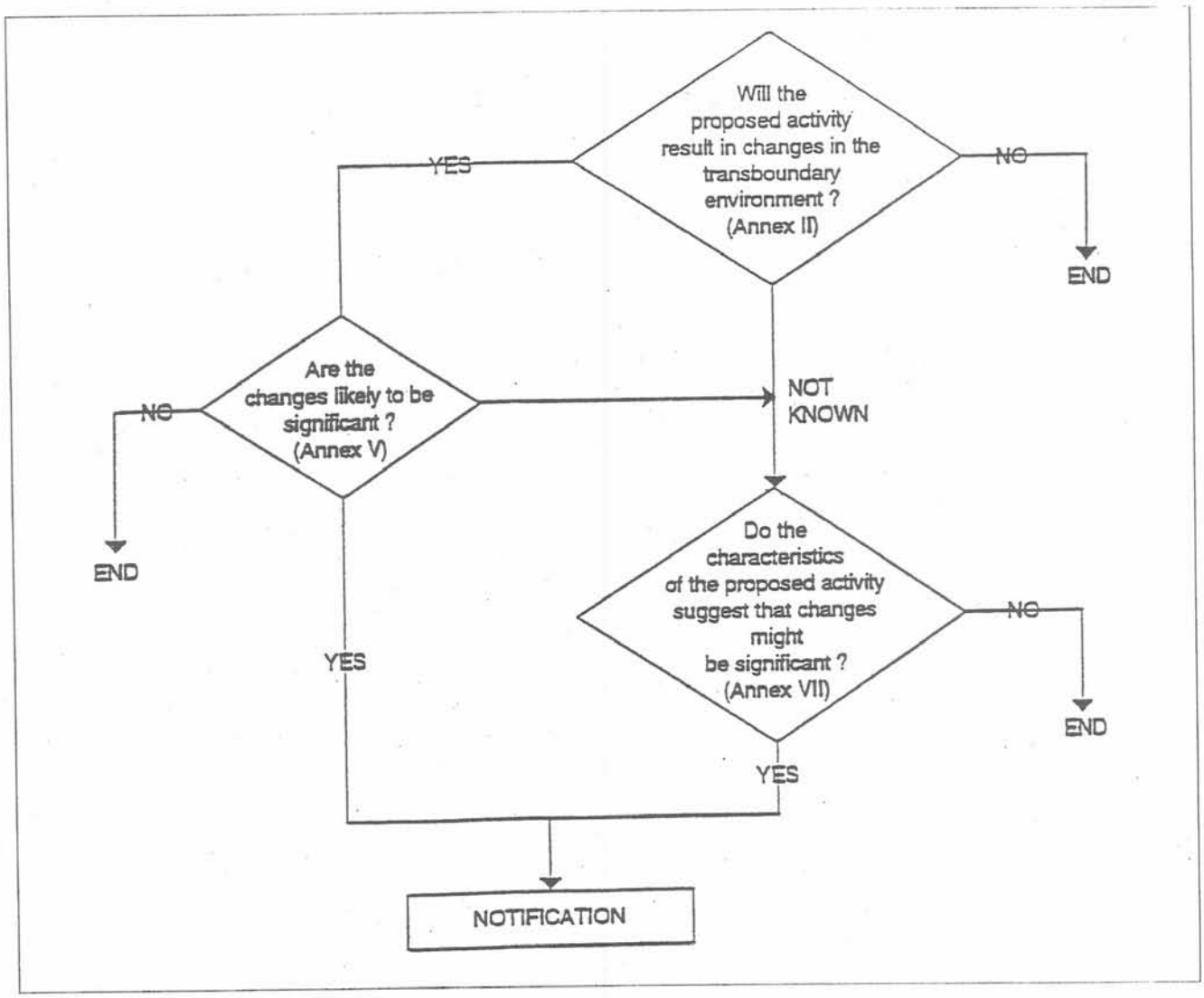
(Additional information from Annex V will have to be taken into account)



Annex VII

CHARACTERIZATION OF THE CONTEXT OF A PROPOSED ACTIVITY

Criteria	*Relevant questions*
Location	Will the proposed activity be situated close to an international frontier?
	Will transboundary watercourses, international lakes, coastlines, sea areas or prevailing winds increase the probability of an adverse transboundary impact?
	Will the proposed activity be situated close to sensitive areas such as centres of population, protected areas or habitats important for threatened or migratory species?
Size, extent and nature	Is the proposed activity a new activity or a major change to an existing one?
	Will the proposed activity involve major use of energy or other natural resources?
	Will the proposed activity be characterized by high levels of production?
	Will the proposed activity involve large physical structures?
	Will the proposed activity involve the application of new processes for which empirical knowledge of impacts is lacking?
	Will the proposed activity involve emissions of pollutants which can be transmitted across boundaries?
Policy context	Can the proposed activity conflict with known human health, safety and/or environmental plans, programmes or policies of the possibly affected country?
	Is the proposed activity subject to particular environmental scrutiny according to any bilateral or multilateral agreements?
	Can the proposed activity lead to a commitment to future development whose transboundary environmental consequences are not properly known?

Annex VIII

FLOW CHART FOR THE DETERMINATION OF THE LIKELY SIGNIFICANT ADVERSE TRANSBOUNDARY IMPACT FOR THE PURPOSE OF NOTIFICATION