

Annex VII

DECISION III/7 SECOND AMENDMENT TO THE ESPOO CONVENTION

The Meeting,

Recalling its decision II/10 on the review of the Convention and paragraph 19 of the Sofia Ministerial Declaration,

Wishing to modify the Convention with a view to further strengthening its application and improving synergies with other multilateral environmental agreements,

Commending the work done by the task force established at the second meeting of Parties, by the small group on amendments and by the Working Group on Environmental Impact Assessment itself,

Noting the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, done at Aarhus, Denmark, on 25 June 1998, and recalling the Protocol on Strategic Environmental Assessment, done at Kiev, Ukraine, on 21 May 2003,

Also noting relevant European Community legal instruments, such as directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended by directives 97/11/EC and 2003/35/EC,

Conscious that an extension of Appendix I will strengthen the importance of environmental impact assessments in the region,

Recognizing the benefits of international cooperation as early as possible in the assessment of environmental impact,

Encouraging the work of the Implementation Committee as a useful tool for the further implementation and application of the provisions of the Convention,

1. Confirms that the validity of decisions taken prior to the entry into force of the second amendment to the Convention, including the adoption of protocols, the establishment of subsidiary bodies, the review of compliance and actions taken by the Implementation Committee, are not affected by the adoption and entry into force of this amendment;
2. Also confirms that each Party shall continue to be eligible to participate in all activities under the Convention, including the preparation of protocols, the establishment and participation in subsidiary bodies, and the review of compliance, regardless of whether the second amendment to the Convention has entered into force for that Party or not;
3. Adopts the following amendments to the Convention:

(a) In Article 2, after paragraph 10, insert a new paragraph reading

11. If the Party of origin intends to carry out a procedure for the purposes of determining the content of the environmental impact assessment documentation, the affected Party should to the extent appropriate be given the opportunity to participate in this procedure.

(b) In Article 8, after Convention insert

and under any of its protocols to which they are a Party

(c) In Article 11, replace paragraph 2 (c) by a new subparagraph reading

(c) Seek, where appropriate, the services and cooperation of competent bodies having expertise pertinent to the achievement of the purposes of this Convention;

(d) At the end of Article 11, insert two new subparagraphs reading

(g) Prepare, where appropriate, protocols to this Convention;

(h) Establish such subsidiary bodies as they consider necessary for the implementation of this Convention.

(e) In Article 14, paragraph 4, replace the second sentence by a new sentence reading

They shall enter into force for Parties having ratified, approved or accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three fourths of the number of Parties at the time of their adoption.

(f) After Article 14, insert a new article reading

Article 14 bis

Review of compliance

1. The Parties shall review compliance with the provisions of this Convention on the basis of the compliance procedure, as a non-adversarial and assistance-oriented procedure adopted by the Meeting of the Parties. The review shall be based on, but not limited to, regular reporting by the Parties. The Meeting of Parties shall decide on the frequency of regular reporting required by the Parties and the information to be included in those regular reports.

2. The compliance procedure shall be available for application to any protocol adopted under this Convention.

(g) Replace Appendix I to the Convention by the Appendix to this decision;

(h) In Appendix VI, after paragraph 2, insert a new paragraph reading

3. Paragraphs 1 and 2 may be applied, mutatis mutandis, to any protocol to the Convention.

Appendix

LIST OF ACTIVITIES

1. Crude oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 metric tons or more of coal or bituminous shale per day.

2. (a) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more, and

(b) Nuclear power stations and other nuclear reactors, including the dismantling or decommissioning of such power stations or reactors 1/ (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).

3. (a) Installations for the reprocessing of irradiated nuclear fuel;

(b) Installations designed:

- For the production or enrichment of nuclear fuel;
- For the processing of irradiated nuclear fuel or high-level radioactive waste;
- For the final disposal of irradiated nuclear fuel;
- Solely for the final disposal of radioactive waste; or
- Solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.

4. Major installations for the initial smelting of cast iron and steel and for the production of non-ferrous metals.

5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20,000 metric tons finished product; for friction material, with an annual production of more than 50 metric tons finished product; and for other asbestos utilization of more than 200 metric tons per year.

6. Integrated chemical installations.

7. (a) Construction of motorways, express roads 2/ and lines for long-distance railway traffic and of airports 3/ with a basic runway length of 2,100 metres or more;

(b) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road, would be 10 km or more in a continuous length.

8. Large-diameter pipelines for the transport of oil, gas or chemicals.
9. Trading ports and also inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 metric tons.
10. (a) Waste-disposal installations for the incineration, chemical treatment or landfill of toxic and dangerous wastes;
(b) Waste-disposal installations for the incineration or chemical treatment of non-hazardous waste with a capacity exceeding 100 metric tons per day.
11. Large dams and reservoirs.
12. Groundwater abstraction activities or artificial groundwater recharge schemes where the annual volume of water to be abstracted or recharged amounts to 10 million cubic metres or more.
13. Pulp, paper and board manufacturing of 200 air-dried metric tons or more per day.
14. Major quarries, mining, on-site extraction and processing of metal ores or coal.
15. Offshore hydrocarbon production. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 metric tons/day in the case of petroleum and 500 000 cubic metres/day in the case of gas.
16. Major storage facilities for petroleum, petrochemical and chemical products.
17. Deforestation of large areas.
18. (a) Works for the transfer of water resources between river basins where this transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year; and
(b) In all other cases, works for the transfer of water resources between river basins where the multi-annual average flow of the basin of abstraction exceeds 2 000 million cubic metres/year and where the amount of water transferred exceeds 5 per cent of this flow. In both cases transfers of piped drinking water are excluded.
19. Waste-water treatment plants with a capacity exceeding 150 000 population equivalent.
20. Installations for the intensive rearing of poultry or pigs with more than:
 - 85 000 places for broilers;
 - 60 000 places for hens;
 - 3 000 places for production pigs (over 30 kg); or
 - 900 places for sows.
21. Construction of overhead electrical power lines with a voltage of 220 kV or more and a

length of more than 15 km.

22. Major installations for the harnessing of wind power for energy production (wind farms).

1/ For the purposes of this Convention, nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.

2/ For the purposes of this Convention:

- "Motorway" means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

(a) Is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other by a dividing strip not intended for traffic or, exceptionally, by other means;

(b) Does not cross at level with any road, railway or tramway track, or footpath; and

(c) Is specially signposted as a motorway.

- "Express road" means a road reserved for motor traffic accessible only from interchanges or controlled junctions and on which, in particular, stopping and parking are prohibited on the running carriageway(s).

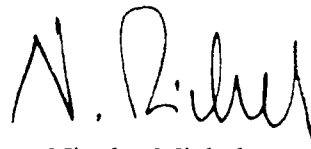
3/ For the purposes of this Convention, "airport" means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organization (annex 14).

I hereby certify that the foregoing text is a true copy of the Amendment, adopted on 4 June 2004 at the Third Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context, which was held in Cavtat, Croatia, from 1 to 4 June 2004.

Je certifie que le texte qui précède est une copie conforme de l'Amendement adopté le 4 juin 2004 à la Troisième Réunion des Parties à la Convention sur l'évaluation de l'impact sur l'environnement dans un contexte transfrontière, tenue à Cavtat, Croatie, du 1^{er} au 4 juin 2004.

For the Secretary-General,
The Legal Counsel
(Under-Secretary-General
for Legal Affairs)

Pour le Secrétaire général,
Le Conseiller juridique
(Secrétaire général adjoint aux
affaires juridiques)



Nicolas Michel

United Nations, New York
10 November 2004

Organisation des Nations Unies
New York, le 10 novembre 2004