

Ukrainian Report
on issues raised in paragraph 24 of the Resolution V/4 adopted at the Fifth
Meeting of the Parties of the Espoo Convention,
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1. Report on the Action Plan Implementation (Strategy) with regard to paragraphs 11-22 of the Resolution IV/2 of the Meeting of the Parties of the Convention on Environmental Impact Assessment in a Transboundary Context approved by the Decree of the Cabinet of Ministers of Ukraine No. 9-p dated 06.01.2010

1. By Sub-paragraph 1 Paragraph 1 of the Action Plan Implementation (Strategy) with regard to paragraphs 11-12 of the Resolution IV/2 of the Meeting of the Parties of the Convention on Environmental Impact Assessment in a Transboundary Context approved by the Decree of the Cabinet of Ministers of Ukraine No. 9-p dated 06.01.2010 (hereinafter referred to as – the “Strategy”) provides for the development and submission to the Cabinet of Ministers of Ukraine the draft Law of Ukraine “On Amendments to Some Laws of Ukraine to Implement the Convention on the Assessment of the Environmental Impact in a Transboundary Context”.

On October 4, 2016 at the session of Parliament of Ukraine the draft laws "On Environmental Impact Assessment" and "On a strategic environmental assessment" have been adopted. A draft law "On Environmental Impact Assessment" implements the requirements of the Espoo Convention.

Despite the fact that the draft laws was vetoed by the President of Ukraine, proposals suggested by the President were considered by the relevant committee of the Parliament. Currently the relevant Committee of the Parliament proposed to the Parliament to send the draft law for additional second reading.

It is also necessary to note the active bilateral Ukrainian-Romanian dialogue in the field of the Espoo Convention implementation. A draft agreement pursuant to Article 8 of the Espoo Convention has been recently received by Ukraine from the Romanian side. A draft Agreement is in the process of internal inter-ministerial consultations.

2. Report on measures taken to ensure implementation of the Espoo Convention during implementation of the Project “Creation of Deep-Water Navigable Route of Danube and Black Sea”

2.1. Measures taken to ensure implementation of the Espoo Convention during implementation of the Project “Creation of Deep-Water Navigable Route of Danube River and Black Sea”

Paragraph 30 of the Resolution V/4 *encourages* the governments of Romania and Ukraine to accelerate negotiations to cooperate in preparation of bilateral agreement or other measures in order to support the provisions of the Conference as described in Article 8 of the Convention, in addition to paragraph 14 of the Resolution IV/2 and invites them to consider expansion of operation under the Convention on protection of Danube Delta and to develop provisions on management and monitoring.

Detailed information on specific measures to bring the project "Creating a deep water navigable route Danube River - Black Sea on the Ukrainian part of the delta" was provided by letters of Ministry of Ecology and Natural Resources of Ukraine dated 01.03.2016 № 5/1-13/1954-16, and dated 02.07.2016 № 5/25-13/6270-16 to the Implementation Committee of Espoo Convention, in accordance with the provisions of the Espoo Convention, especially regarding the measures in accordance with paragraph 19 of decision V/4 of the Conference of the Parties to the Espoo Convention.

In addition, during the 35th regular session of the Implementation Committee of the Espoo Convention held on 16 March 2016 in Geneva, Switzerland, Ukrainian delegation provided the necessary additional explanation. Mentioned above is stated in the Report of Implementation Committee (paragraph 12, “Report of the Committee on work of 35th regular session” ECE/MP.EIA/IC/2016/2, posted on official web-page of the Espoo Convention http://www.unece.org/fileadmin/DAM/env/documents/2016/EIA/IC/REPORT_RU_jece.mp.eia.ic.2016.2_r.pdf).

Separately, on the 35th meeting of the Implementation Committee of the Espoo Convention the Ukrainian delegation noted that in 2010 till present in the legislation of Ukraine was made a number of significant changes, including the aim of adaptation of national rules to EU rules. As a result, the recommendations of the Fifth Meeting of the Parties to the Espoo Convention (p.19 of decision V/4), regarding legislative changes are largely not actual.

The decision of the Fifth Meeting of the Parties notes the steps taken by the Government of Ukraine, necessary to fulfil the requirements of the Convention during the procedures for the so-called Phase II of the Project for the Danube-Black Sea Deep Water Navigable Route, including the repeal of the decision dated 28 December 2007 on the implementation of the project; transmission of the notification on the project; following the positive response of Romania, the transmission of the environmental impact assessment (EIA) documentation of the project; holding of public consultations; organization of a bilateral meeting with the Romanian side; and adoption of the final decision in 2010 on the project "Development of the Danube-Black Sea Deepwater Navigable Route in Ukrainian section of the Estuary. Full Scale Development", which included two phases of the project.

It should be noted that neither the Parties to the Convention nor the Implementation Committee called into question the validity of the above-mentioned governmental decision which allows carrying out an operative dredging including in the seaward part of the navigation route.

All necessary procedural steps under Articles 3-6 of the Espoo Convention in relation to the project "Development of the Danube-Black Sea Deepwater Navigable Route in Ukrainian section of the Estuary. Full Scale Development", during 2008-2010 were fulfilled.

Finally, the need to maintain the depths in the Ukrainian part of the Delta, in order to prevent the rapid redistribution pattern of the river flow in favour of the Tulcea branches, which in turn can disrupt the ecological balance in the delta, was mentioned by the mission of the European Commission, which studied the situation in the Danube Delta and the implementation of international commitments by Romania and Ukraine in 2015 (report published in October 2015).

2.2. Measures for post-project analysis done within the Project “Creation of Deep-Water Navigable Route of Danube River and Black Sea” (stage I)

In 2004, Ukraine launched a comprehensive environmental monitoring of Danube Delta which includes environmental and engineering monitoring programs. Dozens of leading scientific and engineering institutions have been involved. The coordination of these activities is done by Ukrainian Institute for Research of Environmental Problems.

Summary of monitoring results conducted in 2004-2012 allows to make conclusion with regard to ecosystems of Ukrainian part of Danube Delta during restoration of deep-water navigable route of Danube and Black Sea under stage I.

The trend of ration of flowing redistribution between arm Kiliyskiy and Tulchynskiy consists in constant growth of the flowing share of Romanian Tulchynskiy arm (from 33% to 51% for the last 50 years of observations) and corresponding reduction of flowing share of Kiliyskiy arm. The main reason for this is the consequences of large-scale hydroengineering works in Romania that were started last century and continue till nowadays.

Long hydrobiological studies provide an opportunity to argue the lack of direct impact of recovery and operation of deep-water navigable route of Danube and Black Sea on biotic communities of phytoplankton, zooplankton, zoobenthos, fish fauna of studied water bodies, except for some local disturbances of community structures in the area of direct conduct of engineering works.

Moreover, given monitoring results conducted during restoration and operation of deep-water navigable channel of Danube and Black Sea it was not fixed the facts of reduction of ecosystem diversity of protected areas. The results of comprehensive environmental monitoring described that impact of restoration of deep-water navigable channel can be described as local and limited. So, fixed impacts will not lead to significant changes of basic parameters of environment and biodiversity of Danube Delta, and actual changes of controlled parameters do not exceed forecasted parameters, but less substantial ones. The impact on development of plant and animal communities of delta of the reporting period was mainly related to climatic and seasonal hydrological changes.

The complex environmental monitoring program under resumption and exploitation of the DWR Danube - Black Sea is carried out in accordance with the terms of reference.

In the reporting period the hydrological monitoring program has been fully implemented and planned series of sampling and measurement were conducted. The data is currently processed. A detailed analysis will be given in the final report.

Expeditions on the Danube seashore were carried out with the aim of control observations during operation of DWR In the period from 25 October to 13 November 2016: the data of the state of dredging soil and food supply of fish which a necessary for the calculation of relevant compensation payments were obtained.

Monitoring of plant and animal communities of coastline and flooded areas of Danube Biosphere Reserve (DBR) under operation of deep water route Danube - Black Sea a carried out in accordance with the Technical task and the time schedule. In 2016 according to the conventional methods the field expeditions to collect botanical, ichthyology, herpetological and ornithological materials were held on the territory of the DBR (near Bystre, the coastal areas of the seashore, island Ermakov). Climatic particularities of the year became the most significant factors in the development of plant and animal communities of the DBR. A detailed description of the state of Biosphere Reserve ecosystems will be presented in the final report.

The intensity of the herring passage in the Danube in 2016 may be mentioned as high compared with the 2014 and 2015 years. Beginning of spawning passage of herring was observed in February. The peak of herring passage was observed in the II decade of April. Peak of the decreasing of Danube herring, which usually occurs in end of May, in 2016 was noted in middle of May. This may be related to early onset of passage of herring.

The obtained data indicate unfavorable state of sturgeon species in the Danube River. But the natural reproduction of beluga and sterlet in the Danube is maintained at a relatively higher level than the stellate sturgeon and especially the Russian sturgeon. The low number of producers of diadromous species of sturgeon that com into river to spawn, testifies the doldrums of their populations. The situation with reproduction of the Danube herd of Russian sturgeon can be estimated as the worst.

Preliminary results of ichthyological studies indicate that currently among sturgeon fish in the lower Danube are relatively more numerous sterlet and beluga. This is confirmed by studying of the decreasing of young sturgeon incidental and catches received in recent years.

Studies have shown that the area of the north-western Black Sea, adjacent to the soil storage area remains a highly productive. Saving of existing ichthyo-complex here is an important task which influences the state of economical fish stocks of north-western Black Sea.

The calculation of the residual soil volume capacity of hydraulic dump by the method modified by the introduction of automated computing GIS techniques, programs and packages Sagaxis, QUANTUMGIS, Autocad Civil3d, that a in the regulations RD 31.74.07-79, 31.74.04-2002 RD, RD 31.74. 08-94.

The total residual soil volume capacity of whole marine dump on 02.08.2016 amounts 7,075,810 m³, and taking into account the breakdown of marine dump to boot blocks was 4,014,278 m³. And taking into account the 46956.6 m³ of dump soils in the third quarter of the 2016 the total residual soil volume capacity of all marine dump at the beginning of the 4th quarter 2016 was 7028853 m³ and taking into account the breakdown of marine dump to boot blocks was 3967321 m³.

The analysis of the dynamics of storage of dredging soil made it possible to estimate the storage technology as appropriate. The advantage in storage should be given to boot blocks II, III, IV, VII, which are located in the northern and north-eastern part of the sea soil dump.

Based on field observations which were made in the framework of environmental monitoring in the areas of hydrotechnical works on the sea access channel and soil area, the calculations of the compensation payments were made. In the third quarter of 2016 the volume of the fee for water pollution was 35 313 UAH and the value of compensation payments for the impact on fish stocks was 29 822 UAH, in hole 65 135 UAH.

According to preliminary results of the works it was not identified significant impacts of exploitation of the DWR "Danube - Black Sea" and works on the maintenance of passport characteristics of the sea access channel on the Ukrainian part of the Danube Delta, as well as transborder impact of sea soil dump, development and storage of bottom sediments.