

Explanatory Note to Chapter 10 – Transboundary Impacts

Contents:

1. Assessment of the Impact of Changes in the Relevant Legal Framework on the Project and/or the EIA Report 139
 2. Updates to Chapter 10 – “Transboundary Impacts” 139
-

Date

25th October 2010

Autor

Marilena Pătrașcu



Detailed Contents:

1. Assessment of the Impact of Changes in the Relevant Legal Framework on the Project and/or the EIA Report

The relevant legal framework for Chapter 10 of the EIA Report did not undergo relevant changes in relation to the EIA Report, so as to require a change/update thereof.

- **GD No. 445/2009, Order No. 860/2002** – at the time of the submission of the EIA Report the relevant legislation on environmental impact assessment concentrated in the following regulations: GD No. 918/2002, Orders of the Minister of Waters and Environmental Protection No. 860/2002, 863/2002 and 864/2002. To date, both GD No. 918/2002, and Order No. 860/2002 have been repealed and replaced by GD No. 445/2009, and Order of the Minister of Environment and Forests No. 135/2010. However, these new regulations are not relevant in the light of the EIA Report, as the current legal framework provides that, in the case of projects submitted in the application for an Environmental Agreement prior to these new regulations coming into force, they will remain subject to the assessment procedure in force at the time of application (Article 32 of GD No. 445/2009).
- **Orders 863/2002 and 864/2002** – these regulations have not undergone changes since the submission of the EIA Report.

In conclusion, the legal evolution of the regulations on which the development of the transboundary chapter was based will not require any change / amendment of the EIA Report.

2. Updates to Chapter 10 – “Transboundary Impacts”

Throughout the Espoo process, in assessing the environmental impacts in a transboundary context of the Project, a procedure that was initiated in 2005, Hungary focused on two fundamental and pertinent issues related to potential risks that might affect its population and territory, in the pollution of rivers crossing Romania toward Hungary, namely:

- a risk assessment to review the potential accidents /scenarios that might cause spills of pollutant substances into the water;
- pollutant dispersion modelling for the catchment downstream of the Project and up to the Hungarian border at Nadlac (totalling 595 km of river basin).

In order to ensure that all the issues committed to under the EIA Report will be implemented, the Company proposed an independent monitoring of the Project. To date, the Company has hired independent experts of renown to revise and improve the Project and its planned procedures.

Table 1: Main experts involved in the assessment of trans-boundary impacts

Company:	Name of the expert	Area of expertise
NGI	Dr. Suzanne Lacasse	risk analysis
	Dr. Kaare Hoeg	risk analysis
MWH	Patrick Corser	dam design and operation
University of Reading, UK	Prof. Paul Whitehead	dispersion modelling
Tuffs University, Boston, SUA	Prof. Steve Chapra	dispersion modelling
UTCB	Prof. Dan Stematiu	dam design and operation
UBB, Eny Science	Prof. Alexandru Ozunu	risk analysis
Aurifex	Stuart Smith	cyanide management, ore processing technologies
Tetra Tech	Mike Henderson	dams and settling ponds
University of Alberta	Prof. Norbert Morgestern	dams and settling ponds

The dispersion modelling study “Cleanup Strategy, Risk Assessment and Spill Analysis in Rosia Montana” carried out by Prof. Paul Whitehead, dr. Suzanne Lacasse and Patrick Corser in 2007, and updated in 2007 (*Annex NE_Cap_10_10*) in response to the concerns expressed by the interested public during the public information and consultation stage (July-August 2006) concluded that:

- The Project will remove most of the historic sources of ARD pollution in Rosia Montana and Corna that are currently polluting the river systems with metals such as cadmium, lead, zinc, arsenic, copper, iron, manganese, nickel, chromium and magnesium

- The probability of an accident involving spill of toxic substances is very low (1:1,000,000 years). The spill caused by an accident will not result in exceeding the quality standard set for surface waters or drinking water, even in close proximity to it – except for cases of low flow conditions. Even in such an event, contamination of the watercourse would only exceed temporarily and up to a certain point the acceptable levels under the quality standard for surface waters for the cyanide indicator, on a distance of 80 km downstream.
- A further dispersion study was performed in June 2009 in the report included in *Annex NE_Cap 10_02* based on the risk assessment for the Corna dam, titled “Risk Assessment, Rosia Montana, Romania” (Norwegian Geotechnical Institute, April 2009) and it concluded that: “Under any conditions, the risk of accident occurrence is extremely low. The level of contamination in case of an accident is only limited and temporary. In most cases, even in the event of such an accident, the quality of the river water will continue to be below the limit values set under the surface water and potable water quality standards, even at the point of discharge into the river. In all cases, these safety conditions will be restored hundreds of km before the spill may reach the Hungarian border. The risk assessment finds that any other case of damage is unrealistic. The very low accident risk and the clear environmental benefits brought about by the cleanup will provide an overall benefit for the environment as a consequence of Project implementation”

RMGC has committed to various measures and is prepared to discuss with the interested parties in Hungary any further cooperation and the fulfilment of such commitments. As described in detail in the previously submitted documentation, the Company has included in the technical design and operational plans:

- A wealth of monitoring devices to detect water quality, tailings chemistry, the water levels that generate hydrostatic pressure and any other structural fault or shift in the dam.
- Regular reporting of results and immediate information of the public on any exceptional conditions and deviations from normal situation, including of all the relevant authorities and organisations in charge of responding to such situations;
- The emergency response procedures are, again. Part of the operational plans, and involve the use of the UEP APELL procedures to ensure the availability of facilities, capacities and procedures to alarm the parties, authorities and relevant organisations and implement the suitable pre-planning measures to reduce impacts and correct any accident event, if it occurs;
- To ensure that any party affected by personal, property or business interest damage has access to compensation that does not depend on the Company’s good will or on any authority, the Company has committed to contract proportionate insurance and international arbitration in settling the damages.
- The International Cyanide Management Code was developed after the accident in Baia Mare, in order to prevent the replication of such accidents. The Company is a signatory of this Code and had committed to abide by its highest internationally recognised standards (in all the aspects related to cyanide management from production through transport, use, detoxification and waste management). The Code requires regular inspection and verification by independent experts designated by the monitoring organisation;
- Throughout operations, funds will be provided for rehabilitation works and the resources will be made available in every area requiring rehabilitation. Such resources will only be returned to the Company after appropriate confirmation of the works. Moreover, in this case, the place is currently an abandoned mine site and this generates significant drainage of acid water loaded with heavy metals that pollutes the river system. This pollution reaches Hungary and makes aquatic life impossible near the site. Mine development will effectively remove all these contaminants (according to the above studies) to the benefit of everyone downstream - and ensure a positive ecological balance.

In order to further ensure that all the Company commitments will be implemented, the Company proposed the implementation of an independent monitoring system and revision of all the public interests associated to the Rosia Montana Project, in order to ensure accountability and compliance with the proposed standards. The Company will enter a protocol specifying its commitments (on environmental, social, economic, financial and heritage issues) and establish suitable procedure for the regular monitoring and auditing of the Project under the supervision of an independent group of experts (collaboration of foreign and Romanian non-governmental organisations and even foundations and independent experts that will have – in accordance with the protocol and with support from the qualified staff – access in monitoring and focusing on compliance with the relevant standards in force, providing transparency and accountability in all the stages of the Project review and implementation). The organisations and people involved in this partnership must share the Company vision that such projects have the potential of being implemented in a safe way and in the public interest, giving priority to good environmental practice and sustainable development, responsible mining practices, and to fair, honest, transparent management criteria and procedures guided by the public interest of all the affected communities.

All this demonstrates that the Rosia Montana Project will become a model in public interest protection and a model of transboundary approach for other projects and activities involving transboundary environmental exposures and risks and will create a precedent for the authorities, who will refer to this project as a standard in protecting the national and public interest of a neighbour country (in this case, Hungary)

In this regard, compliance with the standards will ensure that:

- Hungary will not be exposed to an environmental risk due to the Project
- compliance will be transparently monitored

The questions and concerns expressed by Hungary will be considered and addressed in detail in future materials. The Company is prepared to discuss and bring experts to a dialogue with the Hungarian authorities on the subject of all these issues.