
Questionnaire for the report of the Netherlands on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context in the period 2016–2018

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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.

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:

The definition is virtually the same. Quotation from the Wet Milieubeheer (Environmental Management Act), article 7.1 Wm:

Effects on the environment include the effects on the physical environment, including risks of major accidents or disasters, seen from the importance of the protection of:

- a. population and human health;*
- b. biodiversity, with special attention for protected habitats and species based on the Nature Protection Act;*
- c. land, soil, water, air quality and climate;*
- d. material assets, cultural heritage and landscape;*
- e. the relation between the factors stated under a to d.*

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:

It is the same definition of impact as used for domestic projects, only with the addition 'transboundary'

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

The term 'major change' is not implemented in legislation as such, but the obligation to carry out an EIA is linked to the possibility of serious adverse effects on the environment of the proposed activity.

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:

It is a combination of a and b. By law everybody is entitled to express their views on any licence decision if they wish to do so. Notification of the project and the EIA is based on the geographical position of the project and the environmental effects of the project (local, regional, national or international).

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: Wet milieubeheer (Environmental Management Act) (chapter 7) / Wet implementatie herziene m.e.r. richtlijn (Staatscourant van 25 januari 2017) (Environmental Assessment Modernisation Act (Stb 2010, nr. 20), amended in 2017)

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

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

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

Besluit van 4 juli 1994, houdende uitvoering van het hoofdstuk Milieueffectrapportage van de Wet milieubeheer („Besluit milieueffectrapportage”), (Administrative Act on EIA), amended in 2011 by Besluit tot wijziging van het Besluit milieueffectrapportage en het Besluit omgevingsrecht (reparatie en modernisering milieueffectrapportage) (Staatsblad 102, jaargang 2011), amended in 2017 by Wet implementatie herziene m.e.r. richtlijn (Staatscourant van 25 januari 2017)

(e) Other (please specify):

Your comments:

Direct quotation of the Dutch Environmental Management Act:

§ 7.11. Activities with possible transboundary environmental effects

Section 7.38a

1. If the information gathered in the framework of this Chapter shows that the proposed activity may have serious adverse effects on the environment of another country, the government of that country or an authority designated by that government must be notified as soon as possible.

2. Without prejudice to subsection 1, if an activity proposed in a plan may have serious adverse effects on the environment in another country, the following must be provided to the government of that country or an authority designated by that government in that country:

a. the draft plan and, if not contained in the draft plan, the EIA report, at the same time as they are deposited for inspection in the Netherlands;

b. the adopted plan and, if not contained in that plan, the EIA report, at the same time as they are made public in the Netherlands.

3. Without prejudice to subsection 1, if an activity proposed in a decision may have serious adverse effects on the environment in another country, the following must be provided to the government of that country or an authority designated by that government in that country:

a. the application referred to in section 7.28, or the provisional draft decision or draft decision as well as the EIA report and, if applicable, recommendations as referred to in section 7.26 or 7.27, at the same time as they are deposited for inspection in the Netherlands;

b. the decision and the EIA report at the same time as they are made public in the Netherlands.

4. Sections 3:16, subsections 1 and 2 of the General Administrative Law Act and sections 7.9, subsection 2 (c), section 7.25 or section 7.27, subsection 4 apply *mutatis mutandis* to the bodies that the competent authority of the other country has designated for that purpose by virtue of their specific responsibility for environmental matters. The documents referred to in subsections 2 and 3 must also be sent to these bodies.

5. The documents to be supplied pursuant to subsection 2 or 3 serve as the basis for consultations with administrative authorities in the country concerned on any serious adverse effects that the activity may have on the environment in that country, and the measures being considered to prevent or limit those effects.

6. The competent authority is charged with the tasks arising from the application of subsections 1 to 4. The competent authority must supply information and also send the documents provided pursuant to subsections 2 and 3 to Our Minister; these documents also serve as the basis for the consultations, referred to in subsection 5, to be held by the competent authority.

7. Our Minister is charged, in a general sense, with maintaining contacts with the government of the other country and is involved in consultations at government level if the consultations on a proposed activity between the competent authority and the administrative authorities of that country have not led to the desired outcome.

8. Further rules concerning the provisions of subsections 2 to 5 may be laid down by ministerial order.

Section 7.38d

If another country thinks it may suffer serious adverse environmental effects as the result of an activity in the Netherlands proposed in a plan or decision, the competent authority or Our Minister must apply section 7.38a, subsections 1 to 5 at the request

of that country, having regard to the division of tasks between the competent authority and Our Minister referred to in section 7.38a, subsections 6 and 7.

Section 7.38e

If another country may suffer serious adverse environmental effects as a result of an activity in the Netherlands proposed in a plan or decision, Our Minister may determine that the competent authority must not adopt that plan or decision until Our Minister has had the opportunity, for thirteen weeks after the deadline for stating views on the draft plan or on the application, provisional draft decision or draft decision, to send the competent authority the outcome of the consultations referred to in section 7.38a, subsection 7.

Section 7.38g

If a proposed activity in another country may have serious adverse effects on the environment in the Netherlands, Our Minister must maintain contacts with that country if no contacts on a proposed activity have been established between the administrative authorities directly involved in the Netherlands and the administrative authorities in the other country or if the contacts have not led to the desired outcome.

Besides these legal and administrative measures we have bilateral agreements with respectively the Flanders Region (Belgium) and Germany about the practical implementation of the Convention in transboundary context.

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:

The list of activities (Annex C and D of the Administrative Act to EIA (“Besluit milieueffectrapportage”) is a correct implementation of Annex I and II of the 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. All Espoo Convention Appendix I activities fall within the scope of EIA in the Netherlands.

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:

Governance and governmental authority in the Netherlands is decentralised, with the Ministry of Infrastructure and Water Management the main responsible authority for environmental management. There is no national environmental management authority. Both EIAs and SEAs can be performed at national, provincial, or municipal level. The ‘competent authority’ is the administrative body deciding on the permit for the project, using the Environmental Report as part of the

motivation for the decision. This may either mean the responsible minister, the Provincial Executive, the water board or the responsible municipal board.

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:

As Espoo point of contact for notification the Ministry of Infrastructure and Water Management receives most of the notifications regarding transboundary EIAs.

I.9. How does your country, As a Party of origin and as an 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):

We have the following legal provisions in the Act on Environmental Management regarding informing the (public) of the Affected Party:

- *Section 7.29 Wm: this section contains the provisions on the notification of the application and the EIA in the Netherlands and in other countries in case of significant transboundary impacts.*
- *Section 7.30 Wm:*
 - *1. If the procedure for arriving at the decision provides for public notification of the provisional draft decision or draft decision, public notice of the EIA report must be given at the same time, except in cases as referred to in section 7.29. If this procedure provides for public notification of both the provisional draft decision and draft decision, public notice will be given of the EIA report at the same time as the provisional draft decision.*
 - *2. Subsection 1 applies mutatis mutandis to public notification in a publication in another country if the activity may have serious adverse effects on the environment in that country.*
- *Section 7.32 Wm, subsection 1: If an application as referred to in section 7.28 or the provisional draft decision or draft decision as referred to in section 7.30 are deposited for inspection and everyone is given the opportunity to state their views, views on the EIA report may be expressed at the same time as views on the application or the draft or provisional draft which were deposited for inspection with the EIA report.*
- *Section 7.38.a. and further.: this section contains the provisions on informing and consulting the affected public (see question I.5 on general provisions for the legal text)*

Furthermore, we have bilateral agreements/arrangements with both Germany and Flanders, the arrangement with Flanders is currently being updated; giving similar opportunity to the public of the affected Party in comparison to our own public is one of the topics covered by these arrangements.

Article 3 Notification

I.10. As a 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:

In general this occurs during scoping, but it may depend on the moment in the EIA procedure when it becomes clear that transboundary effects might occur. This can be either prior to the whole EIA procedure or in a limited number of cases after finishing the draft Environmental Report. By law, the (government or authority of) the affected Party has to be notified 'as soon as possible'.

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 see:

<https://www.infomil.nl/onderwerpen/integrale/mer/procedurehandleiding/procedurele/grensoverschrijdend/#BilateraleafsprakenmetBelgienDuitsland>)

(c) No official format used

Your comments:

There are bilateral agreements on EIA and SEA with the German government and with the Belgian Flanders Region government. The format as agreed on in the bilateral agreement with Germany on transboundary EIA is roughly a translation of the format as decided on. In the agreement with the Flanders Region no specific format is prescribed, but it contains a 'roadmap' in which all points mentioned in the format as decided on are addressed.

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:

Pursuant to section 7.38a, subsection 3 of the Act on Environmental Management the competent authority has to send to the affected Party

- the application for the permit, or the provisional draft decision or draft decision as well as the EIA report and, if applicable, recommendations on the scope of the EIA, at the same time as they are deposited for inspection in the Netherlands;*
- the decision and the EIA report at the same time as they are made public in the Netherlands.*

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): 6

Your comments:

According to the bilateral agreements, the time frame and other procedural issues follow as much as possible the procedures concerned from the Party of origin. However, those are to be used 'flexibly and effectively' (according to the agreements). The standard Dutch time frame is 6 weeks, but the competent authority may wish to extend this for very extensive and/or complicated projects.

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

Strictly speaking, if the Affected Party has not replied in the given time frame, the competent authority is entitled to make the decision. In practice, in most cases a short extension of the deadline is considered, in case an affected Party asks for an extension of a deadline.

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:

Usually the relevant (bordering) competent authority/-ies and/or point of contact are informed about an upcoming EIA procedure and the occurrence of possible transboundary environmental effects. If necessary the point of contact (as mentioned in the agreements with Flanders and Germany) is consulted on which authorities and other relevant parties to involve in the affected party and practicalities such as in which newspapers to publish notifications.

I.15. On what basis is the decision made to participate (or not) in the transboundary EIA procedure as an 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 the 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 the public of the affected Party

(d) Other (please specify):

Your comments:

The relevant authorities whose area of authority is affected by a certain activity or interest decide whether or not to participate in the EIA procedure (being local, regional and/or national). In most cases the notification is followed by a positive response to participate in the EIA procedure, when a transboundary effect is to be expected. Criteria for participation are the expected transboundary impact and the level of public interest involved.

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

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:

Following the rules and procedures as set out in the bilateral agreements (which states 'the rules and procedures of the Party of origin, but used flexibly and effectively'.)

Articles 3.8 and 4.2

Public participation

I.17. How can the public express its opinion on the EIA documentation of the proposed project (art. 5)? Please specify (more than one option may apply):

As a 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):

As an 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:

In the domestic procedure, the EIA report is published together with the draft decision. The public can express their views on both within a time frame of six weeks. It is not obligatory to organise a public hearing as well, but the competent authority often chooses to do so with substantial or complex projects. Since the bilateral agreements with Germany and the Flanders region state that the domestic procedure applies ('used flexibly and effectively'), the above applies more or less the same to projects with transboundary effects.

I.18. 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:

Please see the answer on the above question.

I.19. 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:

Please see the answer on the above questions.

Article 4

Preparation of the environmental impact assessment documentation

I.20. How do you ensure sufficient quality of the EIA documentation as a 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):

The competent authority is required to ask for independent advice on the quality of the EIA, by the Netherlands Commission for Environmental Assessment (NCEA) in case where in the Netherlands the extended EIA procedure is applied (which is in most of the cases), in addition to the check by the competent authority themselves. If the project is not defined as complex (as defined in section 7.24 Wm) the competent authority has to ensure sufficient quality of the EIA documentation and can choose to ask for independent advice on the quality of the EIA, by the NCEA.

I.21. 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): *The information to be included in the EIA report is stated in article 7.23 of the Environmental Management Act. Also, the competent authority can ask the NCEA for an advice on the scope of the EIA.*

Your comments:

I.22. 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): Reasonable alternatives as required in section 7.23 Wm sub d.

(c) Other (please specify):

Your comments:

Article 5

Consultations on the basis of the environmental impact assessment documentation

I.23. Does your national EIA legislation have any provision on the organization of transboundary consultations 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:

The agreement/arrangement with Germany and the Flanders Region (Belgium) also addresses working arrangements on the organization of transboundary consultations.

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):

The competent authority can only make a final decision when the EIA report is deemed complete and accurate and can serve as the basis for the final decision (section 7.28 Wm and 7.36a. Wm). When making a decision, the competent authority must take into account all the effects that the activity to which the decision relates may have on the environment. The competent authority may a) include in the decision any conditions, regulations and restrictions necessary for the protection of the environment, in addition to the conditions, regulations and restrictions which it is entitled under that statutory provision to include; b) decide that the activity must not be undertaken if it could lead to unacceptable adverse effects on the environment (section 7.35 Wm).

Regarding the content of the decision, the decision must state how the following issues, if applicable, have been taken into consideration (section 7.37 Wm):

- *the possible environmental effects of the activity, as described in the EIA report;*

-
- *the alternatives described in the EIA report;*
 - *public views on the EIA report;*
 - *environmental terms set;*
 - *mitigation and compensation measures;*
 - *monitoring measures and procedures*
 - *advice from the NCEA, either on scoping or on the quality and completeness of the EIA report;*
 - *any possible serious adverse transboundary environmental effects which have been identified in the EIA report;*
 - *the results of the consultations of relevant authorities*

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:

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:

For industrial activities a permit or licence to operate is required according to the Wet algemene bepalingen Omgevingsrecht ('Act General Provisions Environmental Planning Law'). Depending on the activity, a permit based on respectively the Kernenergiewet ('Nuclear Act'), the Waterwet ('Water Act'), the Mijnbouwwet ('Mining Act'), the Ontgrondingenwet ('Extraction Act'), or the Wet Luchtvaart ('Aviation Act') is required. In case of the construction of roads, railways and waterways a decision based on the so called Tracéwet ('Tracé Act') is required. If there is no relevant permit / license to operate appointed to an activity and/or spatial functions have to be changed, the spatial plan is appointed and a decision based on the the Wet ruimtelijke ordening ('Spatial Planning Act') is (also) required (for example in case of a urban development project). To complete the list the following acts are also included: Verordening waterschap ('water board regulation'), Spoedwet wegverbreding ('Act on road enlargements'), Wet windenergie op zee ('Act on offshore windenergy'), Wet natuurbescherming ('Nature Protection Act').

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:

The Act on Environmental Management section 7.37 sub 1 obligates the competent authority to:

- *decide which effects require post-project monitoring, and to;*
- *include monitoring measures, procedure(s) for monitoring and the methods for monitoring in the final decision.*
- *define parameters and the duration for monitoring that are reasonable considering the nature, location and impact of the activity on the environment.*

Section 7.41 obliges the competent authority to compile a report on the monitoring results and shall forward a copy of it as soon as possible to the developer, to the relevant authorities and, if applicable, to the NCEA. The competent authority shall at the same time publish the report. Also section 7.35 is relevant as it provides the possibility of including monitoring measures in the decision.

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:

The Netherlands has bilateral arrangements with Germany and the Flanders Region government (Belgium).

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

Please see:

<https://www.infomil.nl/onderwerpen/integrale/mer/procedurehandleiding/procedurele/grensoverschrijdend/#BilateraleafsprakenmetBelgienDuitsland>

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:

The agreement between the Government of the Netherlands and the Federal Republic of Germany on EIA in a transboundary context has been updated and extended with arrangements on SEA in a transboundary context in 2013. The bilateral arrangements can be seen as a guideline for a good and effective cooperation in organising transboundary issues and consists of working arrangements on issues such as: scope, definitions, contact points, notification, public participation, language, costs and consultation. These issues are in accordance with Appendix VI of the Convention.

The Netherlands also has a bilateral agreement with Belgium/Flanders Region on EIA in a Transboundary Context. It is intended to update this agreement in the coming period. The content is similar to the agreement with Germany and provides working arrangements on informing and giving the opportunity to participate in transboundary (EIA) procedures.

(b) Procedural steps required by national legislation

I.32. Please describe how the steps required for a transboundary EIA procedure under your national legislation correlate to domestic EIA in the lead-up to the final decision. If there are differences in the procedures for screening/scoping or for preparation of the environmental impact assessment and consultation, please specify.

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

Your comments:

When it appears that a proposed activity may have serious adverse effects on the environment of another country, the government of that country or an authority designated by that government must be notified as soon as possible. The affected party receives

- *the application for the permit;*
 - *if applicable, recommendations on the scope of the EIA;*
 - *the provisional draft decision or draft decision as well as the EIA report;*
- at the same time as they are deposited for consultation in the Netherlands and the public of the affected party can give their opinion on those documents in the same way the Dutch inhabitants can.*

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 2016–2018

Please report on your country's practical experiences in applying the Convention (not your country's procedures described in part one), whether As a 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 2016–2018

Cases during the period 2016–2018

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 a 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 a Party of origin

Project name	Starting date (date notification sent)	Affected Party/ Parties	Timing of the notification (screening, scoping or preparation of the EIA documentation)	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. REM Coevor den	June 11, 2018	German y					
2.							
3.							
4.							
...							

Your comments: *There is no specific administration of EIAs for transboundary projects or for projects with transboundary effects. The abovementioned project is an example of a transboundary project. Neither are the duration of EIA-procedures as a whole or the separate steps registered on local, regional or national level. Based on the agreement/arrangement with Germany and the Flanders Region in Belgium, the respective competent authorities (provinces, municipalities) in the Netherlands contact their respective counterparts directly, with a coordinating role for the provinces.*

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. The Convention does not mention the translation of EIA documentation as an important prerequisite for the participation of potentially affected Parties in a transboundary EIA procedure. Please explain:

- (a) How has your country addressed the issue of the translation of EIA documentation?

The developer is obliged to translate the non-technical summary of the EIA report on request of the competent authority; also the competent authority can request the developer to translate the notification.

In addition, translation is a topic addressed in the bilateral agreement with Germany. Ultimately, the information translated is a decision that lies with the competent authority in the Party of origin, which will depend on the project and the actual (expected) transboundary effects and thus has to be determined on a case-by case basis. In the bilateral agreement with Germany it is recommended to translate of the draft decision:

- *the notification of intent;*
- *the scoping guidelines for the EIA report (if available);*
- *the non-technical summary of the EIA report;*
- *the separate chapter on transboundary effects (if available);*
- *the relevant sections on transboundary issues for the affected party (if available).*

For obvious reasons translation is not an issue between Belgium (Flanders) and the Netherlands.

Between Belgium (Walloon region) and the Netherlands the language is an issue as the official language differs (French and Dutch). We have no bilateral arrangements with the Walloon region; in general the Dutch competent authorities themselves translate the non-technical summary and in case of a separate chapter/section on transboundary issues and effects, this is translated as well. The latter is determined on a case-by-case basis.

Next to the projects in Germany and Belgium with possible transboundary impacts, we have also been notified on projects from the UK. For one of these projects (Hinkley Point C) we have translated ourselves the notification of intent and parts of the technical documents, e.g. the technical summary, as far as transboundary impacts were concerned.

-
- (b) What difficulties has your country experienced with regard to translation and interpretation, both as a Party of origin and as an affected Party, and what solutions has it found?

There have no difficulties in the review period.

- (c) Which Party covers the cost of translation of EIA documentation?
- (i) As a Party of origin: *the Party of origin*
 - (ii) As an affected Party: *the Party of origin*
 - (iii) Other, please specify:

- (d) What parts of the EIA documentation does your country usually translate?
- (i) As a Party of origin:
 - (ii) As an affected Party:

Please see the answer given above.

- (e) Please indicate whether and how the issue of translation is addressed in bilateral agreements between your country and other Parties.

Please see the answer given above

- (f) As a Party of origin, in which language do you usually provide EIA documentation to the affected Party?

- (i) English
- (ii) The affected Party's language
- (iii) Other (please, specify)

- (g) As an affected Party, from which language do you usually translate?

- (i) English
- (ii) Language of the Party of origin
- (iii) Other (please, specify)

- (h) Describe any difficulties that your country has encountered during public participation procedures and consultations under article 5, for example with regard to timing, language and the need for additional information.

There have no difficulties in the review period.

(i) As a Party of origin:

Experience with public participation

Based on the agreement/arrangement with Germany and the Flanders Region in Belgium there is regular contact between the bordering authorities in the countries. Depending on the project and the procedures in the Party of Origin case-by-case working arrangements are made on public participation and consultations. In our experience there is good cooperation on this issue.

Experience with consultations under article 5

Please see the answer provided above.

(ii) As an affected Party:

Experience with public participation

Please see the answer provided above.

Experience with consultations under article 5

Please see the answer provided above.

(i) Please describe how the costs of interpretation during the hearings are covered:

(ii) By the Party of origin: *yes*

(iii) By the affected Party:

(iv) Shared by both Parties concerned:

(v) Developer: *yes*

(vi) Other, please specify

The Party of Origin may ask the developer to translate the EIA documentation needed.

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:

There have no difficulties in the review period.

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: *please see the answers provided above on the agreement/arrangement with Germany and the Flanders Region and the good cooperation with these countries.*

(b) For NPPs:

II.7. Please provide examples from your experience during the reporting period (either complete cases or elements such as notification, consultation and public participation) that, in your view, constitute good practice:

Good practice cases are the bilateral agreement/arrangement with Germany and the Flanders Region.

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 2016–2018:

(a) No

(b) Yes (please indicate which projects, along with the challenges in implementation and any lessons learned):

The Act on Environmental Management obligates the competent authority to make an evaluation of the EIA Report, however, there is no central registration of those post project analyses. With the amendment in 2017 these provisions have been changed as the competent authority now decides whether an evaluation will be made.

2. Experience in using the guidance in 2016–2018

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):

The guidance was used as a reference document to draw up the bilateral agreements with the Flanders Region (Belgium) and Germany besides the legal requirements we have in the Netherlands regarding public participation. The essence of the guidance adopted by the Meeting of the Parties is reflected in our national EIA guidance as well.

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 *The Netherlands is not part of a sub-region under the Espoo Convention*

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 a Party of origin or as an 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 further suggestions (preferably specific drafting proposals) for how this report could be improved.