

**Comments of the Romanian Side regarding the compliance by Ukraine with its obligations under the Convention on Convention on Environmental Impact Assessment in a Transboundary Context**  
**(17<sup>th</sup> Session of the Implementation Committee, Geneva, 14-18 September 2009)**

Romania would like to inform the Implementation Committee on recent developments on the Bystroe Canal Project and to convey a few comments concerning the issue of compliance by Ukraine with its obligations under the Espoo Convention, in general, and the Decision IV/2 (Review of compliance), in particular.

As indicated in item 2 para 4) of the agenda of the 17<sup>th</sup> session of the Implementation Committee, “Ukraine is expected to provide information on steps taken to apply the relevant provisions of the Convention to the Bystroe Canal Project, including a statement expected in response to a letter to the Deputy Prime Minister of Ukraine from the Executive Secretary of the Economic Commission for Europe (ECE/MP.EIA/IC/2009/2, paras. 14–19)”.

In accordance with paras.14-19 of the above mentioned document, Ukraine is expected to provide “*a written statement confirming clearly and unambiguously that the conditions imposed in the decision of the Meeting of the Parties have been met. In particular, the statement should:*

- (a) Demonstrate that all works, including operation and maintenance, on Phase I have stopped;*
- (b) Show, separately for Phase I and for Phase II, that the Convention is being applied fully to the Project.”*

Romania deems that Ukraine did not meet the conditions set by the Decision IV/2.

- (a) Demonstrate that all works, including operation and maintenance, on Phase I have stopped*

On 25 February 2009, Romania informed the Implementation Committee that Ukraine did not stop the works on the project. According to information published on 22 July 2009 by the Ukrainian press agency *Portnews* (available in English on <http://en.portnews.ru/news/17721/>), Ukraine resumed works on the Bystroe project.

On 11 August 2009 the Ukrainian Ministry of Transport issued a press release (available on [http://www.mintrans.gov.ua/article/show/article\\_id/13928/highlight](http://www.mintrans.gov.ua/article/show/article_id/13928/highlight)) informing about the busy traffic existing on the Bystroe canal and the attractiveness of the canal in comparison with other regional navigation routes. An unofficial translation into English is annexed.

On 27 August 2009, the deputy of the Ukrainian ministry of transport and communications, Mihail Tchubai stated that “it is very important that works have already started [...] the construction of the dam represents a concrete step in the renovation of the canal, but it is not the only one” (for details, see [http://www.delta-pilot.ua/index.php?mode=hot\\_themes](http://www.delta-pilot.ua/index.php?mode=hot_themes)).

Romania constantly asked Ukraine for information about the stage of works, but Ukraine refused to provide a direct and unequivocal answer in this respect.

Thus, during the public consultations held in Tulcea on 9 July 2009, the Romanian representatives asked Ukraine whether any works was being undertaken in the framework of the Bystroe project. Ukraine simply refused to provide an answer (see pages 7-8 of the Minutes of the Public Debate attached hereto sent to the Ukrainian party by Note Verbale no.3228/ 23 July 2009).

Romania sent similar requests for information on 24 March 2009, 7 April 2009 and 27 May 2009. On 29 July 2009, Ukraine sent a Note Verbale no.1197 (a translation into English is attached) in response to the Note Verbales sent by Romania. By this letter, Ukraine enumerates the steps carried out by now in order to comply with its obligations under the Espoo Convention and reiterates that “works under Phase II of the Project will not be resumed until the adoption by the Government of the Final Decision. Thus, there is no reason to discuss the issue regarding the finalization of works for the renovation of the deep-water navigation route Danube-Black Sea”.

Romania acknowledges the demarches undertaken by Ukraine in order to formally comply with its obligations (the sending of documentation on the project, a public debate organized in Tulcea, a bilateral meeting at expert level held in Kiev between 15-16 July 2009). However, it should be pointed out that the parties remain in sharp disagreement over the impact of the canal. During the above mentioned meetings, both the representatives of the Romanian public and the Romanian experts drew the attention of the Ukrainian side to the gaps existing in the documentation on the environmental impact assessment and underlined once again that the projects threatens to cause serious harm to the environment.

Given that these concerns of the Romanian party were not answered by Ukraine, the steady continuation of the works is most unsettling. Even more is the reluctance of the Ukrainian side to provide Romania with appropriate information on these activities. One cannot escape the conclusion that Ukraine is determined to press ahead with the implementation of phase II irrespective of Romania’s concerns and that the procedures provided by the Espoo Convention are fulfilled only with the aim to enable Ukraine to implement the Bystroe project. The Romanian authorities can not ignore the fact that Ukraine simply considers the Espoo procedures as a formal step, and declines to provide Romania with updated and essential information on the stage of the project.

The requests of international organisations for concrete information are considered in the same manner. By a letter sent on 3 April 2009, the Executive Secretary of the ICPDR asked Ukraine for information regarding the current status of the works at the offshore dam realized by the Ukrainian authorities at the mouth of the Bystroe branch of the Danube. On 27 May 2009 Ukraine answered by a letter addressed by Mr. Stephan Lyzun to Mr. Phillip Weller (attached thereto). By avoiding giving a clear and unequivocal answer, Mr. Lyzun stated that “in accordance with the Report of the Espoo Inquiry Commission, provisions of the Espoo Convention can be applied when a likely significant project is proved. In the Report of the Inquiry Commission a transboundary impact of the break-wall has not been indicated”. Romania considers these explanations to be completely unsatisfactory. Ukraine is under the obligation not to undertake any activities within the framework of the project until the provisions of the Convention are fully complied with, irrespective of whether such works in the framework of the Bystroe project were listed by the Enquiry Commission as likely to have an adverse transboundary impact or not, since no such distinction is made in Decision IV/2 or in the conclusions of the Implementation Committee. The reference in the letter of Mr. Lyzun to the Report issued by the Enquiry Commission is consequently misguided. Further, under the Espoo Convention, a project which is likely to cause a significant adverse transboundary impact cannot be implemented, as a whole, until all the procedures in the Convention are completed, even if some part of the project may not have a significant adverse transboundary impact.

According to the conclusions of the Implementation Committee, the Ukrainian side is bound not to carry out any works in the framework of the project. It is significant that the answer of Mr. Lyzun does not deny that Ukraine has conducted these works. Furthermore, he affirms that the offshore dam has currently a length of some 1670 m, which corresponds to the length envisaged for Phase II of the project. Thus, not only those works on Phase I were not ceased, but Ukraine has also proceeded with the implementation of Phase II.

Considering the second condition stipulated in the Report of the Implementation Committee,

*(b) “show, separately for Phase I and for Phase II, that the Convention is being applied fully to the Project”*, Romania considers that this condition set by the Decision IV/2 was not respected. As mentioned, the Bystroe canal is already operational; the traffic is very heavy since the passage of vessels is permitted 24h per day. No compensation measure was taken. The limiting measures mentioned in the notification drawn up by Ukraine itself include only “restriction on vessels horns during the passage through the territory of the Danube Biosphere Reserve, limitation of vessels passage in the daytime”<sup>1</sup>.

Phase I of the project was completed and Ukraine does not accept to apply any of the procedures provided by the Espoo Convention to this Phase. Notwithstanding the Ukrainian assurances, the Espoo Convention is not applied to new works performed under Phase I (and some of them under Phase II of the project) which are currently undertaken in that area. Furthermore, Ukraine continues to pretend that Phase I of the Project has no significant transboundary impact<sup>2</sup>, in clear contradiction of the conclusions of the Espoo Inquiry Commission and consequently, it denies the applicability of the Espoo Convention to Phase I of the Project. In the letter sent on 27 May 2009 to the Executive Secretary of the ICPDR, Ukraine clearly states that “it is necessary to note that the decision IV/2 of the Meeting of the Contracting Parties to the Espoo Convention refers to Phase II of the Project”. It is obvious that no progress has been made in order to apply the Espoo Convention to Phase I of the Bystroe project.

Paragraph 15 of the Implementation Committee document ECE/MP.EIA/IC/2009/2 indicates that “after having received the written statement, the Committee will decide on the appropriate measures to be taken, in the light of paragraphs 8.9 and 10 of decision IV/2 of the Meeting of the Parties”.

Or, paragraph 10 of the Decision IV/2 adopted during the 4<sup>th</sup> Meeting of the Parties to the Espoo Convention stipulates that **a caution would be issued to the Government of Ukraine to become effective on 31 October 2008 unless the Government of Ukraine stopped the works**. On 30 October 2008, the Implementation Committee took the decision that the caution should not become effective but reminded the Government of Ukraine of its findings and recommendations which required, as a minimum, that no further works, including operation and maintenance works, should be undertaken without taking steps to comply with the relevant provisions of the Convention. Further, the Report of the 16<sup>th</sup> Meeting of the Implementation Committee states that the Committee considered that the carrying out of works under phase I

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<sup>1</sup> See Table 6.1. “A Suite of Planned Environmental Protection and Mitigation Measures”, category “Protective”, last paragraph [http://www.unece.org/env/eia/documents/ImplementationCommittee/2008-2011/BCP\\_TEIA\\_30dec08\\_sect\\_6\\_8\\_annexes.pdf](http://www.unece.org/env/eia/documents/ImplementationCommittee/2008-2011/BCP_TEIA_30dec08_sect_6_8_annexes.pdf) and page 13 of the notification

<sup>2</sup> See para 6 of the letter sent on 18 June 2009 addressed by Mr.S.Lyzun, first deputy minister to Mr.Olga Srsnova, President of the ICPDR, attached thereto.

would represent a continuous breach of the Convention, and that the carrying out of works under Phase II would represent a further breach of Ukraine's obligations under the Convention.

In the light of the information presented above, Romania strongly considers that Ukraine should not be allowed to continue to contravene to its clear obligations. It is evident that while proclaiming its commitment to respect the Convention in front of international representatives, in reality, Ukraine disregards its very elementary obligations.

Romania deems that, in accordance with paragraph 10), the caution must be issued since Ukraine did not comply with its obligations, did not stop works and did not engage itself in a transparent and sincere dialogue.



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22.07.2009, 16:14

### **Ukraine resumes construction of Danube-Black Sea canal**

Economics Ministry of Ukraine has acknowledged the results of the tender for dam construction at Danube-Black Sea canal held by state enterprise Delta-Pilot to be valid, Economics Minister Bogdan Danilishin says.

According to him, the Ministry has analyzed the claims of the companies challenging the results of the tender for selection of a contractor to build a dam at Danube-Black Sea shipping canal. "All the decisions of the tender committee were made in compliance with the existing legislation," the Minister says according to information agency Reporter.

Construction companies Eurolux-S LLC, Viaduct LLC and Azovmekh earlier addressed Ukraine's Economic Ministry with a demand to review the results of a tender for selection of a contractor to build a dam at Danube-Black Sea shipping canal.

According to the source, the winner – Spetsdorbudtehnika LLC – obtained a license for construction activities in October 2008, hence it has no experience enough to fulfill the works needed.

State enterprise Delta-Pilot declared the tender results on June 12. 10 companies participated in the tender with Spetsdorbudtehnika LLC having won the competition.

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**The Deep-Water Navigation Route Danube-Black Sea nears a new record**

In July 2009, 138 vessels passed on the Deep-Water Navigation Route Danube-Black Sea which represents a record breaking achievement.

“Since the opening of the canal, this record breaking achievement has been surpassed only in October 2008 (144 vessels). Since April 2007, 2792 vessels in all have passed on the canal”, Olexandr Golodnîtkii, the director of the state-owned enterprise “Delta Loţman” declared.

Since the beginning of 2009, the Ukrainian deep-water navigation route has been taking over the other canals in respect of the number of vessels. Navigators prefer the Ukrainian canal due to its high level security of navigation and its hydrotechnical infrastructure. The national canal is more advantageous since vessels can pass on in both directions, 24h per day. At the same time, the passing fee through the Bystroe canal is lower and the payment conditions are more attractive.

The administration of “Delta Loţman” stays in permanent contact with the Ukrainian organizations in the Danubian region in order to increase the traffic of goods through the Ukrainian waterway.

The record breaking achievement of October 2008 is expected to be surpassed in August 2009; 51 ships passed through the canal during the first 10 days of the month of August”.

**Source:** [http://www.mintrans.gov.ua/article/show/article\\_id/13928/highlight](http://www.mintrans.gov.ua/article/show/article_id/13928/highlight)

June 9<sup>th</sup>, 2009

## **Minutes**

of the Public Debate

on the project "Renovation of the deep water navigation route Danube - Black Sea in the Ukrainian part of the Danube Delta"

time: 15.00 - 19.00

place: TULCEA

The public debate in respect of the project "Renovation of the deep water navigation route Danube-Black Sea in the Ukrainian part of the Danube Delta" was organized by the Romanian Ministry of Environment together with the Administration of the Danube Delta Biosphere Reserve.

Moderator of the meeting was Mr. Nicolae Chichi, vice-president of the Tulcea County Council, who acted on behalf of neither of the parties, but played an impartial role, aimed at ensuring a fair public debate.

In accordance with the legal provisions regarding public debates on projects with a likely transboundary effect, representatives of the Ministry of Environment, Ministry of Foreign Affairs, as well as of local environmental protection agencies and other environmental organizations from Romania and Ukraine participated at the meeting.

48 persons from Romania participated: representatives of central and local public authorities, research institutions, nongovernmental organizations, mass media and local communities.

9 persons from Ukraine participated: authors of the environmental impact assessment study, the project designer, as well as representatives of the environmental authorities and other authorities which presented the works before the public.

**Romania** was represented by:

- Mr. Vasile Gudu – Prefect of the Tulcea County;
- Ms. Daniela Pineta, focal point of the Espoo Convention, Mr. Constantin Pulbere, legal adviser, Ms. Carla Busuioc, counsellor within the Organization and Communication Directorate – Ministry of Environment;
- Ms. Veronica Anghel, third secretary, Mr. Ovidiu Naftanaila, third secretary – Ministry of Foreign Affairs;
- Mr. Grigore Baboianu, Governor, Ms. Cornelia Bene, head of the Regulation, Authorization and Development Service, Mr. Neculai Bahaciu, head of the Environmental Guard Service – Administration of the Danube Delta Biosphere Reserve.

The delegation of **Ukraine** which participated to the debate consisted of:

- Mr. Viktor Morozov - Director of the Danube Hydrometeorology Observatory

- Mr. Olexandr Vasenjo - Deputy Director of the Institute of Scientific Research on Environmental Issues of Ukraine;
- Ms. Lyudmila Anishchenko – Director of the Laboratory on Environmental Impact Assessment of the Institute for Scientific Research on Environmental Issues of Ukraine;
- Mr. Igor Shevchenko - Deputy Head of the Technical Service operating channels of the State Company "Delta-İoțman";
- Mr. Mykola Berlinskiy - Deputy Director of Ukrainian Scientific Center for the Ecology of the Sea;
- Mr. Borys Patrash - Deputy Head of the Economic and Trade Mission within the Ukrainian Embassy in Romania;
- Mr. Ivan Shnaider – Second Secretary within the Ukrainian Embassy in Romania;
- Mr. Vasyl Sihnenko - Ukrainian Institute Transproiect Kiev;
- Mr. Volodemir Buchko - representative of the Ministry of Environment of Ukraine, Espoo Convention.

Translation was provided by Mr. Victor Hrihorciuc and by Mr. Ananie Ivanov. The Secretariat of the meeting was ensured by the staff of the Administration of the Danube Delta Biosphere Reserve, entrusted with the task of drawing up the minutes, the list of participants and the list of persons who took the floor.

After opening the meeting and introducing the delegates, the moderator introduces the agenda:

- Project description and assessments made by Ukraine;
- Break – so that the public may register on the list of speakers, held by the Secretariat of the debate;
- In the order of registration, each speaker shall take the floor;
- The Ukrainian delegation shall answer each question;
- Recording of the the discussions in the minutes of the debate, drawn-up in one copy by the Romanian party, containing the main debated issues. The Ministry of Environment of Romania shall transmit the minutes to the Ukrainian side after having translated it into English.

### **1. Presentation of the procedure**

The representative of the Ministry of Environment of Romania, **Ms. Daniela Pineta**, makes a presentation of the procedural stages of the project, in accordance with the provisions of the Espoo Convention.

In September 2008, Ukraine notifies Romania on the phase II of the project for the waterway construction, in accordance with the provisions of Article 3, paragraphs 1 and 2 of the Espoo Convention. Ukraine thus resumes the dialogue in respect of this issue with the Romanian party. Romania replies to this notification in October 2008, indicating its intention to participate in the EIA procedure and providing information on the geographical and biodiversity characteristics of the area, in accordance with Article 3, paragraphs 3 and 6 of the Convention.

In accordance with paragraph 8 of Article 3 of the Convention, the Romanian Party provided the public with information in this respect, inviting it, as well as the competent authorities, to make comments and objections. In November 2008, Romania sends to Ukraine, through the Ministry of Foreign Affairs, the comments on the received notification, made by the public and by the environmental authorities. In January 2009, Ukraine transmits to Romania the study "Assessment of the likely transboundary environmental impacts of the Danube - Black Sea navigation route in the Ukrainian part of the Danube Delta."

This study is an annex to the environmental impact assessment Report, as part of the detailed design documentation drafted for the large scale development phase of the navigation project, in accordance with the provisions of paragraph 1 of Article 4 of the Convention. In order to comply with the provisions of paragraph 2 of Article 4, the Romanian Ministry of Environment decided:

- to display the entire study, as it was received, on its own web page;
- to translate Chapter 8 (Summary and Findings) into Romanian and display it on its own web page;
- to inform the Romanian public through press releases and webpage announcements, establishing, in this respect, deadlines for comments and observations.

The Administration of the Danube Delta Biosphere Reserve undertook similar actions to provide the public with information, at a local level.

The current public debate has been organized in accordance with the provisions of Article 4, paragraph 2 of the Convention, providing the public of the affected party with the possibility to express its views in this respect. As a next step, we expect the party of origin of the project to request consultations with the Romanian authorities in the near future, in accordance with the provisions of article 5 of the Convention.

The response of the party of origin should be transmitted in writing, so that the Romanian Party could set a final point of view.

In accordance with Article 6 of the Convention, Ukraine should transmit to Romania the final decision regarding the project.

The moderator then gives the floor to the Ukrainian party in order for it to make a presentation of the study.

**The representative of the Ukrainian Ministry of Environment** in charge with the Espoo Convention, appreciated the presentation of the procedure, followed in accordance with the Espoo Convention, but underlined that, under Article 6, all comments, made as required by Article 5, are to find an answer in the final decision. Therefore, the Ukrainian party could not provide written answers to the Romanian public. The final decision will reflect the answers according to the Espoo Convention.

**Ms. Daniela Pineta:**

The comments should be reflected in the final decision in terms of the measures provided. Nevertheless, it does not mean that the Ukrainian party should not answer in writing, too, to the questions put forward during this debate. Romania's experience, as affected country, should be taken into account in applying the Convention.

**The representative of the Ministry of Environment of Ukraine:**

Should the Ukrainian Party provide the final decision, concordant with the requirements of the Convention, we do not see any reason why we should answer two times.

**Ms. Daniela Pineta:**

The final decision does not answer all the questions put forward by the public and by the authorities.

**The representative of the Ministry of Environment of Ukraine:**

Some answers are to be provided right away and recorded by the Minutes. The Romanian party shall communicate in writing the rest of the questions, to which the Ukrainian Party is to answer in writing. For further questions sent in writing to the Ukrainian Party, the latter is to answer in writing, as well.

**2. Presentation of the project**

**The designer of the Ukrainian project:**

This issue might need a longer time to analyse. The written material was provided for the purposes of this meeting, and it presents a point of view on the further development of the project. A number of questions have already been answered by this material.

The restoration of the Danube-Black Sea deep water canal was initiated in 1958, so this is not a new construction, but a rebuilding of the deep water canal – as it may be revealed by the navigation maps of the Danube up to the Rhine area. The design documentation, which is also technically supported, as well as the project data for the construction of the Danube-Black Sea deep water navigation canal, were drafted in concordance with one another, taking into account the decisions taken under environmental, economical and technical aspects. Mathematical and physical models were developed during the design phase, which gave the possibility to forecast the parameters of the impact caused by subsequent influences.

The support parameters of the canal have been done and the location of the deposit for the dredged soil during the construction phase has been determined.

The dynamics and the technical feasibility parameters of the project are:

- Bar area into the sea, 3.4 kilometers long, 100 m wide, 8.2 m deep;
- Bystroe canal mouth, 8.3 km long, 60 m wide and 8.4 m deep;
- Bystroe-Vilcovo mouth, 10 km long, 120 m wide, 8.4 m deep;
- Vilcovo – Ceatal Izmail area, 95.4 km long, 120 m wide, 8.4 m deep;

- Between Km 117 and Km 164, on a length of 10 km, and a width of 120 m, from Ceatal Izmail to Reni, being also used by Romania, on a total length of 172.4 kilometers;

The hydrometeorology observatory carried out the hydrological classification of the project: the conclusion was that it belonged to class 7, according to the European classifications. The depth of the water ensures the movement of medium tonnage ships. Since the beginning of the works, a complex monitoring has been undertaken in phase I, comprising: hydrochemistry, hydrology, ichthyology and tracking the impact of pollutants. Complex monitoring actions have also been taken.

The banks consolidation has also been included in the project, as well as a dam construction in front of the river mouths, aimed at maintaining and regulating the quantity of water flowing through the canal, in order to prevent an excessive decrease of the water level on the Stara Stambul branch. The dam built into the sea was meant to prevent the silting of the mouth of the canal under restoration.

(power point presentation of the Ukrainian Party)

**Ms. Lyudmila Anishchenko:**

The Institute carried out an impact assessment in respect of all the phases: the first phase, the phase of the full development and in accordance with the map drawn up jointly by Romania and Ukraine, when an analysis in a transboundary context was proposed. A study of this kind was elaborated, translated into English and then sent to the Romanian party. This document was aimed at providing answers to all Romania's questions and comments. This supplementary document, in a transboundary context, was elaborated on the basis of the answers and remarks which the Inquiry Commission had revealed as prone to have a transboundary impact. Based on the Inquiry Commission's remarks, additional thorough researches have been carried out.

The current version of the construction of the canal was elected out of 10 possible options, and the documentation presented analyzed the transboundary issues.

According to the Espoo Convention, when assessing the various options, alternative 0 should also be analyzed. Navigation in the Ukrainian Danube Delta has existed ever since the 18<sup>th</sup> – 19<sup>th</sup> centuries, and it is a traditional activity in the region, therefore reestablishing the navigation traffic was considered as a last option. A combined analysis of choice 0, on the restoration of shipping movements, could be considered as a last possible option. Taking into account the complexity of the issue and the need to consider various factors, a combined analysis was used in choosing among the envisaged options. Factors and variations (environmental impact assessment multi-criteria) were included in the scheme analysis and a matrix was elaborated, showing which factors had a greater impact.

The result of global prioritization - a superior method. During the calculations, all intermediate results are printed and alternatives are prioritized, thus making possible the drawing of conclusions (power point presentation).

The items discussed in a transboundary context answer the 6 points acknowledged by the Inquiry Commission as having a possible impact or the strongest impact:

(1) Impact on the works aimed at deepening the water level between the Bystroe canal and the Stanbul canal, the dynamics of the water in the Bystroe canal. The Inquiry Commission concluded that there might be possible changes in the volume of water between the two arms and thus the Ukrainian experts carried out a mathematical modeling, envisaged all possible scenarios and used the most modern mathematical calculation patterns.

Results: an insignificant change of the water volume in Stara Stanbul cannot affect fish species and biodiversity.

Conclusion: there is no major impact following the redistribution of the water volume between the two canals.

(2) The impact of the dam situated at the bifurcation of the canal was also considered. Its construction compensates the possible redistribution of water between the Stara Stanbul and Bystroe canals. The impact of the full development of the waterway canal, as well as the impact of the water redistribution between the two canals was assessed as insignificant.

The second issue which was considered: the loss of the breeding sites for fish and of the nesting sites for birds, due to the dredging activities and the construction of the protection banks. The researches carried out by monitoring showed the absence of a cross-border impact of the works. There is the possibility to limit the deepening works and to quit depositing the dredged soil, so the impact is unlikely for the future, while sedimentation on the left side of the Chilia arm is beyond the limits of the reserve and has no significant negative influence on it.

Feedback on the impact on the wildlife at the bottom water. The riverbed sections where deepening works are being carried out are places where there are thresholds and they are normally subject to natural destruction, as the underwater fauna is usually little developed there. These places are not important for fish breeding and birds nesting.

The bank restoration works and the dredging of the thresholds have no major transboundary impact on the area. When analyzing the transboundary effect, which is a process with many factors of influence, the same system of analysis as the one used for choosing the alternatives was utilized: purpose - to ensure environmental safety under the cumulative impact conditions; criteria - protection of birds, protection of sturgeon, keeping the herring populations into the Danube. An analysis of the factors of influence shall follow, as well as of the sources of impact, of the measures of environmental protection, to prevent environmental impact. The results were transmitted to the Romanian party. There are a few possible measures.

### **3. Questions from the audience**

**Mr. Grigore Baboianu:**

The general issues of the project have been pointed out, based on the premise that the public debate should focus on the project of the construction of the deep water navigation canal itself. This kind of presentation would aim at presenting the potential impact of the functioning of the canal and especially the measures proposed by the author of the impact study for this impact to be eliminated or ameliorated. However, the material presented by the Ukrainian party contains some pages which do not make reference to the canal, but to the situation of navigation in Romania. This information is not accurate. For example, references to the "navigation canal St. George" are made, which is not a navigation canal. It has never been a navigation canal. This information can be confirmed by many colleagues from Ukraine who were there. If the maps presented had the intention to illustrate the navigation canals from the Danube Delta, information on the canals existing on the Ukrainian territory should have been also provided, for the sake of objectivity. This presentation should be as objective as possible, in order to correctly inform the public. The actual situation in the field has been often stressed by the Romanian party.

**Ukrainian party's reply (the designer of the project):**

The material provided does not concern the transboundary impact of the project, but the point of view of the Ukrainian party in respect of the restoration of the canal. If the material contains some erroneous references to certain situations, the Romanian party should provide the correct data, in order to make the material as accurate as possible. A joint monitoring of the settled points should be made. We welcome any additional information that might complete the existing materials. These are supplementary materials and do not regard the assessment of the transboundary impact. Any additional material received from the Romanian party for completion and correction is more than welcome.

**Mr. Baboianu:**

I am referring to the material provided, but also to the impact study, which analyses the same situation, the canals of Romania.

**Ukrainian reply (the designer):**

I emphasize: if there are any observations, they should be transmitted for corrections and completion. We are here to answer questions. The final decision should include also these corrections or additional information.

**Ms. Veronica Anghel:**

A brief question, requesting a brief, clear answer: is Ukraine currently undertaking any kind of work in respect of the canal?

**Ukrainian reply (representative of the Embassy of Ukraine):**

This public debate has a well defined theme, that is, the impact assessment of the project in phase II. The discussions should stick to this very theme. The Ukrainian party does not carry out any works in phase II.

**Ms. Veronica Anghel:**

I am repeating the question, referring to any kind of works, either in phase II or not.

**Ukrainian reply:**

What kind of works are you possibly referring to, since the theme of these discussions is phase II of the project.

**Ms. Veronica Anghel:**

You have previously mentioned the monitoring of the effects of some carried out activities. So, it's not about the project, but it is about something that has been already implemented. The debate must take place before any activity is undertaken. We can not dissociate the impact from the works and their progress. It is as if we did not have an object of the discussions. We cannot separate them because this would be an artificial separation.

**Ukrainian reply:**

Ever since the restoration works of the canal were started, the Ukrainian party had developed and implemented a comprehensive monitoring program of the initial and operational works. Those observations which are made in respect of the canal are recorded by monitoring, as well as any changes noticed on the canal following the exploitation works and the passages of vessels. The comprehensive monitoring program has been submitted, the Ukrainian party has displayed the results on the web-site and we have provided this information within the meetings with our Romanian colleagues. The monitoring program includes research institutes and none of the results is available to public without it being first discussed with all the parties involved. We make observations regarding the local impact on the environment, make impact assessments, hold information on measurements and forecast analysis; we have projections of a possible impact on the area for the future.

Initially, in the design phase, those changes were made. According to the Ukrainian legislation, when a likely impact is envisaged, appropriate compensation measures should be taken. The calculation is required and due regard should be paid to compensations.

The purpose of monitoring is to track the transboundary impact. At this stage, there is no transboundary impact. In order to have a full picture, we proposed to the Romanian party (see point 4 of the Protocol between the presidents of Romania and Ukraine) to set up a joint monitoring, so that to avoid suspicions. There is no agreement of the Romanian party in this regard.

**Ms. Veronica Anghel:**

So simple a question put so many difficulties!... Are you currently working or not? Could you answer by yes or no?

**Ukrainian party's reply:**

The answer could be a story for children. The question needed an explanation.

**Mr. Adrian Tudor (Evenimentul Zilei newspaper):**

During phase I of the project a concrete impact on the colony of birds was detected, as well as on the natural breeding of fish, on the migration of marine fish and, at the same time, a restriction on fishing was implemented, because of the construction. Money compensation

was thus provided. Is there any compensation provided for phase II? What are the concrete measures envisaged for the mitigation of the impact? Where is the dredged material going to be deposited? Is radioactive waste to be transported from or to Europe on this waterway? I am asking, as similar accidents occurred – see for example the Rostock ship.

**Ukrainian reply (Mr. Mykola Berlinskiy):**

The questions are interesting and important.

I shall now answer the questions regarding the negative impact on birds, fish, regarding the money compensations, as well as the despositing of the dredged soil.

4-5 years ago, when Ukraine started the works, the issue of the impact on birds and fish was highly profiled in Ukraine. Many questions were raised, such as the issue of noise which would lead to the disappearance of the colonies of birds, all along the canal. Further to subsequent research, these observations were no longer scientifically supported. The noise caused by the construction works was not high enough to reach the nesting areas. The most important places for nesting, 95% of them, are located south of Stara Stanbul arm. As regards the impact on fish - the National Academy of Sciences of Ukraine noted in 2004 that [the construction] would have a negative impact on the the mackerel banks, because the sapling fish moves on the Bystroe canal and every 4 years a renewal cycle occurs, which would lead to a catastrophe.

Thus, the current situation will have negative impact on the local population, the mackerel fishermen. Last year, a record mackerel harvest was registered. How to explain? The works did not have a crucial impact, as a factor occurred, which determined the appropriate distribution of fresh water to the sea, and due to a higher volume of water, this sapling was guided on the arm. The mackerels go upstream from the Black Sea to the Bystroe arm, towards fresh water.

The compensation issue - when dredging works are undertaken on the canal, and the dredged soil is deposited in the established locations, with negative impact on the respective ecosystem. The parameters taken into account, which can be negatively influenced, are bottom water life forms, plankton. Considering the quality of the dredged soil, its content of toxic substances (heavy metals, petroleum products) and its impact, according to the Ukrainian law, compensatory payments are calculated and paid to the State by the organization operating the canal.

Storage sites in Romania and Ukraine are set in different ways. Storage sites must meet certain criteria, at least:

- from the environmental point of view - places with a small amount of life form that exists there. It is easier to trace a road through a desert place than through a garden. So desert places are preferred as places for storage.
- from the economic point of view – in order to maintain the economical efficiency of the project there is a proposal for the dredged soil to be deposited into the sea, in an area which has been already affected. But this option is expensive and not profitable. A compulsory precondition to set a depositing area is to exclude the consequences of a

transboundary impact. Depth has to be 22 m. At depths below 10 m, the currents, due to waves, will bring the deposited soil to the Romanian side. Ukraine has such concentrated places for depositing the dredged soil. In Romania, the dredged soil is taken beyond the 20 m bathymetric contour and is naturally dispersed into the sea. Ukraine does not claim that its version is better. Example - Sulina channel.

In conclusion – we ask to minimize the impact on the respective ecosystem, in accordance with the Romanian and Ukrainian laws.

**The moderator of the meeting, Mr. Nicolae Chichi:**

The question was whether or not specific dumping places had been established.

**Ukrainian party's reply:**

This place had been set one year before any works started (4-5 years ago).

**Question from Mr. Adrian Tudor (Evenimentul zilei newspaper):**

What about my question regarding the transportation of radioactive waste, in order to avoid a tragedy similar to the Rostok case?

**Ukrainian party's reply:**

As regards the possibility of transportation of radioactive waste, there is no plan. There are official guarantees in this respect, as Ukraine is a civilized state and meets all international requirements regarding the transportation of dangerous and radioactive. Ukraine guarantees that this will not happen, as all dangerous materials will be transported according to the agreements signed by Ukraine. Perhaps only from Giurgiulesti customs such a transport should leave.

**Mr. Viorel Dima (Tulcea Express newspaper):**

- (1) Why the construction of this canal is so much wanted, using important funds, when there is already a navigable canal approved by the international convention signed in Belgrade, the Sulina channel, which can be used also by Ukraine?
- (2) Has an economical analysis been made with respect to the costs of this canal? How long the recovery of the investment will take, given that the required fees are reduced as compared to those entailed by the Romanian party?
- (3) In the context in which the Ukrainian officials affirmed that the canal had also a military character, how will NATO regard this issue, considering that Ukraine wishes to join this alliance? Are the environmental interests neglected as compared to the military ones, considering the experience?

**Ukrainian party's reply:**

The only thing we shall not comment on is the military issue. This delegation does not have any knowledge of such intention. Given the state of the national fleet, this delegation does not see what military purpose the canal might have. At the same time, one can also take into consideration Ukraine's possible joining the European Union.

As regards the first question – Why?

Corridor 7 of maritime navigation was provided by the Sulina channel and the charges were 1.54 USD per tone. One of the reasons to construct the canal is the fact that these charges were increased to up to 2.50 USD / tone, in respect of the Ukrainian ships, but also as regards other vessels sailing to the Ukrainian ports on the Danube. The charges were reduced by 30% for the Romanian ships – so how could the Ukrainian ports on the Danube still be operational? Port Reni dropped to few employees, 50 out of several hundreds, not to talk about Izmail, which used to be a highly developed port.

As regards the second question - the entire investment is estimated to be recovered under normal operational conditions, in 8 years and 3 months. The cost is now difficult to assess, as the crisis has created difficulties in calculating the costs.

In respect of the third question – When drafting the project, which is framed under corridor 7 of European river transport, only the navigation of civil transportation was taken into account, not the military one. According to a procedure established for this corridor, there are 4 vessels downstream and 5 upstream, but this data is not very accurate.

**Mr. Eugen Petrescu (SOR- the Romanian Ornithological Society):**

I am handing a material signed by 6 of the non-governmental environmental organizations in Romania. After going through the impact study, the 6 organizations found that there was still a lack of updated information, such as the list of species and habitats which would be affected. Existing data were deemed as out of date and the maps were not relevant. Has a mathematical model been envisaged in order to foresee the impact of the works on the alluvia on the entire delta, knowing that the biggest increase has been registered in the secondary delta?

May the dredging works undertaken along the river influence the current state of the border? Dredging on the Chilia arm may have an influence on the currents. Could the dam situated at sea determine erosions of the Romanian bank, at Periprava? Is there a comparison between the way the situation looks like without these works and how it will look like after the dredging?

**Ukrainian party's reply:**

This question refers to two aspects: a hydrological aspect and a biological one. Regarding the fauna, the two reserves of Romania and Ukraine, the Institutes of Zoology and Botanic of the Academy have constantly made complex observations, through comprehensive monitoring and following their own research. We have objective data not only for previous years, but also as regards the current situation.

As far as the hydrological aspect is concerned, the issue referring to the alteration of the riverbed and the border: the modification of the water volume ratio between the Sulina and Chilia arms is currently 50 to 50. The current trend favours the Tulcea branch. During the latest 70 years, a decrease of the flow of the Sulina arm has been noticed. This is due to the deepening of the Sulina and St. George arms. Currently, a “washing” phenomenon of the St. George arm can be noticed. As regards the deepening of the Chilia arm, the envisaged works in this respect are less complex, but they will have an influence on the

water distribution trend; further to calculations, we reached the conclusion that the water distribution could be stabilized in the Danube Delta as a result of the deepening of the rifts on Chilia.

**Ms. Lyudmila Anishchenko:**

You appreciated the Ukrainian method of impact assessment. This method and the principles used in this respect will allow the elaboration of a model for the entire Danube Delta, with the participation of Romania, in order to contribute to the accuracy of the model. Using this method may prospect the future development of the impact.

**Ms. Ileana Ene (NGO “Save the Danube and the Delta”):**

(1) The study indicates 10 alternatives, but presents and compares only 8 and later on (see section 4) only 6. To distinguish between the alternatives and assess their advantages and disadvantages, an annex to the study should be added, because there is insufficient information on how the various alternatives were considered and how the data were used. Does the Ukrainian party agree with the necessity of such an annex?

(2) Is there a complete and updated list of the species likely to be affected?

(3) Does Ukraine consider that it has provided sufficient public information during the first phase, under the UNECE Convention of 20 March 2009 and ICPDR of 3 April 2009?

**Ukrainian party’s reply (Lyudmila Anishchenko):**

As regards the first question, relating to the 10 variants, out of which 8 have been analysed and 6 thoroughly studied, the material under discussion underlines that, from a technical perspective, two of them have been eliminated, as they were considered economically unfeasible. When assessing each of the alternatives, tables 4.1 and 4.2 were analyzed, which highlighted the impact factors, as well as the impact processes, characteristic to the construction of the waterway. They were taken into consideration every time each of the alternatives was analysed. There are more detailed reports in respect of each variant. This is a synthetic material.

Regarding the second question, the lists we receive from the research institutes contain chapters referring to the species mentioned by the Red Book and it is on them that we focus our attention. For all the species in the Danube Delta, there are lists available to the public and we think that the Romanian and the Ukrainian Reserve have a good collaboration and they exchange such information. The exchange of information is permanent between them.

Regarding the third question, with respect to the Espoo Convention, Ukraine has provided all necessary information as regards the work performed or planned to be preformed.

**Ms. Ileana Ene (NGO “Save the Danube and the Delta”):**

My question referred to the list of species likely to be affected, and not to the list of all the threatened species or to the inventory made.

**Ukrainian party's reply (Mrs. Lyudmila Anishchenko):**

In assessing the impact, the factors likely to affect the birds that live in the area close to the works were taken into account. The list of birds likely to be affected had no main role. The species mentioned by the Red Book were important. Therefore, the impact has been assessed as regards those species in the area, not in respect of all. The impact of noise and loss of nesting sites was also taken into account. In this context, the possible impact on the flora and fauna of the area has been analyzed as well.

**Mr. Mihai Marinov (INCDDD):**

I attended another meeting with the Ukrainian colleagues. On that occasion, we discussed the possible impact of the works on biodiversity in general; at that time, the discussions mentioned the likely negative effect on the most numerous pelican colony, as well as the potential negative impact on the Letea island (a protected area since 1938) – but dredging and hydrotechnical works have already been undertaken. We'll see what happens in the future. Romania has the experience of the works carried out for the construction of the Iron Gates, which still affects the Romanian littoral, even many years after its completion. Ukraine should consider the subject twice before taking any decision. We can no longer talk about analysis, we shall see the impact of everything that has already been achieved.

The question is whether, besides dredging, other works (such as submersible hydrotechnical constructions, under the shape of stone dams, named EPI-s) have been envisaged to be built at the mouths of the canals. These constructions are known for their major impact on ecosystems.

**Ukrainian party's reply:**

Modifications determined by the economical works in the area. The subject was addressed to Romania so that the results of the Romanian researches in the Danube Delta with respect to the modifications determined by the hydrotechnical works may be used and negative effects avoided. The information requested has not been received. As to the submersible hydrotechnical constructions, the designer has envisaged only one water conducting dam at the entrance on the Bystroe canal. Its role is to stabilize the water volume flowing on the canal. The project envisages but this dam at the entrance, there are no other dams to be constructed on the Bystroe canal. Only bank consolidation works are envisaged.

**Mr. Nicolae Chichi (moderator of the meeting):**

Thank you all for participating to this public debate. Further comments and observations may be transmitted up to 19 June 2009, in writing, to the following e-mails:

[arbdd@ddbba.ro](mailto:arbdd@ddbba.ro) and [mihaela.macelaru@mmediu.ro](mailto:mihaela.macelaru@mmediu.ro). The public debate now closes.

**4. End of meeting**

Closing Words:

**Mr. Vasile Gudu:**

Let me thank you all for participating to this debate and for the interest showed. A week ago, the Ambassador of Ukraine visited Tulcea, now you are our guests here. Preparing these meetings, I updated my information. I consider that this meeting reveals the good relations between the Romanian and Ukrainian parties. We hope that this meeting provides solutions that we all wish, in respect of the issue of the construction of the Danube-Balck Sea deep water navigation canal. All EU standards should be adopted and respected, as well as the rules of International Law, in accordance with the principles of a sustainable development, of interest for Romania and Ukraine. The Danube Delta should be inherited by our successors.

**Ms. Daniela Pineta:**

Let me thank the Ukrainian party and the Romanian public for their involvement. The English version of the minutes shall be transmitted to the Ukrainian party, together with any other comments and observations received from the public, as well as the comments and observations of the Romanian institutes that analyse the study. We express our hope for the procedure to be further applied, up to its completion.

**Ukrainian party:**

We express our appreciation for the organization of this meeting, we deem that the cooperation between the parties is on a good track. Another step in the implementation of the Espoo Convention was thus made. The Convention is aimed at strengthening the relations between the parties.

**ARBDD Secretariat**

Gabriela Aniței  
Alina Codreanu  
Gabriela Morozov  
Cristina Parceog  
Mihaela Mauna  
Gabriela Bucur

**No. 1197**

The Embassy of Ukraine in Romania presents its compliments to the Ministry of Foreign Affairs of Romania, and answering to Notes H2/1323 of 24 March 2009 and H2/2428 of 27 May 2009, has the honour to convey the following:

As the Romanian party is aware, Ukraine currently applies the procedures provided by the Espoo Convention on Environmental Impact Assessment to Phase II of the project on the renovation of the “Danube-Black Sea” deep-water way.

Along with the measures enumerated in the Report of the Government of Ukraine of 25 February 2009 addressed to the Implementation Committee of the Espoo Convention, the following steps were undertaken:

- On 9 June 2009, in Tulcea (Romania), a public debate in respect of the environmental impact assessment of Phase II of the project was organized (art.3.8 and art.4.2 of the Espoo Convention);
- On 15-16 July 2009, in Kiev (Ukraine), Ukrainian-Romanian consultations in respect of the environmental impact assessment of Phase II of the Project were held (art.5 of the Espoo Convention).

In accordance with the Espoo Convention, works aimed at implementing projects start only after the adoption of the decision on the proposed activity (the final decision). The Government of Ukraine has not adopted such a decision up to now. Works in the framework of Phase II of the Project will not be started until the adoption of the final decision by the Government. Thus, there is no reason to discuss the issue concerning the finalization of works on the renovation of the “Danube-Black Sea” deep water navigation route.

Concerning the information made public in the media in relation with the Project, the Ukrainian party mentioned in the past that it did not comment on the activity of non-governmental media (Note Verbale 51/23-4075 of 4 December 2006 of the Ministry of Foreign Affairs of Ukraine addressed to the Embassy of Romania in Ukraine).

The Ukrainian party agrees with the position of the Romanian party concerning the need to harmonize the economical development and the protection of the unique ecosystem of the Danube Delta and asks Romania to take measures in order to implement the joint monitoring of all economical objectives in the Danube Delta, as agreed upon in 2007 by the President of Ukraine and President of Romania.

The Embassy of Ukraine in Romania avails itself of this opportunity to renew to the Ministry of Foreign Affairs of Romania the assurances of its highest consideration.

**Bucharest, 29 July 2009**

**Ministry of Foreign Affairs of Romania**

**Bucharest**

**Ministry of Environment Protection of Ukraine**

№144/12/09-01 dated 18 June 2009

To: President of the International  
Commission for the Protection  
of the Danube River in 2009  
Ms. Oľga Sršňová

Dear Ms. Sršňová,

In response to your letter Ref. №08745 dated 20 May 2009 the Ministry of Environment Protection of Ukraine expresses gratitude for providing us with two additional weeks in order to prepare the updated information regarding the current status of the project on the renovation of the Deep-Water Navigation Route “Danube – Black Sea”.

In response to the questions, contained in the letter of ICPDR Executive Secretary Mr. Weller dated 3 April 2009, the Ministry of Environment Protection of Ukraine has circulated the detailed information on the project with its letter Ref. №97/12/09-01 of 25 May 2009 (copy is attached).

I would like to assure you that Ukraine adheres to its commitments under the relevant international environmental conventions.

In accordance with the Espoo Convention, the public hearings regarding the environmental transboundary impact assessment of the project “Restoration of the Deep-Water Navigation Route Danube – Black Sea in the Ukrainian Part of the Danube Delta. Full Development” were held on 9 June 2009 in Tulcea (Romania).

During the aforementioned event Ukrainian experts answered the questions on the environmental transboundary impact assessment of the Phase II of the project raised by representatives of governmental institutions, non-governmental organizations and mass media of Romania.

The Romanian side expressed its appreciation to the Ukrainian delegation for our clarifications and data regarding the absence of the significant transboundary impact of the Phase I of the project (in accordance with the results of the complex ecological monitoring).

The Romanian side recognized that the steps took by the Ukrainian and Romanian sides, in particular notification about the Project, response to the notification, approval in October 2008 of the schedule of the planned activities under the Espoo Convention, preparation of the document “Environmental Transboundary Impact Assessment of the Deep-Water Navigation Route Danube – Black Sea in the Ukrainian Part of the Danube Delta”, as well as the

public hearings, were fulfilled in compliance with the Espoo Convention requirements.

Ukraine is ready to continue to cooperate closely with Romania regarding the implementation of the international commitments during the realization of the project “Deep-Water Navigation Route Danube – Black Sea in the Ukrainian part of the Danube Delta. Full Development”.

I avail myself of this opportunity to renew to you, Ms. Sršňová, the assurances of my highest consideration.

**First Deputy Minister,  
Head of the Ukrainian Delegation to ICPDR**

(signed) **S.Lyzun**

**Ministry of Environment Protection of Ukraine**

№97/12/09-01 dated 27 May 2009

To: Executive Secretary of the  
International Commission for the  
Protection of the Danube River  
Mr. Philip Weller

Dear Mr. Weller,

I would like to express my gratitude to you and, in the fulfillment of our commitments, to respond to your letter dated 3 April 2009 regarding the current status of the project on the renovation of the Deep-Water Navigation Route “Danube – Black Sea”.

*1. What is the current status of the project?*

At present the project “Creation of the Deep-Water Navigation Route “Danube – Black Sea”. Full Development” has not been completed yet. The required procedures under the Espoo Convention with regard to Phase II of the Project on the Renovation of the Deep-Water Navigation Route “Danube – Black Sea” are still in progress. The detailed information on the adherence to the Espoo Convention can be found in the paragraph “4” of this letter.

In the Ukrainian Reports to the Implementation Committee that were sent to the Secretariat of Espoo Convention on 6 October 2008 and 27 February 2009, Ukraine clearly indicated that no works under Phase II of the Project in the Ukrainian part of the Danube Delta are being implemented.

It is necessary to note that decision №IV/2 of the Meeting of the Contracting Parties to the Espoo Convention, approved in May 2008 in Bucharest, refers to Phase II of the Project on the Renovation of the Deep-Water Navigation Route “Danube – Black Sea”.

*2. Has the initial break-wall of the project been further extended?*

As of 30 April 2009 the length of the break-wall is 1670 meters.

In accordance with the Report of the Espoo Inquiry Commission “On the Likely Significant Adverse Transboundary Impacts of the Danube – Black Sea Navigation Route at the Border of Romania and Ukraine” issued in 2006, and in particular item “6.8” the following facts can likely cause significant adverse transboundary impacts:

1. Impact of dredging or deepening of the rifts on the distribution of the flow discharge between the Bystre and the Starostambulski branches and on the water level dynamics along the Bystre branch, resulting in loss of floodplain habitats, important for fish (spawning and nursery) and birds (nesting, feeding).
2. Impact of habitat loss by coverage of riparian dump sites and dredging through the offshore sandbar and measures for bank protection on birdlife and fish.

3. Impact on the increase of suspended sediment concentration, downstream of the dredging site on fish.
4. Impact on the turbidity of marine waters as a result of dumping of spoil at the dump-site at sea, under conditions of southbound alongshore currents.
5. Impact of repeated maintenance dredging hampering the recovery processes of affected areas for fish in the long term.
6. Cumulative impact of loss and/or disturbance of habitats and by shipping traffic on fish and bird life on a large scale and for a long time.

In accordance with the Report of the Espoo Inquiry Commission “On the Likely Significant Adverse Transboundary Impacts of the Danube – Black Sea Navigation Route at the Border of Romania and Ukraine”, provisions of the Espoo Conventions can be applied when a likely significant adverse transboundary impact on the environment of certain projects is proved. In the Report of the Inquiry Commission a transboundary impact of the break-wall has not been indicated.

*3. What is the current status of the Environmental Impact Study for the project?*

On 15 January 2009, the document “Environmental Transboundary Impact Assessment of the Deep-Water Navigation Route Danube – Black Sea in the Ukrainian Part of the Danube Delta” was forwarded to the Romanian side through the Ministry of Foreign Affairs of Ukraine. This assessment was conducted by the Ukrainian Scientific Research Institute of Ecological Problems of the Ministry of the Environmental Protection of Ukraine.

*4. What is the status of the ESPOO Convention the joint discussions with Romania?*

Ukraine fully adheres to the decisions of the Forth Meeting of the Contracting Parties to the Espoo Convention, approved in May 2008 in Bucharest, in particular:

- in August 2008 Ukraine withdrew the Final Decision on the Implementation of Phase II of the Project on Renovation of the Deep-Water Navigation Route in the Ukrainian part of the Danube delta from the Secretariat of the Espoo Convention;
- after the Final Decision was withdrawn, Ukraine started to implement procedures required by the Espoo Convention (Articles 2-7). On 29 September 2008, the Notification on Phase II of the Project on Renovation of the Deep-Water Navigation Route “Danube – Black Sea” in the Ukrainian part of the Danube delta was forwarded to the Romanian side;
- in order to fulfill the requirements of the international environmental conventions, Ukraine is carrying on the regular monitoring of the Ukrainian part of the Danube Delta;
- during the expert consultations between Ukraine and Romania on 15-16 October 2008 in Kyiv, a schedule of planned activities under the Espoo Convention procedure was approved;

- on 15 January 2009, the document entitled “Environmental Transboundary Impact Assessment of the Deep-Water Navigation Route Danube – Black Sea in the Ukrainian Part of the Danube Delta. Phase II” was forwarded to the Romanian side;
- on 14 April 2009, the Ministry of the Environmental Protection of Ukraine received verbal note of the Embassy of Romania in Ukraine №1502 forwarding the letter of the Minister of Environment of Romania №1166 dated 11 March 2009 regarding the public hearings on the project of the Deep-Water Navigation Route Danube – Black Sea in the Ukrainian Part of the Danube Delta, Phase II, which was planned to take place in Tulcea (Romania) on 28 April 2009. The Ukrainian side accepted the date of the public hearings and informed the Romanian side about this decision in its letter dated 22 April 2009. The delegation of Ukraine arrived in Tulcea in order to participate in the public hearings. However, the public hearings were cancelled and the representatives of the Romanian side did not meet with the Ukrainian delegation. On 15 May 2009, the Ukrainian side received the new notification from the Embassy of Romania in Ukraine inviting to attend the public hearings on the project which will be held in Tulcea on 9 June 2009. The Ukrainian side confirmed its readiness to attend the aforementioned hearings.

*5. Has there been an official re-opening of the Deep-Water Navigation Route Danube – Black Sea?*

Ukraine is not planning to conduct an official reopening of the Deep-Water Navigation Route Danube – Black Sea.

At present, the Ukrainian side is continuing to fulfill procedures required in the accordance with the Espoo Convention and to prepare the Independent Assessment of the Legislative, Administrative and others Procedures regarding the Implementation of the Espoo Convention in Ukraine.

Ukraine is ready to provide all additional information regarding the implementation of the international commitments during the realization of the project of the Deep-Water Navigation Route Danube – Black Sea.

I would like to avail myself of this opportunity to renew to you, Mr. Weller, the assurances of my highest consideration.

**First Deputy Minister,  
Head of the Ukrainian Delegation to ICPDR**

**S.Lyzun**

МІНІСТЕРСТВО  
ОХОРОНИ НАВКОЛИШНЬОГО  
ПРИРОДНОГО СЕРЕДОВИЩА  
УКРАЇНИ



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№ 144/12/09-01 В/г 18.06.2009

Президенту Міжнародної  
Комісії із захисту р. Дунай  
пані Ользі Среновій

**Вельмишановна пані Сренова!**

Хотів би висловити Вам запевнення у своїй високій повазі та у відповідь на Ваш лист від 20 травня 2009 року (Ref: 08745) поінформувати про наступне.

Мінприроди вдячне за розуміння прохання української сторони та прийняття рішення щодо надання двох додаткових тижнів для оновлення та узагальнення інформації щодо сучасного стану проекту відновлення глибоководного суднового ходу «Дунай - Чорне море» та надання відповідної інформації до Секретаріату МКЗД.

В цьому контексті повідомляю, що Міністерство охорони навколишнього природного середовища України направило лист Виконавчому Секретарю пану Філіпу Веллеру від 25.05.2009 № 97/12/09-01 з роз'ясненнями з питань, порушених у листі від 3 квітня 2009 року (копія листа-відповіді додається).

Хочу запевнити, що Україна дотримується взятих зобов'язань відповідно до міжнародних природоохоронних конвенцій.

Так, відповідно до вимог Конвенції Еспоо, 9 червня 2009 року у м. Тульча, Румунія, відбулися громадські слухання стосовно оцінки впливу на навколишнє середовище в транскордонному контексті відновлення судноплавства згідно українського проекту «Відновлення глибоководного суднового ходу (ГСХ) р. Дунай-Чорне море на українській ділянці дельти Дунаю. Повний розвиток».

В рамках цієї зустрічі, українські фахівці в повній мірі та обґрунтовано відповіли на всі запитання представників органів влади, неурядових та громадських організацій та представників ЗМІ Румунії, що стосувалися оцінки впливу другої фази відновлення українського ГСХ на навколишнє середовище у транскордонному контексті.

Румунська сторона була вдячна українській делегації за надані відповіді, тлумачення та документальні підтвердження (за результатами комплексного

екологічного моніторингу) відсутності значного негативного транскордонного впливу на навколишнє середовище під час реалізації першого етапу.

Румунська сторона також підкреслила, що кроки, зроблені українською та румунською сторонами, а саме направлення нотифікації щодо проекту, надання відповіді на нотифікацію, спільне узгодження в жовтні 2008 року Календарного плану (Дорожньої карти), направлення українською стороною Оцінки впливу на навколишнє середовище (ОВНС) проекту та сам зміст ОВНС, а також проведення громадських слухань, реалізовувалися відповідно до вимог та духу Конвенції Еспоо.

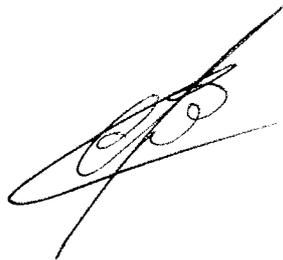
Українська сторона готова до подальшого дієвого діалогу і плідної співпраці з Румунією щодо виконання міжнародних зобов'язань при реалізації проекту «Відновлення глибоководного суднового ходу р. Дунай-Чорне море на українській ділянці дельти Дунаю. Повний розвиток».

Будь ласка, прийміть, пані Ольга Срснова, запевнення у моїй високій повазі.

*Додаток: згадане на 2 арк. в 1 прим.*

З повагою

**Перший заступник Міністра**



**С. Лизун**



**МІНІСТЕРСТВО ОХОРОНИ НАВКОЛИШНЬОГО ПРИРОДНОГО  
СЕРЕДОВИЩА УКРАЇНИ**

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**Виконавчому Секретарю  
Міжнародної комісії із захисту  
ріки Дунай  
пану Філіпу Веллеру**

**Шановний пане Філіп Веллер!**

Хотів би висловити Вам свою повагу та урахувуючи досягнуті домовленості, надати відповідь на Ваш лист від 3 квітня 2009 року щодо сучасного стану реалізації Проекту відновлення глибоководного суднового ходу (ГСХ) «Дунай-Чорне море».

*1. Який сучасний стан реалізації проекту?*

На даний час проект „Створення глибоководного суднового ходу «Дунай – Чорне море». Повний розвиток” не завершено, оскільки тривають процедури щодо виконання Конвенції Еспоо стосовно фази II Проекту відновлення ГСХ «Дунай – Чорне море». Детальна інформація щодо виконання Конвенції Еспоо наведена в пункті 4 цього листа.

У Звітах України Комітету з імплементації Конвенції Еспоо, які також були надіслані Секретаріату Конвенції Еспоо 6 жовтня 2008 року та 27 лютого 2009 року, Україна чітко зазначила, що будь-які роботи по Фазі II Проекту в українській частині Дельти Дунаю не проводяться.

Слід зазначити, що рішення IV/2 зустрічі Договірних сторін Конвенції Еспоо, прийняте в травні 2008 року в м. Бухарест, стосується фази II проекту ГСХ «Дунай – Чорне море».

*2. Чи продовжує Україна добудову захисної дамби?*

Станом на 30.04.2009 побудовано ділянку довжиною 1670м.

Згідно Звіту Комісії із запиту Конвенції Еспоо «Про ймовірно значні несприятливі транскордонні впливи суднового ходу Дунай – Чорне море на кордоні Румунії та України» складеного в 2006 року, розділ 6 «Висновки комісії із запиту» (п. 6.8), до ймовірно значних негативних транскордонних впливів віднесений вичерпний перелік факторів наведений нижче в таблиці:

Ймовірні значні негативні транскордонні впливи (згідно Звіту)	
1.	Вплив днопоглиблювальних робіт або днопоглиблення перекатів на розподіл витрат води між рукавами Бистрий і Старостамбульський та на динаміку рівня води вздовж рукава Бистрий, що призводить до втрати акваторій, що використовуються рибою для нересту і розвитку молоді, птахами - для гніздування і харчування.
2.	Вплив втрати місць існування риб і птахів у результаті влаштування відвалів ґрунту, проведення днопоглиблювальних робіт і створення берегозахисних споруд.
3.	Вплив на риб збільшення концентрації завислих речовин нижче за течією від місця проведення днопоглиблювальних робіт.
4.	Вплив на мутність морської води в результаті дампіngu на морське звалище під дією вздовжберегових південних течій.
5.	Тривалі перешкоди відновленню порушених для використання рибами ділянок дна, які чинитимуться експлуатаційними днопоглиблювальними роботами, що повторюються
6.	Кумулятивні впливи судноплавства, втрат місць мешкання та/або турбування на життя риб і птахів, значні за масштабами та довготривалі.

Згідно Звіту Комісії з запиту Конвенції Еспоо «Про ймовірно значні несприятливі транскордонні впливи суднового ходу Дунай – Чорне море на кордоні Румунії та України» норми Конвенції Еспоо починають діяти з моменту встановлення вірогідності значного негативного впливу на екологію від реалізації певних господарських проектів.

В положеннях Звіту Комісії факторів транскордонних впливів під час будівництва огороджуючої дамби Комісією встановлено не було.

*3. Який сучасний стан опрацювання Оцінки впливу на навколишнє природне середовище?*

Міністерство закордонних справ України 15.01.2009 передало румунській стороні документ «Оцінка імовірних транскордонних впливів на довкілля (ОВНС) глибоководного суднового ходу Дунай - Чорне море на українській ділянці дельти». Робота виконана Українським науково-дослідним інститутом екологічних проблем Мінприроди.

*4. Який стан справ опрацювання проекту в рамках Конвенції Еспоо та з румунською стороною?*

Україна неухильно дотримується рішень четвертої зустрічі Договірних сторін Конвенції Еспоо, прийнятих в травні 2008 року в Бухаресті, зокрема - в серпні 2008 року Україною було відкликано з Секретаріату Конвенції Еспоо Остаточне рішення про виконання Фази II проекту відновлення глибоководного суднового ходу «Дунай – Чорне море» на українській ділянці дельти Дунаю.

- після відкликання Остаточного рішення, Українською стороною розпочато виконання процедур, передбачених статтями 2-7 Конвенції Еспоо. Так, 29 серпня 2008 року Мінприроди направлено Оповіщення щодо запланованої реалізації Фази II Проекту відновлення ГСХ «Дунай - Чорне море» в українській частині дельти Дунаю.

- з метою виконання вимог міжнародних природоохоронних конвенцій Україною, на постійній основі здійснюється комплексний екологічний моніторинг відновлення та експлуатації ГСХ «Дунай – Чорне море».

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- узгоджено календарний графік робіт щодо здійснення процедур, передбачених Конвенцією Еспоо, під час українсько-румунських експертних консультацій, які проходили 15-16 жовтня 2008 року в м. Києві.

- 15 січня 2009 року передано на розгляд румунській стороні документи з оцінки впливу на навколишнє середовище (ОВНС) щодо Фази II Проекту відновлення ГСХ «Дунай - Чорне море» в українській частині дельти Дунаю.

- 14.04.2009 Мінприроди отримало ноту Посольства Румунії в Україні від 10.04.2009 №1502, якою було передано лист за підписом Міністра охорони навколишнього середовища Румунії від 11.03.2009 № 1166, щодо проведення громадських слухань 28.04.2009 в м. Тульча відповідно до вимог Конвенції Еспоо стосовно Фази II проекту відновлення ГСХ «р. Дунай – Чорне море» в українській частині дельти Дунаю. Листом від 22.04.2009 Українська сторона погодилася з датою проведення громадських слухань 28.04.2009 та прибула до м. Тульча.

**Після прибуття Української делегації з'ясувалося, що Румунська сторона взагалі не з'явилась для зустрічі з Українською делегацією та не пояснила причин не проведення слухань**

Станом 15.05.2009 Мінприроди отримано ноти Посольства Румунії в Україні з пропозицією провести громадські слухання стосовно Фази II проекту відновлення Глибоководного суднового ходу „р. Дунай – Чорне море” в українській частині дельти Дунаю 9 червня 2009 року у місті Тульча.

Українська сторона підтвердила участь у слуханнях 9 червня 2009 року.

*5. Чи планується офіційне відкриття проекту?*

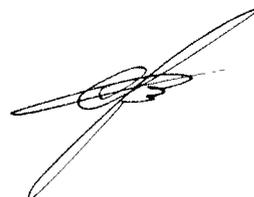
Не планується офіційного відкриття проекту.

Таким чином, в даний час Українська сторона перебуває в процесі виконання процедур в рамках Конвенції Еспоо по Фазі II проекту, а також працює над коментарями щодо проекту Незалежного Огляду в Україні законодавчих, адміністративних та інших процедур щодо імплементації Конвенції Еспоо у національне законодавство.

В цьому контексті хочу підкреслити, що Україна готова до надання додаткової інформації з питання виконання міжнародних зобов'язань за проектом ГСХ «Дунай-Чорне море».

Користуючись нагодою, пане Веллер, хочу засвідчити мої запевнення у високій повазі.

**Перший заступник Міністра,  
Голова делегації України в МКЗД**



**С. Лизун**