

Strasbourg, 2 November 2011
[files08e_2011.doc]

T-PVS/Files (2011) 8

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

31st meeting
Strasbourg, 29 November – 2 December 2011

Specific Site - File open

**Proposed navigable waterway in the Bystroe Estuary
(Danube delta)
(Ukraine)**

REPORT BY THE GOVERNMENT

*Document prepared by:
the Ministry of Environment, Ukraine*

**UPDATED REPORT (2011) OF THE UKRAINIAN PARTY
ON THE IMPLEMENTATION OF RECOMMENDATION NO. 111 (2004)
ON THE PROPOSED NAVIGABLE WATERWAY THROUGH THE BYSTROE ESTUARY
(DANUBE DELTA, UKRAINE), ADOPTED BY THE STANDING COMMITTEE
OF THE BERN CONVENTION ON 3 DECEMBER 2004**

General aspects of the deep Danube – Black Sea navigation route (DNR)

In execution of the decision IV/2 of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context, taken during the fourth meeting of the Parties to the Convention that took place on the 19-21 of June, 2008 in the city of Bucharest (Rumania), Ukrainian side:

- has proposed to carry on negotiations in order to prepare a plan of actions concerning the implementation of the decisions taken during the fourth meeting of the Parties to Convention (the Note of the Embassy of Ukraine to Rumania dated 17.06.2008 № 1139);
- has invited to Kyiv for the period from 1st to 4th of July, 2008 the delegation of Rumania for the negotiations in order to prepare a plan of actions concerning the implementation of the decisions taken during the fourth meeting of the Parties to Convention (the Note of the Embassy of Ukraine to Rumania dated 25.06.2009 № 1197);
- has withdrawn the Final decision about the execution of the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development», taken on the 28th of December, 2007 (the Note of the Embassy of Ukraine to Rumania dated 15.08.2009 № 1538);
- has iteratively invited for 18-19 of September the experts of Romanian side in order to elaborate a plan of immediate measures for the settlement of the issues related the implementation of the decisions taken during the fourth meeting of the Parties to the Convention and of the Timetable of the works related to the implementation of the procedure set by the ESPOO Convention in accordance with the par. 2.4.3 and 2.4.4 Guidelines for the practical implementation of the ESPOO Convention (ECE/MP.EIAY8), concerning the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development» (the Note of the Embassy of Ukraine to Rumania dated 15.08.2009 № 1538);
- has passed the Notification about the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development», prepared in execution of the article 3 (3.1, 3.2, 3.5, 3.8) and the article 2 (2.4, 2.6.) of the ESPOO Convention;
- has pointed out, in answer to the request of the Romanian side, the subject of the negotiations with Romanian side, specifically, concerning the elaboration of a plan of immediate measures for the settlement of the issues related to the implementation of the decisions taken during the fourth meeting of the Parties to the Convention (the Note of the Embassy of Ukraine to Rumania dated 19.09.2009 №1744);
- has organized on the 15-16 of October, 2008, bilateral consultations of Ukrainian and Romanian experts. The stated consultations have been carried on in order to prepare the schedule of the works for the implementation of the dispositions of the ESPOO Convention for the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development»;
- has received, in execution of the article 3.3, 3.6 of the ESPOO Convention, the answer of the Romanian side for the Notification of the Ukrainian side about the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development» (the Note of the Ministry of foreign affairs of Rumania dated 20.10.2008 №H2/4847);
- has passed, in execution of the articles 2.3, 2.6, 3.8, 4.1, 4.2 of the ESPOO Convention, to the Romanian side the documentation concerning the Environmental Impact Assessment (EIA) for the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of

the delta. Overall development» (the Note of the Embassy of Ukraine to Rumania dated 19.01.2009 № 96);

- has received a letter signed by the Minister of environmental protection of Rumania dated 11.03.2009 № 1166 concerning the holding of the public hearings 28.04.2009 in the city of Tulcea, in concordance with the requirements of the ESPOO Convention for the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development» (the Note of the Embassy of Rumania to Ukraine dated 10.04.2009 №1502);
- has accepted the date and the place of the stated public hearings. In this regard, Ukrainian side has asked to provide additional information about the place of the stated hearings and the contact person responsible for its organizing (the Note of the Ministry of foreign affairs of Ukraine dated 23.04.2009 № 51/23-011-1230);
- has iteratively addressed its request to the Romanian side concerning the providing of the additional information about the place of the stated hearings and the contact person responsible for its organizing (the Note of the Ministry of foreign affairs of Ukraine dated 24.04.2009 № 51/23-011-1238);
- has offered Romanian side to hold public hearings during the period 18-22.05.2009 (the Notes of the Embassy of Ukraine to Rumania dated 08.05.2009 №754 and dated 08.05.2009 №755);
- has received a letter signed by the Minister of environmental protection of Rumania dated 28.04.2009 № 2947 with the proposal to hold public hearings concerning the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development» 09.06.2009 in the city of Tulcea. (the Note of the Embassy of Rumania to Ukraine dated 29.04.2009 №1700);
- has informed Romanian side about the acceptance of the date and the place of holding of the stated public hearings;
- has taken part, in execution of the articles 2.6, 3.8, 4.2 of the ESPOO Convention, in public hearings that took place in the city of Tulcea 09.06.2009;
- has proposed, in execution of the article 5 of the ESPOO Convention, to hold official bilateral consultations concerning the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development» in the city of Kyiv 06.07.2009"; (the Note of the Embassy of Rumania to Ukraine dated 19.06.2009 № 984);
- has organized, in execution of the article 5 of the ESPOO Convention, official bilateral Ukrainian-Romanian consultations concerning the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development», that took place on the 15-16 of July, 2009 in the city of Kyiv (the Notes of the Embassy of Ukraine to Rumania dated 03.07.2009 № 1044 and dated 10.07.2009 №1111);
- has received, in the execution of the articles 3.8, 4.2, 5 of the ESPOO Convention concerning the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development»:
 - ✓ protocol, written commentaries and audio record of the public hearings that took place on the 9th of June, 2009 in the city of Tulcea, as well as the commentaries and observations of nongovernmental organizations of Rumania, international organizations and the public of Rumania (the Note of the Ministry of foreign affairs of Rumania dated 23.07.2009 №H2/3228);
 - ✓ commentaries and questions of the representatives of the state authority of Rumania concerning the results of bilateral Ukrainian-Romanian consultations that took place in the city of Kyiv on the 15-16.07.2009 (the Note of the Ministry of foreign affairs of Rumania dated 03.08.2009 №H2/3445).

Considering the above-mentioned and taking into account the results of Environmental Impact Assessment (EIA), including «Assesment of the probable transboundary environmental impacts of Danube River – Black Sea deep-water navigable route in the Ukrainian part of the delta. Redaction 2 »

(in two parts). Supplement to the EIA within the composition of the working draft «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development», the examination of the observations of the Romanian side to the transboundary Environmental Impact Assessment (EIA) of the project, received in accordance with the par. 8 of the article 3 and the par. 2 of the article 4, and the results of the consultations stated in the article 5 of the ESPOO Convention, the Ukrainian side has ensured the implementation of the dispositions of the ESPOO Convention that precede the taking of final decision in accordance with the 6 of the ESPOO Convention.

During the period from 20th to 23rd of June, 2011, in Geneva was hold the Fifth meeting of the Parties to the ESPOO Convention.

The key question for our state that have been examined during the meeting, was the draft decision of the Meeting of the Parties concerning the execution by the Government of Ukraine of the project of deep-water navigable route «Danube river – Black Sea» (hereinafter referred to as DNR).

In accordance with the Decision 5/4 of the Fifth meeting of the Parties to the ESPOO Convention, par 20.

The Cabinet of Ministers of Ukraine adopted Order No. 351-r dated 30.05.2007 “On Approval of the Working Draft and the Title of Building “Creation of the Deep Danube – Black Sea Navigation Route in the Ukrainian Section of the Delta. Full Development”.

On January 25, 2010, at the meeting of the Interdepartmental Coordination Council for implementation of the Convention on Environmental Assessment in a Trans-Boundary Context in Ukraine, Vice Prime Minister of Ukraine, in consultation with the Minister of Environmental Protection of Ukraine, the Minister of Transport and Communication of Ukraine, and the Minister of Foreign Affairs of Ukraine, approved the “Final Decision on Implementation of the Ukrainian Project “Creation of the Deep Danube – Black Sea Navigation Route in the Ukrainian Section of the Delta. Full Development” (phase II of the Project) Pursuant to Article 6 of the Espoo Convention”.

It should be noted that the final decision includes the EIA improved on the basis of the results of completing the procedural steps pursuant to Articles 3, 4, and 5 of the Convention, EIA materials, and reposes to comments received as a result of the public and expert consultations. The final decision was sent by the MFA diplomatic note to Romania on January 26, 2010.

At present, within the framework of the execution of the project, in order to ensure the security of the navigation and to maintain navigable depth according to the requirements of international conventions, only operational dredging works on the maritime entrance route are executed within the framework of the phase 1.

Concerning recommendations to Ukraine:

1. Suspend works, except completion of phase 1, and not to commence phase 2 of works until:

- pursuant to the international standards, no EIA of phase 2 will be performed and this assessment will not be submitted to the relevant international organizations and experts

According to this recommendation, the works of phase 2 have not been started.

Ukrainian side has passed, in execution of the articles 2.3, 2.6, 3.8, 4.1, 4.2 of the ESPOO Convention, to Romanian side the documentation on the Environmental Impact Assessment (EIA) concerning the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development» (the Note of the Embassy of Ukraine to Rumania dated 19.01.2009 № 96).

Ukraine has organized an international expert evaluation of the EIA in which 17 specialists participated: experts and researchers of various national and foreign institutions, including 10 Doctors of Science, one Master of Natural Sciences from the University of Athens (Land Science Department, Greece), a Professor of the Moscow State University, Philosophy Doctors, etc.

- until public hearings of the EIA of phase 2 are held and until the given proposals are duly taken into account.

Ukraine:

- has offered Romanian side to hold public hearings during the period 18-22.05.2009 (the Note of the Embassy of Ukraine to Rumania dated 08.05.2009 №754 and dated 08.05.2009 №755);
- has received a letter signed by the Minister of environmental protection of Rumania dated 28.04.2009 № 2947 concerning the proposal to hold public hearings concerning the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development» 09.06.2009 in the city of Tulcea (the Note of the Embassy of Rumania to Ukraine dated 29.04.2009 №1700);
- has informed Romania side about the acceptance of the date and the place of holding of the stated public hearings;
- has taken part, in execution of the articles 2.6, 3.8, 4.2 of the ESPOO Convention, in public hearings that took place in the city of Tulcea 09.06.2009;
- has offered, in execution of the article 5 of the ESPOO Convention, to hold official bilateral consultations on the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development» in the city of Kyiv 06.07.2009"; (the Note of the Embassy of Rumania to Ukraine dated 19.06.2009 № 984);
- has organized, in execution of the article 5 of the ESPOO Convention, official bilateral Ukrainian-Romanian consultations on the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development», that took place on the 15-16 of July, 2009 in the city of Kyiv (the Notes of the Embassy of Ukraine to Rumania dated 03.07.2009 № 1044 and dated 10.07.2009 №1111);
- has received, in execution of the articles 3.8, 4.2, 5 of the ESPOO Convention concerning the project «Creation of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta. Overall development»:
 - ✓ protocol, written commentaries and audio record of the public hearings that took place on the 9th of June, 2009 in the city of Tulcea, as well as the commentaries and observations of nongovernmental organizations of Rumania, international organizations and the public of Rumania (the Note of the Ministry of foreign affairs of Rumania dated 23.07.2009 №H2/3228);
 - ✓ commentaries and questions of the representatives of the state authority of Rumania concerning the results of bilateral Ukrainian- consultations that took place in the city of Kyiv on the 15-16.07.2009 (the Note of the Ministry of foreign affairs of Rumania dated 03.08.2009 №H2/3445).

We additionally inform that according to the requirements of national legislation of Ukraine, the statements about ecological consequences have been published in local and central printed media at least two months before the holding of public hearings. The materials of the Environmental Impact Assessment (EIA) (for first stage and for the project for overall development) were disposed at internet site of the Ministry of transport and communications and of the State enterprise "Delta-Lotsman".

Public hearings concerning the project of the renovation of the DNR in the Ukrainian part of the delta have been hold four times:

- concerning feasibility study of the project – in 2003, in Ismail city;
- concerning the project of the first stage - 03.03.2004 in Vylkove city;
- concerning the project for overall development - 17.12.2004 in Ismail city;
- concerning the project for overall development - 20.12.2006 in Ismail city.

Each hearing resulted in resolutions supporting renewal of navigation under the Danube – Black Sea project. Managers and researchers of the engineering and research institutes, which developed the Project of renewing navigation and the EIA, participated in all the aforesaid events. It made it possible to take into account remarks expressed during the public consultations in the project documentation.

Taking into account all the mentioned, the Project EIA was finished off as a result of public hearings.

- until information gathered during the additional monitoring by international experts is analyzed and the appropriate recommendations are developed

Ukraine has held numerous Ukrainian – Romanian meetings at which both parties studied in detail the materials of the comprehensive additional environmental monitoring:

- unofficial consultation with the representatives of the UNEP, the UNESCO, the European Commission, the International Commission for Protection of Danube River (ICPDR), secretariats of the Ramsar and Aarhus Conventions and the Espoo Convention, the World Wildlife Fund, the Centre for International Environmental Law, and the International Union for Conservation of Nature dedicated to implementation of the Danube – Black Sea DNR project by Ukraine (September 21, 2004, Geneva);
- a visit to the Ukrainian section of the Danube delta of an international delegation of representatives of the UN European Economic Commission, the Ramsar, Bern, and Aarhus Conventions, and the International Commission for Protection of Danube River (October 06-08, 2004);
- an international research and practical seminar “International Expert Evaluation of the Results of Monitoring of the First Stage of the Renewal Works in the Deep Danube – Black Sea Navigation Route, Taking into Account the Impact of Other Types of Economic Activities on the Danube Delta Natural Complexes” (April 27-28, 2005, Odesa);
- an international research and practical conference “Conservation and Stable Development of the Danube Delta”, February 26-28 – March 01, 2006, Odesa;
- working meetings between the authorized representatives of the Governments of Ukraine and Romania dedicated to water management in cross-border rivers (Tulcea, Baya-Mare, and Kyiv);
- an international environmental expedition “Danube – 2”, which is held under the auspices of the ICPDR. The expedition ships took samples in the territory of Ukraine near Reni and Vylkove and in the very place where works are performed to renew navigation at the exit from the Bystre estuary (26.09.2007);
- an international expert evaluation conference “Navigation Safety and Environmental Safety in the Cross-Border context in the Black Sea Basin”, in which representatives from over 15 countries participated, including Romania (June 24-26 2008 in Odesa and in the very place where works are carried out under the Danube – Black Sea DNR);
- a visit of experts from the international environmental organizations under the auspices of the Council of Europe in order to visit the place where the project of renewing the deep Danube – Black Sea navigation route is implemented pursuant to Recommendation No. 111 (2004) of the Convention for the Protection of Wild Flora and Fauna and Natural Habitats in Europe of the Council of Europe (July 28-31, 2008).

Appropriate recommendations have been prepared based on the results of said international meetings and study of the additional monitoring programs on the background of which the Project EIA was finished off.

2. Provide additional information about the environmental, social and economic aspects of the alternative approaches and viable projects of the future development of navigation in the Ukrainian section of the Danube delta; for this purpose, prepare the Environmental Impact Assessment report, engaging international independent experts, including from the neighboring countries.

All the alternative variants of the navigation route route were examined in the process of developing the project "Creation of the Deep Navigation Route in the Ukrainian Section of the Delta". Can be examined in the document “Assessment of Probable transboundary environmental impacts of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta” (Redaction 2) section 3 “Description of the planned activity, its aims and alternative variants” at the link: <http://www.menr.gov.ua/content/article/7098>.

In general the 10 variants were classified into two groups:

- DNR creation using the existing water flows: through the estuaries such as Starostambulske – Bystre, Starostambulske – Tsyganka, Ochakivske – Zyednuvalny Kanal;

- DNR creation in the manmade route: Solomonove estuary – Bazarchuk backwater – Zhebryanska bay, and in the route from 6 km of the Ochakiv estuary to the water area of the Ust-Dunaysky port.

Based on the results of a detailed study of all the 10 variants, it was decided to choose the final route through the Bystre estuary as the most optimum one from the social and economic perspective and as the least harmful to the environment.

The EIA of the phase 1 projects and the full development project was presented to the international community, the national research and public organizations, was translated into English, and posted in the Internet: on the websites of the Delta-Lotsman SOC and the Ministry of Transport and Communication of Ukraine. The said documents were examined by international experts and specialists from the neighboring countries. The final document included remarks and was amended in 2008 with a separate analysis of impacts in the cross-border context. All these documents were translated into English and sent to the Romanian party for consideration.

3. Take measures to provide environmental compensation and reduce the negative environmental impact; in this context, complete approval of zoning, which means quality and quantity expansion of the conservation area; analyze phase 1 of the project.

The stated measures are described in details in the document “Assessment of the probable transboundary environmental impacts of the Danube river – Black Sea deep-water navigable route in the Ukrainian part of the delta” (Redaction 2) section 5.3.7 "Analysis of the structure of possible transboundary cumulative impacts of the navigation, loss of places of residence and/or the disturbance of the life the fishes and birds and the evaluation of the efficiency of the mitigation measures " and section 7 "Measures for the minimization of the probable negative transboundary environmental impacts", that can be reviewed at the link: <http://www.menr.gov.ua/content/article/7098>.

Based on the comprehensive monitoring results, measures have been developed to provide environmental compensation, determine the payment amount for water pollution and damages caused to fish reserves due to performance of dredging works. These measures are part of the project “Creation of the Deep Danube – Black Sea Navigation Route in the Ukrainian Section of the Delta. Full Development”.

By virtue of Order No. 538 of the Ministry of Environmental Protection of Ukraine dated 22.10.2008, the Regulations on the Danube Biosphere Reserve was adopted and a differential mode of protection, reproduction, and utilization of natural complexes was established in accordance with the functional zoning. By virtue of Order No. 435 of the Ministry of Environmental Protection dated 04.10.2010, the Project of Organization of the Danube Biosphere Reserve Territory and Protection of its Natural Complexes was adopted and the functional zoning of the reserve was improved. The said project of the territory organization approved the issues of managing additional territories included in the Danube Biosphere Reserve.

According to the results of analyzing the impact of the navigation route on the natural complexes of the biosphere reserve, it was concluded that implementation of phase 1 of the project is not harmful to the protection, conservation, and sustainable use of the natural complexes of the Danube Biosphere Reserve.

Besides, Section VI “Mitigating Measures” of the document “Final Decision on Implementation of the Ukrainian Project “Creation of the Deep Danube – Black Sea Navigation Route in the Ukrainian Section of the Delta. Full Development” (phase II of the Project)” includes the Technological Measures subsection, one of which is “Implementation of the Environment Comprehensive Monitoring Program in Order to Reveal Trends of Occurrence of Possible Negative Effects Caused by the Project Activities”.

One of the clauses of the final decision includes:

Regular execution of comprehensive environmental monitoring works and the post-project analysis during the project implementation and the Danube – Black Sea DNR operation in order to forecast and prevent in due time possible negative effects of the DNR on the environment by improving the mitigating measures.

Furthermore, negotiations with the World Wildlife Fund were held during the period under review on possible environmental compensation measures.

Analysis of the impact of the stage 1 of the project is given in the par. 8 as a result of continuous monitoring.

4. Invite the international community to participate in the creation of the strategic plan of development for the region, which would ensure priority of the balanced development principles and support the unique environmental properties of the territory in the long run.

In order to create the environment for the sustainable development of the Danube area, improve the efficiency of utilization of its internal natural, resource, and economic potential, the population's living standards, solve social, economic, and environmental problems, Decree No. 428 of the Cabinet of Ministers of Ukraine dated March 31, 2004 approved the "Comprehensive Development Program for the Ukrainian Danube Area for 2004-2010" taking into account modifications and amendments according to the Regulation of the Cabinet of Ministers of Ukraine dated 25.06.2008 № 580. Among main tasks of the Program particular consideration was given to:

- the implementation of the complex ecological monitoring of the consequences of the impact of exploitation of Danube river – Black Sea deep-water navigable route on the Ukrainian Transdanubia;
- the elaboration and implementation of modern information technologies for the fulfillment of monitoring of the state of the natural environment and of the consequences of emergency situations, evaluation of the state of water and land resources;
- conserving, reasonably use and restoring natural resources;
- improving the environmental situation and environmental safety of the region;
- enhancing the importance of the Danube region in the development of International Transport Corridor No. 7, overcoming its transport communication isolation;
- protecting the population from the consequences of natural and technogenic emergency situations.

Within the framework of International Commission for the protection of Danube river Ukrainian has proposed to elaborate a common Plan of management in the basin of Danube river delta. This plan should take into account key quantitative and qualitative characteristics of the water for the basin. The creation of the unique control system of Danube river to the south of the basin will allow to determine problem areas from the point of view of anthropogenic pollution of the environment and will contribute to the minimization of the anthropogenic impact.

One of main priorities of Ukraine is the active participation in the process of preparation and further implementation of the measures within the framework of the Strategy of EU for Danube Region (EUSDR). These measures should be taken with regard for the interests of all riverside countries especially of those that are not EU member states.

Preparation of EUSDR provides new possibilities for durable development in the region. Particularly, EUSDR will solve ecological problems and the necessity of economic development in the region.

It is expected that the strategy will facilitate the efforts in order to achieve the improvement of the state of waters and ecosystems, as well as to ensure anti-inundation measures and ecological security with due attention paid to the problems of climate changes.

Ukraine has developed a number of legal acts, directed on ratification and realization of positions of Protocol on strategic ecological assessment.

5. Unite the large territories of strict reservation and prevent human and industrial interference, economic activities negatively affecting the bio diversity (in particular, related to shipbuilding) beyond the strict reservation area.

Ukraine has taken all the necessary measures to enhance the environmental status of the Danube Biosphere Reserve and expand its territory. By virtue of Order of the President of Ukraine No. 117/2004 dated 02.02.2004 "On Expanding the Danube Biosphere Reserve", its territory has increased by 3,850 ha, and 1,295 ha have been given to the Danube Biosphere Reserve for permanent use, which has increased the strict reservation area.

The Project of Organization of the Danube Biosphere Reserve Territory and Protection of its Natural Complexes (2010) regulates in detail measures to provide strict protection of the natural complexes and the biosphere reserve entities pursuant to the UNESCO Man and Biosphere program.

Recommendations to Moldova, Romania, and Ukraine

6. Complete national legal procedures to make effective the Agreement between Moldova, Romania, and Ukraine for cooperation in the area of the protected natural territories of the Danube delta and the lower part of Prut River.

An Agreement between the Ministry of environment and land-use planning of the Republic of Moldova, the Ministry of waters, forests and environmental protection of Rumania and the Ministry of environment and natural resources of Ukraine concerning the cooperation in the area of protected natural territories of Danube river delta and lower part of Prut river was signed by Ukraine on the 5th of June 2000 and came into force on the 4th of October, 2006.

7. Develop a meaningful dialogue between all the interested parties and ensure open decision making.

With the participation of the Romanian party, on 18.06.2007 Consultations were held in Vylkove to assess the impact on the environment in the process of implementing the project "Creation of the Deep Danube – Black Sea Navigation Route in the Ukrainian Section of the Delta. Full Development".

Along with the Romanian party, on 18.07.2007, new consultations were held in Tulcea (Romania) to assess the impact on the environment in the process of implementing the project "Creation of the Deep Danube – Black Sea Navigation Route in the Ukrainian Section of the Delta. Full Development".

On 25.07.2007, the Delta – Lotsman state-owned company, as the project customer, held an online conference dedicated to the Danube – Black Sea project implementation, taking into account the international conventions. The Romanian party sent no written questions through diplomatic routes.

In September 2007, Ukraine held the International Danube Media Forum dedicated to renewal of navigation in the Ukrainian section of the Danube delta and the likely cross-border impact in the process of implementation and operation of the deep Danube – Black Sea navigation route. Based on the results of the Forum, the Resolution and Address to the governments of the countries located in the Danube delta was adopted.

On October 15-16, 2009, Kyiv hosted the common consultations of Ukrainian and Romanian experts resulting in the development of the so-called Road Map to determine the stages of holding the relevant consultations.

On June 09, 2009, public hearings were held in Tulcea under the full development project of renewing the deep Danube – Black Sea navigation route.

On July 15-16, 2009, public hearings were held in Tulcea under the full development project of renewing the deep Danube – Black Sea navigation route.

On April 28, 2009, the Ukrainian delegation came to Romania to participate in public hearings on the EIA of the Phase II DNR project, however hearings were not held because of unavailability to them of the Romanian party. The secretary of the Espoo Convention B.Shrage was informed about this situation.

On October, 2010, consultations with the European party were held in Kyiv about the Danube – Black Sea DNR project. During these consultations, the Parties considered the issue of the Danube – Black Sea DNR Restoration project context, performance of works under Phase I and Phase II of the project, information about monitoring the Ukrainian section of the Danube delta, and steps to implement the Espoo Convention under the Danube – Black Sea DNR project. The Ukrainian party informed the representatives of the European Commission and the Espoo Convention Secretariat that the Romanian party refused to participate in the bilateral Ukrainian – Romanian negotiations dedicated to the Espoo Convention regulation implementation.

Ukraine is conducting dialog on the above mentioned issues, in accordance to the information given in points 1-4.

8. Welcome Ukraine's initiative to launch the monitoring program and invite experts from the Danube Basin countries to participate in this program and hold regular meetings and consultations.

Ukraine supports creation of a common international system of monitoring the entire Danube delta. In 2009, Ukrainian and Romanian consultations took place to organize the common monitoring of the Danube delta and delta front, but cooperation has not started yet.

At the beginning of this year (2011), under the auspices of the International Commission for the protection of Danube (ICPDR) and the UNECE, Ukraine, Rumania and Moldova have started the execution of the project "Common ecological monitoring, assessment and exchange of information for the integrated management of the Danube river delta region". It is the first step towards the complex management of Danube river delta that will allow us to prepare complex analysis of the situation in Danube river delta and to elaborate measures to maintain the sustainable development of the region. It will result in elaboration and implementation of the common program in Danube river delta that will contribute to the harmonization of the monitoring system in Danube river delta.

Ukraine has launched the system of comprehensive monitoring of the Danube delta environment, including research and engineering monitoring programs.

The works in 2011 are executed according to the Requirements specification for the execution of the works under the contract between Ukrainian scientific and research institute of ecological problems and State enterprise «Delta-Lotsman» and to the Program of complex ecological monitoring of the environment during the renovation and exploitation of DNR Danube river – Black Sea.

The principal contractor (Ukrainian scientific and research institute of ecological problems of the Ministry of nature environment protection of Ukraine) has involved the following organization in the execution of the works: Hydrometeorological observatory of Danube, Odessa Center of South research institute of maritime fish industry and oceanography, State enterprise "ChornomorNDIproject", Odessa branch of the institute of biology of southern seas of the National Academy of Sciences of Ukraine, Danube biosphere reserve of the National Academy of Sciences of Ukraine, Institute of hydrobiology of the National Academy of Sciences of Ukraine, Institute of zoology of the National Academy of Sciences of Ukraine, Ukrainian center of management of land and resources, Ukrainian scientific center of ecology of the sea, scientific production association "Avia".

The below-mentioned main kinds of works are stipulated by the Monitoring program in 2011:

- obtaining and processing the results of regular hydrological and hydrochemical monitoring at the points of background observation, in hydrotechnical works execution area and in the area of possible impact of the renovated DNR on the natural environment (river and sea parts);
- obtaining and processing the results of control measurements of the quality of water and bottom sediments during dredging works execution;
- monitoring of coastal dumps of earth deposit and monitoring in the area of maritime dump of deposit;
- hydrobiological research on the maritime and freshwater parts during the renovation and exploitation of navigable route Danube river – Black Sea;
- monitoring of the ichthyofauna state, assessment of the possible negative impact on the fish resources during the renovation and exploitation of navigable route Danube river – Black Sea;
- quarterly calculation of the damages caused to the aquatic environment and fish resources and of the amount of compensatory payments, assessment of residual soil capacity of sludge ponds (maritime etc.).
- scientific justification of the further exploitation of maritime pond during the period of execution of the works under the project for the overall development (operational dredging)
- monitoring of plant and animal species of the coastline and wetlands of Danube biosphere reserve during the restoration and exploitation of DNR Danube river – Black Sea;
- assessment of the state of water areas used for fishes spawning of and birds nesting and nutrition;
- assessment of the cumulative impacts of the navigation on the state of terrestrial and water ecosystems;
- determination of the possible negative impact on the ecological state of Danube river delta and of the possible transboundary impact on the territory of Rumania (assessment of impact level including in

transboundary context; treatment of the materials related to the commentaries and observations of Romanian side, of the ESPOO Convention, in the context of actual data received as a result of the complex ecological monitoring);

- analysis and generalization of observation results, elaboration of forecast of change of the state of natural environment;
- elaboration of the recommendations concerning the prevention and minimization of the impacts etc.

The observations have been carried out of the state of the plant communities, araneofauna, entomofauna, macrozoobenthon of freshwater and brackish water territories within the Danube Biosphere Reserve, herpetofauna and rare ichthyofauna, avifauna. Below are given preliminary results of separate groupings monitoring.

Plant communities

Field research has been carried out on the territory around navigable route as well as outside its borders. The biggest attention was paid to the study of the changes of flora and vegetation directly on the territory of the dam and in the way leading to it as well as of seaside parts of islands Stamboulskiy, Koubanskiy, Rouban and of Ptachina spit. Actual state of flora and vegetation on the island Yermakiv and their changes have been studied separately.

The territory of Stamboulskiy island has almost recovered its plant cover. The way to the dam is overgrown with the vegetation of initial stages of vegetational fluctuation. In September-at the beginning of October the projective cover of the vegetation was from 30 to 45 %, and on separates areas reached up to 85 %.

In summer, on the dam the overgrowing of which has started at the end of spring –at the beginning of summer of this year, it was noticed the formation of vegetation cover not only from pioneer vegetation, but also from arboreal and dumetosous one. The shallows around the dam are overgrowing with the dense vegetation cover from hygrophyte species with general projective cover reaching up to 100% in some areas.

Inspection of islands Stamboulsiy, Yermakiv, Ptashina spit and the Bystriy estuary that are located directly near the route Danube river – Black Sea, has revealed that the formation of the vegetation was taking place in favorable conditions, particularly, it concerns water, meadow and meadow-swamp vegetation complex.

The washout of coast line along Starostamboulske and Bystre mouthes did not occur. Growth of land and forming of the vegetation cover have taken place on the considerable area. The formation of pioneer vegetation with high projective cover 85-100% started on this area.

At present time, the Bystriy estuary has the depth from 0,1 to 1,0 m. A small depth contributed to the development of real water vegetation - from 25-30 to 45-60 % of the water surface, that is an extraordinarily high indicator in comparison with previous years.

On Yermakiv island, renewal changes of the vegetation are in progress almost on the whole part of the island. First of all, the renewal of water and swamp species of vegetation is in progress. True water vegetation is not developed enough, but new species for the DBR flora was found - elodea naturallii (*Elodea nuttallii* Planchon) H. St. John . It was also noticed the renewal and spreading of the population of rare species registered in the Red Data Book of Ukraine – swimming caltrop *Trapa natans* L. and spring snowflake *Leucojum aestivum*, as well as a considerable spreading of the population of the species the groupings of which are registered in the Green Data Book of Ukraine - white water lily *Nymphaea alba*.

During field research of the territory of the reserve at the beginning of this year 8 new species of plants were found, and 2 more species of plants found during last field research, are not determined yet. At present, the DBR flora makes up 966 species of higher vascular plants.

Vegetation cover development in Danube river delta this year was connected with climate peculiarities of the year. At the same time, this year, it was observed the influence of the last year's inundation that brought in Danube river delta not only the biggest quantity of water and mud, but also a lot of different seed plant material that has already revealed in findings of new species of plants for the DBR flora.

Rare ichthyofauna

During the reporting period, for the study of the influence of the DNR on the rare species of ichthyofauna, a research fishing was carried out with the use of special fishing tools – fry tuck nets, fry trawls and drift nets, according to the specified methodologies that allow to release young fishes back to water body without any damages after biological parameters been studied. Observations were carried out regularly of the additional catches of rare species of fishes during the fulfillment of industrial catch in the area of DNR «Danube river – Black Sea».

Extraordinarily high quantity of young fishes of starlet was registered in the section of Kiliyske mouth of Danube river from 19 to 20 km during the carrying out of catches by drift nets in third decade of July of this year. It should be noted, that it is exactly in this section during industrial catch of herring was registered as well an additional catch of young fishes of starlet, thus, at the request of the administration, this catches was stopped starting from the 24th of May of this year. Among the other rare species of fishes of ichthyofauna of the DBR, only fresh-water eel was registered in the catches.

As a result of the observations carried out during the reporting period, for the second time in this year was noted a species of royal fish (*Chalcalburnus chalcoides* Guld.) that is very rare one for Danube river and Ukrainian ichthyofauna in general. In the same area of costal waters during industrial catch on the 1st of September, 2011, for the first time for the ichthyofauna of the DBR and of the neighbouring part of Black Sea it was registered a new species of the family of stumpnose - salpa (*Sarpa salpa* L.).

One of the peculiarities of 2011 was a low water level in Danube river during the whole period of observations. This natural factor undoubtedly had a certain impact on the representatives of the ichthyofauna, including of the rare one in the area of research.

Avifauna

According to the data of ornithological observations during the nesting period some changes have taken place in the structure of nesting settlements of birds of Charadriiformes order of the front edge of the delta in comparison with previous years. The quantity of piping plover in the nesting place increased by 3 times, and the quantity of Caspian plover (this species is included in the category 1 of the Red book of Ukraine) increased by 40 pairs. On the Taranova spit that is a part of buffer zone of the reserve, the quantity of sandwich tern increased more than twice, and were noticed in the nesting place 4 species of birds that are recorded to the Red book of Ukraine – little tern, Caspian plover, catcher, pied avocet.

In August, a systematic registration of waterfowl species of birds in the seaside zone of the DBR was carried out, including the area of Ptashina spit that is located near the bar part of the Bystre mouth. It was noted that the majority of such species like mallard, gadwall and greylag goose during the stated period is the highest for last ten years, that, probably, is the result of low water level of Danube river during summer period, increase of the shelvy areas that are the main place of nutrition for the majority of birds species of water and swamp complex. The positive factor is as well the prohibition of the hunting on the territories of national parks, biosphere reserves and wildlife preserves, that was enabled by the adoption of the Law of Ukraine №1826-6 “About the amendments to the Law of Ukraine “About the natural-preserve resources of Ukraine” in 2010.

On the Yermakiv island, where in 2009 the works of its renaturalization were carried out, small landscape changes took place: acceleration of the overgrowing of the inside part of the island by higher aqueous vegetation and the increase of the quantity of shallow water areas and spits. Considerable surfaces of shallows with good nutrition base and comfortable place on Yermakiv island have influenced species composition and quantity of birds during the period of season groupings, particularly, the species of water and swamp complex. During August registrations dated 17.08.10 on Yermakiv island has been registered 39 species of birds with total quantity of 15158 specimens (16% from the general quantity of birds in seaside part of Kylyiska delta). In comparison with last year, the changes occurred in the structure of birds groupings: the quantity of ichthyophagist birds (pelicans, cormorants) decreased and the quantity of water vegetation and zoobenthon eating birds (Anatidae, Charadriiformes) increased. Taking into account the above-mentioned, it can be noticed that Yermakiv island is of great importance for the birds during the period of season groupings.

Thus, the impact of the DNR on the state of birds nesting during the stated period can be considered as a minimum one. Somewhat higher indicators of quantitative composition of birds of water and swamp

complex in August of this year, with respect to previous years registration data, are not connected to the DNR Danube river – Black Sea activity;

In general, preliminary analysis of the research results indicate that the biggest impact on the development of vegetable and animals groupings of the DBR during the reporting period was related to the climate peculiarities of the year.

The impact of the renovation and exploitation of DNR Danube river – Black Sea on the vegetable groupings, on the representatives of rare ichthyofauna, on the state of population of Amphibia and vermigrade of the DBR fauna and on the avifauna was not registered.

9. Use the provisions of the aforesaid Agreement and the Berne Convention in order to maintain a dialogue about the environmental issues affecting the bio diversity of the Danube delta.

Pursuant to clause 2 of article 4 of the Agreement between the Ministry of Environment and Territorial Planning of the Republic of Moldova, the Ministry of Water, Forest, and Environmental Protection of Romania, and the Ministry of Environment and Natural resources of Ukraine for cooperation in the area of the protected natural territories of the Danube delta and the lower part of Prut River, in March 2011 in Bucharest, Rumania, the first meeting of Joint trilateral commission took place. During the meeting, there were considered the questions of coordination of the initiatives of the Parties concerning nature conservation territory of Danube river delta and of Lower Prut, the development of the programs of ecological factors common monitoring and of economic activity including nature conservation territory of Danube river delta and of Lower Prut and neighbouring territories, creation of trilateral biosphere reserve, exchange of experience and cooperation for the common management of nature conservation territories in border area, development of the projects of management of nature conservation territories. At the meeting, a Protocol of Joint commission containing the Rules of procedures of Joint commission, was signed.

Recommend to Ukraine

10. Under the auspices of the Council of Europe, organize a meeting of the country signatories to the aforementioned Agreement in order to discuss the relevant issues of this Resolution and the Agreement provisions.

In March 2011 in Bucharest, Romania, the first meeting of Joint trilateral commission took place. During the meeting, there were considered the questions of coordination of the initiatives of the Parties concerning nature conservation territory of Danube river delta and of Lower Prut. Following the meeting, a Protocol of Joint commission containing the Rules of procedures of Joint commission, was signed.

**UKRAINE**

MINISTRY OF ECOLOGY AND NATURAL RESOURCES OF UKRAINE

DEPARTMENT OF PROTECTED AREAS

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03.10.11 № 9/1-514

Ha № _____ B/A _____

**Secretary of the Bern Convention
Ms. Ivana d'Alessandro**

Reporting on Recommendation 111 (2004)

Dear Ms. d'Alessandro,

The Department of Protected Areas has reviewed your letter dated 03.10.2011 on the need to update the report of Ukraine on implementation of Recommendation 111 (2004) of the Standing Committee of the Bern Convention and inform about the following.

Unfortunately we were not in a position to provide a response to your letter of 04 May this year to update information on Ukraine's implementation of the recommendation. This is due to the period of Administrative reform in Ukraine and transformation of the State Agency for Protected Areas into the Department of Protected Areas at the Ministry of Ecology and Natural Resources of Ukraine, that had been carrying out with the year 2011.

Currently, the Ministry is finalizing an updated report on Recommendation 111, including decisions of the Espoo Convention. We kindly ask you to postpone the deadline for submission of the report until October 31.

In order to reflect the international component of the report, please provide, if any, reports of Romanian and Moldovan Parties on the implementation of paragraphs 6-9 of the Recommendation 111 (2004), which are common for our joint reporting.

Sincerely Yours**Igor Ivanenko
Deputy Head**



UKRAINE

MINISTRY OF ENVIRONMENTAL PROTECTION OF UKRAINE
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№ _____

DEVELOPMENT OF COOPERATION IN THE DANUBE DELTA

With reference to your letter №DG-IV IdA/vdc of 18 January 2011 the Ukrainian side is pleased to provide the Secretariat with the following updated information on the development in Danube Delta cooperation.

At the beginning of this year, under the auspices of the International Commission for the Protection of the Danube River (ICPDR) and UNECE, Ukraine, Romania and Moldova started the implementation of the project “Joint environmental monitoring, assessment and exchange of information for integrated management of the Danube Delta region”. It is the first step towards the Integrated Management Plan of the Danube Delta which will allow us to prepare the integrated analysis of the situation in the Danube Delta and to elaborate measures in order to maintain the sustainable development of the region. The project has been elaborated with a view to improve cross-border cooperation in the Danube Delta. It will result in development and implementation of the Joint Danube Delta Sub-basin programme that will facilitate harmonization of monitoring systems in the Danube Delta.

In the framework of the ICPDR Ukraine has suggested the elaboration of the Joint Management Plan for the basin of the Danube Delta. This Plan should take into account key water quantity and quality indicators for the basin. Establishment of the unique monitoring system for the Danube sub-basin will allow defining the problematic zones from the point of view of anthropogenic pollution and will contribute to minimization of anthropogenic impact.

One of the main priorities of Ukraine is active involvement into the process of preparation and further implementation of the activities under the EU Strategy for the Danube Region (EUSDR). These activities shall be undertaken with consideration to the interests of all riparian countries, especially Non-EU member-states.

Preparation of the EUSDR provides new opportunities for sustainable development in the region. In particular, the EUSDR will address environmental concerns and the need for economic developments in the region.

It is expected to facilitate the efforts in order to reach good status of waters and ecosystems as well as to ensure flood and environmental safety with due attention to the challenges of climate change.

Meanwhile, in order to fully meet the provisions of Recommendation No. 111 (2004), we would appreciate if the Secretariat kindly provide us with the copies of the following documents, which are not available in Ukraine, namely:

- reports of the Romanian and Moldovan sides on implementation of the points 6-9 of Recommendation 111 (2004) of the Bern Convention during 2005-2010;
- complaint of the Danube Environmental Forum (Danube Environmental Forum) to the Secretariat of the Bern Convention of 2003.