

Questionnaire for the report of [NAME OF COUNTRY] on the implementation of the Protocol on Strategic Environmental Assessment in the period 2013–2015

Information on the focal point for the Protocol

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Information on the point of contact for the Protocol

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Part one

Current legal and administrative framework for the implementation of the Protocol

In this part, please describe the legal, administrative and other measures taken in your country to implement the provisions of the Protocol. This part should describe the framework for your country's implementation, and not experience in the application of the Protocol.

Article 3

General provisions

I.1. Please provide the main legislative, regulatory and other measures you have adopted in your country to implement the Protocol (art. 3, para. 1) (more than one option may apply):

(a) Law on SEA (please indicate number/year/name): The provisions of the Protocol are implemented by the amended *Loi du 22 mai 2008 relative à l'évaluation des incidences de certains plans et programmes sur l'environnement* [hereafter referred to as the amended Act of 22 May 2008], which incorporated *Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment* into its national legislation. Furthermore, Luxembourg approved the Protocol through the *Loi du 28 mai 2008 portant approbation du Protocole à la Convention sur l'évaluation de l'impact sur l'environnement dans un contexte transfrontière, relatif à l'évaluation stratégique environnementale, fait à Kiev, le 21 mai 2003*.

(b) SEA provisions are transposed into another law(s) (please specify): /

(c) Regulation (please indicate number/year/name): /

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

(e) Other (please specify): /

Your comments: /

Article 4

Field of application concerning plans and programmes

I.2. List the types of plans and programmes that require SEA in your legislation:

Under article 2.2 of the amended Act of 22 May 2008, a strategic environmental assessment is mandatory for all plans and programmes:

a) that are prepared for agriculture, forestry, fisheries, energy, industry, transportation, waste management, water management, telecommunications, tourism, town and country planning and land use and that establish the framework for future development consent of projects listed in Annexes I and II of the amended *Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment*, or

b) that, given their likely effects on sites, have been determined to require an assessment under article 12 of the *Loi modifiée du 19 janvier 2004 concernant la protection de la nature et des ressources naturelles*.

I.3. Explain how you define whether a plan or programme “set the framework for future development consent” (art. 4, para. 2):

By a case-by-case review based on criteria defined in Annexes I and II of the amended Directive 85/337/EEC.

I.4. Explain how the terms “plans and programmes ... which determine the use of small areas at local level” (art. 4, para. 4) are interpreted in your legislation:

By a case-by-case review, in accordance with relevant criteria set out in article 3 of the amended Act of 22 May 2008 using Annex II of Directive 2001/42/EC. In practice, the article applies primarily in the case of ad hoc changes to a general development plan.

I.5. Explain how you identify in your legislation a “minor modification” to a plan or programme (art. 4, para. 4):

There is no definition. The determination that a plan or programme has undergone a minor modification is based on a case-by-case evaluation in accordance with the relevant criteria set out in article 3 of the amended Act of 22 May 2008. Under article 2.3 of the amended Act of 22 May 2008, the Minister of the Environment issues an opinion regarding whether there is a requirement to conduct an environmental assessment in the event of a minor modification to a plan or programme.

Article 5 Screening

I.6. How do you determine which other plans and programmes should be subject to a SEA as set out in article 4, paragraphs 3 and 4, in accordance with article 5, paragraph 1? Please specify:

- (a) On a case-by-case basis
- (b) By specifying types of plans and programmes
- (c) By using a combination of (a) and (b)
- (d) Other (please specify): /

Your comments: /

I.7. Do you provide opportunities for the public concerned to participate in screening and/or scoping of plans and programmes in your legislation (art. 5, para. 3, and art. 6, para. 3)?:

No

Yes (please specify (more than one option may apply)):

- (a) By sending written comments to the competent authority
- (b) By sending written comments to the local municipality
- (c) By providing answers to a questionnaire
- (d) By taking part in a public hearing

(e) By sending written comments to the consultants/SEA experts or persons preparing the plans and programmes

(f) Other (please specify): /

Your comments: Under article 12 of the amended Act of 22 May 2008, the public may make an application to the administrative tribunal to quash decisions made under article 2.7 (publication of the conclusion to not conduct a strategic environmental assessment) and article 6.3 (determination of the scope and level of detail of the information that must be provided in the environmental impact assessment rapport) of the Act.

In addition, pursuant to article 12, such recourse is also available to incorporated associations of national importance certified under article 29 of the *Loi modifiée du 10 juin 1999 relative aux établissements classés*.

Article 6 Scoping

I.8. How do you determine what is the relevant information to be included in the environmental report, in accordance with article 7, paragraph 2 (art. 6, para. 1)? Article 6.3 of the amended Act of 22 May 2008 provides that the minister under whose jurisdiction the environment falls makes a decision or forms an opinion, as appropriate, on the scope and level of detail of the information that must be contained in the environmental effects report. The views of other authorities with specific responsibilities for the environment are also taken into consideration. The environmental report must be prepared by a person or public or private company certified under the *Loi du 21 avril 1993 relative à l'agrément de personnes physiques ou morales privées ou publiques, autres que l'Etat, pour l'établissement de tâches techniques d'étude et de vérification dans le domaine de l'environnement*.

Article 7 Environmental report

I.9. How do you determine "reasonable alternatives" in the context of the environmental report (art. 7, para. 2)? Please specify:

- (a) On a case-by-case basis
- (b) As defined in the national legislation (please specify): /
- (c) By using a combination of (a) and (b)
- (d) Other (please specify): /

Your comments: /

I.10. How do you ensure sufficient quality of the reports? Please specify:

- (a) The competent authority checks the information provided and ensures it includes all information required under annex IV 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): The Minister of the Environment and other authorities with specific responsibilities for the environment make a determination on the quality of the environmental reports via an opinion, in accordance with article 7.2 of the amended Act of 22 May 2008. In doing so, the Minister of the Environment verifies, among other things, whether the reports contain at least all information set out in article 5 of the amended Act of 22 May 2008 (Annex IV). For purposes of administrative streamlining, the public consultation and the consultation of authorities with responsibility for the environment occur at the same time. In addition, the environmental report must be prepared by a person or public or private company certified under the *Loi du 21 avril 1993 relative à l'agrément de personnes physiques ou morales privées ou publiques, autres que l'Etat, pour l'établissement de tâches techniques d'étude et de vérification dans le domaine de l'environnement.*

Your comments: In the event of the revamping of a general development plan, a guide has been published to clarify the strategic environmental assessment procedure and to standardize the content of reports on environmental effects.

Article 8

Public participation

I.11. How do you ensure the “timely public availability” of draft plans and programmes and the environmental report (art. 8, para. 2)? Please specify (more than one option may apply):

- (a) Through public notices
- (b) Through electronic media
- (c) Through other means (please specify): Pursuant to article 7.2 of the amended Act of 22 May 2008, electronic advertising can be complemented by information meetings convened at the initiative of the authority responsible for the plan or programme.

Your comments: /

I.12. How do you identify the public concerned (art. 8, para. 3)? Please specify (more than one option may apply):

- (a) Based on the geographical location of the plans and programmes
- (b) Based on the environmental effects (significance, extent, accumulation, etc.) of the plans and programmes
- (c) By making the information available to all members of the public and letting them identify themselves as the public concerned
- (d) By other means (please specify): /

Your comments: Given that the public is made aware of the purpose of the plan or programme and the environmental effects report through publication of excerpts in at least four daily newspapers printed and published in Luxembourg, information on the publication is accessible to the entire population.

I.13. How can the public concerned express its opinion on the draft plans and programmes and the environmental report (art. 8, para. 4)? Please specify (more than one option may apply):

- (a) By sending comments to the relevant authority/focal point x
- (b) By providing answers to a questionnaire
- (c) Orally
- (d) By taking part in a public hearing
- (e) Other (please specify): Pursuant to article 7.1 of the amended Act of 22 May 2008, interested parties can provide comments and suggestions using the electronic medium via which the environmental report was published, or can forward their written comments directly to the authority responsible for the plan or programme.

Your comments: /

I.14. Do you have a definition in your legislation of the term “within a reasonable time frame” (art. 8, para. 4)? Please specify:

- (a) No, the time frame is determined by the number of days fixed for each commenting period
- (b) No, it is defined case by case
- (c) Yes (please provide the definition):
- (d) Other (please specify): Article 7.1 of the amended Act of 22 May 2008 states that all interested parties can provide comments and suggestions within 45 days following the start of publication by which the public is made aware of the purpose of the plan or programme and the environmental effects report. The responsible authority of the plan or programme will make the entire file available for consultation by interested parties for a 30-day period from the date of publication.

Your comments: /

Article 9

Consultation with environmental and health authorities

I.15. How are the environmental and health authorities identified (art. 9, para. 1):

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

Your comments:

With respect to the general development plans of communes, an ad-hoc administrative practice has been implemented to consult the authorities involved

I.16. How are the arrangements for informing and consulting the environmental and health authorities determined (art. 9, para. 4):

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

Your comments:

I.17. How can the environmental and health authorities express their opinion (art. 5, para. 2, art. 6, para. 2, and art. 9, para. 3):

- (a) By sending comments
- (b) By providing answers to a questionnaire
- (c) In a meeting
- (d) By other means (please specify)

Your comments:

Article 10

Transboundary consultations

I.18. As a Party of origin, when do you notify the affected Party (art. 10, para. 1)? Please specify:

- (a) During scoping
- (b) When the draft plan or programme and the environmental report have been prepared
- (c) At other times (please specify): /

Your comments: Given that the environmental assessment must be conducted by the authority responsible for the plan or programme (article 4 of the Act of 22 May 2008), it is up to that authority to notify the affected Party.

I.19. As a Party of origin, what information do you include in the notification (art. 10, para. 2)? Please specify:

- (a) The information required by article 10, paragraph 2
- (b) The information required by article 10, paragraph 2, plus additional information (please specify): /

Your comments: /

I.20. As a Party of origin, does your legislation indicate a reasonable time frame for the transmission of comments from the affected Party (art. 10, para. 2)? Please specify:

(a) No

(b) Yes (please indicate how long): /

Your comments: /

I.21. If the affected Party has indicated that it wishes to enter into consultations, how are the detailed arrangements, including the time frame for consultations, agreed (art. 10, paras. 3 and 4)? Please specify:

(a) Following those of the Party of origin

(b) Following those of the affected Party

(c) Other (please specify): Within the framework of bilateral relations between the two States affected, it will be ensured that the authorities and public of the State whose territory is likely to be significantly affected are informed and have an opportunity to provide their comments within a reasonable time frame.

Your comments: /

Article 11 Decision

I.22. When a plan or programme is adopted, explain how your country ensures, in accordance with article 11, paragraph 1, that due account is taken of:

(a) The conclusions of the environmental report

(b) Mitigation measures

(c) Comments received in accordance with articles 8 to 10

Your comments: Article 9 of the amended Act of 22 May 2008 states that the environmental effects report, the comments and suggestions received during the consultation process, and the results of transboundary consultations must be taken into consideration in the development of the plan or programme in question prior to its adoption or submission to the legislative or regulatory process.

Under the provisions of article 10 of the amended Act of 22 May 2008, pursuant to which the responsible authority of the plan or programme is required to inform the public regarding the consideration of the recommendations of the environmental report and the public consultation, the authority must make a clear determination on the implementation of the recommendations.

In the case of general development plans, the Minister of the Environment can require that certain measures be incorporated into the plan so that it can be approved in accordance with the provisions of the *Loi modifiée du 19 janvier 2004 concernant la protection de la nature et des ressources naturelles*.

I.23. How and when do you inform your own public and authorities (art. 11, para. 2)? Under article 10 of the amended Act of 22 May 2008, the public and authorities are informed as follows: the public as well as the Minister and other authorities having specific responsibilities for the environment whose views were heard pursuant to the provisions of article 6, paragraph 3, are informed of the adoption of the plan or programme.

Advertising is by electronic media and by publication of excerpts in at least four daily newspapers printed and published in Luxembourg.

The following documents are made available within one month of the date of adoption of the plan or programme:

a) the plan or programme as adopted;

b) a statement summarizing how the environmental considerations were integrated into the plan or programme, how the environmental effects report prepared in accordance with articles 5 and 6, the comments and suggestions received under article 7 and the results of consultations held under article 8 were taken into consideration as provided for under article 9, and the rationale for the selection of the plan or programme as adopted, given the other reasonable solutions that were considered;

c) the monitoring measures taken under article 11.

I.24. How do you inform the public and authorities of the affected Party (art. 11, para. 2)? Please specify:

(a) By informing the point of contact

(b) By informing the contact person of the ministry responsible for SEA, who then follows the national procedure and informs his/her own authorities and public

(c) By informing all the authorities involved in the assessment and letting them inform their own public

(d) Other (please specify): /

Your comments: See case by case.

Article 12 Monitoring

I.25. Describe the legal requirements for monitoring the significant environmental, including health, effects of the implementation of the plans and programmes adopted under article 11 (art. 12, paras. 1 and 2):

The provisions respecting the monitoring of significant environmental effects are set out in article 11 of the amended Act of 22 May 2008 as follows:

1. In order to identify any unanticipated adverse effects resulting from the implementation of a plan or programme at an early stage and to take appropriate corrective action, the authority responsible for the implementation carries out monitoring of potential unanticipated environmental effects of the plan or programme in question.

2. The terms and conditions respecting the monitoring contemplated in paragraph 1 are established by Grand-Ducal regulation. The Regulation sets out, among other

things, the conditions in which the Minister may take the initiative of identifying the unanticipated adverse effects or of taking the above corrective action.

Part two

Practical application during the period 2013–2015

In this part, please report on your country's practical experiences in applying the Protocol (and not your country's procedures, which were described in part one). The focus of this section should be on identifying good practices as well as difficulties encountered in applying the Protocol in practice. The goal is to enable Parties to share solutions. Please therefore provide appropriate examples highlighting application of the Protocol in your country and innovative approaches to improve its application.

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

- (a) Yes
- (b) No

Your comments: /

1. Consideration of health effects

II.2. Does your SEA documentation always include specific information on health effects? Please specify:

- (a) Yes
- (b) No, only when potential health effects are identified

2. Domestic and transboundary implementation in the period 2013–2015

II.3. Does your SEA documentation always include specific information on potential transboundary environmental, including health, effects? Please specify:

- (a) Yes
- (b) No, only when potential transboundary effects are identified

3. Cases during the period 2013–2015

II.4. Please provide the (approximate) number of transboundary SEA procedures initiated during the period 2013–2015 and list them, grouped by the sectors listed in article 4, paragraph 2:

Waste management: 1

Transportation: 1

Land use planning and development: 4

Water management: 2

Note: The above list contains all files referred to Luxembourg, for which it informed neighbouring countries, regardless of the final decision on the requirement for transboundary consultation.

4. Experience with the strategic impact assessment procedure in 2013–2015

II.5. Has your country experienced substantial difficulties in interpreting particular terms (or particular articles) in the Protocol?:

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

II.6. How does your country overcome the(se) problem(s), if any, for example by working with other Parties to find solutions? Please provide examples:

II.7. With regard your country's experience with domestic procedures, 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. Please detail:

(a) Has your country carried out monitoring according to article 12 and, if so, for what kinds of plans or programmes (cite good practice cases or good practice elements (e.g., consultation or public participation), if available)? Finalized environmental reports relating to commune development contain a summary description of the monitoring measures to be taken by the communes. It is not possible at this time to comment any further on the implementation of this approach in practice due to the fact that the general development plans affected were only recently approved and that responsibility for the implementation of the measures falls to the *maîtres d'ouvrage*.

(b) Would your country like to present a case to be published on the website of the Convention and its Protocol as a "case study fact sheet"?:

- (i) No
- (ii) Yes (please indicate which ones):

II.8. With regard your country's experience with transboundary procedures, 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. Please detail:

(a) What difficulties has your country experienced in relation to translation and interpretation, and what solutions has your country applied?: /

(b) What does your country usually translate as a Party of origin?: In most cases, the public consultation documents are written in French or German which, apart from Luxembourgish, are the administrative languages of the Grand Duchy of Luxembourg.

Reports on the environmental effects of action programmes to be established in accordance with the framework directive on water (Directive 2000/60/EC on the assessment and management of flood risks) were drafted in German and were not translated into any other

Comment [ES1]: The precise meaning of "maîtres d'ouvrage" is unclear.

language. The two action programmes whose environmental effects were the subject of an assessment were also drafted in German, but are in the process of being translated into French and will therefore soon be available in both languages.

(c) Has your country carried out transboundary public participation according to article 10, paragraph 4?:

(i) No

(ii) Yes (please indicate how): Within the framework of the development of the second action programme to be established in accordance with the provisions of the framework directive on water (Directive 2000/60/EC), the proposed action programme was submitted for an assessment of the environmental effects associated with its implementation. The draft report on the environmental effects of the action programme was submitted for public consultation. The competent authorities of the Grand Duchy of Luxembourg's neighbouring countries were also contacted and were invited to provide their views and comments on the draft report.

For more information:

http://www.eau.public.lu/directive_cadre_eau/directive_cadre_eau/2015-2021_2e_cycle/Rapport_incidences/index.html

http://www.eau.public.lu/directive_cadre_eau/directive_cadre_eau/2015-2021_2e_cycle/WRRL-Rapport/index.html

(d) What has been your country's experience of the effectiveness of public participation?: Our experience of the effectiveness of the public participation process is mixed. On the one hand, few people, administrations, organizations, etc. generally provide views or comments on the documents submitted to public consultation. On the other hand, the views and comments received are generally very relevant and are taken into consideration in the finalization of the document submitted to public consultation. In view of this fact, the public participation process can be considered a constructive step, as it contributes to finalizing and adapting certain aspects of the documents submitted to public consultation to improve their quality.

(e) Does your country have examples of organizing transboundary SEA procedures for joint cross-border plans and programmes?:

(i) No

(ii) Yes (please describe):

5. Experience regarding guidance in 2013–2015

II.9. Are you aware of any use in your country of the online *Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment* (ECE/MP.EIA/17)?¹:

(a) No:

(b) Part of it (Please specify): /

(c) Yes (please describe your experience): The *Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment* was used to a lesser extent. The two main documents used were the European Commission's guidance on the implementation of Directive 2001/42/EC (*Implementation of Directive 2001/42 on the Assessment of the Effects of Certain Plans and Programmes on the Environment*) and the guide of the Department of the Environment, which addresses the specific case of strategic environmental assessments relating to general development plans.

Your comments on how the Guidance might be improved or supplemented: /

6. Awareness of the protocol

II.10. Does your country see a need to improve the application of the Protocol in your country?:

(a) No:

(b) Yes Please describe how your country intends to improve application of the Protocol: /

7. Suggested improvements to the report

II.11. Please provide suggestions for how this report may be improved: /

¹ Available from http://www.unece.org/env/eia/pubs/sea_manual.html.