WWF International
Danube-Carpathian
Programme

Mariahilfer Str. 88a/3/9
A-1070 Vienna, Austria

Tel: +43 1 524 54 70
Fax +43 1 524 54 70-70
www.panda.org

Vienna December 7, 2007

Re: WWF comments on the Romanian 'Project on Improving Danube Navigation between Calarasi and Braila'

Dear Mr. Kondrup,

Following your invitation to provide you with additional information on the Romanian 'Project on Improving Danube Navigation between Calarasi and Braila', WWF would like to share with you the following:

I. WWF's comments on the content and procedure of the **Environment Impact Assessment (EIA) report and subsequent related documents** for the navigation project on the Danube between Calarasi and Braila, Romania.

II. WWF's **comments on the draft conclusions of the 'Technical Workshop on the Project Improving Danube Navigation Conditions between Calarasi and Braila'**, held in Bucharest on 28-29 November 2007 that were sent to the workshop organisers.

III. WWF's **request for further clarification related to the workshop's conclusions** to ensure sound implementation of the workshop results.

IV. WWF's suggestions for **alternative solutions** to the current project design.

WWF supported and acknowledge the development of the 'Joint Statement on Guiding Principles for the Development of Inland Navigation and Environmental Protection in the Danube River'. This statement aims to find a balance between river protection and inland navigation and focuses on respecting legal framework issues.

Considering that the current EIA report of the 'Project on Improving Danube Navigation between Calarasi and Braila' is inappropriate in assisting with making an informed decision, **WWF requests to extend the deadline for providing EU funds for this project in order to have time to ensure that both EIA meets European environmental standards and the unsatisfactory project design is modified accordingly**. WWF would also like to underline the European importance of the project as it is the first navigation project along the Danube in the new Member States and, given the quality of the EIA, will thus set an unfortunate precedent. WWF considers the current project preparation and EIA inadequate to receive public funds.

WWF remains committed to working together with all involved parties in finding appropriate solutions which balance river protection and inland navigation.

Yours sincerely,



Michael Baltzer, Director of the WWF Danube-Carpathian Programme Office

WWF for a living planet®

I. WWF comments on the EIA report and subsequent documents for the navigation project on the Danube between Calarasi and Braila, Romania

Having analysed the following documents (i) report on the EIA from April 2006, (ii) additional information provided by Lower Danube River Administration (AFDJ) Galati in September 2006 (after public consultation), and (iii) information provided by the Ministry of Environment and Water Management of Romania in March 2007, **WWF considers that information provided in these documents contains significant gaps and shows that the EIA was not carried out in compliance with the EU and national standards in particular EIA Directive** (Directive 85/337/EEC further amended by directive 97/11/EC) and corresponding Romanian legislation (Government decission 918/2002 ammended by GD 1705/2004, implemented by Ministerials orders 860/2002, 210/2004, 1037/2005 and 863/2002).

The main comments are as follows:

1. The report on the EIA and subsequent information are **based on general information about species presence in the wider region, and not on field data on species distribution in the project area.** Clear references to the sources of information are in many cases missing. The biggest gaps identified by WWF include:

- Effects on the environment are described mainly in a form of general statements; they are not based on investigations of reference conditions and/or field data.
- No maps for the flora and fauna are included (although required by the Romanian law on the EIA).
- No data on population size, distribution or behaviour of sturgeon and other species (except bird species) in the project area are given; references are made only to sturgeon capture record, but river kilometers indicated do not correspond to the location of the Bala-Borcea confluence.
- No description of the hydrometric and hydrological parameters in relation to sturgeon or other species migration requirements (especially depth and water velocity).
- Description of mathematical modeling and calibration for assessing project's effects is missing.
- Described effects cover mainly terrestrial habitats, with only superficial analysis of aquatic habitats.
- WWF would like to point that the Directive 97/11/EC states that it is the project developer who has to provide the needed and missing information. Providing missing evidence is not a responsibility of those who participate in public consultation and provide comments on the project and its negative effects.

Reference to the law – art 5 par 3 of the Directive 97/11/EC (emphasis added):
"The information to be provided by the developer in accordance with paragraph 1 shall include at least:
- a description of the project comprising information on the site, design and size of the project,
- a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects,
- the data required to identify and assess the main effects which the project is likely to have on the environment,
- an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects,
- a non-technical summary of the information mentioned in the previous indents."

2. The report and subsequent information **does not consider all relevant elements of fauna and flora and sediment conditions**. Most importantly, the EIA **does not consider impacts on aquatic macroinvertebrates and macrophytes**. This is an important omission, as the impact may be significant and these groups are used as indicators or biological quality elements in implementation of the Water Framework Directive (WFD, Directive 2000/60/EC).

Reference to the law – art 3 of the Council Directive 97/11/EC (emphasis added):
"The environmental impact assessment shall identify, describe and assess […] the direct and indirect effects of a project on the following factors:
- human beings, fauna and flora;
- soil, water, air, climate and the landscape;
- material assets and the cultural heritage;
- the interaction between the factors mentioned in the first, second and third indents"

3. Effects on the environment in other Member States (**transboundary aspects**) considered by the EIA are limited to effects related to air and soil, but **do not include effects on biodiversity**, e.g. effects on migrating fish species. Furthermore, there is **no reference to information having been forwarded to bordering Member Sates**. Considering large and heated discussions on the project's possible effect on the **sturgeon**, and given that the sturgeon is an indicator species for implementing the WFD on a Danube basin level, the possible impact on sturgeon populations in other Member States cannot be ignored.

Reference to the law – art 7 par 1 of the Council Directive 97/11/EC:
"Where a Member State is aware that a project is likely to have significant effects on the environment in another Member State […], the Member State in whose territory the project is intended to be carried out shall send to the affected Member State as soon as possible and no later than when informing its own public, inter alia:
(a) a description of the project, together with any available information on its possible transboundary impact;
(b) information on the nature of the decision which may be taken,
and shall give the other Member State a reasonable time in which to indicate whether it wishes to participate in the Environmental Impact Assessment procedure […]."

4. The EIA generally **does not consider project's relation to the implementation of the WFD**. Most significantly, there is no reference to the conditions related to new modifications to the physical characteristics of the river and no reference to the no-deterioration clause.

5. The EIA **does not analyse the direct and indirect impacts on the wetlands** caused by the flow redistribution, for example behind the guiding wall.

Reference to the law – art 3 of the Council Directive 97/11/EC (emphasis added):
"The environmental impact assessment shall identify, describe and assess […] the direct and indirect effects of a project on the following factors:[…]"

6. As the impacts are assessed and described poorly and with gaps, consequently the **proposed measures to reduce negative impacts are inadequate**. They are mostly related to terrestrial elements affected during the construction period, e.g. bringing to the previous situation the land occupied by construction site and access roads, afforesting the land, and fencing the site to hinder the access of wild animals. Measures to reduce impacts on aquatic habitats were inadequate, and after criticism were not improved. E.g., the culverts with 1 m openings that were proposed after criticism in order to improve connectivity with the side arms are by far not sufficient to address the problem. Impacts of such a project would request e.g. large-scale floodplain or side-arm restoration.

Additionally, we would like to point to the procedural aspects of the EIA procedure:

- After the public consultation, the EIA procedure was considered closed, without explaining how the comments were taken into account.
- Additional information after the public consultation was made publicly available when the EIA procedure was already closed – there was no time for organization who had participated in the public consultation to react.
- Although WWF DCP RO requested the official position of the Ministry of Environment regarding the impact of the project on the species and habitats from the project area, the information was provided by the Ministry after it issued the Natura 2000 permit, without a possibility to comment on the information.
- The final EIA report that would incorporate all additional information and amendments does not exist.

II. WWF's comment on the draft conclusions of the 'Technical Workshop on the Project Improving Danube Navigation Conditions between Calarasi and Braila', held in Bucharest on September 28-29, 2007

Please note these comments have been sent to the workshop organisers.

WWF would like to acknowledge the efforts of the Romanian Ministry of Transport to organize the workshop and to invite national and international experts to this meeting. To support a successful implementation of the workshop's results, we ask for including the following recommendations into the final conclusion document. So far, WWF has received the third draft of the workshop conclusions (from November 29, 2007/15:30h) but did not obtain a final document. We hope WWF's position will be correctly reflected in the final version as explained below.

- ***Regarding point #4***

The draft conclusion document states that *'All parties agreed on the utility for navigation of the project and the overall objective of redistributing the water flow through the main Danube'*. During the discussion, however, WWF requested to add an amendment to this sentence underlining that the implementation of the current design would have negative effects to the riverine environment and flood risks. As long as this amendment is not taken into consideration WWF can not agree with item #4.

- ***Regarding point #9***

The draft conclusion document explains that *'With regard to the planned bottom-sill at the Bala Brach, intensive discussion at the workshop showed that some uncertainty remain to the migration of Strugeon'*. WWF asked for removing 'some' from this sentence. a) Because it is not logical to quantify uncertainty. b) Because it implies semantically that the results of the EIA were based on sound environmental data leaving only a few gaps open – which is not the case (see details on EIA above).

- ***Regarding point #10***

The draft conclusion document says that '*The workshop recommends close biotic and abiotic monitoring during and after the construction works to verify that e.g. the Bala bottom sill would pose no hindrance to the migration of the Strugeon and other issues mentioned above. [….]*
During the wording process of the document, WWF emphasized that monitoring needs to start already *before* implementation in order to provide data that can serve as reference. This has not been taken into consideration. Therefore, WWF can not subscribe to the current text version.

Normally, a complete EIA is supposed to provide reference information *before* the project tender can be launched. This remark is not reflected in the draft conclusion. Furthermore, a monitoring program should aim at objectively identifying impacts and not to prove predetermined outcomes like verifying *'no hindrance of the mitigation of Sturgeon'*.

Finally, the conclusion document does not reflect the discussion on what is going to happen if monitoring data will show such *negative* impacts on the riverine ecosystem that might require a completely different project design in order to meet national and European environmental law. WWF asks to reflect this aspect in the final conclusion.

III. WWF's request for further clarification related with the workshop's conclusions to ensure sound implementation of the workshop results

The draft conclusion document reflects only parts of the workshop discussion and leaves out significant parts that are essentially needed to ensure a sound implementation of the workshop results.

- ***Regarding point #5***

The status of the tender process remained unclear.

a) On November 29, 2007 the tender was already published on the homepage: http://www.e-licitatie.ro/Public/Common/Notice/CNotice/CNoticeView.aspx.

b) The first draft of the draft conclusions (November 29, 2007, 13:00h) included a note: 'the work tender has just been launched'.

c) The third draft of the conclusion document speaks about 'the completed works tender dossier and the advanced stage of preparation'.

WWF asks for clarification of the tender situation in order to make sure that any further expert input has a realistic chance of being taken into account.

- ***Regarding point #8, #12 and #13***

WWF welcomes the intention of the Romanian Authorities to convene meetings with national and international experts in future to analyze proposals and decide on the technical measures for optimizing the project. WWF also appreciates the decision to apply integrated 'step-by-step adaptive measures' that should be taken to optimize project measures.

However, the sentence saying *'relevant modifications should be discussed before realization of the measures to be able to adjust the measures according to the monitoring results'* does not sufficiently explain how the adaptive management approach will be included in the proposed project design.

WWF asks for clarification on how the Romanian Ministry of Transport aims to *practically* integrate future changes of the project design. WWF also asks DG Regio on how to provide *flexible funding sources* to allow adaptive measures based on *future* monitoring outcomes. A realistic implementation of an adaptive 'step-by-step' approach can only be ensured if both, the Romanian Authorities and the EU donors (DG Regio), will officially agree on a procedural set up that allows flexible implementation of measures based on the evaluation of milestones. This might require splitting the project proposal into different implementation and funding modules that could be endorsed individually.

If this is not possible WWF does not understand how the step-by-step approach can actually be implemented.

IV: WWF's input for alternative solutions to the current project design

WWF has already provided a detailed evaluation of the individual project measures to ICPDR on September 28, 2007.

As illustrated at the workshop in Bucharest, WWF has ideas for alternative solutions (in particular, suggestions for improving the bottom sill) and is willing to explain these in more detail as soon as it is clear that the tender process is still open and a legally binding document ensures that further alternatives can be integrated in the project design without loosing funding opportunities.

This letter has been sent to:

- All Workshop participants as per participant list

In addition:

- DG ENV: Peter Gammeltoft, Joachim D'Eugenio, Marieke Van-Nood
- DG TREN: Cesare Bernabei
- LIFE+ Nature & Biodiversity: Frank Vassen