

Espoo Convention on Environmental Impact Assessment in a Transboundary Context

National seminar

On the way to the International Year of Water Cooperation:
the role of international law, including UNECE Water Convention, in
strengthening cooperation on water resources management

Dushanbe, 14-15 March 2011

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www.unece.org/env/eia



- Introduction
- Procedure
- Practical application
 - Water projects
- Benefits
- Technical assistance



Introduction

- Convention on Environmental Impact Assessment (EIA) in a Transboundary Context
- Negotiated in late 1980s under United Nations Economic Commission for Europe (UNECE)
- Adopted and signed in Espoo (Finland) in 1991
- Came into force in 1997, with 16 Parties
- Now has 45 Parties

UNECE



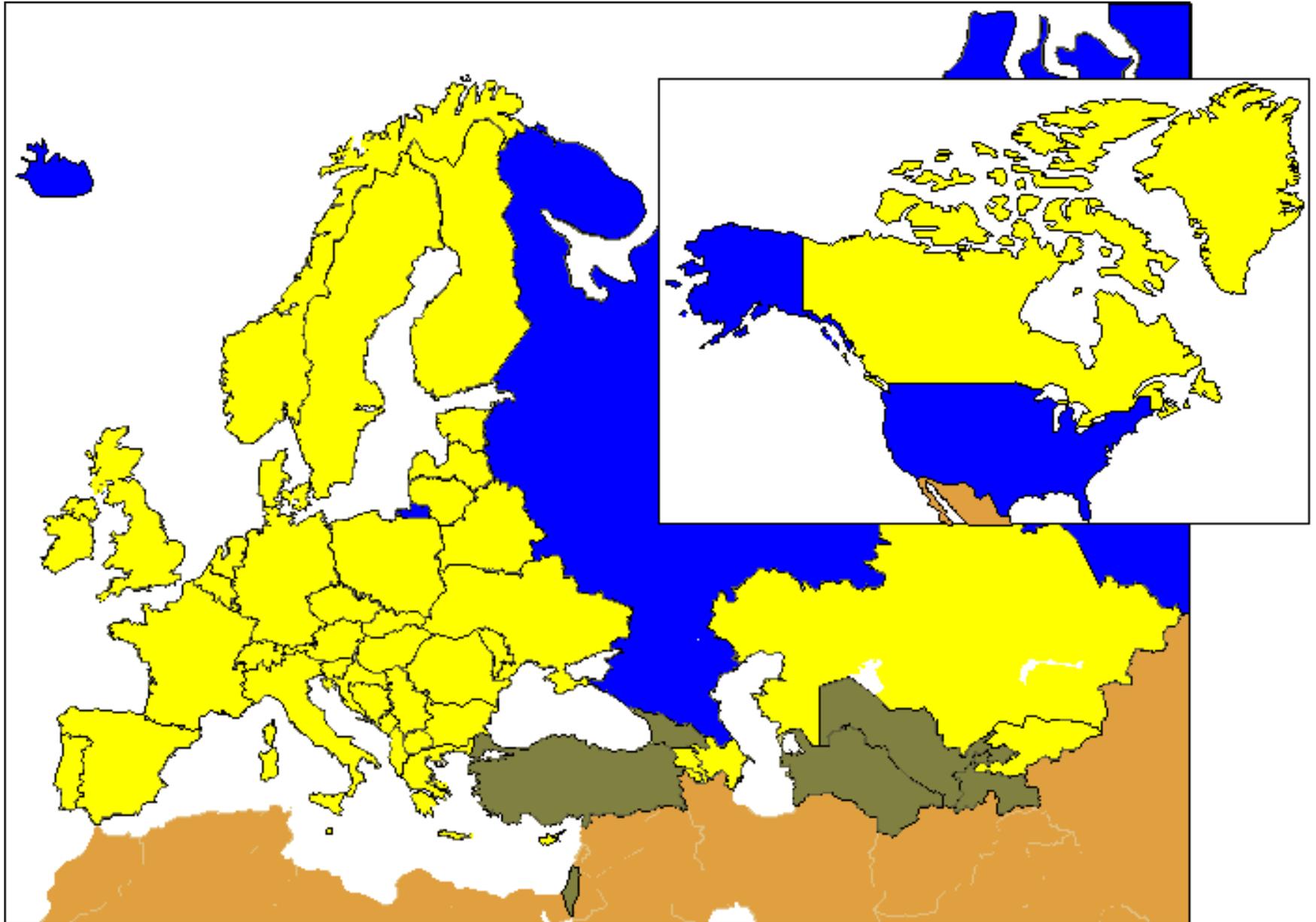
Parties



Signatories

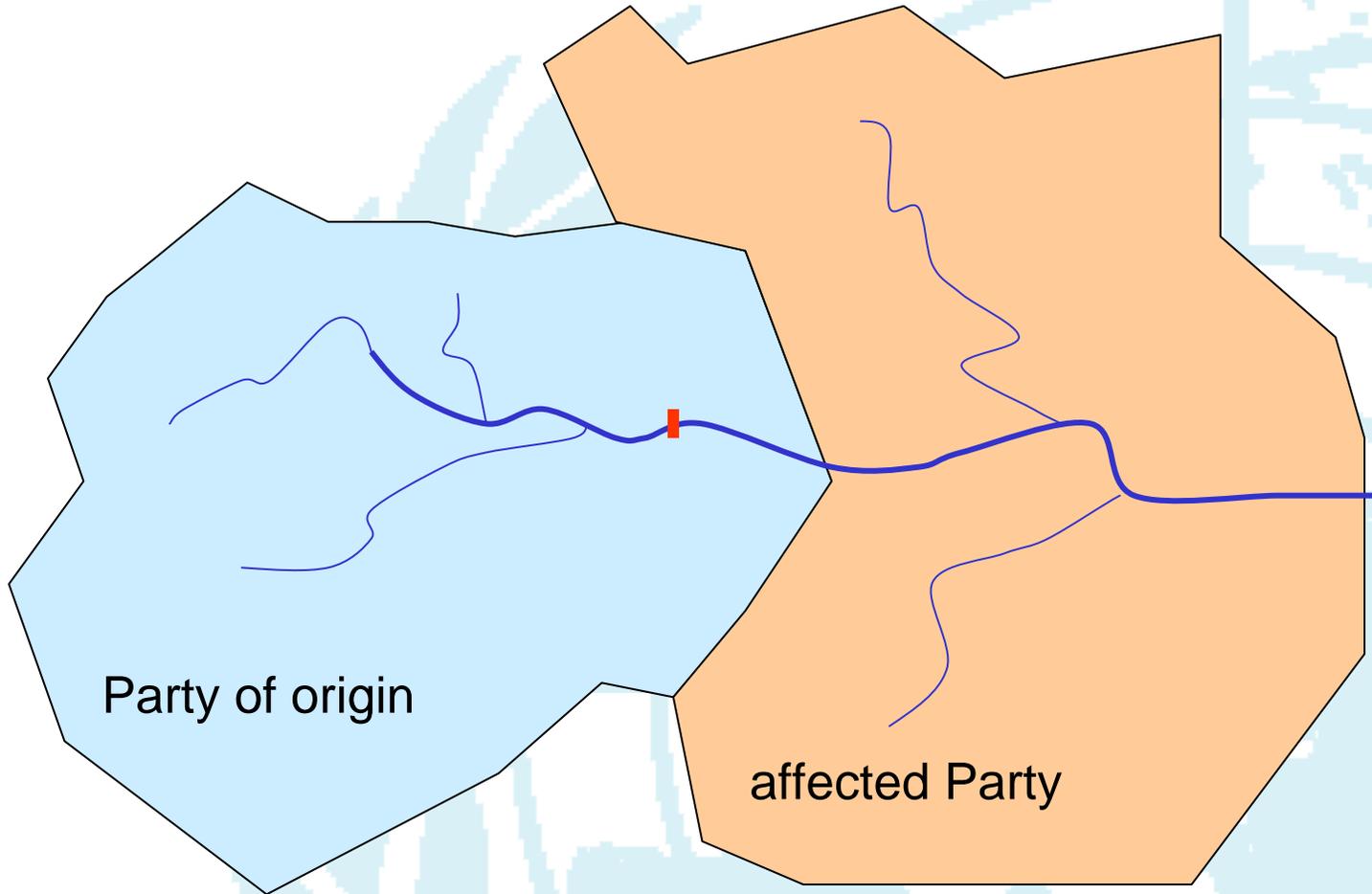


other UNECE



State	UNECE	Espoo
Afghanistan	No	X
China	No	X
Kyrgyzstan	Yes	Party
Tajikistan	Yes	-
Uzbekistan	Yes	-

Convention amended to open it to all Member States of the United Nations – amendment will perhaps come into force within 3 to 4 years



Procedure: as Party of origin (simplified)

PART 1: Notification

- Identification of planned activity likely with transboundary impact
- Send notification to affected Party on planned activity, asking for response by a certain date
- Await response from affected Party, perhaps with comments on and objections to planned activity
- Discuss with affected Party practical issues (e.g. time for steps)

Procedure: as Party of origin (simplified)

PART 2: Transboundary EIA

- Receive EIA documentation from developer/proponent
- Send EIA documentation to affected Party
- Await comments from affected Party on EIA documentation
- Perhaps assist in public hearing in affected Party (or developer)
- Hold bilateral consultations with affected Party
- Make final decision, taking into due account comments received and results of EIA and bilateral consultations
- Send final decision to affected Party
- Consider post-project analysis

Procedure: as affected Party (simplified)

PART 1: Notification

- Receive notification from Party of origin on planned activity
- Inform own authorities and public
- Decide whether participate in procedure
- Respond
 - Will / will not participate
 - Provide comments on and objections to planned activity
 - Additional information requested by Party of origin

Procedure: as affected Party (simplified)

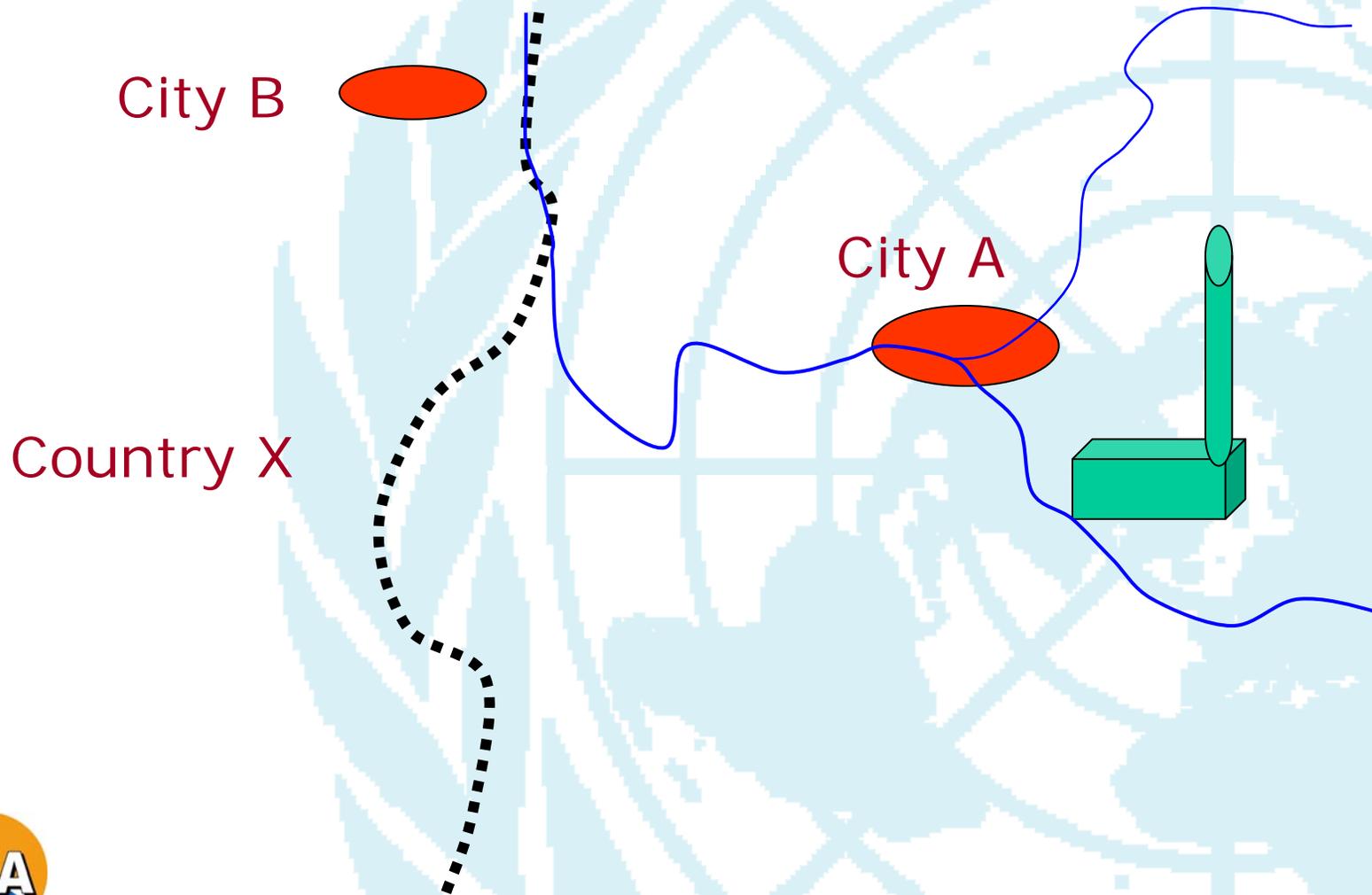
PART 2: Transboundary EIA

- Receive EIA documentation
- Distribute to own authorities and public
- Arrange for comments on EIA documentation
 - Sent directly to Party of origin, or through own competent authority
 - Possible public hearing
- Take part in bilateral consultations with Party of origin
- Receive final decision
- Possibly propose post-project analysis

Issues

- Convention applies to proposed activities (listed), **not on-going activities**
 - But it does apply to major changes to existing activities, including sometimes extension of an operating permit
- Decision on whether to allow a proposed activity is taken by the authorities in the Party of origin – the country where the proposed activity is to be implemented – **taking into due account:**
 - Comments received (authorities & public of affected Party)
 - Bilateral consultations
 - Environmental impact assessment

Taking into account ...



Practical application

- Over 700 cases to date
- Common examples
 - Power plants: nuclear, coal, hydropower, gas, wind
 - Cross-border infrastructure: road, rail, power lines, pipelines
 - Mining, major quarries & on-site processing



Practical cases: transboundary waters

- Water sector examples include
 - Hydroelectric power stations
 - Navigation channels
 - Inland ports
- Many other sectors indirectly affecting transboundary waters
 - Mining (e.g. Kyrgyzstan-Kazakhstan)



Practical application

Neman hydroelectric power plant, Belarus

- Pilot project implemented by Ministry of Natural Resources & Environmental Protection of Belarus, with support of UNDP
- Planned hydroelectric power plant on Neman River, 11 km from border with Lithuania
 - Developer: Belarusian State enterprise Grodnoenergo
 - EIA report prepared by Central Research Institute for Complex Use of Water Resources
 - Originally planned to involve authorities and public of Lithuania and Russian Federation

Practical application

Neman hydroelectric power plant, Belarus

- Informal consultations on 22-23 June 2009 in Minsk, involving Belarus, Lithuania and Russian Federation (plus secretariat)
- Notification letter sent by Ministry of Natural Resources & Environmental Protection of Belarus to Lithuania's Ministry of Environment on 9 June 2009 and on 1 July 2009 (latter included deadline for submitting response), including first draft EIA report (in English & Russian)
- Notification also sent to Russian Federation on 1 July 2009
- Lithuania replied positively to notification. No reply from Russian Federation
- Draft EIA report available on website of Ministry of Environment of Lithuania

Practical application

Neman hydroelectric power plant, Belarus

- Lithuania comments on the draft EIA report sent on 7 August 2009 (in English)
- Lithuania comments sent to all interested institutions in Belarus on 17 August 2009
- Ministry of Natural Resources and Environmental Protection of Belarus replied to Lithuania comments on 21 September 2009 and submitted also amended EIA report
- On 25 September 2009 public hearing was held in Lithuania
 - representatives of Lithuanian higher education institutions, NGOs, civil engineering companies, state and municipal authorities
 - representatives of Belarusian State enterprise Grodnoenergo, Central Research Institute for Complex Use of Water Resources of Belarus and Ministry of Natural Resources and Environmental Protection

Practical application

Neman hydroelectric power plant, Belarus

- Public comments on draft EIA report collected until October 9 2009; report in Lithuanian available on website of Ministry of Environment of Lithuania
- On 24 February 2010 at Grodno (Belarus) bilateral (Governmental) consultations held with Lithuania on results of public hearing
 - Resolution signed, including consultation results
- National public hearing at Grodno (Belarus) on 10 March 2010
- Positive conclusion of State ecological expertise issued on 6 July 2010
- Final decision according to Convention presented to Lithuania on 5 November 2010
 - Decision on approval of justification of construction investment

Practical application

Neman hydroelectric power plant, Belarus

- Subregional workshop in Minsk on 5 November 2010
 - Latvia, Lithuania, Republic of Moldova and Ukraine
 - Presentation of results of evaluation of pilot EIA project
 - Presentation of draft national manual on implementation of Convention
- Subregional conference in Minsk on 3 December 2010
 - Belarus, Lithuania, Latvia, Poland, Republic of Moldova, Russian Federation and Ukraine
 - Dissemination of project results
- Draft bilateral agreements for implementation of Convention:
 - between Belarus and Lithuania at finalization stage
 - between Belarus and Poland at draft stage
 - between Belarus and Ukraine at early stage

Benefits: cooperation & sovereignty

- Provides framework for discussing with neighbouring States certain planned developments
- Being a Party obliges other Parties to notify & consult you about planned developments on their territory that are likely to have a significant adverse impact on your country's environment
- Can enhance international cooperation, including awareness of importance of the environment, and so help to avoid conflict
- Sovereignty is retained: decision-making power remains in country where the development is planned
- Confidentiality is respected: protects information the supply of which would be prejudicial to industrial & commercial secrecy or national security

Benefits: better development

- Better development: project design can be improved, including
 - higher environmental standards
 - mitigation & compensatory measures to reduce environmental impact
 - measures to adapt to climate change
- Project alternatives can be identified
 - suggestions may come from public, assessment experts, developer, others
- Better environmental protection
 - key environmental issues of a project can be identified
 - awareness of environmental consequences of project implementation raised
 - environmentally sensitive areas can be avoided by selecting a new site
 - environmental impacts avoided or reduced by revising the project design

Benefits: better decision-making

- Better decision-making
 - decision-making can be better informed & more objective
 - **assessment can provide a better framework for preparing conditions & legal agreements to govern future project operation**

Technical assistance

- Technical advice
 - Comprises review of current legislation, legal drafting
 - Used for Armenia (2008-9), Azerbaijan (2011), Tajikistan (2010), Ukraine (2009-...)
- Pilot projects
 - Kyrgyzstan-Kazakhstan (mining)
 - Belarus-Lithuania (hydroelectric power)
- Subregional cooperation workshops
 - Exchanges of experiences
 - Dialogue
- Guidance documents



Future possibilities

- National seminar on potential for implementation of the Espoo Convention in Tajikistan, July 2010
 - Welcomed study on national legislation
 - Asked for more capacity-development, including 2-3 training workshop
 - Considered possibility of pilot project with Kyrgyzstan
- Future workplan under the Convention (2011–14, to be adopted in June 2011) – no mention of Tajikistan
- National focal point – not updated?

For more about the Espoo Convention

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