
Questionnaire for the report of [NAME OF COUNTRY] on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context in the period 2013–2015

Information on the focal point for the Convention

1. Name and contact information:

Information on the point of contact for the Convention

2. Name and contact information (if different from above):

Information on the person responsible for preparing the report

3. Country: France
4. Surname:
5. Forename:
6. Institution: Ministère de l'environnement, de l'énergie et de la mer, Commissariat général au développement durable
7. Postal address: Tour Séquoia, 1 place Carpeaux, 92055 La Défense
8. E-mail address:
9. Telephone number:
10. Fax number:
11. Date on which report was completed:

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.

Please do not reproduce the text of the legislation itself but summarize and explicitly refer to the relevant provisions transposing the Convention text (e.g., EIA Law of the Republic of ..., art. 5, para. 3, of Government Resolution No. ..., para. ... item...)

Article 1

Definitions

I.1. Is the definition of impact for the purpose of the Convention the same in your legislation as in article 1?

- (a) Yes
- (b) Yes, with some differences (please provide details):
- (c) No (please provide the definition):
- (d) There are no definitions of impact in the legislation

Your comments: There is no definition, strictly speaking, of impact in the legislation regarding the environmental assessment of projects, but article R.122-5 (II) states that an impact assessment presents: [TRANSLATION] "an analysis of the negative and positive, direct and indirect, temporary (including during the work phase) and permanent, short, medium and long-term impacts of the project on the environment, in particular on the elements listed at 2 and on energy consumption, convenience for neighbours (noise, vibrations, smells, light), hygiene, health, safety, public sanitation, and the combination and interaction of these effects with each other".

Paragraph 2 referred to above states: [TRANSLATION] "an analysis of the initial state of the zone and areas likely to be affected by the project, in particular with regard to the population, fauna and flora, natural habitats, sites and landscapes, physical assets, ecological continuities as defined by article L. 371-1, biological balance, climate variables, cultural and archeological heritage, soil, water, air, noise, natural, agricultural, forest, marine, or recreational spaces as well as the interrelationships between these elements."

I.2. Is the definition of transboundary impact for the purpose of the Convention the same in your legislation as in article 1? Please specify each below.

- (a) Yes
- (b) Yes, with some differences (please provide details):
- (c) No (please provide the definition):

-
- (d) There are no definitions of transboundary impact in the legislation

Your comments: There is no definition of transboundary impact; French law applies the same concept of impact to internal and transboundary contexts.

- I.3. Please specify how major change is defined in your national legislation:

There is no definition.

- I.4. How do you identify the public concerned? Please specify (more than one option may apply):

- (a) Based on the geographical location of the proposed project

(b) By making the information available to all members of the public and letting them identify themselves as the public concerned

- (c) By other means (please specify):

Your comments: There are no criteria for identifying the public concerned because French law uses the word "public" without the qualifier "concerned" in legislative and regulatory texts regarding environmental assessments. There are therefore no limiting *a priori criteria regarding information and the public's participation*. In practice, the limits of public inquiries or granting public access are determined by the geographic location of the project. As such, anybody can participate, even if the person does not live in the affected territory.

Article 2 General provisions

- I.5. Provide legislative, regulatory, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2):

- (a) Law on EIA: Act No. 2010-788 of 12 July 2010 on the National Commitment to the Environment

- (b) EIA provisions are transposed into another law(s) (please specify):

(c) Regulation (please indicate number/year/name): Decree No. 2011-2018 of 29 December 2011 on public inquiry reform and Decree No. 2011-2019 of 29 December 2011 on the reform of impact assessments.

- (d) Administrative (please indicate number/year/name):

- (e) Other (please specify):

Your comments: Public participation measures that allow the public to consult and provide feedback on information in the environmental assessment are found in the Environmental Code: articles L. 123-7 and L. 123-8, R. 122-4, R. 122-10 and R. 123-9 (paragraph 10), R. 123-27 to R. 123-33 of the Environmental Code.

- I.6. Please describe any differences between the list of activities in your national legislation and appendix I to the Convention, if any:

(a) There is no difference, all activities are transposed in the national legislation as is

(b) It differs slightly (please specify):

Your comments: In accordance with the declaration by French authorities on the ratification of the Convention, French authorities apply the Convention through the relevant European Directive, Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

Article 230 of Act No. 2010-788 of 12 July 2010, and Decree No. 2011-2019 of 29 December 2011, noted above, modified the scope of impact assessments in France.

I.7. Identify the competent authority/authorities responsible for carrying out the EIA procedure in your country (please specify):

(a) There are different authorities at national, regional, local levels

(b) They are different for domestic and transboundary procedures

(c) Please name the responsible authority/authorities:

(d) There is no single authority responsible for the entire EIA procedure:

Your comments: The competent authorities for EIA procedure are:

- Competent authorities for authorizing projects (State, prefects, territorial communities). These authorities differ depending on the type of procedure required to submit authorization requests.

- Environmental authorities. Locally: regional prefect, and nationally: Minister of the Environment (in rare cases) or the environmental authority of the Conseil Général de l'Environnement et du développement durable (Ae CGEDD) and the authorities consulted (health, etc.).

With regard to transboundary consultation procedures, the departmental prefect has a specific responsibility. When the competent authority of a project with transboundary impacts is a territorial community, the departmental prefect submits the file to the Minister of Foreign Affairs for the purpose of granting jurisdiction to the affected Party (article R. 122-10 of the Environmental Code). If France is the affected Party, the French authority responsible for the project will transmit the file to the prefect of the department involved, who will decide whether to hold a public inquiry, if deemed necessary (article R. 122-10).

I.8. Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it:

(a) No

(b) Yes (please specify):

Your comments: The environmental integration office of the office of the commissioner of sustainable development at the Ministry of Ecology, Sustainable Development and Energy is the focal point for the Espoo Convention and must be kept informed of transboundary procedures.

I.9. How does your country, as Party of origin and as affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to the Party of origin's public, as required in article 2, paragraph 6 (please explain):

In its ratification of the Convention, France included the following interpretative "the Convention implies that it is the responsibility of each Party to ensure the public distribution within its territory of the environmental impact assessment documentation, inform the public and collect its comments, except where different bilateral arrangements apply."

Regarding the consultations for which France is the affected Party, article R. 122-10 of the Environmental Code provides that: [TRANSLATION] "II. When another member State of the European community or party to the February 25, 1991, Convention on Environmental Impact Assessment in a Transboundary Context serves notice to a French authority about a project likely to have a significant impact on the environment in France, the authority served shall transmit the file to the prefect of the department in question. If the prefect so served decides to hold a public inquiry, a timeline will be set with the authorities of the State that originated the notice. The prefect shall communicate the results of the consultation to the State that originated the notice and inform the Minister of Foreign Affairs. The public inquiry is organized under the conditions set out in section 3 of Chapter III of this Title."

Article 3 Notification

I.10. As Party of origin, when do you notify the affected Party (art. 3, para. 1)? Please specify:

- (a) During scoping
- (b) When the EIA report has been prepared and the domestic procedure started
- (c) After finishing the domestic procedure
- (d) At other times (please specify):

Your comments: The prefect must serve this notice once a decision has been made to hold a public consultation, namely at the last moment provided under the Convention. This seems appropriate as it guarantees that the file transmitted is complete (the report describing the impact on the environment and the final version of the application are available at this stage). This is when notices in France are served (public, environmental authority, commissions and other State services). This leaves sufficient time for the affected country to serve its notice.

I.11. Please define the format of notification:

- (a) It is the format as decided by the first meeting of the Parties in its decision I/4 (ECE/MP.EIA/2, annex IV, appendix)
- (b) The country has its own format (please attach a copy)
- (c) No official format used

Your comments:

I.12. As a Party of origin, what information do you include in the notification (art. 3, para. 2)? Please specify (more than one options may apply):

- (a) The information required by article 3, paragraph 2
- (b) The information required by article 3, paragraph 5
- (c) Additional information (please specify):

Your comments:

I.13. As a Party of origin, does your national legislation contain any provision on receiving a response to the notification from the affected Party in a reasonable time frame (art. 3, para. 3, “within the time specified in the notification”)? Please specify:

- (a) National legislation does not cover the time frame
- (b) Yes, it is indicated in the national legislation (please indicate the time frame):

(c) It is determined and agreed with each affected Party case by case in the beginning of the transboundary consultations (please indicate the average length in weeks):

Your comments: Regarding the notification, there is no time frame provided in national legislation for receiving a response from the affected Party.

Regarding the participation procedure, once the State has responded, the deadline for the participation of the public of the State involved is the same as that set out in domestic

law (Article L. 123-9: 30 days minimum). However, it is understood that it could be extended (Article R. 122-10, reproduced below). Moreover, the order to commence the public inquiry must be published at least 15 days before it begins (Article L. 123-10)

Article R. 122-10: [TRANSLATION] *I.-When it notes that a project is likely to have significant environmental impacts in another State member of the European Union or party to the February 25, 1991, Convention on the Environmental Impact Assessment in a Transboundary Context signed at Espoo, or when petitioned by the State likely to be affected by the project, the competent authority for making a decision to authorize, approve or execute the project shall notify it without delay of the order to commence a public inquiry and transmits a copy of the investigation file. The non-technical summary of the impact study noted at IV of article R. 122-5 and the manner in which the public inquiry fits into the administrative procedure are translated, if necessary, into a language of the affected State, with translation fees covered by the petitioner or project authority. The notice of the order to commence an inquiry also sets the deadline for the authorities of that State to indicate their intention to participate in the public inquiry. The public inquiry cannot commence before the expiration of that deadline. The deadlines for regulatory procedures that apply to the projects in question are extended, when necessary, to reflect the deadline for the foreign authorities' consultations."*

Please specify the consequence if a notified affected Party does not comply with the time frame, and the possibility of extending a deadline:

Many initiatives can be taken, but they are not defined in the regulations:

- a reminder by the country or origin indicating to the affected country that it has not received a response and indicating that it will provide additional time;
- concluding the project order with no response from the affected country (if it is a minor issue and all indications are that there will be no specific requests from the affected country).

I.14. How do you inform the public and authorities of the affected Party (art. 3, para 8)? Please specify:

(a) By informing the point of contact to the Convention listed on the Convention website¹

(b) Other (please specify):

Your comments:

I.15. On what basis is the decision made to participate (or not) in the transboundary EIA procedure as affected Party (art. 3, para. 3)? Please specify:

(a) Notified ministry/authority of the affected Party responsible for EIA decides on its own based on the documentation provided by Party of origin

(b) Based on the opinions of the competent authorities of the affected Party

(c) Based on the opinions of the competent authorities and that of public of the affected Party

(d) Other (please specify):

Your comments: When the French focal point is identified, a decision is made based on the opinions of entities it consults, which vary depending on the project (branches of the Ministry of the Environment or other ministries, local State and territorial community services, environmental authorities). Since it involves organizing a local public consultation, the prefect involved will make the decision (article R. 122-10 or the Environmental Code). He makes the decision based on the importance of the potential impacts of the project on the environment in his territory.

I.16. If the affected Party has indicated that it intends to participate in the EIA procedure, how are the details for such participation agreed, including the time frame for consultations and the deadline for commenting (art. 5)? Please specify:

(a) Following the rules and procedures of the Party of origin

(b) Following the rules and procedures of the affected Party

(c) Other (please specify):

Your comments: See previous answers (in particular questions I.9 and I.13). Participation of the public on the territory of the party affected by a project on French territory is under the jurisdiction of that party. To participate in consultations on French territory, the consultation deadlines may be extended (art R. 122-10).

¹ List available from http://www.unece.org/env/eia/points_of_contact.htm.

Article 4

Preparation of the environmental impact assessment documentation

I.17. How do you ensure sufficient quality of the EIA documentation as Party of origin?
Please specify:

(a) The competent authority checks the information provided and ensures it includes all information required under appendix II as a minimum before making it available for comments

(b) By using quality checklists

(c) There are no specific procedures or mechanisms

(d) Other (please specify):

Your comments: Initiating departments perform checks, in particular regarding the completeness of the impact assessment.

I.18. How do you determine the relevant information to be included in the EIA documentation in accordance with article 4, paragraph 1? Please specify (more than one option may apply):

- (a) By using appendix II
- (b) By using the comments received from the authorities concerned during the scoping phase, if applicable
- (c) By using the comments from members of the public during the scoping phase, if applicable
- (d) As determined by the proponent based on its own expertise
- (e) By using other means (please specify):

Your comments:

I.19. How do you determine “reasonable alternatives” in accordance with appendix II, paragraph (b)?

- (a) On a case-by-case basis
- (b) As defined in the national legislation (please specify):
- (c) Other (please specify):

Your comments: In accordance with the statement by the French authorities during the ratification of the Convention, French authorities apply the Convention through the relevant European directive, Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

Article 5

Consultations on the basis of the environmental impact assessment documentation

(a) Public participation

I.20. How can the public concerned express its opinion on the EIA documentation of the proposed project (art. 5)? Please specify (more than one option may apply):

As Party of origin

- (a) By sending comments to the competent authority/focal point
- (b) By taking part in a public hearing
- (c) Other (please specify): through the public inquiry procedure on French territory.

As affected Party

- (d) By sending comments to the competent authority/focal point
- (e) By taking part in a public hearing
- (f) Other (please specify):

Your comments:

I.21. Please indicate whether your national EIA legislation requires the organization of a public hearing on the territory of the affected Party in cases where your country is the country of origin:

- (a) Yes
- (b) No

Your comments: Under article R. 122-1, the affected public in the Party of origin can participate in the public inquiry organized in France but there is no provision for a public hearing in the affected State. The affected Party decides on the manner in which it wishes to participate in the public inquiry organized in France (for example, by organizing a public hearing in its own country and sharing its findings with France).

I.22. Please indicate whether your national EIA legislation requires the organization of public hearings in cases where your country is the affected Party:

- (a) Yes
- (b) No

Your comments: If the prefect involved in the project considers it necessary to comply with the consultation, under article R. 122-10 of the Environmental Code, a public inquiry is organized. Offices are set up for the public inquiry. Members of the public can meet with the person in charge of leading the inquiry to share their observations on the matter submitted for consultation. It is also possible, but not systematic, for public meetings to be organized. For a more significant project, it is also possible for the State to decide on another consultation method.

(b) Consultations

I.23. Does your national EIA legislation have any provision on the organization of transboundary consultations (expert, joint bodies, etc.) between the authorities of the concerned Parties? Please specify:

- (a) Yes, it is obligatory
- (b) No, it does not have any provision on that
- (c) It is optional (please specify):

Your comments:

**Article 6
Final decision**

I.24. Please indicate all points below that are covered in a final decision related to the implementation of the planned activity (art. 6, para. 1):

- (a) Conclusions of the EIA documentation
- (b) Comments received in accordance with article 3, paragraph 8, and article 4, paragraph 2
- (c) Outcome of the consultations as referred to in article 5

-
- (d) Outcomes of the transboundary consultations
 - (e) Comments received from the affected Party
 - (f) Mitigation measures

(g) Other (please specify): French law does not have an exhaustive list of what is to be covered in the decisions authorizing projects subject to EIA. The final decision contains "visas" that include these elements. The avoidance, reduction and compensation measures can be found in the decision itself. Moreover, article L. 122-1 (IV) of the Environmental Code states: [TRANSLATION] "The decision of the competent authority authorizing the petitioner or contracting authority to carry out the project takes into consideration the impact assessment, the notice of the State's administrative authority with jurisdiction over environmental issues and the result of the public consultation"; the public consultation includes transboundary consultations.

I.25. 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):

- (a) Yes
- (b) No

Your comments: The current text does not make any distinction (see article L. 122-1 cited in the preceding question.) The current environmental assessment reform project intends to specifically include that transboundary consultations are taken into consideration.

I.26. Is there any regulation in the national legislation of your country that ensures the implementation of the provisions of article 6, paragraph 3?:

- (a) No
- (b) Yes (please specify):

Your comments:

I.27. Do all activities listed in appendix I (items 1-22) require a final decision to authorize or undertake such an activity?:

- (a) Yes
- (b) No (please specify those that do not):

Your comments:

I.28. For each type of activity listed in appendix I that does require a final decision, please indicate the legal requirements in your country that identify what is regarded as the "final decision" to authorize or undertake such an activity (art. 6 in conjunction with art. 2, para. 3), and the term used in the national legislation to indicate the final decision in the original language:

Your comments:

Article 7

Post-project analysis

I.29. Is there any provision regarding post-project analysis in your national EIA legislation (art. 7, para. 1)?:

(a) No

(b) Yes (please specify the main steps to be taken and how the results of it are communicated):

Your comments: Since 2012, French regulations (Decree No. 2011-2019: article R. 122-5, R. 122-14 and R. 122-15 of the Environmental Code) include mandatory monitoring of the impact of projects on the environment or human health and monitoring the results and the effect of the measures designed to avoid, reduce and, if possible, compensate for these impacts on the environment and human health. The monitoring measures and conditions must be noted in the decision authorizing the project.

This post-project analysis consists of a presentation of the status of these measures, through one or more reports to review the effectiveness and sustainability of these measures for a given period. The method of transmission of these results is not stated in the texts but is determined on a case-by-case basis by the competent authority for authorizing the project. This authority transmits the report(s) to the competent authority for environmental matters.

Article 8

Bilateral and multilateral cooperation

(a) Agreements

I.30. Does your country have any bilateral or multilateral agreements based on the Convention (art. 8, appendix VI)?:

(a) No

(b) Yes Please specify with which countries:

Discussions are ongoing between Belgium and the Nord Pas-de-Calais region (which became Nord Pas-de-Calais Picardie) to implement a bilateral agreement.

If publicly available, please also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.

I.31. What issues do these bilateral agreements cover (appendix VI)? (more than one option may apply):

(a) Specific conditions of the subregion concerned

(b) Institutional, administrative and other arrangements

(c) Harmonization of the Parties' policies and measures

(d) Developing, improving, and/or harmonizing methods for the identification, measurement, prediction and assessment of impacts, and for post-project analysis

(e) Developing and/or improving methods and programmes for the collection, analysis, storage and timely dissemination of comparable data regarding environmental quality in order to provide input into the EIA

(f) Establishment of threshold levels and more specified criteria for defining the significance of transboundary impacts related to the location, nature or size of proposed activities

(g) Undertaking joint EIA, development of joint monitoring programmes, intercalibration of monitoring devices and harmonization of methodologies

(h) Other, please specify:

Your comments:

(b) Procedural steps required by the national legislation

I.32. Please describe the steps required in your national legislation for a transboundary EIA procedure:

(a) When EIA in a transboundary context is part of a domestic EIA procedure: See previous answers (in particular at questions I.9 and I.13). An EIA is always included in a national EIA procedure as described in the articles of the Environmental Code.

(b) When EIA in a transboundary context is a separate procedure (please provide of how this procedure links to the domestic procedure and whether the steps are different): No measures in the French legislation provide for this scenario.

Alternatively, this question can be answered or supported by providing a schematic flowchart showing these steps.

Alternatively, this question can be answered or supported by providing a schematic flowchart showing these steps.

Your comments:

I.33. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?:

(a) No

(b) Yes (please specify):

(i) Special provisions:

(ii) Informal arrangements:

Your comments:

I.34. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for nuclear power plants (NPPs)?:

(a) No

(b) Yes (please specify):

(i) Special provisions:

(ii) Informal arrangements:

Your comments:

Part two

Practical application during the period 2013–2015

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. 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.

II.1. Does your country object to the information on transboundary EIA procedures that you provide in this section being compiled and made available on the website of the Convention? Please specify (indicate "yes" if you object):

(a) Yes

(b) No

Your comments:

1. Experience in the transboundary environmental impact assessment procedure during the period 2013–2015

Cases during the period 2013–2015

II.2. If your country's national administration has a record 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 them in the tables II.2 (a) and II.2 (b) below (adding additional rows as needed).

Table II.2 (a)

Transboundary EIA procedures: As Party of origin

Name of case	Starting date (date notification sent)	Length of the main steps in months			Final decision (date of issuing, if information is available)
		Submission of the environmental report	Transboundary consultations (expert), if any	Public participation, including public hearing, if any	
1.					
2.					
3.					
4.					
...					

Your comments: **No procedure during the period 2013-2015.**

Table II.2 (a)

Transboundary EIA procedures: As affected Party

Name of case	Starting date (date notification sent)	Length of the main steps in months			Final decision (date of issuing, if information is available)
		Submission of the environmental report	Transboundary consultations (expert), if any	Public participation, including public hearing, if any	
1.					
2.					
3.					
4.					
...					

Your comments:

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.

II.3. Translation is not addressed in the Convention. How has your country addressed the question of translation? What difficulties has your country as Party of origin and affected Party experienced relating to translation and interpretation, and what solutions has your country applied? (Please specify, among others, the parts and type of the documentation translated, language, costs, etc.):

- (a) As Party of origin:
- (b) As affected Party:

II.4. Describe any difficulties that your country has encountered during transboundary public participation (expert consultation, public hearing, etc.), including on issues of timing, language and the need for additional information:

II.5. Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects or that of an NPP?:

- (a) Yes
- (b) No

II.6. If you answered yes to question II.5, please provide information on your country's experiences describing, for example, means of cooperation (e.g., contact points, joint bodies, bilateral agreements, special and common provisions, etc.), institutional arrangements, and how practical matters are dealt with (e.g., translation, interpretation, transmission of documents, etc.):

- (a) For joint cross-border projects:
- (b) For NPPs:

II.7. Name examples of good practice cases, whether complete cases or good practice elements (e.g., notification, consultation or public participation) within cases:

II.8. Would your country like to introduce a case in the form of a Convention “case study fact sheet”?

- (a) No
- (b) Yes (please indicate which cases):

II.9. Has your country carried out post-project analyses in the period 2013–2015:

- (a) No
- (b) Yes (please indicate which projects, along with the challenges in implementation and any lessons learned):

2. Experience in using the guidance in 2013–2015

II.10. Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online?:

(a) Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context (ECE/MP.EIA/7):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

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

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

(c) Guidance on the Practical Application of the Espoo Convention (ECE/MP.EIA/8):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

3. Clarity of the Convention

II.11. Has your country had difficulties implementing the procedures defined in the Convention, either as Party of origin or as affected Party, because of a lack of clarity of the provisions?:

- No
- Yes (please indicate which provisions and how they are unclear):

4. Suggested improvements to the report

II.12 Please provide suggestions for how this report may be improved.