

# **Questionnaire for the report of the United Kingdom on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context in the period 2016–2018**

## **Information on the focal point for the Convention**

1. Name and contact information:  
David Hughes  
  
David.hughes@communities.gov.uk

## **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: United Kingdom
4. Surname: Hughes
5. Forename: David
6. Institution: Ministry of Housing, Communities & Local Government
7. Postal address:
8. Email address: David.hughes@communities.gov.uk
9. Telephone number: 0303 444 0282
10. Fax number:
11. Date on which report was completed: 22/03/2019

# 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 term 'impact' is not defined in legislation. However, Part 1 to Schedule 4 of the legislation requires that an Environmental Statement includes a description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, human health, biodiversity (for example fauna and flora), land, soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

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: The legislation refers to development which is likely to have significant effects on the environment in another EEA State (see for example regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.)

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

Projects listed in Appendix 1 to the Convention are listed in Schedule 1 to the regulations. They require assessment of "Any change to or extension of development listed in this Schedule where such a change or extension itself meets the thresholds, if any, of

description of development set out in this Schedule”. For development types not listed in Schedule 1 but in Schedule 2 “Any change to or extension of development of a description listed in Schedule 1 (other than a change or extension falling within paragraph 21 of that Schedule) or in paragraphs 1 to 12 of this Schedule, where that development is already authorised, executed or in the process of being executed, and the change or extension may have significant adverse effects on the environment.

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): Consideration of the extent of the likely impacts and where they may occur.

Your comments: Since 2016 we have consulted on all new nuclear power stations whether or not it is considered that there will be likely significant adverse transboundary impacts. For other types of development, we use available information at the scoping stage of the assessment. This may include consideration of the proposal’s proximity to other EEA states e.g. geographical location but may also include issues of interconnectivity e.g. species or hydrological connections etc.

## **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:
- (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):
- (e) Other (please specify):

Your comments: The Convention’s provisions are implemented in the UK through our domestic legislation. The requirements of Article 2.2 are transposed through multiple sets of regulations within each of the devolved administrations of the UK. Most projects are consented through the town and country planning systems in each country and are subject to the following regulations:

England: Town and Country Planning (Environmental Impact Assessment) Regulations 2017;

Northern Ireland: The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017;

Scotland: The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017;

Wales: Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 2017.

However, there is a separate development consent regime in England and Wales for larger nationally significant infrastructure projects which fall within the scope of the Planning Act

2008. This includes projects for the generation of electricity in excess of 50MW onshore, and in excess of 100MW offshore. Such projects are subject to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Similar infrastructure projects in Scotland and Northern Ireland are subject to a range of regulations, depending upon the nature of the particular proposal. Other activities, such as the extraction of minerals from the seabed, are also subject to separate regulations. To avoid repetition, unless identified otherwise, responses to this questionnaire explain the measures adopted in England and Wales for nationally significant infrastructure projects and, where relevant, for England under town and country planning legislation. The main difference in the legal provisions relating to transboundary effects is that responsibility for consulting other Parties is the relevant Secretary of State in England, Scottish Minister in Scotland, Welsh Minister in Wales and the appropriate Council or the Department of the Environment in Northern Ireland. The exception is for nationally significant infrastructure projects in England and Wales and relevant projects in Scotland for which the Planning Inspectorate is responsible for the transboundary procedures on behalf of the Secretary of State.

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): National legislation includes all the activities listed in Appendix 1 to the Convention but also includes other activities.

Your comments:

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: For nationally significant infrastructure projects in England and Wales the Planning Inspectorate is responsible for implementing the EIA procedures and advising the relevant Secretary of State on the application for development consent (e.g. the Secretary of State for Business, Energy & Industrial Strategy for energy projects and the Secretary of State for Transport for major road and rail projects). For other projects, the local planning authority is normally responsible for implementing the domestic EIA procedures. However, the relevant Secretary of State in England, Welsh Minister in Wales, Scottish Minister in the case of projects in Scotland and the relevant Council or Department of the Environment in Northern Ireland would be responsible for implementing any transboundary procedures.

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

Your comments:

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 focal point for transboundary EIA cases is within the Ministry of Housing, Communities and Local Government, but the relevant Government Department or devolved administration is responsible for transboundary consultation and maintains their own information bases.

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):

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

- Publish a notice in the London Gazette (and Edinburgh Gazette in relation to development proposed to be carried out in Scotland) setting out any available information on its possible significant effect on the environment of that Party together with information on the nature of the decision that may be taken.

- 'As soon as possible' and not later than any publication in the London Gazette send to the affected Party a description of the development, together with the information about the proposed development.

- Having received this notification, the affected party can, within a 'reasonable time' indicate whether it wishes to participate in the procedures

; • Where an affected party wishes to participate, the Secretary of State must 'as soon as possible' send that Party a copy of the application, the Environmental Statement and any relevant information on the procedures not provided previously. The affected Party should then be given 'reasonable time' to forward the opinions of its public and of the authorities;

- Consult with the affected Party regarding the potential significant effects of the development on the environment of that state and the measures to reduce or eliminate such effects;

- Agree a reasonable time period for the duration of the consultation;

- Inform the affected Party, as consulted, of the decision.

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

### 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: An affected Party would be notified once the Planning Inspectorate or Secretary of State became aware of a proposed development that requires an EIA and where the Secretary of State is of the view that the development is likely to have significant impacts on the environment of another Party or where another Party, likely to be significantly affected by a development, requests that transboundary impacts are addressed. Information is sent when it becomes available. Notification can be given upon receipt of a scoping request, but may be later, for example upon receipt of the Environmental Statement – which is only in its final form with an application for development consent. In addition, developers are advised to undertake consultation with other Parties at an early stage in the development of their proposals where they believe there may be significant impacts on the environment of that Party.

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: The notification format decided by the first meeting of the Parties is not followed in every single respect, but the aim is always to provide the information necessary to inform an affected Party about the nature, scale and location of a proposed activity, and will enable them to make an informed decision on whether they wish to take part in the EIA procedure. This includes sending a notification letter to the affected party. The letter provides an explanation of the transboundary process, a brief description of the development, links to the relevant documents and details of how to respond to the notification.

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: The Stage 1 initial notification is provided primarily to make the affected Party aware of the proposed development and to enable them to state if they wish to participate in a formal transboundary procedure. The initial notification includes the available information required by article 3, paragraph 2 and information required at article 3 paragraph 5. Stage 2 of the process follows after the development consent application has been accepted ready for examination and provides opportunity for the affected Party to express its views, taking into account a complete application including Environmental Statement which is

publicised on our website. Again, this would include all the information required by article 3 paragraph 2 and 5.

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: The Secretary of State will give the affected Party a reasonable time in which to indicate whether it wishes to participate in the transboundary EIA procedure. However, the time frame could be extended if requested.

Please specify the consequence if a notified affected Party does not comply with the time frame, and the possibility of extending a deadline: If a Party has not responded within the deadline it is assumed that the Party does not wish to participate in the procedure in relation to the application. However, the deadline could be extended if requested.

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 website<sup>1</sup>

(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 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): The Ministry with responsibility for the project type will decide.

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

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: The normal timeframe for consultation responses under the Infrastructure Planning EIA Regulations is 28 days.

The Secretary of State will agree a reasonable consultation period with the affected Party and where no agreement is already in place with that Party, this will be done on a case by case basis. It is considered that a 6-week period is reasonable for nationally significant infrastructure projects and in order to meet the statutory examination deadline it should in any event close no later than the expiry of the first month in the examination period. The town and country planning regulations refer to 'a reasonable time' for the authorities and public of the affected Party to participate. The affected Party is routinely invited to join an examination as an interested party which affords them a formal status in the process and is an additional option outside of what is required by the EIA procedures.

As explained above, the UK would provide an affected Party with a copy of the application, the Environmental Statement (including a translation of the Non-Technical Summary into a relevant language) and any relevant information on the procedures not provided previously.

Any comments received from the competent authorities or members of the public of the affected Party would be taken into account in the final decision.

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<sup>1</sup> List available from [http://www.unece.org/env/eia/points\\_of\\_contact.htm](http://www.unece.org/env/eia/points_of_contact.htm).



## 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:

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: This would be a matter for the affected Party.

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: There is no legal requirement for a public hearing, but one could be arranged where appropriate.

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

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

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

make an initial assessment of the principal issues arising from the application from its preliminary examination of the application documents.

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

The role of the Examining Authority is to ensure that all aspects of any given matter are explored thoroughly, especially with regard to the matters fundamental to the decision. When it seems likely that evidence to be given about an application will be of a specialist nature, or of a level of complexity outside the normal experience of the persons appointed to examine an application, the Examining Authority can request that the Secretary of State appoints one or more assessors to advise and assist them.

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

#### **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):

Your comments: There is a requirement in domestic legislation that Environmental Statements are prepared by 'competent experts'. Where an applicant submits an Environmental Statement with a planning application, the planning authority will publish a notice in the press, post site notices and indicate where documents can be inspected and obtained. The planning authority will consult with statutory consultees, inform persons having an interest, place the Environmental Statement on the planning register and send copies of the Environmental Statement to the Secretary of State. If the local planning authority considers that insufficient information has been supplied, they will ask the applicant for further information. The planning authority will then consider any representations on the Environmental Statement and make a decision on the planning application taking into account the information in the Environmental Statement, any representations received (including from the consultation bodies and the public) and any other material considerations. If the applicant submits an Environmental Statement after a planning application has been

submitted, the applicant is responsible for publishing the notice in the press, posting site notices and indicating where documents can be inspected and obtained.

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): Schedule 4 of the Regulations set out the minimum requirements for the content of the EIA documentation.

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

1. A description of the development, including in particular— (a) a description of the location of the development; (b) a description of the physical characteristics of the whole development, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases; (c) a description of the main characteristics of the operational phase of the development (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used; (d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases.
2. A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.
3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.
4. A description of the factors specified in regulation 5(2) likely to be significantly affected by the development: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.
5. A description of the likely significant effects of the development on the environment resulting from, inter alia— 37 (a) the construction and existence of the development, including, where relevant, demolition works; (b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources; (c) the emission of pollutants, noise, vibration, light, heat and radiation,

the creation of nuisances, and the disposal and recovery of waste; (d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters); (e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources; (f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change; (g) the technologies and the substances used. The description of the likely significant effects on the factors specified in regulation 5(2) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the development. This description should take into account the environmental protection objectives established at Union or Member State level which are relevant to the project, including in particular those established under Council Directive 92/43/EEC(a) and Directive 2009/147/EC(b).

6. A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

7. A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

8. A description of the expected significant adverse effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to EU legislation such as Directive 2012/18/EU of the European Parliament and of the Council(c) or Council Directive 2009/71/Euratom(d) or UK environmental assessments may be used for this purpose provided that the requirements of this Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

9. A non-technical summary of the information provided under paragraphs 1 to 8.

10. A reference list detailing the sources used for the descriptions and assessments included in the environmental statement.

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):
- (c) Other (please specify):

Your comments: Scoping is not mandatory in the United Kingdom. For nationally significant infrastructure projects, the applicant has the opportunity to ask the Secretary of State for a formal written opinion on the information to be included in the Environmental Statement. This is known as a scoping opinion. The Secretary of State must adopt a scoping opinion within 21 days of receiving a scoping request (Regulation 10(6)). Before adopting a scoping opinion the Secretary of State must consult the prescribed consultation bodies, which have 28 days to respond (Regulation 10(11)). The Secretary of State may also consult

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

## **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: m

## **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):

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): paragraph 3(4) of Schedule 2 to the Planning Act 2008.

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

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

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: Regulation 3 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 sets out that ‘The relevant planning authority, the Secretary of state or an inspector must not grant planning permission or subsequent consent for EIA development unless and EIA has been carried out in respect of that development’. The ‘final decision’ in this case being the grant of planning permission. Regulation 4(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 states that ‘Where this regulation applies, the Secretary of State or relevant authority (as the case may be) must not (in the case of the Secretary of State) make an order granting development consent or (in the case of the relevant authority) grant subsequent consent unless an EIA has been carried out in respect of that application’. The ‘final decision’ in this case being the order granting development consent.

## **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: However, monitoring can be required, where appropriate, through requirements/conditions attached to a development consent order, marine licence (deemed or otherwise), or to an environmental permit.

## **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:

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 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: Local planning authorities are required to send a copy of every Environmental Statement and related planning application to the Secretary of State within two weeks of receipt. This is to enable consideration of whether the proposed development

is likely to have significant effects on the environment of any other State that is party to the Espoo Convention. This aside there are no differences in the procedures for screening/scoping or for preparation of the environmental impact assessment. Where there may be transboundary impacts the Secretary of State must send information about the development to the government of the affected country, and invite them to participate in the consultation procedures, determining with them a reasonable timescale to allow them to do so. The rest of the process does not differ (see [flowchart setting out procedure for submitting and evaluation EIA applications](#)).

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):

Informal arrangements: We consult on all new nuclear power stations whether or not it is considered that there will be likely significant adverse transboundary impacts.



## 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	
I O/200 9/0792 /F	30-08-13	Republic of Ireland		29-08-13	Monaghan County Council / DECLG – Department of Environment, Community	-	23-01-18

Project name	Starting date (date notification sent)	Affected Party/ Parties	Timing of the notification (screening, scoping or preparation of the ELA 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	
					<i>and Local Government</i>		
2 O/2013/0214/F	02-09-13	Republic of Ireland		21-06-13	Monaghan County Council / DECLG	-	23-01-18
3 B/2015/0005/F	16-10-18	Republic of Ireland		29-06-15	Donegal County Council / DECLG	-	-
4 East Anglia ONE North	26/06/18	Belgium, Denmark, France, Germany, The Netherlands, Sweden		-	-	-	-
5 East Anglia TWO	26/06/18	Belgium, Denmark, France, Germany, The Netherlands, Sweden		-	-	-	-
6 Hornsea Three Offshore Wind Farm	(1)12/06/17 (2) 09/06/18	Belgium, Denmark, France, Netherlands, Germany, Iceland, Sweden and Norway.		-	-	-	-
7 Norfolk Vanguard Offshore Wind Farm	(1)17/07/17, (2) 08/08/18	Belgium, Denmark, France, Germany, Ireland, Netherlands, Norway					
8 Thanet Extension Offshore Windfarm	(1)17/07/17, (2) 15/08/18	Netherlands, Belgium, France, Germany, Denmark					

Project name	Starting date (date notification sent)	Affected Party/ Parties	Timing of the notification (screening, scoping or preparation of the ELA 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	
9 Wylfa Newydd Nuclear Power Station **	(1) 01/02/17, (2) 06/07/18	Republic of Ireland					
10 East Anglia THREE	10/03/16	Belgium, Denmark, France, Netherlands, Germany, Norway, Sweden, Ireland					
11 Norfolk Boreas Offshore Wind Farm	21/02/17	Belgium, Denmark, France, Germany, Netherlands					
12 Tidal Lagoon Cardiff	12/01/16	Republic of Ireland					

Your comments: \*Please note that on Wylfa we followed the special arrangements for nuclear Nationally Significant Infrastructure Projects approach and informed all relevant states party to UNECE Espoo conventions of a proposed nuclear Nationally Significant Infrastructure Project. The relevant states will be provided with the same information as would be given to EEA State(s) being notified or consulted under EIA Regulation 32, and the same ability to participate in the process should they wish to do so. This resulted in responses from Slovakia, Austria, Spain, Norway, Netherlands, Poland and Germany.

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? *See below*

(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?

- i. **Wylfa:** We have translated application documents into German after receiving a request to do so (ongoing). When we have also received representations under the transboundary procedures, they have usually been provided bilingually (e.g. submissions from Germany). However, we had an instance of a document from Slovakia that was received in Slovak only. As a consequence we had that translated so as to understand its content (it was a consultation response). In the same case the Slovak authorities decided to translate the non-technical summary of the Environmental Statement into their language in order to facilitate a consultation process. We have also had requests from a German MP for guidance notes and Relevant Representation registration pages to be translated into German.
- ii. **Thanet:** We have had some representations made to the examination by authorities of the French Government (the same authorities have been granted status in the examination process as an 'other person'). Their responses are provided in a mixture of English and French, so we translated.
- iii. **Norfolk Vanguard:** As per Thanet.

(c) Which Party covers the cost of translation of EIA documentation?

- (i) As a Party of origin: as necessary
- (ii) As an affected Party: as necessary
- (iii) Other, please specify:

(d) What parts of the EIA documentation does your country usually translate?

- (i) As a Party of origin: as necessary
- (ii) As an affected Party: as necessary

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

(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.

(i) As a Party of origin:

Difficulties include requests to extend statutory registration deadlines and provide guidance materials in other languages.
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- (i) Please describe how the costs of interpretation during the hearings are covered:
- (ii) By the Party of origin:
- (iii) By the affected Party:
- (iv) Shared by both Parties concerned:
- (v) Developer:
- (vi) Other, please specify: as required

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: None to report

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) Wylfa.** There are several examples of the process working well. The press notices were issued within the Embassys and a fair number of IP's registered to the examination (members of the public / organisations). The Slovakian example shows that where relevant the country itself can translate the non-technical summary so that they could do their own state level consultation which we think works well and is more proportionate. Similarly, Austria seemed to have undertaken their own consultation and provided the view of the state in the reg 24 response.
- **Offshore wind projects** – There are numerous examples in relation to offshore wind development where engagement on transboundary matters has been of advantage to the overall process.

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:

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 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): We have used the guidance to inform our own advice on how we will undertake EIA in a transboundary context for the PA2008. Our advice has been scrutinised by the Espoo and Aarhus compliance committee following the Hinkley Point C EIA transboundary process. The guidance was updated to reflect the recommendations made by those committees particularly in relation to the special procedures for nuclear developments.

Your experience with using this guidance: The guidance is generally very useful and supports in determining how best proceed in order to maintain the necessary compliance. The guidance places the financial burden of translation on the host nation which is not unexpected but in light of the very precautionary approach to identifying likely significant effects for nuclear does appear disproportionate.

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 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.