

Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991)

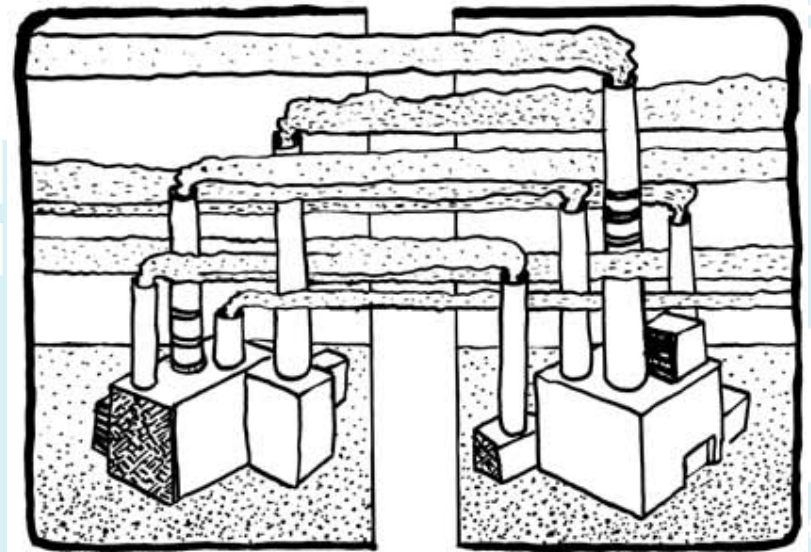
UNECE Secretariat

www.unece.org/env/eia

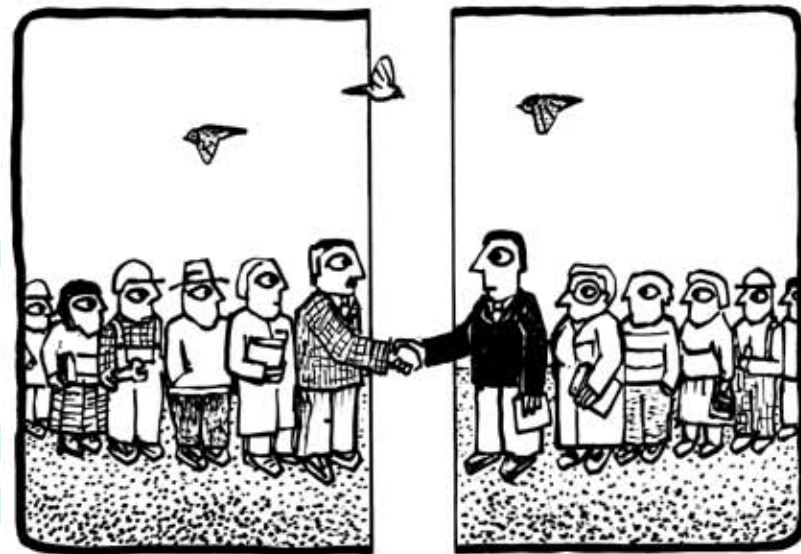
Geneva, 14 October 2008

Espoo Convention

- Espoo Convention and its status
- Transboundary environmental impact assessment (EIA)
- “Bystroe Canal Project”
- Other examples of application
- Possible future challenge in application



Espoo Convention

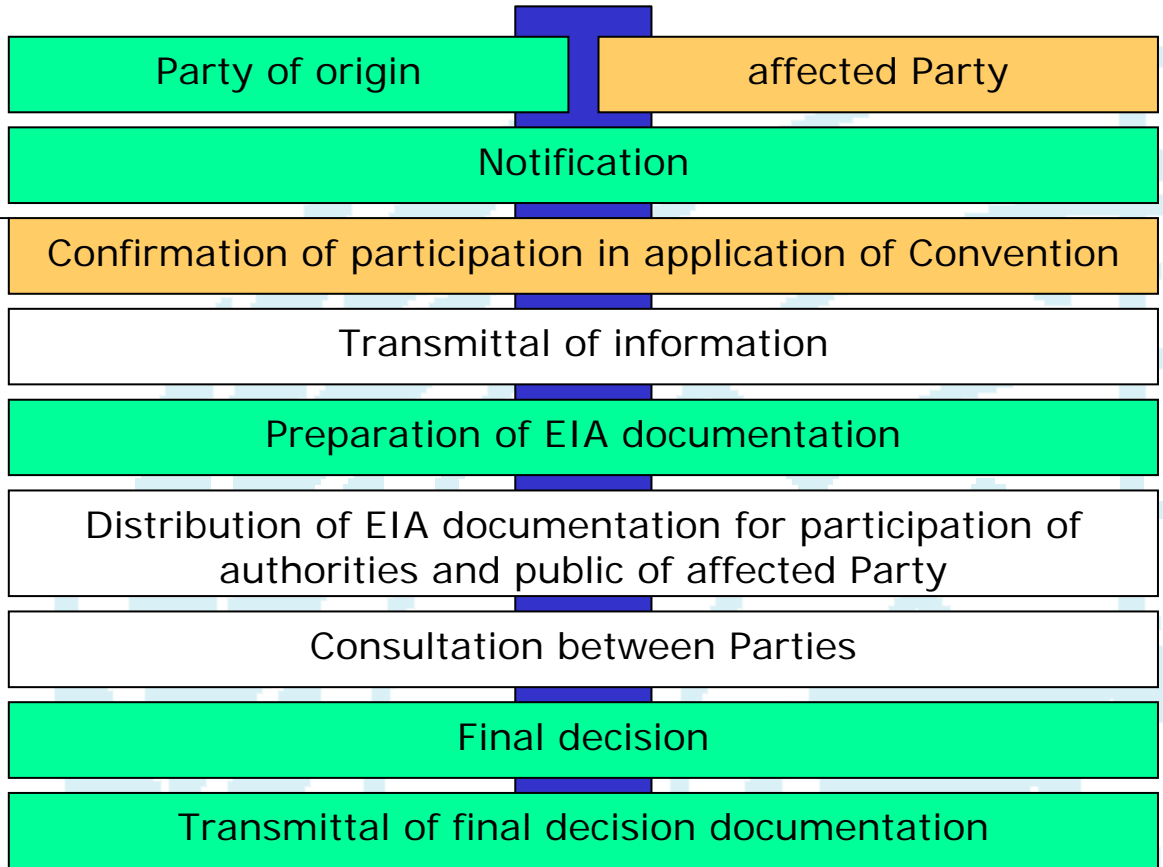


- Convention on Environmental Impact Assessment (EIA) in a Transboundary Context
- Negotiated under auspices of UNECE; UNECE provides Secretariat
- Adopted at Espoo (Finland) in 1991; entered into force in 1997
- Sets out obligations of Parties to
 - notify and consult each other on all major projects under consideration likely to have significant adverse environmental impact across boundaries
 - assess environmental impact of such activities at early stage of planning
- Now has 42 Parties, including European Community

Espoo Convention:

Scope

- Article 2: General Provisions
 - 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.
- Appendix I: List of Activities
 - 9. Trading ports and also inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes.



Application stops if the affected Party is not interested in participating

Public participation
(may include one or more rounds)

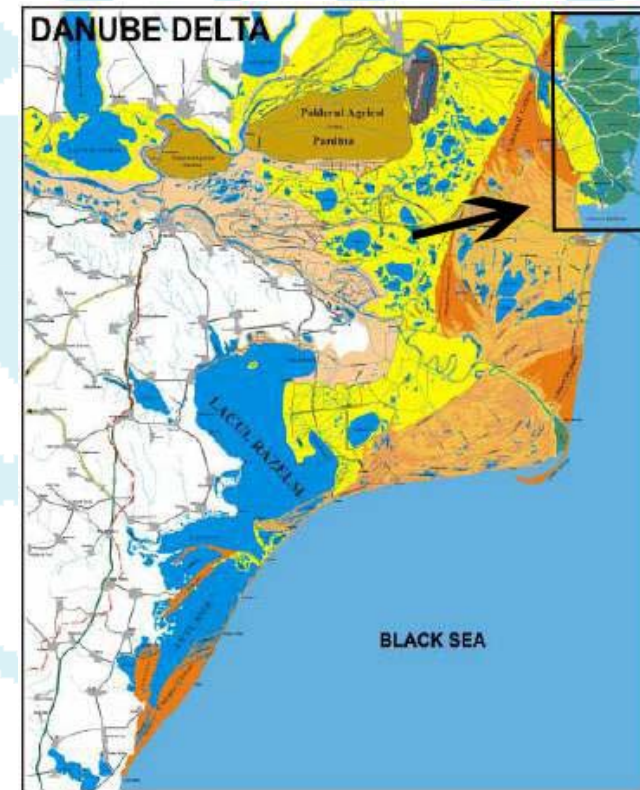
If Parties so decide

Post-project analysis

“Bystroe Canal Project”

Danube-Black Sea Deep-Water Navigation Channel in the Ukrainian Sector of the Danube Delta

- Phase I
 - Dredging; sea wall
 - Draughts up to 5.85 m?
 - 2002: authorization procedure begun
 - 2004: final decision taken; works begun
- Phase II
 - Dredging, especially rifts; extension of sea wall; strengthening banks
 - Draughts up to 7.20 m?
 - 2004: design begun
 - 2006: environmental authorization
 - 2007 (Dec.): final decision taken



“Bystroe Canal Project”

Processes under Espoo Convention

- Implementation Committee (2003-4)
- Inquiry Procedure (2004-6)
- Implementation Committee (2007-8)
- International Organizations (April 2008)
- Meeting of the Parties (May 2008)
- Ukraine’s response (May 2008 - ...)



“Bystroe Canal Project”

Implementation Committee (2003-4)

- NGO (EcoPravo Lviv) complaint to Implementation Committee
 - Sent August 2003
 - Rejected December 2003
- Romanian submission to Implementation Committee
 - Submission May 2004
 - Could not be considered because of inquiry procedure (November 2004)
- *Meanwhile*
 - Joint Mission of the Expert Team of the European Commission and International Conventions (October 2004)



“Bystroe Canal Project”

Inquiry Procedure (2004-6)

- Request by Romania for establishment of Inquiry Commission (August 2004)
 - Romania, Ukraine, independent Chair – scientific analysis
- Commission’s activities
 - 2 preparatory meetings (January – February 2005), pending provision of funds
 - 3 meetings and site visit (October 2005 – May 2006)
- Opinion delivered (July 2006)
 - Unanimous
 - 6 subjects have likely significant adverse transboundary impacts
 - Convention therefore applies

Further information at
<http://www.unece.org/env/eia/inquiry.htm>



“Bystroe Canal Project”

Significant adverse transboundary impacts

1. Impact of dredging or deepening of rifts on distribution of flow discharge ... and on water level dynamics ..., resulting in loss of floodplain habitats, important for fish and birds
2. Impact of habitat loss on birdlife and fish ... (on- and off-shore)
3. Impact on fish by increase of suspended sediment concentration
4. Impact on increase of turbidity of marine waters ...
5. Impact on fish of repeated maintenance dredging ...
6. Cumulative impact on fish and birdlife by loss and/or disturbance of habitats by traffic - large scale & long term

“Bystroe Canal Project”

Implementation Committee (2007-8)

- Romanian submission to Implementation Committee (January 2007)
- 4 Committee meetings, including 1 involving Romania and Ukraine (February 2007 – January 2008)
 - Findings and recommendations
- Information on December 2007 "Final Decision" on Phase II of Project (February 2008)
- Further consideration by Implementation Committee
 - Addendum to findings and recommendations



“Bystroe Canal Project”

International organizations meetings

- Informal (International) Consultation Meetings on the Bystroe Canal
 - September 2004
 - April 2008
- Participants in April 2008 meeting
 - Permanent Secretariat of International Commission for Protection of Danube River (ICPDR)
 - Council of Europe Secretariat of Bern Convention
 - Secretariat of Ramsar Convention, representing also Secretariat of Biodiversity Convention
 - UNEP (Regional Office for Europe)
 - UNESCO Man & Biosphere Programme + World Heritage Convention
 - UNECE secretariat of Espoo, Water and Aarhus Conventions

“Bystroe Canal Project”

International Organizations agreed

- to continue to coordinate their actions
- each to notify other organizations on outcomes of key events in following months (including meetings of Parties)
- to join, if possible & appropriate, a Bern Convention “on-the-spot appraisal visit” to Ukraine in July 2008
- to meet again within one year to exchange information and experiences on specific issues common to the agreements and also to review developments on the matter discussed at the meeting
- to invite European Commission to follow-up meeting, to be more focused on implementation of practical measures

“Bystroe Canal Project”

4th Meeting of Parties (May 2008)

Commitments by Ukraine

- Preparing notification on proposed Dniester Hydropower Station
- To carry out consultations with Republic of Moldova on Dzurdzulensky Oil Terminal Project and Dniester Hydropower Station
- Nominated new focal point in Ukraine for Convention
- Ready to reconsider final decision taken regarding Bystroe Canal Project and would repeal final decision on implementing Phase II
- Additional consultations could be arranged and carried out
- Ready to host independent expert for analysis of environmental legislation
- Again inviting secretariat and Implementation Committee for on-site visit
- Ready to sign bilateral agreements with Romania
- Would appreciate assistance of secretariat in submission of implementation strategy, as recommended by Implementation Committee

"Bystroe Canal Project"

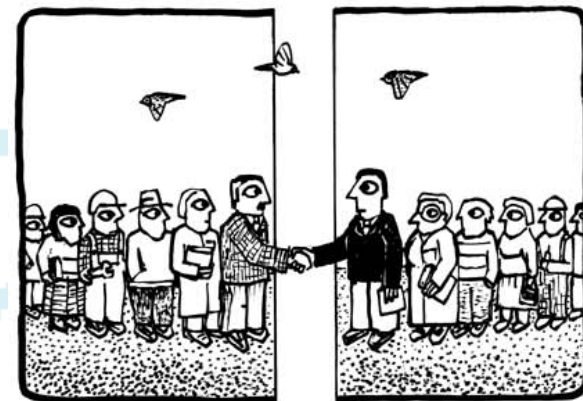
4th Meeting of Parties

Decisions taken

- *Endorses* the findings of the Implementation Committee that Ukraine has been in **non-compliance** with its obligations under the Convention, [and] *Decides* to issue a **declaration of non-compliance** ...
- *Takes note* of the commitment by the delegation of the Government of Ukraine ..., and *urges* the Government of **Ukraine** to repeal without delay the final decision of 28 December 2007, concerning the implementation of the [Bystroe Canal Project], and not to implement Phase II of the project before applying fully the provisions of the Convention to the project, taking into account the findings of the Implementation Committee, and to report to the Committee ...
- *Decides* to **issue a caution** to the Government of Ukraine to become effective on 31 October 2008 **unless** the Government of Ukraine stops the works, repeals the final decision and takes steps to comply with the relevant provisions of the Convention

“Bystroe Canal Project”

Ukraine’s response



- *Intergovernmental Coordination Council on the Implementation of the Espoo Convention in Ukraine*, headed by Deputy PM
- Repeal of Final Decision on Phase II on 11 August 2008
- “Notification” of Romania on Phase II on 29 August 2008
- Report to Implementation Committee on 6 October 2008

- Consultation with neighbouring states?
 - Discussions with Republic of Moldova on proposed activities in both Republic of Moldova and Ukraine (23 May 2008)
- Notification of neighbouring states?
 - Indication that will notify Republic of Moldova regarding Dniester Hydropower Station (due by 1 July 2008?)

“Bystroe Canal Project”

Follow-up

- Implementation Committee meets end of October 2008 to consider information to be provided by Ukraine
- Committee will decide whether a caution is to be issued on 31 October 2008
- Committee will also nominate consultant:
 - to support Ukraine in undertaking independent review of legal, administrative and other measures to implement the Convention’s provisions
 - European Commission also wishes to support this work

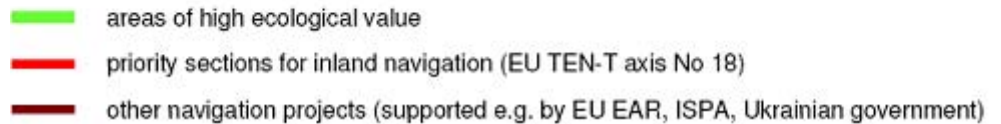
Other examples of application of Espoo Convention to inland waterways



- Belgium & the Netherlands: Diversion of the riverbed of River Maas, Maasmechelen en Maaseik
- Germany & Poland: Inland waterway Schwedt-Szczecin (part of national priority project Berlin-Schwedt-Szczecin inland waterway)
- Czech Republic & Slovakia: Extension of the Otrokovice-Rohatec (Bat'a) Canal
- Romania & Ukraine: Navigation on Danube River, Calarashi-Braila



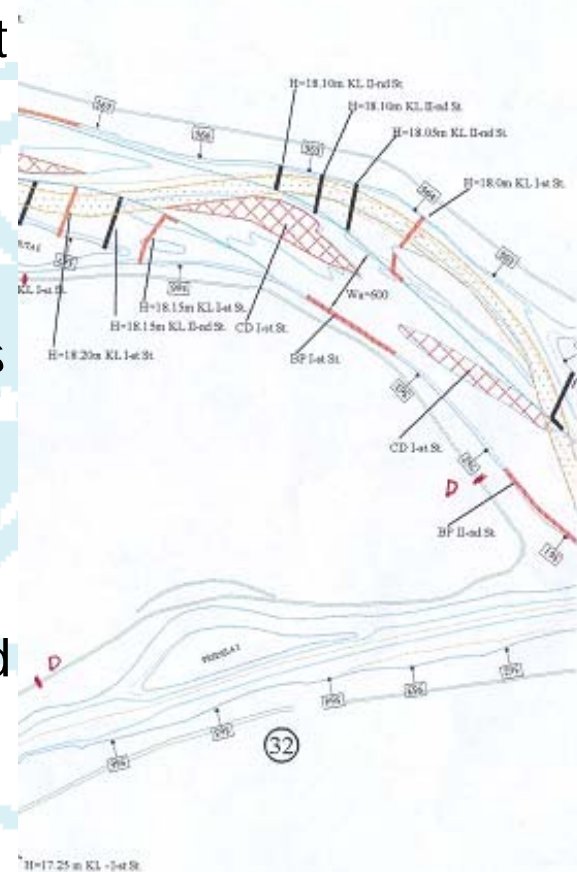
An example of possible future challenges



- Improvement of navigation on Danube River
- *Key issues on the implementation of TEN-T priority projects: Background & Questions for discussion, at the Informal Transport Council of 6 May 2008*
 - “Each new infrastructure programme has to undergo a strategic environmental assessment”
 - “Each project has to be assessed on an individual basis”

In practice ...

- Example: Romanian/Bulgarian project "Improving the Navigation Conditions in the Romanian-Bulgarian Common Danube River Sector" (Belene & Bathin sections)
- ICPDR Secretariat has expressed concerns that **timetable too tight** for EIA of project, including meaningful consultations & public participation
- "It is WWF's position that the precautionary principle must be applied, and no new projects for inland navigation on the Danube River be initiated until a **basin-wide strategic environmental assessment** be carried out. This ensures that no further or new negative ecological impacts occur. All potential local and basin-wide impacts must be assessed prior to project implementation."
- No notification to date under Espoo



Contacts

- For more about the Espoo Convention, visit our website: www.unece.org/env/eia
- Or email: eia.conv@unece.org

