

**REPORT OF ESTONIA ON THE IMPLEMENTATION
OF THE CONVENTION ON ENVIRONMENTAL
IMPACT ASSESSMENT IN A TRANSBOUNDARY
CONTEXT**

in the period 2010–2012

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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

1. *List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2).*
 - Act Ratifying the Convention on Environmental Impact Assessment in a Transboundary Context (2000);
 - Act Ratifying the Amendments to the Convention on Environmental Impact Assessment in a Transboundary Context and the Protocol on Strategic Environmental Assessment (2010);
 - Environmental Impact Assessment and Environmental Management System Act (2005) - hereinafter also "the Act";
 - Agreement Between the Government of the Republic of Estonia and the Government of the Republic of Latvia on Environmental Impact Assessment in a Transboundary context (1997);
 - Agreement Between the Government of the Republic of Estonia and the Government of the Republic of Finland on Environmental Impact Assessment in a Transboundary Context (2002).
2. *Indicate any further measures to implement the provisions of the Convention that are planned for the near future.*
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3. *List the different authorities that are named responsible for the implementation of the EIA procedure in the transboundary context and domestically.*
 - the Ministry of the Environment is in charge of the transboundary EIA procedure (point of contact and focal point, e.g. notifications, transboundary consultations, informing the public etc);
 - the decision-maker (the issuer of the development consent: the Ministry of the Environment, the Environmental Board, the Estonian Road Administration, municipalities etc);
 - the supervisor of EIA: the Ministry of the Environment (also in the case of transboundary EIA-s) or the Environmental Board.
4. *Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it.*

The Ministry of the Environment collects this information.
5. *Does your country have special provisions for transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?*

The bilateral agreement between Estonia and Finland gives the competent authorities the possibility to agree to carry out a joint EIA within the framework of the national legislation. The Estonian-Finnish joint commission on EIA in a transboundary context may propose possible activities for joint EIAs to the competent authorities.

The bilateral agreement between Estonia and Latvia gives the Estonian-Latvian joint commission on EIA in a transboundary context the possibility to decide on the necessity of joint EIA and define procedure of the joint EIA.

IDENTIFICATION OF A PROPOSED ACTIVITY REQUIRING ENVIRONMENTAL IMPACT ASSESSMENT UNDER THE CONVENTION

6. *Is appendix I to the Convention transposed fully into your country's national legislation? Please describe any differences between the national list and appendix I to the Convention.*

The appendix I to the Convention is included in the list of EIA projects in the national legislation. EIA is mandatory in case of projects listed in § 6(1) of the Environmental Impact Assessment and Environmental Management System Act. The decision-maker has to review the application for the development consent and if the proposed activity potentially results in significant environmental impact which may be transboundary, then transboundary EIA is initiated.

7. *Does your country's legislation already cover fully the revised appendix I in the second amendment (ECE/MP.EIA/6, decision III/7)?*

The Act covers the revised appendix I in the second amendment (see also answer to question 6). The list in § 6(1) of the Act does not include "major wind farms" in the same wording as the revised appendix I, but namely "installation of wind farms in water bodies". Construction of wind farms on land are under EIA screening.

PUBLIC PARTICIPATION

8. *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 Ministry of the Environment and the affected Party shall agree on the necessary procedure and the schedule of the consultations, on the provisions of information to the public and the authorities of the affected Party, including sufficient time for the submission of opinions on the EIA programme and EIA report for them etc. In practice these issues are also dealt with via communication between the point of contacts and/or focal points.

Article 3

Notification

QUESTIONS TO PARTY OF ORIGIN

9. *Describe how your country determines when to send the notification to the affected Party, which is to occur "as early as possible as and no later than when informing its own public".*

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

10. *Indicate whether and how the following provisions are reflected in your national legislation:*

- a. *The stage in the EIA procedure when your country usually notifies the affected Party (art. 3.1);*

It is the stage of initiation of EIA, after the application for a development consent has been submitted by the developer. See also answer to question 9.

- b. *The format for notification. Please indicate whether this is the format as decided by the first meeting of the Parties in its decision I/4 (ECE /MP.EIA/2, annex IV, appendix). If not, does your country use a format of its own (in which case, please attach a copy of it)?*

Generally a letter by the Ministry of the Environment has been used as the notification. The structure of the letter is not fixed by regulation, but in practice it includes several aspects as the format for notification as decided by the MOP.

- c. *The time frame for the response to the notification from the affected Party (cf. art. 3, para. 3, “within the time specified in the notification”), the consequence if an affected Party does not comply with the time frame, and the possibility of extending a deadline;*

The affected Party is given at least thirty days as of the date of receipt of the notification concerning the initiation of EIA to respond to the notification. The bilateral agreement with Finland establishes that the affected Party has to respond to the notification within two months.

If the affected Party fails to respond to the notification during the specified term, the respective specifications for EIA in transboundary context do not apply upon assessment of environmental impact.

If the answer delays a couple of days, we are going to take into account the position of the affected Party. In practice the deadline could be extended (on bilateral basis), but in this case the Ministry of the Environment should also inform the developer about that.

- d. *The request for information from the affected Party (art. 3 para. 6), necessary for the preparation of the EIA documentation;*

Estonia shall request information from the affected Party if there is not enough information relating to the potentially affected environment under the jurisdiction of the affected Party. Information shall be requested while composing the EIA report (or earlier if necessary).

- e. *How your country cooperates with the authorities of the affected Party on public participation (art. 3, para. 8);*

The Ministry of the Environment and the affected Party shall agree on the necessary procedure, informing the public and the authorities of the affected Party, giving sufficient time for the submission of opinions on the EIA documentation. As a common practice the affected Party organizes the public participation process in their country and raising issues can be dealt with in cooperation.

Based on the bilateral agreement with Finland, the competent authority of the affected Party is responsible for informing the authorities and the public in the country of the affected Party about the proposed activity (distribution of the notification, EIA documentation). The competent authority of the affected Party shall also ensure that they are provided with possibilities to comment on the proposed activity.

- f. *When and 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?*

The Ministry of the Environment shall send the affected Party, as soon as possible but no later than when the decision-maker gives notification of the initiation of the EIA in Estonia, a notice concerning the initiation of EIA together with the description of the proposed activity and information concerning the transboundary effect potentially accompanying the proposed activity.

As a common practice the affected Party informs the public without delay and the affected Party also determines the content of the public notification. At the same time the input from the party of Origin can be used in the public notification (description of the proposed activity, the term for submission of comments etc).

As a general rule each Party notifies the public (kinds of media, content of notice) in their country according to their national legislation.

- g. *When and how the public in the Party of origin is notified (what kinds of media, etc. are usually used). What is normally the content of the public notification?*

In case of initiation of EIA the public is informed via the official publication *Ametlikud Teadaanded* within fourteen days after the decision to initiate EIA. The notice of initiation of EIA includes inter alia the contacts of the decision-maker, short description and purpose of the proposed activities, the time and place for accessing the decision, and where relevant, information on initiation of EIA in a transboundary context.

In case of publication of EIA programme and EIA report the public is informed similarly as described above (in addition advertisements in newspapers). Also the issue of the time and manner for the submission of proposals and questions are included.

In practice also the internet (including the homepage of the Ministry of the Environment) is widely used.

- h. *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.*

The notification to the affected Party includes the description of the proposed activity and information concerning the transboundary effect potentially accompanying the proposed activity. The affected Party shall be sent also the following materials (with the notification or after the affected Party has expressed the wish to participate in the EIA):

- an application for development consent;
- data concerning the decision-maker and the supervisor of environmental impact assessment, specifying the person who may be addressed with questions and comments;
- information concerning the assessment of the environmental impact of the proposed activity and the processing of the application for development consent.

If the affected Party so requests, the Ministry of the Environment shall forward the draft EIA programme and report to the affected Party. The notice on the making public of the EIA programme or report shall contain at least the same information as the national notice.

As a general rule each Party notifies the public (kinds of media, content of notice) in their country according to their national legislation.

11. *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, annex III, decision I/3), and as listed on the Convention website (http://www.unece.org/env/eia/points_of_contact.htm)?*

Yes, the list of contact points is used.

QUESTIONS TO AFFECTED PARTY

12. *Indicate whether and how the following provisions are reflected in your national legislation:*

a. *How your country decides whether or not to participate in the EIA procedure (art. 3, para. 3)?*

Estonia shall participate in the transboundary EIA procedure if the proposed activity is likely to cause significant adverse impact on our environment. In practice usually comprehensive consultations are organized (informing about the submitted notification). The position of different competent authorities are asked, also uniting non-governmental environmental organisations are included. The issue which authorities are consulted during the decision-making process depends on the particular case (ministries, environmental authorities, municipalities, research centers, etc).

b. *The request from the Party of origin for information (art. 3, para. 6), necessary for the preparation of the EIA documentation;*

If the Party of origin requests for information, then this can be sent to them based on it's availability. The request from the the Party of origin works similarly (on bilateral basis).

c. *How your country cooperates with the authorities of the Party of origin on public participation (art. 3, para. 8);*

Cooperation with the authorities is done on national level, usually through central state authorities. In practice also the bilateral joint commissions with Latvia and Finland can be helpful if necessary.

Based on the bilateral agreement with Finland, the competent authority of the affected Party is responsible for the distribution of the notification and the EIA documentation to the authorities and the public.

d. When and how the public is notified (e.g., what kinds of media, etc., are usually used).

*The public is notified without delay depending when the notification or EIA documentation is received. The public is informed via the official publication *Ametlikud Teadaanded* and relevant newspapers. In practice also the internet (including the homepage of the Ministry of the Environment) is widely used.*

The notice regarding the publication of the EIA documentation contains the common information as in national legislation (e.g. contact details, description of the proposed activity, time and place for accessing the documentation, submission of comments, etc). Sometimes the details of the particular Party of origin's EIA system are also included.

Article 4

Preparation of the environmental impact assessment documentation

QUESTIONS TO PARTY OF ORIGIN

13. Indicate the legal requirements in your country, if any, related to:

a. The content of the EIA documentation (art. 4, para. 1; appendix II);

The requirements for the EIA report are stipulated in § 20 of the Environmental Impact Assessment and Environmental Management System Act. The EIA report shall contain all the reasonably required information in relation to potentially significant environmental impact, mitigation measures and results of public consultation (following the provisions of the EIA directive and the Espoo Convention). In the case of transboundary EIA an overview of the results of consultations upon EIA in a transboundary context must also be included.

b. The procedures for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (art. 4, para. 1);

The EIA report is composed on the basis of the approved EIA programme. The EIA programme is prepared by the developer in cooperation with the EIA experts after initiation of EIA. The programme must include the description of the proposed activities and reasonable alternatives therefor, methods of assessment, information on the potential sources of impact, the size of the impact area and the affected environmental elements, etc. The programme shall be published (feedback from the public and authorities) and approved by the supervisor of EIA. The EIA report is also published similarly in the later stage of the EIA procedure.

c. The identification of “reasonable alternatives” in accordance with appendix II, paragraph (b);

The reasonable alternatives are different variants in which the developer can feasibly meet the project's objectives and these shall be identified during the EIA programme phase (nevertheless additional alternatives might occur during the following process). Which alternatives are reasonable depends on the particular project. In identifying different alternatives the following aspects should be taken into account and studied in EIA: locations or alignments, project design, size and scale, working or management arrangements, production methods and technologies, time scale for construction and operation and the „do nothing“ alternative.

d. The procedures and format for providing the EIA documentation domestically;

The EIA programme is prepared by the developer in cooperation the EIA experts after initiation of EIA. The decision-maker shall organise the public display of the programme with the duration of not less than fourteen days. After that the developer shall organise a public consultation in order to inform the public of the programme. The public and relevant authorities are informed about the publication of the EIA programme which must be, inter alia, published also on the decision-maker's webpage. After the programme is amended respectively (taking account of results of public display of and public consultation), the developer shall submit the programme to the supervisor of EIA to make the decision on approval or refusal to approve the programme.

In principle the procedure for the EIA report is the same as described previously.

The specific format of EIA documentation is not stipulated in the Act, but the principle is that the documentation must comply with the requirements defined in the Act. In practice usually the EIA documentation consists of the main text and the relevant annexes (e.g. maps, minutes, etc).

e. The procedures and format for providing the EIA documentation to the affected Party. If there is a difference between the procedures and format domestically and for the affected Party, please explain;

If the affected Party so requests, the Ministry of the Environment shall forward the draft EIA programme and report (submitted by the developer) to the affected Party as soon as possible but no later than when the public display of the programme or report commences in Estonia. In practice the EIA documentation transmitted to the affected Party can be the same as domestically or a summary of the documentation (especially in the case of EIA report) with an emphasis on significant transboundary impacts. For instance the latter approach is also supported by the bilateral joint commissions.

f. The procedures for the examination of, and the deadlines for comments on, the EIA documentation domestically, and how the comments submitted domestically are addressed;

The decision-maker shall organise the public display of the EIA documentation with the duration of not less than fourteen days. After that the developer shall organise a public consultation in order to inform the public of the EIA documentation. Everyone has the right to access the EIA documentation and other relevant documents at the time of the public display of and the public consultation, submit proposals, objections and questions and obtain responses thereto. In practice comments can also be submitted after the official publication of the EIA documentation if it is agreed accordingly.

The developer shall send to a person who submitted proposals, objections and questions regarding the EIA documentation an explanation why the submitted proposals and objections are taken account of and justify why they are not taken account of and respond to the questions by sending an unregistered letter or a registered letter.

The amended EIA documentation (taking account of results of publication) is submitted by the developer to the supervisor of EIA to make the decision on approval or refusal to approve the documentation. It is also a task of the supervisor to check if the publication of EIA documentation has been done pursuant to the established requirements and how the feedback has been taking into account (i.e. are the submitted proposals, which are not taken into account, sufficiently justified; have the questions received a thorough response, etc).

g. The procedures for the examination of, and the deadlines for comments on, the EIA documentation from the affected Party, and how the comments submitted by the affected Party are addressed;

The Ministry of the Environment shall transmit the EIA documentation to the affected Party. The affected Party shall be given at least thirty days to provide an opinion, but according to according to the bilateral agreement with Finland the competent authority of the affected Party shall arrange for transmittal of these comments within two months of the receipt of the EIA documentation. If necessary additional issues concerning transboundary EIA procedure (e.g. extending deadlines for comments) can be agreed on bilateral basis.

The Ministry of the Environment shall transmit the comments of the affected Party to the developer (and experts). In the case of transboundary EIA an overview of the results of consultations upon EIA in a transboundary context must also be included in the EIA report. The affected Party can also be sent an overview how the comments have been taking into account in the EIA report. If necessary consultations can be organized.

If the Ministry of the Environment and the affected Party agree that also the drafts for the decisions to grant or refuse to grant development consent and the draft of the development consent must be submitted to the affected Party for obtaining an opinion, the decision-maker shall send the drafts of such documents after preparation thereof to the Ministry of the Environment who shall forward them to the affected Party for obtaining an opinion. As a general rule it is stipulated in the Act that in making the decision, the decision-maker shall consider the opinion of the affected Party.

h. The procedures for public hearings domestically;

The developer shall organise a public consultation (hearing) after the decision-maker has organised the public display of the EIA documentation.

i. The procedures for public hearings held on the territory of the affected Party.

Specific legal requirements on public hearings held on the territory of the affected Party are not stipulated in the Act. Nevertheless this should be done in close cooperation with the affected Party (under the jurisdiction of the affected Party).

QUESTIONS TO AFFECTED PARTY

14. *Indicate the legal requirements in your country, if any, related to:*

- a. *The procedures and deadlines for comments on the EIA documentation to be submitted to the Party of origin;*

The Ministry of the Environment shall give notification of publication of the EIA documents and send the proposals and objections submitted regarding the documents to the Party of origin. As a general rule the deadlines are determined by the Party of origin and in practice usually they can be met. The deadlines can be extended on bilateral basis if necessary (commonly at least 30 days are needed).

- b. *The procedures for public participation in the review of the EIA documentation domestically, and the authority responsible for the execution of the aforementioned procedures;*

In cases where Estonia is the affected Party the publication of the EIA documentation is organized by Ministry of the Environment. Everyone has the right to access the EIA documentation and submit proposals, objections and questions and obtain responses thereto.

- c. *The procedures for the examination of the EIA documentation domestically.*

As an affected Party in principle in a way the EIA documentation is domestically examined by all the different parties who participate in the procedure (including the public and authorities).

Article 5

Consultations

QUESTIONS TO PARTY OF ORIGIN

15. *Indicate the legal requirements in your country, if any, related to the following provisions:*

- a. *The procedures for cooperation with the affected Party related to consultations;*

If Estonia is the Party of origin, then the Ministry of the Environment and the affected Party shall agree on the procedure and actual schedule of the consultations. At the request of the affected Party, its representative is permitted to participate in EIA proceedings and consultations are commenced concerning environmental impact resulting from proposed activities and the measures for the mitigation or prevention of such impact.

According to the bilateral agreement with Finland the competent authorities of the Parties shall (after submission of the EIA documentation) enter into consultations where appropriate and such consultations may be conducted through the joint commission.

- b. *The stages, procedures and deadlines for consultations with the affected Party;*

According to the bilateral agreement with Finland the duration of the consultations shall not exceed three months, according to the bilateral agreement with Latvia the duration of the consultations shall not exceed 6 months.

From a practical point of view it would be advisable to commence the consultations in the EIA documentation phase (which would be the basis). At the same time this should be done without undue delay. The deadlines and procedures should be agreed on bilateral basis depending on the particular project.

- c. The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.*

Concerning domestic consultations explicit deadlines are not fixed (it depends on the particular project), but it should be sufficient. This can take place during different stages (commonly the EIA report stage). Usually the developer, experts, decision-maker, supervisor and if necessary other relevant authorities participate in the consultations. At the same time the general publication (including the public) of the EIA documentation can also be regarded as consultations on the basis of the EIA documentation.

QUESTIONS TO AFFECTED PARTY

16. Indicate the legal requirements in your country, if any, related to the following provisions:

- a. The procedures for interaction with the Party of origin related to consultations;*

See the answers to questions 15 (a) and (b). The Party of origin and the affected Party should enter into consultations where appropriate and if it is necessary. If the Party of origin does not bring out the necessity/possibility for consultations, then the affected Party can call attention to this on bilateral basis.

- b. The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.*

The relevant authorities and interested parties should participate in the consultations. See also the answer to question 15(c).

Article 6

Final decision

QUESTIONS TO PARTY OF ORIGIN

17. Indicate the legal requirements in your country, if any, related to the following provisions:

- a. The definition of "final decision" related to the implementation of the planned activity; the content of decisions; and procedures for their adoption;*

The final decision is a decision to issue or refuse to issue the development consent (e.g. the building permit, the permit for special use of water, the ambient air pollution permit, etc). If the development consent is issued, then this is an administrative act permitting the implementation of the proposed activity (with potentially significant environmental impact) on certain conditions. Due to the national system the decision-makers differ (e.g. the Ministry of the Environment, the Environmental Board, local municipalities, etc), commonly several development consents are required.

The content of the development consents differ and the specific requirements are enacted in the various development consent regulations. Generally these decisions include the official contacts of the developer, its validity, the attached environmental conditions, overview of publication and how the results of EIA have been integrated, etc.

- b. *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, para. 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?*

In the national legislation the term "final decision" is regarded as development consent – "tegevusluba". This is the general term used, but as described previously there are various specific development consents with different terms. All projects listed in Appendix I of the Convention require development consent(s).

- c. *The procedures for informing of the "final decision" domestically and for the affected Party;*

The issue how it must be informed domestically about the final decision is enacted in the legislation of the particular development consent. As a general obligation this must be done without undue delay and via the official publication *Ametlikud Teadaanded*.

Concerning transboundary EIA cases the decision-maker shall promptly inform the Ministry of the Environment of issue of or refusal to issue a development consent. The Ministry of the Environment shall notify the affected Party of issue of or refusal to issue a development consent necessary for the activities with significant transboundary environmental impact and shall forward this decision to the affected Party.

- d. *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, para. 1)?*

Yes, these comments are taken into consideration in the same way. In making the decision, the decision-maker shall consider the opinion of the affected Party.

- e. *The opportunity to review the decision if, before the activity is implemented, additional information becomes available according to article 6, paragraph 3.*

The affected Party shall be informed if such additional information becomes available. In principle the decision can be reviewed (e.g. if the information is significant, the environmental requirements of the development consent can be revised).

Article 7

Post-Project Analysis

18. *Indicate the legal requirements in your country, if any, related to:*

- a. *Post-project analysis (art. 7, para. 1);*

Pursuant to the Act the EIA report must include a reasoned proposal for the establishment of the conditions of environmental monitoring (on the basis of the results of EIA of the proposed activities and reasonable alternatives therefor).

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

b. Procedures for informing of the results of post-project analysis.

The Ministry of the Environment shall inform the other Party.

According to the bilateral agreement with Finland, when as a result of post-project analysis, there is a significant adverse transboundary impact or factors have been discovered which may result in such an impact, the competent authority of the Party shall immediately inform the competent authority of the other Party. The Parties shall then consult on necessary measures to reduce or eliminate the impact.

Article 8

Bilateral and multilateral agreements

19. 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.

Estonia has two bilateral agreements:

- Agreement Between the Government of the Republic of Estonia and the Government of the Republic of Latvia on Environmental Impact Assessment in a Transboundary context (1997);
- Agreement Between the Government of the Republic of Estonia and the Government of the Republic of Finland on Environmental Impact Assessment in a Transboundary Context (2002).

Both agreements are based on the Convention, although the agreement with Latvia entered into force before the official ratification of the Convention by Estonia. The general objective of the agreements is to promote and develop further the implementation of the Convention between the Parties, to prevent significant adverse transboundary environmental impact from proposed activities. The agreements are partially based on Appendix VI. The agreements primarily specify the different procedural stages of transboundary EIA and the responsibilities between the Parties (e.g. notification, EIA documentation, informing the public, joint EIA, etc). Concerning both agreements, the Parties have established joint commissions on EIA in a transboundary context which mainly have an advisory role. Each Party is entitled to have a co-chair in the joint commission.

20. Has your country established any supplementary points of contact pursuant to bilateral or multilateral agreements?

Supplementary points of contact have not been established.

Article 9

Research programmes

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

We are not aware of specific research programmes in relation to EIA in a transboundary context. But in the context of general research for instance monitoring of the gas pipeline project is done by Nord Stream and the results are exchanged.

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

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

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

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

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PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2010–2012

Please report on your country's practical experiences in 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; and 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 2010–2012

25. *If your country's national administration has a list of transboundary EIA procedures that were under way during the reporting period, in which your country was Party of origin or affected Party, please list it.*

1) Estonia as Party of origin:

Construction of offshore wind farms near the Northwest Coast of Estonia (continuing procedure).

2) Estonia as affected Party:

Off-shore wind farm Södra Midsjöbanken in the Baltic Sea within the Swedish EEZ (Sweden);

Project for building a terminal to import and store liquefied natural gas in Porvoo Tolkkis and Inkoo (Finland).

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

No.

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

The duration of the transboundary EIA procedure significantly depends on the specific project in question. Also the number of involved Parties can be brought out in this regard.

The timeframes for different procedures (notification, publication of documentation, submitting comments, etc) may differ in the same way. As a general rule being a Party in a transboundary EIA at least 30 days are needed for different stages, but usually in practice more time (e.g. two months) is provided. Another important factor is the complexity of the project and the aspect of public interest. Thereof practical questions (transfer of EIA documentation, publication, answering, etc) have also an impact on the process.

Also bilateral agreements or general arrangements (e.g. schedules) between the Parties concerning a particular project can influence the duration. For instance according to the bilateral agreement with Finland the answer to the notification and the transmittal of the results of publication will be done within two months.

In conclusion the experience has shown that being a concerned Party the overall average duration of a transboundary EIA would be about one or two years.

EXPERIENCE IN THE TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE DURING THE PERIOD 2006–2009

28. *If your country has had practical experience in the transboundary EIA procedure during the reporting period, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.*

Although there is not specific follow-up to this issue and during the period in question the experiences in transboundary EIA are moderate, then in general it can be said that the implementation of the Convention has supported the forementioned aspects concerning significant transboundary environmental impacts.

29. *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. *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?*

In case of transboundary EIA transboundary impacts must be analyzed in the EIA report and the report must also include an overview of the results of consultations upon EIA in a transboundary context. In practice this is usually done in a separate chapter. The EIA report also discusses the proposals, objections and questions submitted regarding the report (including comments made by the affected Parties). All the relevant aspects concerning environmental impacts must be analyzed in the EIA report and so in practice the amount of information can vary (also depending on the particular project).

- b. *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?*

In practice the main EIA documents (e.g. summaries) sent by the Party of origin to Estonia as the affected Party are usually in Estonian, but additional materials may be in English or in the native language. The quality of interpretation may vary. Similarly Estonia as Party of origin shall send translated information (where the emphasis on the significant transboundary impacts) to the affected Party. The translated material can be the whole documentation or relevant summaries.

Concerning this issue Estonia has good practice with Finland and Latvia where the joint commissions have agreed on what information as minimum must be sent, this also includes the question of translation. Generally in each particular case these issues can also be dealt with beforehand on bilateral basis (e.g. via points of contact).

- c. *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? 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)?*

We have not organized transboundary public participation as Party of origin in the affected Parties. Generally the affected Parties organize the public participation by themselves, but of course our help can be provided if necessary.

Practice has shown that the effectiveness of public participation depends on several factors like informing the public (is it done early, what methods are used and to which extent), the term to access relevant documents and submit comments (sufficient time, different methods of submitting comments), etc.

We have not experienced complaints concerning public participation.

- d. *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?*

In general we have not encountered major difficulties. Sometimes additional time is needed for submitting comments (i.e. the timeframes are too limited). So in this sense the implementation of the Convention, including the consultations, have supported the wide purpose of protecting the environment.

- e. *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;*

It is enacted in the Act that the Ministry of the Environment shall notify the affected Party of issue of or refusal to issue a development consent necessary for the activities with significant transboundary environmental impact and shall forward this decision to the affected Party. The decision must include all the relevant aspects-information enacted in the national regulation of the particular development consent. As a general principle the administrative procedures should be efficient and without undue delay.

As an affected Party Estonia has been informed about the final decisions of the Party of origin. In practice the content and form vary, but usually it includes an overview of the decision (in English) and the information where it is nationally available (e.g. references to website).

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

No experience.

g. 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.);

No experience.

h. 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"?

The cooperation between Estonia and other neighbouring countries concerning EIA in a transboundary context is good. This can especially be said concerning Finland with whom Estonia has most transboundary EIA cases. The key element of good practice is the active cooperation between the Parties (during the procedure, but also before the official initiation if necessary), mainly via points of contact and joint commission. Also the work done in the joint commission with Latvia is constructive. We would not like to introduce a case.

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

The Convention is applied through focal points, points of contact, joint bodies and multilateral agreements. For instance the joint commissions on EIA in a transboundary context under the two bilateral agreements (between Estonia and Latvia, between Estonia and Finland).

CO-OPERATION BETWEEN PARTIES IN 2010–2012

30. Does your country have any successful examples of how it has overcome difficulties arising from different legal systems in neighbouring countries? If so please specify.

No specific examples, but in practice potential difficulties are mainly solved via consultations and cooperation between the Parties on bilateral basis (before and during the procedures). Also bilateral agreements are helpful in this context.

EXPERIENCE IN USING THE GUIDANCE IN 2010–2012

31. *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 (ECE/MP.EIA/7);*

We are aware of the guidance. Still in practice the experiences gathered in different transboundary EIAs and cooperation between the concerned Parties are the basis for applying the Convention.

b. *Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendix);*

See the answer above.

c. *Guidelines on good practice and on bilateral and multilateral agreements (ECE/MP.EIA/6, annex IV, appendix).*

See the answer above.

CLARITY OF THE CONVENTION

32. *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?*

In general it can be said that we do not have major difficulties implementing the Convention. Again the bilateral agreements with Latvia and Finland have helped to overcome potential problems. In case of (potential) difficulties it is always advisable to communicate and cooperate between the concerned Parties to avoid possible problems. At the same time it can be brought out that our practical experience is mostly as the affected Party.

AWARENESS OF THE CONVENTION

33. *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.*

Information concerning the Convention and guidance on the application of the Convention are available on the website of the Ministry of the Environment. The issue of transboundary impacts are also included in national guidances. In this context it can also be said that the awareness of the Convention is good between the different stakeholders.

34. *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?*

As the overall application of the Convention and the cooperation with other Parties is good, then there is not a notable need to improve the application in this sense.

SUGGESTED IMPROVEMENTS TO THE REPORT

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

Comparing this questionnaire with the previous questionnaire then the number of repeating questions (particularly in part one) has declined which is a positive aspect. So in conclusion the questionnaire is clearer and easier to complete, at the same time it is also more content-rich.

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