

'European Community response to the questionnaire on implementation of the Espoo Convention prepared pursuant to Decision II/11 of the Second Meeting of Parties to the Convention.'

Wednesday, 23 July 2003

The European Community is competent to adopt the framework legislation to be applied by the authorities of its Member States in relation to EIAs. In that role, it adopted Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (EIA Directive). In accordance with its responsibilities, it thereby modified Directive 85/337/EEC by Directive 97/11/EC¹ to fully align this framework with the obligations arising from Espoo Convention and has consequently ratified the Espoo Convention in 1997.

In accordance with the EC Treaty, a directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods. (Article 189)

In accordance with the legal and institutional system set up by the EC Treaty, Member States have transposed the common rules in their respective national legislation.² Therefore, national authorities are vested with the responsibility to apply the detailed procedures for development consent.

The European Community, while it is a Party to the Convention, does not exercise responsibilities as Party of Origin or Affected Country insofar as it does not give any development consent. In Decision 1/3 of the first meeting of the Parties, the European Community is not listed in the list of contact points. Therefore, the fact that the questionnaire refers to the implementation of the Espoo Convention obligations and the procedures put in place by the Parties clearly refers to procedures put in place by the Member States of the European Community (domestic law) in order to meet the obligations laid down in both the Espoo Convention and the EIA Directive.

Therefore, the European Commission cannot provide information as regards all the questions found in the said questionnaire. However, there are some questions where the European Commission can provide some useful information.

1. Directive 2003/35 of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regards to public participation and access to justice Council Directive 85/337/EEC (OJ No. L 156, 25.6.2003, p.17 aligns to the provision of the Aarhus Convention on public participation and access to justice. Deadline for transposition is two years from the entry into force.

In the longer term, this legislative development will have an impact in the national implementation of the following parts of the questionnaire: Part V (Public

¹ OJ L073, 14 March 1997

² See also the 5 Years Report for the application and effectiveness of the EIA Directive (97/11/EC) that is available on the web of the UNECE/ Espoo Convention. *News:* [documents/seacourse_sept2003.pdf](#)
How successful are the EU Member States in implementing the EU's EIA Directive (and by extension the Espoo Convention)?

participation), Part VI (Consultation), Part VI (Final Decision and in particular point 3: possibility of legal challenge.

2. For Part XIV: The following research projects have been finalised today and could be of relevance to this section.

List of research found in web address: <http://europa.eu.int/comm/environment/eia/eia-support.htm>

- EIA - Guidance on Screening - 2001 Screening checklist
- EIA - Guidance on Scoping - 2001 Scoping checklist
- EIA Review Check List - 2001
- Update of 5-years EIA Report-2003
- IMPEL-report on Interrelation between IPPC, EIA, SEVESO Directives and EMAS Regulation – 1998
- Update of 5-years EIA Report – 1997
- Strategy for EIA/SEA Research in EU – 1997
- Evaluation of the performance of the EIA process – 1996
- A study on cost and benefits in EIA/SEA - 1996
- Study on the Assessment of Indirect and Cumulative Impacts as well as Impact interactions