

**REPORT OF ESTONIA FOR 2003-2005
ON THE IMPLEMENTATION OF THE ESPOO
CONVENTION ON ENVIRONMENTAL IMPACT
ASSESSMENT IN A TRANSBOUNDARY CONTEXT**

for the period mid-2003 to end of 2005

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PART I – CURRENT LEGAL AND ADMINISTRATIVE FRAMEWORK FOR THE IMPLEMENTATION OF THE CONVENTION

Please provide the information requested below in Part I, or revise any information relative to the previous report. Describe the legal, administrative and other measures taken in your country to implement the provisions of the Convention. This part should not be used to describe your experience of applying the Convention, i.e. just the framework for its implementation.

Article 2

General Provisions

DOMESTIC IMPLEMENTATION OF THE CONVENTION

1. *List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (Art. 2.2).*

The Estonian Parliament *Riigikogu* passed the Convention on environmental impact assessment in a transboundary context (Espoo Convention) on 15th June 2000. Estonia ratified the Convention in 2001.

On the basis of the *Act on Accession to the Transboundary Environmental Impact Assessment Convention (Espoo)* an agreement between the Government of the Republic of Estonia and the Government of the Republic of Finland on Environmental Impact Assessment in a Transboundary Context was signed in 2002 (on 21st February 2002). The agreement between the Government of the Republic of Estonia and the Government of the Republic of Latvia was signed in 1997. These agreements are general and establish which projects are subject to environmental impact assessment (EIA), the EIA procedure, e.g. the notification and consultation between the Party of origin and the affected Party, sending information relating to the potentially affected environment under the jurisdiction of the affected Party, where such information is necessary for the preparation of an EIA documentation etc.

The personnel of Estonian side to the Estonian-Finnish joint commission were ratified by the Government of the Republic of Estonia on 23rd July 2002.

The requirements of the Espoo Convention are transposed into the Estonian legislation by the provisions of the Environmental Impact Assessment and Environmental Management System Act. The Act entered into force on 3rd April 2005. Before that Act, the Environmental Impact Assessment and Environmental Auditing Act regulated EIA in a transboundary context.

TRANSBOUNDARY EIA PROCEDURE

2. *Describe your national and transboundary EIA procedures and authorities (Art. 2.2):*
 - a. *Describe your EIA procedure and indicate which steps of the EIA procedure include public participation.*

The objective of the Environmental Impact Assessment and Environmental Management System Act is to provide a compulsory assessment of the likely significant effects on the environment of certain public and private sector projects.

Environmental impact shall be assessed upon application for or application for amendment of a development consent if a proposed activity which is the basis for application for or amendment of the development consent potentially results in the significant environmental impact. Environmental impact shall be also assessed if activities are proposed which alone or in conjunction with other activities may potentially significantly affect a Natura 2000 site.

A developer (a person who proposes the activity and intends to carry it out) is obliged to carry out EIA for the intended activities listed in § 6(1) of the Act. Projects, which are likely to have significant effects on the environment by virtue of their nature, size or location, may be subject to EIA according to individual case examination (based on criteria set up by § 6(3)).

The developer shall submit the application for the development consent (a building permit, a permit for special use of water etc) to a decision-maker (the issuer of the development consent: municipalities, the Ministry of the Environment, County Environmental Departments etc) who shall make a decision to initiate or refuse to initiate EIA of the proposed activity. The decision shall be made available to a public.

Should the decision-maker initiate EIA, the developer and EIA experts shall prepare an EIA programme. The decision-maker shall organise a public display of the programme after which the developer shall organise a public hearing in order to inform the public of the proposed activity and the EIA programme. If necessary, the developer and the EIA experts shall amend the EIA programme on the basis of the proposals made by the public.

A supervisor of EIA shall consider the EIA programme after the public consultation. The Ministry of the Environment is the supervisor of EIA if the Ministry of the Environment issued the development consent or if the potential environmental impact of the proposed activity may extend to another county, a transboundary water body or the sea or become transboundary. In the other cases, the supervisor of EIA is the County Environmental Department. The supervisor of EIA shall notify the public of approval of the EIA programme. If the programme is not approved, it is required to publish the programme again, to amend the programme or to provide supplementary responses to the proposals, objections and questions submitted regarding the programme.

The EIA experts shall identify, assess and describe the likely impact of the proposed activity on the environment, analyze the possibilities for the prevention and mitigation of such impact and make proposals regarding the choice of the most suitable solution.

An EIA report shall be published and the results of publication shall be taken into account pursuant to the procedure in case of the EIA programme.

After that the supervisor of EIA shall make a decision to approve the EIA report and determine environmental requirements or refuse to approve the report. Environmental requirements are measures the purpose of determination of which is

to prevent or minimize the potential negative environmental impact arising from the proposed activity. The decision to approve the report shall be published.

If the potential environmental impact of the proposed activity may be transboundary or if the affected state applies thereof, its representative is permitted to participate in the EIA proceedings. The Ministry of the Environment and the affected state shall agree on the necessary procedure and the actual schedule of the consultations, giving notification to the public and the agencies of the affected state and provision of sufficient time for the submission of options on the EIA programme and report for them.

Upon making a decision to issue or refuse issue of the development consent, the decision-maker has shall take into account the results of EIA and the environmental requirements.

- b. Describe how the different steps of the transboundary EIA procedure mentioned in the Convention fit into your national EIA procedure.*

According to the Environmental Impact Assessment and Environmental Management System Act, the decision-maker has to analyze whether the proposed activity may cause the significant environmental impact and affect another states. If the potential significant environmental impact of the proposed activity may be transboundary or if the affected state applies thereof, the Ministry of the Environment shall send a notice regarding initiation of EIA together with the description of the proposed activity and information on environmental impact potentially resulting from the proposed activity to the affected state as soon as possible but no later than the decision-maker gives notification of initiation of EIA in Estonia.

If, after receipt of the information specified above, the affected state gives notification of its wish to participate in EIA, the application for the development consent and information on EIA of the proposed activity and the processing of the application for the development consent shall be sent to the affected state if it has not been done before. If the affected state does not respond within a prescribed term or does not wish to participate in EIA, the following procedures do not apply upon EIA.

At the request of the affected state, the Ministry of the Environment shall forward the draft EIA programme and report to the affected state as soon as possible but not later than the public display of the programme or report commences in Estonia.

At the request of the affected state, its representative is permitted to participate in the EIA proceedings and consultations are commenced concerning environmental impact resulting from the proposed activity and the measures for the mitigation or prevention of such impact.

The Ministry of the Environment and the affected state shall agree on the necessary procedure and the actual schedule of the consultations, giving notification to the public and the agencies of the affected state and provision of sufficient time for the submission of options on the EIA programme and report for them. All received remarks have to be taken into account.

The development consent shall be issued by the decision-maker. The Ministry of the Environment shall notify the state which participated in EIA in a transboundary

context of issue of or refusal to issue the development consent necessary for the activity with the significant transboundary environmental impact and shall forward the decision to issue or refusal to issue the development consent to the state.

If Estonia is the affected state, the Ministry of the Environment shall notify the state in which the transboundary environmental impact originates of its intention to participate in EIA in a transboundary context and of the need for consultations within thirty days after the receipt of the notice. The Ministry of the Environment shall give notification of publication of the documents on EIA through the official publication *Ametlikud Teadaanded* and newspapers and by sending letters to persons whose rights the proposed activity may concern in Estonia. The Ministry of the Environment shall send the proposals and objections submitted regarding the documents on EIA to the state in which the transboundary environmental impact originates.

- c. *List the different authorities that are named responsible for different steps of the transboundary EIA procedure. Also list the authorities responsible for the domestic EIA procedure, if they are different.*

The Ministry of the Environment is responsible for the consultations with the affected state (see above).

The decision-maker (the issuer of the development consent: municipalities, the Ministry of the Environment, the County Environmental Departments, the Estonian Road Administration etc) are competent to:

- make the decision to initiate or refuse to initiate EIA of the proposed activity;
- organize the public display of the draft EIA programme and report in Estonia;
- make the decision to issue or refuse to issue the development consent;
- inform the public of made decisions (e.g. initiation of EIA etc), of publication of the EIA programme and report and of issuing the development consent (the Estonian public).

The functions of the supervisor of EIA (the Ministry of the Environment or the County Environmental Departments) are:

- to verify, if necessary, the lawfulness of the decision to initiate or refuse to initiate EIA of the proposed activity;
- to verify the compliance of the EIA programme with the established requirements and make the decision regarding approval of the EIA programme;
- to inform the public of approval of the EIA programme;
- to check whether the expert holds the licence for EIA;
- to verify the compliance of proceedings regarding EIA with the requirements of legislation;
- to verify the compliance of the EIA report with the approved EIA programme and the established requirements, make the decision on approval of the report and determination of the environmental requirements;
- to inform the public of approval of the EIA report and of determination of environmental requirements;
- to ex-post evaluate EIA.

- d. *Is there one authority in your country that collects information on all the transboundary EIA cases under the Convention? If so, name it. If not, do you intend to establish such an authority?*

The Ministry of the Environment collects that information.

3. *Do you have special provisions for joint cross-border projects (e.g. roads, pipelines)?*

No, EIA shall be carried out according to the Environmental Impact Assessment and Environmental Management System Act that provides legal basis and the EIA procedure for all projects. Still the Party of origin and the affected Party have to agree on how EIA and the consultations should be carried out.

IDENTIFICATION OF A PROPOSED ACTIVITY REQUIRING EIA UNDER THE CONVENTION

4. *Is your country's list of activities subject to the transboundary EIA procedure equivalent to that in Appendix I to the Convention?*

EIA is mandatory in case of the projects listed in § 6(1) of the Environmental Impact Assessment and Environmental Management System Act, which is equivalent to Annex I of the Convention. The decision-maker has to review the application for the development consent and make the decision concerning the necessity of EIA. If environmental impact may extend to the territory of the another state, the decision-maker shall initiate the transboundary EIA.

5. *Please describe:*

- a. *The procedures and, where appropriate, the legislation you would apply to determine that an "activity", or a change to an activity, falls within the scope of Appendix I (Art. 2.3), or that an activity not listed should be treated as if it were (Art. 2.5);*

According to the Environmental Impact Assessment and Environmental Management System Act the decision-maker shall examine the application (new one or the application for amending the permit) to determine whether EIA should be initiated. EIA is mandatory in case of the projects listed in § 6(1) of the Act. In case of other activities, the decision-maker shall analyse the environmental impact in each specific case to decide whether the proposed activity may impact the environment significantly or not.

- b. *How a change to an activity is considered as a "major" change;*

According to the Environmental Impact Assessment and Environmental Management System Act, environmental impact is assessed upon application for or application for amendment of the development consent if the proposed activity which is the basis for application for or amendment of the development consent potentially results in significant environmental impact.

If changing the activity requires amending the development consent, the decision-maker has to examine the necessity of EIA.

- c. *How such an activity, or such a change to an activity, is considered likely to have a "significant" adverse transboundary impact (Art. 2.5, Guidelines in Appendix III); and*

See the answer above. If the potential significant environmental impact of the proposed activity may be transboundary, the transboundary EIA has to be initiated.

d. *How you would decide whether it is “likely” to have such an impact. (Art. 2.3)*

The decision-maker shall examine the environmental impact resulting from the proposed activity on the basis of the following criteria: the environmental conditions of the area where the activity are carried out and its vicinity, the nature of the activity, the consequences associated with the activity, the possibility that emergency situations resulting from the activity arise and the magnitude, spatial extent, duration, frequency and reversibility, effect and cumulativeness of the impact and the transboundary impact and the probability of the impact.

PUBLIC PARTICIPATION

6. *Do you have your own definition of “the public” in your national legislation, compared to Article 1(x)? How do you, together with the affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to your own public as required in Article 2, paragraph 6?*

No, each interested person (included agencies) and persons whose rights may be affected by the proposed activity, can participate in EIA.

The Ministry of the Environment and the affected state shall agree on the necessary procedure and the actual schedule of the consultations, giving notifications to the public and the agencies of the affected state and provision of sufficient time for the submission of options on the EIA programme and report for them.

Article 3

Notification

QUESTIONS TO PARTY OF ORIGIN

7. *Describe how you determine when to send the notification to the affected Party, which is to occur “as early as possible and no later than when informing its own public”? At what stage in the EIA procedure do you usually notify the affected Party? (Art. 3.1)*

The Ministry of the Environment shall send the notification to the affected Party as soon as possible but not later than the decision-maker gives notification of initiation of EIA in Estonia. The Estonian public shall be notified of initiation of EIA of the proposed activity within fourteen days after the decision to initiate EIA is made.

8. *Describe how you determine the content of the notification? (Art. 3.2)*

According to the Environmental Impact Assessment and Environmental Management System Act, the Ministry of the Environment shall send to the affected state:

- the notice regarding initiation of EIA (the reasons why EIA was initiated);
- the description of the proposed activity;
- information on the environmental impact potentially resulting from the proposed activity to the affected state.

If after receipt of that information, the affected state gives notification of its wish to participate in EIA, the application for the development consent and information on EIA of the proposed activity and the processing of the application for the permit shall be sent to the affected state if not sent before.

9. *Describe the criteria you use to determine the time frame for the response to the notification from the affected Party (Art 3.3, “within the time specified in the notification”)? What is the consequence if an affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?*

The time frame is not established by national legislation, only the bilateral agreement with Finland establishes that the affected Party has to response to the notification within two months.

We have given at least a month to response to the notification. If the answer delays a couple of days, we are going to take into account the position of the affected Party. The deadline could be extended, but the Ministry of the Environment has to inform the developer about that.

10. *Describe when you provide relevant information regarding the EIA procedure and proposed activity and its possible significant adverse transboundary impact as referred to in Article 3, paragraph 5. Already with the notification or later in the procedure?*

The description of the proposed activity and information on the environmental impact potentially resulting from the proposed activity shall be sent to the affected Party with the notification. If the affected state would like to participate in EIA, the application for the permit and information on EIA of the activity and the processing of the application for the permit shall be sent to the affected Party if it has not been done before. The affected states have also opportunity to comment the EIA programme and report.

11. *How do you determine whether you should request information from the affected Party (Art. 3.6)? When do you normally request information from the affected Party? What kind of information do you normally request? How do you determine the time frame for a response from the affected Party to a request for information, which should be “prompt” (Art. 3.6)?*

Estonia shall request information from the affected Party if we do not have enough information relating to the potentially affected environment under the jurisdiction of the affected Party. Information shall be requested while composing the EIA report. The response should be given as soon as possible, the deadline shall be determined by an official letter.

12. *How do you consult with the authorities of the affected Party on public participation (Art. 3.8)? How do you identify, in cooperation with the affected Party, the “public” in the affected area? How is the public in the affected Party notified (what kinds of media, etc are usually used)? What is normally the content of the public notification? Does the notification to the public of the affected Party have the same content as the notification to your own public? If not, describe why not. At what stage in the EIA procedure do you normally notify the public of the affected Party?*

We shall notify all relevant authorities and public (in Estonia) of publication of the EIA programme and report etc by official letters and advertisements in newspapers.

The Ministry of the Environment shall send the notification to the affected Party after initiation of EIA. The EIA programme and report shall be sent as soon as possible but not later than the publication commences in Estonia. The notification shall consist basically the same information as the notification to the Estonian public: the description of the proposed activity, information on the environmental impact potentially resulting from the proposed activity, the dateline for comments on the EIA programme or report, contact data etc.

According to the Environmental Impact Assessment and Environmental Management System Act, at the request of the affected state, its representative is permitted to participate in EIA and the consultations are commenced concerning the environmental impact resulting from the proposed activity and the measures for the mitigation or prevention of such impact. The Ministry of the Environment and the affected Party have to agree on the necessary procedure and the actual schedule of the consultation, giving notification to the public and the agencies of the affected state and provision of sufficient time for the submission of opinions on the EIA programme and report for them.

Based on the bilateral agreement with Finland, the affected state is responsible for informing their public about the proposed activity. The affected state has to also give to the public and the agencies opportunity to submit opinion on the proposed activity.

13. *Do you make use of contact points for the purposes of notification as decided at the first meeting of Parties (ECE/MP.EIA/2, decision I/3), and listed on the Convention website at http://www.unece.org/env/eia/points_of_contact.htm?*

No, the notifications have been sent by the Minister of the Environment so far.

14. *Do you provide any information to supplement that required by Article 3, paragraph 2? Do you, furthermore, follow the proposed guidelines in the report of the first meeting of the Parties (ECE /MP/2, decision I/4)? If not, in what format do you normally present the notification?*

A letter from the Ministry of the Environment has been used as the notification.

In the notification has been given information required by Article 3, paragraph 2 of the Espoo Convention. We have followed the proposed guidelines in the report of the first meeting of the Parties in composing the notification.

QUESTIONS TO AFFECTED PARTY

15. *Describe the process of how you decide whether or not you want to participate in the EIA procedure (Art. 3.3)? Who participates in the decision-making, for example: central authorities, local competent authorities, the public and environmental authorities? Describe the criteria or reasons you use to decide?*

We shall participate in the EIA procedure if the proposed activity may impact our environment. Who shall participate in the decision-making, it depends on the proposed activity – municipalities, ministries, environmental authorities etc (what are competent in that question, for example the Ministry of Economic Affairs and Communications in case of energy projects). We shall organise a meeting or ask an official opinion of authorities to make the decision whether Estonia should participate in the EIA procedure or not.

16. *When the Party of origin requests you to provide information relating potentially affected environment: (a) how do you determine what is “reasonably obtainable” information to include in your response; and (b) describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of “promptly” in the context of responding to a request for information? (Art. 3.6)*

If the Party of origin requests us to provide information relating to the potentially affected environment, we can send them data of environmental monitoring, studies etc (which are available to us).

According to § 6 of the Response to Memoranda and Requests for Explanations Act, a response to a memorandum or request have to be provided without undue delay but not later than within 30 calendar days after the date of registration thereof.

Article 4

Preparation of the EIA documentation

QUESTIONS TO PARTY OF ORIGIN

17. *What is the legal requirement for the content of the EIA documentation (Art. 4.1)?*

The requirements for the EIA report are established by § 20 of the Estonian Environmental Impact Assessment and Environmental Management System Act and Annex III of the bilateral agreement with Finland. The exact content of the report (which alternatives shall be analysed in EIA, information on the potential sources of impact, the size of the impact area and the affected environmental elements of the proposed activity and the reasonable alternatives thereof) shall be determined while composing the EIA programme. The EIA programme shall be prepared by the developer and the EIA experts after initiation of EIA. The programme shall be published and approved by the supervisor of EIA.

18. *Describe your country's procedures for determining the content of the EIA documentation (Art. 4.1).*

The the answer above.

19. *How do you identify "reasonable alternatives" in accordance with Appendix II, alinea (b)?*

The alternatives are different ways in which the developer can feasibly meet the project's objectives. The following alternatives should be studied in EIA: locations or alignments, site lay out and project design, size and scale, working or management arrangements, production methods and technologies, time scale for construction and operation and the „do nothing“ alternative. Which alternatives are relevant in case of each project, it depends on the nature of the project. The reasonable alternatives shall be identified while composing the EIA programme.

20. *How do you identify "the environment that is likely to be affected by the proposed activity and its alternatives" in accordance to Appendix II, alinea (c), and the definition of "impact" in Article I(vii)?*

The content of the EIA report (information on the potential sources of impact, the size of the impact area and the affected environmental elements of the proposed activity and the reasonable alternatives thereof etc) shall be determined while composing the EIA programme by the EIA experts and the developer. The programme is also published and approved.

21. *Do you give the affected Party all of the EIA documentation (Art. 4.2)? If not, which parts of the documentation do you provide?*

Yes, all the EIA documentation is given to the affected Party.

22. *How is the transfer and reception of the comments from the affected Party organized? How does the competent authority in your country (as the Party of origin) deal with the comments? (Art. 4.2)*

At the request of the affected state, the Ministry of the Environment shall forward the draft EIA programme and report to the affected state as soon as possible but not later than the public display of the programme or report commences in Estonia.

The Ministry of the Environment and the affected state shall agree on the necessary procedure and the actual schedule of the consultations, giving notification to the public and the agencies of the affected state and provision of sufficient time for the submission of opinions on the EIA programme and report for them.

According to the bilateral agreement with Finland, the affected Party is responsible for informing their public and publication of the EIA documentation. The affected state has to submit all received opinions and proposals on the proposed activity and the EIA programme or report to the Party of origin within two months after receiving the documentation from the Party of origin.

The Ministry of the Environment shall forward all received comments to the developer who together with the EIA experts has to make the necessary amendments to the programme or report, explain why proposals and objections are taken into account and justify why they are not taken into account and respond to the questions. The answers shall be sent to the affected Party.

23. *Describe the procedures and, where appropriate the legislation you would apply to determine the time frame for comments provided for in the words “within a reasonable time before the final decision” (Art. 4.2)? What is the consequence if the affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?*

At the request of the affected Party, the Ministry of the Environment shall forward the draft EIA programme and report to the affected state and determine the time frame for providing comments. The EIA programme and report shall be forwarded as soon as possible but not later than the public display of this documentation commences in Estonia. The procedure and the time frame of the consultations and publication of the EIA documentation shall be agreed on between the Ministry of the Environment and the affected state.

According to the bilateral agreement with Finland, the affected state has to submit opinions on the EIA programme and report within two months. If the comments of the affected Party delays a couple of days, it is not a problem. The deadline could be also extended, but the Ministry of the Environment has to consult with the developer about that.

24. *What material do you provide, together with the affected Party, to the public of the affected Party?*

The EIA programme and report are provided.

25. *Do you initiate a public hearing for the affected public, and at what stage, whether in the affected Party, in your country or as a joint hearing? If a public hearing is held in your country, as Party of origin, can the public of the affected Party, public authorities, organizations or other individuals come to your country to participate?*

See the answer to question 23. Still, the public hearing for the affected public should be organised by the affected Party (in their country).

QUESTIONS TO AFFECTED PARTY

26. *Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of the words “within a reasonable time before the final decision”, this being the time frame for comments (Art. 4.2)?*

The affected Party has an opportunity to comment the EIA documentation, publication of the EIA documentation and consultations with the affected Party have to be organised before the final decision.

According to § 30(7) of the Environmental Impact Assessment and Environmental Management System Act, the Ministry of the Environment and the affected state shall agree on the necessary procedure and the actual schedule of the consultation and provision of sufficient time for the submission of comments on the EIA programme and report. According to § 17 of the EIA Act, the results of publication of the EIA documentation and the consultations shall be taken into account – if necessary, the programme and report shall be amended on the basis of the received proposals. The affected Party shall be informed of the results of publication of the EIA documentation.

After approving the EIA report, the decision-maker shall make a decision to issue or refuse to issue the permit. The decision-maker has to take into account the results of EIA and the consultations.

27. *Who is responsible for the organization of the public participation in the affected Party? Is the public participation normally organized in accordance with your legislation as the affected Party, or with the legislation of the Party of origin, or with ad hoc procedures, or with bilateral or multilateral agreements?*

The Estonian Ministry of the Environment shall send the notification and all relevant documentations to the affected Party and give opportunity to make proposals and comments on the EIA documentation. Still, the affected Party is responsible for organisation the public hearing and consultations with relevant authorities in their country. Estonia and the affected Party shall agree on the necessary procedure and the actual schedule of the consultation and publication, so that the requirements of legislation of both sides and the bilateral agreements shall be fulfilled.

Article 5

Consultations

QUESTIONS TO PARTY OF ORIGIN

28. *At which step of the EIA procedure does the consultation in accordance with Article 5 generally take place? Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of “undue delay”, with regard to the timing of entry into consultation? Do you normally set the duration for consultations beforehand? If there seems to be no need for consultation, how do you determine not to carry out consultations?*

According to § 30 of the Environmental Impact Assessment and Environmental Management System Act, at the request of the affected state, its representative is permitted to participate in EIA and consultations are commenced concerning environmental impact resulting from the proposed activity and the measures for the mitigation or prevention of such impact. The necessary procedure and the actual time schedule of the consultations shall be agreed on between Estonia and the affected state.

29. *On what level do you arrange for consultation: national, regional or local? Who usually participates in the consultation? Describe the responsibilities of the authorities involved. By what means do you usually communicate in consultations, for example by meeting, exchange of written communications?*

The Ministry of the Environment is responsible for consultations with the affected Party, that is why consultations shall be arranged on national level. The Ministry of the

Environment can involve these authorities what are competent or participate in EIA proceedings in Estonia (e.g. the decision-maker, relevant ministries etc – for example the Ministry of Economic Affairs and Communications in case of energy projects) to find the best solution to carry out EIA (so that the requirements of EIA of the Party of origin and the affected Party shall be fulfilled) and all aspects shall be analysed and taken into account. The duties of all authorities shall be agreed in consultation.

QUESTIONS TO AFFECTED PARTY

30. *On what level is the consultation normally held: national, regional or local? Who normally participates in the consultation? By what means do you usually communicate in consultations, for example by meeting or by the exchange of written communications? How do you indicate if there is no need for consultations?*

See the answer above.

Article 6

Final decision

QUESTIONS TO PARTY OF ORIGIN

31. *Describe what is regarded as the “final decision” to authorize or undertake a proposed activity (Art. 2.3). Do all projects listed in Appendix I require such a decision?*

The final decision is a decision to issue or refuse to issue the development consent. The development consent is a document permitting the proposed activity with the potentially significant environmental impact - the building permit, the waste permit, the permit for special use of water etc. All projects listed in Appendix I of the Convention requires applying the development consent.

32. *How does the EIA procedure (including the outcome) in your country, whether or not transboundary, influence the decision-making process for a proposed activity? (Art. 6.1)*

According to the Environmental Impact Assessment and Environmental Management System Act, the EIA programme and report have to be amended on the basis of the submitted proposals and remarks regarding the programme or report. Upon making the decision to issue or refuse to issue the development consent, the issuer of the development consent has to take into account the results of EIA and consultations.

33. *Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and public in your country (Art. 6.1)?*

Yes, these comments are taken into consideration in the same way.

34. *How is the obligation to submit the final decision to the affected Party normally fulfilled? Does the final decision contain the reasons and considerations on which the decision is based? (Art. 6.2)*

The final decision shall contain the reasons and considerations on which the decision is based. The Ministry of the Environment shall notify the affected Party which participated in EIA in a transboundary context of issue of or refusal to issue the development consent necessary for the activity with the significant environmental impact and shall forward the decision to issue or refusal to issue the consent to the state.

35. *If additional information comes available according to paragraph 3 before the activity commences, how do you consult with the affected Party? If need be, can the decision be revised? (Art. 6.3)*

The affected Party shall be informed about received additional information.

If additional information is significant, the requirements of the development consent shall be revised. Also EIA could be initiated if the activity may affect the environment.

Article 7

Post-Project Analysis

36. *How do you determine whether you should request a post-project analysis to be carried out (Art. 7.1)?*

After publication of the EIA report, taking into account the results of publication and the consultations, the supervisor of EIA shall make the decision to approve the report and determine the environmental requirements, e.g. environmental monitoring, or refuse to approve the report. Usually, if the proposed activity potentially has the significant environmental impact, environmental monitoring is necessary.

The supervisor of EIA shall carry out the ex-post evaluation of EIA on the basis of the results of environmental monitoring. If it becomes evident in the course of ex-post evaluation that the results of environmental monitoring do not comply with the requirements provided for in legislation or the development consent, the decision-maker shall amend the conditions of the development consent on the basis of the proposal of the supervisor of EIA or repeal the consent.

According to the bilateral agreements with Latvia and Finland, the Party of origin and the affected Party shall determine the necessity of the post-project analysis (e.g. environmental monitoring) taking into account the significance of environmental impact resulting from the proposed activity.

37. *Where, as a result of post-project analysis, it is concluded that there is a significant adverse transboundary impact by the activity, how do you inform the other Party and consult on necessary measures to reduce or eliminate the impact pursuant to Article 7, paragraph 2?*

The Ministry of the Environment shall inform the affected Party about that.

However, if it becomes evident that the activity has the significant environmental impact, it is required to decide whether it is necessary to amend the conditions of the development consent or repeal it. Also EIA could be initiated if the permit should be amended (the consultations with the affected Party has to be also done).

According to the bilateral agreement with Finland, the consultations shall be also commenced concerning environmental impact resulting from the proposed activity and the measures for the mitigation or prevention of such impact.

Article 8

Bilateral and multilateral agreements

38. *Do you have any bilateral or multilateral agreements based on the EIA Convention (Art. 8, Appendix VI)? If so, list them. Briefly describe the nature of these agreements. To what extent are these agreements based on Appendix VI and what issues do they cover? If publicly available, also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.*

Estonia has bilateral agreements with Latvia (1997) and Finland (2002). These agreements are general and establish which projects are subject to EIA, the EIA procedure, e.g. the notification and consultation between the Party of origin and the affected Party, sending information relating to the potentially affected environment under the jurisdiction of the affected Party, where such information is necessary for the preparation of an EIA documentation etc.

The agreements are annexed to the report (in English).

39. *Have you established any supplementary points of contact pursuant to bilateral or multilateral agreements?*

No, a supplementary point of contact has not been established.

Article 9

Research programmes

40. *Are you aware of any specific research in relation to the items mentioned in Article 9 in your country? If so, describe it briefly.*

Last year Estonian Institute for Sustainable Development, Stockholm Environment Institute Tallinn Centre (SEI-Tallinn) analysed our experience of EIA. The purpose of that analysis was to find out which is our practice and whether have we done some mistakes in EIA proceedings.

SEI-Tallinn analysed 21 EIA cases (including our Espoo case “Renovation of the 8th energy block of Estonian Power Plant and the 11th energy block of Baltic Power Plant”) and interviewed 74 persons - developers, EIA experts, decision-makers etc.

SEI-Tallinn found that there have not been essential mistakes, still they noted that two weeks for publication of the EIA documents is not enough. They also noted that it is necessary to pay more attention to quality of EIA. SEI-Tallinn suggested to form an EIA commission (the functions of the commission should be verifying the compliance of the EIA programmes and reports with the established requirements etc) for that. They also found that Estonia should establish which alternatives are relevant in case of EIA and SEA.

Ratification of the amendments to the Convention and of the Protocol on SEA

41. *If your country has not yet ratified the first amendment to the Convention, does it have plans to ratify this amendment? If so, when?*

Yes, we plan to ratify the first amendment by 2007 (expected time).

42. *If your country has not yet ratified the second amendment to the Convention, does it have plans to ratify this amendment? If so, when?*

We plan to ratify this amendment by 2007.

43. *If your country has not yet ratified the Protocol on SEA, does it have plans to ratify the Protocol? If so, when?*

We plan to ratify the Protocol on SEA by 2007.

PART II – PRACTICAL APPLICATION DURING THE PERIOD 2003-2005

Please report on your practical experiences of applying the Convention (not your procedures described in Part I), whether as Party of origin or affected Party. The focus here is on identifying the best practice as well as difficulties Parties encountered in applying the Convention in practice to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve application of the Convention.

CASES DURING THE PERIOD 2003-2005

44. *Do you have any practical experience of applying the Convention in this period (yes/no)? If you do not have any such experience, why not?*

No, but we notified Latvia of strategic environmental assessment (detailed spatial planning for the Pedele River cross-border recreation area) in October 2004.

Sweden informed us about EIA for the Encapsulation plant and the Final repository for spent nuclear fuel in Sweden in December 2005. The Ministry of the Environment responded to the notification in March 2006. Based on information given in the notification, attached background material, results of public consultation in Estonia and in accordance to Article 3 point 3 of the Espoo Convention, Estonia decided not to participate in the transboundary EIA procedure.

45. *Does your national administration have information on the transboundary EIA procedures that were underway during the period? If so, please list these procedures, clearly identifying for each whether your country was the Party of origin or the affected Party. If you have not provided a list of transboundary EIA procedures in connection with previous reporting, also provide a list of those procedures. If possible, also indicate for each procedure why it was considered necessary to apply the Convention.*

See the answer above.

46. *Are there other projects than those mentioned above for which a transboundary EIA procedure should have been applied, but was not? Explain why.*

No, there have not been such projects.

47. *Provide information on the average durations of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.*

We have had only one Espoo case in 2002 – “Renovation of the 8th energy block of Estonian Power Plant and the 11th energy block of Baltic Power Plant”. The duration of transboundary EIA procedure was less than a year – the Ministry of the Environment of Estonia initiated the transboundary EIA in February 2002 and approved the EIA report in October 2002. The publication and approving of the EIA programme and report lasted for a month.

EXPERIENCE OF THE TRANSBOUNDARY EIA PROCEDURE IN 2003-2005

48. *If you have had practical experience, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.*

Yes. We have had one Espoo case in 2002. Finland as the affected Party made comments on the EIA programme and report, including on the methods of assessing long-range pollution, the post-project analysis etc. The Finnish position was taken into account while amending the report and carrying out the project.

49. *How have you interpreted in practice the various terms used in the Convention, and what criteria have you used to do this? Key terms include the following: “promptly” (Art. 3.6), “a reasonable time” (Art. 3.2(c), Art. 4.2), “a reasonable time-frame” (Art. 5), and “major change” (Art. 1(v)). If you are experiencing substantial difficulties interpreting particular terms, do you work together with other Parties to find solutions? If not, how do you overcome the problem?*

According to the Estonian legislation we have interpreted these terms in the practice as following:

promptly – as soon as possible but not later than within 30 calendar days after receiving documents etc;

a reasonable time – according to Article 3.2(c) the notification shall contain an indication of a reasonable time within which a response under paragraph 3 of Article 3 is required. We have given at least a month to response to the notification.

Article 4.2 regulates preparation and publication of the EIA documentation. The Ministry of the Environment has to forward the EIA programme and report to the affected Party as soon as possible but not later than the public display of this documentation commences in Estonia. Provision of sufficient time for the submission of opinions on the EIA programme and report shall be agreed on between the Ministry of the Environment and the affected state.

major change - environmental impact is assessed upon application for or application for amendment of the development consent if the proposed activity which is the basis for application for or amendment of the development consent potentially results in the significant environmental impact. If changing the activity requires amending the development consent, the decision-maker has to examine the necessity of EIA.

The Ministry of the Environment and the affected Party shall agree on all aspects of EIA in a transboundary context – procedures, schedules etc.

50. *Share with other Parties your experience of using the Convention. In response to each of the questions below, either provide one or two practical examples or describe your general experience. You might also include examples of ‘lessons learned’ in order to help others.*

- a. *How in practice have you identified transboundary EIA activities for notification under the Convention, and determined the significance and likelihood of adverse transboundary impact?*

The decision-maker shall make the decision regarding the significance of environmental impact resulting from the proposed activities. The decision-maker has to take into account the environmental conditions of the area where the activity is planned to carry out and its vicinity, the nature of the activity (including its technical level, use of natural resources etc), the consequences associated with the activity, the possibility that emergency situations resulting from the activity may arise and impact resulting from the activity.

If the activity may potentially impact the environment and EIA has to be initiated, the decision-maker has to consider how big the impact area could be - whether the activity may affect the another state's environment or not. If the proposed activity may impact the another state's environment, the affected Party shall be notified of the proposed activity and EIA.

- b. *Indicate whether a separate chapter is provided on transboundary issues in the EIA documentation. How do you determine how much information to include in the EIA documentation?*

The separate part on transboundary issues is provided in the EIA report (where the EIA experts have to analyse the significance of the transboundary impact).

The requirements for the EIA report is established by § 20 of the Estonian Environmental Impact Assessment and Environmental Management System Act. The exact content of the report is determined by the EIA programme.

- c. *What methodology do you use in impact assessment in the (transboundary) EIA procedure (for example, impact prediction methods and methods to compare alternatives)?*

Environmental impact is assessed and the EIA report is composed by the EIA experts who choose methodology for impact assessment. Usually the experts have used different alternative composing method.

- d. *Translation is not addressed in the Convention. How have you addressed the question of translation? What do you usually translate? What difficulties have you experienced relating to translation and interpretation, and what solutions have you applied?*

The EIA programme of the project “Renovation of the 8th energy block of Estonian Power Plant and the 11th energy block of Baltic Power Plant” was translated into English, the summary of the EIA report was translated into English and Russian what limited the information given in the transboundary consultation (Finland could not review the whole EIA report). The report was more than hundred pages long and the summary was five to ten pages.

- e. *How have you organized transboundary public participation in practice? As Party of origin, have you organized public participation in affected Parties and, if so, how? What has been your experience of the effectiveness of public participation? Have you experienced difficulties with the participation of your public or the public of another Party? (For example, have there been complaints from the public about the procedure?)*

We have had only one Espoo case in 2002. Estonia organised the public display and the public hearing for Estonian public and sent the EIA documentation to Finland to make comments. Finland was responsible for consulting with the relevant authorities in Finland. The time schedule was very tight, it did not allow to arrange the public hearing in Finland.

Public participation is effective if the authorities shall use all relevant possibilities (newspapers, letters etc) to inform the public of the proposed activity and the public hearings. It is also necessary to give them sufficient time to access relevant documents and to submit comments. If it is necessary, the public hearings have to be organised in the evening. It is crucial that the developer and the EIA experts have to give feedback to the public and the affected Party – which proposals were taken into account etc. The Party of Origin should contact and inform the Point of Contact in the Affected Party about planned activities as early as possible.

If authorities and developers do not follow these principles, difficulties with the participation could be arouse - the affected Party and the public do not have enough

time for effective participation. For that reason they could complain about the procedure of EIA and the publication could be carried out (again).

- f. *Describe any difficulties that you have encountered during consultations, for example over timing, language and the need for additional information.*

See the answer above. The time schedule (in case of the project “Renovation of the 8th energy block of Estonian Power Plant and the 11th energy block of Baltic Power Plant”) was very tight - the Parties did not have enough time for participation – Finland did not have time for the public hearings etc.

- g. *Describe examples of the form, content and language of the final decision, when it is issued and how it is communicated to the affected Party and its public.*

The final decision shall be issued in writing, the decision shall set out the name of the administrative authority which issued it, the name and signature of the head of the administrative authority or a person authorised thereby, the time of issue of the administrative act and other information prescribed by a legal act (the requirements for the proposed activity, e.g. measures to mitigate potential negative impact, environmental monitoring etc). The form of the final decision is established by legislation – by the Waste Act, the Water Act etc. The final decision is issued after approving the EIA report (in Estonian). If the transboundary impact assessment was carried out, the final decision has to be translated into English.

We have not had such experience. Only the amended EIA report was sent to Finland in 2002 (the developer did not applied any development consent).

- h. *Have you carried out post-project analyses and, if so, on what kinds of projects?*

If the proposed activity potentially has the significant environmental impact, environmental monitoring is always necessary after EIA.

Since 2005, the supervisor of EIA shall carry out the ex-post evaluation of EIA on the basis of the results of environmental monitoring. If it becomes evident in the course of ex-post evaluation that the results of environmental monitoring do not comply with the requirements provided for in legislation or the development consent, the decision-maker shall amend the conditions of the development consent on the basis of a proposal of the supervisor of EIA or repeal the consent.

While the project “Renovation of the 8th energy block of Estonian Power Plant and the 11th energy block of Baltic Power Plant” was carried out before that, the ex-post evaluation of EIA was not necessary, still environmental monitoring was carried out.

- i. *Do you have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your experiences describing, for example, any bilateral agreements, institutional arrangements, and how practical matters are dealt with (contact points, translation, interpretation, transmission of documents, etc.).*

No, we do not have such examples.

- j. *Name examples of good practice cases, whether complete cases or good practice elements (e.g. notification, consultation or public participation) within cases. Would you like to introduce your case in a form of Convention's fact sheet?*

We have had one Espoo case so far (in 2002). Some difficulties arise from the very tight time schedule (Finland did not have enough time to communicate with their public).

Some of the good experiences of this case were the early notification, the informal contacts by e-mail and that the EIA report was amended according to the Finnish comments.

CO-OPERATION BETWEEN PARTIES IN 2003-2005

51. Do you have any successful examples of how you have overcome difficulties arising from different legal systems in neighbouring countries?

No, we have had only one Espoo case where we had some difficulties. It is important to take into account this experience in the future.

EXPERIENCE IN USING THE GUIDANCE IN 2003-2005

52. Have you used in practice the following guidance, recently adopted by the Meeting of the Parties and available on-line? Describe your experience of using these guidance documents and how they might be improved or supplemented.

- a. Guidance on public participation in EIA in a transboundary context;*
- b. Guidance on subregional cooperation; and*
- c. Guidelines on good practice and on bilateral and multilateral agreements.*

We have not had any Espoo cases in 2003-2005, still, we have used guidelines given on the website of the Espoo Convention (when we have sent the notifications etc).

CLARITY OF THE CONVENTION

53. Have you had difficulties implementing the procedure defined in the Convention, either as Party of origin or as affected Party? Are there provisions in the Convention that are unclear? Describe the transboundary EIA procedure as applied in practice, where this has varied from that described in Part I or in the Convention. Also describe in general the strengths and weaknesses of your country's implementation of the Convention's transboundary EIA procedure, which you encounter when actually applying the Convention.

No, we have not had such difficulties, the biggest problem has been very tight time schedule.

AWARENESS OF THE CONVENTION

54. Have you undertaken activities to promote awareness of the Convention among your stakeholders (e.g. the public, local authorities, consultants and experts, academics, investors)? If so, describe them.

The Ministry of the Environment has organised information days to County Environmental Departments, experts, municipalities etc to introduce the requirements of the Convention. The requirements are also available on the Ministry's website.

We have also translated the guidance on the practical application of the Espoo Convention into Estonian and published it.

55. Do you see a need to improve the application of the Convention in your country and, if so, how do you intend to do so? What relevant legal or administrative developments are proposed or on-going?

It is necessary to improve knowledge of the requirements of the Convention. That is why it is necessary to continue training of authorities.

SUGGESTED IMPROVEMENTS TO THE REPORT

56. Please provide suggestions for how the report may be improved.

We have no suggestions for improving the report.