

The UNECE Convention on Environmental Impact Assessment (EIA) in a Transboundary Context

An Introduction



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Introduction – the Convention

- ✦ The Convention on Environmental Impact Assessment (EIA) in a Transboundary Context stipulates the obligations of Parties to assess the environmental impact of certain activities at an early stage of planning
- ✦ It also lays down the general obligation of States to notify and consult each other on all major projects under consideration that are likely to have a significant adverse environmental impact across national boundaries
- ✦ The EIA Convention (or ‘Espoo Convention’) was adopted at Espoo (Finland) in 1991
- ✦ The Convention entered into force on 10 September 1997



Introduction – amendment & protocol

- ✦ An amendment to the Convention was adopted in 2001
 - It clarifies that the public that may participate in procedures under the Convention includes civil society and, in particular, nongovernmental organizations
 - It allows States situated outside the UN/ECE region to become Parties to the Convention
- ✦ A second amendment was adopted in 2004
 - Allows, as appropriate, affected Parties to participate in defining the scope of transboundary EIA
 - Provides for reviews of compliance
 - Revises the Appendix I (list of activities)
- ✦ The Convention has been supplemented by a Protocol on Strategic Environmental Assessment, adopted 21 May 2003, at Kiev (Ukraine) and subsequently signed by 36 States and the European Community

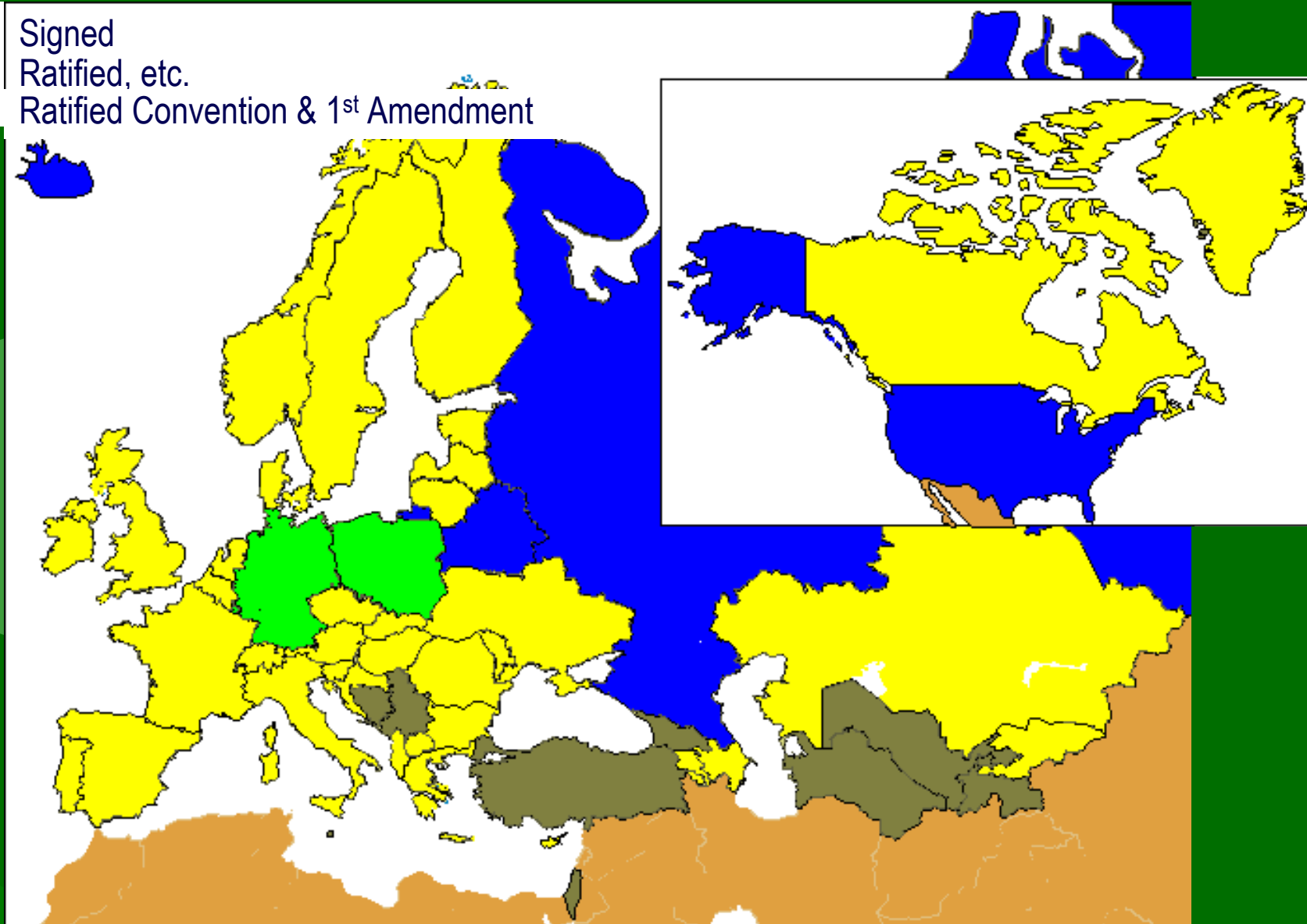


Introduction - history

- ✦ Seminar on Environmental Impact Assessment, Warsaw Poland, 1987
- ✦ Negotiations on the Convention 1988 – end 1990 (six meetings)
- ✦ 1991 signing of the Convention in Espoo (Finland)
- ✦ September 1997 – Entry into Force of the Convention
- ✦ May 1998 – 1st Meeting of the Parties, Oslo
- ✦ February 2001 – 2nd Meeting of the Parties, Sofia
- ✦ June 2004 – 3rd Meeting of the Parties, Cavtat (Croatia)
- ✦ Of 55 UNECE member states, currently 40 Parties (39 countries & the European Community) – see next slide

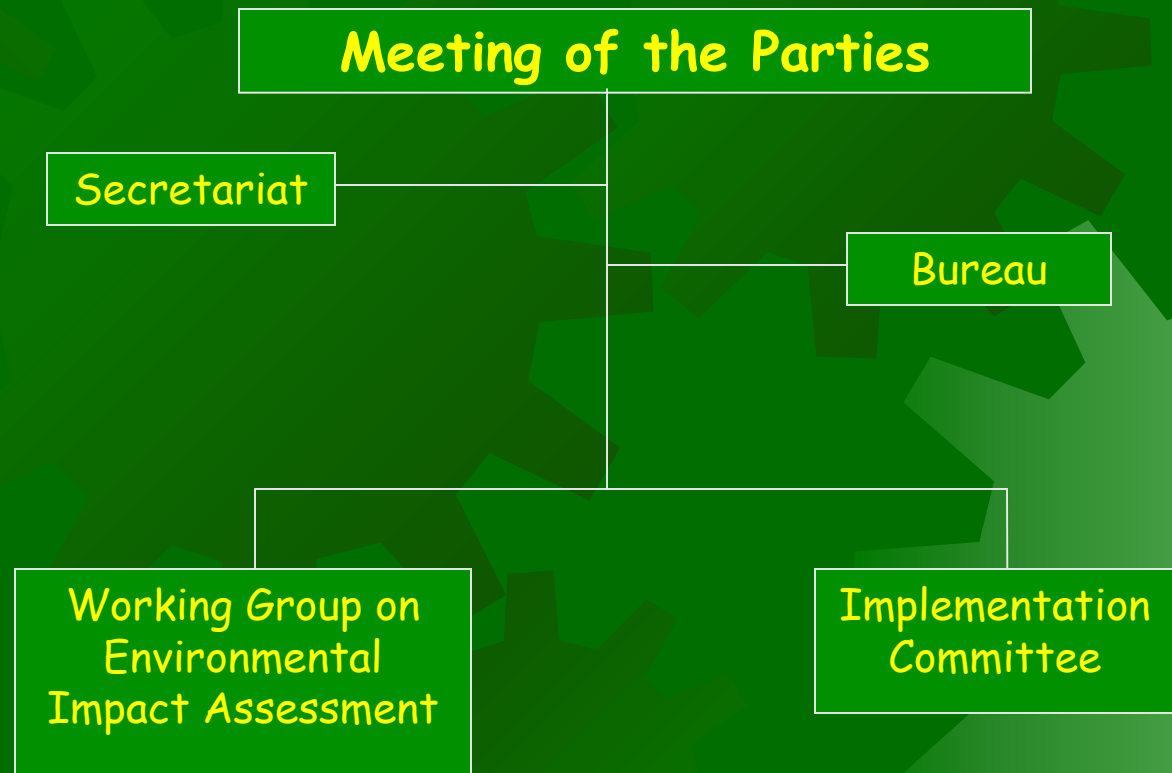


- Signed
- Ratified, etc.
- Ratified Convention & 1st Amendment



Introduction – organigram

The Convention is overseen by the Meeting of the Parties (MOP), which met in 1998, 2001 and 2004. The MOP is supported by its Bureau and by the Convention Secretariat. The MOP has established a Working Group on EIA and an Implementation Committee. (It also established an Ad hoc Working Group on the Protocol on Strategic Environmental Assessment but this has now completed its work.)



Introduction – further information

- ✦ Further information, including the text of the Convention, may be found at the Convention web site (<http://www.unece.org/env/eia>)



Provisions

- ✦ The following slides show:
 - ✦ The main procedural steps (2 slides)
 - ✦ A flow chart representation of these steps (2 slides)
 - ✦ The detailed provisions of the Convention for each of these steps (12 slides)

Main Procedural Steps (1/2)

Determine whether a project should be subject to the Convention's provisions

The Party of origin notifies the affected Party (or Parties)

The affected Party indicates whether it wishes to participate

The affected Party provides information on the potentially affected environment

The public in the affected Party is informed of the proposed project and may comment on or object to it

The EIA documentation is prepared

- ☀ Application of the Convention (Articles 2.2 & 2.5, Appendices I & III)
- ☀ Notification (Article 3.1)
- ☀ Confirmation of participation (Article 3.3)
- ☀ Transmittal of information (Article 3.6)
- ☀ Public participation (Article 3.8)
- ☀ Preparation of EIA documentation (Article 4, Appendix II)

Main Procedural Steps (2/2)

The Party of origin provides the EIA documentation to the affected Party, which then distributes it

The Party of origin and the affected Party consult on alternatives, mitigation measures, monitoring, mutual assistance and other matters

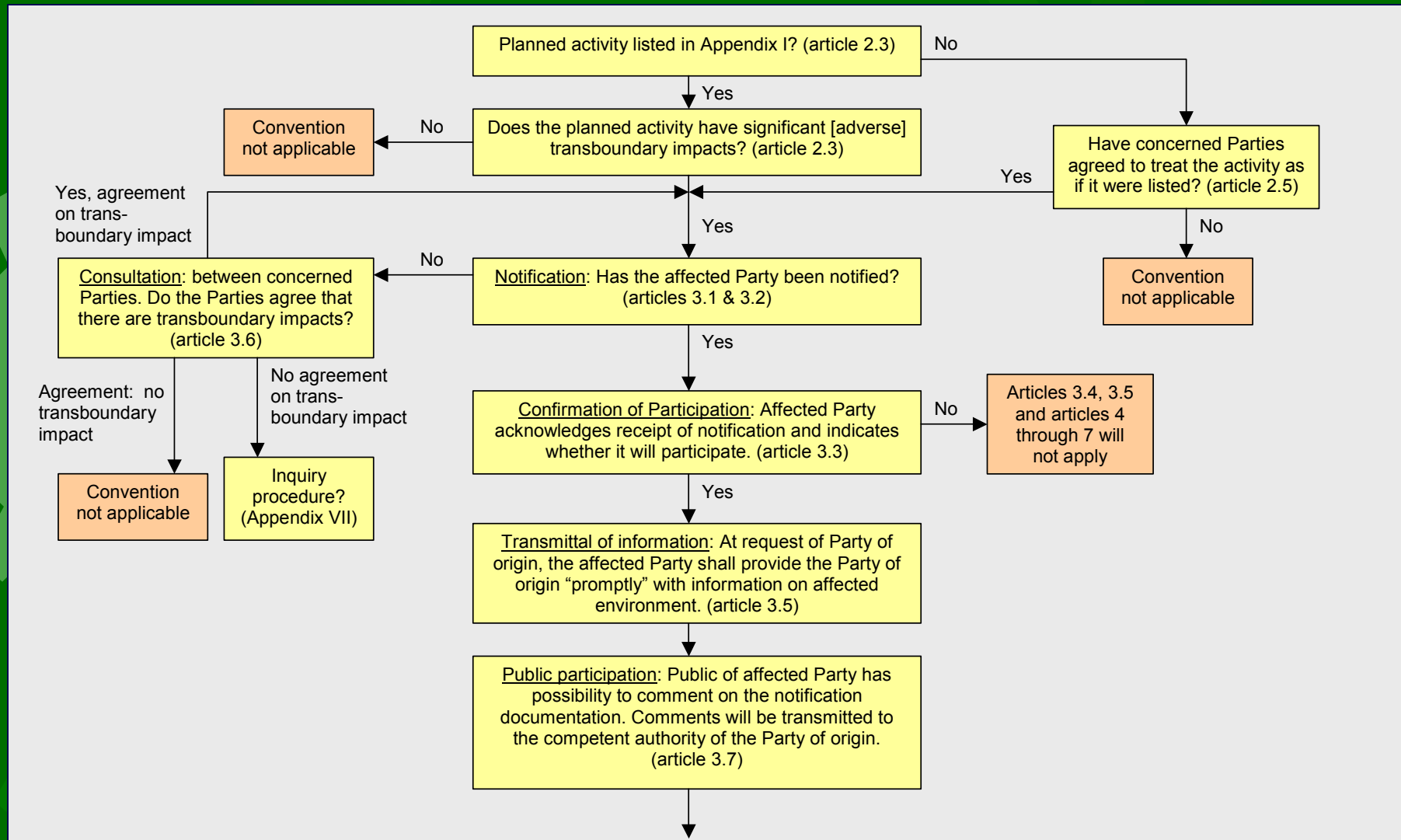
A decision is made on the project taking into account the outcome of the EIA documentation and comments received

That decision is provided to the affected Party, along with the reasons and considerations on which it was based

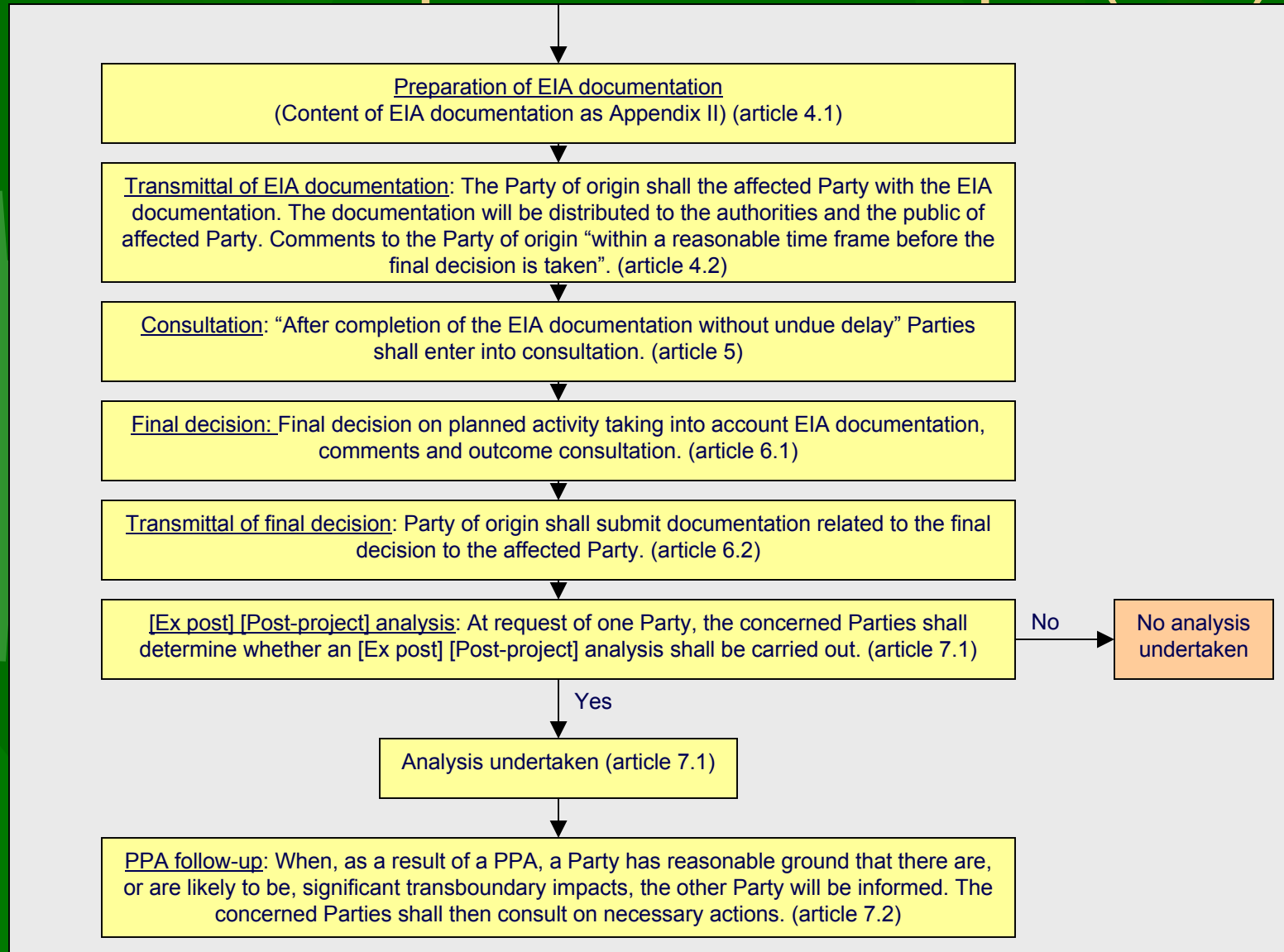
The Convention provides for post-project analysis, as necessary

- ★ Distribution of the EIA documentation for the purpose of participation of authorities and public of the affected country (Article 4.2)
- ★ Consultation between Parties (Article 5)
- ★ Final decision (Article 6.1)
- ★ Transmittal of final decision documentation (Article 6.2)
- ★ Post-project analysis (Article 7.1, Appendix V)

Flow Chart of procedural steps (1/2)



Flow Chart of procedural steps (2/2)



General Provisions (Article 2)

Each Party to the Convention has to establish an EIA procedure for the activities listed in the appendix (see next slide). The procedure has to allow for public participation as well as preparation of the EIA report.

- ✦ 2. Each Party shall take the necessary legal, administrative or other measures to implement the provisions of this Convention, including, with respect to proposed activities listed in Appendix I that are likely to cause significant adverse transboundary impact, the establishment of an EIA procedure that permits public participation and preparation of the EIA documentation described in Appendix II.

List of Activities (abbreviated) (Appendix I)

1. Crude oil refineries, installations for gasification & liquefaction of coal/shale
2. Large thermal power stations, nuclear power stations, other nuclear reactors
3. Installations for production/enrichment of nuclear fuels, reprocessing of irradiated nuclear fuels or storage, disposal, processing of radioactive waste
4. Major installations for smelting cast-iron, steel & production of non-ferrous metals
5. Installations for the extraction, processing & transformation of asbestos
6. Integrated chemical installations
7. Construction of motorways, express roads, long-distance railway lines, large airports
8. Large-diameter oil and gas pipelines
9. Trading ports, large inland waterways & ports for inland-waterway traffic
10. Installations for incineration/chemical treatment/landfill of toxic & dangerous wastes
11. Large dams and reservoirs
12. Major groundwater abstraction activities
13. Large-scale pulp and paper manufacturing
14. Major mining, on-site extraction & processing of metal ores/coal
15. Offshore hydrocarbon production
16. Major storage facilities for petroleum, petrochemical & chemical products
17. Deforestation of large areas



Notification (Article 3)

For such activities, the 'Party of origin' must inform any potentially 'affected Party' no later than it informs its own public.

1. For a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact, the Party of origin shall, for the purposes of ensuring adequate and effective consultations under Article 5, 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.

Confirmation of Participation (Art. 3)

The affected Party then indicates whether it wishes to participate in the EIA procedure for the activity.

3. The affected Party shall respond to the Party of origin within the time specified in the notification, acknowledging receipt of the notification, and shall indicate whether it intends to participate in the EIA procedure.

Transmittal of Information (Art. 3)

The affected Party then has to provide the Party of origin with relevant information on the potentially affected environment within its territory so that the EIA can take it fully into account.

6. 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, where such information is necessary for the preparation of the EIA documentation. The information shall be furnished promptly and, as appropriate, through a joint body where one exists.



Public Participation (Art. 3)

The two Parties then have to make sure that the public in the affected Party have the opportunity to comment on the proposed activity and that these comments reach the competent authority in the Party of origin.

8. The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be 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, either directly to this authority or, where appropriate, through the Party of origin.

Content of the EIA documentation (abbreviated) (Appendix II, to Art. 4)

Information to be included in the EIA documentation shall, as a minimum, contain, in accordance with Article 4:

- (a) A description of the proposed activity and its purpose;
- (b) A description, where appropriate, of reasonable alternatives to the proposed activity and also the no-action alternative;
- (c) A description of the environment likely to be significantly affected by the proposed activity and its alternatives;
- (d) A description of the potential environmental impact of the proposed activity and its alternatives and an estimation of its significance;
- (e) A description of mitigation measures to keep adverse environmental impact to a minimum;
- (f) An explicit indication of predictive methods and underlying assumptions as well as the relevant environmental data used;
- (g) An identification of gaps in knowledge and uncertainties encountered in compiling the required information;
- (h) Where appropriate, an outline for monitoring and management programmes and any plans for post-project analysis; and
- (i) A non-technical summary including a visual presentation as appropriate (maps, graphs, etc.).

Distribution of EIA documentation

(Article 4)

The Party of origin has to provide EIA documentation to the affected Party. The Parties then arrange distribution of the documentation to the public and authorities of the affected Party.

2. The Party of origin shall furnish the affected Party, as appropriate through a joint body where one exists, with the EIA documentation. The concerned Parties shall arrange for distribution of the 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, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity.



Consultation between Parties (Art. 5)

The Party of origin shall, after completion of the EIA documentation, without undue delay enter into consultations with the affected Party concerning, inter alia, the potential transboundary impact of the proposed activity and measures to reduce or eliminate its impact. Consultations may relate to:

- a) Possible alternatives to the proposed activity, including the no-action alternative and possible measures to mitigate significant adverse transboundary impact and to monitor the effects of such measures at the expense of the Party of origin;
- b) Other forms of possible mutual assistance in reducing any significant adverse transboundary impact of the proposed activity; and
- c) Any other appropriate matters relating to the proposed activity.

The Parties shall agree, at the commencement of such consultations, on a reasonable time-frame for the duration of the consultation period. Any such consultations may be conducted through an appropriate joint body, where one exists.

The two Parties work together to minimise or eliminate any adverse environmental impact. They examine alternatives and develop mitigation (and monitoring) measures.

Final Decision (Article 6)

The final decision on the proposed activity has to take account of comments received and the results of the consultations.

1. The Parties shall ensure that, in the final decision on the proposed activity, due account is taken of the outcome of the EIA, including the EIA documentation, as well as the comments thereon received pursuant to Article 3, paragraph 8 and Article 4, paragraph 2, and the outcome of the consultations as referred to in Article 5.

Transmittal of final decision (Art. 6)

The Party of origin then informs the affected Party of its decision, and how and why it was made.

2. The Party of origin shall provide to the affected Party the final decision on the proposed activity along with the reasons and considerations on which it was based.

Post-project Analysis (Appendix V, to Article 7)

The Convention also provides for a 'post-project analysis', if required by the Parties. The possible objectives of such an analysis are presented here. For additional procedural information, refer to Article 7 of the Convention.

Objectives include:

- (a) Monitoring compliance with the conditions as set out in the authorization or approval of the activity and the effectiveness of mitigation measures;
- (b) Review of an impact for proper management and in order to cope with uncertainties;
- (c) Verification of past predictions in order to transfer experience to future activities of the same type.

Work Plan for Implementation of the Convention

1. Compliance with and implementation of the Convention
2. Exchange of best practice
3. Subregional cooperation to strengthen contacts between the Parties
4. Capacity-building in Eastern Europe, the Caucasus and Central Asia (EECCA)
5. Examination of substantive relationship between the Convention and Protocol
6. SEA capacity-building needs analysis in EECCA
7. Production of a capacity development manual, and training, to support implementation of the SEA Protocol
8. Institutional and procedural activities

This final slide summarizes the on-going activities to support effective implementation of the Convention. (The 2004-2007 Work Plan was Decision III/9 of the 3rd Meeting of the Parties to the Convention.)

Convention on EIA in a Transboundary Context

- ★ EIA Convention Secretariat
UN Economic Commission for Europe

- ★ <http://www.unece.org/env/eia>

