

**REPORT OF Switzerland 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).*

En Suisse, la Convention d'Espoo est considérée comme étant directement applicable (self executing). Elle ne se concrétise donc pas dans les lois et ordonnances nationales spécifiques. Cependant, des aides à l'application (documents n'ayant pas valeur de loi) ont été conclues avec l'Autriche et la Principauté du Liechtenstein. Il existe également un "Guide des procédures. Consultations transfrontalières des autorités et du public sur les projets ayant des incidences notables sur l'environnement dans l'espace du Rhin supérieur, élaboré par la conférence franco-germano-suisse du rhin supérieur" qui s'applique aux projets régionaux dans cet espace géographique franco-germano-suisse.

Dans le cadre de la révision de l'ordonnance régissant les études d'impact en Suisse (Ordonnance relative à l'étude de l'impact sur l'environnement, OEIE), il sera proposé d'introduire un article spécifique relatif à la Convention d'Espoo.

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.*

La Suisse est un Etat fédéral: dans beaucoup de domaines, les compétences sont partagées entre la Confédération et les cantons (ainsi que les communes qui les composent). Au niveau fédéral, l'EIE a été introduite en Suisse en 1985 par l'article 9 de la Loi fédérale sur la protection de l'environnement. Les détails de l'EIE ont été réglés dans une ordonnance entrée en vigueur en 1989 (ordonnance relative à l'étude de l'impact sur l'environnement, OEIE), qui donne une liste exhaustive des types de projets soumis à EIE (cette liste répertorie plus de 70 types d'installations). Les cantons peuvent également légiférer en la matière afin de compléter le droit fédéral.

Le système de l'EIE en Suisse est intégré aux procédures de concession ou d'approbation des plans des projets et sert à déterminer si une activité prévue respecte les lois traitant de protection de l'environnement. La procédure d'EIE n'est donc pas engagée isolément, mais se greffe sur une procédure de délivrance des autorisations. C'est l'autorité responsable de l'octroi des autorisations qui est chargée

d'examiner la compatibilité du projet avec le respect de l'environnement, à la lumière de l'évaluation du rapport d'impact sur l'environnement (RIE) effectué par les offices fédéraux et cantonaux de protection de l'environnement.

Trois acteurs principaux participent à la procédure d'EIE: l'initiateur du projet, l'autorité compétente pour délivrer l'autorisation et le service de la protection de l'environnement. Si la compétence échoit à l'autorité cantonale, c'est le service de protection de l'environnement du canton concerné qui devra évaluer le RIE, si l'autorité compétente est fédérale, l'évaluation sera effectuée par l'office fédéral de l'environnement. Pour certaines installations désignées dans l'OEIE comme relevant de l'autorité cantonale, l'office fédéral de l'environnement (OFEV) doit être également consulté par le canton (p.ex. les centrales hydro-électriques).

La participation du public est, quant à elle, régie par les procédures d'approbations, qui prévoient une mise à l'enquête publique des projets. En principe, tant les projets soumis à EIE que ceux qui n'y sont pas soumis sont mis à l'enquête publique dans le cadre de la procédure s'y rapportant. Le RIE fait partie des documents mis à l'enquête publique.

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

La Convention d'Espoo est entrée en vigueur en Suisse en septembre 1997. L'autorité compétente pour les activités relevant de la convention est, comme pour la procédure d'étude d'impact, l'autorité compétente pour l'octroi des autorisations. La Suisse s'efforce de notifier le projet à toute partie risquant d'être touchée dès le stade de la délimitation du champ de l'EIE. Afin d'éviter de prolonger les délais dans les procédures d'octroi d'autorisations, les autorités engagent la procédure d'EIE transfrontière selon Espoo dès le début de la procédure et la mènent en parallèle avec leur procédure d'EIE interne.

- 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.*

Lorsque la Suisse est partie touchée, c'est l'office fédéral de l'environnement (OFEV) en sa qualité de point de contact qui reçoit la notification. Dans l'idéal, la notification devrait également être envoyée aux services de l'environnement du ou des canton(s) concerné(s). L'OFEV se charge ensuite de transmettre la notification à l'autorité compétente pour l'approbation du projet.

Lorsque la Suisse est partie d'origine, l'autorité compétente pour diriger la procédure d'EIE selon Espoo est la même que celle qui dirige et octroie l'autorisation du projet en question. Cette autorité peut être cantonale ou fédérale. Au niveau fédéral, il s'agit de tous les offices du Département fédéral de l'environnement, de l'énergie, des transports et de la communication ainsi que du département lui-même et du Département fédéral de la défense, de la protection de la population et des sports pour les affaires militaires.

Le service spécialisé Espoo, qui conseille et aide ces différentes autorités, est la Section EIE et organisation du territoire de l'OFEV.

- 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?*

Il s'agit de la Section EIE et organisation du territoire de l'office fédéral de l'environnement, dans la mesure où elle est point focal de la Convention ou a connaissance des projets.

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

La Suisse et ses cantons participent à un certain nombre d'EIE communes avec les pays voisins (usines d'hydro-électricité sur des fleuves formant la frontière, les routes transfrontières, les lignes à haute-tension, etc.). Dans ce cas, la procédure d'approbation a lieu de chaque côté de la frontière.

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?*

Non. La liste des projets pouvant être soumis à la Convention est celle contenue dans l'OEIE. Elle est, en général, plus étendue que celle de l'appendice I.

Par contre, les installations de production énergétique éoliennes (parcs d'aérogénérateurs ou "fermes" éoliennes) ne sont pas, en droit suisse, soumises à étude d'impact.

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);*

The legal framework in Switzerland is provided by article 9 of the Swiss Environmental Protection Act and by an EIA Ordinance. Appendix I to the Espoo Convention is directly integrated into Appendix I (list of activities subject to EIA) to the Swiss EIA Ordinance.

If an activity is subject to an EIA in Switzerland (App. I to the Swiss Ordinance on EIA goes beyond Appendix I to the Espoo Convention) but is not listed in Appendix I to the Espoo Convention, it may nonetheless be subject to transboundary EIA.

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

Article 2 of the Swiss EIA Ordinance specifies the conditions under which a change to an activity is subject to EIA, essentially being whether the change is significant for the environment.

Again, major changes are determined through the application of Appendix I to the Swiss EIA Ordinance in conjunction with article 2 of the Ordinance.

- 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*

The likely significance of environmental impacts is first assessed during the scoping process (art. 8 of the EIA Ordinance), hence Switzerland's interest in involving a potentially affected Party at the scoping stage. The Environmental Report is drafted based on the results of the scoping process. (Article 9 of the Environmental Protection Act and articles 7, 9 and 10 of the EIA Ordinance concern the drafting and the content of the Environmental Report). In addition, guidelines by the Swiss

Agency for the Environment, as well as, where applicable, guidelines by the cantonal environmental protection agencies, define additional relevant and guiding principles for the drafting and the content of the Environmental Report).

(See also the response to question 5(a).)

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

La "susceptibilité" de l'impact sur l'environnement est présumée, à partir du moment où le type de projet en question est mentionné dans l'annexe 1 de l'OEIE ou dans l'appendice I en relation avec l'appendice III de la Convention d'Espoo.

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?*

Notre législation ne définit pas le "public".

Une mise à l'enquête est organisée tant dans la partie d'origine que dans la partie touchée.

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)*

Switzerland would seek to notify at the scoping stage.

(See also the response to question 10.)

Au plus tard, la notification doit avoir lieu en même temps que se déroule la procédure d'octroi de l'autorisation.

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

Si la notification se fait au moment du "scoping", les documents que la Suisse envoie est l'enquête préliminaire / cahier des charges, conformément aux exigences de l'OEIE (ces documents décrivent le projet ainsi que les domaines environnementaux touchés dans les grandes lignes). Dans le cas où la notification est effectuée au moment de la procédure d'autorisation, l'on envoie les mêmes documents que ceux employés lors de la procédure d'évaluation du RIE en Suisse. Lorsqu'un projet est soumis à Espoo, le RIE doit tenir compte des impacts transfrontières. La lettre de notification contient par ailleurs les informations pertinentes sur l'autorité suisse compétente, la procédure ainsi que les délais. Au besoin, un échange d'informations entre les parties est demandé pour établir un RIE réellement transfrontière.

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?*

Notification in scoping stage: two months, if competent authority is a federal authority, in line with deadline for review of scoping documentation set in the Swiss EIA Ordinance (art.

8). The deadline for review of the scoping documentation is set in the Swiss EIA Ordinance, article 8.

If an affected Party asks for an extension of a deadline, Switzerland would do everything to accommodate such a request.

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?*

Switzerland seeks to provide that information already with the notification. However, as Switzerland seeks to notify at the scoping stage, this might limit the amount of information available on likely transboundary impacts.

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)?*

If Switzerland notifies at the scoping stage, it would at the same time ask the affected Party to provide it with any information it might have on the likely impacts on its side.

Any information the affected Party might have on the likely impacts on its side is normally requested.

Promptly: two months, where the competent authority (i.e. the authority granting approval) is a federal one. (See also the response to question 9.)

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?*

Switzerland would rely on the affected Party to identify the public concerned.

The competent authority (i.e. the authority granting approval) is responsible for the notification. The relevant authority of the affected Party is responsible for transmitting information to the public of the affected Party.

The public notification includes project documentation, including the EIA documentation. Yes, the two notifications contain the same information.

Switzerland would seek to notify the public of the affected Party at the same time as the Swiss public: Upon submission of the project documentation by the proponent, the competent authority would start the procedure and communicate where the project documentation is accessible to the public. Ideally, the relevant authority in the affected Party would – in consultation with the Swiss competent authority – do the same concurrently.

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?*

Yes, the points of contact are made use of in this way.

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?*

In a earlier case, where the affected country had not yet ratified the Espoo Convention, Switzerland nonetheless contacted the affected country in the scoping stage and provided the scoping documentation for review by the relevant bodies of the affected country.

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?*

Switzerland and its cantons are participating in a number of joint EIAs with neighbouring Parties (hydropower plants on rivers forming the border, roads, etc.), where a procedure to grant approval takes place on either side of the border.

Le projet de l'aéroport de Bâle/Mulhouse qui touchait la Suisse a été notifié par les autorités françaises aux autorités suisses, qui ont organisé la mise à l'enquête dans les cantons touchés puis communiqué les avis recueillis aux autorités françaises.

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)*

Information that would not require any additional research but is easily obtainable by the affected Party, such as information on protected habitats on the Swiss side.
The meaning of “promptly” would have to be in line with the procedural time limits in the country of origin.

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)?*

Le contenu du rapport d'impact est défini par l'article 9 OEIE, qui renvoie à l'article 9 al.2 et 4 de la Loi fédérale sur la protection de l'environnement (LPE). Dans le cadre d'un projet soumis à Espoo, le RIE doit en plus contenir les informations pertinentes (analogiquement aux prescriptions de droit suisse) sur l'impact sur l'environnement de la partie touchée.

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

Il échoit au requérant d'établir un RIE conforme aux prescriptions ci-dessus (cf. question 17). Des enquêtes supplémentaires peuvent être demandées.

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

Multiple stage EIAs focus in their first stage on various alternatives; later stage EIAs tend to focus on one option.

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 1(vii)?*

As a first step, Switzerland would primarily rely on the scoping process. As a second step, the EIA documentation would have to more closely focus on the environment likely to be affected. The scoping report and EIA documentation are drafted not by government bodies but by the proponent who would usually hire a consultant to do so. The drafting of both is done in line with the legal requirements and the guidelines issued by federal and cantonal authorities.

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)*

Comments by the public of the affected Party are sent to the competent authority in Switzerland.

The competent authority will take the comments into account, mention or refer to them in the decision and also explain its reasoning in dealing with them and how it took them into account.

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?*

The public of the affected Party shall be able to voice comments at the same time and within the same time frame as the public of the Party of origin.

The deadline for public comments would expire.

Competent authorities tend to treat requests by other authorities with great understanding.

Extension of the deadline for comments by the authorities of the affected Party would hardly be a problem

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

Project documentation and EIA documentation.

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?*

Public hearing would have to be organized in collaboration with authorities of the affected Party and the proponent.

If there is a public hearing in Switzerland, the public authorities, organizations and other individuals of the affected Party would of course be allowed to participate.

A joint hearing may be a possibility, but the joint hearing might then in all likelihood be in the Party of origin.

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 “reasonable time frame” would be in line with the procedural requirements of the Party of origin.

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?*

Public participation is organized by relevant (cantonal) body in Switzerland - in consultation with the competent authority in Party of origin - in accordance with Swiss provisions but respecting time limits set by procedural provisions of Party of origin (public participation at the same time and within the same time frame as the public participation in the Party of origin).

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?*

The earlier the consultation is held the better, with the most opportune initial consultation already taking place at the scoping stage.

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?*

Would see the following participants: competent authority granting approval, proponent, environmental protection agencies at cantonal and possibly federal level, possibly contact point, other authorities and experts.

Little experience, but envisage different means (meetings, formal statements, Internet, etc.)

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?*

Switzerland would see the following participants: environmental protection agencies at cantonal and possibly federal level, possibly contact point, other authorities and experts. Switzerland has limited experience in this regard, but envisages different means (meeting, formal statements, Internet, etc.).

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?*

La décision d'octroi d'autorisation. Toutes activités de l'appendice I demandent un tel type de décision.

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)*

Done not by contact point or environmental protection agencies at cantonal and federal level, but rather by competent authority granting approval. Taking due account of the aspects mentioned, where they form part of the procedure, is standard practice in decision-making in Switzerland.

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)?*

(See response to question 32.)

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)*

Yes, the final decision does contain the reasons and considerations on which the decision is based.

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)*

No experience so far.

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)?*

Il est possible, selon la législation suisse, d'introduire dans la décision des conditions visant à vérifier, une fois l'installation en fonction, si la conformité avec la législation de protection de l'environnement est bien réelle.

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?*

No experience so far.

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.*

A draft trilateral agreement involving Switzerland, Austria and Liechtenstein comprises three proposals:

- Austria as country of origin, Liechtenstein and Switzerland as affected Parties;
- Liechtenstein as country of origin, Austria and Switzerland as affected Parties; and

- Switzerland as country of origin, Austria and Liechtenstein as affected Parties. An extension of this agreement to other neighbouring countries is being envisaged. The agreement seeks to clarify, define and harmonise the procedural steps to be taken in each country. The “proposal to apply the Espoo-Convention – application aid” is very much in line with Appendix VI.

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

Not so far.

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.*

No research programme specifically tied to Espoo, but multitude of other environment-related research in Switzerland

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?*

La Suisse n'a pas ratifié le premier amendement. Voir aussi réponse à la question 42.

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?*

Les premier et second amendements pourraient être ratifié dans le cadre de la révision de l'OEIE (l'ordonnance relative à l'étude des impacts sur l'environnement), qui aura lieu en 2007-2008.

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

Le parlement suisse a chargé le conseil fédéral (exécutif) de faire des propositions pour une meilleure coordination entre la protection de l'environnement et l'aménagement du territoire. Dans ce cadre l'opportunité d'une évaluation de la durabilité avec évaluation environnementale stratégique intégrée est étudiée. Une ratification du protocole pourrait s'effectuer au plus tôt en 2009.

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?*

Oui, la Convention d'Espoo a été appliquée pour certains projets.

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.*

Ci-après, une courte liste des projets de la Confédération pour lesquels la Convention a été appliquée (nous ne possédons pas de statistique pour les projets cantonaux): Nous reprenons ici tous les projets pour lesquels Espoo a été appliquée, et non seulement les projets traités dans la période 2003-2005

Suisse: partie d'origine:

- Aéroport de Genève
- Ligne ferroviaire Genève-Annemasse CEVA
- Usine hydroélectrique (pompage-turbinage) du Nant de Drance

Suisse: partie touchée:

- CIBA Huningue (Allemagne: partie d'origine)
- Désenclavement du Châblais (route) (France: partie d'origine)
- Aéroport Bâle-Mulhouse (France: partie d'origine)

Projets communs:

- Centrale hydroélectrique de Chancy-Pougny
- Centrale hydroélectrique de Kembs

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

Comme la Convention est considérée comme étant directement applicable, elle ne bénéficie pas encore de la notoriété qui devrait être la sienne, surtout au niveau cantonal. Il est possible que certains projets pour lesquels Espoo aurait dû être appliquée ne l'a pas été.

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

Dans l'idéal, la procédure d'EIE transfrontière ne devrait pas durer plus longtemps que la procédure d'EIE suisse. Les délais sont fixés par analogie aux délais de l'OEIE. Ces derniers dépendent du stade de la procédure. L'examen de l'enquête préliminaire / cahier des charges doit être réalisé en 2 mois, l'examen du RIE en 5 mois.

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.*

De manière générale, que ce soit en tant que pays touché ou en tant que pays d'origine, l'application de la Convention d'Espoo dans les cas sus-mentionnés, a eu comme conséquence une meilleure prise en compte des enjeux environnementaux de même qu'une meilleure participation du public des deux côtés de la frontière.

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?*

Nous avons une approche qui tend à appliquer la procédure d'EIE suisse par analogie dans le cas où la Suisse est partie d'origine et à se conformer aux règles de la partie d'origine lorsque notre pays est partie touchée. Par ailleurs, nous appliquons la convention de façon pragmatique et en bonne intelligence avec nos voisins, c'est pourquoi nous n'avons pas rencontré de difficultés particulières dans l'interprétation des notions mentionnées dans cette question.

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?*

Nous partons du principe que tout projet (ou activité) proche de la frontière et soumis à EIE en droit suisse a de fortes chances d'être soumis à la Convention d'Espoo. Nous identifions la possibilité d'impact sur l'environnement de la partie touchée de la même manière que nous déterminons l'impact sur l'environnement de notre pays, c'est-à-dire par la procédure d'évaluation du RIE.

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?*

L'information peut-être soit présentée dans chaque chapitre du RIE ou dans un RIE additionnel.

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

La même que celle qui est utilisée pour déterminer les impacts sur l'environnement de notre pays et qui est en premier lieu choisie par le requérant, à qui il revient d'établir le rapport d'impact. Pour ce faire, le requérant se base sur le manuel EIE.

- 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?*

Notre pays ayant trois langues officielles, langues qui correspondent à celles de nos voisins, nous n'avons pas plus de problèmes de traduction que d'habitude. Les pays voisins reçoivent la documentation dans leur langue.

- 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 do rely on the authorities in the affected Party to assist in and take charge of the organization of public participation in the affected Party.

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

La mise en oeuvre de la convention ne présente pas de difficultés particulière. Un problème peut néanmoins survenir lorsque la notification se fait à un stade avancé de la procédure.

- 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 of a project subject to Espoo does not differ from any other project decision in terms of its structure and general content. However, it deals specifically with any submissions of the public and the authorities of the affected Party.

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

Not with relation to the Convention.

- 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.).*

Switzerland, in spite of its small size, has a large number of joint cross-border projects, e.g. hydropower plants, railways, roads, pipelines, high-voltage power lines. It has proven crucial that the authorities in the countries concerned by the project cooperate well and seek to harmonize the EIA and approval procedures.

- 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?*

Aéroport de Bâle-Mulhouse, France: pays d'origine, cantons suisses de l'arc jurassien touchés. Notification non problématique, mise à l'enquête dans la partie touchée,

remarques de la partie touchée transmises à la partie d'origine, dans le respect des délais procéduraux de la partie d'origine.

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?*

La discussion et la préparation de l'aide à l'application entre l'Autriche, la Principauté du Liechtenstein et la Suisse. Par ailleurs, nous avons de bonnes relations avec les pays voisins et la mise en place d'une évaluation environnementale conjointe ne pose pas de problèmes spéciaux et augmente la compréhension mutuelle du système d'évaluation de l'autre partie.

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;*

Lorsque la Suisse est pays d'origine, la participation du public des pays limitrophes est réglée en principe par la législation régissant l'approbation des projets.

b. *Guidance on subregional cooperation; and*

Switzerland has actively supported the elaboration of this guidance. In doing so we have also relied on existing instruments of cooperation with our neighboring countries.

c. *Guidelines on good practice and on bilateral and multilateral agreements.*

Ce document a été utilisé pour la préparation d'un nouvel accord trilatéral des régions allemandes, françaises et suisses riveraines du Rhin.

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.*

La Convention laisse beaucoup de place à l'interprétation; la position suisse, qui part du principe que cette dernière est directement applicable, oblige les autorités chargées de sa mise en œuvre de créer une procédure et une marche à suivre. Nous ne rencontrons néanmoins pas de problèmes particuliers dans l'application de la Convention.

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.*

Nous avons informé à plusieurs reprises les autorités compétentes fédérales et cantonales et continuons, dans la mesure des moyens mis à notre disposition, l'information des autorités chargées de l'application de la Convention.

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?*

Oui, nous voulons continuer notre effort d'information et collecter de manière plus systématique les cas dans lesquels la Convention d'Espoo a été appliquée.

SUGGESTED IMPROVEMENTS TO THE REPORT

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

Plus court, moins théorique, avec plus d'exemples