Application of the Convention to complex activities

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Procedural challenges when Convention applied to complex activities

- Pipelines, roads or other linear infrastructure projects, part of energy / transport network crossing several Parties
- Nuclear power plants and related installations (e.g. waste storage facilities that generate concerns in several Parties / might have long-range impacts
- Large industrial installations located on banks of water bodies shared by several Parties
- Large energy projects that could affect subregional policies
• Large-scale does not necessarily mean complex
• Small but risky activities could be more complex
Characterized as “complex” if

- Activities with an important “strategic dimension”
  - those participating in transboundary EIA procedure likely concerned by policy setting of activity, and other more strategic decisions preceding project proposal

OR

- Activities for which transboundary EIA procedure involves more than two concerned Parties
  - including activities with long-range impacts
  - will lead to complications such as large number of languages
Strategic dimension

- Political influences, strategic views, and connections between activity and policies, plans and programmes, or other projects
- Complex activity: strategic dimension is predominant
- e.g. large-scale energy project – routing of a gas pipeline
  - Geopolitical issues, economic interests and relations between Parties could influence the pipeline route, thus diminishing the alternatives considered in the EIA.
  - Project could significantly influence the regional energy market, affecting countries’ energy and climate policies and strategies
  - Project could also make regional integration more difficult if there is no consensus among affected Parties
Number of concerned Parties

- More stakeholders in transboundary EIA and decision-making processes
  - More authorities to take corresponding decision
  - Competent authorities may be from different sectors in different Parties
  - Other governmental authorities from different levels of government and from different sectors
  - More NGOs and members of public participating
- One or more of States concerned may not be Party to Convention
  - Non-Party not legally bound to follow Convention
  - Party not legally bound to notify non-Party
  - Different Parties appear to apply different policies in this regard
- Difficulty of discussions regarding activity not listed in appendix I but likely to have significant adverse transboundary impact
  - concerned Parties may differ in legal views on impact’s significance
- More languages and more documents to be translated
Paper examines how these characteristics pose challenges

- In key stages
  - early planning
  - preparation of EIA documentation
  - public participation
  - decision-making

- Resulting costs of these challenges
Recommend these procedural issues be considered in future guidance

• Review *Guidance on Practical Application* in light of experience gained in applying Convention to complex activities
• Establish clearer links between SEA and EIA procedures
  • might revise *Guidance on Practical Application*
• Provide guidance on public participation in relation to complex activities
  • review *Guidance on Public Participation in Transboundary EIA*
• Provide guidance on decision-making and links with different EIA reports, plus how to make joint decision for activities crossing territory of several Parties
• Provide guidance on joint EIA processes, joint EIA reports
• Increase transparency of preparatory meetings between focal points of concerned Parties, e.g. make meeting reports available to public
  • To allow all stakeholders to know how EIA procedure for complex activities coordinated and, possibly, how to make comments
Recommend these methodological issues be considered in future guidance

- Define how to proceed when strategic dimension of complex activity not assessed in a previous SEA, and give guidance on how to incorporate formal analysis of strategic issues at EIA stage
  - Would allow formal and transparent discussion of all important early decisions, such as project’s final aim and means to achieve it, and for public participation at early stages of decision-making
- Provide guidance on how to enhance preparation of consistent EIA documentation, including through elaboration of joint terms of reference, when decided to prepare separate EIA reports
  - Some guidance on harmonization in *Current Policies, Strategies and Aspects*
- Prepare further guidance on specific issues regarding impact significance and complex activities, based on guidance on impact significance in *Current Policies, Strategies and Aspects*
  - In particular, provide guidance on significance of long-range impacts