

**REPORT OF THE UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND**

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

Information on the Focal Point for the Convention

Name and contact information:

Kim Chowns

Information on the Point of Contact for the Convention

Name and contact information (if different from above):

Robert Lowenstein

Information on the person preparing the report

- | | | |
|-------|------------------|---|
| i. | Country | The United Kingdom of Great Britain and Northern Ireland |
| ii. | Surname | Chowns |
| iii. | Forename | Kim |
| iv. | Institution | Department for Communities & Local Government (DCLG) - formerly ODPM |
| v. | Postal address | Eland House |
| vi. | E-mail address | kim.chowns@communities.gsi.gov.uk |
| vii. | Telephone number | +442079443892 |
| viii. | Fax number | +442079443919 |

Date on which report was completed: 24.08.06

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 requirements of Article 2.2 are transposed into a number of UK EIA regulations that cover activities under UK consent systems. The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 account for around 80% of the activities listed in Appendix I. Similar legislation exists under the devolved administrations of Northern Ireland, Scotland and Wales.

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.*

Applications for activities seeking development consent are submitted to an appropriate Competent Authority (CA). For activities that are caught by EIA regulations, and the application is not accompanied by an environmental statement (ES), the CA is required to screen the proposed activity to see whether there are likely to be significant effects on the environment and issue a screening opinion on whether EIA is required. When an ES has been forwarded to the CA it must be advertised in local newspapers and on the development site stating where the ES can be inspected and purchased by the public. Amendments being made to UK EIA legislation as a result of the Aarhus Convention will also require the the ES to be advertised on the CA's web site. The public have 21 days from the date of notification to submit written comments to the CA on the ES. The CA are required to take into account both the comments and information contained in the ES before deciding whether to grant development consent for the activity. At any time before consent is granted the public are free to make representations to the CA and the Secretary of State about the application. The screening opinion is available for members of the public to inspect at the CA's offices for two years on a planning register.

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

The UK has transposed into its national legislation Regulations that give full effect to the requirements of EC Directive 85/337/EEC (the EIA Directive) as amended, including those relating to transboundary EIA (Article 7 of the EIA Directive). For countries that are members of the European Union, article 7 of the Directive is the principal means by which compliance with the Espoo Convention is given legal effect.

- 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.*

Transboundary procedure - Environmental Assessment branch, DCLG. Under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 the responsibility falls to the Secretary of State.

- 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 Environmental Assessment branch in the Department for Communities & Local Government collects the information.

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

The only such case the United Kingdom is aware of involved a hotel straddling the border between Northern Ireland and the Republic of Ireland. Planning applications (applications for development consent) were submitted to relevant authorities in each country. Since the major part of the development was in the North, the authorities there took the lead role but liaised closely with colleagues in the Republic to ensure full and proper consideration of issues.

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?*

Yes

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);*

In the United Kingdom, the requirements for EIA for qualifying projects, including all those activities listed in Appendix 1 to the Espoo Convention, are set out in legislation. There is no single piece of legislation (there are around 35 altogether), but all make the provision that require the competent body to consider whether an activity is likely to have significant transboundary effects. If so, a decision on the activity cannot be taken (other than to refuse it) until the EIA procedure is complete. The procedure in these cases ensures proper consultation with the authorities and the public in any affected Party. Details of the legislation are available on the web site of the Convention.

The United Kingdom has transposed into its national legislation Regulations that give full effect to the requirements of EC Directive 85/337/EEC (the EIA Directive), including those relating to transboundary EIA (art. 7 of the EIA Directive). For

countries that are members of the European Union, article 7 of the Directive is the principal means by which compliance with the Espoo Convention is given legal effect. Annexes I and II of the Directive list categories of activities that are subject to the requirements of the Directive. Where any activity listed in these categories of projects is considered likely to have significant effects on the environment of another country, the United Kingdom would notify them as required by its own and by European legislation. For other projects not listed in either of the Annexes to the EIA Directive nor listed in Appendix 1 to the Convention, it would consider whether it was necessary to apply the requirements by administrative means.

b. How a change to an activity is considered as a “major” change;

United Kingdom EIA Regulations require that the likely significant environmental effects of modifications or changes or extension of activities must be considered just as those of the activity itself have to be considered.

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

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

Applications for development consent are submitted to the appropriate Competent Authority. For most projects in the United Kingdom within the scope of the Convention, this will be a local planning authority, but for others where decisions are taken at National level it will be the Secretary of State. Where applications are made to the local planning authority, the authority is required to forward to the Secretary of State three copies of any EIA document that is submitted with the application. The Secretary of State is required to consider whether the proposed activity is likely to have transboundary effects on another Party(ies). Where the Secretary of State is himself the Competent Authority, copies of the EIA documentation are sent directly by the applicant as part of the application procedure. In deciding whether an activity is likely to have effects, the Secretary of State would make reference to the selection criteria set out in Regulations. Consultations would also take place with experts in relevant Government Departments and statutory environmental bodies, and in some cases experts in non-government organizations. A determination of whether effects are likely would be based on the result of these consultations and guidance.

United Kingdom EIA legislation applies to a wider range of activities than those listed in Appendix I to the Convention. If significant transboundary effects were likely from one of the project activities subject to United Kingdom legislation it would trigger transboundary provisions in its legislation. Published guidelines assist competent authorities to determine whether projects are likely to have significant environmental effects. (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)

In deciding whether an activity is likely to have effects the Secretary of State would make reference to the selection criteria set out in Regulations. Consultations would also take place with experts in relevant Government Departments and statutory environmental bodies, and in some cases experts in non-government organisations. A determination of whether effects are likely would be based on the result of these consultations and guidance.

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?*

The public are not defined in the United Kingdom's EIA legislation, but are defined in the Directive. Compliance with the requirement in Article 2.6 depends to a large extent on the cooperation of the relevant authorities in the affected Party. In the cases the United Kingdom has handled to date, the affected Party has accepted the responsibility for advertising to its affected public information about the activity, where documentation may be viewed, where, how and by when to make comments etc. In doing so it works closely with these authorities to ensure that full opportunity is given to enable the public to make known their relevant views and to have them transmitted to the United Kingdom. If it were to arrange to hold a public inquiry to discuss the proposed activity prior to any decision being taken it would notify the affected Party of the dates and request them to advertise it in the affected part of their country. They and members of their public would be able to make representations to the inquiry and would be able to attend and give evidence to it.

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)*

Notification is sent to the affected Party as soon as possible. If discussion has taken place with the scheme proponent prior to submitting an application for development consent, and it is apparent that there may be significant transboundary effects, then the United Kingdom will notify potential affected Parties at that stage. Otherwise, the United Kingdom will notify following receipt of the EIA documentation, usually when details are published in the London Gazette and local newspapers that notify members of the United Kingdom public. The London Gazette is an official newspaper of record. For developments in Scotland or Ireland, advertisement would be made in the Edinburgh or Belfast Gazette, respectively. (In the United Kingdom, there is no requirement for a proponent to obtain a scoping opinion. But if he chooses he may request one from the Competent Authority prior to submitting the application for development consent. If so requested, the Competent Authority must provide one, following consultation with specified environmental bodies, within a period of five weeks. There is no requirement for the Competent Authority to consult with members of the public, but equally there is nothing to prevent it from doing so.)

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

We always aim to provide an Affected Party with full information on which it can make an informed decision on whether to take part in the EIA procedure. Where possible we encourage the developer to provide papers translated into the language of the Affected Party.

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?*

In all of its decisions the United Kingdom has to bear in mind the duty of proper administration and the need to make decisions promptly and properly, allowing for adequate periods of consultation with all relevant Parties. The time frame given to the affected Parties to respond to a notification from the United Kingdom would be a balance between deadlines in its existing legislative procedures and a factoring for any acceptable delay as a result of collaborating with the administration of an affected Party.

Consequence for whom? For the affected Party, it means they could miss the chance to comment on the EIA documentation. For the United Kingdom, as Party of origin, the consequences are delays as it would wish to issue a reminder letter. If, following a reminder, no response is received after a reasonable period of time, the United Kingdom would probably have to reach a decision on the project without comments from affected Parties. This may weaken the decision and arguably it could lead to issues between the Parties at later stage in the procedure that could have been avoided.

Problems have been caused by delays in response by affected Parties. Having translated notification documentation and environmental information into the languages of the affected Parties, the United Kingdom may have hoped that they would reciprocate and translate their responses into English, but it was prepared for them not to do so. Having to translate added to the delays.

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 information may be transmitted to the affected Party at any time from notification to when a positive response is received from an affected Party. For example, if the EIA documentation were available at the time of notification then, in the interests of speed and efficiency, the United Kingdom would probably decide to send it at that time. The United Kingdom's aim is always to make all relevant information available to the affected Party as soon as it possibly can.

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)?*

Its initial position is that the United Kingdom allows an affected Party to offer comment on the environmental information. If those comments require clarification or elaboration, or if they suggest a need for further information that only the affected Party can provide, then the United Kingdom would request it.

Requests for information will be specific to individual cases. However, during notification, the United Kingdom will always ask for information relating to publicity in the affected Party should they decide they want to be involved with the EIA procedure.

The United Kingdom would determine "promptly" to mean a response by the affected Party within the timescale set by the Party of origin.

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?*

Within the United Kingdom, it would consult with members of the public in the area(s) likely to be affected. It would do so through local competent authorities, newspapers etc. As

regards the public in the affected Party, the United Kingdom would seek guidance from the authorities there. It would normally expect consultation with the public in the affected Party to follow the procedures within the affected Party's domestic EIA procedures.

Within the United Kingdom, cases involving transboundary impacts are advertised in national and local newspapers, giving information about where and when the EIA documentation may be inspected, an address to which comments may be made and the time within which comments have to be made. At notification, the United Kingdom will usually ask the affected Party, if they wish to take part in the EIA procedure, to advise of details of whether they wish the United Kingdom to notify members of their public and, if so, how. The United Kingdom's experience to date is that the authorities within the affected Parties have taken responsibility for notifying their public. The United Kingdom has not received information to date as to how the public in the affected Party was notified.

"Notification" to members of the public in the United Kingdom would consist of an advertisement published in national and local newspapers widely available in the area affected by the proposed development. The information would specify where and when copies of the EIA documentation and other relevant environmental information about the activity are available for public inspection; where copies may be obtained while stocks are available; whether there is any charge for such copies; where and to whom comments about the activity and the EIA documentation may be made; and the date by which any such comments should be made. Should further environmental information subsequently be provided the procedure above would again take place. "Notification" to the affected Party would include all relevant environmental information, including the EIA documentation. No, the two notifications do not contain the same information.

As in previous replies, the United Kingdom first notifies the authorities in the affected Party and asks for details of how this should be carried out. In the United Kingdom's limited experience, the authorities in the affected Party have taken responsibility for notifying members of their public.

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?*

No, supplementary information is not included in the notification. However, the United Kingdom always aims to provide an affected Party with full information on which it can make an informed decision on whether to take part in the EIA procedure. Where possible the United Kingdom encourages the developer to provide papers translated into the language of the affected Party.

No, the proposed guidelines are not followed.

The notification format is not followed in every single respect, but the aim is always to provide the necessary, relevant information that will inform an affected Party about the nature, scale and location of a proposed activity, and will enable them to make an informed decision on whether they wish to take part in the EIA procedure.

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?

The United Kingdom will participate in the EIA procedure if it considers the activity is likely to have significant effects on the United Kingdom environment. In such cases it would consider whether it can assist by way of methodology or relevant information or experience. Regardless of whether it decides to participate in the EIA procedure, it will always respond to the notification to make its position clear.

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)*

Generally, reasonably obtainable information would be information that is already publicly available; that is not confidential or commercially sensitive, legally restricted or prejudicial to legal proceedings; and that is available only at proportionate cost.

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 EIA regulations contain a Schedule (4) split into two "Parts" which set out the information that must be included in the ES and other information that is reasonably required to assess the environmental effects of the activity. The wording of the Convention's Appendix II and the Schedule in EIA Regulations is effectively the same as that of Annex IV of EC Directive 85/337/EEC, as amended.

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

The competent authority (CA) are required to assess the adequacy of the information supplied in the ES against the requirements of Schedule 4. Where these requirements have not been met the CA should request further information and can continue to do so until the environmental information is considered adequate for the purposes of the EIA regulations. Where scoping and screening opinions have been produced by the CA these can assist the CA in assessing the adequacy of the ES.

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

The United Kingdom EIA procedure requires information to be provided only about the main alternatives that the proponent has studied. It does not require a study of alternatives simply for the sake of it. Where it is reasonable to consider locational studies – e.g. for waste disposal installations, motorways or airports or major storage facilities etc – the United Kingdom would expect them to be addressed in the environmental information. But alternative locations are not always open to developers. Similarly, if an applicant has considered alternative technologies – e.g. one form of waste disposal in preference to another – then again the United Kingdom would expect to see this reflected and summarized in the EIA documentation.

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 “environment” likely to be affected is listed in Article 1(vii) (definition of impacts) as “including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors”. Identification in the “field” of how any of these aspects of the environment could be affected by a proposed activity would be established in studies initiated by the proponent.

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)*

The United Kingdom would prefer a response from the affected Party to be co-ordinated through the appropriate point of contact in the affected Party, and sent to the point of contact in the United Kingdom. But of course if that does not happen, it will accept relevant comments made direct to it by individual members of the public or other interested bodies. Legislation requires environmental information to be taken into account in the decision process. All relevant comments are taken into account together with the EIA documentation and other relevant environmental information that has been received or is available about the effect the activity may have on the environment. It is for the Competent Authority to decide how best to evaluate this information. If it does not have suitable in-house expertise it is able to commission external experts to evaluate it, or elements of it. In addition, the Competent Authority is required to consult with designated statutory bodies whose role is to ensure compliance with environmental standards and legislation. While it is not the function of these bodies to evaluate the EIA documentation, they do have specialist scientific and technical staff who will comment on specific aspects of the information. In dredging cases evaluation may be carried out by specialist government marine scientists. In others, the proposal may be subject to public inquiry where information provided will be available and may be tested in an “adversarial” system.

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?*

A provision relating to activities and development likely to have significant effects on another European Economic Area State or Country is included within all United Kingdom EIA legislation. These may not prescribe timescales for comments to be received and they do not define what is “reasonable”. The minimum period of time for comment is that allowed to residents of the United Kingdom under the relevant legislation that would apply to a similar activity with no transboundary effects. The United Kingdom recognizes, however, that there is a need for greater flexibility in cases involving transboundary considerations. In the main, therefore, these cases are reserved for determination by the relevant Secretary of State. Timescales can be varied to suit individual cases and circumstances, subject to the need to comply with good administrative practice. In some cases involving minerals dredging in the United Kingdom section of the English Channel, it has allowed a period of ten weeks for initial comments. Often this has been extended and the process of decision-making is typically many months longer than this.

If an affected Party does not comply with the timeframe (i) They may delay the decision making process, (ii) They may miss the opportunity to influence the decision-making process, (iii) They may inadvertently withhold relevant information, (iv) They may fail to

represent views of members of their public affected by the proposal, (v) They may add cost and delay if the process has to be re-opened post decision. So the United Kingdom would usually get in touch to ask if they still intend to comment. If so they will be offered a short extension to the deadline set. But the United Kingdom will not extend the timescale indefinitely so that delay becomes a tactic designed to prevent a decision being taken on a particular activity.

The United Kingdom would react positively to a request for an extension, whenever possible, subject to the need not to delay a decision on the application any longer than the process of good administration requires.

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

If, prior to a formal application for consent for an activity to go ahead, the United Kingdom has sufficient information that suggests the activity is likely to have a significant effect on the environment of another country then it will share that information and ask whether the other country wishes to be involved in the EIA procedure. But more often than not, the United Kingdom does not have detailed information until a formal application is made at which stage the applicant should also submit the EIA documentation. At this stage if it is clear, or considered likely, that the proposal is likely to have an affect on another Party, then the United Kingdom will provide details of the proposals and the available environmental information so that the affected Party can decide whether it wishes to take part. If further information is requested from the proponent this will also be forwarded when it becomes available.

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?*

The United Kingdom has not been requested to provide a public hearing in a country that may be affected by an activity initiated in the United Kingdom. (It is assumed that “public hearing” referred to here is what the United Kingdom refers to as a “public inquiry”. In the United Kingdom a “public hearing” tends to be a simpler, quicker and less formal procedure than “public inquiry”. It usually takes the form of a round-the-table discussion without cross-examination or advocacy. It is possibly more suited for small numbers – controversial projects with significant transboundary effects may attract more supporters and opponents and be more suited to public inquiry.)

Where a public inquiry is being held to consider whether the proposed activity is to be allowed to go ahead members of the public from the affected Party are allowed to attend and make representations.

A joint hearing would only occur where an activity required approval from more than one jurisdiction – in effect where the Parties were both Party of origin and affected Party. The United Kingdom has not had such activities and do not anticipate any.

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)?*

As the affected Party the United Kingdom would have to be guided by the timescale for comment proposed by the Party of origin – after all it would be taking part in EIA procedures. If it considered the timescale allocated for it to respond was insufficient to

enable it to consult with relevant bodies in the United Kingdom, it would request an extension. Normally it allows a minimum three-week period for domestic consultation.

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 United Kingdom would use the procedures applicable for the approval of similar activities in the United Kingdom. If the Party of origin allowed a longer period for response than that normally allowed under United Kingdom procedures, the United Kingdom would of course work to that deadline.

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 United Kingdom has no practical experience. However, as explained in an answer to an earlier question, it would hope that full environmental information would minimise the need for formal consultation. But any necessary consultation would follow after the environmental information was submitted to the affected Party.

The United Kingdom would allow any Party that felt it may be affected an opportunity to consider the relevant EIA documentation before deciding whether it wished to take part in the EIA procedure or before initiating further consultation with them. The United Kingdom would generally expect that the EIA documentation submitted to an affected Party would be complete and comprehensive - in effect including provisions of Article 4 and 5 as a single activity. However, if an affected Party considered a need for consultation beyond this, the United Kingdom would consider with them whether, and to what extent, further consultation as described in Article 5 was necessary. It has no legislation that defines “undue delay”.

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?*

In the United Kingdom the consultation is arranged by the competent authority in which area the proposed activity is to take place or by the authority that is responsible for authorising the proposed activity. Consultation could take place at any one of the three levels – central, regional or local government – consulting with various environmental authorities and the public as necessary. The United Kingdom’s consultation with affected Parties has always taken place with authorities at national government level with these authorities taking responsibility for arranging consultation within their own country. The United Kingdom’s experience as a Party of origin is that consultation between itself and affected Parties is carried out at Government level with officials and experts from both sides. The United Kingdom has no experience of consulting with the public of affected Parties.

Normally communication is by exchange of written communication. In Ireland consultation may begin at an informal level by an initial phone call and followed by written communication if required.

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?*

As an affected Party, any consultations the United Kingdom was involved with would be within the United Kingdom. It would expect the Party of origin to contact the United Kingdom point of contact who would then discuss arrangements for any necessary consultation at relevant levels.

The United Kingdom would normally expect the Party of origin to make initial contact with the United Kingdom Espoo point of contact in the EIA Branch of the Office of the Deputy Prime Minister. The point of contact would then consult other Government Departments, to establish which is responsible for the consent system under which the proposal falls within United Kingdom legislation and to establish whether there are likely to be significant effects on the United Kingdom environment. Government Agencies and possibly NGOs could also be consulted for their expertise to establish the likelihood of effects.

As mentioned in answer to other questions consultation is normally by written communication. But other means might be also appropriate.

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?*

By Regulation the UK is required to notify any country consulted in accordance with Article 5 of the decision taken about the proposed activity and shall forward to it in a statement

- the content of the decision and any conditions attached to it;
- the main reasons for the decision and considerations on which it's based; and,
- a description, where necessary, of the main measures to avoid, reduce and, if possible, to offset the major adverse effects of the development.

The decision may refer to legally enforceable conditions designed to ensure the activity is carried out in a specified manner and in accordance with the 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)*

United Kingdom EIA Regulations require that any decision to authorise development consent for an activity that is subject to an EIA shall not be taken unless the relevant environmental information has first been taken into account. The Competent Authority responsible for taking the decision is required to state in its decision that it has done so. Environmental information is defined as “the environmental statement, including any further information, any representations made by any body required by Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effect of the development”. A Competent Authority may determine an application for development consent for a proposed activity without first taking into the

environmental information into account - but in these circumstances it may only refuse the application.

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, they 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)*

By Regulation the United Kingdom is required to notify any country consulted in accordance with Article 5 of the decision taken about the proposed activity and shall forward to it in a statement

- the content of the decision and any conditions attached to it;
- the main reasons for the decision and considerations on which it's based; and,
- a description, where necessary, of the main measures to avoid, reduce and, if possible, to offset the major adverse effects of the development.

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 provision in Article 6.3 does not appear in the EC Directive and therefore has not been transposed into the UK's EIA regulations. The Secretary of State has the ability to quash a grant of development consent and procedures can be followed in the Courts. However, where there is the ability to reasonably consider such information and act upon it UK authorities would examine what solutions were available to them or what amendments could be considered to how a development is carried out.

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)?*

For certain types of activity, e.g. those that result in emissions and discharges or waste disposal, the environmental authorities responsible for regulating them carry out continuous monitoring. Such arrangements will apply to most of the activities listed in Appendix I to the Convention, and in Annex I to the EIA Directive. Additionally monitoring of elements of the activity may be required as a condition of approval of the development consent, e.g. deposit of waste from quarrying etc. There is no general requirement for post project analysis in the United Kingdom.

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 United Kingdom has no experience of this. Were this situation to arise, it would notify the point of contact in the affected Party.

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.*

None.

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

No, but staff in the Department of the Environment in Northern Ireland have over the years developed informal working agreements and contacts with their colleagues in Republic of Ireland.

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.*

United Kingdom research is related to EIA generally and not specifically to EIA in a transboundary context. The United Kingdom supported a research project on Scoping. The project was completed in 2005, and financed by the then Office of the Deputy Prime Minister to establish whether, and the extent to which, scoping contributes to and improves the effectiveness of the EIA procedure. It is hoped to publish the report on the ODPM web site in 2006.

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?*

2007

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?*

2007

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

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?*

Yes

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.*

The UK was the Party of Origin in all of the following cases. These were for marine dredging applications for aggregates (sand and gravel) for the following designated areas around the UK coast line. In 2003 applications were received for areas 473-475; in 2004 for areas 478/9, 458 and 464. The main transboundary issues for all the cases was the likely significant effects on fisheries through the possible effects of the activity on spawning and/or feeding areas, and/or coastal erosion (a compulsory survey on possible erosion has to be carried out in every case) caused by the removal of aggregates.

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

We are not aware of any other projects.

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

There have been a number of applications for marine dredging during this period in UK territorial waters. Given the complexity of the proposed applications, consultation and processing of an application can take around an average of three years before a Government View can be taken on whether to grant dredging consent. It is not possible to provide details on individual steps.

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.*

We are aware of one example for dredging area 461 which was referred to in our answers provided for the previous questionnaire. A Government View for a dredging license has

now been granted for the area. During the consultation period, following discussions with the Netherlands, it was agreed to reduce the proposed dredging area in order to protect spawning grounds for Herring.

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?*

"Promptly" - Please see the last part of the answer to question 11. "A reasonable time" - Art. 3.2(c) & Art. 4.2 - Please see the answer to question 23. "A reasonable time-frame" - As hinted at in the answer to question 28 we would expect to agree a time frame for consultation that would reasonably allow the Affected Party(ies) to consult their own authorities and general public, and would adopt a flexible approach where an affected party requested more time. "Major change" - The UK Regulations have a category of development equivalent Annex II (13) of the EIA Directive where if the change or extension exceeds the thresholds we have for Schedule 2 projects (equivalent to Annex II) the "...change" has to be screened to see whether eey-ai-eey-ai-adio is required. If the change/extension is equivalent to Schedule 1 development (Annex I) EIA is compulsory. Transboundary issues would be considered in exactly the same way as an application for new development.

We have had no experience of any problems in the interpretation of the above terms with other Parties.

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 UK notifies EC/EEA States as required under Article 7 of the Directive. It is unlikely that any activity in the UK would require notification under the Convention given the UK's location in relation to non EC/EEA States who are Party to the Convention. UK activities, except for Northern Ireland, have all concerned marine dredging. The potential effects of this type of activity are well understood and EIA is required in every case before a Government View can be given whether such an activity can take place in a designated area. As mentioned above this type of activity can impact on fisheries and affect coastlines and therefore Parties who have fisheries in these areas and whose coasts may be affected are contacted at the beginning of the application process. The significance of impacts is determined by the content of the environmental information produced as a result of the EIA and relevant information that is supplied by concerned Parties and other stakeholders.

- 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?*

Our regulations do not specifically say that a separate chapter should be provided on transboundary effects. The author of the EIA documentation could devote a separate chapter or may include such information within, for example, a chapter on the effects of the project on fisheries which could include effects on the UK as well as other

Parties. The UK would highlight in a covering letter to the Affected Party issues that are likely to concern its authorities and public.

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

It is for the compiler of the environmental information (the developer) to decide on the most appropriate methodologies for determining environmental effects. Having decided on a particular methodology, it would then be apparent whether the environmental effects identified would have transboundary implications. We do not consider that there are separate methodologies peculiar to the transboundary procedure.

- 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?*

We will always encourage the proponent to provide translations into the language of an Affected Party. If the proponent is not willing to exceed to our request the Government Department may provide translations of at least a non-technical summary of the environmental information and information relating to transboundary effects. Difficulties we have experienced were set out in our answers to the last questionnaire.

- 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?)*

Not in this period.

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

The main problem encountered is getting Parties to respond to initial requests as to whether they wish to participate in the consultation process, and then to providing comments. Under Government View procedures Parties are usually given 10 weeks in which to respond. (Under other EIA regulations Parties may be given less time in which to respond.) However, reminders often have to be sent out and Affected Parties have taken up to three months to respond.

- 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.*

Under the Government View procedure a decision letter is issued to give as to whether the dredging activity can proceed. The structured letter is usually about ten pages in length, and where consent is granted may have about 30 conditions attached to it which the developer must conform to at the commencement of the project and during the operation of the activity. The decision letter is issued in English.

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

Post project monitoring is carried out on marine dredging projects. Operators extracting marine aggregates have to provide annual reports and every five years a substantial survey and report is 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.).*

We do not hold any examples. See question 39 for informal arrangements between Northern Ireland and the Republic of Ireland.

- 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?*

Volker dredging application in Area 461 of the English Channel. It would be difficult to compile a fact sheet as this project was approved sometime ago and completion of the fact sheet would require a considerable amount of time being spent in obtaining papers from storage, and researching them. General details about the project can be gleaned from the answers to the last questionnaire.

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.

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;*

No

- b. *Guidance on subregional cooperation; and*

No

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

No

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.*

The requirements for transboundary legislation in the UK come from Article 7 of the EC Directive as amended. There were no significant difficulties in implementing the Article.

We are not aware of any weaknesses in the UK 's implementation of transboundary legislation, but if any were revealed would seek to remedy as required.

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 UK promotes the requirements of Article 7 of the Directive rather than the Convention, although reference is made to the Convention where appropriate. Reference is made in a number of UK official documents, websites and in training and information seminars for stakeholders to transboundary EIA and the procedures required in handling such cases.

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?*

No. There are no developments on-going or proposed at this time.

SUGGESTED IMPROVEMENTS TO THE REPORT

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

The questionnaire has changed very little when compared to the original in 2002.

We still have a concern that such a lengthy and detailed questionnaire really serves to highlight in statistical terms issues that the Implementation Committee need to consider. A simple yes/no or tick from a list of options that would allow a quick identification of where there may be problems where a more detailed questionnaire or appraisal could then be directed where it is required. Is the administrative burden of completing and analysing all the answers a good investment of time in relation to the information obtained?

As there have now been two lengthy questionnaires administrators should now be in a position to anticipate a variety of answers and constructure any furutre questionnaire in the form of a tick box/yes/no style. For example, please tick one of the following or if none apply fill in the box marked "other".

The software setup does not allow spell check and other Word tools to operate which is an inconvenience.