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02.November 2009 No.13-3-1/13601-3

The positions of Estonia concerning the status of consultations on the environmental impact assessment of the Nord Stream gas pipeline

Estonia informs that the Estonian Parliament has adopted a communique on the environmental risks of the planned Baltic Sea gas pipeline (Nord Stream). The original text in Estonian is appended for your information. The English version appended is currently available on the home page of the Estonian Parliament. Further, it will be officially distributed Estonian Ministry of Foreign Affairs.

Last week, the EU has informed all Member States, that the Member States of the European Union have signed the Baltic Sea Strategy that, together with the related Action Plan, providing guidelines for the developments in the Baltic Sea. By signing this strategy, all the EU Member States have taken the new responsibility and obligations for improvement the environmental state of the Baltic Sea.

http://ec.europa.eu/regional_policy/sources/docoffic/official/communic/baltic/com_baltic_en.pdf

Consequently, any actions, consultations and decisions of the EU Member States affecting the Baltic Sea should be committed to the following of the priorities of this strategy. The implication of this strategy is a dedication of EU Member States to a stronger commitment to the environmental tasks outlined in the HELCOM Action Plan 2021 signed by the countries around the Baltic Sea, including Russia, in Krakow in November, 2007.

Four key challenges identified as requiring our urgent attention are:

- To enable a sustainable environment
- To enhance the region's prosperity
- To increase accessibility and attractiveness
- To ensure safety and security in the region.

"Foremost among these is the environment, highlighted by the European Council. Particular attention is therefore given to the impact of excess nutrients in the Baltic Sea itself leading to eutrophication and algal blooms. There is also damage to the ecological balance due to overfishing, land-based pollution, rising sea temperatures, the presence of hazardous substances and other pressures. Adaptation to climate change is also a growing challenge. These impacts are now so widespread that leisure activities and small scale commercial uses suffer in many areas.

The main economic challenges are to overcome the wide disparities (and hence realize the high potential) in research and productive innovation and to remove impediments to the single market. Priority issues for accessibility are the improvement of networks, ending the energy isolation of parts of the region, and ensuring sustainability of transport modes. Finally, priorities in the field of safety are to reduce risks posed to the region's citizens, infrastructure and environment by hazards from a variety of sources, in particular accidental marine pollution and organized crime."

"The Marine Strategy Framework Directive and the Helsinki Commission (HELCOM) Baltic Sea Action Plan guide the interventions on the environment, keeping in mind EU common policies affecting the marine environment such as agriculture, fisheries, transport."

"The strategy seeks to provide both a co-ordinated, inclusive framework in response to the key challenges facing the Baltic Sea Region and concrete solutions to these challenges. It should be read with the indicative action plan."

http://ec.europa.eu/regional_policy/cooperation/baltic/pdf/communication/action2009.pdf

"The Action Plan covers the following priority areas: (1) To reduce nutrient inputs to the sea to acceptable levels; (2) To preserve natural zones and biodiversity including fisheries; (3) To reduce the use and impact of hazardous substances; (4) To become a model region for clean shipping; (5) To mitigate and adapt to climate change."

From this information, it is evident that the EU Member States are committed to a long-term future efforts for improving the environment, and have been committed to the joint efforts in reduction of the influx of nutrients to the Baltic Sea. All these coordinated activities can reach their goals only when environmental decisions are based on sound scientific basis.

Accordingly, in case of large-scale infrastructure projects, such as Nord Stream, the main concerns of all EU Member States, including Finland and Estonia, should be to guarantee the scientifically sound evaluation of environmental assessments and risk analysis, and, as a pre-requisite to it, to guarantee the access to all necessary information.

CURRENT STATE AND PERSPECTIVES OF TRANSBOUNDARY CONSULTATIONS

Estonia welcomes the information exchange between the affected parties that has taken place so far. However, due to significant gaps in the information provided by the developer to all affected parties, including Estonia, and due to serious errors as regards of the methodology and models used by the developer for substantiating the statements on environmental impacts and risk analysis, the Espoo EIA and, partly, the national EIAs, the transboundary environmental impact assessment does not fulfill the criteria of the EU EIA directive and

related documents covering the guidance and research.

Due to enormous immediate and long-term impact to the environment, regional ecosystem services, human health and life quality, and the large amount of uncertainties emerging from the gaps and unanswered questions concerning the Nord Stream EIAs, Estonia finds that the Espoo EIA and the national EIAs have not provided sufficient information as regards of the transboundary environmental impact assessment. Due to the failure of the developer to provide the necessary information, the transboundary aspects of the EIA process of the Finnish EIA and the transboundary impact assessment of the Espoo EIA are unfinished and should be continued.

ESTONIAN REQUESTS FOR ADDITIONAL INFORMATION

Request for information and the transboundary consultations on the Finnish EIA

In the Finnish EIA, the chapter of the transboundary environmental impact consists of a title and an unclear statement, that the transboundary impacts to Estonia are evaluated in the Espoo EIA.

However, this statement is not correct, because the Espoo EIA contains only a 1.5 page chapter on the environmental impact to Estonia containing statements about minimum or no impact of various processes, without any analysis or explanation. The statements and discussions that might be related to the impacts, scattered to different reports and explanations, are controversial, sometimes opposite to each other. Also the binding legal status of the Espoo EIA to the parties of origin is unclear.

To guarantee that the transboundary impacts emerging from Finland are properly assessed, Estonia requires that Finland should request the developer to provide a clear and comprehensive chapter on the transboundary impacts that is missing in the Finnish EIA and to arrange the public hearings. From the consultations with the Finnish authorities, it is evident that this was the initial plan suggested by Finland. However, this was ignored by the developer.

The need for completing the transboundary impact assessment emerges from the serious problems in the permitting procedure by the Western Finland Environmental Authority, where erroneous statements contradicting the laws of physics submitted by Nord Stream were accepted in granting the permission. In particular, Nord Stream considered the central issue of transboundary impacts to be related to the wind direction that was considered to be responsible for the direction of subsurface currents. As a consequence, according to the scientific expertise (Annex 1), the decision of issuing of water permit was based on false premises.

This kind of errors may lead to underestimating the risks and permitting the actions that are potentially too dangerous to the environment, to the life quality and human health in the Baltic Sea region.

Estonia considers relevant that all the information concerning the permitting process having potential transboundary impact in the context of the Espoo Convention and the EU EIA directive should be shared with Estonian Competent Authority in good time. For example, the decision of the Western Finland Permitting Authority refers to additional information

submitted by Nord Stream on September, 17, after the submission of Estonian comments on September 15. As these aspects of the unfinished transboundary EIA consultations have been presented to the permitting authorities, Estonia is missing relevant information on transboundary impacts and risks potentially affecting Estonia, without the opportunity to use precautionary and preventive measures. The lack of the relevant information may cause damage to environment, and, in the worst cases, may cost human lives.

It should be emphasized that in the context of the Espoo EIA process and the EU EIA directive, almost any activity in the Baltic Sea has certain transboundary impact, direct or indirect, e.g. through the contamination of fishes in the fishing areas used by Estonia and reaching Estonian consumers. Therefore, the immediate availability of all documentation to Estonian authorities should be guaranteed. This documentation should have been available in the Espoo EIA, before any permitting process could have been started.

Also, before starting the permitting process, clear and complete monitoring programme of all the impacts of Nord Stream to the Baltic Sea covered from the resources of Nord Stream should be presented and negotiated, as well as the responsibility of Finland in providing state guarantees of the compensations for the damage to the environment, human health and ecosystem service caused by any changes if the permission is given to build the gas pipe.

Statement on the completeness and quality of the information and communication

Estonia considers that the information and the quality of studies presented by Nord Stream on most urgent issues of the transboundary environmental impacts is not sufficient for starting the permitting process, and that may result in damage of the ecosystem and danger to human health and life quality. The transboundary consultations, with involvement of the competent scientists, can prevent major damage.

Estonian Ministry of the Environment has been notified by Estonian NGO representatives on submitting the appeal concerning the water permit issued by Western Finland Permitting Authority. If the quality of the materials presented in the Nord Stream EIAs would have been complete and of sufficient quality and the dialog with the public required by the Aarhus Convention would have been satisfactory, most of the questions could have been solved during the consultations. Estonia regards that the transboundary consultation process has not been satisfactory and is unfinished.

Estonia regards that the common task of Finland, Estonia, and all the EU Member States, and the purpose of the transboundary EIA consultations is to minimize the actual risks to the ecosystems and to humans. Estonia is committed to this task and calls Finland as an EU Member State and the Baltic sea state to use precautionary principle in all the decisions. The integrity of the EU Member States rests on the correctness of all actions.

Estonia appears to be the only country among the affected parties where the Nord Stream documentation is systematically studied by a specially assigned expert group of highly qualified scientists who have used the newest international literature and consultations with international scientific networks, mostly in the EU. On October, 28, Nord Stream (<http://www.nord-stream.com/en/>) has issued the press release stating: "Estonian scientists have made conclusions about the environmental impacts of the project. However, Nord Stream has not seen the scientific basis upon which Estonian scientists made their conclusions".

In view of the input and quality of the contributions of the experts, this statement is offensive to the scientists of all EU Member States participating in the process, but also to all affected parties who are accused in concealing the information. On June, 8, 2009 Estonia has presented a statement appended by a 50-page report to Finland and other countries, and it appears to be available on the home pages of relevant institutions. Estonia would like to receive an official statement from the Finnish authorities whether Nord Stream has been notified on the existence of this documentation.

Estonia calls for filling the gaps in information and continuing the consultations. Estonia calls Finland not to bend under any possible external pressure that may affect the decisions and to continue to treat the Nord Stream gas pipe project as an environmental issue. As most of the environmental aspects have not been studied in satisfactory level, and to consider halting the permitting process until the relevant environmental questions are solved. This would give an opportunity for making the well-informed decisions.

Yours sincerely,



Harry Liiv
Deputy Secretary General
Point of Contact of the Espoo Convention in Estonia

Enclosures: Annex 1. Comments on hydrodynamic issues
Annex 2. Statement of the Riigikogu

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