Baltic Sea Gas Pipeline

EIA in a transboundary context
Story-line of the presentation

• Introduction to the transboundary EIA - the system of the Espoo Convention
• The Espoo Convention - how it was applied in this case?
• How the transboundary EIA has progressed together with national EIA procedures?
• Is there a way to improve EIA for these types of proposed activities?
Introduction to the EIA

- Project level assessment
- The core idea is to have the developer to assess various alternatives to implement the activity and their environmental impacts in a qualitative way – Espoo provides minimum requirements
- Together with the public
- Not a decision-making procedure, but one assisting
Introduction to the transboundary EIA

• Article 2 (1): “The Parties shall, either individually or jointly, take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities”.

• The goal is implemented via integrating the transboundary impacts and actors to the national EIA of the origin state

• The core idea is to assess the entire area of likely impact
How to apply the Espoo Convention to the BSGP?

- Initial problem: one state under whose jurisdiction the pipeline is proposed to traverse is not a party to the Convention – Russia (other treaties come to mind)
- Resolved: Russia applies within the limits of its own legislation
- Initial problem: not a typical situation
- Yet, no doubt that the Espoo Convention applies
Espoo applies

- (ii) "Party of origin" means the Contracting Party or Parties to this Convention under whose jurisdiction a proposed activity is envisaged to take place;
- (iii) "Affected Party" means the Contracting Party or Parties to this Convention likely to be affected by the transboundary impact of a proposed activity;
- Appendix I (8): “Large-diameter oil and gas pipelines”.
- The challenge is how to apply the Espoo to the BSGP.
How to apply the Espoo to the BSGP?

- Problem: how to define who are origin and/or affected states in the case of the BSGP?
- The system was designed already in 2006: Espoo contact points meeting defined three categories:
  - Origin states
  - Affected states
  - Sole affected states
• Problem: how to design a system which would oversee that the project is not assessed only country-by-country
• Solution: contact point meetings: altogether 15 by now
• Problem: how to involve public in a meaningful way
• Solution: public in all affected states had an opportunity to present their comments via each national EIA system
Espoo applied to the BSGP

- EIS
  - Nord Stream
  - Contact points
    - Finland
    - Sweden
    - Denmark
    - Germany
    - Russia
      - Public
      - Public
      - Public
      - Public
      - Public

Affected states:
- Public
1. Project information document - Nov. 2006

- Scoping in Finnish EIA: 50 comments during (from 27 November 2006 to 26 January 2007)
- Also open to other affected states and their public
- Comments could be given to impacts related to the Finnish maritime areas but also to the project as a whole
Continued

- UREC the co-ordination authority in the Finnish system – obligated to give its comments to the quality of the scoping document to the developer
- MoE notified Finnish views on the scoping document on behalf of UREC and the commentors
The timetable is extremely tight.
Too general nature of the assessment programme.
Other alternatives for the routing of the pipeline need to be investigated in the EIA.
Evaluation lacks precision, and the methods used and the basis of knowledge are not presented in nearly enough detail.
Continued

- some important impacts needing further study: seabed sediments, remains of weapons and munitions, bird life, impact on fish and fishing, extending the Natura 2000 network to the EEZ, shipwrecks
- A monitoring programme needs to be drawn up for the project. The Finnish Institute of Marine Research has prepared a draft proposal for a programme to monitor impact,
- The impact assessment must be based on up-to-date data. The data presented in the Finnish assessment programme on volumes of shipping and on seal, bird and fish populations are partly out-of-date and may be inaccurate.
The developer may want to consider setting up an international advisory board for the project to act as an independent discussion forum.

NGOs have shown an interest in being more involved in the environmental impact assessment procedure for the project. One way for Nord Stream to cooperate with NGOs could be to organise a joint workshop to discuss the intended impact assessment, based on the comments received from the scoping phase of the project, and ways to involve NGOs more in future aspects of the project.
Continued

- Finland would like to suggest that the Parties of Origin and Russia should negotiate the following in connection with the impact assessment:
  - the examination of alternatives;
  - the need to aim for the same level of precision in the impact assessments;
  - the monitoring programme;
  - the dissemination of information and data to authorities, researchers and the general public;
  - the proposal from non-governmental organisations to be more closely involved in the assessment procedure.

- Project information. Status of Nordstream Pipeline Route in the Baltic Sea
- The document describes the on-going research and current situation on the basis of comments received (altogether 129)
- Finland organised public display and MoE received 24 comments from public and authorities
- MoE as a competent authority comments on its own and on behalf of other commentators (January 18, 2008)
Continued

• Not adequate assessment of alternatives
• From the beginning of the EIA procedure, Finland has called for a broader study of the alternatives
• Finland has, pointed out the importance of keeping the no-action alternative (not implementing the project exclusively as a sub-Sea project) in the assessment to the very end, as an important feature in the comparison of alternatives. This issue is not addressed in the current status report...”
Continued

- With respect to the route in the Gulf of Finland:
- Nord Stream applied for a survey permit in the Estonian EEZ. The permit was rejected by the Estonian Ministry for Foreign Affairs and Nord Stream decided not to start an EIA in the Estonian EEZ. According to the status report (table 4-1) Nord Stream has performed desk studies of the route. These studies have indicated favourable pipe-laying conditions, with only small intervention work needed, more south of the proposed route in the Gulf of Finland. This would appear to support the relevance of the comments given by Finland.
Continued

- With respect to the routing in Russian sector
- Concerning the Russian sector of the route, Nord Stream informed the Ministry of the Environment on 13 December 2007 (oral communication), referring to consultations with Russian authorities, that it will not assess the impacts of an alternative route south of Gogland. – reasons, Finland is not convinced.
- “A comparison of environmental impacts of the northern and Southern routes in the EIA would be an appropriate way to proceed, and Finland holds to its view that the alternative south of Gogland should be assessed as an alternative in the environmental impact assessment. The justification by Nord Stream especially without any supporting information, is not sufficient grounds for deciding to withdraw this alternative.”
3. Status in Denmark and Germany

• Status of the Nordstream Pipeline Route in Denmark and in Germany – October 2008

• The document was put on public display and 5 comments were received (only compiled by MoE)

• MoE points out – 22 January 2009 - that since the info is still very general, it can only review properly the adequacy of the EIA documentation when the EIS is completed
Current situation

• The contact points had a meeting on 15-16 December 2008 and they indicated that the EIS would not be completed – because of lack of knowledge and gaps – during January 2009 – as the company has argued.

• In their 15. meeting on 13 February 2009 all the representatives of 9 countries agreed that the EIS fulfills the minimum conditions required by the Espoo Convention.
• Yet, they also stressed that the quality of information, viability of the conclusions and possible need for further studies are examined during the next stage, which starts from the beginning of March – comments to the EIS
• Finland has informed that the EIS will now be put on public display and comment on the basis of its EIA legislation
• And several public hearings will be organised
Continued

• The public in all the Baltic sea littoral states have a right to take part in commenting also via the Finnish EIA system.
• Then the UREC will evaluate whether it satisfies the requirements of an EIS.
• It is safe to predict that it will require additional studies to be made.
• Then, it moves to permit decision-making under our Water Act and Act on EEZ.
Pros and cons

• All states and the public could – at least formally – have an influence on the way EIA was conducted a) towards the EIA bearing on their jurisdiction and b) on the project as a whole.

• Good way to organise international co-ordination.

• Yet, from the very beginning, the transboundary EIA has mainly focused on impacts and alternatives of the main plan.
Way forward?

• Some have suggested a specific treaty or HELCOM assuming a bigger role - not viable
• Espoo regime has been developing to sub-regions, one of which is the Baltic Sea
• And the Espoo secretariat is preparing a discussion paper on large-scale projects under the Espoo Convention
• What we can say is that:
  • It cannot be an ideal situation for the company to have its project decided by five country’s authorities - legal security
  • The main concern of the concerned states has related to the lack of real alternatives to the BSGP
Continued

- This would suggest that these large-scale multi-jurisdictional projects should be addressed in strategy rather than project-level.
- This would make it possible to evaluate these as early in decision-making as possible, when options still are open.
- Then the individual country EIA’s could focus on specificities of e.g. routing.
- And this could have been done already within the current regime - but only on voluntary basis.