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

**Third meeting
(Cavtat, 1-4 June 2004)
(Item 7 (a) of the provisional agenda)**

DRAFT DECISION III/1 TO BE TAKEN AT THE THIRD MEETING OF THE PARTIES
Submitted by the Working Group on Environmental Impact Assessment

**DECISION III/1
REVIEW OF IMPLEMENTATION**

Addendum

VI. CONSULTATION

A. Questions to the Party in the role of 'Party of origin'

1. As Parties of origin, respondents described their limited but diverse experiences of consultations pursuant to Article 5 of the Convention. Bulgaria and Italy reported that these had occurred within joint Environmental Impact Assessment (EIA). Croatia reported that consultations were difficult when an affected Party is a priori against a project. France noted the necessity to extend deadlines to assure adequate consultation for projects subject to dispute. The Netherlands, Sweden and Switzerland described procedural matters. The United Kingdom reported on early and effective consultations with Ireland.
2. Only Finland and the Netherlands declared not having entered into consultations with the affected Party. However, France indicated that no consultations occurred if the affected Party did not respond to the notification or indicated that it had no particular comments to make. Similarly, the Netherlands reported that no consultations were needed when it was determined that the transboundary impact was limited.

3. The respondents determined in various ways the meaning of “without undue delay” with respect to entering into consultations: immediately after notification (Slovakia); once the EIA documentation had been subject to quality evaluation (Bulgaria); bearing in mind practicalities and reciprocity (France); preferably once the affected Party has commented on the EIA documentation (Germany); once the EIA documentation has been sent to the affected Party (Hungary, Netherlands, Poland, United Kingdom); according to bilateral agreements and national legislation (Italy); or at the same time as consulting the domestic authorities (Sweden).

4. Again, the respondents interpreted the reasonable time frame for consultation in different ways, with France reporting time frames exceptionally extending to two years. The Netherlands provided a range of three weeks to three months for consultation, whereas Germany indicated that it depended on the issues to be discussed. Croatia and Italy indicated that it depended upon the equivalent domestic procedures in the concerned Parties. Italy also noted the relevance of bilateral agreements.

5. Respondents reported that in their limited experience consultations had covered matters referred to in paragraphs (a) to (c) of Article 5. Two respondents noted that consultations related to other matters: legal issues (Italy); and civil liability and scientific issues (Germany).

6. Consultations were reportedly held in the Party of origin (Croatia, Germany, Netherlands, Poland, Slovakia, United Kingdom), the affected Party (Italy, Norway), alternately in the two Parties (Hungary), or as determined case by case (Canada).

7. Several respondents indicated that consultations took place at the (federal) governmental level (Bulgaria, Canada, Croatia, Germany, Hungary, Italy, Norway), at the provincial or State or regional level (Bulgaria, Canada, Croatia, Germany, Italy, Norway), at the local level (Bulgaria, Canada), or among experts (Netherlands). In Poland and the United Kingdom, the level corresponded to the level of the competent authority, though, in the case of Poland, via the Environment Minister. In Slovakia, the level varied.

8. The consultations reportedly involved various bodies and individuals from the concerned Parties, depending on the complexity and contentiousness of the project, for example: the public (Bulgaria, Sweden); the ‘authorities’ (Sweden); national government officials (United Kingdom); central, regional or local authorities with environmental responsibilities (Bulgaria, Canada, Hungary, Switzerland); the ministry of foreign affairs (Canada, France); the environment ministry (France, Germany, Hungary, Italy) or agency (Canada); the appropriate sectoral ministry (Canada, France); the competent authority (Germany, Netherlands, Switzerland); experts (Canada, Netherlands, Switzerland, United Kingdom); the project proponent (Switzerland); and other stakeholders (Canada, Croatia, Sweden).

9. As to the means of communication for consultations, respondents indicated correspondence (Sweden, United Kingdom), meetings, or both (Bulgaria, Croatia, Germany, Hungary, Italy, Kyrgyzstan, Netherlands). Italy and the United Kingdom also noted the use of the telephone. France and Switzerland indicated that a whole range of communication means was envisaged.

10. The timing of the consultation was variously reported as being: at a very early stage (Italy); once it had been decided to proceed with the EIA procedure, so as to define the scope (Bulgaria, Switzerland); while identifying potential impacts (Kyrgyzstan); once the EIA documentation had been sent to the affected Party (Bulgaria, Germany, Hungary, Netherlands,

Poland, United Kingdom); once the affected Party's comments on the EIA documentation had been considered (Germany); after information had been exchanged, but before the public inquiry (Croatia); well in advance of a final decision (Canada); ongoing, following notification (France); at each step in the EIA procedure (Germany, Italy); and at the very end of the EIA procedure (Italy).

B. Questions to the Party in the role of 'affected Party'

11. In the role of affected Party the respondents reported various though limited experiences of consultation: the need for several meetings to reach agreement (Austria); consultation only began once the EIA documentation had been produced (Bulgaria); consultation was effective (Croatia); consultation was limited to requests for additional information (Hungary); consultation was governed by bilateral agreements (Slovakia) that were sometimes established prior to notification, sometimes after (Italy); consultations only began once a decision had been made and at the request of the affected Party (Poland); and the use of informal contacts (United Kingdom).

12. Five of fourteen respondents indicated that they had been involved in EIA procedures where the Party of origin did not initiate consultations; the other seven reported that they had not been excluded in this way. The Netherlands reported having requested a consultation after it had received EIA documentation that had caused serious concerns. Sweden was not consulted regarding a project for which EIA was not mandatory. Poland, as noted above, requested consultation after a decision had been made without its participation.

13. Some respondents (Croatia, France, Italy, Netherlands, Slovakia, Sweden, United Kingdom) reported that consultations did generally cover the matters referred to in paragraphs (a) to (c) of Article 5, whereas Austria and Hungary said they did not. Bulgaria reported that the matters were partially covered. Four out of eleven respondents indicated that consultations covered other matters, with Poland noting the importance of compensation arrangements and Kyrgyzstan noting organizational matters.

14. Six Parties reported that consultations were held in the Party of origin, whereas France and the United Kingdom said that they were held in their country, i.e. the affected Party.

15. Several respondents indicated that consultations primarily took place at the (federal) governmental level (Austria, Bulgaria, Germany, Hungary, Italy, Netherlands, Poland, Sweden), at the provincial or State or regional level (Austria, Germany, Italy, Poland), at the local level (Bulgaria), or among experts (Netherlands). Croatia and France reported that meetings took place at all levels, whereas in Slovakia and the United Kingdom they were at the relevant levels.

16. The consultations reportedly involved various bodies and individuals from the concerned Parties, for example: the public (Bulgaria); national and local authorities (Croatia, Hungary, Kyrgyzstan, Netherlands, Switzerland); provincial or regional authorities (Austria, Poland); environmental authorities or agencies (Bulgaria, Hungary, Switzerland, United Kingdom); the Ministry of Foreign Affairs (France); the environment ministry (Austria, France, Germany, Italy, Poland); the appropriate sectoral ministry (France); the competent authority (Germany); experts (Netherlands, Poland, Switzerland); the project proponent (Kyrgyzstan); NGOs (Bulgaria, United Kingdom); and other stakeholders (Bulgaria, Croatia).

17. As to the means of communication for consultations, respondents indicated correspondence (Poland, Sweden, United Kingdom), meetings (Austria, Hungary), or both

(Bulgaria, Croatia, France, Germany, Italy, Kyrgyzstan, Netherlands). Italy also noted the use of the telephone and the United Kingdom reported that other means might also have been appropriate. Switzerland indicated that a whole range of communication means was envisaged.

18. In the role of affected Party, the timing of the consultation was variously reported as being: at a very early stage or at the scoping stage (Bulgaria, Switzerland, United Kingdom); after notification (France); during identification of potential impacts (Kyrgyzstan); during preparation of the EIA documentation (Bulgaria); once the quality of the EIA documentation had been confirmed (Bulgaria); once the EIA documentation had been received by the affected Party (Germany, Netherlands, United Kingdom); after consultation of the public (Austria); once the affected Party's comments on the EIA documentation had been considered (Germany, Poland); after information had been exchanged, but before the public inquiry (Croatia); at each step in the EIA procedure (Germany); according to bilateral agreements (Italy); as and when necessary (Slovakia); or according to the Party of origin's legislation (Sweden).

VII. FINAL DECISION

A. Questions to the Party in the role of 'Party of origin'

19. In the role of Party of origin, all respondents confirmed that the final decision contained the reasons and considerations on which the decision was based.

20. Respondents indicated that the decision often contained other information (Croatia, Slovakia, Sweden), for example: a project description (Austria, Finland, France); an overview of the licensing or decision-making procedure (Austria, Finland, Switzerland); an overview of the EIA (Austria); conditions imposed (Bulgaria, Czech Republic, France, United Kingdom); or deadlines and liability for non-compliance with the conditions (Bulgaria).

21. Croatia noted that if additional information on a significant transboundary impact became available at a later stage, it sometimes had difficulties assuring the cooperation of the project developer. No Party indicated that a request for consultation had been made because of such information, though France noted that an indemnity might have been due.

22. With regard to the taking into account in the final decision of the outcome of the EIA, comments from the affected Party and consultations, several respondents noted again that the final decision contained the reasons and considerations on which the decision was based (Canada, Finland, Germany, Hungary, Kyrgyzstan, Netherlands, Norway, Switzerland). Slovakia stated that the EIA and valid comments were taken into account. Hungary described the evaluation of comments as comprising factual, professional and legal analyses. Germany noted the importance of defining measures to prevent, reduce or mitigate adverse transboundary impacts. The Czech Republic noted that its final decisions included the opinion of the affected Party, or explained why it was not included. Estonia reported attaching the environmental requirements to the final EIA documentation. The United Kingdom explained that the final decision had to include an explicit declaration that the EIA documentation had been taken into account.

23. All respondents indicated that comments from the public and authorities in an affected Party were taken into consideration in the same way as domestic comments, though Germany noted that the affected Party's comments were expected to focus on transboundary impacts. No difficulties were reported in the preparation of the final decision.

24. The final decision was reported as being sent to various bodies and individuals in the affected Party: the point of contact (Canada, Croatia, Finland, France, Hungary, Italy, Netherlands, Sweden, United Kingdom); government authorities (Kyrgyzstan, Norway); the competent authority (Estonia, Kyrgyzstan); authorities responsible for EIA (Italy); ministries (Czech Republic); authorities that had been consulted or otherwise involved (France, Germany, Switzerland, United Kingdom); the project proponent (Kyrgyzstan); all those who had submitted comments (Netherlands); and others that had been identified by the affected Party (Canada). No respondent reported receiving an official complaint from the affected Party that the final decision was not easily understandable.
25. The means of publication of the final decision was described by a number of respondents: made publicly available (Austria, Bulgaria, Hungary, Netherlands, Poland, Sweden); published in newspapers (Bulgaria, France, Italy, United Kingdom) possibly including in the affected Party (Germany); advertised in the affected Party (Sweden); published in an official journal (France, Italy); placed on an Internet web site (Italy); or publication was as for domestic EIA (Czech Republic). Croatia reported that the decision was only made available to the parties in the administrative procedure.
26. Respondents indicated in very different ways how the provision of the final decision to the affected Party was organized. Some answered in terms of the practical means of transfer: it was sent by post (Austria, France, United Kingdom) or by electronic mail (Austria, United Kingdom). Some indicated senders: the point of contact (Bulgaria, Sweden); the environment ministry (Czech Republic, Hungary); or the competent authority (Netherlands, Switzerland). Some reported recipients: the point of contact (Bulgaria, France, Sweden, United Kingdom); or the consultees (France, United Kingdom). While others again described the procedural framework: bilateral agreements (Italy, Netherlands, Slovakia) or domestic legislation (Czech Republic, Hungary, Slovakia).
27. Respondents provided further information on which body was responsible for sending the final decision to the affected Party: the point of contact (Finland, Italy, Sweden, United Kingdom); the environment ministry (Bulgaria, Czech Republic, Estonia, Hungary, Poland, Slovakia) or agency (Canada, Sweden); the Ministry of Foreign Affairs (Canada); the competent authority (Canada, Croatia, Estonia, France, Germany, Netherlands, Norway, Switzerland); or the competent authority in cooperation with the point of contact (Austria). Italy once again made reference to bilateral agreements, whereas Kyrgyzstan reported that the same contact as used previously would be used at this stage also.
28. In terms of difficulties, only Sweden provided a response, noting a long delay between the EIA procedure and the arrival of the final decision.
29. Respondents described the possibility for an affected Party or its public to challenge a final decision in the courts of the Party of origin. Such a right to challenge was reported by several respondents (Austria, Croatia, Germany, Italy, Netherlands, Slovakia, Switzerland, United Kingdom). The Netherlands noted that the challenge would have been of the planning decision rather than of the EIA. Canada, too, reported the possibility to challenge through judicial review, noting that a person would have needed to demonstrate a direct effect on them, rather than a general interest; Germany too would have required that a direct effect be demonstrated. Sweden reported that reciprocal arrangements existed among the Nordic States to allow such a challenge. The Czech Republic, France, Norway and Poland indicated that such a challenge would not have been possible.

30. The possibility of a legal challenge was reportedly described in the final decision issued by several Parties (Croatia, Germany, Hungary, Netherlands, Switzerland). Austria noted that it might have included such information. Canada remarked that it was for appellants to inform themselves of their rights to challenge decisions.

31. Respondents indicated that an appellant would have been informed of the result of an appeal (Canada, Norway, Slovakia, Sweden, United Kingdom), according to domestic law (Croatia, Hungary) or bilateral agreements (Austria). The Netherlands reported that appellants would not have been informed automatically, and Poland that they would not have been informed at all.

B. Questions to the Party in the role of ‘affected Party’

32. In their role of affected Party, respondents described their experience of the content of the final decision and its provision to them by the Party of origin. The Netherlands and the United Kingdom reported difficulties in understanding fully the decisions received. Poland reported an incomplete final decision that did not make reference to its opinion. Sweden remarked that the decision arrived years after the EIA procedure was completed. Croatia declared that the decision enabled application of the necessary protection measures. Italy noted once again its experience related to joint EIAs, circumventing many of the problems that might have been expected with a transboundary EIA procedure.

33. The final decisions were received by various bodies and individuals in the affected Party, including: the point of contact (Austria, Bulgaria, Finland, France, Italy, Netherlands, Sweden, United Kingdom); the environment ministry (Austria, Bulgaria, Czech Republic, Norway, Poland, Slovakia) or agency (Canada, Sweden); the Ministry of Foreign Affairs (Canada); the provincial government (Austria); national and local authorities (Croatia, Kyrgyzstan); the project proponent (Croatia, Kyrgyzstan); or the competent authority (Germany, Kyrgyzstan, United Kingdom). France remarked that it was for the Party of origin to decide.

34. Distribution of the final decision within the affected Party was reportedly, and as appropriate, by official notice in the ‘mass media’ (Bulgaria), newspapers (Austria, Canada, Germany, Italy, Kyrgyzstan, Norway, United Kingdom), in the official journal (Italy), on an Internet web site (Austria, Canada, Germany) or through meetings (Kyrgyzstan). Several respondents simply reported public access to the decision (Austria, Bulgaria, Hungary, Netherlands, Norway, Switzerland). In Finland, the NGOs consulted were sent copies; in Sweden, all those consulted received copies. Canada reported that stakeholders were sent information on the decision. Poland reported distribution to local authorities. France remarked that Article 6 of the Convention did not impose such a requirement. Croatia, too, reported that the public was not informed.

35. No respondent reported difficulties with the publication of the final decision, though Croatia noted that it was not a public document. No respondent indicated clearly that there had been a complaint that a final decision was not easily understandable.

36. Seven respondents indicated that they sometimes had the right to make a legal challenge of a decision taken by the Party of origin (Austria, France, Germany, Italy, Netherlands, Sweden, Switzerland); four others indicated that they did not (Czech Republic, Norway, Poland, Slovakia). The United Kingdom did not know. Sweden again made reference to reciprocal arrangements among the Nordic countries with respect to legal appeals. Austria noted that such possibilities

existed in some of its neighbouring countries. France, Germany, Italy and Switzerland remarked that it depended on the domestic law of the Party of origin.

37. Austria, Sweden and the United Kingdom expected to be informed of the outcome of such an appeal. Armenia, Croatia and Poland did not expect to be informed, nor did Kyrgyzstan always, and the Netherlands indicated that it did not expect the Party of origin to be proactive in this regard.

38. The remaining questions relate to notification of the public of the final decision, rather than of the commencement of the EIA procedure. However, this was not apparent in the questionnaire causing some confusion among the respondents.

39. Austria reported that the notification of the public of the final decision included the (summary of the) decision, where it was possible to inspect it and the possibility of appeal according to bilateral agreements. The United Kingdom reported inclusion of the decision and its justification.

40. With the exception of Poland, the respondents indicated that the notification of the final decision in the affected Party contained the same information as that provided in the Party of origin, if possible (Czech Republic, Germany, Italy, Norway). The notification of the public was done as soon as possible after receipt of the final decision (Austria, Norway, United Kingdom).

VIII. POST-PROJECT ANALYSIS

41. The respondents reported limited experience of post-project analysis, with a number of exceptions, generally relating to domestic EIA. Specifically, in Kyrgyzstan and the Netherlands, post-project analysis was always required, though it never occurred in the former. In Croatia, France, Norway, Poland, Slovakia and the United Kingdom it depended on individual cases. The requirement was under development in Switzerland. In Canada, it was dependent upon the type of EIA that had been undertaken, being compulsory for full EIAs. In France and Slovakia, post-project analysis was required for certain types of activities. In the Netherlands and Norway, it is the competent authority that initiated it. In the Netherlands, Poland Slovakia, the project proponent carried it out.

42. Those respondents that indicated why post-project analyses were undertaken, whether or not compulsorily, generally indicated that they were done to:

- Monitor compliance with the conditions in the licences;
- Review predicted environmental impacts for proper management of risks and uncertainties;
- Modify the activity or develop mitigation measures in case of harmful effects on the environment; and
- Provide the necessary feedback in the project implementation phase.

43. Only a few respondents indicated that post-project analyses were undertaken so as to learn from experience. There was no reported experience of informing another Party, or being informed by another Party, of a significant adverse transboundary impact, identified as a result of post-project analysis.

IX. TRANSLATION

44. Respondents indicated various approaches to overcoming language constraints during consultations. Some respondents reported that consultation was, if possible, in all the languages of the concerned Parties (Bulgaria, Germany, Norway, United Kingdom), others that interpreters were available as necessary (Austria, Netherlands). In other instances, it depended on bilateral agreements (Czech Republic, Poland, Slovakia). Several respondents noted use of English as a common language (Bulgaria, Estonia, Hungary, Italy, Sweden); Finland used Swedish and English in hearings; Kyrgyzstan generally used Russian. Sweden required that court submissions be in Swedish. Canada and Switzerland reported reliance on their national languages for consultation with their neighbours.

45. One respondent indicated that it translated all documents into the language of the affected Party (United Kingdom); others translated selected sections (Sweden), in some cases according to bilateral agreements (Austria, Czech Republic, Italy, Poland, Slovakia), domestic law (Hungary, Netherlands, Poland) or on the basis of reciprocity (Germany). Some respondents reported translation of some documentation into English (Bulgaria, Croatia, Estonia). In Canada, all documentation had to be produced in the national languages (English and French); translation into other languages would have been discussed with the affected Party. Norway did not provide translation of consultation documentation. Again, Switzerland reported reliance on its national languages for consultation with its neighbours.

46. Several respondents indicated that the final decision was, or would have been, translated into the language of the affected Party, as necessary and according to bilateral agreements (Austria, Germany, Hungary, Italy, Netherlands, Poland, Slovakia, Sweden, United Kingdom). However, three Parties (Croatia, Czech Republic, Norway) noted that the decision was not translated.

47. Several respondents also indicated that interpretation was, or would have been, provided in hearings, again as necessary and according to bilateral agreements (Austria, Bulgaria, Croatia, Czech Republic, Germany, Slovakia); again other respondents (Estonia, Netherlands, Norway, Sweden) indicated that they were not. Kyrgyzstan indicated that interpretation had not been necessary. This would appear to have been an area where there was still rather limited experience, especially in terms of hearings in an affected Party.

48. The respondents indicated that translation of basic information was generally the responsibility of the Party of origin (Austria, Croatia, Czech Republic, Estonia, Finland, Germany, Poland, United Kingdom); specifically, translated EIA documentation was provided by the project proponent (Bulgaria, Estonia, Germany, Hungary, Netherlands, Norway, Sweden, United Kingdom), whereas the formal notification was translated by the competent authority (Netherlands) or by the proponent (United Kingdom). Two respondents indicated that the affected Party was responsible for translation of its comments into the language of the Party of origin (Sweden – for the environmental court – and Finland). Five of the respondents indicated that responsibility for translation varied from case to case (Austria, Estonia, Netherlands, Poland) or according to bilateral agreements (Slovakia), whereas nine said that it did not. Kyrgyzstan reported that translation had not generally been necessary.

49. Several Parties reported problems with translation, particularly with respect to costs (Austria, Czech Republic, Estonia, Finland, Poland) and delays (Finland, Poland). Hungary noted

that translation into English, even rather than Hungarian, might be preferred because of quality problems.

50. Certain respondents indicated that they translated all documents when responsible (Bulgaria, Italy, United Kingdom); others translated only parts of the documentation as discussed with the affected Party (Austria, Finland, Sweden), or according to bilateral agreements (Czech Republic, Germany, Italy, Poland, Slovakia) or domestic law (Hungary, Netherlands). Germany noted that, unfortunately, there was so far no provision in the Convention regarding responsibility for any translation, so there could not be any legal responsibility as such for translations. Some respondents reported translation of some documentation into English (Croatia, Estonia). As mentioned above, in Canada, all documentation had to be produced in the national languages (English and French); translation into other languages would have been discussed with the affected Party.

51. Several respondents reported reliance on translation into the language of the affected Party (Czech Republic, Netherlands, United Kingdom), whereas others noted the use of either English or the language of the affected Party (Bulgaria, Croatia, Sweden). Estonia noted the use of English only. Germany, too, used the language of the affected Party, except when dealing concurrently with several States on the shores of the Baltic Sea, when English was used. In Canada, all documentation had to be produced in the national languages (English and French). Thus, English was reported as being used as a common language, even where it was not the language of any of the concerned Parties (notably Estonia, Hungary, Italy); the other official UNECE languages (French and Russian) were only reported as being used where they were the or a national language of one of the concerned Parties.

52. As Party of origin, translation costs for the EIA documentation were reported by most respondents as being the responsibility of the developer; translation of notifications and decisions was reported by several respondents as being paid for by the authorities (Germany, Netherlands, Poland). As affected Parties, Hungary and Poland reported that the Ministry of Environment and the regional authorities, respectively, were responsible for translation costs. Germany and the Netherlands noted that the competent authority was often responsible for the costs of translation and interpretation. In the United Kingdom, the developer was encouraged to bear all costs, but the Government was ultimately responsible.

53. No respondent reported problems assuring the quality of translations, with professional translators being used, nor did the respondents experience problems as the affected Party.

54. However, only half of the ten Parties providing a meaningful response to the relevant question indicated that, generally, sufficient documentation was translated to enable participation in the EIA procedure. The remaining respondents indicated both good and bad experiences.

X. CONTACT POINTS

55. The list of points of contact appended to decision I/3 and updated via the Convention's web site was generally considered useful by the respondents, but concerns were expressed regarding its being up to date and problems occurring if no named individual was identified (i.e. only an organization, though the Czech Republic noted that because of staff movements it was difficult to name an individual). Additional points of contact had been established informally, to

satisfy requirements of decentralized government or as a result of bi- or multilateral agreements with other Parties.

XI. INQUIRY PROCEDURE

56. No Party reported application of the inquiry procedure.

XII. SETTLEMENT OF DISPUTES

57. Only one Party reported a dispute, which had yet to be resolved.

XIII. BILATERAL AND MULTILATERAL AGREEMENTS

58. Parties reported on their bi- and multilateral agreements with their geographical neighbours, as summarized in the list below. Few agreements had been finalized, but many draft agreements had been prepared and informal agreements established:

- Austria: draft agreements with the Czech Republic and Slovakia; informal agreements with Liechtenstein and Switzerland.
- Czech Republic: draft agreements with Austria, Germany, Poland and Slovakia.
- Estonia: agreements with Finland and Latvia.
- Finland: agreement with Estonia.
- Germany: draft agreements with the Czech Republic, the Netherlands and Poland; planned informal agreements with Austria, Liechtenstein and Switzerland; Sar-Lux-Lor Recommendation with France and Luxembourg; tripartite recommendation with France and Switzerland.
- Italy: agreement with Croatia; intergovernmental conference with France; project-specific agreements with Austria and Switzerland.
- Latvia: agreement with Estonia.
- Lithuania: draft agreements with Latvia and Poland.
- Netherlands: draft agreements with the region of Flanders (Belgium) and Germany.
- Norway: Nordic Environmental Protection Convention with Denmark, Finland and Sweden.
- Poland: draft agreements with the Czech Republic, Germany and Lithuania; talks with Belarus, Slovakia and the Ukraine.
- Slovakia: agreements being drafted with Austria, the Czech Republic, Hungary and Poland.
- Switzerland: informal agreements with Austria and Liechtenstein.

59. Armenia, Bulgaria, Croatia, France, Hungary and the United Kingdom reported having no such agreements with their neighbours. Furthermore, no agreements were reported for long-range transboundary impacts, i.e. to address instances where a proposed activity was likely to

have an adverse environmental impact on another Party that was not an immediate geographical neighbour.

60. The agreements that did exist, whether formal, informal or draft, were based to varying degrees on the provisions of Appendix VI (Elements for bilateral and multilateral cooperation), with some (e.g. the informal agreements between Austria, Liechtenstein and Switzerland) being in line with the Appendix, whereas some others had little in common and might even have pre-dated the Convention (e.g. the Nordic Environmental Protection Convention).

XIV. RESEARCH PROGRAMME

61. The only reported research directly related to EIA in a transboundary context was a project involving Germany and Poland.

XV. GENERAL QUESTIONS

62. Some respondents reported that minor variations might have occurred in the implementation of the Convention within their country as a result of bilateral agreements (Austria, Hungary, Italy, Netherlands). Italy and Switzerland indicated that variations might have occurred because of regional (within country) responsibilities. More than half of the respondents indicated that there should not have been any variations.

63. Most respondents indicated that a single point of contact within the equivalent of a ministry of environment or a national EIA agency was responsible for the coordinated application of the Convention. In Germany, the various competent authorities were responsible. In France, it was a joint responsibility of the Ministry of Foreign Affairs and the Ministry of Environment and Sustainable Development.

64. Four fifths of the respondents indicated that a single body was responsible for collecting information on all transboundary EIA cases. France, Germany, Kyrgyzstan and the Netherlands indicated that there was no such body. Generally, the body responsible was the same as that responsible for the coordinated application of the Convention.

65. Austria and Poland each reported a single difference of opinion with a Party of origin regarding interpretation of the terms “major” or “significant” (see Part I of questionnaire).

66. Several respondents described cross-border projects, employing various organizational approaches: joint EIA (Bulgaria, France, Italy, Switzerland) done under bilateral agreements (France, Italy); and Parties being in turn considered both Party of origin and affected Party (Germany, Poland).

XVI. EXPERIENCES AND OPINIONS

67. All respondents indicated that the questionnaire covered every aspect of the implementation of the Convention. However, several respondents indicated that the questionnaire was too long, detailed and repetitive (Croatia, Estonia, France, Germany, Italy, Sweden, Switzerland and United Kingdom) and that a shorter, more concise questionnaire might elicit more and better responses. Further changes to the questionnaire were suggested.

68. Several Parties reported problems with the implementation of the Convention, some of which had already been described earlier in the questionnaire. Several respondents indicated the need for bilateral agreements to address detailed procedural arrangements (Bulgaria, Poland). Translation and its costs were again highlighted as issues (Austria, Poland). A number of further problems were identified where certain Parties required clarification of the Convention's provisions. Hungary reported practical staffing limitations. Kyrgyzstan noted that not all its neighbours were Parties to the Convention. The Republic of Moldova reported poor domestic legislation and a lack of experience in transboundary EIA.

69. Suggestions as to how problems might have been resolved included:

- Good practice guidance, which had been provided and was welcomed (Bulgaria, Croatia, Netherlands, Switzerland, United Kingdom);
- Good bilateral and multilateral agreements (Czech Republic, Poland);
- Amendments to the Convention, including a new provision on responsibility for translation (Austria, Germany), revisions to Appendix I (Estonia, Germany), clarification of the obligation in Article 5 to hold consultations even when the affected Party has indicated it does not wish to be consulted further (Germany) and a requirement for a separate chapter in the EIA documentation on significant adverse transboundary impacts (Finland, Hungary); and
- Additional guidelines on the different stages of the process defined in the Convention, and training in transboundary EIA using case studies from other countries (Republic of Moldova).

CONCLUSIONS

70. A questionnaire was circulated to Parties regarding the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context. An analysis of the information provided in the 23 responses to the questionnaire received by the end of 2003 reveals the increasing application of the Convention and the continuing development of bilateral and multilateral agreements to support its implementation. However, the analysis also reveals a number of possible^{*/} weaknesses or shortcomings in the Convention's implementation. These weaknesses point at potential and necessary improvements in the application of the Convention. To guide and focus the future work under the Convention, they are listed and summarized below:

- The points of contact on the Convention's web site were not always correct;
- The points of contact were not always competent in the application of the Convention;
- The content of the notifications issued by the Parties of origin were not always compliant with Article 3, paragraph 2, of the Convention and with decision I/4 of the Meeting of the Parties;
- The final decisions made by the Parties of origin were not always provided to the affected Parties as soon as possible after they had been taken;

^{*/} There are some limitations in the information gathered through the questionnaire – as outlined in document MP.EIA/2004/2, paragraphs 17 to 23.

- The contents of the final decisions made by the Parties of origin did not always comply with Article 6, paragraph 2, of the Convention;
- The results of research programmes undertaken by the Parties were not always exchanged with the other Parties, in compliance with Article 9 of the Convention;
- The public of the concerned Parties was not sufficiently encouraged to participate in procedures under the Convention; and
- Given recorded difficulties with regard to the languages used, there was still a lack of bilateral and multilateral agreements among Parties to address in particular what documents should be translated, who should translate them and who should cover the costs of translation.