

**REPORT OF UNITED KINGDOM OF GREAT
BRITAIN AND NORTHERN IRELAND ON THE
IMPLEMENTATION OF THE CONVENTION ON
ENVIRONMENTAL IMPACT ASSESSMENT IN A
TRANSBOUNDARY CONTEXT**

in the period 2006–2009

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

In this part, please provide the information requested, 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 describe the framework for your country's implementation, and not experience in the application of the Convention.

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, as amended, account for around 80% of the activities listed in Appendix I. Similar legislation exists under the devolved administrations of Northern Ireland, Scotland and Wales.

2. *Indicate any further measures to implement the provisions of the Convention that are planned for the near future.*

None. UK EIA legislation is compliant with the Convention.

TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE

3. *Describe your country's national and transboundary environmental impact assessment (EIA) procedures and authorities (art. 2.2):*

- a. *Describe the EIA procedure in your country 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 EIA documentation (known as 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 have been made to UK EIA legislation as a result of the Aarhus Convention that also require 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 set out in the Convention fit into your country's 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 (notification, consultation between Parties, public participation, etc.). Also list the authorities responsible for the domestic EIA procedure, if they are different;*

Transboundary procedure - Environmental Assessment branch, CLG. 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? If so, name it. If not, does your country intend to establish such an authority?*

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

4. *Does your country 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 Northern Ireland, 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 ENVIRONMENTAL IMPACT ASSESSMENT UNDER THE CONVENTION

5. *Is appendix I to the Convention transposed into your country's national legislation? Does your country's legislation already cover the revised appendix I in the second amendment (ECE/MP.EIA/6, decision III/7), and if so, how? Please describe any differences between the national list and appendix I to the Convention. Please explain how your country interprets terms such as "large" and "major" used in appendix I (including in items 4, 8, 11, 14, 16, 17 and, as appropriate, 22).*

Yes. The only differences are as a result of differences between the Convention and the EIA Directive, which the UK has transposed. The terms "large" and "major" are not defined in the context of the EIA Directive, which has in place either thresholds which set out how large or major a development requires EIA on a compulsory basis or by requiring EIA for all development under a development category description.

6. *Please describe:*

- a. *The legislation and, where appropriate, the procedures your country 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 your country conducts transboundary EIA cooperation (through points of contact, through joint bodies or within bilateral or multilateral agreements);*

The UK does not have bilateral or multilateral agreements with other Parties to the Convention. There is an informal agreement between the Republic of Ireland and the devolved administration of Northern Ireland, as explained elsewhere. All cooperation, therefore, would be through points of contact.

- c. *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 6(a).)

- d. *How such an activity, or such a change to an activity, is considered “likely” to have a “significant” adverse transboundary impact (art. 2.3 and 2.5, and the Guidelines in appendix III).*

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 two 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 which are taken from Annex III of the EIA Directive. 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 6(a).)

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

7. *Does your country have its own definition of “the public” in national legislation, compared to article 1(x)? How does your country, 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 country’s 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

8. *Describe how your country determines 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 does your country 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.)

9. *Does your country provide any information to supplement that required by article 3, paragraph 2?*

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.

10. *Does your country use the format for notification (as decided by the first meeting of the Parties, decision I/4, in document ECE /MP.EIA/2)? If not, in what format does your country normally present the notification?*

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.

11. *Describe the criteria your country uses 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 does your country 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.

12. *Describe when your country provides 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.

13. *How does your country determine whether it should request information from the affected Party (art. 3.6)? When does your country normally request information from the affected Party? What kind of information does your country normally request? How does your country 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.

14. *Please describe:*

- a. *How your country cooperates with the authorities of the affected Party on public participation (art. 3.8), taking into account that the Party of origin and affected Party are both responsible;*

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.

- b. *How your country identifies, in cooperation with the affected Party, the "public" in the affected area;*

The United Kingdom would normally rely on the affected party to identify the "public concerned" who would be affected and should be consulted and arrange consultation. The United Kingdom would be prepared to identify the public concerned, if requested, by the affected party through appropriate advertising and notification using the media and other means available in the affected state. See, also, answer to c. below.

- c. *How the public in the affected Party is notified (what kinds of media, etc are usually used). What is normally the content of the public notification?;*

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.

- d. *Whether the notification to the public of the affected Party has the same content as the notification to your country's public. If not, describe why not. At what stage in the EIA procedure does your country normally notify the public of the affected Party?*

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.

15. *Does your country 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 as listed on the Convention website (http://www.unece.org/env/eia/points_of_contact.htm)?*

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

QUESTIONS TO AFFECTED PARTY

16. *Describe the process of how your country decides whether or not to participate in the EIA procedure (art. 3.3)? Who participates in the decision-making, e.g. central authorities, local competent authorities, the public, environmental authorities? Describe the criteria or reasons your country uses 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.

17. *When the Party of origin requests your country to provide information relating to the potentially affected environment, how does your country determine what is "reasonably obtainable" information to include in its response? Describe the procedures and, where*

appropriate, the legislation your country that would apply in determining 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.

18. *Please describe:*

- a. *How your country cooperates with the authorities of the Party of origin on public participation (art. 3.8), taking into account that the Party of origin and affected Party are both responsible;*

As an affected party, the United Kingdom would seek an agreement for a reasonable time period for members of the public in the United Kingdom to be able to submit representations to the competent authority in the Party of Origin pursuant to Article 7(1) of the EIA Directive.

- b. *How your country identifies the “public” in the affected area;*

As already stated the "public" are not defined in UK legislation. Those likely to be concerned by an activity are identified, as required, under Article 6 of the EIA Directive using appropriate publicity as set out in the Article.

- c. *How the public is notified (e.g. what kinds of media, etc., are usually used). What is normally the content of the public notification?;*

The public and the public concerned as defined in Article 1 of the EIA Directive are notified as set out in Article 6.2 of the EIA Directive.

- d. *At what stage in the EIA procedure does your country normally notify its public?*

The public are notified either when an application for development consent for an activity is submitted and accompanied by EIA documentation, or when an application is received for an activity where the competent authority decide that an EIA is required and the proponent agrees to continue with the application on the basis that it is an EIA activity, and supply EIA documentation. If the proponent does not formally agree the application will be refused.

Article 4

Preparation of the environmental impact assessment documentation

QUESTIONS TO PARTY OF ORIGIN

19. *What is the legal requirement for the minimum content of the EIA documentation (art. 4.1, appendix II)?*

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.

20. *Describe your country's procedures, if any, for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (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.

21. *How does your country identify “reasonable alternatives” in accordance with appendix II, paragraph (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.

22. *How does your country identify “the environment that is likely to be affected by the proposed activity and its alternatives” in accordance to appendix II, paragraph (c), and how does it define “impact” in accordance with article 1(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.

23. *Does your country give the affected Party all of the EIA documentation (art. 4.2)? If not, which parts of the documentation does your country provide?*

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

24. *How does your country cooperate with the authorities of the affected Party on distribution of the EIA documentation and the submission of comments (art. 4.2), taking into account that the Party of origin and affected Party are both responsible? 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.

25. *Describe the procedures and, where appropriate, the legislation that define the time frame for comments provided “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 does your country 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.

26. *What material does your country 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.

27. *Does your country 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

28. *Describe the procedures and, where appropriate, the legislation your country 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.

29. *How does your country cooperate with the authorities of the Party of origin on the distribution of the EIA documentation and the submission of comments (art. 4.2), taking into account that the Party of origin and affected Party are both responsible?*

The United Kingdom would negotiate with the Party of origin to arrange for the EIA documentation to be made available to all interested parties. The United Kingdom would seek to arrange distribution itself unless there is a specific objection from the Party of origin. If the latter was the case the UK would seek English language versions of all relevant documentation and guidance on how to obtain that documentation and forward representations. To date we have no experience of this.

30. *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, with the legislation of the Party of origin, 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

31. *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 your country would apply to determine the meaning of “undue delay”, with regard to the timing of the entry into consultation? Does your country normally set the duration for consultations*

beforehand? If there seems to be no need for consultation, how does your country 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".

32. *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

33. *On what level is the consultation normally held: national, regional or local? Who normally participates in the consultation? By what means does your country usually communicate in consultations, for example by meeting or by the exchange of written communications? How does your country 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

34. *For each type of activity listed in appendix I, identify what is regarded as the “final decision” to authorize or undertake a proposed activity (art. 6 in conjunction with art. 2.3); also provide the term used in the national legislation in the original language. 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.

.....

35. *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.

36. *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 the public in your country (art. 6.1)?*

Yes, they are taken into consideration in the same way.

37. *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.

38. *If additional information becomes available according to article 6, paragraph 3, before the activity commences, how does your country 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

39. *How does your country determine whether it 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.

40. *Where, as a result of post-project analysis, it is concluded that there is a significant adverse transboundary impact by the activity, how does your country 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

41. *Does your country have any bilateral or multilateral agreements based on the 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.

42. *Has your country 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

43. *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. The report was published on the then ODPM web site in 2006.

Ratification of the amendments to the Convention and of the Protocol on Strategic Environmental Assessment

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

Under consideration.

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

Under consideration

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

Under consideration

PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2006–2009

Please report on your country's practical experiences of applying the Convention (not your country's procedures described in part one), whether as Party of origin or affected Party. The focus here is on identifying good practices as well as difficulties Parties have encountered in applying the Convention in practice; the goal is to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve its application.

CASES DURING THE PERIOD 2006–2009

47. *Does your country's national administration have information on the transboundary EIA procedures that were under way 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 your country does not have any experience of applying the Convention, why not?*

We are only aware of three recent notifications of possible cases where the UK will be the affected party. To date the three cases are only at the pre-application stage. The UK has asked to be kept informed of the cases as they develop, and when applications for activities are formally submitted to the competent authorities in the Parties of origin.

48. *Does your country object to the above list of transboundary EIA procedures being included in a compilation of such procedures to be made available on the website of the Convention? (Indicate "yes" if you object.)*

These cases are at such an early stage we do not think they warrant listing until formal applications are made to the competent authorities of the Parties of origin.

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

None known of.

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

There is no experience of this other than information provided in response to earlier questionnaires.

EXPERIENCE OF THE TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE IN 2006–2009

51. *If your country has 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.*

No experience.

52. *How has your country interpreted in practice the various terms used in the Convention, and what criteria has your country used to do this? Key terms include the following: “major change” (art. 1 (v)), “a reasonable time” (art. 3.2(c), art. 4.2), “promptly” (art. 3.6) and “a reasonable time frame” (art. 5). (Do not provide references to answers to earlier questions 6 (b), 11, 13, 25 and 31.) If your country experiences substantial difficulties interpreting particular terms, does your country work together with other Parties to find solutions? If not, how does your country overcome the problem?*

No experience.

53. *Please share with other Parties your country’s experience of using the Convention in practice. In response to each of the questions below, either provide one or two practical examples or describe your country’s general experience. You might also include examples of “lessons learned” in order to help others.*

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

n/a

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

n/a

- c. *What methodology does your country use in impact assessment in the (transboundary) EIA procedure (e.g. impact prediction methods and methods to compare alternatives)?;*

n/a

- d. *Translation is not addressed in the Convention. How has your country addressed the question of translation? What does your country usually translate? What difficulties has your country experienced relating to translation and interpretation, and what solutions has your country applied?;*

n/a

- e. *How has your country organized transboundary public participation in practice? As Party of origin, has your country organized public participation in affected Parties and, if so, how? What has been your country’s experience of the effectiveness of*

public participation? Has your country experienced difficulties with the participation of its public or the public of another Party? (e.g. have there been complaints from the public about the procedure?);

n/a

- f. *Describe any difficulties that your country has encountered during consultations, for example over timing, language and the need for additional information. As an affected Party, have consultations under article 5 supported the prevention, reduction or control of possible significant transboundary environmental impacts?;*

n/a

- 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;*

n/a

- h. *Has your country carried out post-project analyses and, if so, on what kinds of project?;*

n/a

- i. *Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your country's experiences describing, for example, means of cooperation (e.g. contact points, joint bodies, bilateral agreements), institutional arrangements, and how practical matters are dealt with (e.g. translation, interpretation, transmission of documents, etc.);*

n/a

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

n/a

- k. *Identify the most common means of applying the Convention (e.g. through focal points, joint bodies, multilateral agreements).*

n/a

CO-OPERATION BETWEEN PARTIES IN 2006–2009

54. *Does your country have any successful examples of how it has overcome difficulties arising from different legal systems in neighbouring countries?*

No.

EXPERIENCE IN USING THE GUIDANCE IN 2006–2009

55. *Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online? Describe your country's experience with 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;*

No

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

No

CLARITY OF THE CONVENTION

56. *Has your country 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 one above 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 your country encounters when applying the Convention.*

The only difficulties experienced were set out in our response to an earlier questionnaire.

AWARENESS OF THE CONVENTION

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

Our web site provides a link to the UNECE website.

58. *Does your country see a need to improve the application of the Convention in your country and, if so, how does it intend to do so? What relevant legal or administrative developments are proposed or ongoing?*

No.

SUGGESTED IMPROVEMENTS TO THE REPORT

59. *Please provide suggestions for how this report may be improved.*

None.

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