

**REPORT OF THE 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 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).

The requirements of Article 2.2 are transposed through multiple sets of regulations within each of the devolved administrations of the UK. Most projects are consented through the town and country planning systems in each country and are subject to the following regulations:

England: Town and Country Planning (Environmental Impact Assessment) Regulations 2011;

Northern Ireland: The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012¹;

Scotland: The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011;

Wales: Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999.

However, there is a separate development consent regime in England and Wales for larger nationally significant infrastructure projects which fall within the scope of the Planning Act 2008. This includes projects for the generation of electricity in excess of 50MW onshore, and in excess of 100MW offshore. Such projects are subject to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Similar infrastructure projects in Scotland and Northern Ireland are subject to a range of regulations, depending upon the nature of the particular proposal. Other activities, such as the extraction of minerals from the seabed, are also subject to separate regulations (e.g. The Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations 2007 and the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Wales) Regulations 2007).

¹ Note that these regulations were replaced in 2015 by the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015.

To avoid repetition, unless identified otherwise, responses to this questionnaire explain the measures adopted in England and Wales for nationally significant infrastructure projects and for England under town and country planning legislation. The main difference in the legal provisions relating to transboundary effects is that responsibility for consulting other Parties lies with the relevant Secretary of State in England, Scottish Minister in Scotland, Welsh Minister in Wales and the appropriate Council or the Department of the Environment in Northern Ireland. The exception is for nationally significant infrastructure projects in England and Wales and relevant projects in Scotland for which the Planning Inspectorate is responsible for the transboundary procedures on behalf of the Secretary of State (see answer to question 3).

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

None. Existing measures fully implement the provisions of the Convention.

3. *List the different authorities that are named responsible for the implementation of the EIA procedure in the transboundary context and domestically.*

See answer to question 1. For nationally significant infrastructure projects in England and Wales the Planning Inspectorate is responsible for implementing the EIA procedures and advising the relevant Secretary of State on the application for development consent (e.g. the Secretary of State for Energy and Climate Change for energy projects and the Secretary of State for Transport for major road and rail projects).

For other projects, the local planning authority is normally responsible for implementing the domestic EIA procedures. However, the relevant Secretary of State in England, Welsh Minister in Wales, Scottish Minister in the case of projects in Scotland and the relevant Council or Department of the Environment in Northern Ireland are responsible for implementing any transboundary procedures.

4. *Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it.*

No. The focal point for transboundary EIA cases is within the Department for Communities and Local Government, but the relevant Government Department or devolved administration is responsible for specific transboundary consultation and maintain their own information bases.

5. *Does your country have special provisions for transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?*

The geographical location of the United Kingdom means that cross-border projects with another Party are relatively rare. Provisions for transboundary EIA with near neighbours and more distant States are provided in the following legislation:

- Regulation 24 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009;
- Regulations 53 and 54 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011;
- Regulations 22 and 23 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012;

- Regulations 36 and 37 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011
- Regulation 27 and 28 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011.

Article 9(6) of EU Regulation 347/2013 on Guidelines for trans-European energy infrastructure (the TEN-E Regulation) requires that for projects that are likely to have significant adverse cross-border impacts where the Espoo Convention and Article 7 of the EIA Directive applies, the National Competent Authority shall make the relevant information available to the National Competent Authority of neighbouring Member States.

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.*

Yes

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

Yes

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?*

For both nationally significant infrastructure projects and projects subject to the town and country planning EIA Regulations, where the Secretary of State is of the view that a project is likely to have significant effects on the environment of another affected Party, they must:

- Publish a notice in the London Gazette setting out the information about the proposed development.
- 'As soon as possible' and not later than any publication in the London Gazette send to the affected Party a description of the development, together with any available information on its possible significant effect on the environment of that Party together with information on the procedures;
- Having received this notification, the affected party can, within a 'reasonable time' indicate whether it wishes to participate in the procedures;
- Where an affected party wishes to participate, the Secretary of State must 'as soon as possible' send that Party a copy of the application, the environmental statement and any relevant information on the procedures not provided previously. The affected Party should then be given 'reasonable time' to forward the opinions of its public and of the authorities;
- Consult with the affected Party regarding the potential significant effects of the development on the environment of that state and the measures to reduce or eliminate such effects;

- Agree a reasonable time period for the duration of the consultation; and
- Inform the affected Party, as consulted, of the decision.

In addition, all the information is available on the National Infrastructure website.

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”.*

An affected Party is notified once the Planning Inspectorate or Secretary of State becomes aware of a proposed development that requires an EIA and where the Secretary of State is of the view that the development is likely to have significant impacts on the environment of another Party or where another Party, likely to be significantly affected by a development, requests that transboundary impacts are addressed.

Information is sent when it becomes available. Notification can be given upon receipt of a scoping request, but may be later, for example upon receipt of the environmental statement – which is only in its final form with an application for development consent. In addition, developers are advised to undertake consultation with other Parties at an early state in the development of their proposals where they believe there may be significant impacts on the environment of that Party.

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);*

As explained above, an affected Party is notified as soon as possible. For nationally significant infrastructure projects, this is generally, but not necessarily, at the scoping stage. 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 Northern Ireland, advertisement would be made in the Edinburgh or Belfast Gazette, respectively.

- 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)?*

The notification format decided by the first meeting of the Parties is not followed in every single respect, but the aim is always to provide the information necessary to 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. This includes sending a notification letter to the affected party.

The letter provides an explanation of the transboundary process, a brief description of the development, links to the relevant documents and details of how to respond to the notification.

- 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 Secretary of State will give the affected Party a reasonable time in which to indicate whether it wishes to participate in the transboundary EIA procedure. If a Party has not responded within the deadline it is assumed that the Party does not wish to participate in the procedure in relation to the application. However, the deadline could be extended if requested.

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

If an affected Party confirms that it wishes to participate in the procedure the Secretary of State will send a copy of the application, the environmental statement and details of the procedures to be followed to that Party. The application documents, including the environmental statement will also be available on the Planning Inspectorate website and links will be provided in the consultation correspondence to directly affected Parties to the relevant part of the website. Where relevant, the affected Party will also be given an opportunity to provide representations on the application and its transboundary impacts through existing government protocols and joint working arrangements. Developers are also encouraged to undertake early consultations with other relevant Parties where they believe there may be significant impacts on the environment of that Party.

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

The affected Party will be provided with the relevant information. It is for the affected Party to decide how they engage with their own public.

- 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?*

It is for the affected Party to implement their own internal notification/consultation process with their public.

- 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?*

The public are notified by site notices, advertisements in local newspapers, the London Gazette (applications in England and Wales) and through the website of the competent authority (i.e. the Planning Inspectorate’s or local planning authority website). For nationally significant projects the public are informed as soon as possible after it has been determined that the project is EIA development (i.e. normally at the screening and/or scoping stage). For other projects, applicants are encouraged to engage in pre-application discussion with the public, but notification that a project is EIA development may only occur on receipt by the local planning authority of an environmental statement.

- 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 content is the same. In addition, all the relevant information is available to the public of the affected Party on the Planning Inspectorate's or local planning authority's website.

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

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)?

Following receipt of a notification from another Party about a project likely to have a significant effect on the environment of the United Kingdom, the notification and any other available papers are sent to the relevant administration/Government Department to enable them to decide whether they wish to participate in the EIA procedure.

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

The Secretary of State will ensure that those authorities which are likely to be concerned by the project by reason of their specific environmental responsibilities and to the public concerned are given an opportunity to forward to the competent authority in the Party of origin their opinion on the information supplied. Where requested, available information relating to the potentially affected environment of the UK can also be provided at this stage.

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

Where the Secretary of State receives information from another Party about a proposed project which is likely to have significant effects on the environment, the Secretary of State will:

(a) enter into consultations with that Party regarding the potential significant effects of the proposed project on the environment and the measures envisaged to reduce or eliminate such effects; and

(b) determine in agreement with that Party a reasonable period, before development consent for the project is granted, during which members of the public may submit representations.

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

The public are notified within a reasonable time through 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.

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 EIA documentation is contained in an 'environmental statement'. There are no legal requirements in the United Kingdom for the form of the environmental statement. It may consist of one or more documents but it must constitute a 'single and accessible compilation'. The environmental statement must contain (Schedule 4 Part 2 of the Regulations):

1. A description of the development comprising information on the site, design and size of the development.
2. A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.
3. The data required to identify and assess the main effects which the development is likely to have on the environment.
4. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects.
5. A non-technical summary of the information provided under paragraphs 1 to 4 of this Part.

It should also contain where relevant (Schedule 4 Part 1):

1. Description of the development, including in particular—
 - (a) a description of the physical characteristics of the whole development and the land-use requirements during the construction and operational phases;
 - (b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
 - (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc) resulting from the operation of the proposed development.
2. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects.

3. A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
 4. A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from—
 - (a) the existence of the development;
 - (b) the use of natural resources;
 - (c) the emission of pollutants, the creation of nuisances and the elimination of waste, and the description by the applicant or appellant of the forecasting methods used to assess the effects on the environment.
 5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
 6. A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.
 7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant or appellant in compiling the required information.
- b. The procedures for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (art. 4, para. 1);*

Scoping is not mandatory in the United Kingdom. For nationally significant infrastructure projects, the applicant has the opportunity to ask the Secretary of State for a formal written opinion on the information to be included in the environmental statement. This is known as a scoping opinion. The Secretary of State must adopt a scoping opinion within 42 days of receiving a scoping request (Regulation 8(6)). Before adopting a scoping opinion the Secretary of State must consult the prescribed consultation bodies, which have 28 days to respond (Regulation 8(11)). The Secretary of State may also consult relevant non-prescribed consultation bodies.

Similar provisions apply to projects subject to other EIA Regulations although the request for a scoping opinion is normally to the planning authority which has to adopt a scoping opinion within 5 weeks (or a longer period where agreed in writing with the person making the request). Where an authority fails to adopt a scoping opinion within the relevant period, the person who requested the opinion may ask the Secretary of State to make a direction as to the information to be provided in the environmental statement (a “scoping direction”).

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

Where alternative approaches to development have been considered, paragraph 4 of Part II of Schedule 4 of the EIA Regulations requires the applicant to include in the environmental statement an outline of the main alternatives, and the main reasons for his choice. While there is no legal requirement for developers to study alternatives, the nature of certain developments and their location may make the consideration of alternative sites a material consideration. In such cases, the environmental statement should record this consideration of alternative sites.

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

As noted in response to 13 (a) above, there is no statutory provision as to the form of an environmental statement. The applicant should send the environmental statement along with all the documents which must normally accompany a planning application to the planning authority (or Planning Inspectorate in the case of a nationally significant infrastructure project). Additionally, the applicant should submit:

- one further copy of the Environmental Statement for onward transmission by the planning authority to the Secretary of State;
- a note of the name of everybody to whom the applicant has already sent, or intends to send, a copy of the Environmental Statement; and
- sufficient further copies of the Environmental Statement as are needed to allow the planning authority to send one to the other consultation bodies.

Applicants should also make copies of the Environmental Statement available to the public. An application must be publicised by site display in at least one place on or near the land to which the application relates for not less than 21 days; and by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.

Where the planning authority are aware of any particular person who is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, they should send a notice to such persons containing the information specified in the Regulations.

For nationally significant infrastructure projects, the Planning Inspectorate will also publish the environmental statement on their website.

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 an affected Party confirms that it wishes to participate in the procedure for which the EIA Regulations provide, the Secretary of State will send to that Party a copy of the application, the environmental statement and details of the procedures to be followed.

For nationally significant infrastructure projects, the application documents, including the environmental statement will also be available on the Planning Inspectorate website and links will be provided in the consultation correspondence to direct Parties to the relevant part of the website.

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;

Where an applicant submits an Environmental Statement with a planning application, the planning authority will publish a notice in the press, post site notices and indicate where documents can be inspected and obtained. The planning authority will consult with statutory consultees, inform persons having an interest, place the environmental statement on the planning register and send copies of the environmental statement to

the Secretary of State. If the local planning authority considers that insufficient information has been supplied they will ask the applicant for further information. The planning authority will then consider any representations on the environmental statement and make a decision on the planning application taking into account the information in the environmental statement, any representations received (including from the consultation bodies and the public) and any other material considerations.

If the applicant submits an Environmental Statement after a planning application has been submitted, the applicant is responsible for publishing the notice in the press, posting site notices and indicating where documents can be inspected and obtained.

- 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;*

When an application for development consent for a nationally significant infrastructure project is received, the Secretary of State must determine whether the application complies with relevant criteria set out in the Planning Act 2008. When deciding whether to accept an application, the Secretary of State must be satisfied that the application has been prepared to a satisfactory standard, whilst having regard to any standards and guidance made under section 37 of the Planning Act.

The Secretary of State will appoint an Examining Authority, which will comprise either a single appointed person or panel to handle the case, depending on its complexity. Any person who has made a relevant representation will be treated as an interested party for the purposes of the examination. Where a person has not submitted a relevant representation within the specified period and wishes to participate at a later stage, the Examining Authority may consider whether to exercise its discretion to allow the person to participate in the examination of the application.

It is for the Examining Authority to decide how the application is to be examined, in compliance with 'Procedure Rules'. The examination of applications is generally carried out in public. This means that all meetings and hearings presided over by an Examining Authority will generally be held in public. The Examining Authority will make an initial assessment of the principal issues arising from the application from its preliminary examination of the application documents.

The Examining Authority will then hold a preliminary meeting after it has made an initial assessment of the application. It will invite the applicant, each statutory party and interested party, each relevant local authority and any other person the Examining Authority think appropriate, giving them at least 21 days' notice. There is not a specified timeframe for when the preliminary meeting is to be held, however, the Secretary of State's expectation is that, in most cases, it should take place within a period from six weeks to two months from receipt of the relevant representations. The Examining Authority will then decide how the application is to be examined in light of the discussions held at the preliminary meeting. It will notify all participants of this procedural decision at the preliminary meeting, or as soon as practicable afterwards.

The role of the Examining Authority is to ensure that all aspects of any given matter are explored thoroughly, especially with regard to the matters fundamental to the decision. When it seems likely that evidence to be given about an application will be

of a specialist nature, or of a level of complexity outside the normal experience of the persons appointed to examine an application, the Examining Authority can request that the Secretary of State appoints one or more assessors to advise and assist them.

The primary means by which the Examining Authority will examine applications will be through the use of written representations. The Examining Authority can also ask written questions and require additional information from anyone at any stage of the examination process, and require that a response is to be made in writing within a period it specifies.

h. The procedures for public hearings domestically;

As explained above, most applications for nationally significant infrastructure projects are examined in public. The applicant is required to publish a notice of the hearing in one or more local newspapers circulating in the locality in which the land in question is situated. The applicant is also required to post a notice of the hearing in places near to the location of the proposed development, and, where within the control of the applicant, post a notice of the hearing on the land itself so as to be visible and legible to members of the public.

If the Examining Authority decides that consideration of oral representations is necessary to ensure adequate examination of the issue, or to ensure an interested party has a fair chance to put forward its case, it must hold an issue-specific hearing. All interested parties will be invited to participate in the issue-specific hearing and, subject to the Examining Authority's powers of control over the conduct of the hearing, will be able to make oral representations on the specific issue or issues being examined at the hearing.

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

This would be a matter for the administration within the territory of the affected Party to determine.

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;

As the affected Party the United Kingdom would have to be guided by the timescale for comment proposed by the Party of origin. If the deadline proposed by the Party of origin was considered to be insufficient to enable consultation with the relevant bodies and public in the United Kingdom, an extension would be requested.

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;

The Secretary of State will arrange for the EIA documentation to be made available, within a reasonable time, both to the authorities which are likely to be concerned by the project by reason of their specific environmental responsibilities, and to the public concerned. The Secretary of State will also ensure that those authorities and the public concerned are given an opportunity, before development consent for the

project is granted, to forward to the competent authority in the Party of origin their opinion on the information supplied

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

There are no formal provisions for examining the EIA documentation of a project in the territory of another Party. Copies of the documents would be made available to the authorities which are likely to be concerned by the project by reason of their specific environmental responsibilities and the public and it would be a matter for them to examine the documents and provide comments to the Party of origin.

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;

As explained above, the UK would provide an affected Party with a copy of the application, the environmental statement (including, a translation of the Non Technical Summary into a relevant language) and any relevant information on the procedures not provided previously. Any comments received from the competent authorities or members of the public of the affected Party would be taken into account in the final decision.

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

The Secretary of State will agree a reasonable consultation period with the affected Party and where no agreement is already in place with that Party, this will be done on a case by case basis. It is considered that a 6 week period is reasonable for nationally significant infrastructure projects and in order to meet the statutory examination deadline it should in any event close no later than the expiry of the first month in the examination period. The town and country planning regulations refer to 'a reasonable time' for the authorities and public of the affected Party to participate.

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

See response to question 13(f). The normal timeframe for consultation responses is 21 days.

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;

The United Kingdom would normally expect the Party of origin to make initial contact with the United Kingdom Espoo point of contact in the Department for Communities and Local Government. The point of contact would then consult other Government Departments and/or Devolved Administrations to establish whether there are likely to be significant effects on the United Kingdom environment and whether the United Kingdom wanted to become involved in the procedure.

Where significant effects are considered likely, the relevant Secretary of State will enter into consultations with the Party of origin regarding the potential significant

effects of the proposed project on the environment and the measures envisaged to reduce or eliminate such effects.

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

The Secretary of State will arrange for the relevant information to be made available, within a reasonable time, both to the authorities in England which are likely to be concerned by the project by reason of their specific environmental responsibilities, and to the public concerned. The deadline for consultation would depend on the timescales set by the Party of origin or as otherwise agreed subsequently.

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;*

For the purposes of the Convention, the term ‘final decision’ relates to the decision by the competent authority (i.e. Secretary of State or local planning authority) on whether or not to grant development consent which entitles the developer to proceed with the project. For many projects, other consents or permits – such as operational permits - will also be required before a facility can be built and operated. Where relevant, the outcome of the EIA procedure should be examined and used for the purposes of granting the permit (in compliance, for example, with Article 5(3) of the Industrial Emissions Directive (2010/75/EU)).

- 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?*

The ‘final decision’ for all projects listed in appendix 1, with the exception of ‘Deforestation of large areas’ (paragraph 17) relates either to the grant of a development consent order (nationally significant infrastructure projects) or planning permission. ‘Consent’ is required from the Forestry Commission for deforestation where this is likely to have significant effects on the environment by virtue of its nature, size or location.

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

Domestically, for nationally significant infrastructure projects, the Secretary of State will provide each interested party with a copy of the statement of reasons for his or her decision to grant or refuse development consent. The statement of reasons, and any development consent order, will be published on the National Infrastructure Planning website. Any written reports of assessors will also be made available on the National Infrastructure Planning website. There are in addition detailed rules on publicising decisions in local and national media, as well as specialist publications for offshore projects – see regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2009 No 2263).

For other projects, where the EIA application was determined by a local planning authority, the authority must inform the Secretary of State (in writing) of the decision; inform the public of the decision, by local advertisement, or by such other means as are reasonable and make available for public inspection on their planning register:

- (i) the decision and conditions attached;
- (ii) the main reasons and considerations on which the decision was based;
- (iii) a description of the main measures to avoid, reduce and, if possible offset the major adverse effects on the environment;
- (iv) details of the public participation process;
- (v) information on the rights to challenge and applicable procedures; and
- (vi) if requested all the information submitted with the application.

Where an affected Party has been consulted on the determination of an application the Secretary of State will inform the affected Party of the decision and shall forward to it a statement of—

- (a) the content of the decision and any conditions attached to it;
- (b) the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public; and
- (c) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development.

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.

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

There are ways in which additional information can be taken into account in relation to a decision already taken on development consent under the Planning Act 2008 (which delivers large infrastructure projects within England and Wales):

- a. the order granting development consent may well have requirements allowing for the detailed delivery of the project consented, that could accommodate taking into account new information;
- b. in any complex project, there are likely to be further permits or consents that are required under other regulatory regimes, and these could take into account additional information;
- c. the applicant (or successor), a person with an interest in the order land or any other person for whose benefit the order has effect may apply for the modification or revocation of the order granting development consent under paragraph 3(4) of Schedule 2 to the Planning Act 2008; and
- d. it is possible for a development consent order to be modified or revoked by the Secretary of State without an application under paragraph 3(7) of Schedule 2 to the Planning Act 2008, either on the grounds that it would be contrary to EU law (or the domestic Human Rights Act 1998) to proceed with the development or on the grounds that the new information constitutes exceptional circumstances such that it is appropriate to modify or revoke the original order.

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);*

There are no specific provisions in UK legislation requiring post-project analysis in relation to transboundary effects. However, monitoring can be required, where appropriate, through conditions attached to a development consent (or to an environmental permit).

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

There are no specific provisions in UK legislation. While the UK has no experience of this, if it became apparent that a project was having significant adverse effects on the environment of another Party, the UK would discuss the matter with the affected Party.

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.*

No

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

No

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.*

No

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?*

Under consideration

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?*

Under consideration

24. *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 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.*

Able Marine Energy Park – Iceland were notified

Dogger Bank Creyke Beck – Belgium, Netherlands, France, Germany, Norway, Denmark and Sweden were notified. Responses were received from the Netherlands and Germany confirming their wish to participate in the process.

Dogger Bank Teesside A and B - Belgium, Netherlands, France, Germany, Norway, Denmark and Sweden were notified. Responses were received from the Netherlands and Germany confirming their wish to participate in the process.

East Anglia One - Belgium, Netherlands, France, Germany, Norway, and Denmark were notified. Responses were received from the Netherlands and Norway confirming their wish to participate in the process, and Germany responded stating they did not wish to be further involved.

Galloper - Belgium, Netherlands, France, Denmark and Sweden were notified. The Netherlands and Sweden responded stating they did not wish to be further involved.

Navitus Wind Park - Belgium, Netherlands, and France were notified.

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.*

No data available.

EXPERIENCE IN THE TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE DURING THE PERIOD 2010–2012

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.*

Not known.

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?*

There are no specific requirements relating to how much information is included in the EIA documentation. However, the environmental statement produced by the developer should include at least:

- (a) a description of the project comprising information on the site, design and size of the project;
- (b) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- (c) the data required to identify and assess the main effects which the project is likely to have on the environment;
- (d) an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects;
- (e) a non-technical summary of the information referred to in points (a) to (d).

The amount of information required would therefore depend on the nature, location and complexity of a project, which is case specific.

- 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?*

The need for translation will depend upon the language differences of the affected Parties. The developer would normally be expected to provide a copy of the Non Technical Summary in the relevant language(s). However, if requested by the affected Party, and where it is reasonable to do so, the developer should also translate other relevant documents.

- 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)?*

No information available.

- 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?*

No information available

- 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;*

No information available.

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

The UK has not carried out post-project analysis specifically in relation to transboundary impacts. However, as explained above, many facilities are subject to on-going monitoring as a requirement of, for example, an environmental permit.

- 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.);*

Not applicable.

- 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"?*

No information available

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

Contact should be made with the UK focal point in the first instance.

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

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);*

No

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

No

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

No

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?*

Not over the reporting period.

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.*

No.

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?*

No.

SUGGESTED IMPROVEMENTS TO THE REPORT

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

The questionnaire could be simplified by combining some of the questions.

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