



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 25 February 2008

6884/08

**ENV 116
TRANS 53
COEST 49**

NOTE

from :	General Secretariat
to :	Delegations
Subject :	Ukraine's Final Decision regarding the Danube-Black Sea Deep Navigation Canal – a serious threat to the Danube Delta

Delegations will find annexed information from Romania on the above subject, which will be dealt with under "other business" at the meeting of the Council (Environment) on 3 March 2008.

**Ukraine's Final Decision regarding the Danube-Black Sea Deep Navigation
Canal – a serious threat to the Danube Delta**

1. The Danube Delta is Europe's unique natural reservation - a place that is home to over 1,200 species of tree and plant and the most diverse bird fauna on the continent. At the same time, it is the largest reservation of wetlands in Europe, covering an area of 2.681 km², bordered in the south west by Dobrogea Plateau, in the north by Ukraine and in the east by the Black Sea.
2. On 18 January 2008 Ukraine informed Romania that it had adopted the final decision on the Bystroe Project. This means that the developer may proceed with the project without taking into consideration either the comments of the Romanian authorities and the public, or the consultations based on Art.5 of the Espoo Convention.

As is known, the Bystroe project consists of the excavation of a shipping canal in the Bystroe estuary of the Danube Delta in Ukraine, a wetland of international importance. According to the Report of the International Inquiry Commission set up under the provisions of the *1991 Espoo Convention on Environmental Impact Assessment in a Transboundary Context*, the Bystroe canal is likely to have a significant negative impact on the whole Danube Delta dynamics.

3. In Romania's opinion, the decision of 18 January 2008 was unilaterally and prematurely adopted, breaking off the bilateral consultations the two States were supposed to have on the project documentation. Therefore, Romania considers that Ukraine has ignored the international law applicable to the projects which are likely to have a transboundary adverse environmental impact.

Romania has transmitted to the Kiev authorities its response to the final decision stating that the Ukrainian approach breaches both the provisions of the international law and the bilateral commitments entered into by Ukraine.

4. It must be emphasised that Ukraine's decision comes at a moment when several international fora are ready to adopt their final decision on the Bystroe project.

Firstly, the Espoo Convention Implementation Committee is about to finalise its review of compliance by the Parties with their obligations under the Espoo Convention.

Secondly, the Bern Convention representatives plan to visit the location of the project and to have the project documentation analyzed by international expertise.

The final decision as adopted by Ukraine calls into question the relevance of these international efforts.

5. The Romanian authorities have already notified all international organizations which have been kept informed of this matter since 2004 and especially the Bern Convention on the Conservation of European Wildlife and Natural Habitats, the Ramsar Convention on Wetlands, the Espoo and Aarhus Conventions, the ICPDR and the European Commission.

Romania hopes that Ukraine will abandon its unilateral approach to this project and that it will apply international law. All international organizations kept informed of this issue since 2004 are waiting for Ukraine to provide detailed information on progress made in this area.

Romania therefore kindly asks the other EU Member States and the European Commission to ensure that Ukraine will not implement the final decision on the Bystroe project and to resume the dialogue with all interested parties in order to resolve this issue in full compliance with international law.