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Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context

Intermediary session

Geneva, 5–7 February 2019

Items 3 (a) and 8 of the provisional agenda

Outstanding issues: draft decisions

Adoption of decisions by the Meeting of the Parties to the Convention

Draft decision IS/1f on compliance by Ukraine with its obligations under the Convention in respect of the Danube- Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta

Proposal by the Implementation Committee

Summary

The draft decision contained in the present document responds to the request of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context at its seventh session (Minsk, 13–16 June 2017) for the Implementation Committee to revise draft decision VII/2 on the review of compliance with the Convention, taking into account the work already carried out and the progress achieved before, during and after the seventh session of the Meeting of the Parties (ECE/MP.EIA/23-ECE/MP.EIA/SEA/7, para. 27). To facilitate its consideration and adoption, draft decision VII/2 has been split into separate draft decisions: a draft decision on general issues of compliance and draft decisions on separate country-specific compliance issues.

Draft decision IS/1f presents a revised version of the text of draft decision VII/2 concerning the follow-up by Ukraine to decision VI/2 in respect of the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta.

The Meeting of the Parties is expected to review the draft decision and agree on its adoption.

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The Meeting of the Parties,

Recalling article 11, paragraph 2, and article 14 bis of the Convention on Environmental Impact Assessment in a Transboundary Context,

Recalling also its decisions IV/2, paragraphs 7–14,¹ V/4, paragraphs 17–26,² and VI/2, paragraphs 15–28,³ concerning compliance by Ukraine with regard to the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta (Bystroe Canal Project),

Recalling further its decision at its seventh session to finalize its deliberations on the review of compliance with the Convention at an intermediary session, based on a revised draft decision to be prepared by the Implementation Committee and taking into account the work carried out and progress achieved before and during the seventh session,⁴

Having considered the relevant sections concerning Ukraine in the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its seventh session⁵ and in the reports of the Committee on its thirty-ninth,⁶ fortieth⁷, forty-first⁸ and forty-second sessions,⁹

Recalling its decision IS/1 on the review of compliance with the Convention adopted at the intermediary session,

1. *Appreciates* the reports received from the Government of Ukraine, further to paragraph 25 of decision VI/2, concerning the follow-up to decision V/4 in relation to the Bystroe Canal Project;

2. *Welcomes* the efforts of the Government of Ukraine to follow the recommendations of the Meeting of the Parties addressed to it in decision VI/2;

3. *Also welcomes* the fact that Ukraine consulted the Implementation Committee during the preparation of its Law on Environmental Impact Assessment to ensure that it provides an adequate basis for the implementation of the Convention;

4. *Further welcomes* the adoption by Ukraine of the Law on Environmental Impact Assessment in May 2017, followed by a number of pieces of secondary legislation, as concrete legislative steps towards the implementation of the strategy of the Government of Ukraine to implement the Convention referred to in paragraph 25 (a) of decision VI/2;

5. *Requests* the Government of Ukraine to report without delay on the status of adoption of the secondary legislation that has been developed to fully align its national legislation with the Convention;

6. *Regrets* that only limited steps have been taken to bring the Bystroe Canal Project into full compliance with the Convention further to paragraph 24 of decision VI/2;

¹ See ECE/MP.EIA/10.

² See ECE/MP.EIA/15.

³ See ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1.

⁴ See ECE/MP.EIA/23-ECE/MP.EIA/SEA/7, para. 27. See also draft decision VII/2 (ECE/MP.EIA/2017/8).

⁵ ECE/MP.EIA/2017/4-ECE/MP.EIA/SEA/2017/4, paras. 10–16.

⁶ ECE/MP.EIA/IC/2017/4, paras. 15–20.

⁷ ECE/MP.EIA/IC/2017/6, paras. 19–26.

⁸ ECE/MP.EIA/IC/2018/2, paras. 30–39.

⁹ ECE/MP.EIA/IC/2018/4, paras. 19–26.

7. *Endorses* the findings of the Implementation Committee at its forty-first and forty-second sessions that, despite some steps taken, Ukraine has not yet fulfilled its obligations under paragraphs 24 and 25 of decision VI/2;¹⁰
8. *Also endorses* the findings of the Committee that the continuation of dredging activities by the Government of Ukraine constitutes a further breach of its obligations under the Convention;¹¹
9. *Declares*, therefore, that the caution to the Government of Ukraine issued at its fourth session is still effective;
10. *Welcomes* the declaration of Ukraine of its genuine wish to bring the Bystroe Canal Project into full compliance with the Convention;¹²
11. *Also welcomes* the intended steps to be taken by Ukraine, as stipulated in the road map developed by Ukraine and discussed at the forty-first session of the Implementation Committee with regard to the phases I and II of the Bystroe Canal Project, including the readiness to stop works, to repeal the final decision, to conduct an assessment of the damage to the environment and to develop a plan for compensatory and mitigation measures;¹³
12. *Acknowledges* that although the list of steps presented in the road map is not exhaustive, it represents a good basis for bringing the Project into full compliance with the Convention;¹⁴
13. *Takes note* of the intention of Ukraine to develop a new project for a “Bystroe Route” and to carry out a transboundary environmental impact assessment procedure on the new project in accordance with the Convention;¹⁵
14. *Requests* Ukraine to consult with Romania on the road map and its implementation;
15. *Reiterates* its request to the Government of Ukraine to bring the project into full compliance with the Convention without delay;
16. *Welcomes* the efforts made by the Governments of Ukraine and Romania to further develop the bilateral agreement for improved implementation of the Convention, while regretting that no progress was achieved;
17. *Encourages* the Governments of Ukraine and Romania to continue their cooperation in preparing a bilateral agreement or other arrangement to support further their implementation of the provisions of the Convention, as set out in article 8 of the Convention;
18. *Requests* the Government of Ukraine to inform Romania about existing monitoring results;
19. *Requests* the Implementation Committee to report to the Meeting of the Parties at its eighth session on its evaluation of the steps taken by the Government of Ukraine, and to develop, if appropriate, further recommendations to assist Ukraine in complying with its obligations under the Convention.

¹⁰ ECE/MP.EIA/IC/2018/2, para. 30, and ECE/MP.EIA/IC/2018/4, para. 21.

¹¹ ECE/MP.EIA/IC/2016/4, para. 13.

¹² ECE/MP.EIA/IC/2018/2, para. 34.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.