

**Agreement
between the Government of the Republic of Estonia
and the Government of the Republic of Finland
on Environmental Impact Assessment in a Transboundary Context**

The Government of the Republic of Estonia and the Government of the Republic of Finland, hereinafter referred to as “the Parties”,

affirming the need to promote and ensure environmentally sound and sustainable development,

resolving to enhance bilateral cooperation in assessing environmental impact in particular in a transboundary context,

considering interrelationships between economic activities and their environmental impacts,

bearing in mind the Agreement between the Government of the Republic of Finland and the Government of the Republic of Estonia on Environmental Cooperation, signed in Helsinki on 7 November 1991, the Agreement between the Government of the Republic of Finland and the Government of the Republic of Estonia in the Field of Air Pollution Control, signed in Tallinn on 2 July 1993, and the Agreement between the Government of the Republic of Finland and the Government of the Republic of Estonia in the Field of Water Protection, signed in Tallinn on 12 February 1999,

taking also into account legislation of the European Community relevant to the Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo on 25 February 1991,

determined to implement the provisions of the Convention on Environmental Impact Assessment in a Transboundary Context,

recalling article 8 and Annex VI of the Convention,
have agreed as follows:

Article 1 Definitions

For the purposes of this Agreement,

- i) “Party of origin” means the Party under whose jurisdiction a proposed activity is envisaged to take place;
- (ii) “Affected Party” means the Party likely to be affected by the transboundary impact of a proposed activity;
- (iii) “Proposed activity” means any activity or any major change to an activity subject to a decision of a competent authority in accordance with an applicable national procedure;
- (iv) “EIA” (Environmental impact assessment) means a national procedure for evaluating the likely impact of a proposed activity on the environment;
- (v) “Impact” means any effect caused by a proposed activity on the environment including human health and safety, biodiversity, soil, air, water, climate, landscape and historical monuments or other physical structures, or the interaction between these factors; it also includes effects on cultural heritage or socioeconomic conditions resulting from alterations to those factors;
- (vi) “Transboundary impact” means any impact, not exclusively of a global nature, within an area under the jurisdiction of the affected Party caused by a proposed activity the physical origin of which is situated wholly or in part within the area under the jurisdiction of the Party of origin;
- (vii) “Competent authority” means the national authority or authorities designated by the Party as responsible for performing the tasks covered by this Agreement and/or the authority or authorities entrusted by the Party with decision making powers regarding a proposed activity;
- (viii) “The public” means one or more natural or legal persons;
- (ix) “Convention” means Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo on 25 February 1991;
- (x) “Joint EIA” means an EIA which is carried out jointly by the Parties.

Article 2 Objective of the Agreement

The objective of this Agreement is to promote and develop further the implementation of the Convention between the Parties.

Article 3
Competent Authorities

1. The Parties shall notify each other of their competent authorities through diplomatic procedures within 30 days of the entry into force of this Agreement.
2. The competent authorities shall agree further on the organization of the cooperation.
3. The competent authorities shall cooperate nationally with other ministries and authorities to enforce the obligations of this Agreement.

Article 4
Field of Application of the Agreement

1. This agreement shall apply to a proposed activity listed in Annex I to this Agreement which is likely to cause significant adverse transboundary impact.
2. This Agreement applies to any other proposed activity under the national EIA procedure of the Party of origin, if the activity is likely to cause significant adverse transboundary impact. The competent authorities of the Parties shall decide on a case-by-case basis whether this Agreement applies to such an activity. When a case-by-case examination is carried out, the relevant selection criteria set out in Annex II shall be taken into account.

Article 5
Commission on EIA

1. The joint commission on EIA in a transboundary context, hereinafter referred to as the “Commission”, shall be established for the implementation of the provisions of this Agreement. The Commission shall be organized as a sub-group under the Finnish - Estonian Working Group, set by the Agreement between the Government of the Republic of Finland and the Government of the Republic of Estonia on Environmental Cooperation, signed in Helsinki on 7 November 1991.
2. Each Party shall nominate 6 members to the Commission, including a co-chair within one month from the entry into force of this Agreement. The meetings of the Commission shall be chaired in turn by the nominated co-chairs.
3. Each Party shall provide the Commission with secretarial services and appoint the needed experts to assist the Commission.
4. The Commission shall convene as necessary; however, the Commission shall convene at least once a year, and at the request of the members of the Commission of either of the Parties.
5. The first meeting of the Commission shall be convened within six months from the entry into force of this Agreement.

6. The main principles for the rules of procedure of the Commission shall be agreed on during the first meeting of the Commission.

7. The activities of the Commission shall be financed by the respective Parties.

8. The Commission shall report to the Working Group referred to in Article 5, paragraph 1.

Article 6 Tasks of the Commission

1. The Commission has an advisory role and acts as a forum for information exchange and dispute settlement.

2. The tasks of the Commission are:

a) to oversee and review the implementation of this Agreement;

b) to make proposals for the promotion, enforcement and development of this Agreement;

c) to establish, where appropriate ad hoc working groups for overseeing and following up transboundary EIA's in individual cases, or for other purposes under this Agreement;

d) to develop further the mandatory information to be included in the notification, in accordance with Article 7, paragraph 2;

e) to consider the necessity for and to propose to the competent authorities of the Parties possible activities for joint EIAs;

f) to consider and propose possible post-project analyses to the competent authorities of the Parties; and

g) to perform other tasks as required under this Agreement.

Article 7 Notification

1. In accordance with the provisions of Article 4 of this Agreement, the competent authority of the Party of origin shall notify the competent authority of the affected Party of a proposed activity as early as possible and no later than when informing its own public about that proposed activity.

2. Notification shall contain *inter alia*:

a) information on the proposed activity, including any available information on its possible

transboundary impact;

b) the nature of the possible decision;

c) an assessment programme

3. The competent authority of the affected Party shall respond to the competent authority of the Party of origin within two months of the receipt of notification and shall indicate whether it intends to participate in the EIA procedure. In addition, the competent authority of the affected Party shall provide a statement and comments, if any, on the scoping documentation within two months of the receipt of the notification.

4. The competent authority of the Party of origin shall send the notification to the members of the Commission for information.

5. If the affected Party indicates that it does not intend to participate in the environmental impact assessment procedure, or if it does not respond within two months of the receipt of the notification, the provisions in Article 8 – 13 will not apply.

Article 8

Informing the public of the affected Party

The competent authority of the affected Party shall arrange for distribution of the notification to the authorities and the public in the areas likely to be affected in the country of the affected Party in order to inform them of the proposed activity. The competent authority of the affected Party shall also ensure that the authorities and the public in the areas likely to be affected are provided with possibilities to comment on the proposed activity, and it shall arrange for transmittal of these comments to the competent authority of the Party of origin within two months of the receipt of the notification.

Article 9

Transmittal of information on the potentially affected area by the affected Party

The competent authority of the affected Party shall provide the competent authority of the Party of origin, at its request, with reasonably obtainable information relating to the potentially affected environment, where such information is necessary for the preparation of the EIA documentation.

Article 10

EIA documentation

1. The competent authority of the Party of origin shall submit the EIA documentation to the competent authority of the affected Party for statements and comments and for evaluation of the need for possible consultations. The competent authority of the Party of origin shall also submit the EIA documentation to the members of the Commission for information.

2. The EIA documentation to be submitted to the competent authority of the affected Party shall

contain, at a minimum, the information described in Annex III of this Agreement.

Article 11

Participation of the public in the country of the affected Party

The competent authority of the affected Party shall arrange for distribution of the EIA documentation to the authorities and the public in the areas likely to be affected in the country of the affected Party in order to inform them of the proposed activity. The competent authority of the affected Party shall also ensure that the authorities and the public in the areas likely to be affected are provided with possibilities to comment on the proposed activity, and it shall arrange for transmittal of these comments to the competent authority of the Party of origin within two months of the receipt of the EIA documentation.

Article 12

Consultations between the Parties

1. When the EIA documentation has been submitted to the affected Party, the competent authorities of the Parties shall, without undue delay, enter into consultations where appropriate.

Consultations may relate to:

- a) possible alternatives to the proposed activity, including the no-action alternative and possible measures to mitigate significant adverse transboundary impact and to monitor the effects of such measures at the expense of Party of origin;
- b) other forms of possible mutual assistance in reducing any significant adverse transboundary impact of the proposed activity; and
- c) any other appropriate matters relating to the proposed activity.

2. The competent authorities of the Parties shall agree, at the commencement of such consultations, on a reasonable time-frame for the duration of the consultation period. The duration of the consultations shall not exceed three months. Any such consultations may be conducted through the Commission.

Article 13

Decision

1. The Parties shall ensure that, in the decision on the proposed activity, due account is taken of the outcome of the EIA, including the EIA documentation, as well as the comments thereon received pursuant to Article 9 and Article 11 and the outcome of the consultations as referred to in Article 12.

2. The competent authority of the Party of origin shall provide to the competent authority of the

affected Party the decision on the proposed activity along with the reasons and considerations on which it was based.

3. If additional information on the significant transboundary impact of a proposed activity, which was not available at the time a decision was made with respect to that activity and which could have materially affected the decision, becomes available to the competent authority of a concerned Party before work on that activity commences, the competent authority of that Party shall immediately inform the competent authority of the other concerned Party. If either of the competent authorities of the concerned Parties so requests, consultations shall be held as to whether the decision needs to be revised.

Article 14 **Joint EIA**

The competent authorities of the Parties may agree to carry out a joint environmental impact assessment within the framework of their national legislation.

Article 15 **Post-project analysis**

1. The competent authorities of the Parties, at the request of the competent authority of the other Party, shall determine whether, and if so to what extent, a post-project analysis shall be carried out, taking into account the likely significant adverse transboundary impact of the activity for which an environmental impact assessment has been undertaken pursuant to this Agreement. Any post-project analysis undertaken shall include, in particular, the surveillance of the activity and the determination of any adverse transboundary impact.

2. When, as a result of post-project analysis, the competent authority of the Party of origin or the competent authority of the affected Party has reasonable grounds for concluding that there is a significant adverse transboundary impact or factors have been discovered which may result in such an impact, it shall immediately inform the competent authority of the other Party. The competent authorities of the Parties shall then consult on necessary measures to reduce or eliminate the impact.

Article 16 **Responsibilities of the Parties**

1. The competent authority of the Party of origin shall be responsible for providing the competent authority of the affected Party with documentation referred in Articles 7 and 10 in languages mutually agreed by the competent authorities of the Parties, in accordance with the guidelines established by the Commission.

2. The competent authorities of the Parties are responsible for arranging and bearing the costs of public participation in their respective countries unless the competent authorities of the Parties agree on other arrangements.

Article 17
Dispute settlement

If a dispute arises between the Parties about the interpretation or application of this Agreement, the Parties shall seek a solution through negotiation in the Commission or through any other method of dispute settlement acceptable to both Parties.

Article 18
Annexes

The Annexes attached to this Agreement are an integral part of the Agreement.

Article 19
Final clauses

1. This Agreement shall enter into force 30 days after the date on which the Parties have notified each other in writing that the internal procedures necessary for the entry into force of this Agreement have been completed.
2. The Agreement is in force until further notice. The Parties may denounce this Agreement by written notification. The denunciation shall enter into force twelve months after the receipt of the written notification by the other Party.

Done at Helsinki on 21st February 2002 in duplicates in English.

For the Government
of the Republic of Estonia

For the Government
of the Republic of Finland

ANNEX I

LIST OF ACTIVITIES

1. Crude oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tons or more of coal or bituminous shale per day.
2. Thermal power stations and other combustion installations with a heat output of 300 megawatts or more and nuclear power stations and other nuclear reactors (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. Installations solely designed for the production or enrichment of nuclear fuels, for the reprocessing of irradiated nuclear fuels or for the storage, disposal and processing of radioactive waste.
4. Major installations for the initial smelting of cast-iron and steel and for the production of non-ferrous metals. Major installations for the re-smelting of cast-iron, steel and 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 tons finished product; for friction material, with an annual production of more than 50 tons finished product; and for other asbestos utilization of more than 200 tons per year.
6. Integrated chemical installations i.e. those installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are:
 - (i) for the production of basic organic chemicals;
 - (ii) for the production of basic inorganic chemicals;
 - (iii) for the production of phosphorous-, nitrogen- or potassium-based fertilizers (simple or compound fertilizers);
 - (iv) for the production of basic plant health products and biosides;
 - (v) for the production of basic pharmaceutical products using a chemical or biological process;
 - (vi) for the production of explosives.
7. Construction of motorways, express roads * and lines for long-distance railway traffic and of airports with a basic runway length of 2,100 meters or more. Tunnels between Estonia and Finland.
8. Large-diameter oil and gas pipelines. Underwater pipelines in the Baltic Sea.

9. Trading ports and also inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tons.
 10. Waste-disposal installations for the incineration, chemical treatment or landfill of toxic and dangerous wastes.
 11. Large dams and reservoirs.
 12. Groundwater abstraction activities in cases where the annual volume of water to be abstracted amounts to 10 million cubic meters or more.
 13. Pulp and paper manufacturing of 200 air-dried metric tons or more per day.
 14. Major mining, on-site extraction and processing of metal ores or coal.
 15. Offshore hydrocarbon production.
 16. Major storage facilities for petroleum, petrochemical and chemical products.
 17. Deforestation of large areas.
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* For the purposes of this Agreement:

- "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 sign-posted 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 carriageways.

ANNEX II

GENERAL CRITERIA TO ASSIST IN THE DETERMINATION OF THE ENVIRONMENTAL SIGNIFICANCE OF ACTIVITIES NOT LISTED IN ANNEX I

1. In considering proposed activities to which Article 4, paragraph 2, applies, the concerned Parties may consider whether the activity is likely to have a significant adverse transboundary impact in particular by virtue of one or more of the following criteria:

(a) Size: proposed activities which are large for the type of the activity;

(b) Location: proposed activities which are located in or close to an area of special environmental sensitivity or importance (such as wetlands designated under the Ramsar Convention, national parks, nature reserves, sites of special scientific interest, or sites of archaeological, cultural or historical importance); also, proposed activities in locations where the characteristics of proposed development would be likely to have significant effects on the population;

(c) Effects: proposed activities with particularly complex and potentially adverse effects, including those giving rise to serious effects on humans or on valued species or organisms, those which threaten the existing or potential use of an affected area and those causing additional loading which cannot be sustained by the carrying capacity of the environment.

2. The concerned Parties shall consider for this purpose proposed activities which are located close to an international frontier as well as more remote proposed activities which could give rise to significant transboundary effects far removed from the site of development.

ANNEX III

CONTENT OF THE ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTATION

Information to be included in the environmental impact assessment documentation shall, as a minimum, contain, in accordance with Article 10, paragraph 2:

- (a) A description of the proposed activity and its purpose;
- (b) A description, where appropriate, of reasonable alternatives (for example, locational or technological) to the proposed activity and also the no-action alternative;
- (c) A description of the environment likely to be significantly affected by the proposed activity and its alternatives;
- (d) A description of the potential environmental impact of the proposed activity and its alternatives and an estimation of its significance;
- (e) A description of mitigation measures to keep adverse environmental impact to a minimum;
- (f) An explicit indication of predictive methods and underlying assumptions as well as the relevant environmental data used;
- (g) An identification of gaps in knowledge and uncertainties encountered in compiling the required information;
- (h) Where appropriate, an outline for monitoring and management programs and any plans for post-project analysis; and
- (i) A non-technical summary including a visual presentation as appropriate (maps, graphs, etc.).