Economic Commission for Europe

Convention on Environmental Impact Assessment in a Transboundary Context

Review of Implementation 2003

Advance copy

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INTRODUCTION

THE CONVENTION

The Convention on Environmental Impact Assessment (EIA) in a Transboundary Context was adopted and signed on 25 February 1991, in Espoo, Finland. As of 1 September 2003, there were forty Parties to the Convention – 39 member States of UNECE plus the European Community (EC), referred to as 'a regional economic integration organization' in the Convention.

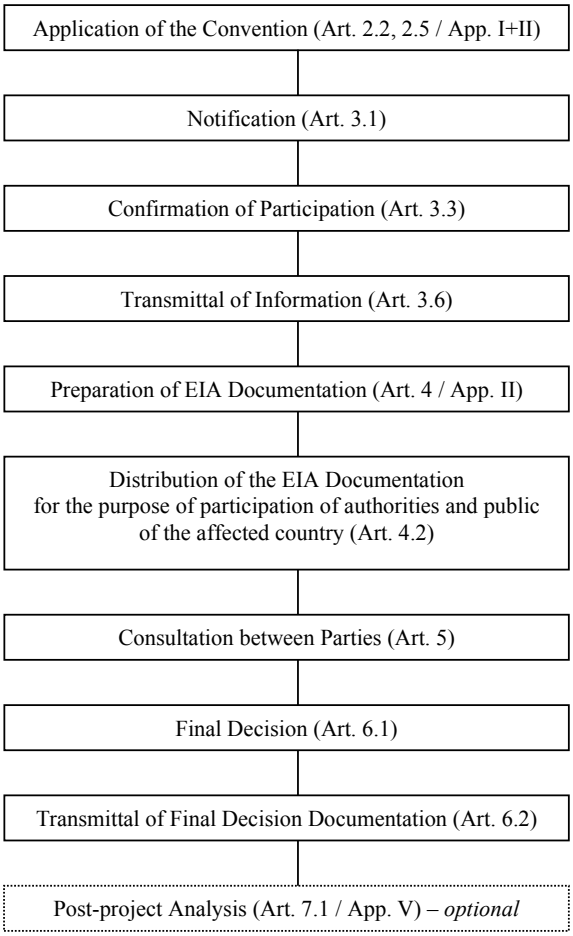
The Convention does not specify its objectives explicitly, but these may be inferred from its general provisions (see box below). The diagram below illustrates the main steps of the transboundary EIA procedure under the Convention.

Two subsidiary bodies support the activities of the Meeting of the Parties to the Convention: the Working Group on EIA and the Implementation Committee.

Article 2 – General Provisions

1. The Parties shall, either individually or jointly, take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities.
2. Each Party shall take the necessary legal, administrative or other measures to implement the provisions of this Convention, including, with respect to proposed activities listed in Appendix I that are likely to cause significant adverse transboundary impact, the establishment of an environmental impact assessment procedure that permits public participation and preparation of the environmental impact assessment documentation described in Appendix II.
3. The Party of origin shall ensure that in accordance with the provisions of this Convention an environmental impact assessment is undertaken prior to a decision to authorize or undertake a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact.
4. The Party of origin shall, consistent with the provisions of this Convention, ensure that affected Parties are notified of a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact.
5. Concerned Parties shall, at the initiative of any such Party, enter into discussions on whether one or more proposed activities not listed in Appendix I is or are likely to cause a significant adverse transboundary impact and thus should be treated as if it or they were so listed. Where those Parties so agree, the activity or activities shall be thus treated. General guidance for identifying criteria to determine significant adverse impact is set forth in Appendix III.
6. The Party of origin shall provide, in accordance with the provisions of this Convention, an opportunity to the public in the areas likely to be affected to participate in relevant environmental impact assessment procedures regarding proposed activities and shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin.
7. Environmental impact assessments as required by this Convention shall, as a minimum requirement, be undertaken at the project level of the proposed activity. To the extent appropriate, the Parties shall endeavour to apply the principles of environmental impact assessment to policies, plans and programmes.
8. The provisions of this Convention shall not affect the right of Parties to implement national laws, regulations, administrative provisions or accepted legal practices protecting information the supply of which would be prejudicial to industrial and commercial secrecy or national security.
9. The provisions of this Convention shall not affect the right of particular Parties to implement, by bilateral or multilateral agreement where appropriate, more stringent measures than those of this Convention.
10. The provisions of this Convention shall not prejudice any obligations of the Parties under international law with regard to activities having or likely to have a transboundary impact.

Main procedural steps of the Convention



On 21 May 2003, the Convention was supplemented by the Protocol on Strategic Environmental Assessment.

This introductory chapter continues with a description of the mandate and aim of the Review, a description of its outcome and a summary of the conclusions drawn.

MANDATE AND AIM OF THE REVIEW

Review

The Meeting of the Parties decided at its second meeting in Sofia, 26-27 February 1991, to adopt a work plan (decision II/11) that included an activity on 'Reviews of the implementation of the Convention'. The objective of the activity was that Parties and non-Parties submit information on recent developments in their implementation of the Convention, with a draft review to be considered at the third meeting of the Parties to review the implementation of the Convention. To this end, an abridged version of the Review, comprising Introduction, Summary and Conclusions sections, was adopted by the Meeting of the Parties in annex to decision III/1, which is included as Annex I to this Review.

It was decided that the secretariat would prepare a draft review based on the information provided by Parties and non-Parties pursuant to the reporting system adopted by the Working Group, for discussion and possible adoption at the third meeting of the Parties. The draft review would be prepared in 2003 and would incorporate the information received for consideration at the third meeting of the Parties, at least nine months before this third meeting.

Questionnaire

The Review has been undertaken on the basis of responses to a questionnaire that was circulated to all member States of UNECE. The questionnaire was defined in a submission to the Working Group on EIA (MP.EIA/WG.1/2001/3), pursuant to an activity relating to a 'Reporting system', defined in the work plan adopted at the second meeting of the Parties (decision II/1).

The objective of the activity was that the Implementation Committee would prepare recommendations for a revision of the questionnaire used for reporting for future reviews of the implementation of the Convention. The capacity and technical possibilities of the ENIMPAS database of the Convention were to be used in the reporting system.[1] The objective was to improve the questionnaire so that it provides information on how the obligations of the Convention have been compiled with, both at the general level and by particular Parties. The Committee would also consider whether any further steps might be recommended to improve the monitoring of, and compliance with, the obligations arising under the Convention.

The delegation of the United Kingdom acted as lead country for this activity, with the assistance of the secretariat. The Implementation Committee established by the Meeting of the Parties in accordance with decision II/4 met with a view to preparing its recommendation. It was also decided that the Committee would present its recommendation for a new reporting mechanism at the fourth meeting of the Working Group on EIA.

[1] The ENIMPAS database on EIA in a transboundary context was later to be closed by decision III/6 of the Meeting of the Parties.

The document prepared for consideration by the Working Group on EIA (MP.EIA/WG.1/2001/3) stated in its introduction that the purpose of the questionnaire was to elicit the information necessary for the production of a report on the Parties' implementation of the Convention on EIA in a Transboundary Context and to gather information on the practices of non-Parties with respect to transboundary EIA. This would serve as background information to strengthen the implementation of the Convention and help achieve its goals.

The questionnaire covered the most important provisions in the Convention. The first chapters were all divided into two parts: "questions to the Party in the role as a Party of origin" and "questions to the Party in the role as an affected Party" in order to get feedback on the experiences that the Parties had in these respective roles. The last chapters were addressed to all Parties as "concerned Parties" because of their more general character.

EIA procedures are carried out by different authorities/bodies in a Party depending on the political system, the type of "activity" and its location. The fact that there are different actors involved in the implementation of the Convention could lead to some differences. The questionnaire therefore asked whether the Party, in its experience of EIA procedures, considered that the application of the Convention varied with the different types of actors within the Party or within another Party.

Concrete examples were to be provided where possible. The document also stated that the Working Group on EIA might request the Implementation Committee to review the questionnaire in the light of the answers provided by the Parties.

OUTCOME OF THE REVIEW

Issue of the questionnaire

The questionnaire was issued late in 2002 and again, following some minor amendments,[2] in mid-2003. The most recent response is referred to in those cases where a Party submitted a completed questionnaire on both occasions. The questionnaire is divided into two sections, referred to here as the 'domestic' and 'main' sections. The domestic section provides for a brief summary of relevant legislation, the authorities involved and projects for which the Party has been or is the Party of origin. The main section provides for most of the questions and is the focus of this review.

Responses

Completed 'main' questionnaires were received from 25 of the 39 States that are Parties to the Convention:[3]

- Armenia
- Austria
- Belgium[4]
- Bulgaria
- Canada
- Croatia
- Czech Republic
- Denmark[5]
- Estonia
- Finland
- France
- Germany
- Hungary
- Italy
- Kyrgyzstan
- Latvia

[2] The most significant change was to drop a condition "If not," from the start of a number of subsidiary questions, to which the main question required only a yes or no response. As a result, there would appear a rather poor link between whether the main question is answered yes or no, and whether the subsidiary question is answered. The following questions were changed in this way: II.A.1.1 (c), II.A.3.2 (c), II.B.2.2 (b), II.B.3.1 (b), III.A.2.1 (c), III.B.2.2 (b), IV.A.1.1 (b), IV.A.1.2 (b), IV.B.1.1 (b), IV.B.1.2 (b), V.A.1.2 (b) and XVI.A.1.1.

[3] Versions of the main questionnaire completed in 2002 were used for Croatia, Hungary, Latvia, Norway and Poland. The other Parties returned the questionnaire in 2003, though only Bulgaria, the Czech Republic, France, Italy and Switzerland used the mid-2003 version of the questionnaire. Canada and Sweden did not reply using the questionnaire so it was not possible to determine which version of the questionnaire they were answering.

[4] Belgium returned the questionnaire in March 2004, too late to be included in Decision III/1. The Belgian completed questionnaire includes information from two regions, Brussels-Capital and Flanders, and from two federal agencies with environmental responsibilities in a transboundary context: the Management Unit of the Mathematical Model of the North Sea for marine matters; and the Federal Agency for Nuclear Control for nuclear matters. The responses from each of these bodies are labelled accordingly: Brussels, Flanders, Marine and Nuclear.

[5] Denmark returned the questionnaire in February 2004, also too late to be included in Decision III/1.

- Lithuania
- Netherlands
- Norway
- Poland
- Republic of Moldova
- Slovakia
- Sweden
- Switzerland
- United Kingdom

In addition, the European Community is a Party to the Convention but, being a regional economic integration organization rather than a State, has a different status and therefore felt it inappropriate to send in a completed questionnaire. Nonetheless, the European Community provided a response (included as Annex II) explaining its position and why it considered itself unable to complete the questionnaire. The edited responses to the questionnaire are included in the Review. Most completed questionnaires were in English, but four were not: France responded in French, whereas Armenia, Kyrgyzstan and the Republic of Moldova replied in Russian. Translated and edited responses from these four Parties are included in the Review. In addition, their original, unedited responses are provided as Annexes III to VI.

The remaining 14 States that are Parties to the Convention failed to provide completed 'main' questionnaires.

This level of response limits the value of the Review, as the responses may not be representative of all 40 Parties. In addition, the responses received varied considerably both in quality and in terms of the amount of experience they reported. Moreover, it was apparent that respondents replied in different ways, with some restricting themselves to describing actual experience whereas others described likely procedural approaches. Similarly, where questions were asked of Parties in each of their possible roles (Party of origin and affected Party), it is apparent that respondents were frequently confused, for example describing their experiences as an affected Party in response to a question relating to their role as Party of origin. Any conclusions drawn must, therefore, be considered as being limited in validity.

The following Parties provided completed 'domestic' questionnaires:[6]

- Armenia
- Austria
- Bulgaria
- Canada
- Finland
- Italy
- Latvia
- Poland
- Republic of Moldova

In addition, Bosnia and Herzegovina, which is not a Party to the Convention, submitted a completed 'domestic' questionnaire.

Structure of the Review

After this introductory chapter, a summary is provided of all the responses followed by some conclusions. The remainder of the Review reflects the structure of the questionnaire, beginning with a chapter on 'domestic' implementation comprising:

- Legislative, administrative and other measures by which the Convention is implemented;
- Authorities and levels of government responsible for implementation; and
- Summary listing of projects.

The greater part of the Review concentrates on the 'main' section of the questionnaire, which comprised parts I to XVI (see table of contents).

Many of these parts were divided into two sets of questions to reflect the dual role of each Party: as a Party of origin and as an affected Party.

Responses to each group of questions have been summarized at the beginning of each group, preceding individual questions and answers.[7] These groups correspond to the section headings listed in the table of contents, i.e. the third level of questions, e.g. II.B.2. All the group summaries have been brought together in the overall summary below.

Answers to individual questions are ordered alphabetically by country, except that: (a) common responses (e.g. a group of respondents reply 'Yes') and simple cross-references to other questions are placed at the beginning; and (b) non-responses, or responses indicating a lack of experience, are placed at the end. All responses have been subject to minor editorial changes. For the sake of brevity, cross-references to answers to other questions are

[6] Versions of the domestic questionnaire completed in 2002 were used for Bosnia and Herzegovina, Latvia, Poland and the Republic of Moldova.

[7] Because their late submission prevented their inclusion in decision III/1, the responses of Belgium and Denmark have not been included in the group summaries nor in the overall summary.

expressed simply as ‘see’ followed by the full question reference.

Terminology

Some standardization of terminology has been undertaken in the Review, to make it more readable and easier to compare responses:

- The Convention’s term ‘EIA documentation’ is used throughout the Review rather than the terms ‘environmental statement’, ‘environmental report’, ‘environmental impact statement’, ‘environmental impact report’ or ‘EIA report’;
- The term ‘State ecological examination’ is used rather than ‘State environmental examination’ or ‘State ecological expertise’;
- The term ‘proponent’ is used rather than ‘developer’ or ‘investor’, where there is no change in meaning; and
- The terms ‘activity’ and ‘project’ are generally used interchangeably.

Questions are cross-referenced in full, even if the cross-reference is to another question in the same section.

SUMMARY

This section of the Review brings together the summaries from the remainder of the Review.

OVERVIEW OF DOMESTIC IMPLEMENTATION

Only limited information on measures taken and responsibility for implementation was supplied, thus precluding the drawing of any conclusions from this part of the questionnaire.

APPLICATION OF THE CONVENTION (PART I)

To determine whether an activity falls within the scope of Appendix I to the Espoo Convention, respondents generally described a procedure that combined a review against a list, either a direct copy of Appendix I or a more extensive list, and a case-by-case examination using expert judgement. Hungary employed a list of activities combined with a set of quantitative thresholds, thus removing the need for expert judgement.

To determine whether a change to an Appendix I activity is "major", respondents again identified a case-by-case examination relying on expert judgement and, in certain instances, consultation of authorities (Bulgaria, Italy) or interested parties (Kyrgyzstan). For some respondents, this examination was aided by guidelines and/or criteria, usually qualitative, but in certain Parties quantitative as well (Austria, Czech Republic, Germany). Again, Hungary employed a complete set of quantitative thresholds, thus removing the need for expert judgement.

To determine whether an activity not listed in Appendix I should be treated as if it were so listed, respondents generally reported use of a case-by-case examination relying on expert judgement. Many respondents also noted that their national lists of activities were more extensive than Appendix I to the Convention (Austria, Canada, Finland, Germany, Italy, Netherlands, Poland, Switzerland, United Kingdom). The Republic of Moldova noted the possibility for its Central Environmental Department to extend the list of activity types. Again, Hungary provided an exception in that only those activities in its extensive activity lists were subject to Environmental Impact Assessment (EIA); a bilateral or multilateral agreement might have been used to overcome this restriction.

To decide whether a change identified in pursuance of Article 2, paragraph 5, (i.e. to an activity not listed in Appendix I, but treated as if it were so listed) is considered to be a "major" change, respondents generally identified a case-by-case examination relying on expert judgement, supported by the use of quantitative or, more commonly, qualitative criteria (Austria, Bulgaria, Hungary, Latvia, Netherlands). Bulgaria, again, reported providing opportunities for consultation of authorities. Once again, Hungary provided an exception by employing a complete set of quantitative thresholds, thus removing the need for expert judgement.

There was greater divergence among the respondents in the procedures applied to determine the significance of transboundary impacts of activities listed in Appendix I. Generally, a case-by-case examination was made using expert judgement, guidelines (Canada, Switzerland) and, in a number of countries, qualitative or quantitative (Latvia) criteria. Switzerland also had a particular interest in involving potentially affected Parties at this stage; in addition, it has a scoping procedure. In the United Kingdom, the consultations were quite wide, though only domestic, extending to non-governmental organizations. The Czech Republic did not apply a significance test; any potential transboundary impact implied the carrying-out of a transboundary EIA.

Regarding procedures applied to decide whether an activity not listed in Appendix I, or a major change to such an activity, is considered to have a "significant" adverse transboundary impact, about half of the respondents simply referred to the answer to the previous question. Generally, a case-by-case examination was made using expert judgement, guidelines (Canada, Switzerland, United Kingdom) and, in a number of countries, qualitative or quantitative (Latvia) criteria. Again, Switzerland also had a particular interest in

involving potentially affected Parties at this stage. As in the case of listed activities, the Czech Republic did not apply a significance test; any potential transboundary impact implied the carrying-out of a transboundary EIA. Some respondents also noted that their national lists of activities were more extensive than Appendix I to the Convention (Hungary, Italy, Switzerland, United Kingdom). In Hungary only those activities in its extensive activity lists were subject to EIA; a bilateral or multilateral agreement might have been used to overcome this restriction, as might a request from a potentially affected Party.

NOTIFICATION (PART II)

QUESTIONS TO THE PARTY IN THE ROLE OF 'PARTY OF ORIGIN'

It appears that some of the respondents replied to questions in this section in the role of affected Party, or with respect to domestic EIA procedures, rather than in the role of Party of origin in a transboundary EIA procedure.

Most respondents in their role of Party of origin reported that notification was the responsibility of the Espoo 'point of contact' or the environment ministry or national environment agency (or similar), the two often being the same in practice. In France, it was the point of contact in the Ministry of Foreign Affairs for national level projects but the county (*département*) prefect for local ones. In the United Kingdom, the Secretary of State for Environment was responsible for notification (whereas the point of contact is in the Office of the Deputy Prime Minister). In Germany, Kyrgyzstan, the Netherlands, Norway and Switzerland, it was the competent authority that was responsible for the notification though, in the case of the Netherlands, the notification was copied to the point of contact in the Environment Ministry. No respondent indicated that they did not use the points of contact as decided at the first meeting of the Parties. Apart from the Netherlands, all respondents indicated that the body responsible for notification was permanent. Respondents provided additional information on how the notification was organized.

Problems reported by the respondents in complying with the requirements of the Convention (Art. 3, para. 2), included describing "the nature of the possible decision" (Bulgaria), timing (Kyrgyzstan, Netherlands), translation (Netherlands), and the point of contact's level of awareness of the procedure and willingness to accept a notification where a dependent territory was not recognized as such by the affected Party (United Kingdom).

Most respondents noted that, in practice, information to supplement that required by the Convention (Art. 3, para. 2) was included in notifications, sometimes in reply to a request from the affected Party (Croatia, France), and sometimes because of a legal requirement (Czech Republic, Poland).

Seven Parties reported use of the proposed guidelines in the report of the first meeting of the Parties in Oslo (ECE/MP.EIA/2, decision I/4), but five reported that they did not and two others (Hungary, United Kingdom) noted partial use of the guidelines. Norway reported use of a national format, whereas others used a letter (Estonia, Italy, Lithuania); the Czech Republic and Finland used both a form and a letter.

The Convention (in Art. 3, para. 5 (a) and (b)) requires submission of additional information on receipt of a positive response from an affected Party indicating a desire to participate. Certain respondents indicated that information was indeed only sent at this stage (Croatia, Estonia), but the majority said that it was sent with the notification, whereas Poland sent part with the notification (para. 5(b)) and part in response to the request (para. 5(a)). Switzerland and the United Kingdom continued to provide information after notification without waiting for a response.

In determining when to send the notification to the affected Party, respondents indicated that this had to occur no later than notifying their own public (Austria, Czech Republic, Finland) or consultees (Sweden, Norway), or no later than when the development notice was issued (Italy, Netherlands, United Kingdom) or a decision taken to hold a public inquiry (France). Switzerland was seeking to notify the affected Party at the scoping stage, whereas in Hungary and Slovakia the notification was sent on receipt of the development request. In Bulgaria, the proponent notified the public at the same time as the competent authority, which then decided whether there was a need for a transboundary EIA procedure and notified the affected Party accordingly. In Canada, Croatia, Germany and Poland, the likelihood of a significant transboundary impact was first determined. In practice, many of the above may have been equivalent.

Half of the respondents indicated that their national EIA legislation required a formal scoping process with mandatory public participation. Two Parties without mandatory public participation in

the scoping process notified the affected Party once the transboundary impact had been identified (Croatia, Poland). Others reported not having a mandatory scoping process (France, Germany, Italy, United Kingdom), whereas Switzerland said that it did notify the affected Party during the scoping stage.

Respondents reported various responses to notifications, but there was generally a lack of experience. Experiences were generally reported as 'good' or 'effective' (Estonia, Finland, Hungary, Slovakia, Sweden); the Netherlands noted the importance of informal contacts. The United Kingdom indicated that responses were usually only received in response to reminders.

The time frame for a response was reported as being typically between one and two months by a number of respondents (Croatia, Czech Republic, Estonia, Finland, Germany, Hungary, Italy, Sweden), but slightly shorter in the Netherlands and the United Kingdom. This time frame was derived from national EIA procedures (Czech Republic, Estonia, Finland, France, Hungary, Switzerland), from a combination of national procedures and bilateral agreements (Germany, Italy), or from national procedures adjusted to allow for procedures in the affected Party (Slovakia, United Kingdom). Bulgaria reported a complex set of criteria for determining the time frame. Kyrgyzstan made reference to the project proponent's deadlines.

Responses had always or generally been received within the time frame according to a number of respondents (Croatia, Estonia, Finland, France, Hungary, Italy, Slovakia, Sweden). If responses were not received in time, respondents to the questionnaire indicated that a reminder was sent (Croatia, France, Sweden, United Kingdom) and more time allowed (Finland, Italy), but that ultimately the Party of origin might have decided to continue without the participation of the affected Party (Croatia, France, Germany, Kyrgyzstan, United Kingdom). Delays in responses are also likely to result in delays in the entire approval procedure (Hungary, Netherlands, United Kingdom). If an affected Party requested extension of the time frame, most respondents indicated that it was granted, if possible and reasonable.

Only the United Kingdom reported problems with the notification procedure, caused by delays in response and by responses not being provided in English.

Fewer than half of the respondents indicated that they normally requested information from the affected Parties. Certain respondents reported that they requested general information (Bulgaria, Czech Republic, Switzerland), whereas Hungary requested such information according a legal provision. By contrast, France noted that this was the responsibility of the project proponent.

Responsibility for requesting information was reported by approximately half of the respondents as being with the environment ministry and by the other half as being with the competent authority. In Kyrgyzstan and Italy, it was the project proponent that was responsible. The requests were reportedly sent to the points of contact (Bulgaria, Croatia, Hungary, Italy, Slovakia, Switzerland) or the competent authority (Estonia, Kyrgyzstan); other respondents reported a flexible approach, with more direct contacts being made where possible.

The kind of information normally requested was reportedly quite varied, for example it was either general (Czech Republic), defined by law (Hungary) or specific to the case (Germany, Kyrgyzstan, United Kingdom), or it related to potential impacts (Bulgaria, Slovakia, Switzerland), the affected population (Bulgaria), publicity requirements (United Kingdom) or the state of the environment (Netherlands). The Czech Republic, Slovakia and the Netherlands reported that the information provided was generally sufficient, whereas Croatia said it was "not exactly". The United Kingdom noted that a development decision could not have been made unless the EIA documentation was sufficient.

A response to a request for information from the affected Party has to be provided "promptly". Respondents varied significantly in their interpretation of "promptly": as soon as possible (Estonia, Germany), as defined in the request (Bulgaria, United Kingdom), according to agreements (Slovakia) but flexibly (Italy), as agreed by the points of contact (Croatia), two months when the competent authority was a federal one (Switzerland), or at the same time as the affected Party indicated its wish to participate in the EIA procedure (Hungary).

Only Croatia reported difficulties in requesting information, with an affected Party unable to submit appropriate data because the data were missing or belonged to someone who was not willing to provide them. (However, both Bulgaria and the United Kingdom noted problems as an affected Party with meeting tight deadlines set in a request that had been delayed in its arrival.)

About half of the respondents indicated that it was the affected Party, not the Party of origin, that

identified the public in the affected area. Certain respondents indicated that this was supplemented through dialogue between the concerned Parties (Bulgaria, Canada, Germany, United Kingdom). Similarly, responsibility for transferring the notification to the public in the affected Party was reported as being the responsibility of the authorities in the affected Party by most respondents. Certain respondents also indicated that the project proponent (Croatia) or project joint body (Italy) were involved in this matter, whereas Germany suggested that, as Party of origin, it would have used its best efforts to support the notification of the public in the affected Party. Some respondents (Czech Republic, Netherlands, Switzerland) noted that, though it was for the affected Party to transfer the notification to the public, it was the Party of origin's responsibility to prepare the notification. Finland noted that a regional environmental centre had on one occasion both identified the public in the affected Party and issued the notification to the local authority there.

As to how the public was notified in the affected Party, several respondents indicated once again that this was the responsibility of the affected Party (whereas others answered in the role of the affected Party). Similarly, most respondents indicated that the authorities in the affected Party were not only consulted on, but were also responsible for, these issues.

Again, several respondents indicated that it was for the affected Party to determine the content of the public notification (Finland, France, Germany). In addition, respondents indicated that certain information should have been included (Bulgaria, Croatia, Czech Republic, Slovakia) in accordance with their domestic law (Germany, Hungary, Norway), bilateral agreements (Italy) or decision I/4 of the Meeting of the Parties (Canada). Eight of twelve respondents indicated that the notification to the public in the affected Party had the same content as the notification to their own public; three of the other four indicated that it might be the same but that it was then for the affected Party to decide the exact content of the notification to its public.

Once again, several respondents indicated that the timing of the notification to the public in the affected Party was for the affected Party to decide, though the Netherlands and Switzerland noted that they aimed to assure notification at the same time as their own public was informed. Croatia reported that the public in the affected Party was notified after the domestic public inquiry had been completed.

Only Kyrgyzstan reported on difficulties experienced by the Party of origin in the organization of the notification to the public in the affected Party, noting organizational problems and a lack of procedures.

QUESTIONS TO THE PARTY IN THE ROLE OF 'AFFECTED PARTY'

It would appear that some of the respondents replied to questions in this section in the role of Party of origin rather than in the role of affected Party in a transboundary EIA procedure.

In the role of affected Party, most respondents indicated that the (federal) environment ministry was responsible for the reception and distribution of the notification. France indicated that the Ministry of Foreign Affairs received the notification; Canada indicated that both ministries plus the Canadian Environmental Assessment Agency received the notifications. In Sweden, it was the Swedish Environmental Protection Agency, while in the United Kingdom it was the point of contact in the Office of the Deputy Prime Minister. In the Netherlands, provincial points of contact generally received the notifications. Distribution was reportedly much more varied, but recipients included the public (Bulgaria, Hungary), non-governmental organizations (NGOs) (Austria, Finland), provincial or local government or authorities (Austria, Canada, Germany, Hungary, Italy, Sweden, Switzerland, United Kingdom), federal or national ministries, authorities or agencies (Austria, Canada, Finland, Hungary, Sweden, United Kingdom), and regional environmental centres (Finland).

The content of the notifications received was reportedly adequate or good for some respondents (Croatia, Czech Republic, Norway, Slovakia, Switzerland), variable or inadequate for others (Austria, Finland, Poland, Sweden, United Kingdom).

Some respondents reported that the content and format of the notification received was consistent with decision I/4 (Bulgaria, Croatia, Czech Republic, Finland, France, Italy, Norway) and gave adequate information for a decision (Croatia, Czech Republic, France, Hungary, Italy, Norway, United Kingdom). Others indicated that they were not consistent with the decision (Austria, Hungary, Poland, Slovakia), did not necessarily fully reflect decision I/4 (Switzerland) or were inadequate (Austria).

Regarding timing of the notification to the affected Party with respect to notification of the Party of origin's public, either variable (Austria, Hungary, Netherlands, Sweden, United Kingdom)

or good (Italy, Switzerland) experience was reported, though this experience was very limited. Poland and the United Kingdom remarked that it was difficult to know what stage the domestic EIA procedure had reached.

Respondents generally indicated a wish to participate in transboundary EIA procedures notified to them (Austria, Finland, Italy, Netherlands, Norway, Poland, Slovakia, Sweden). Bulgaria and Poland reported application of the criteria in Appendix III to the Convention to determine whether they wished to participate. In the Czech Republic, the views of relevant authorities were sought. Several respondents reportedly made a judgement on the likely significance of any transboundary impact (Hungary, Latvia, Lithuania, Netherlands, Norway, Poland, United Kingdom). The Netherlands also took into account the likely level of public interest.

The time available for a response was reported as being adequate (Austria, Croatia, Latvia, Norway, Switzerland) or too short (Finland, France, Netherlands, United Kingdom). Generally, respondents indicated flexibility with respect to a failure to comply with a time frame. All respondents reported that requests for deadline extensions were responded to positively.

Parties reported a number of problems experienced in organizing the notification procedure, including:

- Late notification (Bulgaria, Netherlands);
- Notification in the language of the Party of origin (Austria, Poland);
- Inadequate information in the notification (Bulgaria, Poland);
- Non-compliance with Espoo Convention's requirements (Poland);
- Difficulty understanding the Party of origin's EIA procedure (Sweden); and
- Problems with domestic procedures for processing notifications (France).

Those few respondents providing information on their experience of receiving requests for information reported that such requests had been responded to positively. No problems were reported.

Such requests were reported as being received by permanent bodies: the Espoo point of contact (Austria, Canada, Croatia, Finland, Poland, Sweden, Switzerland, United Kingdom), the provincial government (Austria, Switzerland), the Minister of Foreign Affairs (Canada), or the environment ministry (Bulgaria, Canada, Czech Republic, Hungary, Italy, Lithuania, Poland, Slovakia) or agency (Canada, Sweden). (Certain of these bodies may be equivalent in a Party.)

"Reasonably obtainable" information was interpreted by respondents in two main ways: easily obtainable, publicly available, existing, non-confidential information (Bulgaria, Croatia, Hungary, Netherlands, Poland, Slovakia, Switzerland, United Kingdom); or information that permits the assessment of transboundary impacts (Hungary). Kyrgyzstan made reference to its legislation on freedom of access to information. "Promptly" providing the information was interpreted as meaning within the time frame specified by or agreed with the Party of origin (Bulgaria, Finland, Switzerland, United Kingdom), or allowing a reasonable period for the collection of the requested information (Bulgaria, Canada, France, Hungary, Netherlands, Poland).

Public notification was reported as being the responsibility of various permanent bodies (Kyrgyzstan excepted): the Espoo point of contact (Finland, United Kingdom), the provincial or local government (Austria, Croatia, France, Hungary, Kyrgyzstan, Poland), the environment minister (Bulgaria, Czech Republic, Hungary, Norway, Slovakia) or agency (Canada, Sweden), the Minister of Foreign Affairs (Canada), the competent authority (Canada, Germany, Switzerland), the Party of origin (Netherlands) or the project proponent (Italy, Kyrgyzstan).

Various means were reported for publicizing the notification, including the Internet (8 respondents), public notice boards (Czech Republic, Hungary, Poland, Slovakia, Sweden), local or national newspapers (13 respondents), the official gazette (Croatia, Switzerland), radio (Czech Republic, Poland, Slovakia) or by direct contact with NGOs (Finland) or other stakeholders (Norway, Poland).

Respondents reported few difficulties. Bulgaria reported complaints about the limited distribution of the notification. Hungary commented on the difficulty of maintaining public interest in the lengthy Espoo procedure.

PREPARATION OF THE EIA DOCUMENTATION (PART III)

QUESTIONS TO THE PARTY IN THE ROLE OF 'PARTY OF ORIGIN'

Regarding the level at which the Party of origin consulted the affected Party in order to exchange information for the EIA documentation, respondents recorded that it was the responsibility of the EIA consultants or project proponent (France, Sweden) or of the environment ministry or competent authority (Poland), or that it was done through the point of contact in the affected Party (Canada, Croatia, Czech Republic, Hungary, United Kingdom).

Most respondents indicated that they provided all of the EIA documentation to the affected Party. Bulgaria and Canada indicated that they did so subject to confidentiality constraints, whereas Finland sought the advice of the affected Party. France noted that it also sent non-EIA project information.

Respondents described various means of identifying "reasonable alternatives" (App. II, subpara. (b)), with some confusion as to whether the question asked for a definition of "reasonable alternatives", a process for identifying potential "reasonable alternatives" or a process for determining which candidate alternatives were "reasonable". Taking the second of these interpretations, Estonia reported that EIA experts identified alternatives in consultation with the authorities, Finland relied on its EIA Act, whereas in Sweden the developer had to define alternative sites and designs.

"The environment" likely to be affected was identified by the Parties in different ways: according to the definition in the Convention (Armenia, Netherlands); by the EIA experts or project proponent (Croatia, Estonia, France, Switzerland, United Kingdom); in cooperation with the affected Party (Austria); and according to environmental legislation (Finland, Hungary, Italy, Kyrgyzstan, Sweden).

With regard to difficulties experienced in compiling the information described in Article 4, paragraph 1, and Appendix II, Croatia noted a lack of criteria, whereas Bulgaria reported a lack of information on the proposed activity or its potential transboundary impact.

Several respondents reported the transfer and reception of comments as being organized between the Espoo points of contact (Bulgaria, Canada, Croatia, Czech Republic, Finland). Other respondents indicated that comments were sent, either directly or via the point of contact, to the competent authority (France, Germany, Hungary, Netherlands, Switzerland) and integrated into the EIA documentation (Estonia). In Kyrgyzstan the comments are sent to the Environment Ministry, either directly or via the project proponent. The United Kingdom noted that it would have accepted comments directly from the public and authorities in an affected Party. Indeed, several Parties indicated a preference for comments being sent directly to the competent authority rather than via the point of contact (France, Germany, Netherlands, Switzerland). Only in Armenia was the recipient of comments not a permanent body.

The requirement to send comments "within a reasonable time before the final decision" was reported by the respondents as being interpreted as agreed by the points of contact (Croatia), according to the domestic EIA regulations (Bulgaria, Czech Republic, Estonia, Finland, Germany, Hungary, Kyrgyzstan, Netherlands, Norway, United Kingdom), corresponding to the period for domestic consultation (Canada, France, Switzerland) or according to bilateral agreements and the laws of the concerned Parties (Italy, Slovakia). The United Kingdom reported additional flexibility for transboundary EIAs. Several respondents noted that the specified time frame was sometimes or often exceeded (Croatia, Finland, Netherlands).

Respondents generally indicated late comments were sometimes taken into account (Croatia, Czech Republic, Germany, Hungary, Netherlands, United Kingdom), though some indicated that the deadline for comments would expire (Kyrgyzstan, Switzerland). France, Hungary, Italy and the United Kingdom indicated that an extension was sometimes allowed. Moreover, if an affected Party made a reasonable request for an extension, all respondents indicated that they responded positively, if possible.

The comments received from an affected Party were used in different ways: either the EIA documentation was amended to take them into account, either by the Environment Ministry (Czech Republic) or by the project proponent (Estonia); or, more commonly, the comments were taken into account in the decision-making process (Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Netherlands, Norway, Slovakia, Switzerland, United Kingdom).

QUESTIONS TO THE PARTY IN THE ROLE OF 'AFFECTED PARTY'

The content of the EIA documentation was reported by some respondents as sometimes being inadequate (Austria, Hungary, Netherlands, Poland, United Kingdom), with the affected Party having to request additional information (Bulgaria, Croatia, Netherlands). Other Parties reported that the documentation was adequate (Czech Republic, France, Norway, Slovakia, Sweden).

Respondents reported having made various comments on the EIA documentation sent to them, including regarding impact prediction methodology (Finland, United Kingdom), quantity and quality of the information (Austria, Poland), project description (Finland), consideration of alternatives (Bulgaria, Finland), potential transboundary impacts (Bulgaria, Hungary, Poland), adequacy of mitigation measures (Bulgaria, Finland, Hungary), and monitoring and post-project analysis (Bulgaria, Finland). France also reported commenting at a broader level, objecting to a category of projects being proposed.

Respondents reported the reception and transfer of comments to the Party of origin as being the responsibility of a permanent body: the point of contact (Austria, Croatia, Finland, France, Italy, Sweden, United Kingdom), the environment minister (Bulgaria, Czech Republic, Estonia, Hungary, Italy, Norway, Poland, Slovakia) or agency (Canada, Sweden), the minister of foreign affairs (Canada, France, United Kingdom), the competent authority (Canada, Germany, Kyrgyzstan) or local authorities (Kyrgyzstan). (Certain of these bodies may be equivalent in a Party.) In the Netherlands and Switzerland, the public sent comments directly to the Party of origin.

In determining a "reasonable time before the final decision" allowed for comments, affected Parties reported compliance with the Party of origin's legislation or requirements (Austria, Bulgaria, Czech Republic, France, Netherlands, Switzerland, United Kingdom) or bilateral agreements, whether formal or informal (Armenia, Bulgaria, Italy), or both bilateral agreements and the legislation of the concerned Parties (Slovakia). Others made reference to practical domestic requirements (Hungary, Poland). All nine respondents that had requested an extension of a deadline indicated that their request had been accepted.

Most respondents indicated that the Party of origin had taken into account their comments as affected Party (Austria, Croatia, Finland, France, Netherlands, Sweden). The Netherlands noted, however, that it had had to encourage a Party of origin to take account of some comments. Bulgaria and Poland reported a lack of feedback on how their comments were taken into account, while the United Kingdom recorded a lack of response to certain comments.

TRANSFER AND DISTRIBUTION OF THE EIA DOCUMENTATION (PART IV)

QUESTIONS TO THE PARTY IN THE ROLE OF 'PARTY OF ORIGIN'

As Party of origin, respondents indicated different bodies responsible for the transfer of the EIA documentation: the competent authority (Austria, Canada, France, Germany, Netherlands, Norway, Switzerland), the point of contact (Austria, Croatia, Finland, Sweden, United Kingdom), the environment minister (Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Italy, Lithuania, Poland, Slovakia) or agency (Canada, Sweden), the project proponent (Kyrgyzstan) or the Minister of Foreign Affairs (Canada). Only Kyrgyzstan and the Netherlands indicated that this body was not permanent. The actual transfer was variously undertaken by post (13 respondents), electronic mail (8 respondents) or fax (Finland), or person-to-person at a meeting (Italy, Kyrgyzstan). Slovakia and Sweden also reported posting of documentation on an Internet web site.

Finland reported technical difficulties with the transfer, the Netherlands timing problems, whereas the United Kingdom indicated that points of contact in ministries of foreign affairs were not always familiar with the Espoo Convention's requirements.

Responsibility for distribution of the EIA documentation in the affected Party was variously attributed but generally it was reported that the affected Party was responsible, with some respondents being more specific in terms of the environment ministry or the point of contact in the affected Party. Kyrgyzstan reported that the project proponent was responsible. The Netherlands reported a more direct role for its competent authority (as Party of origin) in distribution, assisted by the point of contact in the affected Party. Again, only Kyrgyzstan and the Netherlands indicated that the responsible body was not permanent. Italy and Switzerland noted that distribution within the affected Party was according to that Party's legislation.

The question regarding to whom the EIA documentation was distributed in the affected Party yielded responses that cannot be meaningfully summarized or compared. Respondents answered this question in different ways: (a) listing recipients of the EIA documentation received directly from the Party of origin, e.g. the point of contact; or (b) listing recipients of the EIA documentation received either directly or indirectly via another body, e.g. the Party of origin sent the documentation to the point of contact in the affected Party, who then sent it on to the local environmental authorities. In addition, respondents answered according to (a) their intent, (b) their legislation, or (c) their experience, or lack of it.

Sweden and the United Kingdom reported difficulties identifying appropriate contact points in regional government or competent in Espoo matters, respectively.

QUESTIONS TO THE PARTY IN THE ROLE OF 'AFFECTED PARTY'

Similarly to previous questions, the body responsible for receiving the EIA documentation in an affected Party was variously reported as being the point of contact (Austria, Canada, Croatia, Finland, Germany, Netherlands, Sweden, Switzerland, United Kingdom), the environment ministry (Bulgaria, Czech Republic, Estonia, Germany, Hungary, Italy, Lithuania, Norway, Poland, Slovakia) or agency (Canada, Sweden), the competent authority (Austria, Canada, Germany, Kyrgyzstan) or the Ministry of Foreign Affairs (Canada). (In certain countries, two of these bodies may be one and the same.) In all cases, the body was reportedly permanent.

The documentation was received in paper and electronic forms (Austria, Hungary, United Kingdom), by post (11 respondents), electronic mail (Canada, Czech Republic, Finland, Italy, Slovakia) or fax (Finland), posted on the Internet (Slovakia) or directly at meetings (Italy).

Difficulties reported with the transfer included:

- Receipt of a single hard copy (no electronic version) making necessary scanning of the documentation for inclusion on an Internet web site (Bulgaria);
- A tight timetable (Czech Republic);
- The documentation being in the language of the Party of origin only (Poland); and
- Documentation not being sent or copied to the point of contact (United Kingdom).

The body responsible for distributing the EIA documentation in an affected Party was variously reported as being the point of contact (Austria, Croatia, Finland, Netherlands, Sweden, United Kingdom), the environment ministry (Bulgaria, Czech Republic, Estonia, Hungary, Italy, Norway, Poland, Slovakia) or agency (Canada, Sweden), the competent authority (Austria, Germany, Switzerland), the project proponent (Kyrgyzstan) or the Ministry of Foreign Affairs (Canada). (Certain of these bodies may be equivalent in a Party.) Only in Kyrgyzstan was the body not reportedly permanent.

The question regarding to whom the EIA documentation was distributed in the affected Party yielded responses that again cannot be meaningfully summarized or compared. Respondents answered this question in different ways: (a) listing recipients of the EIA documentation received directly from the point of contact in the affected Party; or (b) listing recipients of the EIA documentation received either directly or indirectly via another body, e.g. the point of contact in the affected Party sent the documentation to the local authorities, which then distributed it to the public in the local, affected area. In addition, respondents answered according to (a) their intent, (b) their legislation, or (c) their experience, or lack of it.

PUBLIC PARTICIPATION (PART V)

QUESTIONS TO THE PARTY IN THE ROLE OF 'PARTY OF ORIGIN'

In order to assure that the opportunity given to the public in the affected Party was equivalent to that in the Party of origin, respondents indicated various measures, including discussing with the affected Party how this might best have been achieved (Austria, Bulgaria, Sweden, Switzerland, United Kingdom). Austria also noted the importance of early distribution of the EIA documentation, whereas Canada and Germany reported that they applied their domestic legislation in full to the participation of the public in the affected Party. Estonia reported that the public in the affected Party was in fact consulted before its own. Croatia and Hungary noted that comments received were considered according to the same criteria, irrespective of whether they came from the public in the Party of origin or the affected Party. The Czech Republic and Hungary noted the importance of distributing all information to the affected Party. France limited itself to including public participation methodologies in the dossier sent to the affected Party, whereas Italy reported that all its transboundary projects had been subject

to bilateral agreements that set out equal requirements for public participation. The Netherlands assured equal participation at both the scoping and main consultation stages. Finland reported the importance of both timing and materials.

The information provided to the public of the affected Party included the project (planning) application (Austria, Hungary, Netherlands), the project description (Bulgaria, Switzerland), the notification (Czech Republic, Hungary, Poland), the original or revised EIA documentation (Austria, Bulgaria, Czech Republic, Estonia, Hungary, Italy, Netherlands, Poland, Switzerland), the EIA programme (Estonia), the EIA procedure (Netherlands), the expert opinion (Czech Republic) and the decision (Austria, Hungary). Canada listed a large range of information as being accessible to both its own public and the public in an affected Party; Norway and Slovakia too noted that the same information was made available to all. Kyrgyzstan suggested that all information would be available. The United Kingdom reported that all requested information was forwarded as it became available.

Responsibility for organizing public participation in the affected Party was reported by the Parties in their role of Party of origin as being with the affected Party (Austria, Bulgaria, Estonia, Hungary, Italy, Switzerland), the project proponent (Kyrgyzstan) or the environment ministry (Czech Republic, Estonia, Norway, Poland). The Netherlands, Poland and the United Kingdom noted the importance of their own competent authority working with the affected Party to determine the public participation procedure. In Finland, the point of contact in the affected Party, the regional environmental centre and the project proponent organized public participation jointly. In Croatia, it was the project proponent together with the competent authority in the affected Party that organized public participation. Similarly, in Slovakia, it was the project proponent in collaboration with the affected municipality. In Sweden, the project proponent prepared the information; the Swedish Environmental Protection Agency then transmitted and advertised it. Four respondents indicated that the body responsible for organizing this public participation was not permanent (Bulgaria, Kyrgyzstan, Netherlands, Sweden).

Bulgaria indicated that public participation in the affected Party was organized according to its legislation, whereas Italy and Switzerland referred to the affected Party's legislation. Kyrgyzstan noted the assistance of NGOs.

Respondents in their role of Party of origin reported on whether they initiated public hearings (or inquiries) in an affected Party. Several respondents said that they had not (Czech Republic, Netherlands, Sweden, Switzerland, United Kingdom), with this being the responsibility of the affected Party (Estonia, Hungary). Switzerland noted that it would have had to be organized in collaboration with the authorities in the affected Party and the project proponent. Similarly, Bulgaria and Croatia noted the need for discussion with the affected Party. Austria and Italy indicated that it might have been possible, whereas Norway reported that it had initiated public hearings at the time of notification and of release of the EIA documentation. Slovakia suggested it would be possible in certain circumstances.

The public of the affected Party, public authorities, organizations and other individuals were able to participate in public hearings in the Party of origin, according to all but one respondent in the role of Party of origin; Italy indicated that they normally would not have been able to participate. In Canada, participation was subject to the normal Canadian entry requirements; Kyrgyzstan similarly noted that participation was subject to border controls. Hungary noted that its legislation did not require it to notify the affected Party that the public hearing was taking place.

Austria, Canada, Norway, Slovakia and Switzerland reported that a joint public hearing might have been initiated, as did Bulgaria in the case of a joint EIA. Switzerland noted that a joint hearing would most likely have been organized in the Party of origin. Croatia and the United Kingdom indicated that no joint hearings were initiated.

Several respondents described informal guidelines and draft or signed bi- and multilateral agreements providing for the entry into the Party of origin of the public from the affected Party, usually defining practical matters such as invitation and translation (Austria, Germany, Hungary, Lithuania, Netherlands, Norway, Poland). Some of the same respondents and some others indicated that the public of an affected Party could anyway have participated under national legislation (Croatia, Czech Republic, Germany, Netherlands, Switzerland, United Kingdom).

Difficulties reported by respondents were interpretation (Czech Republic), a lack of public interest (Finland, Kyrgyzstan, Sweden), border controls (Kyrgyzstan), unjustified demands made of the project proponent (Kyrgyzstan), reconciling timing of public participation in joint EIAs (Italy),

and identification of a suitable point of contact in the affected Party (United Kingdom).

Respondents reported various experiences of receiving comments from the public in the affected Party: Italy and Sweden noted few responses; Slovakia suggested that the number of responses depended on the potential impact of the project; the Netherlands and Switzerland reported that comments were sent direct to the competent authority; the Czech Republic considered the comments it received relevant but that they arrived late; Croatia remarked that it was difficult to distinguish the environmental concerns expressed in the comments; and the United Kingdom reported that the comments it received were not accompanied by an indication of their source, whether from government, NGOs or the public.

The respondents also indicated how the public participation was useful: identifying public concerns (Croatia, Netherlands, United Kingdom); providing more information about the affected area (Czech Republic, Kyrgyzstan, Slovakia); increasing transparency and accountability (Germany, Italy); possibly increasing acceptance of the final decision (Germany, United Kingdom); identifying alternatives and mitigation measures (Kyrgyzstan, Netherlands, Slovakia, United Kingdom); and leading to revision of the EIA documentation (Kyrgyzstan, Poland).

The public response was taken into account in the EIA procedure in various ways: inclusion in the EIA documentation (Estonia, Netherlands, Poland, Sweden); responded to by the project proponent (Bulgaria, Croatia); or taken into account by the competent authority in its decision (Bulgaria, Czech Republic, Finland, Hungary, Italy, Kyrgyzstan, Poland, Slovakia, Switzerland, United Kingdom).

QUESTIONS TO THE PARTY IN THE ROLE OF 'AFFECTED PARTY'

Some respondents in their role of affected Party reported positively on the opportunity given to their public to participate in the EIA procedure (Austria, Croatia, Netherlands, Norway). Austria reported having organized the informing of the public, having had its public invited to a public hearing in a Party of origin and having had access to a very useful Internet web site in the Party of origin. Italy and Switzerland reported implementation of joint EIAs. France had recently introduced a law on public inquiries for projects affecting France. However, Bulgaria reported a very limited opportunity to participate and Hungary reported that it was only notified two years after the public participation had been completed. Sweden noted that despite effective publicity, public interest had been lacking.

The respondents reported that their public was informed of this opportunity by newspaper advertisement (nine respondents), press releases (Sweden), Internet web site notices (Austria, Poland, Switzerland), letters to the competent authority (Bulgaria, United Kingdom), contacting NGOs (Finland), public notice boards (Poland, Slovakia), local radio (Slovakia), decrees (France), or official gazette notices (Switzerland).

Two Parties (Croatia, Norway) reported public inquiries initiated in their country, as affected Party, by a Party of origin. Two respondents (Canada, United Kingdom) indicated that this would have required prior discussion and their approval.

All respondents providing a clear answer reported that they considered the opportunities provided to their public, as affected Party, were equivalent to those given to the public in the Party of origin. The United Kingdom stated that it depended on the information and amount of time given by the Party of origin.

Public participation in the affected Party was reported as being in accordance with the legislation of the Party of origin (Austria, Croatia, Czech Republic, Finland, Germany, Italy, Netherlands), the legislation of the affected Party (Bulgaria, Croatia, France, Hungary, Italy, Poland, Switzerland, United Kingdom), bi- or multilateral agreements (Bulgaria, Czech Republic, Italy, Netherlands, Poland) or ad-hoc procedures (Sweden). Switzerland and the United Kingdom indicated that, though they applied domestic procedures, they also respected the timetable defined by the Party of origin.

More than three quarters of the respondents indicated that the public in the affected Party participated in the EIA procedure. Estonia reported that participation varied, whereas Italy, Sweden and the United Kingdom indicated that the public did not participate. Italy reported that this was probably due to a lack of interest, whereas Sweden noted that the projects notified to it were large, complicated and in remote areas.

Respondents' experiences with respect to the response of the Party of origin to public comments varied substantially: thorough bilateral discussions (Austria); taken into account in the final decision (Italy, Netherlands, Poland, Switzerland); or a lack of feedback (Bulgaria). Finland, France and Poland noted that public comments were combined with official ones in the response to the Party of origin.

CONSULTATION (PART VI)

QUESTIONS TO THE PARTY IN THE ROLE OF 'PARTY OF ORIGIN'

As Parties of origin, respondents described their limited but diverse experiences of consultations pursuant to Article 5 of the Convention. Bulgaria and Italy reported that these had occurred within joint Environmental Impact Assessment (EIA). Croatia reported that consultations were difficult when an affected Party is *a priori* against a project. France noted the necessity to extend deadlines to assure adequate consultation for projects subject to dispute. The Netherlands, Sweden and Switzerland described procedural matters. The United Kingdom reported on early and effective consultations with Ireland.

Only Finland and the Netherlands declared not having entered into consultations with the affected Party. However, France indicated that no consultations occurred if the affected Party did not respond to the notification or indicated that it had no particular comments to make. Similarly, the Netherlands reported that no consultations were needed when it was determined that the transboundary impact was limited.

The respondents determined in various ways the meaning of "without undue delay" with respect to entering into consultations: immediately after notification (Slovakia); once the EIA documentation had been subject to quality evaluation (Bulgaria); bearing in mind practicalities and reciprocity (France); preferably once the affected Party has commented on the EIA documentation (Germany); once the EIA documentation has been sent to the affected Party (Hungary, Netherlands, Poland, United Kingdom); according to bilateral agreements and national legislation (Italy); or at the same time as consulting the domestic authorities (Sweden).

Again, the respondents interpreted the reasonable time frame for consultation in different ways, with France reporting time frames exceptionally extending to two years. The Netherlands provided a range of three weeks to three months for consultation, whereas Germany indicated that it depended on the issues to be discussed. Croatia and Italy indicated that it depended upon the equivalent domestic procedures in the concerned Parties. Italy also noted the relevance of bilateral agreements.

Respondents reported that in their limited experience consultations had covered matters referred to in paragraphs (a) to (c) of Article 5. Two respondents noted that consultations related to other matters: legal issues (Italy); and civil liability and scientific issues (Germany).

Consultations were reportedly held in the Party of origin (Croatia, Germany, Netherlands, Poland, Slovakia, United Kingdom), the affected Party (Italy, Norway), alternately in the two Parties (Hungary), or as determined case by case (Canada).

Several respondents indicated that consultations took place at the (federal) governmental level (Bulgaria, Canada, Croatia, Germany, Hungary, Italy, Norway), at the provincial or state or regional level (Bulgaria, Canada, Croatia, Germany, Italy, Norway), at the local level (Bulgaria, Canada), or among experts (Netherlands). In Poland and the United Kingdom, the level corresponded to the level of the competent authority, though, in the case of Poland, via the Environment Minister. In Slovakia, the level varied.

The consultations reportedly involved various bodies and individuals from the concerned Parties, depending on the complexity and contentiousness of the project, for example: the public (Bulgaria, Sweden); the 'authorities' (Sweden); national government officials (United Kingdom); central, regional or local authorities with environmental responsibilities (Bulgaria, Canada, Hungary, Switzerland); the ministry of foreign affairs (Canada, France); the environment ministry (France, Germany, Hungary, Italy) or agency (Canada); the appropriate sectoral ministry (Canada, France); the competent authority (Germany, Netherlands, Switzerland); experts (Canada, Netherlands, Switzerland, United Kingdom); the project proponent (Switzerland); and other stakeholders (Canada, Croatia, Sweden).

As to the means of communication for consultations, respondents indicated correspondence (Sweden, United Kingdom), meetings, or both (Bulgaria, Croatia, Germany, Hungary, Italy, Kyrgyzstan, Netherlands). Italy and the United Kingdom also noted the use of the telephone. France and Switzerland indicated that a whole range of communication means was envisaged.

The timing of the consultation was variously reported as being: at a very early stage (Italy); once it had been decided to proceed with the EIA procedure, so as to define the scope (Bulgaria, Switzerland); while identifying potential impacts (Kyrgyzstan); once the EIA documentation had been sent to the affected Party (Bulgaria, Germany, Hungary, Netherlands, Poland, United Kingdom); once the affected Party's comments on the EIA

documentation had been considered (Germany); after information had been exchanged, but before the public inquiry (Croatia); well in advance of a final decision (Canada); ongoing, following notification (France); at each step in the EIA procedure (Germany, Italy); and at the very end of the EIA procedure (Italy).

QUESTIONS TO THE PARTY IN THE ROLE OF 'AFFECTED PARTY'

In the role of affected Party the respondents reported various though limited experiences of consultation: the need for several meetings to reach agreement (Austria); consultation only began once the EIA documentation had been produced (Bulgaria); consultation was effective (Croatia); consultation was limited to requests for additional information (Hungary); consultation was governed by bilateral agreements (Slovakia) that were sometimes established prior to notification, sometimes after (Italy); consultations only began once a decision had been made and at the request of the affected Party (Poland); and the use of informal contacts (United Kingdom).

Five of fourteen respondents indicated that they had been involved in EIA procedures where the Party of origin did not initiate consultations; the other seven reported that they had not been excluded in this way. The Netherlands reported having requested a consultation after it had received EIA documentation that had caused serious concerns. Sweden was not consulted regarding a project for which EIA was not mandatory. Poland, as noted above, requested consultation after a decision had been made without its participation.

Some respondents (Croatia, France, Italy, Netherlands, Slovakia, Sweden, United Kingdom) reported that consultations did generally cover the matters referred to in paragraphs (a) to (c) of Article 5, whereas Austria and Hungary said they did not. Bulgaria reported that the matters were partially covered. Four out of eleven respondents indicated that consultations covered other matters, with Poland noting the importance of compensation arrangements and Kyrgyzstan noting organizational matters.

Six Parties reported that consultations were held in the Party of origin, whereas France and the United Kingdom said that they were held in their country, i.e. the affected Party.

Several respondents indicated that consultations primarily took place at the (federal) governmental level (Austria, Bulgaria, Germany, Hungary, Italy, Netherlands, Poland, Sweden), at the provincial or state or regional level (Austria, Germany, Italy, Poland), at the local level (Bulgaria), or among experts (Netherlands). Croatia and France reported that meetings took place at all levels, whereas in Slovakia and the United Kingdom they were at the relevant levels.

The consultations reportedly involved various bodies and individuals from the concerned Parties, for example: the public (Bulgaria); national and local authorities (Croatia, Hungary, Kyrgyzstan, Netherlands, Switzerland); provincial or regional authorities (Austria, Poland); environmental authorities or agencies (Bulgaria, Hungary, Switzerland, United Kingdom); the Ministry of Foreign Affairs (France); the environment ministry (Austria, France, Germany, Italy, Poland); the appropriate sectoral ministry (France); the competent authority (Germany); experts (Netherlands, Poland, Switzerland); the project proponent (Kyrgyzstan); NGOs (Bulgaria, United Kingdom); and other stakeholders (Bulgaria, Croatia).

As to the means of communication for consultations, respondents indicated correspondence (Poland, Sweden, United Kingdom), meetings (Austria, Hungary), or both (Bulgaria, Croatia, France, Germany, Italy, Kyrgyzstan, Netherlands). Italy also noted the use of the telephone and the United Kingdom reported that other means might also have been appropriate. Switzerland indicated that a whole range of communication means was envisaged.

In the role of affected Party, the timing of the consultation was variously reported as being: at a very early stage or at the scoping stage (Bulgaria, Switzerland, United Kingdom); after notification (France); during identification of potential impacts (Kyrgyzstan); during preparation of the EIA documentation (Bulgaria); once the quality of the EIA documentation had been confirmed (Bulgaria); once the EIA documentation had been received by the affected Party (Germany, Netherlands, United Kingdom); after consultation of the public (Austria); once the affected Party's comments on the EIA documentation had been considered (Germany, Poland); after information had been exchanged, but before the public inquiry (Croatia); at each step in the EIA procedure (Germany); according to bilateral agreements (Italy); as and when necessary (Slovakia); or according to the Party of origin's legislation (Sweden).

FINAL DECISION (PART VII)

QUESTIONS TO THE PARTY IN THE ROLE OF 'PARTY OF ORIGIN'

In the role of Party of origin, all respondents confirmed that the final decision contained the reasons and considerations on which the decision was based.

Respondents indicated that the decision often contained other information (Croatia, Slovakia, Sweden), for example: a project description (Austria, Finland, France); an overview of the licensing or decision-making procedure (Austria, Finland, Switzerland); an overview of the EIA (Austria); conditions imposed (Bulgaria, Czech Republic, France, United Kingdom); or deadlines and liability for non-compliance with the conditions (Bulgaria).

Croatia noted that if additional information on a significant transboundary impact became available at a later stage, it sometimes had difficulties assuring the cooperation of the project developer. No Party indicated that a request for consultation had been made because of such information, though France noted that an indemnity might have been due.

With regard to the taking into account in the final decision of the outcome of the EIA, comments from the affected Party and consultations, several respondents noted again that the final decision contained the reasons and considerations on which the decision was based (Canada, Finland, Germany, Hungary, Kyrgyzstan, Netherlands, Norway, Switzerland). Slovakia stated that the EIA and valid comments were taken into account. Hungary described the evaluation of comments as comprising factual, professional and legal analyses. Germany noted the importance of defining measures to prevent, reduce or mitigate adverse transboundary impacts. The Czech Republic noted that its final decisions included the opinion of the affected Party, or explained why it was not included. Estonia reported attaching the environmental requirements to the final EIA documentation. The United Kingdom explained that the final decision had to include an explicit declaration that the EIA documentation had been taken into account.

All respondents indicated that comments from the public and authorities in an affected Party were taken into consideration in the same way as domestic comments, though Germany noted that the affected Party's comments were expected to focus on transboundary impacts. No difficulties were reported in the preparation of the final decision.

The final decision was reported as being sent to various bodies and individuals in the affected Party: the point of contact (Canada, Croatia, Finland, France, Hungary, Italy, Netherlands, Sweden, United Kingdom); government authorities (Kyrgyzstan, Norway); the competent authority (Estonia, Kyrgyzstan); authorities responsible for EIA (Italy); ministries (Czech Republic); authorities that had been consulted or otherwise involved (France, Germany, Switzerland, United Kingdom); the project proponent (Kyrgyzstan); all those who had submitted comments (Netherlands); and others that had been identified by the affected Party (Canada). No respondent reported receiving an official complaint from the affected Party that the final decision was not easily understandable.

The means of publication of the final decision was described by a number of respondents: made publicly available (Austria, Bulgaria, Hungary, Netherlands, Poland, Sweden); published in newspapers (Bulgaria, France, Italy, United Kingdom) possibly including in the affected Party (Germany); advertised in the affected Party (Sweden); published in an official journal (France, Italy); placed on an Internet web site (Italy); or publication was as for domestic EIA (Czech Republic). Croatia reported that the decision was only made available to the parties in the administrative procedure.

Respondents indicated in very different ways how the provision of the final decision to the affected Party was organized. Some answered in terms of the practical means of transfer: it was sent by post (Austria, France, United Kingdom) or by electronic mail (Austria, United Kingdom). Some indicated senders: the point of contact (Bulgaria, Sweden); the environment ministry (Czech Republic, Hungary); or the competent authority (Netherlands, Switzerland). Some reported recipients: the point of contact (Bulgaria, France, Sweden, United Kingdom); or the consultees (France, United Kingdom). While others again described the procedural framework: bilateral agreements (Italy, Netherlands, Slovakia) or domestic legislation (Czech Republic, Hungary, Slovakia).

Respondents provided further information on which body was responsible for sending the final decision to the affected Party: the point of contact (Finland, Italy, Sweden, United Kingdom); the environment ministry (Bulgaria, Czech Republic, Estonia, Hungary, Poland, Slovakia) or agency (Canada, Sweden); the Ministry of Foreign Affairs (Canada); the competent authority (Canada,

Croatia, Estonia, France, Germany, Netherlands, Norway, Switzerland); or the competent authority in cooperation with the point of contact (Austria). Italy once again made reference to bilateral agreements, whereas Kyrgyzstan reported that the same contact as used previously would be used at this stage also.

In terms of difficulties, only Sweden provided a response, noting a long delay between the EIA procedure and the arrival of the final decision.

Respondents described the possibility for an affected Party or its public to challenge a final decision in the courts of the Party of origin. Such a right to challenge was reported by several respondents (Austria, Croatia, Germany, Italy, Netherlands, Slovakia, Switzerland, United Kingdom). The Netherlands noted that the challenge would have been of the planning decision rather than of the EIA. Canada, too, reported the possibility to challenge through judicial review, noting that a person would have needed to demonstrate a direct effect on them, rather than a general interest; Germany too would have required that a direct effect be demonstrated. Sweden reported that reciprocal arrangements existed among the Nordic States to allow such a challenge. The Czech Republic, France, Norway and Poland indicated that such a challenge would not have been possible.

The possibility of a legal challenge was reportedly described in the final decision issued by several Parties (Croatia, Germany, Hungary, Netherlands, Switzerland). Austria noted that it might have included such information. Canada remarked that it was for appellants to inform themselves of their rights to challenge decisions.

Respondents indicated that an appellant would have been informed of the result of an appeal (Canada, Norway, Slovakia, Sweden, United Kingdom), according to domestic law (Croatia, Hungary) or bilateral agreements (Austria). The Netherlands reported that appellants would not have been informed automatically, and Poland that they would not have been informed at all.

QUESTIONS TO THE PARTY IN THE ROLE OF 'AFFECTED PARTY'

In their role of affected Party, respondents described their experience of the content of the final decision and its provision to them by the Party of origin. The Netherlands and the United Kingdom reported difficulties in understanding fully the decisions received. Poland reported an incomplete final decision that did not make reference to its opinion. Sweden remarked that the decision arrived years after the EIA procedure was completed. Croatia declared that the decision enabled application of the necessary protection measures. Italy noted once again its experience related to joint EIAs, circumventing many of the problems that might have been expected with a transboundary EIA procedure.

The final decisions were received by various bodies and individuals in the affected Party, including: the point of contact (Austria, Bulgaria, Finland, France, Italy, Netherlands, Sweden, United Kingdom); the environment ministry (Austria, Bulgaria, Czech Republic, Norway, Poland, Slovakia) or agency (Canada, Sweden); the Ministry of Foreign Affairs (Canada); the provincial government (Austria); national and local authorities (Croatia, Kyrgyzstan); the project proponent (Croatia, Kyrgyzstan); or the competent authority (Germany, Kyrgyzstan, United Kingdom). France remarked that it was for the Party of origin to decide.

Distribution of the final decision within the affected Party was reportedly, and as appropriate, by official notice in the 'mass media' (Bulgaria), newspapers (Austria, Canada, Germany, Italy, Kyrgyzstan, Norway, United Kingdom), in the official journal (Italy), on an Internet web site (Austria, Canada, Germany) or through meetings (Kyrgyzstan). Several respondents simply reported public access to the decision (Austria, Bulgaria, Hungary, Netherlands, Norway, Switzerland). In Finland, the NGOs consulted were sent copies; in Sweden, all those consulted received copies. Canada reported that stakeholders were sent information on the decision. Poland reported distribution to local authorities. France remarked that Article 6 of the Convention did not impose such a requirement. Croatia, too, reported that the public was not informed.

No respondent reported difficulties with the publication of the final decision, though Croatia noted that it was not a public document. No respondent indicated clearly that there had been a complaint that a final decision was not easily understandable.

Seven respondents indicated that they sometimes had the right to make a legal challenge of a decision taken by the Party of origin (Austria, France, Germany, Italy, Netherlands, Sweden, Switzerland); four others indicated that they did not (Czech Republic, Norway, Poland, Slovakia). The United Kingdom did not know. Sweden again made reference to reciprocal arrangements among the Nordic countries with respect to legal appeals. Austria noted that such possibilities existed in some

of its neighbouring countries. France, Germany, Italy and Switzerland remarked that it depended on the domestic law of the Party of origin.

Austria, Sweden and the United Kingdom expected to be informed of the outcome of such an appeal. Armenia, Croatia and Poland did not expect to be informed, nor did Kyrgyzstan always, and the Netherlands indicated that it did not expect the Party of origin to be proactive in this regard.

The remaining questions relate to notification of the public of the final decision, rather than of the commencement of the EIA procedure. However, this was not apparent in the questionnaire causing some confusion among the respondents.

Austria reported that the notification of the public of the final decision included the (summary of the) decision, where it was possible to inspect it and the possibility of appeal according to bilateral agreements. The United Kingdom reported inclusion of the decision and its justification.

With the exception of Poland, the respondents indicated that the notification of the final decision in the affected Party contained the same information as that provided in the Party of origin, if possible (Czech Republic, Germany, Italy, Norway). The notification of the public was done as soon as possible after receipt of the final decision (Austria, Norway, United Kingdom).

POST-PROJECT ANALYSIS (PART VIII)

The respondents reported limited experience of post-project analysis, with a number of exceptions, generally relating to domestic EIA. Specifically, in Kyrgyzstan and the Netherlands, post-project analysis was always required, though it never occurred in the former. In Croatia, France, Norway, Poland, Slovakia and the United Kingdom it depended on individual cases. The requirement was under development in Switzerland. In Canada, it was dependent upon the type of EIA that had been undertaken, being compulsory for full EIAs. In France and Slovakia, post-project analysis was required for certain types of activities. In the Netherlands and Norway, it is the competent authority that initiated it. In the Netherlands, Poland and Slovakia, the project proponent carried it out.

Those respondents that indicated why post-project analyses were undertaken, whether or not compulsorily, generally indicated that they were done to:

- Monitor compliance with the conditions in the licences;
- Review predicted environmental impacts for proper management of risks and uncertainties;
- Modify the activity or develop mitigation measures in case of harmful effects on the environment; and
- Provide the necessary feedback in the project implementation phase.

Only a few respondents indicated that post-project analyses were undertaken so as to learn from experience. There was no reported experience of informing another Party, or being informed by another Party, of a significant adverse transboundary impact, identified as a result of post-project analysis.

TRANSLATION (PART IX)

Respondents indicated various approaches to overcoming language constraints during consultations. Some respondents reported that consultation was, if possible, in all the languages of the concerned Parties (Bulgaria, Germany, Norway, United Kingdom), others that interpreters were available as necessary (Austria, Netherlands). In other instances, it depended on bilateral agreements (Czech Republic, Poland, Slovakia). Several respondents noted use of English as a common language (Bulgaria, Estonia, Hungary, Italy, Sweden); Finland used Swedish and English in hearings; Kyrgyzstan generally used Russian. Sweden required that court submissions be in Swedish. Canada and Switzerland reported reliance on their national languages for consultation with their neighbours.

One respondent indicated that it translated all documents into the language of the affected Party (United Kingdom); others translated selected sections (Sweden), in some cases according to bilateral agreements (Austria, Czech Republic, Italy, Poland, Slovakia), domestic law (Hungary, Netherlands, Poland) or on the basis of reciprocity (Germany). Some respondents reported translation of some documentation into English (Bulgaria, Croatia, Estonia). In Canada, all documentation had to be produced in the national languages (English and French); translation into other languages would have been discussed with the affected Party. Norway did not provide translation of consultation documentation. Again, Switzerland reported reliance on its national languages for consultation with its neighbours.

Several respondents indicated that the final decision was, or would have been, translated into

the language of the affected Party, as necessary and according to bilateral agreements (Austria, Germany, Hungary, Italy, Netherlands, Poland, Slovakia, Sweden, United Kingdom). However, three Parties (Croatia, Czech Republic, Norway) noted that the decision was not translated.

Several respondents also indicated that interpretation was, or would have been, provided in hearings, again as necessary and according to bilateral agreements (Austria, Bulgaria, Croatia, Czech Republic, Germany, Slovakia); again other respondents (Estonia, Netherlands, Norway, Sweden) indicated that they were not. Kyrgyzstan indicated that interpretation had not been necessary. This would appear to have been an area where there was still rather limited experience, especially in terms of hearings in an affected Party.

The respondents indicated that translation of basic information was generally the responsibility of the Party of origin (Austria, Croatia, Czech Republic, Estonia, Finland, Germany, Poland, United Kingdom); specifically, translated EIA documentation was provided by the project proponent (Bulgaria, Estonia, Germany, Hungary, Netherlands, Norway, Sweden, United Kingdom), whereas the formal notification was translated by the competent authority (Netherlands) or by the proponent (United Kingdom). Two respondents indicated that the affected Party was responsible for translation of its comments into the language of the Party of origin (Sweden – for the environmental court – and Finland). Five of the respondents indicated that responsibility for translation varied from case to case (Austria, Estonia, Netherlands, Poland) or according to bilateral agreements (Slovakia), whereas nine said that it did not. Kyrgyzstan reported that translation had not generally been necessary.

Several Parties reported problems with translation, particularly with respect to costs (Austria, Czech Republic, Estonia, Finland, Poland) and delays (Finland, Poland). Hungary noted that translation into English, even rather than Hungarian, might be preferred because of quality problems.

Certain respondents indicated that they translated all documents when responsible (Bulgaria, Italy, United Kingdom); others translated only parts of the documentation as discussed with the affected Party (Austria, Finland, Sweden), or according to bilateral agreements (Czech Republic, Germany, Italy, Poland, Slovakia) or domestic law (Hungary, Netherlands). Germany noted that, unfortunately, there was so far no provision in the Convention regarding responsibility for any translation, so there could not be any legal responsibility as such for translations. Some respondents reported translation of some documentation into English (Croatia, Estonia). As mentioned above, in Canada, all documentation had to be produced in the national languages (English and French); translation into other languages would have been discussed with the affected Party.

Several respondents reported reliance on translation into the language of the affected Party (Czech Republic, Netherlands, United Kingdom), whereas others noted the use of either English or the language of the affected Party (Bulgaria, Croatia, Sweden). Estonia noted the use of English only. Germany, too, used the language of the affected Party, except when dealing concurrently with several States on the shores of the Baltic Sea, when English was used. In Canada, all documentation had to be produced in the national languages (English and French). Thus, English was reported as being used as a common language, even where it was not the language of any of the concerned Parties (notably Estonia, Hungary, Italy); the other official UNECE languages (French and Russian) were only reported as being used where they were the or a national language of one of the concerned Parties.

As Party of origin, translation costs for the EIA documentation were reported by most respondents as being the responsibility of the developer; translation of notifications and decisions was reported by several respondents as being paid for by the authorities (Germany, Netherlands, Poland). As affected Parties, Hungary and Poland reported that the ministry of environment and the regional authorities, respectively, were responsible for translation costs. Germany and the Netherlands noted that the competent authority was often responsible for the costs of translation and interpretation. In the United Kingdom, the developer was encouraged to bear all costs, but the Government was ultimately responsible.

No respondent reported problems assuring the quality of translations, with professional translators being used, nor did the respondents experience problems as the affected Party.

However, only half of the ten Parties providing a meaningful response to the relevant question indicated that, generally, sufficient documentation was translated to enable participation in the EIA procedure. The remaining respondents indicated both good and bad experiences.

CONTACT POINTS (PART X)

The list of points of contact appended to decision I/3 and updated via the Convention's web site was generally considered useful by the respondents, but concerns were expressed regarding its being up to date and problems occurring if no named individual was identified (i.e. only an organization, though the Czech Republic noted that because of staff movements it was difficult to name an individual). Additional points of contact had been established informally, to satisfy requirements of decentralized government or as a result of bi- or multilateral agreements with other Parties.

INQUIRY PROCEDURE (PART XI)

No Party reported application of the inquiry procedure.

SETTLEMENT OF DISPUTES (PART XII)

Only one Party reported a dispute, which had yet to be resolved.

BILATERAL AND MULTILATERAL AGREEMENTS (PART XIII)

Parties reported on their bi- and multilateral agreements with their geographical neighbours, as summarized in the list below. Few agreements had been finalized, but many draft agreements had been prepared and informal agreements established:

- Austria: draft agreements with the Czech Republic and Slovakia; informal agreements with Liechtenstein and Switzerland.
- Czech Republic: draft agreements with Austria, Germany, Poland and Slovakia.
- Estonia: agreements with Finland and Latvia.
- Finland: agreement with Estonia.
- Germany: draft agreements with the Czech Republic, the Netherlands and Poland; planned informal agreements with Austria, Liechtenstein and Switzerland; Sar-Lux-Lor Recommendation with France and Luxembourg; tripartite recommendation with France and Switzerland.
- Italy: agreement with Croatia; intergovernmental conference with France; project-specific agreements with Austria and Switzerland.
- Latvia: agreement with Estonia.
- Lithuania: draft agreements with Latvia and Poland.
- Netherlands: draft agreements with the region of Flanders (Belgium) and Germany.
- Norway: Nordic Environmental Protection Convention with Denmark, Finland and Sweden.
- Poland: draft agreements with the Czech Republic, Germany and Lithuania; talks with Belarus, Slovakia and the Ukraine.
- Slovakia: agreements being drafted with Austria, the Czech Republic, Hungary and Poland.
- Switzerland: informal agreements with Austria and Liechtenstein.

Armenia, Bulgaria, Croatia, France, Hungary and the United Kingdom reported having no such agreements with their neighbours. Furthermore, no agreements were reported for long-range transboundary impacts, i.e. to address instances where a proposed activity was likely to have an adverse environmental impact on another Party that was not an immediate geographical neighbour.

The agreements that did exist, whether formal, informal or draft, were based to varying degrees on the provisions of Appendix VI (Elements for bilateral and multilateral cooperation), with some (e.g. the informal agreements between Austria, Liechtenstein and Switzerland) being in line with the Appendix, whereas some others had little in common and might even have pre-dated the Convention (e.g. the Nordic Environmental Protection Convention).

RESEARCH PROGRAMME (PART XIV)

The only reported research directly related to EIA in a transboundary context was a project involving Germany and Poland.

GENERAL QUESTIONS (PART XV)

Some respondents reported that minor variations might have occurred in the implementation of the Convention within their country as a result of bilateral agreements (Austria, Hungary, Italy, Netherlands). Italy and Switzerland indicated that variations might have occurred because of regional (within country) responsibilities. More than half of the respondents indicated that there should not have been any variations.

Most respondents indicated that a single point of contact within the equivalent of a ministry of

environment or a national EIA agency was responsible for the coordinated application of the Convention. In Germany, the various competent authorities were responsible. In France, it was a joint responsibility of the Ministry of Foreign Affairs and the Ministry of Environment and Sustainable Development.

Four fifths of the respondents indicated that a single body was responsible for collecting information on all transboundary EIA cases. France, Germany, Kyrgyzstan and the Netherlands indicated that there was no such body. Generally, the body responsible was the same as that responsible for the coordinated application of the Convention.

Austria and Poland each reported a single difference of opinion with a Party of origin regarding interpretation of the terms "major" or "significant" (see Part I of questionnaire).

Several respondents described cross-border projects, employing various organizational approaches: joint EIA (Bulgaria, France, Italy, Switzerland) done under bilateral agreements (France, Italy); and Parties being in turn considered both Party of origin and affected Party (Germany, Poland).

EXPERIENCES AND OPINIONS (PART XVI)

All respondents indicated that the questionnaire covered every aspect of the implementation of the Convention. However, several respondents indicated that the questionnaire was too long, detailed and repetitive (Croatia, Estonia, France, Germany, Italy, Sweden, Switzerland, United Kingdom) and that a shorter, more concise questionnaire might elicit more and better responses. Further changes to the questionnaire were suggested.

Several Parties reported problems with the implementation of the Convention, some of which had already been described earlier in the questionnaire. Several respondents indicated the need for bilateral agreements to address detailed procedural arrangements (Bulgaria, Poland). Translation and its costs were again highlighted as issues (Austria, Poland). A number of further problems were identified where certain Parties required clarification of the Convention's provisions. Hungary reported practical staffing limitations. Kyrgyzstan noted that not all its neighbours were Parties to the Convention. The Republic of Moldova reported poor domestic legislation and a lack of experience in transboundary EIA.

Suggestions as to how problems might have been resolved included:

- Good practice guidance, which had been provided and was welcomed (Bulgaria, Croatia, Netherlands, Switzerland, United Kingdom);
- Good bilateral and multilateral agreements (Czech Republic, Poland);
- Amendments to the Convention, including a new provision on responsibility for translation (Austria, Germany), revisions to Appendix I (Estonia, Germany), clarification of the obligation in Article 5 to hold consultations even when the affected Party has indicated it does not wish to be consulted further (Germany) and a requirement for a separate chapter in the EIA documentation on significant adverse transboundary impacts (Finland, Hungary); and
- Additional guidelines on the different stages of the process defined in the Convention, and training in transboundary EIA using case studies from other countries (Republic of Moldova).

CONCLUSIONS

A questionnaire was circulated to Parties regarding the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context. An analysis of the information provided in the 23 responses to the questionnaire received by the end of 2003 reveals the increasing application of the Convention and the continuing development of bilateral and multilateral agreements to support its implementation. However, the analysis also reveals a number of possible[8] weaknesses or shortcomings in the Convention's implementation. These weaknesses point at potential and necessary improvements in the application of the Convention. To guide and focus the future work under the Convention, they are listed and summarized below:

- The points of contact on the Convention's web site were not always correct;
- The points of contact were not always competent in the application of the Convention;
- The content of the notifications issued by the Parties of origin were not always compliant with Article 3, paragraph 2, of the Convention and with decision I/4 of the Meeting of the Parties;
- The final decisions made by the Parties of origin were not always provided to the affected Parties as soon as possible after they had been taken;
- The contents of the final decisions made by the Parties of origin did not always comply with Article 6, paragraph 2, of the Convention;
- The results of research programmes undertaken by the Parties were not always exchanged with the other Parties, in compliance with Article 9 of the Convention;
- The public of the concerned Parties was not sufficiently encouraged to participate in procedures under the Convention; and
- Given recorded difficulties with regard to the languages used, there was still a lack of bilateral and multilateral agreements among Parties to address in particular what documents should be translated, who should translate them and who should cover the costs of translation.

[8] There are some limitations in the information gathered through the questionnaire, as outlined in the Responses sub-section on page 3 of this document.

OVERVIEW OF DOMESTIC IMPLEMENTATION

SUMMARY: Only limited information on measures taken and responsibility for implementation was supplied, thus precluding the drawing of any conclusions from this part of the questionnaire.

LEGISLATIVE, ADMINISTRATIVE AND OTHER MEASURES BY WHICH THE CONVENTION IS IMPLEMENTED

A number of Parties (see page 4), together with one non-Party (Bosnia and Herzegovina), reported on their domestic legislation as shown in Table 1. The web site of the Convention includes further information on such legislation. The limited number of responses precludes any conclusions being drawn from these data, apart from noting the diversity of legislation being employed for implementation of the Convention.

AUTHORITIES AND LEVELS OF GOVERNMENT RESPONSIBLE FOR IMPLEMENTATION

A number of Parties, together with one non-Party (Bosnia and Herzegovina), also reported on their authorities that implement the Convention as shown in Table 2. The web site of the Convention includes further information on such authorities. The limited number of responses precludes any conclusions being drawn from these data, apart from noting again the diversity of institutions being involved in the implementation of the Convention. The involvement of the ministry of environment (or similar) is nonetheless a common feature.

SUMMARY LISTING OF PROJECTS

Three Parties (Finland, Italy and the Republic of Moldova) provided examples of projects that had been addressed under the Convention, as shown in Table 3. The web site of the Convention database includes further examples. Table 4 lists all the project categories under the Convention. The limited numbers of respondents and data preclude any conclusions being drawn.

Table 1 – Domestic legislation implementing the Convention.

State	Principal legal acts of relevance
Armenia	The Convention has not yet been applied in practice because of the lack of planned activities subject to EIA in a transboundary context. Furthermore, there is no specific law on EIA in a transboundary context.
Austria	- EIA Act 2000 (Federal Law Gazette I No. 697/1993 as amended by Federal Law Gazette I No. 50/2002), especially sections 10 and 17. These provisions are further explained in a circular to the competent authorities of 30 May 2001: BMLFUW GZ 11 4751/4-I/1U/2001.
Bosnia & Herzegovina	- Law on Environmental Protection (in both entities: Federation of Bosnia & Herzegovina; and Republic Srpska). The law includes the main provisions from the Espoo Convention and strategic environmental assessment (for plans having an adverse impact on the environment). New secondary legislation for EIA is in preparation (list of installations and activities, procedures, permits, etc.).
Bulgaria	- Environmental Protection Act (State Gazette, No 91/2002). - Regulation on EIA (State Gazette No. 25/2003).

State	Principal legal acts of relevance
Finland	- Act and Decree on EIA Procedure. - Bilateral agreement with Estonia since June 2002.
Germany[9]	- Federal EIA Act of 5 September 2001 (Federal Law Journal – *Bundesgesetzblatt* – Part I, page 2350)
Italy	- Italian Ratification of Espoo Convention: Law n° 640/94 (November 1994) - EU legislation: Directive 85/337/EEC, as amended by Directive 97/11/EEC National legislation: - Law 349/86; Article 6 (establishment of Ministry of Environment) introduces EIA. - Decree of the Prime Minister number 377/88 lists projects to be subject to the EIA procedure (in accordance with Annex I to the EC Directive 85/337/EEC) and regulates some aspects of the procedure (projects' transmittal and consultation). The list of projects has been amended by a Decree of the President of the Republic of 11 February 1998. - Decree of the Prime Minister of 27 December 1988 regulates the "study of environmental impact" and the "decision on environmental compatibility"; specific rules for thermal power plants. Integrated by a Decree of the President of the Republic number 348/98 (for new projects). - Law No. 146/94 ("Communitary law of 1993"); delegation to the government for legislating the EIA procedures for projects listed in Annex II to the EC Directive 85/337 and integrated procedures. - Decree of the President of the Republic of 12 April 1996; national guidance for the Regional legislation on EIA for projects listed in Annex II to the EC Directive 85/337. Integrated by the Decree of the Prime Minister of 3.9.1999 and the Decree of the Prime Minister of 1.9.2000 for the mining sector and hydrocarbons' extraction. - Legislative Decree 190/2002; EIA for projects related to "strategic infrastructures and productive installations of national interest". - Law 55/2002; EIA for projects of electric energy power plants (emergency measures).
Latvia	- Law on EIA (entry into force: 13 November 1998). - Cabinet of Ministers Regulations on Procedures for EIA (entry into force: 15 June 1999). - Law on Espoo Convention on EIA in a Transboundary Context (entry into force: 01 July 1998). - Agreement between the Government of the Republic of Estonia and the Government of the Republic of Latvia on EIA in a transboundary context (entry into force: 14 March 1997).
Poland	- Act of 27 April 2001: Environmental Protection Law and relevant decree.
Republic of Moldova	- Law on Environment Protection (No. 1515-XII), approved by the Parliament of the Republic of Moldova on 16 June 1993. - Law on Ecological Examination and EIA (No. 851-XIII), approved by the Parliament of the Republic of Moldova on 29 May 1996. - Law on Access to Information (No. 982-XIV), approved by the Parliament of the Republic of Moldova on 11 May 2000. - Regulation on EIA of privatised enterprises (No. 528, April 1998). - Instruction on the order of organization and holding of State Ecological Examination (No. 33, August 1998). - Regulation on ecological audit of enterprises (No. 395, April 1998). - Regulation on public participation in elaboration and decision-making in environment protection areas (No. 72, 25 January 2000). - Regulation on the consultation with the population in the process of development and adoption of documents on territorial development and urban construction (No. 951, October 1997).

[9] Information provided directly, 17 December 2003, rather than by completion of the 'domestic' questionnaire.

Table 2 – Domestic authorities implementing the Convention.

State	Principal authorities implementing the Convention
Armenia	The Ministry of Wildlife Management is the body responsible for implementation of the Espoo Convention in Armenia.
Austria	The Federal Ministry of Agriculture, Forestry, Environment and Water Management is in charge of the preparation of legislative steps to implement the Convention such as acts and decrees. It is also the point of contact under the Convention, which means that it is first address for a Party of origin to notify a project likely to cause significant adverse impacts on Austria. The Ministry of Transport, Innovation and Technology (for federal roads and high capacity railways) and the "Land" governments (i.e. provincial governments, for all other types of projects) are competent authorities for the EIA and the procedural steps according to the Convention.
Bosnia & Herzegovina	- Federation of Bosnia & Herzegovina: Federal Ministry of Physical Planning and Environment. - Republic Srpska: Ministry for Urbanism, Housing and Communal Affairs, Civil Engineering and Ecology.
Bulgaria	- Ministry of Environment and Water
Finland	- Ministry of Environment
Italy	- Ministry for the Environment - Regions/Autonomous Provinces
Latvia	- Ministry of Environmental Protection and Regional Development. - State EIA Bureau. - Ministry of Foreign Affairs (giving opinion on the matter).
Poland	- Ministry of Environment (the point of contact under the Convention, co-ordinator of transboundary procedures). - Relevant authority on government level (*voivod*). - Competent authority for granting decision on *gmina* or *starost* level for all types of projects. - Minister of Infrastructure (Polish Exclusive Economic Zone). - Maritime Office (Territorial waters and landfall).
Republic of Moldova	- Government of the Republic of Moldova. - Ministry of Ecology, Construction and Territorial Development.

Table 3 – Examples of projects addressed under the Convention.

Country of origin	Project	Project category or, if decided under Article 2, paragraph 5, project description	Affected countries	Starting date for procedure under the Convention
Finland	Tornio Ferro-chrome and Stainless Steel Works, EIA process 1996-1997 (a material alteration to a completed project)	4D - Installations for Steel Production	Sweden	
Finland	Power Plant in Imatra, 1996-1997	2B - Other Combustion Installations	Russian Federation	
Finland	Permanent storage of used nuclear fuel, 1998-1999	3C - Installations for Storage, etc. of Nuclear Waste	Estonia, Russian Feder-ation, Sweden	
Finland	New nuclear power plant unit in Olkiluoto, 1998-2000.	2C - Nuclear Power Stations	Sweden	
Finland	New nuclear power plant unit in Loviisa, 1998-2000.	2C - Nuclear Power Stations	Estonia, Russian Federation	

Country of origin	Project	Project category or, if decided under Article 2, paragraph 5, project description	Affected countries	Starting date for procedure under the Convention
Finland	Flood prevention in Tornio River, 2000-2001 (Flood prevention by dredging the mouth of the boundary river between Finland and Sweden.)		Sweden	
Finland	Power line from Pyhänselkä to Tornio, 2000-2001. (The 400 kV power line between Finland and Sweden, over 150 km.)		Sweden	
Italy	Under-sea Pipeline Ivana Garibaldi The project was completed in year 2000, one year after the completion of the EIA procedure (April 1999)	8B - Large-Diameter Gas Pipelines	Croatia[10]	18 July 1998
Italy	Under-sea Pipeline GEA The Italian EIA procedure (i.e. related to part of the project falling under the Italian territory) has been completed in August 2001	8A - Large-Diameter Oil Pipelines	Croatia[10]	9 April 1999
Italy	Power Line San Fiorano-Robbia	Cross-border power line, carrying 380kV. Length: 51 km	Switzer-land	3 January 2002
Italy	Brennero Basic Railway Tunnel	7B - Construction of Lines for Long-distance Railway Traffic	Austria[10]	10 July 2003
Italy	Railway Tunnel Turin-Lyon	7B - Construction of Lines for Long-distance Railway Traffic	France[10]	7 March 2003
Italy	Hydrocarbons “Marika Barbara T2”	8B - Large-Diameter Gas Pipelines	Croatia[10]	28 May 2003
Italy	Railway Tunnel Aosta-Martigny	7B - Construction Of Lines for Long-Distance Railway Traffic	Switzer-land[10]	10 March 2003
Italy	Safety Tunnel Frejus	7A - Construction of Motorways and Express Roads	France[10]	20 June 2003
Italy	Thermal Power Plant “Monfalcone”	2A - Thermal Power	Slovenia	25 October 2002
Italy	Thermal Power Plant SERVOLA EIA procedure in Italy was completed in March 2000	2A - Thermal Power	Slovenia	12 July 1999
Republic of Moldova	Terminal Building in Giurgiulesti (1996)	9A – Trading Ports		

[10] The project was a cross-border one so both Italy and the identified Party have dual rôles: as affected Party and the Party of origin.

Country of origin	Project	Project category or, if decided under Article 2, paragraph 5, project description	Affected countries	Starting date for procedure under the Convention
Republic of Moldova	Oil-field Development in Vulcanesti Region (1997)			

Table 4 – Project categories by code (from Appendix I, adapted)

Code	Category	Number of examples included in Table 3
1	*Refineries and Installations for Gasification*	
1A	Crude Oil Refineries	
1B	Installations for Gasification	
2	*Power Stations, Combustion Installations and Nuclear Reactors*	
2A	Thermal Power Stations	2
2B	Other Combustion Installations	1
2C	Nuclear Power Stations	2
2D	Other Nuclear Reactors	
3	*Nuclear Fuels and Nuclear Waste Installations*	
3A	Installations for Production of Nuclear Fuels	
3B	Installations for Processing of Nuclear Fuels	
3C	Installations for Storage, etc. of Nuclear Waste	1
4	*Major Installations for Production and Processing of Metals*	
4A	Installations for Roasting, etc. of Iron Ores	
4B	Coke Ovens	
4C	Installations for Production of Pig Iron	
4D	Installations for Steel Production	1
4E	Installations for Processing of Non-ferrous Heavy Metals	
4F	Installations for Production, etc. of Non-ferrous Metals	
5	*Asbestos and Asbestos- containing Products*	
5A	Installations for Extraction of Asbestos	
5B	Installations for Processing, etc. of Asbestos	
5C	Installations for Processing of Asbestos-cement Products	
5D	Installations for Production of Friction Material	
5E	Installations for other Asbestos Utilizations	
6	*Integrated Chemical Installations*	
6A	Integrated Chemical Installations	
7	*Construction of Large Roads, Railway Lines and Airports*	
7A	Construction of Motorways and Express Roads	1
7B	Construction of Lines for Long-distance Railway Traffic	3
7C	Construction of Airports	
8	*Large-diameter Oil and Gas Pipelines*	
8A	Large-diameter Oil Pipelines	1
8B	Large-diameter Gas Pipelines	2
9	*Trading Ports and Inland Waterways*	
9A	Trading Ports	1
9B	Inland Waterways	
10	*Waste Disposal Installations for Toxic & Dangerous Waste*	
10A	Waste Disposal Installations for Toxic & Dangerous Waste	
11	*Dams and/or Reservoirs*	
11A	Dams and/or Reservoirs	
12	*Ground Water Abstraction Activities*	
12A	Ground Water Abstraction Activities	
13	*Manufacturing of Pulp and Paper*	

Code	Category	Number of examples included in Table 3
13A	Manufacturing of Pulp and Paper	
14	*Installations for Mining*	
14A	Installations for Mining, etc. of Iron Ore	
14B	Installations for Mining, etc. of Non-iron Ore	
14C	Installations for Mining, etc. of Coal	
15	*Offshore Hydrocarbon Production*	
15A	Offshore Hydrocarbon Production	
16	*Storage Facilities for Petroleum, Petrochemical and Chemical Products*	
16A	Installations for Storage of Petroleum	
16B	Installations for Storage of Petrochemical Products	
16C	Installations for Storage of Chemical Products	
17	*Deforestation of Large Areas*	
17A	Deforestation of Large Areas	
18	*Activities not listed in Appendix I, accordingly to Article 2, paragraph 5, of the Convention*	

APPLICATION OF THE CONVENTION (PART I)

QUESTIONS TO ALL PARTIES (PART I.A)

Identification of a proposed activity requiring an EIA procedure (Part I.A.1)

SUMMARY:

To determine whether an activity falls within the scope of Appendix I to the Espoo Convention, respondents generally described a procedure that combined a review against a list, either a direct copy of Appendix I or a more extensive list, and a case-by-case examination using expert judgement. Hungary employed a list of activities combined with a set of quantitative thresholds, thus removing the need for expert judgement.

To determine whether a change to an Appendix I activity is "major", respondents again identified a case-by-case examination relying on expert judgement and, in certain instances, consultation of authorities (Bulgaria, Italy) or interested parties (Kyrgyzstan). For some respondents, this examination was aided by guidelines and/or criteria, usually qualitative, but in certain Parties quantitative as well (Austria, Czech Republic, Germany). Again, Hungary employed a complete set of quantitative thresholds, thus removing the need for expert judgement.

To determine whether an activity not listed in Appendix I should be treated as if it were so listed, respondents generally reported use of a case-by-case examination relying on expert judgement. Many respondents also noted that their national lists of activities were more extensive than Appendix I to the Convention (Austria, Canada, Finland, Germany, Italy, Netherlands, Poland, Switzerland, United Kingdom). The Republic of Moldova noted the possibility for its Central Environmental Department to extend the list of activity types. Again, Hungary provided an exception in that only those activities in its extensive activity lists were subject to Environmental Impact Assessment (EIA); a bilateral or multilateral agreement might have been used to overcome this restriction.

To decide whether a change identified in pursuance of Article 2, paragraph 5, (i.e. to an activity not listed in Appendix I, but treated as if it were so listed) is considered to be a "major" change, respondents generally identified a case-by-case examination relying on expert judgement, supported by the use of quantitative or, more commonly, qualitative criteria (Austria, Bulgaria, Hungary, Latvia, Netherlands). Bulgaria, again, reported providing opportunities for consultation of authorities. Once again, Hungary provided an exception by employing a complete set of quantitative thresholds, thus removing the need for expert judgement.

I.A.1.1 Activity listed in Appendix I (Art. 2, para. 3)

(a) Describe the procedures and, where appropriate, the legislation you would apply to determine that an "activity" falls within the scope of Appendix I.

Armenia. The main principles of EIA are reflected in the 1995 law 'regarding environmental impact assessment', including public hearings and the opinion of affected communities, as well as the requirement to undertake an EIA. Article 4 of the law provides a list of planned activities subject to EIA. However, there are no specific procedures and legislation for the various sectors. Armenia would apply approaches developed by the World Bank and the EU, adapted to local conditions.

Austria. The project list in Appendix I to the Convention is implemented in Annex 1 to the Austrian EIA Act. Every project for which an EIA procedure has to take place in Austria and which is likely to have significant adverse impacts on the territory of another Party has to be notified to that Party. Experts of the authority, or appointed by the authority, provide expertise on this question in every case so that the authority can decide whether notification is necessary.

Belgium (Brussels). The projects are generally subject to two different legislations (Ordinances): (1) the legislation on urban and town planning (building permit, 1991); (2) environmental legislation (operation permit, 1992, last amendment in 1999). The latter legislation contains a screening approach for the definition of the kinds of projects and the thresholds that trigger (or not) the EIA procedure. The classification is made using the thresholds. Both legislations make a differentiation between projects for which an EIA is always required (classification 1 A or A, lists) and projects

for which the developer needs only to submit a brief report on the environmental impacts (classification 1 B or B, lists).

Belgium (Flanders). The Decree of 18 December 2002 supplemented the existing Decree on General Provisions for Environmental Policy Management with a new Title (IV) on EIA and SEA (and safety reporting). This Title IV contains chapters with procedural provisions for EIA and SEA, and content requirements for the EIA documentation for projects or plans. These chapters describe the procedure to determine whether an EIA is mandatory for an activity. These chapters also include provisions with respect to the implementation of the Espoo Convention. Furthermore executive orders will be approved in 2004 to put into operation this Title IV in more detail. The EIA executive orders contain the list of EIA obligatory activities. All Appendix I activities fall within the scope of EIA in Flanders.

Belgium (Marine). The Law on the Protection of the Marine Environment of 20 January 1999, together with two royal decrees (7 September 2003; 9 September 2003, specific on EIA), contains provisions on EIA with respect to activities in the Belgian part of the North Sea (art. 25). All Espoo-listed activities are covered but in practice this means only pipelines.

Belgium (Nuclear). The Royal decree of 20 July 2001 (art. 3.1), in addition to existing EU legislation (Recommendation 1999/829; Euratom Treaty art. 37), contains a list of activities subject to an EIA procedure, which includes all 'nuclear' Appendix 1 activities. This legislation contains procedural provisions and content requirements for EIA.

Bulgaria. According to Bulgarian environmental legislation, the proponent of a development activity shall inform the competent authority (the Ministry of Environment and Water) of the proposal. The competent authority determines, on the bases of the information provided by the proponent, whether the activity falls within the scope of Appendix I, and whether it is likely to cause a significant adverse transboundary impact.

Canada. For the purposes of implementation of the Espoo Convention, the Canadian Environmental Assessment Act (CEAA) is the federal legal instrument that applies to the examination of the transboundary environmental effects of proposed projects as well as domestic effects. CEAA sets out the responsibilities and procedures for the environmental assessment of proposed projects involving the federal government.

Under section 5 of CEAA, an environmental assessment of a project is required before a federal authority (federal minister, department or agency) exercises one or several of the following powers, duties or functions: proposes a project, contributes financially to a project, sells, leases or transfers control of land to enable a project to be carried out; or issues a specified federal permit or license that is included in CEAA's Law List Regulations.

When the foregoing conditions apply, the federal authority is deemed under section 11 of CEAA to be a "Responsible Authority" and must ensure that an environmental assessment of the proposed project is conducted as early as possible and before irrevocable decisions are made regarding the proposed project.

Under CEAA, four types of environmental assessment are available: screening, comprehensive study; mediation; and panel review, as detailed below:

Under a screening, a Responsible Authority (as defined 2 paragraphs above) systematically documents the environmental effects of a proposed project and determines the need to eliminate or minimize (mitigate) harmful effects; to modify the project plan; or to recommend further assessment through mediation or panel review. The extent of public participation in a screening, if any, is determined on a case-by-case basis by the Responsible Authority and would take place prior to the Responsible Authority exercising any power, function or duty in respect of the project (see paragraph 2, above).

Screenings will vary in time, length, and scope of analysis, depending on the circumstances of the proposed project, consideration of the existing environment, and the likely environmental effects. Some screenings may require only a brief review of the already-existing information and a short report; others may need new background studies and be as extensive as a comprehensive study under CEAA. The Responsible Authority must consider whether a follow-up programme for the project would be appropriate, and if so, design and ensure its implementation.

Large-scale and environmentally sensitive projects usually undergo a more extensive assessment called a comprehensive study. The Comprehensive Study List Regulations under CEAA identify the projects for which a comprehensive study is required (It should be noted that the types and categories of projects identified under the Comprehensive Study List Regulations are commensurate with those listed under Appendix 1 of the Espoo Convention). Public participation in a comprehensive study is mandatory and must be initiated by a Responsible Authority regarding the scope of the environmental assessment, including the factors proposed to be considered, the scope of those factors, as well as the ability of the comprehensive study to address issues relating to the project. Following these consultations the Responsible Authority issues a report to the Minister of the Environment regarding the scope of the assessment, public concerns in relation to the project, the potential of the project to cause adverse environmental effects, and the ability of the comprehensive study to address the issues relating to the project. The Responsible Authority also makes recommendations to the Minister as to whether the project should continue on the comprehensive study assessment track, or should instead be

referred to mediation or an independent panel review. The Minister then determines, taking into account the Responsible Authority's report and recommendations, whether the project will continue to be assessed as a comprehensive study or instead be referred to a mediator or independent review panel.

If the assessment continues as a comprehensive study, the project may not be subsequently referred to a mediator or review panel. The Responsible Authority must provide a further opportunity for the public to participate in the conduct of the comprehensive study itself. In addition, once completed, the comprehensive study report is subject to a public comment period of at least 30 days. The Minister of the Environment, after taking into account the comprehensive study report and any public comments, then issues a decision statement on whether the project is likely to cause significant adverse environmental effects. At this time, the Minister of the Environment may set out mitigation measures and requirements for a follow-up programme. The Minister also has the authority to request further information or require that action be taken to address public concerns. Finally, the Responsible Authority must design a follow-up programme for projects that have undergone a comprehensive study assessment and ensure its implementation.

It should be noted that under CEAA, it is the Responsible Authority that determines the scope of the factors to be considered in the context of screening and comprehensive study. The factors that must be considered are the following factors:

- the environmental effects of the project, including environmental effects of malfunctions or accidents that may occur in connection with the project, and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;
- the significance of these environmental effects;
- comments from the public received in accordance with the Act and its regulations;
- technically and economically feasible measures that would mitigate any significant adverse environmental effects of the project;
- any other matter relevant to the screening or comprehensive study that the RA or, in the case of a comprehensive study, the Minister, may require.

In addition to the above factors, the comprehensive study must address:

- the purpose of the project;
- alternative means of carrying out the project that are technically and economically feasible, as well as the environmental effects of any such alternative means;
- the need for, and the requirements of, any follow-up programme;
- the capacity of renewable resources that are likely to be significantly affected by the project to meet present and future needs.

Where it is considered that a project may cause significant adverse environmental effects, or where warranted by public concerns, a project may be referred to the Minister of the Environment for a review by a panel appointed by the Minister. Panel reviews offer large numbers of groups and individuals with different points of view a chance to present information and express concerns at public hearings. The Minister of the Environment establishes the terms of reference for the panel review after consulting with the Responsible Authority and other parties as appropriate. The factors that must considered in a public review are the same as those for a comprehensive study. The panel report is submitted to the Responsible Authority and the Minister of the Environment. A government response to panel recommendations is considered by the federal Cabinet. Subsequent courses of action taken by Responsible Authorities must be consistent with the Cabinet's direction.

For each type of environmental assessment described above, a Responsible Authority or the Minister of Environment must by law consider the following environmental effects of a proposed project:

(a) any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(a) of the Species at Risk Act,

(b) any effect of any change referred to in paragraph (a) on:

(i) health and socio-economic conditions,

(ii) physical and cultural heritage,

(iii) the current use of lands and resources for traditional purposes by Aboriginal persons, or

(iv) any structure, site or thing that is of historical, archaeological, palaeontological or architectural significance, or

(c) any change to the project that may be caused by the environment,

whether any such change occurs within or outside Canada; (Respondent's emphasis; see definition of "environmental effect" under CEAA).

In addition to the above, section 47 of CEAA provides authority to the Ministers of the Environment and of Foreign Affairs, upon receipt of a request or a petition, or at their discretion, to jointly refer a proposed project to mediation or a review panel if they deem that the project may cause significant adverse transboundary effects across international boundaries. The referral of a proposed project to mediation or panel review can only take place when there is no federal involvement in the project as described in paragraph 2 above. Moreover, the Ministers cannot refer a project for review by a mediator or review panel under this provision if an arrangement has been reached between the Minister and all interested provinces on another manner of conducting an assessment of the project's international transboundary effects.

The Minister of the Environment typically requests the Canadian Environmental Assessment Agency (the Agency) to review requests and petitions made under section 47 and to make recommendations on whether or not proposed projects should be referred to mediation or review panel. This investigation usually involves the Agency seeking advice from expert federal authorities on the nature of the transboundary effects of the project. Consultations may also take place with officials in other jurisdictions.

Croatia. Two project lists are used: Appendix I of the Convention and a list in a Rule Book on EIA issued by the Ministry of Environmental Protection and Physical Planning in June 2000. If the proposed activity is covered by the lists, and if it is anticipated to have transboundary effects, it would be subject to the provisions of the Convention.

Czech Republic. Act n. 100/2001 Coll. includes as its Annex I, category I and II activities. If an activity is listed in this Annex I, the EIA procedure must be initiated. (Category II activities require that screening is undertaken at the start of the procedure.) Section 4 of the Act is on the Scope (the Subject of EIA of Plans) and includes the following:

(1) The subject of assessment pursuant to this Act shall be
(a) plans set forth in Annex 1, Category I, which shall always be subject to assessment,
(b) plans set forth in Annex 1, Category II, if so laid down in a fact-finding procedure pursuant to § 7, and
(c) changes in any plan set forth in Annex 1, if its capacity or extent is to be increased by 25% or more, or if there is a significant change in the technology, management of operations or manner of use thereof and if so laid down in a fact-finding procedure pursuant to § 7.

Denmark. The Planning Act provides the EIA procedure. Paragraph 6(c) of the Planning Act, together with a Ministerial Order, describes the procedure. Activities listed in Appendix I to the Convention fall within the scope of the Danish EIA legislation.

Estonia. The legal framework is provided by: the national EIA and Environmental Auditing Act; the Espoo Convention; and bilateral agreements with Latvia and Finland. The decision-maker examines each case individually, to determine whether the proposed activity is likely to cause a significant impact on the environment.

Finland. According to the EIA Act, Section 14: if a project is likely to have significant environmental impact in territory under the jurisdiction of another state, the coordinating authority (the regional environmental centres) shall supply the Ministry of the Environment with an assessment programme without delay for notification to the other state.

France. France does not make direct reference to Appendix I to the Convention. In applying European Community law and its transposition into national law, all projects subject to EIA must also be subject to transboundary consultations if they are likely to have an impact on the environment of another state (Decree of 12 October 1977, as amended). France does not have any precise criteria for establishing the likelihood of a transboundary impact. The siting of a project close to a border is often the determining factor. However, an EIA must examine the impacts of a project wherever they may occur.

Germany. The German EIA Act, as published in the announcement of 5 September 2001 (BGBl. I p. 2350), implements the EC EIA Directives (85/337/EEC and 97/11/EC) as well as the provisions of the Espoo Convention in federal law. This German EIA Act includes an Annex 1, which lists all projects or activities (a) for which it is mandatory to carry out an EIA; or (b) for which a case-by-case examination has to be carried out in order to investigate whether the project has significant adverse effects on the environment and may thus require an EIA. This Annex 1 includes *inter alia* all activities listed in Appendix I to the Espoo Convention. According to article 8 of the EIA Act, a transboundary EIA has to be carried out for every project or activity for which an EIA will be carried out in Germany, if the project or activity may have significant adverse transboundary environmental impacts. The obligation to carry out a transboundary EIA is thus not restricted to projects or activities listed in Appendix I of the Espoo Convention.

Hungary. The activities included in Appendix I to the Convention are listed in Appendix 1/A to the Hungarian governmental decree on EIA, which also includes quantitative thresholds. According to article 1, paragraph 2, points (a) and (c), these activities (except experimental activities) require a full environmental process, i.e. preparatory (scoping) and detailed impact assessment, to be carried out over a period not exceeding two years. Thus the Hungarian EIA system does not have a screening phase to determine the need for EIA process for the activities of Appendix I, but the legislation performed this work in the legal text itself.

Italy. The national EIA legislation is set out in Decree of the Prime Minister number 377 of 1988, article 1of which lists the projects subject to the national EIA procedure. The list reproduces Annex I to the EIA directive (i.e. Appendix I to the Espoo Convention, plus a few other projects).

Kyrgyzstan. The Kyrgyzstan regulation on carrying out EIA includes a list of activities requiring EIA, which is identical to that in Appendix I to the Convention. In addition, the regulation has a list of activities that do not require EIA.

Latvia. According to article 20.1 of the EIA Law, the State EIA Bureau, when taking a decision to initiate the EIA procedure, is also responsible for

determining whether a proposed project may have significant transboundary environment impacts. In such a case, the State EIA Bureau informs the Ministry of Environmental Protection and Regional Development, the Ministry of Foreign Affairs and other interested state and municipal institutions, and asks for their opinion on the decision. Having received the opinion of these ministries and institutions, the State EIA Bureau is responsible for notifying the potentially affected State or States. Such a notification is to be sent to the affected State before the developer informs the Latvian public.

Lithuania. If the activity is anticipated to have a significant impact on the environment according to the provisions of the Law on EIA of the Proposed Economic Activity (the screening procedure), and if the activity falls within the scope of Appendix I of the Espoo Convention, this proposed economic activity is subject to EIA in Transboundary Context.

Netherlands. The Environmental Management Act contains procedural provisions for EIA and content requirements for the EIA documentation. Paragraphs 7.2 and 7.3 describe the procedure to determine whether an EIA is mandatory for an activity, by reference to an EIA Decree. The EIA Decree contains a list of activities for which an EIA is mandatory. All Espoo Convention Appendix I activities fall within the scope of EIA in the Netherlands.

Norway. EIA Regulation includes the Convention's Appendix I, with the listed activities requiring notification from the project proponent.

Poland. Proposed activities not listed in Appendix I of the Espoo Convention are covered by the Polish Council of Ministers Regulation, which identifies types of projects which may have significant impact on the environment and detailed criteria for project screening taking into account the characteristics of the project. During the EIA procedure, the proponent must enclose the Environmental Report with the application for the granting of a decision on the conditions for land development and use, a decision on building consent for the construction, a concession for prospecting for, or exploration of, mineral deposits, a water permit, a decision which sets out the conditions for the execution of works consisting in water regulation, a decision granting authorisation for a project for the restructuring of rural land holdings, a decision consenting to the change of a forest into agricultural land, a decision granting authorisation for the location of a motorway.

Republic of Moldova. Proposed activities subject to EIA are defined in the Law of the Republic of Moldova number 851-XIII of 29 May 1996 regarding ecological examination and EIA, including the provisions on EIA. For a planned activity with transboundary effect it is specified, in the EIA Regulation, section IX, article 31: "In a case where an environmental effect has a transboundary nature, the procedure for carrying out an EIA is defined according to the Convention on EIA in a Transboundary Context". For domestic EIA, for projects without transboundary effect, section X of the same Regulation specifies a list of projects and types of activity for which it is mandatory to prepare EIA documentation prior to beginning detailed design. The carrying out EIA by private companies is regulated by Governmental Order number 394 of 8 April 1998, 'Regulation regarding EIA by private companies', articles 2 and 4.

Slovakia. The activities listed in Appendix I to the Convention are also listed in the Act of the National Council of Slovakia number 127/1994 coll. and in Act number 391/2000 coll.

Sweden. The Environmental Code (chapter 6) contains the main provisions on EIA; the Code and the EIA Ordinance implement the Espoo Convention. Activities that always require an EIA according to the Code are listed in Appendix 1 to the EIA Ordinance. That list is rather extensive and includes the activities listed in Appendix I to the Convention. All governmental authorities that are informed of activities that are likely to have significant environmental effects in another Party notify the Swedish Environmental Protection Agency, the authority responsible for the application of the Convention.

Switzerland. The legal framework in Switzerland is provided by article 9 of the Swiss Environmental Protection Act and by an EIA Ordinance. Appendix I to the Espoo Convention is directly integrated into Appendix I (list of activities subject to EIA) to the Swiss EIA Ordinance.

United Kingdom. In the United Kingdom, the requirements for EIA for qualifying projects, including all those activities listed in Appendix 1 to the Espoo Convention, are set out in legislation. There is no single piece of legislation (there are around 25 altogether), but all make the provision that require the competent body to consider whether an activity is likely to have significant transboundary effects. If so, a decision on the activity cannot be taken (other than to refuse it) until the EIA procedure is complete. The procedure in these cases ensures proper consultation with the authorities and the public in any affected Party.

Details of the legislation are available on the web site of the Convention.

I.A.1.2 Major change of activity listed in Appendix I (Art. 1, subpara. (v), and Art. 2, para. 3)

(a) Describe the procedures and, where appropriate, the legislation you would apply to decide that a change to an activity listed in Appendix I is considered as a "major" change.

Estonia, Norway, United Kingdom. See I.A.1.1 (a).

Armenia. No such procedure exists at present. Armenia believes that such a procedure would require establishing criteria estimating the environmental impact of a planned activity

Austria. An EIA has to be undertaken if a modification to an activity results in a capacity increase amounting to at least 50% of the threshold given in Annex 1 of the EIA Act, or of the previously approved capacity of the activity, and if the authority determines for the case in question that significant harmful, disturbing or adverse effects on the environment are to be expected due to the modification. For projects in certain ecologically sensitive areas listed in Column 3 of Annex 1 of the EIA Act, an EIA has to be performed if the threshold is reached and, as a result of a case-by-case examination, significant adverse effects are to be expected for this sensitive area. The relevant sensitive areas are specified in Annex 2 and connected to relevant project types in Column 3 of Annex 1. For those modifications subject to EIA, the same procedure has to be performed as described in the response to question I.A.1.1.

Belgium (Brussels, Flanders). The EIA legislation contains descriptions of the changes or extensions of projects for which an EIA is obligatory, or which have to be considered by the competent authority to determine whether an EIA is necessary, given the size, location or effects.

Belgium (Brussels). The two Ordinances contain descriptions of the changes or extensions of projects for which an EIA is obligatory, or which have to be considered by the competent authority to determine whether an EIA is necessary, given the size, location or effects.

Belgium (Marine). The Royal decree of 7 September 2003 stipulates that each modification or transformation of an activity that has been permitted, that may cause greater or other impacts on the environment, should be submitted to the permit procedure including an EIA and consultation.

Belgium (Nuclear). The Royal decree of 20 July 2001 contains provisions to decide when a change of an activity listed in Appendix I shall be considered as a major change. The criteria mentioned in Annex III of Directive 85/337/EG and in Recommendation 19999/829 are used.

Bulgaria. A change to an activity listed in Appendix I may be classified a "major" change as a result of screening of the investment proposal on a case-by-case basis against specific criteria (description of the main processes including size, capacity, throughput, input and output; resources used in construction and operation; characteristics of the potential impact, public interest in the proposal etc.). Consultation between the proponent, the public concerned, other organizations and the competent environmental authority will be of assistance to the competent authority in making a justified screening decision.

Canada. The Canadian Environmental Assessment Act, through which the Espoo Convention is implemented, incorporates a definition of "project" that includes for the consideration of environmental effects resulting from changes to a project. Under section 2 of Canadian Environmental Assessment Act (CEAA), the definition of project reads as follows:

> "(a) in relation to a physical work, any proposed construction, operation, **modification**, decommissioning, abandonment or other undertaking in relation to that physical work, or
>
> (b) any proposed physical activity not relating to a physical work that is prescribed or is within a class of physical activities that is prescribed pursuant to regulations made under paragraph 59(b);"

(Respondent's emphasis)

This definition requires a Responsible Authority to consider the environmental effects of a proposed modification to a project to which CEAA applies. Large-scale project modifications that are likely to have adverse environmental effects are usually subject to a Comprehensive Study under CEAA, while a screening level assessment would apply to minor project modifications unless these have been excluded from assessment requirements. As noted in the preceding response (see I.A.1.1 (a)) a Responsible Authority is required to consider the

environmental effects of a project whether these effects take place in or outside of Canada. As such, if the project proposal is a modification to an existing project, under CEAA, the Responsible Authority would have to give consideration to transboundary effects of the modification proposal.

Croatia. The Croatian legislation (Law on Environmental Protection and the Rule Book on EIA) requires that the transboundary impact of a modification be investigated.

Czech Republic. Section 4 (Scope: The subject of EIA of plans) of the relevant Czech Act states:

(1) The subject of assessment pursuant to this Act shall be
(a) plans set forth in Annex No. 1, Category I, which shall always be subject to assessment,
(b) plans set forth in Annex No. 1, Category II, if so laid down in a fact-finding procedure pursuant to § 7, and
(c) changes in any plan set forth in Annex No. 1, if its capacity or extent is to be increased by 25% or more, or if there is a significant change in the technology, management of operations or manner of use thereof and if so laid down in a fact-finding procedure pursuant to Section 7.

Section 7 (Screening procedure) states that "… For plans set forth in Annex No. 1, Category II and for changes in plans pursuant to Section 4, paragraph 1, letter (c), the objective of the screening procedure shall also be determination of whether the plan or change therein is to be assessed pursuant to this Act. The screening procedure shall be commenced and carried out on the basis of notification and the viewpoints obtained thereon, and pursuant to the points of view and factors set forth in Annex 2 to this Act."

Denmark. The Planning Act and the Ministerial Order describe which changes to activities must be subject to EIA. The competent authority may consider whether an EIA is necessary given the potential environmental impact.

Finland. Section 4 of the Finnish EIA Act states that "The assessment procedure shall also be applied in individual cases to a project or a material alteration to a completed project that will probably have significant adverse environmental impact comparable in type and extent to that of the projects, also taking into account the combined impact of different projects." Furthermore, Section 6 states "The Ministry of the Environment shall at the submission of the coordinating authority or on its own initiative decide whether to apply the assessment procedure to the projects."

France. These criteria are defined in France's regulations (Decree no. 77-1141 of 12 October 1977). They comprise two categories:

- Maintenance works and major repairs and certain modernisation works that do not imply a change to the site;
- Works that change substantially the characteristics of the existing facilities or increase their capacity, with the exception of some types of changes that are always exempted: works on public waterways and maritime areas, drainage and works for hydropower production, gas pipelines, etc.

Germany. The relevant provision is article 3 (e) of the German EIA Act. For specific large changes to projects or activities subject to EIA in Germany, an EIA is mandatory in each case (if the change or extension itself reaches the thresholds set out in Annex 1 to the German EIA Act for an obligatory EIA – category 'X'). Smaller changes will be dealt with on a case-by-case examination ('Screening') in order to investigate whether the change to a project or an activity will have significant adverse effects on the environment and thus will require an EIA. The relevant criteria for the screening-procedure (Annex 2 to the German EIA Act) include possible transboundary impacts.

Hungary. Again the Hungarian EIA law does not allow discretionary power to the authorities to decide whether a change to an Appendix I activity should or should not undergo an EIA process. Article 2 of the EIA Decree gives a detailed description of factors that make an EIA necessary for modifications to these activities. The factors are the following:

- The extension of an existing road to four or more lanes;
- The construction of a new railway line;
- Pipeline alignment changes resulting in a new alignment through a national protected area;
- A new emission that exceeds 25 % of the emission limit of any substance;
- New hazardous or nuclear waste, making necessary the construction of a new facility to handle it or to enlarge an existing facility by at least 25 %, or which requires the introduction of a new technology;
- The existing (permitted) emission is to increase by more than 25 % as an annual average;

- The existing use of underground or surface waters is to increase by more than 25 % as an annual average;
- The area occupied by the activity is to increase by at least 25 %; and
- Some dimension of the activity (e.g. capacity, production, extent etc.) is to increase by at least 25 %.

Transitional, experimental activities and activities in connection with reuse of materials from the existing activity are exempted from the above EIA obligations.

Italy. Decree of the Prime Minister number 377 of 1988 states in article 1, paragraph 2, that the EIA procedure applies also to changes to existing activities (subject to EIA) if a substantially different activity derives from the intervention. To facilitate the case-by-case examination, meetings are held between the Ministry for the Environment, the Ministry for Cultural Heritage and other concerned public institutions in order to identify *ex ante* whether, on the basis of programmes of the concerned institutions, a project is excluded from EIA scope since it is not considered as a major change.

Kyrgyzstan. To determine whether a change is "major" interested parties may be consulted.

Latvia. The determination of the need to apply the EIA Espoo Convention provisions to a "major" change to an activity listed in Appendix I is made through the Initial Assessment procedure. According to the results of the Initial Assessment, the State EIA Bureau would need to consider whether the change is "major" and accordingly whether EIA is required. The Initial Assessment procedure is undertaken according to the EIA Law.

Lithuania. A screening procedure is applied in order to determine whether the proposed activity will have a significant impact (major change) on the environment and thus whether EIA is obligatory. Methodological Guidelines on the Screening of the Proposed Economic Activity are applied.

Netherlands. The Dutch EIA Decree contains descriptions of changes and extensions that are EIA obligatory or which have to be considered by the competent authority to determine whether an EIA is necessary given the size, location or likely effects.

Poland. During the EIA procedure, the proponent must enclose the Environmental Report with the application for consent to change the use of a built structure or a part of it.

Slovakia. The Act of the National Council number 127/1997 coll. provides for such procedures.

Sweden. All changes, together with an assessment, are to be reported to the supervising authority, which will then decide if the change is major. If it is major, it will need a permit and thus an EIA. Only very small changes are considered not to be major.

Switzerland. Article 2 of the Swiss EIA Ordinance specifies the conditions under which a change to an activity is subject to EIA, essentially being whether the change is significant.

Republic of Moldova. No experience or no response.

I.A.1.3 Activities listed in pursuance of Article 2, paragraph 5

(a) Describe the procedures and, where appropriate, the legislation you would apply to determine that an activity not listed in Appendix I should be treated as if it were so listed.

Estonia, France. See I.A.1.1 (a).

Germany. See I.A.1.1 (a) and I.A.1.2 (a).

Slovakia. See I.A.1.2 (a).

Armenia. Such a procedure should be established through bilateral or multilateral consultations.

Austria. Every project for which an EIA procedure has to take place in Austria (a more extensive list than that in Appendix I of the Convention), and which is likely to have significant adverse impacts on the territory of another Party, has to be notified to that Party. The authority's experts, or experts appointed by the authority, provide advice in every single case to assist the authority in deciding whether to notify the other Party.

Belgium (Flanders). The EIA Decree contains more activities than included in Appendix I. For the extra activities, the Convention will also be applied in case of a likely significant adverse transboundary impact.

Belgium (Marine). All activities for which a permit is required are subject to public consultation (national and international). An exemption is possible in case the project will have limited

impacts but this will never be the case with the projects included in Appendix I of the Espoo Convention.

Belgium (Nuclear). The above-mentioned Royal Decree and EU Recommendation contain more activities than included in Appendix I. For the extra activities, the Espoo Convention will also be applied in case of a likely significant transboundary impact.

Bulgaria. According to the Convention (Art. 2, para. 5) and the Bulgarian EIA Regulation (art. 25, para. 3), the concerned Parties shall, at the initiative of any such Party, enter into discussion on whether one or more proposed activities not listed in Appendix I is or are likely to cause a significant adverse transboundary impact and thus should be treated as if it or they were so listed. In this case Bulgaria prefers to describe the detailed procedure in a bilateral agreement.

Canada. As noted in preceding responses, Canadian Environmental Assessment Act (CEAA) applies to a wide range of proposed projects that are commensurate to those listed in Appendix I to the Espoo Convention. CEAA also applies to many other types of projects that are not listed under Appendix 1. If a Responsible Authority is involved in a proposed project (see response to question I.A.1.1 (a), third paragraph), that Responsible Authority is required to consider the environmental effects of the proposed project whether these effects take place in or outside of Canada. See also the final two paragraphs of the response to question I.A.1.1 (a).

Croatia. Article 32 of the Croatian Environmental Law stipulates "if a project has a transboundary impact, the affected country must be notified."

Denmark. For activities not listed in Appendix I, the procedure will be the same as for those listed. The Convention will be applied if an activity not listed in Appendix I is likely to cause a significant adverse transboundary impact.

Finland. If the coordinating authority considers in an individual case that the assessment procedure should be applied to a new project or to a material alteration of a completed project in accordance with section 4, paragraph 2, of the Act on EIA Procedure, it must without delay submit a proposal for the application of the assessment procedure to that project to the Ministry of the Environment. In considering how to apply the assessment procedure to individual projects referred to in section 4, special consideration is be given to the criteria such as mentioned in Appendix III to the Convention. In practice, as the regional environmental centre has the best knowledge of local environmental circumstances, it is the Centre that gathers the information available on the impact, makes a proposal and sends its findings to the Ministry if it considers that the project needs an EIA. The Ministry must discuss with the appropriate authorities before it makes a decision.

Hungary. Hungarian law prevents initiation of the EIA process in connection with activities not listed in Appendices 1A or 1B to the EIA Decree. Appendix 1A of the EIA Decree lists the 49 most important activities, for which a full and detailed EIA is mandatory. Appendix 1B contains 141 additional types of activities, for which the preliminary (scoping) EIA is mandatory, but the full EIA process is dependent upon the discretionary decision of the environmental authority. If a neighbouring country insists that the Hungarian authorities initiate an EIA process for an activity that is not in either of the two mentioned appendices, a formal bilateral international agreement seems to be the only means by which an EIA might be undertaken.

Italy. Firstly, according to Decree of the Prime Minister number 377/88, some activities not listed in Appendix I to the Convention are nonetheless subject to EIA (Annex I to EC Directive 85/337). Secondly, additional activities (reproducing Annex II to the EC Directive) are also subject to EIA at the regional level, as provided for in the Decree of the President of the Republic of 12 April 1996. These additional activities are listed in two Annexes: Annex A relates to projects that shall be subject to an obligatory regional EIA; and Annex B relates to projects that are subject to screening. Projects listed in Annex B shall nevertheless be made subject to an obligatory assessment when located in protected areas. Screening criteria are established by law, in accordance with the EC Directive and Appendix III to the Espoo Convention. The screening procedure for Annex B projects is normally the following (details are determined by regional laws): the proponent provides information about the project (location, size...) and possible significant adverse effects on environment; the competent authority then decides within sixty days whether the EIA procedure should apply; the Regions make publicly available the list of projects that require EIA and the results of the screening procedures; in some cases (depending on regional laws), the public may participate in the screening procedure.

Kyrgyzstan. If a project does not appear in the list of activities subject to EIA, the affected Party may nonetheless be consulted. There is no

legislation addressing this situation and the situation has not yet arisen.

Latvia. The determination of the need for EIA of an activity not listed in Appendix I is made in accordance with the results of an Initial Assessment. Provisions for Initial Assessment are defined in the EIA Law. The relevant Regional Environmental Board is responsible for undertaking the Initial Assessment based on an application received from a project proponent. According to the results of the Initial Assessment, the State EIA Bureau would consider whether the activity may have a significant environmental impact and whether EIA would therefore be required, including also the need for transboundary EIA.

Lithuania. The Law on EIA of the Proposed Economic Activity states that "In the cases where an economic activity that is proposed to be carried out in the territory of the Republic of Lithuania may cause a significant negative impact on the environment of any foreign State which is a Party to the 1991 United Nations Convention on EIA in a Transboundary Context, or upon request by such a State, the EIA process shall be performed in compliance with the Convention, international agreements between the Republic of Lithuania and the relevant State, this Law and other legal acts." Thus it is possible to carry out EIA in a transboundary context for activities not listed in Appendix I to the Convention.

Netherlands. The Dutch EIA Decree contains more activities than included in Appendix I to the Convention. For the extra activities, and for cases where a significant adverse transboundary impact is considered likely, the Convention will be applied.

Norway. There is no specific national or bilateral procedure for this issue, with use simply being made of Article 2, paragraph 5, of the Convention.

Poland. Activities not listed in Appendix I to the Espoo Convention are identified in a Polish Council of Ministers Regulation. The regulation identifies types of project that may have significant environment impact and detailed criteria for project screening, taking into account the characteristics of the project. During the EIA procedure, the authority imposes the requirement to prepare an Environmental Report.

Republic of Moldova. Other activities can be subject to domestic EIA procedures even if not specified in the list of projects and types of activity for which it is mandatory to prepare EIA documentation before commencing detailed design (section X, EIA Regulation). This is specified in the following documents: (a) in the Law on ecological examination and EIA, article 16 (2), "the central body on natural resources and protection of environment may decide that strategic plans for the development of the national economy and other projects and types of activity shall be subject to EIA, depending on the level of expected environmental impact"; and (b) in the EIA Regulation, section I, article 4, "if necessary and as decided by the central department of environment, other projects and types of activity can be subject to EIA, depending on the level of expected environment impact".

Sweden. There is no special legislation. Decisions are made case by case by the Swedish Environmental Protection Agency (SEPA). SEPA is the agency responsible for sending and receiving notifications and for fulfilling the Party's responsibilities according to Article 2 (para. 4 to 6), Article 3 (para. 1 to 3 and 5 to 8), Article 4 (para. 2) and Articles 5 to 7 in the Espoo Convention. (Section 5 of the EIA Ordinance, 1998:905)

Switzerland. If an activity is subject to an EIA in Switzerland (App. I to the Swiss Ordinance on EIA goes beyond Appendix I to the Espoo Convention) but is not listed in Appendix I to the Espoo Convention, it may nonetheless be subject to transboundary EIA.

United Kingdom. The United Kingdom has transposed into its national legislation Regulations that give full effect to the requirements of EC Directive 85/337/EEC (the EIA Directive), including those relating to transboundary EIA (art. 7 of the EIA Directive). For countries that are members of the European Union, article 7 of the Directive is the principal means by which compliance with the Espoo Convention is given legal effect. Annexes I and II of the Directive list categories of activities that are subject to the requirements of the Directive. Where any activity listed in these categories of projects is considered likely to have significant effects on the environment of another country, the United Kingdom would notify them as required by its own and by European legislation. For other projects not listed in either of the Annexes to the EIA Directive nor listed in Appendix 1 to the Convention, it would consider whether it was necessary to apply the requirements by administrative means.

Czech Republic. No response or no experience.

I.A.1.4 Major changes to activities listed in pursuance of Article 2, paragraph 5

(a) Describe the procedures and, where appropriate, the legislation you would apply to decide that a change identified in pursuance of Article 2, paragraph 5, is considered to be a "major" change.

Austria, Hungary. See I.A.1.2 (a) and I.A.1.3 (a).

Armenia, Belgium (Marine), Denmark, Finland, *Netherlands*. See I.A.1.3 (a).

Belgium (Flanders, Nuclear), Canada, Czech Republic, France, Slovakia, Sweden. See I.A.1.2 (a).

Estonia. See I.A.1.1 (a).

Germany. See I.A.1.1 (a) and I.A.1.2 (a).

Bulgaria. A change to an activity listed in Appendix I may be classified a "major" change as a result of screening of the investment proposal on a case-by-case basis against specific criteria (description of the main processes including size, capacity, throughput, input and output; resources used in construction and operation; characteristics of the potential impact, public interest in the proposal etc.). Consultation between the proponent, the public concerned, other organizations and the competent environmental authority will be of assistance to the competent authority in making a justified screening decision.

Croatia. If a transboundary impact has been identified in the Environmental Report (procedure), Croatia as country of origin notifies the affected country.

Italy. According to Decree of the Prime Minister number 377/88, adaptations to existing activities (not included in the list of obligatory EIA) are not subject to EIA, unless, as a result, an activity subject to obligatory EIA derives from the adaptation. Decree of the Prime Minister of 3/9/99 states that Regions are in charge of identifying and legislating for changes to existing projects (i.e. authorised, in course of execution, or already in place) with significant environmental impact, which are subject to regional EIA.

Latvia. The procedure would be as the one described in the 1.3 (a). The determination of a "major" change is part of the Initial Assessment. The EIA Law provides the criteria to be used for evaluating whether an activity, or a change to an activity, is "major" or "minor".

Lithuania. The competent authority performs screening by completing Annex II of the Methodological Guidelines on the Screening of Proposed Economic, taking into account information that is provided by the proponent of the proposed activity. Annex II is completed as follows: (a) a judgement is made as to whether the screening factor, provided in the first column of Annex II, is relevant in this particular case; (b) the "factor relevancy" section is then filled according to this judgement; (c) a justified opinion is given on whether the factor might determine the decision to require EIA; (d) considerations regarding the significance of the impact in this particular case and information regarding the factor are provided in a column; and (e) when considering the significance of the impact in a particular case, it is very important to take into account not only separate factors but also interactions between them. The screening decision of the competent authority regarding obligatory EIA for a proposed activity is then made, taking into account the reasons provided in completing Annex II. The main reasons and considerations on which the decision was based are also provided in the decision itself.

Switzerland. Again, major changes are determined through the application of Appendix I to the Swiss EIA Ordinance in conjunction with article 2 of the Ordinance.

United Kingdom. United Kingdom EIA Regulations require that the likely significant environmental effects of modifications or changes or extension of activities must be considered just as those of the activity itself have to be considered.

Kyrgyzstan, Norway, Poland, Republic of Moldova. No response or no experience.

Significance and likelihood of adverse transboundary impact (Part I.A.2)

SUMMARY:

There was greater divergence among the respondents in the procedures applied to determine the significance of transboundary impacts of activities listed in Appendix I. Generally, a case-by-case examination was made using expert judgement, guidelines (Canada, Switzerland) and, in a number of countries, qualitative or quantitative (Latvia) criteria. Switzerland also had a particular interest in involving potentially affected Parties at this stage; in addition, it had a scoping procedure. In the United Kingdom, the consultations were quite wide, though only domestic, extending to non-governmental organizations. The Czech Republic did not apply a significance test; any potential transboundary impact implied the carrying-out of a transboundary EIA.

Regarding procedures applied to decide whether an activity not listed in Appendix I, or a major change to such an activity, is considered to have a "significant" adverse transboundary impact, about half of the respondents simply referred to the answer to the previous question. Generally, a case-by-case examination was made using expert judgement, guidelines (Canada, Finland, Switzerland, United Kingdom) and, in a number of countries, qualitative or quantitative (Latvia) criteria. Again, Switzerland also had a particular interest in involving potentially affected Parties at this stage. As in the case of listed activities, the Czech Republic did not apply a significance test; any potential transboundary impact implied the carrying-out of a transboundary EIA. Some respondents also noted that their national lists of activities were more extensive than Appendix I to the Convention (Hungary, Italy, Switzerland, United Kingdom). In Hungary only those activities in its extensive activity lists were subject to EIA; a bilateral or multilateral agreement might have been used to overcome this restriction, as might a request from a potentially affected Party.

I.A.2.1 Significant adverse transboundary impact of activity listed in Appendix I (Art. 2, para. 3)

(a) Describe the procedures and, where appropriate, the legislation you would apply to decide that an activity listed in Appendix I, or a major change to such an activity, is considered to have a "significant" adverse transboundary impact.

Slovakia. See I.A.1.2 (a).

Armenia. There are no special normative-legal acts regulating the method and procedure for carrying out EIA in a transboundary context. Furthermore, there are no scientifically proven methods or criteria for the estimation of impact size and scale.

Austria. The authority shall decide on a case-by-case-basis whether an activity has a "significant" adverse transboundary impact, taking into consideration the following criteria:

- Characteristics of the project (size of the project, accumulation with other projects, use of natural resources, production of waste, environmental pollution and nuisances, risk of accidents);
- Location of the project (environmental sensitivity taking into account existing land use, abundance, quality and regenerative capacity of natural resources in the area, absorption capacity of the natural environment);
- Characteristics of the potential impact of the project on the environment (extent of the impact, transboundary nature of the impact, magnitude and complexity of the impact, probability of the impact, duration, frequency and reversibility of the impact) as well as the change in the environmental impact resulting from the implementation of the project as compared with the situation without the implementation of the project. In case of projects falling under Column 3 of Annex 1 of the EIA Act, the changed impact is assessed with regard to the protected area.

Belgium (Flanders). It is primarily the decision of the competent authority (i.e. the EIA Unit of the Flemish environment administration) whether an activity is likely to have a significant adverse transboundary impact. When it is obvious to the competent authority that a proposed activity in Flanders may have a significant adverse impact on the environment in another Party, the competent authority will have to send the notification to the point of contact in the affected Party and will have to publish the information in the areas of the affected Party that are likely to be affected. The competent authority decides case-by-case, taking into consideration the specific situation, type of activity, type of effects and distance to the border.

Belgium (Brussels). Not applicable to the Brussels region as it is situated in the middle of Belgium.

Belgium (Marine). It is the responsibility of the Party of origin (the competent authority) to decide whether an activity is likely to have significant adverse transboundary impacts, in accordance to art. 19 of the Royal Decree of 7 September 2003. The Marine Environment Protection Law does not contain criteria regarding 'significance' or 'likely'. In the case of a request by a possibly affected Party, the request to obtain the notification document should be done within 60 days.

Belgium (Nuclear). It is primarily the decision of the Federal Agency for Nuclear Control (FANC) as competent authority whether an activity is likely to have significant adverse impacts. When such is obvious, using the criteria mentioned in the Recommendation, the FANC sends the notification to the European Commission. In addition, local authorities of neighbouring countries are notified and consulted. The Scientific Board of the FANC can also consult the European Commission about general and specific security aspects or environmental impacts. If the latter include transboundary aspects, the FANC has to send the notification directly, or on request, to the concerned State.

Bulgaria. There is no specific procedure provided in Bulgarian environmental legislation, nor a practice that is applied to determine whether an activity listed in Appendix I is considered to have a "significant" adverse transboundary impact. If the activity is listed in Appendix I, a mandatory EIA shall be conducted. A major change to such an activity is considered case-by case.

Canada. Under the Canadian Environmental Assessment Act (CEAA), when a Responsible Authority is involved in a proposed project (see response to question I.A.1.1 (a), paragraph 3, under: Identification of a Proposed Activity Requiring EIA procedure), the Responsible Authority proceeds either with a self-directed screening or a comprehensive study of the proposed project to determine whether it is likely to cause significant adverse environmental effects (see response to question I.A.1.1 (a) under: Identification of a Proposed Activity Requiring EIA procedure) and below for further details on these levels of assessment.) These requirements of CEAA apply to a broad range of projects covered by the Inclusion List Regulations and the Comprehensive Study List Regulations that support CEAA. The types of projects covered by the Comprehensive Study List Regulations are generally commensurate with those listed under Appendix I to the Espoo Convention.

The Canadian Environmental Assessment Agency has developed a reference guide for Responsible Authorities that sets out a framework for deciding whether a project is likely to cause significant environmental effects under CEAA. These guidelines are issued under section 58 of CEAA. The reference guide can be consulted at the Agency's Web site at http://www.ceaa.gc.ca/0011/0001/index_e.htm

The concept of significance is extremely important in CEAA. One of the stated purposes of CEAA is "to ensure that projects that are to be carried out in Canada or on federal lands do not cause significant adverse environmental effects outside the jurisdictions in which the projects are carried out" (Reference: section 4 (c) of CEAA).

As noted above, a central test under CEAA is whether a project is likely to cause significant adverse environmental effects. All decisions about whether or not projects are likely to cause significant adverse environmental effects must be supported by findings based on the requirements set out in CEAA.

The details below briefly outline the considerations that a Responsible Authority must undertake when proceeding with an environmental assessment.

The definitions of "environment" and "environmental effect" are the starting point when considering whether a project is likely to cause significant adverse environmental effects. CEAA defines the environment as:

"the components of the Earth, and includes

(a) land, water and air, including all layers of the atmosphere,

(b) all organic and inorganic matter and living organisms, and

(c) the interacting natural systems that include components referred to in paragraphs (a) and (b);" (Reference: section 2(1) of CEAA).

Environmental effect means, in respect of a project,

(a) any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(a) of the Species at Risk Act,

(b) any effect of any change referred to in paragraph (a) on:

(i) health and socio-economic conditions,

(ii) physical and cultural heritage,

(iii) the current use of lands and resources for traditional purposes by Aboriginal persons, or

(iv) any structure, site or thing that is of historical, archaeological, palaeontological or architectural significance, or

(c) any change to the project that may be caused by the environment,

whether any such change occurs within or outside Canada (Reference: section 2 (1) of CEAA) (Respondent's emphasis).

Bearing in mind these key definitions, the Canadian Environmental Assessment Agency has developed the following framework for guiding Responsible Authorities and the Minister of the Environment in determining whether environmental effects are "adverse", "significant", and "likely" within the context of CEAA. It should be noted that the framework does not exclude the consideration of other criteria such as the general criteria listed under Appendix III of the Espoo Convention.

The framework consists of three general steps:

Step 1: Deciding Whether the Environmental Effects are Adverse

Step 2: Deciding Whether the Adverse Environmental Effects are Significant

Step 3: Deciding Whether the Significant Adverse Environmental Effects are Likely

Each step consists of a set of criteria that Responsible Authorities and the Minister of the Environment should use to address these three questions, as well as examples of methods and approaches that can be applied. The Responsible Authority and the Minister apply the criteria to information provided by the proponent. This information is generally provided in the form of an Environmental Impact Statement.

Step 1: Deciding Whether the Environmental Effects are Adverse

The Canadian Environmental Assessment Agency guidance material lists the major criteria that should be used to determine whether environmental effects are adverse. Obviously, the relative importance of individual characteristics will vary depending upon the context of the particular environmental assessment in question. The criteria are listed in the table below.

Step 2: Deciding Whether the Adverse Environmental Effects are Significant

The Canadian Environmental Assessment Agency's guidance material also outlines several criteria that should be taken into account in deciding whether the adverse environmental effects are significant. These are:

- Magnitude of the adverse environmental effects;
- Geographic extent of the adverse environmental effects;
- Duration and frequency of the adverse environmental effects;
- Degree to which the adverse environmental effects are reversible or irreversible; and
- Ecological context.

Step 3: Deciding Whether the Significant Adverse Environmental Effects Are Likely

Finally, the Canadian Environmental Assessment Agency's guidance material recommends that when deciding the likelihood of significant adverse environmental effects, there are two criteria to consider:

- Probability of occurrence; and
- Scientific uncertainty

Once a Responsible Authority completes the screening process, it must make a determination on whether to exercise its powers in relation to the project or to require the project to be subject to further assessment by mediation or a review panel. This determination is based on consideration of the significance of the adverse environmental effects taking into account the implementation of mitigation measures as well as the public concerns in relation to the proposed project. It should be noted, however, that at any time during a screening, a Responsible Authority can refer the project to the Minister of the Environment for mediation or panel review, if the Responsible Authority considers that the proposed project may cause significant adverse environmental effects or if warranted by public concerns about the project.

Early in the comprehensive study process, following public consultation, the Minister of the Environment is required to determine if the project should continue on the comprehensive study assessment track or instead be referred to a mediator or independent review panel. The Minister's decision must take into account a report and recommendations from the Responsible Authority that describes, among other things, public concerns about the project, potential for adverse environmental effects and the ability of the comprehensive study process to address issues related to the project.

If the assessment continues as a comprehensive study, the project may not be subsequently referred to a mediator or review panel. The Responsible Authority must provide a further opportunity for the public to participate in the conduct of the comprehensive study itself. In addition, once completed, the comprehensive study report is subject to a public comment period of at least 30 days. The Minister of the Environment, after taking into account the comprehensive study report and any

Canadian criteria for determining whether environmental effects are adverse.

Changes in the Environment	**Effects on People Resulting from Environmental Changes**
- Negative effects on the health of biota including plants, animals, and fish; - Threat to rare or endangered species; - Reductions in species diversity or disruption of food webs; - Loss of or damage to habitats, including habitat fragmentation; - Discharges or release of persistent and/or toxic chemicals, microbiological agents, nutrients (e.g., nitrogen, phosphorus), radiation, or thermal energy (e.g., cooling wastewater); - Population declines, particularly in top visual amenities (e.g., views); - The removal of resource materials (e.g., or resources; peat, coal) from the environment; - Transformation of natural landscapes; - Obstruction of migration or passage of wildlife; - Negative effects on the quality and/or quantity of the biophysical environment (e.g., surface water, groundwater, soil, land, and air).	- Negative effects on human health, well-being, or quality of life; Increase in unemployment or shrinkage in the economy; - Reduction of the quality or quantity of recreational opportunities or amenities; - Detrimental change in the current use of lands and resources for traditional purposes by Aboriginal persons; - Negative effects on historical, archaeological, palaeontological, or architectural resources; - Decreased aesthetic appeal or changes in predator, large, or long-lived species; - Loss of or damage to commercial species; - Foreclosure of future resource use or production;

public comments, then issues a decision statement on whether the project is likely to cause significant adverse environmental effects. At this time, the Minister of the Environment may set out mitigation measures and requirements for a follow-up programme. The Minister also has the authority to request further information or require that action be taken to address public concerns. Finally, the Responsible Authority must design a follow-up programme for projects that have undergone a comprehensive study assessment and ensure its implementation.

Where it is considered that a project may cause significant adverse environmental effects, or where warranted by public concerns, a project may be referred to the Minister of the Environment for a review by a panel appointed by the Minister. Panel reviews offer large numbers of groups and individuals with different points of view a chance to present information and express concerns at public hearings. The panel report is submitted to the Responsible Authority and the Minister of the Environment. A government response to panel recommendations is considered by the federal Cabinet. Subsequent courses of action taken by Responsible Authorities must be consistent with the Cabinet's direction.

In addition to the above, section 47 of CEAA provides authority to the Ministers of the Environment and of Foreign Affairs, upon receipt of a request or a petition, or at their discretion, to jointly refer a proposed project to mediation or a review panel if they deem that the project may cause significant adverse transboundary effects across international boundaries. The referral of a proposed project to mediation or panel review can only take place when there is no federal involvement in the project Moreover, the Ministers cannot refer a project for review by a mediator or review panel under this provision if an arrangement has been reached between the Minister and all interested provinces on another manner of conducting an assessment of the project's international transboundary effects.

The Minister of the Environment typically requests the Canadian Environmental Assessment Agency (the Agency) to review requests and petitions made under section 47 and to make recommendations on whether or not proposed projects should be referred to mediation or review panel. This investigation usually involves the Agency seeking advice from expert federal authorities on the nature of the transboundary effects of the project. Consultations may also take place with officials in other jurisdictions.

Croatia. If the Environmental Report (procedure) determines a transboundary impact, Croatia as Party of origin notifies the affected Party.

Czech Republic. Act n. 100/2001 Coll. does not include significance criteria for transboundary effects; any potential transboundary effect will result in a transboundary EIA

Denmark. The competent authority decides whether an activity is likely to have a significant adverse transboundary impact .If a proposed activity in Denmark is likely to have a significant adverse environmental impact on the environment of another Party, the competent authority will have to send the notification to the point of contact in the affected Party and will have to publish the information in the areas of the affected country that are likely to be affected. The competent authority takes a case-by-case decision, taking into consideration the specific situation, type of activity, type of effects and distance to the border.

Finland. The regional environmental centre and the Ministry use information obtained during previous assessments undertaken in Finland. So a case-by case examination is made using expert judgement.

France. The EIA of a project must analyse impacts on French territory as on the territory of other states. It is a case-by-case analysis that depends on the characteristics of the territory and the nature of the project, without it being possible to define any general rules. The results of the analysis indicate the likelihood of a significant transboundary impact and an estimate of its magnitude.

Germany. In Germany, EIA is an integral part of licensing procedures and of other forms of procedures (e.g. siting procedures). Apart from a few exceptions, the authorities of the German States (*Länder*) are competent for these procedures. For many projects or activities listed in Annex 1 to the German EIA Act, including the activities listed in Appendix I to the Espoo Convention, EIA is mandatory. For these projects the competent authority will have to determine only whether any significant adverse environmental impacts could also be transboundary. For other projects or activities listed in Annex 1 to the German EIA Act a case-by-case examination ('Screening') has to be carried out. For these other projects or activities the competent authority will determine, on the basis of the application and additional documents provided by the proponent, on the basis of information of other authorities and on the basis of the current state of knowledge and expertise of the authority itself on the proposed project and on the proposed site for this project, whether impacts may be significant or likely. Annex 2 to the German EIA Act lists criteria that will have to be taken into account in such a screening procedure.

Hungary. The issue is handled in a two-step process. According to article 25, paragraph 1, of the EIA Decree, the Environmental Inspectorate has to send documentation to the Ministry if there is a probability that a significant transboundary environmental effect would take place in connection with the proposed activity. According to paragraph 4 of the same article, the Ministry notifies the affected Party. The above-mentioned paragraph 1 expressly calls upon the inspectorate to take into consideration Appendix III to the Convention. The decision on the probability or harmfulness of an impact is based other Hungarian regulations referring to environmental elements or dangers.

Italy. Activities in Appendix I are deemed to have a significant impact (Decree of the Prime

Minister number 377/88). Their "transboundary" significant effects are assessed on the basis of the documentation provided by the proponent (analysis of effects). The elements that are taken into account the most are the distance from the border and influence on transboundary waters.

Kyrgyzstan. The national EIA legislation prohibits beginning project implementation for those projects subject to EIA without a positive conclusion of the state ecological examination. In case of transboundary impacts, and in accordance with international agreements, a joint ecological examination of the project is carried out.

Latvia. The determination of "significant" adverse transboundary environmental impacts is done according to the EIA Law. The State EIA Bureau is the decision-making authority on this matter, deciding whether to initiate the transboundary EIA procedure. The determination for activities listed in Appendix I is based on using the qualitative and, where possible, quantitative criteria of significance. For certain cases, the advice of invited experts can be used. For a major change to an activity listed in Appendix I, the Initial Assessment procedure is used. The Initial Assessment is needed for identifying whether the change is "major", and EIA might therefore be needed, as well as for considering whether the "major" change could cause significant adverse transboundary impacts. The relevant Regional Environmental Board undertakes the Initial Assessment and the results of that assessment are sent to the State EIA Bureau, which then takes the decision on whether EIA is necessary.

Lithuania. The Law on EIA of the Proposed Economic Activity defines the relevant procedures. EIA shall be performed for those proposed economic activities that are included in the List of the Types of Proposed Economic Activities that Shall Be Subject to the EIA or if, during screening, it is determined that EIA is obligatory for the proposed economic activity. Screening is performed for the proposed economic activities that are included in the List of the Proposed Economic Activities that Shall Be Subject to the Screening for Obligatory EIA. The aim of screening is to determine if a proposed activity has a significant environmental impact. The competent authority performs the screening by completing Annex II of the Methodological Guidelines on the Screening of Proposed Economic Activity, taking into account information that is provided by the proponent of the proposed activity. Annex II is completed as follows: (a) a judgement is made as to whether the screening factor, provided in the first column of Annex II, is relevant in this particular case; (b) the "factor relevancy" section is then filled according to this judgement; (c) a justified opinion is given by the screening specialist(s) on whether the factor might determine the decision to require EIA; (d) considerations regarding the significance of the impact in this particular case and information regarding the factor are provided in a column. The screening decision of the competent authority regarding obligatory EIA for a proposed activity is then made, taking into account the reasons provided in completing Annex II.

Netherlands. It is primarily the decision of the competent authority whether an activity is likely to have a significant adverse transboundary impact. When it is obvious to the competent authority that a proposed activity in the Netherlands may have a significant adverse environmental impact on the environment in another country, the competent authority has to send a notification to the point of contact in the affected country and will have to publish the information in the areas of the affected country that are likely to be affected. The competent authority decides on a case-by-case basis, taking into consideration the specific situation: type of activity, type of effects and distance to the border.

Norway. Section 10 of the national legislation specifies that if significant impacts are expected within Norway, transboundary impacts should also be considered.

Poland. The authority that caries out the EIA procedure determines whether a proposed project may have a significant adverse transboundary impact on the environment taking into consideration:

- The distance between the activity location and the border;
- Information on the proposed activity enclosed with the application; and
- The criteria in Appendix III to the Espoo Convention.

Sweden. The Swedish Environmental Protection Agency makes a case-by-case decision. Even if a project is considered not to have significant adverse transboundary impact, information on the project might be sent to the point of contact in the other country.

Switzerland. The likely significance of environmental impacts is first assessed during the scoping process (art. 8 of the EIA Ordinance), hence Switzerland's interest in involving a potentially affected Party at the scoping stage. The Environmental Report is drafted based on the results of the scoping process. (Article 9 of the

Environmental Protection Act and articles 7, 9 and 10 of the EIA Ordinance concern the drafting and the content of the Environmental Report. In addition, guidelines by the Swiss Agency for the Environment, Forests and Landscape, as well as, where applicable, guidelines by the cantonal environmental protection agencies, define additional relevant and guiding principles for the drafting and the content of the Environmental Report).

United Kingdom. Applications for development consent are submitted to the appropriate Competent Authority. For most projects in the United Kingdom within scope of the Convention, this will be a local planning authority, but for others where decisions are taken at National level it will be the Secretary of State for the Environment. Where applications are made to the local planning authority, the authority is required to forward to the Secretary of State three copies of any EIA document that is submitted with the application. The Secretary of State is required to consider whether the proposed activity is likely to have transboundary effects on another Party(ies). Where the Secretary of State himself is the Competent Authority, copies of the EIA documentation are sent directly by the applicant as part of the application procedure. In deciding whether an activity is likely to have effects, the Secretary of State would make reference to the selection criteria set out in Regulations. Consultations would also take place with experts in relevant Government Departments and statutory environmental bodies, and in some cases experts in non-government organizations. A determination of whether effects are likely would be based on the result of these consultations and guidance.

Estonia, Republic of Moldova. No response or no experience.

I.A.2.2 Significant adverse transboundary impact of activity not listed in Appendix I (Art. 2, para. 5)

(a) Describe the procedures and, where appropriate, the legislation you would apply to decide that an activity not listed in Appendix I, or a major change to such an activity, is considered to have a "significant" adverse transboundary impact. (Guidelines in Appendix III)

Austria, Belgium (Flanders, Marine, Nuclear), Canada, Czech Republic, Finland, France, Lithuania, Netherlands, Norway, Poland, Sweden. See I.A.2.1 (a).

Germany. See I.A.1.1 (a) and I.A.1.2 (a).

Slovakia. See I.A.1.2 (a).

Switzerland. See I.A.2.1 (a) and I.A.1.3 (a).

Armenia. In Armenia, there are no special normative-legal acts regulating the method and procedure for carrying out EIA, including in a transboundary context. Furthermore, there are no scientifically proven methods or criteria for the estimation of impact size and scale.

Bulgaria. The competent authority may determine that an activity, not listed in Appendix I or a major change to such an activity, has a "significant" transboundary impact by reference to Appendix III to the Convention and to article 93, paragraph 4, of the Bulgarian Environmental Protection Act, having regard to the following criteria:

- Characteristics of the proposed construction, activities and technologies, such as size, productivity, scope, inter-relation and integration with other proposals, use of natural resources, waste generation, environmental pollution and violations, as well as risk of accidents;
- Locality, including sensitivity of the environment, existing land use, relative availability of appropriate areas, quality and regenerative capacity of the natural resources in the region;
- Reproductive capacity of the ecosystem in the natural environment;
- Characteristics of the potential impacts, such as territorial coverage, affected population, including transboundary impacts, nature, scope, complexity, probability, duration, frequency, and rehabilitation capacity; and
- Public interest in the proposed construction, activities and technologies.

Croatia. If the Environmental Report (procedure) determines a significant transboundary impact, Croatia as Party of origin notifies the affected Party.

Denmark. The same procedure is applied as for Appendix I.

Hungary. Article 25 of the EIA Decree is restricted to the activities in Appendix I to the Convention. However, this does not prevent an EIA being undertaken for other, unlisted activities. Thus, if a neighbouring country requests initiation of the Espoo process in connection with an activity that is planned in Hungary, agreement on this matter could be reached by applying the provisions of the Convention. In principle, a Hungarian

Environmental Inspectorate can also initiate an international EIA process.

Italy. Activities not listed in Appendix I but subject to obligatory EIA (Decree of the President of the Republic, 1996, Annex A – see I.A.1.3) are deemed to have significant impact, as described in the answer to the previous question. For activities not subject to obligatory EIA (Decree of the President of the Republic, 1996, Annex B), possible impacts are determined during the screening procedure. In the case of a Regional EIA, the Regions involved promptly inform the Ministry of Environment of the possible transboundary effects and of the necessity to apply the Convention.

Latvia. The Initial Assessment procedure is applied, using the criteria of significance. Knowledge, availability of data and experience are also preconditions for such Assessment.

United Kingdom. See response to question I.A.1.3. United Kingdom EIA legislation applies to a wider range of activities than those listed in Appendix I to the Convention. If significant transboundary effects were likely from one of the project activities subject to United Kingdom legislation it would trigger transboundary provisions in its legislation. Published guidelines assist competent authorities to determine whether projects are likely to have significant environmental effects.

Estonia, Kyrgyzstan, Republic of Moldova. No response or no experience.

NOTIFICATION (PART II)

QUESTIONS TO THE PARTY IN THE ROLE OF 'PARTY OF ORIGIN' (PART II.A)

The respondent was asked to "describe the legal, administrative and other measures taken in your country as the Party of origin to implement the provisions of the Convention on notification referred to in this section."

NOTE: It appears that some of the respondents replied to questions in this section in the role of affected Party, or with respect to domestic EIA procedures, rather than in the role of Party of origin in a transboundary EIA procedure.

Notification of the affected Party (Art. 3) (Part II.A.1)

SUMMARY:

*Most respondents in their role of Party of origin reported that notification was the responsibility of the Espoo 'point of contact' or the environment ministry or national environment agency (or similar), the two often being the same in practice. In France, it was the point of contact in the Ministry of Foreign Affairs for national level projects but the county (*département*) prefect for local ones. In the United Kingdom, the Secretary of State for Environment was responsible for notification (whereas the point of contact is in the Office of the Deputy Prime Minister). In Germany, Kyrgyzstan, the Netherlands, Norway and Switzerland it was the competent authority that was responsible for the notification though, in the case of the Netherlands, the notification was copied to the point of contact in the Environment Ministry. No respondent indicated that they did not use the points of contact as decided at the first meeting of the Parties. Apart from the Netherlands, all respondents indicated that the body responsible for notification was permanent. Respondents provided additional information on how the notification was organized.*

Problems reported by the respondents in complying with the requirements of the Convention (Art. 3, para. 2), included describing "the nature of the possible decision" (Bulgaria), timing (Kyrgyzstan, Netherlands); translation (Netherlands), and the point of contact's level of awareness of the procedure and willingness to accept a notification where a dependent territory was not recognized as such by the affected Party (United Kingdom).

Most respondents noted that, in practice, information to supplement that required by the Convention (Art. 3, para. 2) was included in notifications, sometimes in reply to a request from the affected Party (Croatia, France), and sometimes because of a legal requirement (Czech Republic, Poland).

Seven Parties reported use of the proposed guidelines in the report of the first meeting of the Parties in Oslo (ECE/MP.EIA/2, decision I/4), but five reported that they did not and two others (Hungary, United Kingdom) noted partial use of the guidelines. Norway reported use of a national format, whereas others used a letter (Estonia, Italy, Lithuania); the Czech Republic and Finland used both a form and a letter.

The Convention (in Art. 3, para. 5 (a) and (b)) requires submission of additional information on receipt of a positive response from an affected Party indicating a desire to participate. Certain respondents indicated that information was indeed only sent at this stage (Croatia, Estonia), but the majority said that it was sent with the notification, whereas Poland sent part with the notification (para. 5(b)) and part in response to the request (para. 5(a)). Switzerland and the United Kingdom continued to provide information after notification without waiting for a response.

In determining when to send the notification to the affected Party, respondents indicated that this had to occur no later than notifying their own public (Austria, Czech Republic, Finland) or consultees (Sweden, Norway), or no later than when the development notice was issued (Italy, Netherlands, United Kingdom) or a decision taken to hold a public inquiry (France). Switzerland was seeking to notify the affected Party at the scoping stage, whereas in Hungary and Slovakia the notification was sent on receipt of the development request. In Bulgaria, the proponent notified the public at the same time as the competent authority, which then decided whether there was a need for a transboundary EIA procedure and notified the affected Party accordingly. In Canada, Croatia, Germany and Poland, the likelihood of a significant

transboundary impact was first determined. In practice, many of the above may have been equivalent.

Half of the respondents indicated that their national EIA legislation required a formal scoping process with mandatory public participation. Two Parties without mandatory public participation in the scoping process notified the affected Party once the transboundary impact had been identified (Croatia, Poland). Others reported not having a mandatory scoping process (France, Germany, Italy, United Kingdom), whereas Switzerland said that it did notify the affected Party during the scoping stage.

Respondents reported various responses to notifications, but there was generally a lack of experience. Experiences were generally reported as 'good' or 'effective' (Estonia, Finland, Hungary, Slovakia, Sweden); the Netherlands noted the importance of informal contacts. The United Kingdom indicated that responses were usually only received in response to reminders.

The time frame for a response was reported as being typically between one and two months by a number of respondents (Croatia, Czech Republic, Estonia, Finland, Germany, Hungary, Italy, Sweden), but slightly shorter in the Netherlands and the United Kingdom. This time frame was derived from national EIA procedures (Czech Republic, Estonia, Finland, France, Hungary, Switzerland), from a combination of national procedures and bilateral agreements (Germany, Italy), or from national procedures adjusted to allow for procedures in the affected Party (Slovakia, United Kingdom). Bulgaria reported a complex set of criteria for determining the time frame. Kyrgyzstan made reference to the project proponent's deadlines.

Responses had always or generally been received within the time frame according to a number of respondents (Croatia, Estonia, Finland, France, Hungary, Italy, Slovakia, Sweden). If responses were not received in time, respondents to the questionnaire indicated that a reminder was sent (Croatia, France, Sweden, United Kingdom) and more time allowed (Finland, Italy), but that ultimately the Party of origin might have decided to continue without the participation of the affected Party (Croatia, France, Germany, Kyrgyzstan, United Kingdom). Delays in responses are also likely to result in delays in the entire approval procedure (Hungary, Netherlands, United Kingdom). If an affected Party requested extension of the time frame, most respondents indicated that it was granted, if possible and reasonable.

Only the United Kingdom reported problems with the notification procedure, caused by delays in response and by responses not being provided in English.

II.A.1.1 Organization of the notification (Art. 3, para. 1)

(a) Who is responsible for the notification?

Armenia. The notification procedure, and thus the identification of the organization responsible for notification under the Convention, has yet to be developed.

Austria. The competent authority of the EIA procedure (*Länder* governments, Federal Ministry of Transport, Innovation and Technology), in cooperation with the Austrian point of contact (Federal Ministry of Agriculture, Forestry, Environment and Water Management), is responsible for the notification.

Belgium (Flanders). The proponent has to submit the 'notification of intent' to the competent authority (the EIA Unit). This is the formal start of the EIA procedure. This document may contain information on likely transboundary effects. The competent authority contacts the authorities in the affected Party and sends the notification to them. The EIA Unit of the regional environment administration is coordinator for EIA in a transboundary context and the Espoo point of contact. In the bilateral agreement with the Netherlands, in addition to the official Espoo points of contact, local points of contact have been nominated in order to streamline the process.

Belgium (Marine). No formal notification exists, and there is no participation before the EIA documentation has been finalized. The exchange of information, public participation and consultation take place after the EIA documentation is finished.

Belgium (Nuclear). The EIA procedure starts when the proponent has prepared the EIA documentation and presents this to the Federal Agency for Nuclear Control. No formal notification exists.

Bulgaria. The proponent of the proposed activity informs the competent authority (the Ministry of Environment and Water), concerned municipalities and the public about the proposal. The Ministry of Environment and Water notifies the affected Party.

Canada. Canada employs a flexible approach to notification. As such, depending on the complexity of the transboundary environmental issues involved, notification is provided either by the Minister of Foreign Affairs or by the federal Minister of the Environment. The office of the President of the Canadian Environmental Assessment Agency also continues to fulfil the role of point contact for the Espoo Convention.

Croatia. The point of contact in the Ministry of Environmental Protection and Physical Planning is responsible for the notification.

Czech Republic. The competent authority, which in the case of transboundary effects is the Ministry of Environment alone, is responsible for the notification.

Denmark. The developer will normally prepare the document for notification and presents them to the competent authority. The competent authority then contacts the authorities in the affected Party and presents the documents for the notification to them. The competent authority is responsible for the notification. The Ministry of Environment will normally be informed if an authority presents a notification to another Party.

Estonia. The Ministry of Environment or the competent authority is responsible for the notification.

Finland. The point of contact, in the Ministry of the Environment, is responsible for the notification.

France. Either the competent authority, which is responsible for the management of the procedure for requesting authorisation (a service of the State), or a local authority is responsible for the notification. The dossier is formally sent by the prefect (*préfet*) of the county (*département*) at the local level (and not by the prefect's services) or by the Minister of Foreign Affairs at the national level (and not by sectoral ministries). If the competent authority is a local authority, it arranges for transmission of the dossier by the county prefect. The Minister of Foreign Affairs is informed in all cases.

Germany. In Germany, EIA is an integral part of licensing procedures and of other forms of procedures (e.g. siting procedures). Apart from a few exceptions, the authorities of the German States (*Länder*) are competent for these procedures. Usually these are authorities on the local, regional or *Länder* level. According to the German EIA Act, the transboundary EIA procedure is integrated into the national EIA procedure. The authority that is responsible for the decision on the project (licensing authority) is thus also responsible for the transboundary EIA including the notification. The federal level or the Ministries of the German States are only involved in the transboundary EIA procedure if any problems could not be solved in the spirit of communication and cooperation between the competent German authority and the competent authority of an affected Party. In the case of Germany as affected Party, the authority that would be responsible for a similar project in Germany is responsible for the transboundary EIA procedure on the German side.

Hungary. Article 25, paragraph 4, obliges the Ministry of Environment to prepare and send the notification, while at the same time sending a memorandum to the inspectorate that informs the proponent of the start of the Espoo process.

Italy. The EIA Directorate of the Ministry for Environment and Territory, Rome, is responsible.

Kyrgyzstan. There is no notice procedure at present, but the responsible body would be the competent authority in the field of environmental protection.

Latvia. The State EIA Bureau is responsible for the notification.

Lithuania. The Ministry of Environment is responsible for the notification.

Netherlands. The proponent prepares the "notification of intent" and presents this to the competent authority. This is the formal start of the EIA procedure. Then the competent authority contacts the authorities in the affected country and presents the notification to them. At the same time the Dutch Environment Ministry is informed (the Environment Minister is coordinator for EIA in a transboundary context and the Espoo point of contact is in the Environment Ministry). In bilateral agreements with neighbouring countries, in addition to the official Espoo points of contact, regional points of contact have been nominated in order to streamline the process.

Norway. The competent authority, according to Appendices I and II to the EIA regulations, Section 10, number 1, is responsible for the notification.

Poland. The Minister of Environment is responsible for the notification, according to the Environmental Protection Law (27 April 2001).

Republic of Moldova. The national legislation does not define notification procedures for the Republic of Moldova in the role of either Party of origin or affected Party. The Government established a procedure for notifying the affected Party for a particular transboundary EIA (the Terminal in Giurgulest, 1995). For projects and types of activity not having transboundary effects, the organization and carrying out of the EIA is done by the project proponent with the participation of the developers of the design documentation (as reflected in article 17 of the Law on ecological examination and EIA).

Slovakia. The Ministry of the Environment is responsible.

Sweden. The Swedish Environmental Protection Agency is responsible. See I.A.1.3 (a).

Switzerland. The competent authority, i.e. the national or cantonal authority that will grant approval for the activity, is responsible for notification.

United Kingdom. Central Government, through the Secretary of State, is responsible for notification.

(b) Do you make use of contact points for the purposes of notification as decided at the first meeting of the Parties in Oslo (ECE/MP.EIA/2, decision I/3)?

Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Estonia, Finland, France, Hungary, Italy, Lithuania, Netherlands, Norway, Poland, Slovakia, Sweden, Switzerland, United Kingdom. Yes, the points of contact are made use of in this way.

Denmark, Germany, Kyrgyzstan, Republic of Moldova. No, the points of contact are not made use of in this way.

Armenia, Latvia. No response or no experience.

(c) Is the body referred to in (a) permanent?

Austria, Bulgaria, Canada, Croatia, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Slovakia, Sweden, Switzerland, United Kingdom. Yes, the organization responsible for notification is permanent.

Belgium, Denmark, Netherlands. No, the organization responsible for notification is not permanent.

Armenia, Republic of Moldova. No response or no experience.

Describe how the notification is organized.

Germany. See II.A.1.1 (a).

Belgium (Flanders). The EIA Unit is permanent. The regional ministerial level is always involved in a formal capacity.

Bulgaria. The proponent of the proposed activity informs the competent authority (the Ministry of Environment and Water), concerned municipalities and the public about the proposal. When a decision on whether an EIA is required is taken, the Minister of Environment and Water notifies the affected Party about his decision and determines the terms for reply if the affected Party will take part in the EIA procedure.

Czech Republic. The organization of the notification is set out in Act n. 100/2001 Coll. When a proponent submits a notification of a proposed activity to the competent authority, the proponent has to inform of any potential transboundary effects. The competent authority, which in the case of transboundary effects is the Ministry of Environment alone, send this notification, information about the Czech EIA procedure and a list of procedures that may follow, to the potentially affected Party, together with a question asking if they wish to participate in the Czech EIA procedure. If the affected Party wishes to participate, the Ministry of Environment sends a second letter requesting information on the environment in the affected area.

Denmark. Which authority is the competent authority depends on the specific case. It may be at a regional or national level. The competent authority carries out the concrete tasks of exchange of information, etc.

Finland. The Ministry of the Environment sends the notification to the point of contact of the affected country. Often informal contacts are made before the formal notification.

France. As indicated in II.A.1.1, there are two possibilities:

- A national level notification by the Minister of Foreign Affairs, following inter-ministerial consultations;
- More commonly, a local level notification by the county prefect.

"Whenever the competent authority concludes that a project is likely to have significant impacts on the environment of another Member State of the European Union or Party to the Espoo Convention, or whenever the authorities of such a State request it, the said authority, as soon as it has taken the decision to open the public enquiry, sends a copy of the dossier to the authorities of the other State, indicating the deadlines for the procedure. The competent authority also informs the Minister of Foreign Affairs in advance. Whenever the competent authority is a local authority, it arranges transmission of the dossier through the county prefect." (Decree of 12 October 1977, as amended)

Italy. In most cases that Italy has been involved in, the proposed activities (tunnels, under-sea lines...) are carried out in common with the other country (joint companies). Therefore Italy is always Party of origin and affected Party at the same time and the application of the convention is regulated by bilateral agreements. Usually notifications are mutually exchanged, as soon as the EIA procedures start in the two countries (related to the part of the project falling in its own territory). The notification could occur either before or after the agreement. In the case of a Regional EIA, Regions involved promptly inform the Ministry of Environment of the possible transboundary effects and of the necessity to apply the Convention.

Kyrgyzstan. No experience, but work on development of the notice transfer procedure is being carried out.

Netherlands. The Minister of Housing, Spatial Planning and Environment is always involved in a formal capacity. In addition, it depends on the specific case as to which authority is the competent authority. The authority may be at a local, provincial or national level. The competent authority carries out the concrete tasks of exchange of information, etc.

Republic of Moldova. Only one transboundary EIA procedure has been carried out in the Republic of Moldova: an oil terminal at Giurgulesti, in 1994 and 1995. The governments of Romania and Ukraine were informed of the choice of the construction site and the beginning of design work for the terminal.

Sweden. Yes. The procedure often starts with an informal contact with the point of contact in the affected country to discuss format time and procedure for the notification.

Switzerland. The competent authority, i.e. the national or cantonal authority that will decide on the activity (that grants approval), informs the contact point in the affected Party.

Armenia, Austria, Canada, Croatia, Estonia, Hungary, Latvia, Lithuania, Norway, Poland, Slovakia, United Kingdom. No response or no experience.

II.A.1.2 Content and format of the notification (Art. 3, para. 2, and decision I/4 of the Meeting of the Parties, ECE/MP.EIA/2)

(a) Describe any difficulties you have experienced in complying with the requirements of Article 3, paragraph 2.

Belgium. There have been difficulties with the translation of documents and with timing, and with institutional arrangements, determining who is responsible for what.

Bulgaria. There are difficulties if the required information for the proposed activity is very detailed. It is difficult to give information about the nature of the possible decision at such an early stage in the EIA procedure.

Canada. Of Canada's closest neighbours only France (for Saint-Pierre-et-Miquelon) and Denmark (for Greenland) have ratified the Espoo Convention. Since Canada's ratification of the Espoo Convention in 1998, there has been no proposed activity in Canada in respect of which Canada would be required to apply the notification provisions of Article 3 vis-à-vis these Parties. Therefore, this question is not applicable.

Denmark. It can be difficult to get the 'documents' ready in time.

France. France has only once undertaken a notification, being the sending of a dossier to the British authorities by a county prefect, via the Minister of Foreign Affairs. The methods for sending such dossiers will be defined in a circular.

Germany. Regarding this question there is no information available on the Federal level, since the Federal level is only involved in some of the transboundary cases and restricted to selected procedural steps (i.e. consultations). So far, the

Federal level has not received any information about any difficulties in complying with the requirements of Article 3, paragraph 2, of the Convention. See also II.A.1.1 (a). Under the German constitution ('Basic Law') Germany is a federal state. Therefore, the tasks and competencies are distributed between the Federal level and the German States (Länder). In principle, the Federal level is inter alia competent for international negotiations and national legislation in the framework of the constitution. The German States and their authorities on local, regional and *Länder* level are inter alia competent for the practical application of the national legislation. Following this system, the licensing procedures for projects and activities and the integrated EIA procedure are usually carried out by authorities of the German States on local, regional and *Länder* level. This is the reason why the Federal level is not fully informed about any practical experience in applying the legislation on EIA, including transboundary EIA. With regard to transboundary EIA procedures, it has to be noted that Germany has only been a Party to the Convention since autumn 2002. However there is longer tradition on transboundary EIA in Germany with regard to the provisions of the EC EIA Directives and the status of Germany as signatory to the Espoo Convention.

Kyrgyzstan. The deadlines for the EIA process are very tight and do not allow sufficient time for notification and for cooperation with the affected Party.

Netherlands. Difficulties have been encountered with regard to timing and with regard to the translation of the "notification of intent" by the proponent.

Sweden. The format is used as a checklist for the notification letter. No difficulties.

United Kingdom. The United Kingdom has found that the contact points that have been notified to the UNECE are not always familiar with the Convention or the notification procedure. It has usually overcome this by also copying to its known EIA or Espoo contacts who have been able to intervene and arrange for papers to be redirected to relevant sources. It also has the difficulty of one Party not recognising a United Kingdom dependant territory. The problem is overcome by directing notification and responses via the appropriate Ministries of Foreign Affairs, but it adds delays and minor inconvenience.

Armenia, Austria, Croatia, Czech Republic, Estonia, Finland, Italy, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia, Switzerland. No response, no experience or no difficulties.

(b) Do you provide any information to supplement that required by Article 3, paragraph 2?

Belgium (Flanders). Supplementary information is only provided in response to specific requests.

Bulgaria. No experience as a Party of origin, but additional information is usually contained in the format of the notification.

Croatia. Yes, additional information is provided in the notification if requested by the affected Party.

Czech Republic. Yes, according the requirement of Annex 3 of Act n. 100/2001 Coll., the same notification as is sent within the Czech Republic is also sent to the affected Parties, including information to supplement that required by Article 3, paragraph 2.

Denmark. It depends on the case, but there have been cases where it has been necessary to provide more information.

Estonia. Yes, additional information is included in the notification to supplement that required by Article 3, paragraph 2.

Finland. Yes, the assessment programme (scoping) is included in the notification to supplement the information required by Article 3, paragraph 2.

France. Yes, France transmits the complete dossier as available (comprising mainly a technical description of the project together with the EIA) to the department responsible for it. In addition, France is ready to supply any additional information requested by the authorities in the affected Party to which the dossier has been sent.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). In practice, the competent authority may add any additional information that appears useful, including the information specified in Article 3, paragraphs 5 (a) and (b), of the Convention.

Hungary. No, the notification does not provide supplementary information. Article 25, paragraph 4, refers directly to the text of the Convention ("the Ministry prepares the notification according to the rules of the Convention"). In addition to the notification, however, the Ministry attaches to the notification the proponent's application for the proposed activity, the preliminary EIA

documentation and a request for information further to Article 3, paragraph 6, of the Convention.

Italy. Not normally, but part of the EIA documentation could be attached to the notification.

Lithuania. Yes, supplementary information has been included in a notification under the Convention in a specific case in which Latvia was the affected Party. An official letter was sent to Latvia with general information regarding the State Enterprise Ignalina Nuclear Power Plant (INPP) plans for the installation of a cement solidification facility for treatment of liquid radioactive waste and the erection of a temporary storage building.

Norway. The inclusion of supplementary information in the notification varies according to the individual case, but suitable alternatives should be listed (art. 11 of the national legislation).

Poland. No experience in this field. However, according to the Environmental Protection Law (Act of 27 April 2001), information that is to be provide to the affected Party, should include, in particular, the following data specifying:

- the type, size and location of the project;
- the surface area of the land occupied and that of the built structure as well as their previous uses and vegetation cover;
- the type of technology;
- the possible alternative solutions of the project;
- the amount of water and other raw and processed materials, fuels and energy expected to be used;
- the measures to protect the environment; and
- the types and amounts of substances or energies expected to be emitted into the environment when applying the measures to protect the environment.

Slovakia. Yes, such information is provided if required.

Sweden. Yes, if the developer has further information it will be submitted or there could be a link to information on a website.

Switzerland. In a recent case, where the affected country had not yet ratified the Espoo Convention, Switzerland nonetheless contacted the affected country in the scoping stage and provided the scoping documentation for review by the relevant bodies of the affected country.

United Kingdom. No, supplementary information is not included in the notification. However, the United Kingdom always aims to provide an affected Party with full information on which it can make an informed decision on whether to take part in the EIA procedure. Where possible the United Kingdom encourages the developer to provide papers translated into the language of the affected Party.

Armenia, Austria, Canada, Kyrgyzstan, Latvia, Netherlands, Republic of Moldova. No response or no experience.

(c) Do you, furthermore, follow the proposed guidelines in the report of the first meeting of the Parties in Oslo (ECE/MP.EIA/2, decision I/4)?

Austria, Croatia, Bulgaria, Netherlands, Poland, Slovakia, Sweden. Yes, the proposed guidelines are followed.

Belgium, Czech Republic, Denmark, France, Italy, Kyrgyzstan, Lithuania, United Kingdom. No, the proposed guidelines are not followed.

Hungary. Yes, the proposed guidelines are followed, but only in part.

Armenia, Estonia, Canada, Finland, Germany, Latvia, Norway, Republic of Moldova, Switzerland. No response.

(d) If not, in what format do you normally present the notification?

Belgium (Flanders). The competent authority sends the (translated) 'notification of intent', with an accompanying letter, to the affected Party. In addition, a letter is sent from the regional ministry to the affected Party.

Czech Republic. A national format is used; see II.A.1.2 (b). An explanatory letter accompanies the form.

Denmark. The competent authority sends the (translated) 'notification of intent', together with an accompanying letter, to the affected Party.

Estonia. A letter from the Ministry of Environment is used for notifications.

Finland. Both a form and an additional letter are used for notifications.

France. France has not defined the precise format for the notification which is issued at the initiative of different departments and which must take account of the specificity of each project. In its discussions with the departments, France asks them to work on the basis of the proposed guidelines, noting that they provide a common reference identifying the points to be included in the notification.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). The competent authority in Germany may use any notification format that fulfils the requirements of the Convention, taking into account the proposed guidelines in the report of the first meeting of Parties.

Hungary. The content suggested by decision I/4 can be applied directly by countries that have adopted a one-step EIA procedure (without a scoping phase). Additional information is provided in attached documents (see II.A.1.2 (b)).

Italy. The notification is a letter from the Italian Ministry for Environment to the contact point of the affected Party.

Kyrgyzstan. Experience was limited to a case where the affected country was not a Party to the Convention and no particular format was used.

Lithuania. An official letter was sent, with general information regarding proposed economic activity after an adoption of positive decision regarding possibility to carry out the proposed activity.

Netherlands. The competent authority sends the (translated) 'notification of intent', with an accompanying letter, to the affected Party. In addition to this, a letter is sent from the Environment Ministry to the affected Party.

Norway. The same format as required by national legislation is used for notifications, translated if necessary (art. 10 of the national legislation).

Sweden. The notification will be sent as a formal letter from the Swedish Environmental Protection Agency with relevant information and questions.

United Kingdom. The notification format is not followed in every single respect, but the aim is always to provide the necessary, relevant information that will 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.

Armenia, Austria, Bulgaria, Canada, Croatia, Latvia, Poland, Republic of Moldova, Slovakia, Switzerland. No response or no experience.

(e) Do you normally submit information in accordance with Article 3, paragraph 5 (a) and (b), after you have received a positive response from the affected Party/Parties indicating a desire to participate, or do you submit the information already with the notification?

Germany. See II.A.1.1 (a) and II.A.1.2 (a) and (b).

Belgium (Flanders). In most cases, the information is already submitted with the notification.

Bulgaria. The information in accordance with Article 3, paragraph 5 (a), is submitted with the notification. Upon receipt of a response from the affected Party indicating its desire to participate in the EIA procedure, this procedure is conducted having regard to the transboundary context, according to national EIA Regulation, article 25, paragraph 2 (b).

Croatia. Only the summary of the project is attached to the notification. Complete information is submitted on request by the affected Party.

Czech Republic. Practice varies, with information sometimes being submitted after having received a positive response from the affected Parties indicating a desire to participate, and sometimes already with the notification.

Denmark. Normally the information should already be submitted with the notification.

Estonia. More information is sent only if the affected Party responds to the notification by expressing a wish to participate in the EIA procedure.

Finland, *Hungary, Norway*. The information in accordance with Article 3, paragraphs 5 (a) and (b), is submitted with the notification.

France. France does not differentiate between the two stages: the notification fulfils all the requirements of Article 5. The two-stage procedure envisaged by the Article appears unnecessarily onerous to France and represents an unnecessary

prolongation of the procedure. Moreover, this two-stage procedure is not compatible with the option presented by Article 3, paragraph 1, which foresees the possibility of notification at the same time as the concerned public is consulted. France's practice is the following:

- it notifies regarding a project with the dossier that it has available (being the same as the one sent to the competent authority at the national level and to the public within the framework of a public inquiry); and
- it commits itself to replying to any additional request that it might receive from the affected Party.

Italy. This information is usually transmitted after having received the response.

Lithuania. Lithuania received a negative response from affected Party that "Latvia considers not to be an affected Party and proposed activity will not cause significant transboundary environmental impacts", i.e. no experience.

Netherlands. In most cases the information in accordance with Article 3, paragraph 5 (a) and (b), is submitted with the notification.

Poland. No experience in this matter. However, according to the Environmental Protection Law (Act of 27 April 2001), the Minister of Environment is obliged to enclose with the notification on the proposed activity (which may have significant adverse transboundary impact on environment), the data referred to in II.A.1.2 (b). Information regarding the EIA procedure, including an indication of the time schedule referred to in Article 3, paragraph 5 (a), of the Espoo Convention, is submitted after having received a response from the affected Party indicating its desire to participate in the procedure.

Slovakia. The information is already sent with the notification.

Sweden. The information available in the relevant translation will be submitted with the notification.

Switzerland. Switzerland seeks to provide that information already with the notification. However, as Switzerland seeks to notify at the scoping stage, this might limit the amount of information available on likely transboundary impacts.

United Kingdom. The information may be transmitted to the affected Party at any time from notification to when a positive response is received from an affected Party. For example, if the EIA documentation were available at the time of notification then, in the interests of speed and efficiency, the United Kingdom would probably decide to send it at that time. The United Kingdom's aim is always to make all relevant information available to the affected Party as soon as it possibly can.

Armenia, Austria, Canada, Kyrgyzstan, Latvia, Republic of Moldova. No experience or no response.

II.A.1.3 Timing of the notification to the affected Party (Art. 3, para. 1: "...as early as possible and no later than when informing its own public...")

(a) Describe how you determine when to send the notification to the affected Party/Parties.

Austria. The Austrian EIA Act requires notification as early as possible and no later than when informing the Austrian public. However, Austria has no practical experience.

Belgium (Flanders), Denmark, Netherlands. In principle, the notification is sent at the same time as the publication of the "notification of intent" takes place domestically.

Bulgaria. According the Environmental Protection Act, article 95, paragraph 1, the proponent of the activity proposal informs the competent authority and the public concerned of the proposal, declaring the said proposal in writing and ensuring preparation of the terms of reference for the scope of the EIA, at the earliest stage of the initiative. The Minister of Environment and Water determines whether there is a need to conduct an EIA and informs the affected Party if the response is positive.

Canada. For some activities, notification would be provided during the initial planning stages of the environmental assessment under the Canadian Environmental Assessment Act when, for example, the likelihood of significant adverse transboundary environmental effects may be obvious based on the initial information provided by the proponent of the activity. For other activities, notification would be provided during the preparation of the environmental assessment itself, when more information about the likelihood of significant adverse transboundary environmental effects becomes known to the federal Responsible Authority.

Croatia. The notification is usually sent after a first session of the reviewing body, when the transboundary impact is determined.

Czech Republic. The notification is usually sent at the same time as it is sent to the Czech public.

Estonia. The affected Parties are notified as soon as the decision is made about starting an EIA procedure.

Finland. The notification is sent no later than when informing the Finnish public.

France. France has requested the prefect to begin the notification process "as soon as the decision has been taken to open the public inquiry", i.e. at the last moment foreseen by the Convention. This timing would appear adequate as it assures that the dossier that is sent is complete (the report describing the environmental impacts and the final version of the permit request are available at this stage). It is also the moment when the French authorities are consulted. This choice leaves a period of three months for the affected Party to make known its opinion. This period appears sufficient for most dossiers. In case of difficulty (for example, in the case of a marine aggregates project), deadlines set for most national procedures may be extended. "The deadlines set for regulatory procedures applicable to projects being considered are extended, if need be, to take account of the consultation period for foreign authorities" (Decree of 12 October 1977, as amended).

Germany. See 1.1 (a) and 1.2 (a). With regard to article 8 of the national EIA Act the competent authority has to notify an affected Party as early as possible. The competent authority will notify an affected Party, if the proposed project or activity is – in the opinion of the competent authority on the basis of an examination of the documents and information available – likely to cause significant adverse transboundary environmental impacts. The notification always takes place before the public participation procedure begins.

Hungary. Notification is a two-step process according to Hungarian law (see I.A.2.1 (a)). Firstly, the inspectorate sends the materials about the request and the activity immediately following the issue of the request by the activity proponent (art. 25, para. 1, of the EIA Decree). According to the General Rules of Administrative Procedure, a request with a seriously faulty or missing attachment is not considered a valid request and is not able to trigger the legal consequences of issuing the request for the decision of the administrative body (e.g. starting the procedural deadlines). After receiving the file from the inspectorate, the Ministry examines the file and send the notification to the affected Party immediately (art. 25, para. 4, of the EIA Decree).

Italy. The notification is made at the very beginning of the EIA procedure, as soon as the project is communicated by the proponent to the competent authorities (the Ministry of Environment, or the Regions), taking into account that the first step of procedure at the national level is the information to the public and to the authorities.

Kyrgyzstan. For the reasons stated in the answers to the previous questions, it is not possible to state how the timing of the notification is determined.

Norway. The notification of the affected Party is sent by the competent authority, which determines when this should be done, though this should not be later than when it is being sent to other, domestic parties.

Poland. Poland has no experience in this field. However, according to the Environmental Protection Law (Act of 27 April 2001), the Minister of Environment is obliged to send the notification to the affected Party immediately after having acquired information on the possible transboundary impact of the proposed activity. The authority that carries out the EIA procedure transmits the above information to the Minister.

Slovakia. The notification is sent on immediately it is received from the project proponent.

Sweden. Chapter 6 of the Environmental Code regulates the Swedish EIA procedure. The notification is sent when the 'extended consultation' starts. This consultation should include agencies, municipalities, citizens and organizations that are likely to be affected.

Switzerland. As said above, Switzerland would seek to notify at the scoping stage.

United Kingdom. Notification is sent to the affected Party as soon as possible. If discussion has taken place with the scheme proponent prior to submitting an application for development consent, and it is apparent that there may be significant transboundary effects, then the United Kingdom will notify potential affected Parties at that stage. Otherwise, the United Kingdom will notify following receipt of the EIA documentation, usually when details are published in the London

Gazette and local newspapers that notify members of the United Kingdom public. The London Gazette is an official newspaper of record. For developments in Scotland or Ireland, advertisement would be made in the Edinburgh or Belfast Gazette, respectively.

Armenia, Latvia, Lithuania, Republic of Moldova. No experience or no response.

II.A.1.4 Does your country's EIA legislation require a formal scoping process, with or without mandatory public participation?

Bulgaria, Czech Republic, Denmark, Estonia, Finland, Hungary, Latvia, Netherlands, Norway, Republic of Moldova, Slovakia, Sweden. Yes, national legislation requires a formal scoping process with public participation.

Austria, Croatia, France, Germany, Italy, Kyrgyzstan, Lithuania, Poland, Switzerland, United Kingdom. Either national legislation does not require a formal scoping process, or scoping does not require public participation.

Belgium (Flanders). The EIA legislation requires a formal scoping procedure including public participation.

Belgium (Marine). The Marine Environment Protection legislation does not require a formal scoping procedure including public participation.

Belgium (Nuclear). The legislation does not require a formal scoping procedure including public participation.

Canada. Scoping occurs both with and without public participation. Under the Canadian Environmental Assessment Act, public participation at the scoping phase is mandatory for the comprehensive study process and panel reviews. In both instances, arrangements are made by the Responsible Authority or the Minister of the Environment to make the scoping documents publicly available. As described above, in response to question I.A.1.1(a), the extent of public participation in screening, if any, is determined on a case-by-case basis by the Responsible Authority and would take place prior to the Responsible Authority exercising any power, function or duty in respect of the project.

Armenia. No experience or no response.

If your country's EIA legislation requires a formal scoping procedure without mandatory public participation, at what stage in the EIA procedure do you usually notify the affected Party/Parties?

Switzerland. See II.A.1.2 (e).

Armenia. EIA legislation and practical experience are lacking. See also I.A.1.1.

Croatia. The affected Party is usually notified after a first session of the reviewing body, when the transboundary impact is determined.

France. In France, in applying the EC EIA Directive (85/337), scoping is optional: "The petitioner or developer may obtain, from the competent authority for authorizing or approving a project, details of what information is to be included in the impact assessment. The details provided by the competent authority do not prevent it from having, if need be, the dossier requesting authorization or approval completed, and do not prejudge the decision that will be taken at the end of the taking of evidence." (Decree of 12 October 1977, as amended)

Germany. See II.A1.1 (a), II.A.1.2 (a) and II.A.1.3 (a). Article 5 of the German EIA Act does not stipulate mandatory scoping. A scoping procedure must be carried out if the developer wishes one, or if the competent authority considers it necessary in a specific case for material reasons. From practical experience, it could be very useful to involve the affected Party already in the scoping procedure, if a scoping procedure takes place and significant adverse transboundary impacts of the proposed activity are likely.

Italy. Scoping is not mandatory; nevertheless some Regions, in their legislation, establish a scoping phase. With reference to the activities carried out by public authorities (law 340/2000), scoping is mandatory for the preliminary project; in this phase the "Conference of Competent Authorities" examines the project.

Kyrgyzstan. The national legislation provides for the carrying out of public hearings during the third stage of the EIA, "determining possible impacts".

Poland. No experience in this field. According to the Environmental Protection Law (Act of 27 April 2001), the notification is commenced as described in II.A.1.3 (b).

United Kingdom. As written, this question presupposes that EIA legislation requires a formal scoping process. If the intention is to establish (i) whether the United Kingdom has a formal scoping process, and (ii) whether such a process allows for public participation, it needs to ask both questions. In the United Kingdom, there is no requirement for a proponent to obtain a scoping opinion. But if he chooses he may request one from the Competent Authority prior to submitting the application for development consent. If so requested, the Competent Authority must provide one, following consultation with specified environmental bodies, within a period of five weeks. There is no requirement for the Competent Authority to consult with members of the public, but equally there is nothing to prevent it from doing so.

Austria, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Hungary, Latvia, Lithuania, *Netherlands, Norway, Republic of Moldova, Slovakia, Sweden*. No experience or no response.

II.A.1.5 Response from the affected Party to the notification

(a) What has been your experience of receiving responses from affected Parties?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium, Netherlands. In receiving responses from the affected Party, informal contacts are important.

Bulgaria. There was no EIA procedure in which Bulgaria was a Party of origin until now; Bulgaria and Romania are now taking part in a joint EIA (of the Second Danube bridge Vidin-Calafat) and the notification was reciprocal between the concerned Parties.

Croatia. Responses from affected Parties usually ask for implementation of the Espoo Convention.

Czech Republic. The response from an affected Party to a notification depends on the type of activity notified.

Denmark. Both formal and informal contacts are important.

Estonia. Estonia has received one response from Finland. They were interested in participating in the EIA procedure and in commenting on the EIA programme and the EIA statement. The statement was sent to Finland before the public hearing was held in Estonia. After getting comments from Finland, Estonia amended the EIA programme and the EIA statement.

Finland. Responses have usually been received in time. Sometimes more time has been given on request. The answers received from the affected Parties have been clearly understandable: whether or not they wish to participate. Comments on the Assessment Programmes have been received with the responses.

France. France's experience is very limited, not only because France ratified the Convention relatively recently (in 2000), but also because those projects likely to have a transboundary impact are well known and, generally, analysed to limit the transboundary impacts, even being informed by taking into account informal contacts with the competent authority in the affected Party.

Hungary. There has only been one case in which Hungary was Party of origin. In this case Hungary received a response in time and with the requested information.

Italy. Consideration should be given to the fact that in all the cases where Italy has implemented the Convention, the activities to be assessed were of a cross-border nature (tunnel, under-sea lines), usually proposed by a joint company (Italian plus nationality of the other Party involved), so that Italy, as well as the other Party involved, could be considered as affected Party and Party of origin at the same time. The means to apply the Convention in these cases are normally settled by bilateral agreements.

Lithuania. Lithuania received a negative response from the affected Party.

Slovakia. Good experience of receiving responses from affected Parties.

Sweden. A good response from the affected Party was received in most cases.

United Kingdom. Generally, affected Parties responded to United Kingdom notification inquiries, though usually only after reminder letters had been sent to them. Some have requested extensions, which the United Kingdom has agreed. One requested an extension for an unspecified period of time and had to be chased for a reply that was eventually received almost one year after the deadline.

Armenia, Austria, Canada, Kyrgyzstan, Latvia, Norway, Poland, Republic of Moldova, Switzerland. No experience or no response.

II.A.1.6 Time frame for the response to the notification from the affected Party/Parties (Art. 3, para. 3: "…within the time specified in the notification...")

(a) What is the average time frame for a response?

Belgium (Flanders), Netherlands. The average time frame for a response is two to three weeks.

Bulgaria. The Minister of Environment and Water determines, case by case, the time frame for the response of the affected Party to the notification.

Croatia. The average time frame for a response is thirty days.

Czech Republic. The average time frame for a response is thirty days, but this can be extended up to sixty days.

Denmark. The average time frame for a response is eight weeks.

Estonia, Finland. The average time frame for a response is between one and two months.

France. In each notification, France indicates the time allowed by the corresponding national authorization procedure.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). It is the obligation of the competent authority to specify a reasonable time frame for a response. Normally a period of thirty days seems appropriate.

Italy. It depends on the agreement taken with the other Country. In some cases a deadline of thirty days has been communicated.

Kyrgyzstan. Timing may depend on the project proponent's deadlines.

Poland. No experience and legal provisions in this field. The maximum time for a response is generally regulated in the draft bilateral agreements between Poland and interested countries.

Sweden. The average time frame for a response is one to two months, depending on the project.

Switzerland. Notification in scoping stage: two months, if competent authority is a federal authority, in line with deadline for review of scoping documentation set in the Swiss EIA Ordinance (art. 8).

United Kingdom. The United Kingdom would probably ask for a response to an initial notification, asking whether an affected Party wishes to be involved in its EIA procedure, within three to four weeks, but responses may exceed that time frame.

Armenia, Austria, Canada, Hungary, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia. No experience or no response.

(b) Describe the criteria you use to determine the time frame?

Belgium (Flanders). The time frame refers to the time frame of the decision-making procedure as provided for in the relevant legislation (e.g. environmental permit or building permit).

Bulgaria. The time frame for a response is determined by the following criteria: territorial boundaries of the proposed activity; complexity of the activity; and characteristics of the potential impacts, such as territorial coverage, affected population, including transboundary impacts, nature, scope, complexity, probability, duration, frequency and rehabilitation capacity.

Croatia. Thirty days is a reasonable time to give a response.

Czech Republic. The time frame is that specified for domestic EIA (thirty days for public and affected authorities).

Denmark. In principle the time frame is the same as for the domestic responses.

Estonia, Finland. The time frame is the same as in the national EIA procedure.

France. The criterion used is that defined by each of the procedures. The objective is to avoid increasing the delay that the petitioner faces. Thus, in France, the time frame is often three months (the town-planning procedure), with longer periods for projects subject to the mining code or within the framework of a declaration of state approval.

Germany. See II.A.1.1 (a), II.A.1.2 (a) and II.A.1.6 (a). The competent authority will consider *inter alia* bilateral practice.

Hungary. According to article 25, paragraph 4, of the EIA Decree, the Ministry has to specify the time frame for the response "in harmony with the deadline for the national EIA process". This deadline is specified in article 91 (ninety days) but the time taken by other procedural steps should also be taken into consideration, also having in mind that some procedural steps can proceed in parallel, whereas others cannot. Depending on the complexity and the number of participating consultative authorities and other participants, the time frame given to the affected Party can range from thirty to sixty days.

Italy. The time frame depends on the agreement made with the other Party or on the time constraints derived from Italian national legislation on the EIA procedure.

Kyrgyzstan. The time frame is dependent on whether there is already a mechanism for interaction and on the timing of the decision-making.

Netherlands. In defining the time frame, reference is made to the time frame of the decision-making procedure.

Slovakia. To determine the time frame, reference is made to the domestic EIA procedures of the concerned Parties.

Switzerland. See II.A.1.6 (a). The deadline for review of the scoping documentation is set in the Swiss EIA Ordinance, article 8.

United Kingdom. In all of its decisions the United Kingdom has to bear in mind the duty of proper administration and the need to make decisions promptly and properly, allowing for adequate periods of consultation with all relevant Parties. The time frame given to the affected Parties to respond to a notification from the United Kingdom would be a balance between deadlines in its existing legislative procedures and a factoring for any acceptable delay as a result of collaborating with the administration of an affected Party.

Armenia, Austria, Canada, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Sweden. No criteria, no experience or no response.

(c) What has been your experience of receiving responses from affected Party/Parties within the time frame?

Finland. See II.A.1.5.

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

United Kingdom. See II.A.1.6.

Belgium, Netherlands. The experiences of the various authorities differ, but sometimes delays occur.

Croatia. All responses have to be received within the time frame.

Denmark. The experiences of the different authorities vary. Sometimes delays occur, and sometimes the response is not translated into Danish (or English). There are not normally any problems with Danish and Swedish as the two languages are close to each other.

Estonia. Finland has responded and sent comments on the EIA programme and the EIA statement.

France. France's experience is not significant. It is limited to a project for marine aggregate exploitation notified to the United Kingdom. The response was supplied within seven months, which was compatible with the applicable authorisation procedure. This period included a particularly long transmission delay.

Hungary. A response was received from the affected Party within the time frame.

Italy. Responses were normally received within the time frame.

Slovakia. Good experience of receiving responses within the time frame.

Sweden. In most cases the response has arrived in time.

Armenia, Austria, Bulgaria, Canada, Czech Republic, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Switzerland. No experience or no response.

(d) What is the consequence if an affected Party does not comply with the time frame?

Finland. See II.A.1.5.

Belgium, Denmark, Netherlands. If the time frame is not complied with, the whole procedure will suffer from delays.

Croatia. If an affected Party does not comply with the time frame, it would be reminded and it would then be considered that it has agreed with the project.

Czech Republic. No experience. In principle, the affected Party can nonetheless participate in the EIA procedure.

Estonia. If the answer is late by only two to five days, it is not a problem.

France. The consequences might be:

- a reminder by the Party of origin indicating to the affected Party that a response has not been received and indicating whether additional time is being given (being the case for a project notified to France by the United Kingdom). France could, on the basis of reciprocity, react in the same way;
- the closure of the procedure on the basis of no response (if it relates to a minor problem and everything suggests that the affected Party will not have any particular request).

Germany. See II.A.1.1 (a) and II.A.1.2 (a). With regard to Article 3, paragraph 4, of the Convention, the competent authority has to decide whether a transboundary EIA procedure will be carried out if an affected Party does not comply with the time frame.

Hungary. The consequences differ according to the length of the delay. Hungarian practice will certainly not totally dismiss an opinion just because of a couple of days delay, but there is not enough experience. Smaller delays can result in a shorter period available for the authorities on the Hungarian side and for other participants to interpret, evaluate and answer the comments. Lack of response from the requester or from other participants, however, could be considered serious shortcomings. Longer delays could make it impossible to take the opinion of the affected Party into consideration. In case of mutual practice or even unilaterally, the Hungarian authorities might be willing to delay the process, or using the possibility of article 37 of the General Administrative Code could even suspend the process. A letter from the affected Party informing the Ministry about the fact and the causes of the delay could help in triggering off these more advantageous solutions.

Italy. An extension could be allowed if an affected Party does not comply with the time frame.

Kyrgyzstan. The opinion of the affected Party would not be taken into account if it is not able to comply with the time frame.

Sweden. If an affected Party does not comply with the time frame, the Swedish Environmental Protection Agency will send a request to the point of contact in the affected Party and ask for the response.

United Kingdom. Consequence for whom? For the affected Party, it means they could miss the chance to comment on the EIA documentation. For the United Kingdom, as Party of origin, the consequences are delays as it would wish to issue a reminder letter. If, following a reminder, no response is received after a reasonable period of time, the United Kingdom would probably have to reach a decision on the project without comments from affected Parties. This may weaken the decision and arguably it could lead to issues between the Parties at later stage in the procedure that could have been avoided.

Armenia, Austria, Bulgaria, Canada, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia, Switzerland. No experience or no response.

(e) If an affected Party asks for an extension of a deadline, how do you react?

Hungary. See II.A.1.6 (d).

Belgium (Flanders), Denmark. In most cases a short extension of the deadline is considered

Croatia. Croatia agrees to a request for an extension of the deadline.

Czech Republic. According to Czech law, each deadline can be prolonged by thirty days.

Estonia. If it is possible, the deadline is extended.

Finland. See II.A.1.5. If an affected Party asks for an extension of a deadline, Finland reacts positively; within the time frame of the procedure more time has been given.

France. If the reasons presented in the request are judged acceptable, which is most likely the case, the request will be accepted. There is a tradition with France's neighbouring States that no conclusion be drawn before an agreement is reached, if an important matter needs to be resolved.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). The competent authority has to decide on an extension of a deadline. With regard to best practice in transboundary cooperation, an extension may be not a problem if there will be no delay caused in the licensing procedure.

Italy. If reasonable, the request is accepted.

Kyrgyzstan. A decision on a request for an extension will be made on a case-by-case basis.

Netherlands. In most cases a short extension of the deadline is considered, if an affected Party asks for an extension of a deadline.

Slovakia. No experience, but it would be possible if the domestic EIA procedure permits.

Sweden. The Swedish Environmental Protection Agency can inform the developer responsible for the EIA. In most cases, the developer agrees with a delay.

Switzerland. If an affected Party asks for an extension of a deadline, Switzerland would do everything to accommodate such a request.

United Kingdom. Wherever possible the United Kingdom adopts a flexible approach to requests from affected Parties for an extension of a deadline, consistent with the needs of proper administration.

Armenia, Austria, Bulgaria, Canada, Latvia, Lithuania, Norway, Poland, Republic of Moldova. No experience or no response.

II.A.1.7 Notification problems

Describe any problems you have experienced as a Party of origin in any aspect of the notification procedure (except where sufficiently covered above).

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Denmark. There are no problems as such, but it is a time-consuming procedure and there are often many authorities involved.

France. France's experience is too limited to draw any lessons, apart from the fact that projects likely to have a significant transboundary impact are difficult to force into a rigid procedural framework. The greatest flexibility is necessary and the most important regulatory provision is the ability to extend deadlines for evidence on such projects.

Kyrgyzstan. No procedure has yet been defined for notification of the affected Party. Higher levels of government often determine how an EIA is to be carried out for projects subject to EIA.

United Kingdom. Problems have been caused by delays in response by affected Parties. Having translated notification documentation and environmental information into the languages of the affected Parties, the United Kingdom may have hoped that they would reciprocate and translate their responses into English, but it was prepared for them not to do so. Having to translate added to the delays.

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Estonia, Finland, Hungary, Italy, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland. No problems, no experience or no response.

Request from the Party of origin for Information (Art. 3, para. 6) (Part II.A.2)

SUMMARY:

Fewer than half of the respondents indicated that they normally requested information from the affected Parties. Certain respondents reported that they requested general information (Bulgaria, Czech Republic, Switzerland), whereas Hungary requested such information according a legal provision. By contrast, France noted that this was the responsibility of the project proponent.

Responsibility for requesting information was reported by approximately half of the respondents as being with the environment ministry and by the other half as being with the competent authority. In Kyrgyzstan and Italy, it was the project proponent that was responsible. The requests were reportedly sent to the points of contact (Bulgaria, Croatia, Hungary, Italy, Slovakia, Switzerland) or the competent authority (Estonia, Kyrgyzstan); other respondents reported a flexible approach, with more direct contacts being made where possible.

The kind of information normally requested was reportedly quite varied, for example it was either general (Czech Republic), defined by law (Hungary) or specific to the case (Germany, Kyrgyzstan, United Kingdom), or it related to potential impacts (Bulgaria, Slovakia, Switzerland), the affected population (Bulgaria), publicity

requirements (United Kingdom) or the state of the environment (Netherlands). The Czech Republic, Slovakia and the Netherlands reported that the information provided was generally sufficient, whereas Croatia said it was "not exactly". The United Kingdom noted that a development decision could not have been made unless the EIA documentation was sufficient.

A response to a request for information from the affected Party has to be provided "promptly". Respondents varied significantly in their interpretation of "promptly": as soon as possible (Estonia, Germany), as defined in the request (Bulgaria, United Kingdom), according to agreements (Slovakia) but flexibly (Italy), as agreed by the points of contact (Croatia), two months when the competent authority was a federal one (Switzerland), or at the same time as the affected Party indicated its wish to participate in the EIA procedure (Hungary).

Only Croatia reported difficulties in requesting information, with an affected Party unable to submit appropriate data because the data were missing or belonged to someone who was not willing to provide them. (However, both Bulgaria and the United Kingdom noted problems as an affected Party with meeting tight deadlines set in a request that had been delayed in its arrival.)

II.A.2.1 Frequency and timing of request of information as provided in Article 3, paragraph 6?

(a) Do you normally request information from the affected Party/Parties?

Bulgaria, Croatia, Czech Republic, Hungary, Lithuania, Slovakia, Switzerland. Yes, information is normally requested from affected Parties.

Belgium, Denmark, Estonia, Finland, France, Italy, Kyrgyzstan, Netherlands, Norway, Sweden, United Kingdom. No, information is not normally requested from affected Parties.

Armenia, Austria, Canada, Germany, Latvia, Poland, Republic of Moldova. No experience or no response.

(b) How do you determine whether you should request such information? When do you normally request information from the affected Party/Parties?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders). In the scoping phase, it becomes clear on which information the EIA documentation should focus. Additional information can be obtained from a meeting or meetings.

Bulgaria. The requested information depends on the territorial boundaries and on the complexity and significance of the impact. The information from the affected Party is requested when the information about the environment likely to be significantly affected by the proposed activity and its alternatives is insufficient, or a need is determined as the result of the identification of gaps in knowledge and of uncertainties encountered in compiling the required information.

Croatia. Information is requested whenever Croatia needs the data to assess the transboundary impact.

Czech Republic. The information is requested once the affected Party indicates that they want to participate in the Czech EIA procedure. If they so indicate, the Ministry of Environment sends to them another letter with a question about the environment in the affected area. This information is given to the investor, who uses it for the EIA documentation and expert opinion about the activity.

Denmark. Not very much experience, but such a request would normally be at an early stage.

France. France does not have any experience. The most likely situation is that the consultant responsible for preparing the EIA documentation gathers the information required. This information search does not appear to France to require an intervention from the administrative authorities in the Party of origin.

Hungary. Article 25, paragraph 1, item (bb), prescribes that the inspectorate shall specify what kind of information is required from the affected territory of the affected Party for the preparation of the detailed EIA documentation. Paragraph 4 of the same article, in describing the responsibilities of the Ministry furthering the information to the affected Party, refers back to paragraph 1.The request is attached to the notification.

Italy. Considering that in all Espoo cases that Italy has dealt with, common cross-border project were under assessment, the environmental characteristics of both Parties concerned were already known by the proponent, which is usually a joint company (Italian plus the nationality of the other Party involved). The proponent includes in

the EIA documentation an analysis of environmental impacts of the whole project in both countries.

Kyrgyzstan. The need for additional information from an affected Party depends on the project requirements and the level of knowledge in the Party of origin of the environment in the affected Party.

Netherlands. During the scoping phase, it becomes clear which information the EIA documentation should focus on.

Slovakia. If the notification contains inadequate information, particularly regarding the resources and potential impact on the affected Party, Slovakia requests information from the affected Party.

Switzerland. If Switzerland notifies at the scoping stage, it would at the same time ask the affected Party to provide it with any information they might have on the likely impacts on their side.

United Kingdom. Its initial position is that the United Kingdom allows an affected Party to offer comment on the environmental information. If those comments require clarification or elaboration, or if they suggest a need for further information that only the affected Party can provide, then the United Kingdom would request it.

Armenia, Austria, Canada, Latvia, Estonia, Finland, Lithuania, Norway, Poland, Republic of Moldova, Sweden. No experience or no response.

II.A.2.2 Organization of the request

(a) Who is responsible for making the request?

Belgium (Flanders). In principle, the EIA Unit of the regional environmental administration is responsible.

Bulgaria. The competent authority (the Minister of Environment and Water) is responsible for making the request in case of a transboundary impact.

Croatia. The point of contact is responsible for requesting information.

Czech Republic, Estonia, Slovakia. The ministry of environment is responsible for requesting information.

Denmark. The competent authority is responsible for requesting information.

France. The organization responsible for the authorization request procedure, i.e. the competent authority, is also responsible for requesting information.

Germany. See II.A.1.1 (a). The competent authority for the EIA is responsible for making the request.

Hungary. The Environmental Inspectorate and other concerned authorities with environmental responsibility are responsible for requesting information.

Italy. The proponent is responsible for requesting information. (See answer to previous question.)

Kyrgyzstan. There is no particular body responsible for such requests that would be initiated by the project proponent, EIA consultant or the competent authority.

Lithuania. The EIA Division of the Ministry of the Environment is responsible for requesting information.

Netherlands. The competent authority is responsible for requesting information.

Switzerland. The competent authority (i.e. the authority granting approval) is responsible for requesting information.

United Kingdom. If a request were made it would be made on behalf of the Secretary of State.

Armenia, Austria, Canada, Finland, Latvia, Norway, Poland, Republic of Moldova, Sweden. No experience or no response.

(b) Do you make the request to a contact point or another body?

Belgium (Flanders). Not much experience, but informal contacts with officials and experts can be useful.

Bulgaria. The request is usually addressed to the contact point.

Croatia, Slovakia, Switzerland. The request is addressed to a contact point.

Czech Republic. It depends on whether the Czech Republic knows the situation of the institution as to whether the Czech Republic addresses the request to a contact point or another body.

Denmark. Not much experience, but informal contacts are helpful.

Estonia. The request is made to the competent authority.

France. This request would be made to the authority that notifies the project or to an organization identified by that authority.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). If the affected Party has nominated a competent authority for bilateral transboundary EIA procedures, this competent authority will receive the request. Otherwise the request will be sent to the highest-ranking authority for environmental matters in the affected Party or to another known point of contact.

Hungary. The request is sent to the Ministry, which includes it into the notification.

Italy. The request for information is sent to the contact point, or others.

Kyrgyzstan. No experience, but this would need to be determined according to the request. Probably the request would be directed to the competent authority.

Netherlands. The request for information is sent to informal contacts, but not much experience.

United Kingdom. All initial requests for information are made to a contact point. Where the point of contact is not known to the United Kingdom as its Espoo contact (e.g. it is someone in the Ministry of Foreign Affairs), the United Kingdom also copies to its Espoo point of contact for information so that she or he can facilitate progress. If it is a request for further information, the United Kingdom will already have identified the appropriate person dealing with the matter and it will write direct to that person, copied as necessary to its Espoo contact.

Armenia, Austria, Canada, Finland, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Sweden. No experience or no response.

II.A.2.3 Content of information

(a) What kind of information do you normally request?

France, Italy. See II.A.2.1 (b).

Belgium (Flanders). Information on particular aspects or features of the state of the environment is normally requested.

Bulgaria. No experience as yet, but requested information would normally relate to the potential environmental impacts and to the affected population

Croatia. Requested information comprises the catalogue of available data, and the data which are the "environmental indicators".

Czech Republic. The kind of information requested would depend on the type of activity. The Czech Republic asks for information in general terms, leaving it up to the affected Party to determine what they are able to provide.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). The competent authority may request any information that could be useful for the transboundary EIA.

Hungary. The nature of the information requested from the affected Party is determined by the requirements of the EIA documentation (the information is requested in the scoping phase, so the requester is in the position to use all of the received information in the detailed, final EIA documentation prepared for the second phase of the Hungarian EIA process). Article 69, paragraph 2, and article 71, paragraph 1, of the General Rules on Environmental Protection (Act LIII of 1995), and article 6, paragraphs 1 to 9, article 14, paragraphs 1 to 7, and article 15, paragraphs 1 to 8, contain the requirements of the content of the EIA documentation. For example, when the air pollution is the main impact:

- basic data of air pollution;
- existing main sources of air pollution;
- industrial plants, municipalities and institutions to be protected; and
- meteorological data

in the affected area.

Kyrgyzstan. The types of information necessary for carrying out EIA are defined in the EIA regulation. The requested information will depend

on existing data availability and will be determined on a case-by-case basis.

Netherlands. Information on the state of the environment is normally requested.

Slovakia. Examples include potential environmental impacts and industrial outputs.

Switzerland. Any information the affected Party might have on the likely impacts on their side is normally requested.

United Kingdom. Requests for information will be specific to individual cases. However, during notification, the United Kingdom will always ask for information relating to publicity in the affected Party should they decide they want to be involved with the EIA procedure.

Armenia, Austria, Canada, Denmark, Estonia, Finland, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Sweden. No experience or no response.

(b) Has the information been sufficient to enable you to make an informed decision?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders), Netherlands. In general, the information has been sufficient.

Croatia. The information provided has not exactly been sufficient.

Czech Republic, Slovakia. Yes, the information has been sufficient to make an informed decision.

United Kingdom. United Kingdom legislation on EIA requires that decisions cannot be made on EIA development unless the relevant environmental information has been taken into consideration. The decision must state that it has been considered. If further information is required, from whatever source, this must therefore be made available and taken into account before a decisions is made.

Armenia, Austria, Bulgaria, Canada, Denmark, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Sweden, Switzerland. No experience or no response.

II.A.2.4 Time frame for response from the affected Party/Parties to the request for information (Art. 3, para. 6: "...promptly...")

(a) How do you determine "promptly"?

Bulgaria. "Promptly" is determined as meaning within the time specified in the request to the affected Party.

Belgium (Flanders). See above. It is determined taking into account the procedures and practices.

Croatia. The time frame for response is agreed between the points of contact.

Czech Republic. "Promptly" is not determined.

Estonia. In Estonia, "Promptly" is taken to mean as soon as possible, without delay.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). In practice, "promptly" means as soon as possible.

Hungary. According to an interpretation of the Hungarian regulation (reading together article 25, paragraphs 1, 4 and 5), Hungary asks at the same time for a response on the affected Party's wish to participate and for information about the affected territories. See the terms and deadlines of the response to the notification in the answers to the previous questions. However, Hungary considers that prompt provision of information is hardly feasible except for countries having extensive computerized and connected environmental databases.

Italy. "Promptly" is interpreted in a flexible way and in accordance with agreements made with the other Party.

Kyrgyzstan. It was noted that it is in the interests of the affected Party to provide the information requested so as to help minimize the adverse impacts of the project.

Slovakia. The term "promptly" will be defined in bilateral agreements with all neighbouring countries, in compliance with the legislation of the concerned Parties.

Switzerland. Promptly: two months, where the competent authority (i.e. the authority granting approval) is a federal one (see also II.A.1.6 (a)).

United Kingdom. The United Kingdom would determine "promptly" to mean a response by the

affected Party within the timescale set by the Party of origin.

Armenia, Austria, Canada, Denmark, Finland, France, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Sweden. No experience or no response.

II.A.2.5 Difficulties experienced in the procedure

(a) Describe any difficulties you have experienced in requesting information.

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Bulgaria. Difficulties occur when the information about the proposed activity is not sufficient or if there is a delay in receiving the request.

Croatia. Croatia has experienced difficulties when an affected Party is not willing to submit appropriate data because the data are missing or belong to someone who is not willing to provide them.

United Kingdom. The United Kingdom has no difficulty in setting timescales that it considers to be reasonable. However, it has had occasional difficulty in responding within the time frames set for it by others largely because the notification has been sent by mail and the time frame allowed does not always take account of the delay that may arise because of the international postal delivery system. In addition, affected Parties have sometimes said that they cannot meet the United Kingdom's timescales. In these cases it negotiates extensions suitable to the Parties.

Armenia, Austria, Belgium, Canada, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland. No difficulties, no experience or no response.

Public Notification (Art. 3, para. 8) (Part II.A.3)

SUMMARY:

NOTE: It would appear that some of the respondents replied to questions in this section in the role of affected Party, or with respect to domestic EIA procedures, rather than in the role of Party of origin in a transboundary EIA procedure.

About half of the respondents indicated that it was the affected Party, not the Party of origin, that identified the public in the affected area. Certain respondents indicated that this was supplemented through dialogue between the concerned Parties (Bulgaria, Canada, Germany, United Kingdom). Similarly, responsibility for transferring the notification to the public in the affected Party was reported as being the responsibility of the authorities in the affected Party by most respondents. Certain respondents also indicated that the project proponent (Croatia) or project joint body (Italy) were involved in this matter, whereas Germany suggested that, as Party of origin, it would have used its best efforts to support the notification of the public in the affected Party. Some respondents (Czech Republic, Netherlands, Switzerland) noted that, though it was for the affected Party to transfer the notification to the public, it was the Party of origin's responsibility to prepare the notification. Finland noted that a regional environmental centre had on one occasion both identified the public in the affected Party and issued the notification to the local authority there.

As to how the public was notified in the affected Party, several respondents indicated once again that this was the responsibility of the affected Party (whereas others answered in the role of the affected Party). Similarly, most respondents indicated that the authorities in the affected Party were not only consulted on, but were also responsible for, these issues.

Again, several respondents indicated that it was for the affected Party to determine the content of the public notification (Finland, France, Germany). In addition, respondents indicated that certain information should have been included (Bulgaria, Croatia, Czech Republic, Slovakia) in accordance with their domestic law (Germany, Hungary, Norway), bilateral agreements (Italy) or decision I/4 of the Meeting of the Parties (Canada). Eight of twelve respondents indicated that the notification to the public in the affected Party had the same content as the notification to their own public; three of the other four indicated that it might be the same

but that it was then for the affected Party to decide the exact content of the notification to its public.

Once again, several respondents indicated that the timing of the notification to the public in the affected Party was for the affected Party to decide, though the Netherlands and Switzerland noted that they aimed to assure notification at the same time as their own public was informed. Croatia reported that the public in the affected Party was notified after the domestic public inquiry had been completed.

Only Kyrgyzstan reported on difficulties experienced by the Party of origin in the organization of the notification to the public in the affected Party, noting organizational problems and a lack of procedures.

II.A.3.1 Public notification

(a) How do you identify the "public" in the affected area?

Armenia. According to the Armenian EIA law, the term 'the affected community' is understood to mean the population of an area, i.e. the communities potentially subject to an environmental impact from the planned activity.

Austria. The public in the affected area is identified by experts providing evidence on how far impacts can range.

Belgium (Flanders). The identification of the public depends on the type of activity, the likely impact and the location (distance from the border). The EIA Unit and the point of contact in the affected Party together can best identify the public to be informed. This is done in a dialogue between those authorities.

Bulgaria. The Minister of Environment and Water notifies the affected Party at the earliest possible stage of the development proposal. Upon agreement on participation in the EIA procedure, the development of the procedure is according to the decisions taken in discussions between the concerned Parties. The competent authority of the affected Party shall identify the "public".

Canada. Although Canada has had no requirement to date to apply the Espoo Convention, Canada would undertake to communicate and consult with the point of contact of the affected Party to seek advice and develop arrangements for the identification and notification of the public in the affected area.

Croatia. According to the Law on Environment, the public in the affected area is defined as those living in a county or a smaller or similar political entity.

Czech Republic. The Czech Republic, as Party of origin, does not identify the public in the affected Party; it is up to the affected Party to do so.

Denmark. How the public is identified depends on the type of activity, the likely impact, the location (distance from the border), etc. The competent authority and the point of contact in the affected Party together can best identify the public to be informed. Denmark would first use the same criteria to identify the 'public' in the affected area as are used to identify the domestic 'public'. However, it is important that the public in the affected area feel that they are the right people to be asked about their opinion. This can be done through dialogue between the authorities in both countries.

Estonia. Estonia has notified all the relevant local authorities by letter and the public by advertisement in newspapers.

Finland. The affected Party has better possibilities to identify the public in the affected area, even though the Convention makes it the responsibility of both Parties. (Only in one case has the regional environmental centre identified the Public in an affected area on both sides of the border.)

France. France accompanied its signature to the Convention by an interpretive declaration foreseeing that this responsibility for the identification of the public to be consulted would be for the competent authority of the affected Party. France does not, therefore, have any comment on the following questions that relate, from its point of view, to a matter that is solely the responsibility of the affected Party.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). This is an obligation on both Parties: the Party of origin and the affected Party. Therefore, both Parties have to work together in identifying the public in the affected area. Normally the determination of the public in the affected area will depend on the specific type of activity or project and the geographical extent of the possible environmental impacts of the project or activity (e.g. nuclear power plant, compared to intensive livestock farming).

Hungary. The definition of the concerned public can be found in article 4, item (o), of the Hungarian Environmental Act "that person or organization that

lives or has an activity in the affected territory", while the affected territory is defined in the same article under item (n): "that territory or part of it where an effect on the environment, whose quantity is determined in the law, has taken place or can take place". Article 7, paragraph 1, of the EIA Decree obliges the inspectorate to send the request, the preliminary environmental impact study and the draft of the notification to the municipality notary of the place of the planned activity and a memo together with the short summary of the impact study to the notaries of the surrounding municipalities neighbouring to it. These latter notaries will then have ten days to decide whether they are concerned or not and as such wish to participate in the process or not. The notary of the municipality of the place where the activity is planned to be sited and those notaries who decided that they want to participate will have to make the notification public in their places (art. 7, para. 2, of the EIA Decree).

Italy. The public in the affected area is identified in accordance with the agreement made with the affected Party, which normally foresees that authorities of that country are in charge of informing their own public, taking into account that Italian law (349/86) on EIA foresees that any person may present comments to the competent authorities.

Kyrgyzstan. The concerned public comprises those whose living conditions are to be affected by the planned activity.

Netherlands. This depends on the type of activity, the likely impact and the location (distance from the border). The competent authority and the point of contact in the affected country together can best identify the public to be informed. This can be done in a dialogue between those authorities.

Republic of Moldova. National legislation does not define procedures for the notification of the public within a transboundary EIA, neither for the Republic of Moldova in its role of affected Party nor in its role as Party of origin. For the carrying out of EIA of projects of national importance, without transboundary impact, the notification of the domestic public is defined, as is the term 'the public':

- in the EIA Regulation, section V ("Publication and discussion of the conclusions of an EIA"), and section VI ("Participation in EIA initiative and public associations");
- in the Regulation on public participation in development and decision-making regarding environmental matters (as set out in Governmental Order number 72 of 25 February 2000), chapter V ("Procedure for attraction of the public"), articles 20 and 21; and
- in Regulations on public consultation during development and the statement of the design documentation on land-use planning and town-planning (as authorized by the Governmental Order number 951 of 14 October 1997), chapter II ("the organization of public consultation").

In the EIA Regulation, chapter V, the following notification procedure is defined:

- Article 13: The proponent sends the environmental permit application (ZVOS) to the corresponding ministries and departments and to local competent authorities within the territory of which is planned a new project, or the expansion, reconstruction, modernization, preservation or demolition of an existing project or realization of a new type of activity. The local competent authorities within 5 days of receipt of the ZVOS should declare through the mass media where and when it is possible to inspect this document and to receive a copy, to encourage public ecological examination and public discussions. Public access to the EIA documentation and to the ZVOS should be opened within 30 calendar days. Comments on these documents can be sent in writing to the person specified by the local competent authorities.
- Article14: The local competent authorities should send the comments received as a result of public discussion of the ZVOS to the project proponent and to copy these to the central department of environment within 14 days of the expiry of the deadline, as required in article 13.
- Article 15: The Ministries and departments should send their comments on the ZVOS to the proponent and copy them to the central department of environment within 50 days of receiving the ZVOS.
- Article 16: If the ZVOS includes state secret information, the requirements of article 23 of the present provision are not applied.

Slovakia. The affected municipality identifies the affected public. The person responsible informs the public of the municipality in the normal way, for example by radio, television, the local press and notice boards.

Sweden. In the notification letter, the Swedish Environmental Protection Agency asks what the appropriate means to inform the public might be in the actual case.

Switzerland. No recent experience. Switzerland would rely on the affected Party to identify the public concerned.

United Kingdom. Within the United Kingdom, it would consult with members of the public in the area(s) likely to be affected. It would do so through local competent authorities, newspapers etc. As regards the public in the affected Party, the United Kingdom would seek guidance from the authorities there. It would normally expect consultation with the public in the affected Party to follow the

procedures within the affected Party's domestic EIA procedures.

Latvia, Lithuania, Norway, Poland. No experience or no response.

(b) Who is responsible for preparing and transferring the notification to the public of the affected Party/Parties?

France. See II.A.3.1 (a).

Belgium (Flanders). The proponent prepares the "notification of intent". This document, together with a letter from the EIA Unit (i.e. the government agency that will take the decision on the EIA documentation, whether approval or not), forms the notification. The transmission to the public of the affected Party is carried out according to the bilateral agreement with the affected Party. This implies that the point of contact in the affected Party assists the authority in Flanders (the EIA Unit) on this issue.

Bulgaria. The Minister of Environment and Water is responsible for preparing the notification, and for transmitting it to the competent authority of the affected Party or Parties. The relevant authority of the affected Party notifies its public.

Canada. Arrangements for the preparation and transmittal of the public notification would be coordinated on a case-by-case basis in consultation with the point of contact of the affected Party, or other responsible government officials as appropriate. For Canada, the federal departments and agencies involved in such arrangements would include, as required, the Department of Foreign Affairs and International Trade (for the Minister of Foreign Affairs), the Canadian Environmental Assessment Agency (for the Minister of the Environment), and the Responsible Authority under the Canadian Environmental Assessment Act.

Croatia. The point of contact and developer are responsible for transferring the notification to the public in the affected Party.

Czech Republic. The notification is prepared by the Party of origin, but transmitted by the affected Party.

Denmark. The proponent (developer) prepares the 'notification of intent'. This document together with a letter from the competent authority forms the notification. The transmission to the public of the affected Party is carried out according to the bilateral agreements with the neighbouring countries. In principle the affected Party transfers the notification to its public.

Estonia. The competent authority transfers the notification to the public in the affected Party.

Finland. The point of contact sends the notification to the points of contact of the affected Parties. See II.A.3.1 (a).

Germany. See II.A.1.1 (a) and II.A.3.1 (a). With regard to article 9a, paragraph 1, of the German EIA Act, the competent authority shall contact the affected Party and use its best efforts to assure that the carrying out of a transboundary EIA procedure is announced to the public of the affected Party in a suitable manner.

Hungary. Hungarian regulations are restricted to the events taking place in Hungary. According to article 25, paragraph 4, the Hungarian Ministry sends the notification to the affected Party, while the notification of the members and organizations of the public in the territory of the affected Party is done by the affected Party itself.

Italy. See answer to previous question. In some cases the inter-governmental joint body is in charge of public information

Kyrgyzstan. The project proponent is responsible for organizing and carrying out public hearings.

Norway. The competent authority, according to Appendices I and II to the Norwegian EIA regulation, is responsible for preparing and transferring the notification to the public of the affected Party.

Netherlands. The proponent prepares the "notification of intent". This document together with a letter from the competent authority (i.e. the government agency that will take the decision on the activity) forms the notification. The transmission to the public of the affected Party is carried out according to the bilateral agreements with the neighbouring countries. This implies that the point of contact in the affected country assists the competent authority in the Netherlands on this issue.

Poland. According to the Environmental Protection Law (Act of 27 April 2001), the Minister of Environment is responsible for preparing and transmitting the notification on the proposed activity, which may have significant adverse transboundary impact on environment, to the

affected Party. The precise indication of the relevant authority, which receives the notification, usually is included in the draft bilateral agreements between Poland and the affected Parties. However, there is no obligation for the Party of origin to transmit the notification directly to the public of the affected Party (neither in the Environmental Protection Law, nor in the draft bilateral agreements).

Slovakia. The Ministry of the Environment is responsible for the notification.

Sweden. The developer is responsible for preparing the information and the Swedish Environmental Protection Agency is responsible for transmitting the information, advertising etc.

Switzerland. No recent experience. The competent authority (i.e. the authority granting approval) is responsible for the notification. The relevant authority of the affected Party is responsible for transmitting information to the public of the affected Party.

United Kingdom. The matter would be discussed with affected Parties on a case-by-case basis. But in the United Kingdom's limited experience, it has found that the authorities in the affected Party have preferred to take responsibility for notifying members of their public.

Armenia, Austria, Latvia, Lithuania, Republic of Moldova. No experience or no response.

(c) How is the public notified? What kinds of media, etc., are usually used?

France. See II.A.3.1 (a).

Belgium (Flanders). The public is notified by a public announcement in relevant newspapers or in any other way the point of contact in the affected Party may suggest. The announcement contains the names and addresses of the proponent, the EIA Unit and the competent authority for the final decision, together with a description of the proposed activity (type and size), the location of the proposed activity and the decision or decisions for which the EIA is being carried out. Furthermore, the announcement should include information on the timing and the way suggestions for the content of the EIA documentation can be delivered to the EIA Unit. If an information meeting is to be organized, the public announcement should also contain information on this meeting.

Bulgaria. The public is notified via the media or by publishing the notification in a newspaper. The notification is short and presents the characteristics of the proposed activity.

Canada. Appropriate means of communications would be employed such as: newspaper advertisements, Internet postings, mail notification to stakeholders and, where circumstances warrant, local radio or television notices. A flexible approach is taken in light of Canada's diverse cultural and geographical make-up, allowing for appropriately tailored communications strategies.

Croatia. According to the Rule Book, a public hearing must be advertised in the daily press and the official journal.

Czech Republic. The notification is placed on public notice boards, and distributed by Internet and by another means (local newspapers, radio...).

Denmark. The public is notified by a public announcement in relevant newspapers or by any other means. The point of contact in the affected Party may advise how best this is done. The announcement contains the name and address of the proponent, the competent authority, a description of the proposed activity (type and size), the location of the proposed activity, and the decision or decisions for which the EIA is being carried out. Furthermore, the announcement should include information on the timing and the way suggestions for the content of the EIA documentation can be delivered to the competent authority. If the competent authority is to organize an information meeting, the public announcement should also contain information on this meeting.

Estonia. The Finnish Ministry of the Environment sent the EIA documentation to the relevant authorities in Finland.

Finland. See II.A.3.1 (a) and (b). (In one case, the regional environmental centre sent the official announcement straight to the municipality (official notice board) in Sweden and to the local newspaper.)

Germany. See II.A.1.1 (a), II.A.1.2 (a), II.A.3.1 (a) and II.A.3.1 (b). Usually an announcement in a daily newspaper or similar media will be used, as well as the Internet.

Hungary. According to Article 7, paragraph 2, the notification is placed at the official notice board of the municipality and, in addition, the notification is exhibited on public places of the municipality according to the local customs. The law also

encourages the municipality notary to use other locally accepted means of publication.

Italy. The public of the affected Party is notified in accordance with the agreement taken with the other Party involved in the joint project. Usually these agreements foresee that the national legislation should apply (i.e. the public of the affected Party should be notified in accordance with the legislation of that State). The Italian public is notified through an announcement published on a well-known regional newspaper (i.e. of regional circulation) and a national newspaper

Kyrgyzstan. The public is notified through the mass media, by "round table" meetings and through the local authorities.

Netherlands. The public is notified by a public announcement in relevant newspapers or in any other way the point of contact in the affected Party may suggest. The announcement contains the name and address of the proponent, the competent authority, a description of the proposed activity (type and size), the location of the proposed activity, and the decision or decisions for which the EIA is carried out. Furthermore, the announcement should include information on the timing and the means by which suggestions for the content of the EIA documentation can be delivered to the competent authority. In case the competent authority organizes an information meeting, the public announcement should also contain information on this meeting.

Norway. The public is informed through Contact point in affected Party.

Slovakia. The public is notified through notice boards, by local radio and television, etc.

Sweden. The public is notified through advertising and information made available for the public at libraries and/or municipality's offices.

Switzerland. No recent experience. The public is notified through public notices; project documentation (including EIA documentation) is accessible to the public for thirty days (in line with the provision determining access of the public in Switzerland).

United Kingdom. Within the United Kingdom, cases involving transboundary impacts are advertised in national and local newspapers, giving information about where and when the EIA documentation may be inspected, an address to which comments may be made and the time within which comments have to be made. At notification, the United Kingdom will usually ask the affected Party, if they wish to take part in the EIA procedure, to advise of details of whether they wish the United Kingdom to notify members of their public and, if so, how. The United Kingdom's experience to date is that the authorities within the affected Parties have taken responsibility for notifying their public. The United Kingdom has not received information to date as to how the public in the affected Party was notified.

Armenia, Austria, Latvia, Lithuania, Poland, Republic of Moldova. No experience or no response.

(d) Are the authorities of the affected Party/Parties consulted on these issues?

Canada, Hungary. See II.A.3.1 (b).

Finland. See II.A.3.1 (a) and (b).

France, Sweden. See II.A.3.1 (a).

Germany. See II.A.1.1 (a), II.A.1.2 (a), II.A.3.1 (a) and II.A.3.1 (b).

Belgium (Flanders), Netherlands. Not only the public, but also the authorities in the affected Party have the opportunity to react at this stage.

Bulgaria. Yes, the authorities of the affected Party/Parties are consulted and the public is identified during the consultations.

Croatia, Estonia, Slovakia, United Kingdom. Yes, the authorities in the affected Party are consulted on these issues.

Denmark. Not only the public, but also the authorities in the affected Party are free to react at this stage, just as the domestic authorities may do so.

Italy. Yes, they are normally the ones in charge of contacting the public.

Kyrgyzstan. No experience, but existing international agreements provide for notification of the affected Party on planned economic activities.

Norway. See previous responses.

Switzerland. Yes, the authorities would be consulted, but Switzerland lacks recent experience.

Armenia, Austria, Czech Republic, Latvia, Lithuania, Poland, Republic of Moldova. No experience or no response.

II.A.3.2 Content of the information

(a) What is normally the content of the public notification?

Finland. See II.A.3.1 (a) and (b).

France. See II.A.3.1 (a).

Belgium, Denmark, Netherlands. See II.A.3.1 (c).

Bulgaria. The public notification should contain clear information about the territorial and temporal boundaries of the proposed activity, a short description of activity itself (type of activity, technology used, etc.), a description of the purpose of activity, and brief information on the expected environmental impacts.

Canada. Although Canada has had no requirement to date to apply the Espoo Convention, Canada would provide public notification in a manner consistent with the information elements set out in Table 3 of the decision of the Meeting of the Parties regarding the format for notification (ECE/MP.EIA/2).

Croatia. The notification includes the date, place and time frame of the public hearing and the EIA documentation.

Czech Republic. The content of the notification depends on what is being notified, but generally: notification, documentation and expert opinion. Each document has its content defined in annexes to the act

Germany. See II.A.1.1 (a), II.A.1.2 (a), II.A.3.1 (a) and II.A.3.1 (b). With regard to article 9a, paragraph 1, of the German EIA Act, the public notification should contain inter alia information on the proposed project or activity and its likely significant adverse transboundary environmental impacts, and details of the competent authority in the Party of origin to which comments should be submitted, including the time-frame for submitting comments.

Hungary. According to article 7, paragraph 3, items (a) to (c), the public notification shall contain:

a) the activity location and a short description of the activity involved in the request;
b) the place and locality where the preliminary environmental study can be inspected; and
c) a call for comments on the content of the preliminary study, on excluding factors in connection with the activity location and on the necessity of a detailed (full) EIA process and the additional issues that will be necessary to examine in it.

Italy. It depends in the agreements between the two countries, which are normally based on their respective legislation and practices. In Italy the public announcement provides general information on the proposed activity, also indicating where and for how long the relevant documentation is available, as well as the practicalities regarding public participation. In some cases an announcement has been published in the newspaper in order to inform the public that information on the whole project (including the part within the territory of the other Party involved) would be available for comments.

Kyrgyzstan. The notification contains a basic description of the planned activity and an invitation for discussion.

Norway. See Norwegian regulation section 11.

Slovakia. The notification contains basic information about the activity: the title of the notification, the name of the proponent, the purpose and character of the activity, the location of the activity, a brief description of the technology to be used, and the likely impact.

Sweden. The public notification contains brief information on the project and its consequences and information on where further information is available or could be found on a website.

Switzerland. The public notification includes project documentation, including the EIA documentation, but lack of recent experience.

United Kingdom. "Notification" to members of the public in the United Kingdom would consist of an advertisement published in national and local newspapers widely available in the area affected by the proposed development. The information would specify where and when copies of the EIA documentation and other relevant environmental information about the activity are available for public inspection; where copies may be obtained while stocks are available; whether there is any

charge for such copies; where and to whom comments about the activity and the EIA documentation may be made; and the date by which any such comments should be made. Should further environmental information subsequently be provided the procedure above would again take place. "Notification" to the affected Party would include all relevant environmental information, including the EIA documentation.

Armenia, Austria, Estonia, Latvia, Lithuania, Poland, Republic of Moldova. No experience or no response.

(b) Does the notification to the public of the affected Party have the same content as the notification to your own public?

Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Italy, Netherlands, Norway, Slovakia, Switzerland. Yes, the two notifications contain the same information.

Hungary, Kyrgyzstan, Sweden, United Kingdom. No, the two notifications do not contain the same information.

Armenia, Austria, Canada, Estonia, Finland, France, Germany, Latvia, Lithuania, Poland, Republic of Moldova. No experience or no response.

Describe why.

France. See II.A.3.1 (a).

Bulgaria. The notification to the public of affected Party should have the same content as the notification to public of the Party of origin because they need access to equal levels of information and equal notification to be guaranteed.

Canada. Canada has had no requirement to date to apply the Espoo Convention in an operational context. Therefore, Canada is not in a position to respond to this question. Canada notes, however, that it would expect all of its external communication materials to be consistent regarding information content regardless of public location.

Czech Republic. The same notification is used for the sake of simplicity.

Germany. See II.A.1.1 (a), II.A.1.2 (a), II.A.3.1 (a) and II.A.3.1 (b). The affected Party will receive for the notification of its public the same information as the public of the Party of origin.

Hungary. Rather: not necessarily, since the neighbouring countries may have different regulations on the content of the notification. However, the affected Party receives the same documentation for public review as the Hungarian public and the procedure schedule allows time enough to make comments or objections.

Italy. There is a general tendency to coordinate, through bilateral agreements, the procedures for public information and participation.

Kyrgyzstan. It is not possible to answer the previous question unequivocally. The information depends on the planned activity as far as it affects the interests of both Parties.

Sweden. No. See II.A.3.1 (a).

United Kingdom. In the United Kingdom's experience to date, the affected Party has assumed responsibility for notifying its members of the public about a proposed activity. The information specified above would be provided to the authorities of the affected Parties and it is hoped that this information would be made available to their public.

Armenia, Austria, Belgium, Croatia, Denmark, Estonia, Finland, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Switzerland. No experience or no response.

II.A.3.3 Timing of the notification to the public of the affected Party

(a) At what stage in the EIA procedure do you normally notify the public of the affected Party/Parties?

Finland. See II.A.3.1 and II.A.1.3 (a).

France. See II.A.3.1 (a).

Germany. See II.A.1.1 (a), II.A.1.2 (a), II.A.3.1 (a) and II.A.3.1 (b).

Sweden. See II.A.1.3 (a) and II.A.3.1 (a).

Belgium (Flanders). In principle, the public of the affected Party/Parties is normally notified at the same time as the public in Flanders is informed for the first time. This is after the "notification of intent" has been submitted to the EIA Unit, and before the scoping phase.

Bulgaria. The public is notified at the early notification stage. The notification is addressed to the contact point of the affected Party and the notification has to be forwarded to the public of the affected Party.

Canada. Notification would be provided in a manner consistent with the requirements for public consultation under the Canadian Environmental Assessment Act.

Croatia. After the public hearing in the Party of origin had been completed.

Czech Republic. The Czech Republic notifies the affected Party and it is up to them when they will notify their public.

Denmark. In principle, the public in the affected Party is informed at the same time as the Danish public is first informed.

Hungary. The request is first examined by the Environmental Inspectorate whether it is complete or not and if not it obliges the requester to submit additional materials (art. 27 of the Code of General Administrative Rules) and then the Inspectorate circulates the request and the preliminary study amongst the consultative authorities. Having received comments from the consultative authorities, the Inspectorate examines the question whether there are reasons to dismiss the request (art. 7, para. 1, of the EIA Decree). Any negative answer from the consultative authorities is binding for the Inspectorate, i.e. there is no other legal choice than the dismissal (art. 20 of the Code of General Administrative Rules). The consultative authorities have 30 days for their answer (art. 92, para. 1, of the General Rules on Environmental Protection) After all of these activities the Environmental Inspectorate immediately sends the materials to the municipality notaries, following the process described in the previous points. In practice, taking into consideration that the obligation to submit additional materials occurs in the majority of the cases, the public is informed usually within not less than two months of the first submission of the request.

Italy. The public of the affected Party is notified according to legislation of that country.

Kyrgyzstan. The public of the affected Party is notified during the third stage of the EIA, when "determining possible impacts".

Netherlands. In principle at the same time as the public in the Netherlands is first informed. This is after the "notification of intent" has been presented to the competent authority.

Slovakia. The public of the affected Party is notified immediately after the Party of origin sends the notification.

Switzerland. Switzerland would seek to notify the public of the affected Party at the same time as the Swiss public: upon submission of the project documentation by the proponent, the competent authority would start the procedure and communicate where the project documentation is accessible to the public. Ideally, the relevant authority in the affected Party would – in consultation with the Swiss competent authority – do the same concurrently, but Switzerland lacks recent experience.

United Kingdom. As in previous replies, the United Kingdom first notifies the authorities in the affected Party and asks for details of how this should be carried out. In the United Kingdom's limited experience, the authorities in the affected Party have taken responsibility for notifying members of their public.

Armenia, Austria, Estonia, Latvia, Lithuania, Norway, Poland, Republic of Moldova. No experience or no response.

II.A.3.4 Notification difficulties

(a) Describe any difficulties you have experienced in the organization of the notification to the public.

France. See II.A.3.1 (a).

Belgium (Flanders), Denmark. No problem as such, but it is important to have good (informal) contacts with the point of contact in the affected Party.

Bulgaria. Difficulties occur when the notification is late or the presented information insufficient. In some cases the notification is not sent through the appropriate channels and this leads to difficulties in informing the stakeholders.

Germany. See II.A.1.1 (a), II.A.1.2 (a), II.A.3.1 (a) and II.A.3.1 (b). Any difficulties must be discussed between the competent authorities of the concerned Parties.

Hungary. It is a good idea to use the municipalities that are in closest connection with the public to disseminate information on the proposed activity. However, in practice, the double

role (administrative and local government) of the municipalities causes difficulties in some instances. As a local government, the municipalities are usually interested in the quickest and least problematic introduction of the new activity – it brings in tax revenue, employment and increased economic and political weight to the given municipality. As a consequence, sometimes, the municipality administration – as an administrative body – tries to find ways to restrict public participation.

Kyrgyzstan. Organizational difficulties and a lack of procedures.

Netherlands. No serious problems identified. Important to have good (informal) contact with the point of contact in the affected Party.

United Kingdom. The United Kingdom has no difficulties in notifying members of the public in the United Kingdom. It has no experience to date of notifying members of the public of an affected Party.

Armenia, Austria, Canada, Croatia, Czech Republic, Estonia, Finland, Italy, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland. No difficulties, no experience or no response.

QUESTIONS TO THE PARTY IN THE ROLE OF 'AFFECTED PARTY' (PART II.B)

Describe the legal, administrative and other measures taken in your country as the affected Party to implement the provisions of the Convention on notification referred to in this section.

NOTE: It would appear that some of the respondents replied to questions in this section in the role of Party of origin rather than in the role of affected Party in a transboundary EIA procedure.

Notification to the affected Party or Parties (Art. 3) (Part II.B.1)

SUMMARY:

In the role of affected Party, most respondents indicated that the (federal) environment ministry was responsible for the reception and distribution of the notification. France indicated that the Ministry of Foreign Affairs received the notification; Canada indicated that both ministries plus the Canadian Environmental Assessment Agency received the notifications. In Sweden, it was the Swedish Environmental Protection Agency, while in the United Kingdom it was the point of contact in the Office of the Deputy Prime Minister. In the Netherlands, provincial points of contact generally received the notifications. Distribution was reportedly much more varied, but recipients included the public (Bulgaria, Hungary), non-governmental organizations (NGOs) (Austria, Finland), provincial or local government or authorities (Austria, Canada, Germany, Hungary, Italy, Sweden, Switzerland, United Kingdom), federal or national ministries, authorities or agencies (Austria, Canada, Finland, Hungary, Sweden, United Kingdom), and regional environmental centres (Finland).

The content of the notifications received was reportedly adequate or good for some respondents (Croatia, Czech Republic, Norway, Slovakia, Switzerland), variable or inadequate for others (Austria, Finland, Poland, Sweden, United Kingdom).

Some respondents reported that the content and format of the notification received was consistent with decision I/4 (Bulgaria, Croatia, Czech Republic, Finland, France, Italy, Norway) and gave adequate information for a decision (Croatia, Czech Republic, France, Hungary, Italy, Norway, United Kingdom). Others indicated that they were not consistent with the decision (Austria, Hungary, Poland, Slovakia), did not necessarily fully reflect decision I/4 (Switzerland) or were inadequate (Austria).

Regarding timing of the notification to the affected Party with respect to notification of the Party of origin's public, either variable (Austria, Hungary, Netherlands, Sweden, United Kingdom) or good (Italy, Switzerland) experience was reported, though this experience was very limited. Poland and the United Kingdom remarked that it was difficult to know what stage the domestic EIA procedure had reached.

Respondents generally indicated a wish to participate in transboundary EIA procedures notified to them (Austria, Finland, Italy, Netherlands, Norway, Poland, Slovakia, Sweden). Bulgaria and Poland reported application of the criteria in Appendix III to the Convention to determine whether they wished to participate. In the Czech Republic, the views of relevant authorities were sought. Several respondents reportedly made a judgement on the likely significance of any transboundary impact (Hungary, Latvia, Lithuania, Netherlands, Norway, Poland, United Kingdom).

The Netherlands also took into account the likely level of public interest.

The time available for a response was reported as being adequate (Austria, Croatia, Latvia, Norway, Switzerland) or too short (Finland, France, Netherlands, United Kingdom). Generally, respondents indicated flexibility with respect to a failure to comply with a time frame. All respondents reported that requests for deadline extensions were responded to positively.

Parties reported a number of problems experienced in organizing the notification procedure, including:

- *Late notification (Bulgaria, Netherlands);*
- *Notification in the language of the Party of origin (Austria, Poland);*
- *Inadequate information in the notification (Bulgaria, Poland);*
- *Non-compliance with the Espoo Convention's requirements (Poland);*
- *Difficulty understanding the Party of origin's EIA procedure (Sweden); and*
- *Problems with domestic procedures for processing of notifications (France).*

II.B.1.1 Organization of the notification

(a) (i) Who is responsible for the reception and distribution of the notification in your country? (ii) To whom is the notification normally distributed in your country?

Austria. (i) The Federal Ministry of Agriculture, Forestry, Environment and Water Management as point of contact under the Convention is responsible for the reception and the distribution of the notification. (ii) To whom the notification is normally distributed depends on the type of project and the impacts which it is likely to cause. In any case, it has to be distributed to the affected Land (provincial) government; sometimes it is distributed to selected relevant federal authorities or to selected non-governmental organizations (NGOs).

Belgium (Flanders). In principle, the notification should be sent to the point of contact as mentioned in the list attached to the report of the first meeting of the Parties. However, in agreements with neighbouring countries, and in practice, additional points of contact are appointed at the regional level.

Belgium (Nuclear). In principle, the notification should be sent to the point of contact as mentioned in the list attached to the report of the first meeting of the Parties. If the notification concerns a nuclear activity, the Federal Agency for Nuclear Control will be informed.

Bulgaria. The Minister of Environment and Water is responsible for reception and distribution of the notification. According to article 26, paragraph 1 (b), of the Regulation on EIA, the Minister of Environment and Water provides the information to the public and delivers the observations and opinions on the documentation to the competent authority of the Party of origin before its final decision.

Canada. Canada employs a flexible approach regarding the receipt of notifications. As such, depending on the complexity of the transboundary environmental issues involved, notification is provided either to the Minister of Foreign Affairs or to the federal Minister of the Environment. The office of the President of the Canadian Environmental Assessment Agency also continues to fulfil the role of point of contact for the Espoo Convention. Distribution of the notification documents would be made to federal departments and agencies that have the expertise and competence to comment upon and evaluate the issues at hand. Provincial, territorial and municipal governments would also be provided with the documentation received when appropriate. Also, depending on the circumstances, aboriginal representatives or their organizations would be provided with the notification.

Croatia. The county's administrative body in charge of environmental issues is responsible.

Czech Republic, Estonia, Norway, Slovakia. The ministry of environment is responsible.

Denmark. In principle the notification should be sent to the point of contact as mentioned in the list attached to the report of the first Meeting of the Parties. However, in agreement with neighbouring countries other points of contact have been appointed.

Finland. (i) The point of contact, the Ministry of the Environment. (ii) A notification is sent to:

- Other concerned Ministries;
- Regional Environmental Authorities responsible for the EIA procedures in affected areas;
- Concerned government administration and research centres; and
- Environmental non-governmental organizations (NGOs).

France. Unless otherwise specified by France to the Party of origin, the notification is sent to the Ministry of Foreign Affairs with a copy sent to the points of contact indicated on the UNECE website. Thus, for the marine aggregates project, an inter-ministerial group (the general council of the sea) was designated.

Germany. According to article 9b of the German EIA Act, the authority that would be responsible for the decision on a similar project or activity in Germany is responsible for the reception and distribution of a notification. Notifications that are addressed to the Federal Environmental Ministry will be sent via the Environmental Ministry of the respective German State to the aforementioned authority, which will then continue with the procedure. Regarding the distribution of the notification, see II.A.1.1 (a) and II.A.1.2 (a).

Hungary. According to article 27, paragraph 1 (b), the Ministry is responsible for the notification of the concerned public living within the area of influence of the potential environmental impact. This regulation offers the possibility to the Ministry to involve the local municipalities, but it is not mandatory. In urgent cases the Ministry can establish contact with the local public directly. In other cases, however, the Ministry can use not only the municipalities, but, beforehand, the competent Environmental Inspectorate, too, without specific regulatory entitlement, because the inspectorates are administrative bodies within its own organizational structure.

Italy. As specified previously, in all the cases in which Italy is involved, the proposed activities (tunnels, under-sea lines...) are carried out in cooperation with the other country (joint companies). Therefore Italy is always both Party of origin and affected Party at the same time and the application of the Convention is regulated by bilateral agreements. Usually an exchange of notification takes place, and the Party that is first to start the EIA procedure (related to the part of the project falling in its own territory) makes the first notification. The Ministry for the Environment (EIA Directorate) is responsible for receiving the notification, which is then distributed, as appropriate, to the relevant local authorities.

Latvia. The Ministry of Environmental Protection and Regional Development is appointed as a point of contact. Therefore, when receiving any information from a Party of origin, it shall distribute the notification to the State EIA bureau, to the relevant Regional Environmental Board and to other interested institutions.

Lithuania. The Ministry of Environment is responsible for the reception and distribution of the notification.

Netherlands. In principle the notification should be sent to the point of contact as mentioned in the list attached to the report of the first meeting of the Parties. However, in agreements with neighbouring countries the Netherlands has appointed additional points of contact at the provincial level. In most cases of transboundary EIA these points of contact were notified.

Poland. According to the Environmental Protection Law of 27 April 2001, the Minister of Environment is responsible for the reception and distribution of the notification of the proposed activity that may have significant adverse transboundary impact on the environment of Polish territory. Having acquired the notification, the Minister of Environment notifies the relevant authority or authorities in light of the area affected by the possible transboundary environment impact, on the regional level (*Voivode*).

Sweden. The Swedish Environmental Protection Agency (SEPA) is responsible (see I.A.1.3). SEPA distributes the notification to relevant authorities, municipalities and organizations.

Switzerland. The point of contact (EIA Unit at the Swiss Agency for the Environment, Forests and Landscape) and the affected cantons are responsible.

United Kingdom. The EIA Branch within the Planning Directorate of the Office of the Deputy Prime Minister. The notification is distributed to authorities in the United Kingdom that are likely to be concerned by the activity by reason of their specific environmental responsibilities to seek their comments as to whether the United Kingdom should participate in the EIA procedure.

Armenia, Kyrgyzstan, Republic of Moldova. No experience or no response.

II.B.1.2 Content and format of the notification (Art. 3, para. 2, and decision I/4 of the Meeting of the Parties, ECE/MP.EIA/2)

(a) What is your experience of the content of the notification?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Austria. Sometimes the content is satisfactory, but sometimes the affected Party has to declare

explicitly what the notification should look like. The format is usually informal.

Belgium (Flanders). In cases of activities in another country (the Netherlands) with a potential significant transboundary impact in the Flanders, the notification was in most cases presented to the points of contact as indicated in the bilateral agreement. In case the activity involves the competency of a federal ministry, e.g. marine environment protection or nuclear installations, the regional authority (EIA Unit) will also inform the federal authorities. These points of contact can best provide information on the content of notifications.

Bulgaria. There is only one case when Bulgaria as affected Party has required notification of a proposed activity with possible transboundary impact. The format of the notification followed the format adopted at the first meeting of the Parties.

Croatia. It works. Croatia has no suggestions for amendments.

Czech Republic, Slovakia. Good experience.

Denmark. Usually the content of a notification provides sufficient information

Finland. There should be more information in some cases, e.g. information on a plan and on its impacts.

France. France favours a notification comprising the following elements:

- A letter indicating the nature of the project, the type of procedure to be applied and the deadline for reply;
- A document describing the nature and deadlines of this procedure;
- A non-technical summary of the project EIA; and
- The actual dossier requesting the authorization and, particularly, the EIA.

Hungary. It usually does not contain information on the possible transboundary impact due to the fact that it takes place at an early stage or there is no relevant information on the affected area or the notification simply expresses the goodwill of the Party of origin rather than their actual knowledge of possible impacts.

Italy. Italy has only been notified once.

Latvia. So far only one notification has been received. The information provided in the notification was in accordance with the Espoo Convention provisions.

Netherlands. In cases of activities in another country with a potential significant transboundary impact in the Netherlands, the notification was in most cases presented to the points of contact as indicated in the bilateral agreements. These points of contact can best provide information on the content of notifications.

Norway. Adequate.

Poland. The content of the notifications from the Party of origin varies. Generally, the content is not compatible with Article 3(2) of the Convention and decision I/4 of the first meeting of the Parties.

Sweden. Variable.

Switzerland. The few notifications that Switzerland received recently tended to be brief but sufficient.

United Kingdom. A number of Parties have submitted notifications that were clear and provided sufficient information to enable the United Kingdom to decide whether it wished to be involved with the EIA procedure. Others were less clear about what they were asking the United Kingdom to do or giving an indication of the stage reached in the EIA procedure.

Armenia, Canada, Estonia, Kyrgyzstan, Lithuania, Republic of Moldova. No experience or no response.

(b) In particular, is your experience that the content and format of the notification are consistent with decision I/4 and give adequate information for the purposes of a decision?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders). In general, the notification gives only information on the activity itself and the decision. It is often difficult to decide, on the basis of that information, whether further involvement is necessary. In general, informal bilateral contacts provide the necessary additional information.

Croatia, Italy, Norway. Yes, the content and format of the notification are consistent with decision I/4 and the notification gives adequate information for the purposes of a decision.

Austria, Slovakia. No, the content and format of the notification are inconsistent with decision I/4 or

the notification does not give adequate information for the purposes of a decision.

Bulgaria. Given the early stage of the EIA process in Bulgaria (in the feasibility study phase), it is rather difficult to fulfil in detail the adopted format for notification.

Czech Republic. Good – according to the act, the Czech Republic received one such notification.

Denmark. In general, the notification gives only information on the activity itself and the decision. It is often difficult to decide on the basis of that information if further involvement is necessary. In general, informal bilateral contacts provide the necessary additional information.

Finland. The format has been used.

France. This has been the case for all projects notified by the United Kingdom and the Netherlands. It appears to the Netherlands that this document must remain a common framework, defining the rules to be implemented in the absence of bilateral agreements or well-established traditions of exchange between neighbouring countries. It should not be mandatory to complete the form.

Hungary. Not consistent but enough for decision.

Netherlands. In general it gives only information on the activity itself and the decision. It is often difficult to decide on the basis of that information if further involvement is necessary. In general, informal bilateral contacts provide the necessary additional information.

Poland. As answered previously.

Sweden. They are consistent from some countries.

Switzerland. It gives adequate information – but does not necessarily fully reflect decision I/4.

United Kingdom. Generally, the United Kingdom has found that the information provided has been adequate to enable it to decide whether to take part in the EIA procedure.

Armenia, Canada, Estonia, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova. No experience or no response.

II.B.1.3 Timing of notification (Art. 3, para. 1, "...as early as possible and no later than when informing its own public...")

(a) What is your experience of the timing of the notification under Article 3, paragraph 1, of the Convention?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Austria. In four cases it was in an early stage of the project (scoping phase), in another case it was far too late (after public consultation in the Party of origin) because the authority was not aware that a notification was necessary. In another two cases the EIA documentation was submitted probably at the time when the Party of origin's own public was informed.

Belgium (Flanders). In some cases, the notification is rather late in the process, and not in the scoping phase.

Bulgaria. The developer is obliged to inform simultaneously the public potentially affected by the proposed activity and the competent environmental authority at the earliest stage of the EIA procedure.

Croatia. The Espoo procedure slows down the review process in the Party of origin.

Denmark. In some cases the notification is rather late in the process, not in the scoping phase. Timing can be a problem. Sometimes the decision-making process is already drawing to a close, which means that 'the affected Party' and the public have little influence.

Finland. An answer to a notification is given according to the time frame specified by the Party of origin. No problems have been experienced.

France. France's experience is very limited. In the few cases that France has had, the time allowed by the notification did not allow France to make known its position within the periods defined in the appropriate procedures for the projects notified by the United Kingdom. France's experience in this matter illustrates the difficulty of replying rapidly. Also, assuming that this was also likely to be the case for other Parties when France is the Party of origin, France introduced into its law sufficient flexibility to provide for implementation of the Convention: "The deadlines set for regulatory procedures applicable to projects being considered are extended, if need be, to take account of the

consultation period for foreign authorities" (Decree of 12 October 1977, as amended).

Hungary. Of the three notifications Hungary has received to date, two arrived in time.

Italy. The notification is normally received at a very early stage of the procedure, sometimes after consultation with the other Party (due to the cross-border nature of the projects).

Kyrgyzstan. Timing should allow for real consideration and decision-making.

Netherlands. In some cases the notification is rather late in the process, after the scoping phase.

Poland. Poland as the affected Party has no possibility to determine whether the Party of origin has notified it no later than when informing its own public. It is difficult to check. Besides, the Parties of origin do not provide any information on this matter.

Sweden. The timing is variable.

Switzerland. Switzerland's experience is of early and timely information.

United Kingdom. The United Kingdom's recent experience of two cases has been mixed. In one case, the notification documents were forwarded well in advance of the preparation of EIA documentation and with adequate time to consult with colleagues in the United Kingdom on whether the United Kingdom wished to participate in the EIA procedure. In the other case, the Party's notification, including the EIA documentation, was received with very little time to comment. It was not clear what stage the EIA procedure had reached in the Party of origin and it was further complicated by the need to translate the papers received. However, the Party of origin readily agreed to a time extension to allow the United Kingdom to comment.

Armenia, Canada, Czech Republic, Estonia, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia. No experience or no response.

II.B.1.4 Frequency of positive response to the notification

(a) Do you normally participate in the EIA procedure? Describe the criteria or reasons that you use to decide whether you want to participate in the EIA procedure or not.

Austria. Austrian participation depends on the significance of the impacts. Austria participates in most cases. Of the seven projects notified, in one case Austria did not participate, in one case it declared its participation subject to further information, in one case it participated in the scoping procedure but there was subsequent EIA, and in one case (a highly political issue) it had explicitly asked for notification and therefore declared its participation. In the three other cases it just declared Austria's participation.

Belgium (Flanders). In most cases, the notification is followed by a positive response to participate in the EIA procedure or to be kept informed of developments in the procedure. Criteria for participation are the expected transboundary impact and the level of public interest involved.

Belgium (Nuclear). In most cases, the notification is followed by a positive response to participate in the EIA procedure. Criteria for participation are the expected transboundary impact and the level of public interest involved.

Bulgaria. The criteria that Bulgaria used to decide whether it should participate in an EIA procedure are set out in article 93 (4) of the EPA and correspond to Appendix III to the Convention. They are:

- Characteristics of the proposed construction, activities and technologies, such as: size, productivity, scope, inter-relation and integration with other proposals, use of natural resources, waste generation, environmental pollution and violations, as well as risk of accidents; locality, including sensitivity of the environment, existing land use, relative availability of appropriate areas, quality and regenerative capacity of the natural resources in the region; reproductive capacity of the ecosystem in the natural environment, especially in: areas and habitats protected by a law, mountain areas and woodlands, wetlands and coastal areas, areas with excessive pollution levels, heavily urbanized areas, protected areas of stand-alone or cluster cultural assets, designated according to the procedure established by the Cultural Assets and Museums Act, areas and/or zones and sites enjoying a special sanitation status or subject to sanitary protection; characteristics of the potential impacts, such as territorial coverage, affected population, including transboundary impacts, nature, scope, complexity, probability, duration, frequency, and rehabilitation capacity; public interest in the proposed construction, activities and technologies.

Croatia. As an EIA department head and point of contact the respondent was involved in all Espoo EIA procedures. In Croatia, the respondent was involved directly (in the reviewing team) only in the projects that might have significant impact on the environment.

Czech Republic. It depends. The Czech Republic sends the notification to the relevant authorities in the Czech Republic asking them whether or not it should participate (a kind of screening).

Denmark. Little experience, but Denmark would participate if it is to be 'severely affected' by an activity.

Finland. Yes. The criteria used in a decision constitute a preliminary assessment based on comments given by authorities, research institutes and NGOs.

France. When a project is notified to France, it has always been informed beforehand, in one way or another, either by colleagues in environment ministries or by the consultants responsible for preparing the EIA documentation. It is not necessary to consult for long to decide on what position to take, unless there is a conflict and it is unclear how it may be resolved, for example between fishing and marine aggregates extraction.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). Participation in an EIA procedure as the affected Party will only take place if the competent German authority shares the opinion of the competent authority of the Party of origin that significant adverse transboundary impacts of the proposed activity are likely.

Hungary. According to article 27, paragraph 1 (a), the Ministry asks the opinion of the inspectorate and the consultative authorities on the proposed activity in the Party of origin and also on the necessity of participation in the Espoo process. An example of when Hungary chose to participate is when discharges from the foreign activity or natural resource exploitation might affect the state of environment in Hungary; it is relatively easy to decide whether a location is close to the border or whether, should an accident occur, Hungarian territory might be polluted.

Italy. Italy always participates in cases in which it is involved (see I.A.1.1); bilateral agreements are usually established for this purpose.

Kyrgyzstan. In Kyrgyzstan, comments on the development EIA are sent to the project proponent. Comments on the state ecological examination are sent to the specially authorized body on carrying out the examinations, i.e. the Ministry of Ecology and Extreme Situations.

Latvia. Latvia was notified once by Sweden, regarding the Baltic Gas Interconnector project. For that particular case the Ministry of Environmental Protection and Regional Development of Latvia decided not to participate in the EIA process due to the location of the potential activity.

Lithuania. Lithuania wants to participate in an EIA procedure if it thinks that the proposed activity will have a significant impact to the environment.

Netherlands. In most cases the notification is followed by a positive response to participate in the EIA procedure. Criteria for participation are the expected transboundary impact and the level of public interest involved.

Norway. Yes. Criteria: if the case has impacts in Norway.

Poland. In most cases, Poland declares its desire to participate in the EIA procedure on the proposed activity that may have significant adverse transboundary impact on environment on the territory of Poland. Generally, before making a decision whether to participate in this procedure, the following criteria are taken into account:

- The distance between the activity location and the territory of Poland,
- Information on the proposed activity included in the notification,
- Criteria from Appendix III to the Espoo Convention.

Additionally, in one case, the relevant local authorities (*Starosts*, Heads of *gmina*), identified taking into account the area affected by the possible transboundary impact on the environment, were asked for help.

Slovakia. The main reason for wishing to participate is a presumption of significant impact on the country's environment.

Sweden. Yes, Sweden normally participates.

Switzerland. Switzerland and its cantons are participating in quite a few joint EIAs with neighbouring Parties (hydropower plants on rivers forming the border, roads, gas-pipelines, etc.), where a procedure to grant approval takes place on either side of the border. Besides those instances,

and as far as Switzerland knows, there is currently no "official" Swiss participation in an EIA procedure regarding an activity in another country.

United Kingdom. The United Kingdom will participate in the EIA procedure if it considers the activity is likely to have significant effects on the United Kingdom environment. In such cases it would consider whether it can assist by way of methodology or relevant information or experience. Regardless of whether it decides to participate in the EIA procedure, it will always respond to the notification to make its position clear.

Armenia, Canada, Estonia, Republic of Moldova. No experience or no response.

II.B.1.5 Time frame for response to the notification (Art. 3, para. 3: "...within the time specified in the notification…")

(a) What is your experience with the time available for the response?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Austria. Until now, Austria always had enough time to answer (a couple of weeks).

Belgium (Flanders), Denmark, Netherlands. Usually the time schedule is tight. This is especially the case when consultation with other authorities is necessary.

Bulgaria. The time frame for response to the notification was specified in the notification received: it was one month.

Croatia. If the countries respect their obligations the time available is reasonable.

Finland. One month is not always enough if the response includes comments on the assessment programme (see previous answers), especially during the national summer vacation period. Proper public participation would also need adequate time.

France. The times indicated were not sufficient to allow France to respond by the deadlines, however reasonable, proposed by the United Kingdom. The negotiations undertaken ended, initially, with a common decision to defer all decisions on proposals already under consideration until a common framework had been agreed, defining the general conditions for exploitation of marine aggregates in the English Channel. France did not succeed in defining quickly a complete inter-ministerial position, so the United Kingdom issued a new notification. No final response has yet been made to the first project notified by the United Kingdom.

Hungary. According to the regulation and process described in the previous response, the consultation with the inspectorate and with the consultative authorities takes at least two weeks and the necessary translation also takes time.

Kyrgyzstan. No experience, but given that the timing of project planning and implementation is regulated, so too should be the timing of responses.

Latvia. There was enough time to prepare a response to Sweden.

Norway. Adequate.

Poland. The time frames for response to the notification, indicated by the Parties of origin, vary. So far, there were: no deadlines at all, thirty days and fifty days. A precise indication of the deadline for the indication of a desire to participate in the EIA procedure is included in some of the draft bilateral agreements between Poland and interested countries.

Slovakia. The time frame will be defined in bilateral agreements with all neighbouring countries, in compliance with the legislation of the concerned Parties.

Sweden. The time frame is often discussed in advance.

Switzerland. Sufficient.

United Kingdom. This varies between Parties. In some cases the initial timescale allowed has not been generous. Moreover, problems have been exacerbated because of delays where papers have not been sent electronically. Usually, though, the United Kingdom has found a willingness to extend the timescale to allow for a response from the United Kingdom.

Armenia, Belgium (Nuclear), Estonia, Canada, Czech Republic, Italy, Lithuania, Republic of Moldova. No experience or no response.

(b) What is your experience of the consequences of any failure to comply with the time frame?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Croatia. There have been no consequences.

Belgium (Flanders), Denmark, Netherlands. In most cases, an extension of the deadline was granted.

France. For the first project notified by the United Kingdom, France could not answer within the requested deadline. However, France does not consider this a matter of deadlines, but rather the difficulty of taking a position on new dossiers (whether British or French) for which conflicts of interest exist.

Kyrgyzstan. No experience, but a failure to comply with the time frame may have various consequences, including disregarding a late response.

Poland. The lack of response within the indicated time frame results in exclusion from the transboundary EIA procedure.

Sweden. No experience of a failure.

Switzerland. Affected Parties tend to understand problems regarding timing.

Armenia, Austria, Bulgaria, Canada, Czech Republic, Estonia, Finland, Hungary, Italy, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia, United Kingdom. No experience or no response.

(c) Have you ever asked for an extension of the deadline? If so, what were the results?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders), Denmark, Netherlands. Yes, an extension has been requested. See II.B.1.5 (b).

Bulgaria. Bulgaria has asked for an extension of the deadline in one case. The Party of origin agreed and fixed another deadline.

Croatia, Norway, Sweden. Yes, an extension has been asked for and the request was accepted.

Czech Republic, Slovakia. No, an extension has not been requested.

Finland. Yes, Finland has asked for an extension. An extension was agreed that was convenient for the Party of origin.

France. France has never made a formal request, but faced with its inability to respond within the deadlines for these new and significant projects, the United Kingdom accepted to defer these deadlines several times to make it possible for discussions to continue and to define a common position on the general conditions for exploitation of marine aggregates in the English Channel.

Hungary. Yes, Hungary has asked for an extension but in the end was able to keep within the deadline.

Italy. Italy does not normally request an extension.

Poland. Only in one case has Poland, as an affected Party, asked for an extension of the deadline. The request was due to the fact that the EIA documentation had not been written in Polish. Consequently, the deadline was extended.

United Kingdom. Yes, the United Kingdom has asked for an extension. It has found a willingness to co-operate and extensions are generally granted when there are valid reasons for making the request.

Armenia, Austria, Canada, Estonia, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Switzerland. No experience or no response.

II.B.1.6 Notification difficulties

(a) Describe any problems you have experienced in organizing the notification procedure.

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Finland. See II.B.1.2 (a) and II.B.1.5 (a).

Austria. In three cases Austria had difficulties to perceive whether the information given was a formal notification or not. It was delivered in the language of the Party of origin and Austria had to translate it and to communicate with the point of contact of the Party of origin.

Belgium (Flanders). A problem has been late notification that can result in insufficient internal consultation.

Bulgaria. The difficulties encountered have involved insufficient or late notification.

Denmark. Timing with other authorities has been a difficulty.

France. France has not encountered any problems besides those relating to the putting into

place of French means for processing of documents sent to it (a role of the ministry responsible for the environment and the authority ensuring supervision of the economic sector concerned, and a role of local agencies). In the same way, these projects were notified to France when Community law had yet to be transposed into national law. Moreover, the regulations in this sector are old and relatively poorly adapted. A revision of the corresponding procedures is underway in France.

Netherlands. Late notification

Poland. Poland as an affected Party has experienced following difficulties in the notification procedure:

- The documentation including information on proposed activity had not been translated into Polish,
- Data on the proposed activity had not been sufficient to unable the Minister of Environment to respond, and
- Data on the proposed activity had not complied with the Espoo Convention's requirements.

For the above-mentioned reasons, the Minister of Environment has had many difficulties with making a decision on participation in the transboundary EIA procedure.

Sweden. Difficulties include understanding the EIA legal procedure and decision-making process in the Party of origin.

Armenia, Canada, Croatia, Czech Republic, Estonia, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia, Switzerland, United Kingdom. No problems, no experience or no response.

Provision and transfer of information requested by the Party of origin (Art. 3, para. 6) (Part II.B.2)

SUMMARY:

Those few respondents providing information on their experience of receiving requests for information reported that such requests had been responded to positively. No problems were reported.

Such requests were reported as being received by permanent bodies: the Espoo point of contact (Austria, Canada, Croatia, Finland, Poland, Sweden, Switzerland, United Kingdom), the provincial government (Austria, Switzerland), the Minister of Foreign Affairs (Canada), or the environment ministry (Bulgaria, Canada, Czech Republic, Hungary, Italy, Lithuania, Poland, Slovakia) or agency (Canada, Sweden). (Certain of these bodies may be equivalent in a Party.)

"Reasonably obtainable" information was interpreted by respondents in two main ways: easily obtainable, publicly available, existing, non-confidential information (Bulgaria, Croatia, Hungary, Netherlands, Poland, Slovakia, Switzerland, United Kingdom); or information that permits the assessment of transboundary impacts (Hungary). Kyrgyzstan made reference to its legislation on freedom of access to information. "Promptly" providing the information was interpreted as meaning within the time frame specified by or agreed with the Party of origin (Bulgaria, Finland, Switzerland, United Kingdom), or allowing a reasonable period for the collection of the requested information (Bulgaria, Canada, France, Hungary, Netherlands, Poland).

II.B.2.1 Provision of requested information

(a) What is your experience of receiving requests from the Party of origin?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Austria. Almost no experience but, in one case, Austria provided very detailed information in its statement on the EIA documentation to the project proponent; in another case Austria provided a lot of information within the scoping process.

Belgium (Flanders). When such a request is received, answers are provided, sometimes after further research or internal consultation.

Finland. At least once, the Party of origin (project proponent) has requested data and information on Finnish pollution sources and reports concerning affected areas.

France. France has not received any such requests, apart from within the context of the examination of common-interest projects (for example, a new railway line between France and Italy). For the examination of projects notified by the United Kingdom, the information was gathered directly by an office of the consultant in Paris. However, France has had experience of this within the framework of inter-governmental bodies set up to carry out major common-interest projects (e.g. railway line, bridge, tunnel).

Poland. Only in one case has a Party of origin asked Poland for additional information on the proposed activity. In order to collect the requested data, relevant *voivodship* environmental protection inspectors were asked for help.

Slovakia. It was a positive experience.

United Kingdom. The United Kingdom has not, to date, received any specific requests to provide information to help prepare EIA documentation. Had it received such a request, and the information was available, it would have provided it and assisted the Party of origin as fully as possible.

Armenia, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Republic of Moldova, Sweden, Switzerland. No experience or no response.

II.B.2.2 Organization of the request

(a) Which authority(ies) is (are) responsible for receiving the request, collecting the information and transferring that information to the Party of origin?

Germany. See II.A.1.1 (a) and II.B.1.1 (a).

Austria. The responsible authority is the point of contact or the *Land* (provincial) government that would be the competent authority for the same type of project if it were carried out in Austria.

Belgium (Flanders). The points of contact are responsible. This is the EIA Unit according to the bilateral agreement with Netherlands and the point of contact listed in the Espoo Convention list.

Belgium (Nuclear). The points of contact are responsible. If the notification concerns a nuclear activity, the Federal Agency for Nuclear Control will be asked for information.

Bulgaria. The Minister of Environment and Water is responsible for receiving the request and transferring the requested information to the Party of origin. The EIA and EA Department coordinates the collection of the requested information.

Canada. Canada employs a flexible approach regarding the receipt of information request. As such, depending on the complexity of the transboundary environmental issues involved, the request can be sent either to the Minister of Foreign Affairs or to the federal Minister of the Environment. The office of the President of the Canadian Environmental Assessment Agency also acts as the point contact for the Espoo Convention. The determination as to the responsibility for the transfer of information to the Party of Origin would be made on a case-by-case basis depending on the nature and complexity of the issues involved.

Croatia, Denmark, Finland. The point of contact is responsible.

Czech Republic, Italy, Lithuania, Norway, Slovakia. The ministry of environment is responsible.

France. The Ministry of Foreign Affairs, the point of contact, must be the recipient of all notifications and all requests for additional information. It is desirable to send a copy to the ministry responsible for the environment, the focal point. So as to simplify matters, the focal point would take on responsibility for the collection of requested information, including from other departments as necessary.

Hungary. The Ministry of Environment and Water is responsible for receiving the request (art. 27, para. 1, of the EIA Decree), the relevant environmental authorities collect the information and Ministry transfers it (art. 27, para. 4).

Kyrgyzstan. The responsible authority is the authorized body that has been given responsibility for performing the Convention requirements.

Netherlands. Points of contact – these can be the Provinces in the border areas as a result of bilateral agreements with Germany and Flanders as well as the point of contact in the Espoo list.

Poland. The Minister of Environment or the point of contact is responsible.

Sweden. The Swedish Environmental Protection Agency is responsible. See I.A.1.3.

Switzerland. Point of contact and affected canton(s) are responsible.

United Kingdom. Requests should be made to the United Kingdom point of contact within the EIA branch of the Office of the Deputy Prime Minister. The EIA branch will commission relevant information from other Government Departments, Agencies and other environmental bodies and co-ordinate a suitable response to the Party of origin.

Armenia, Estonia, Latvia, Republic of Moldova. No experience or no response.

(b) Are the body(ies) referred to in subparagraph (a) permanent?

Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Lithuania, Netherlands, Norway, Poland, Slovakia, Sweden, Switzerland, United Kingdom. Yes, the responsible body is permanent.

Armenia, Estonia, Latvia, Republic of Moldova. No experience or no response.

Describe how the request for information is handled.

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

France. Ministries are permanent. In the same way, there are other permanent bodies that have been set up for certain projects, each defined by an international agreement. It is possible, for example, to consider inter-governmental commissions for the preparation of carrying out the high-speed rail link between Lyon and Turin or that for the Frejus Tunnel between France and Italy.

Italy. The information is handled in the context of bilateral agreements.

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, Hungary, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No experience or no response.

II.B.2.3 Content of the information

(a) What is your experience of satisfying the request of the Party of origin?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Austria. No problems.

Belgium (Flanders). Flanders has generally had a positive experience of satisfying the request of the Party of origin, due to mutual interest.

Finland. Some sources of information can be easily given e.g. a web-site address, a list of research reports and other useful publications.

France. Within the framework of international agreements set up for this purpose, France has never had any difficulties.

Poland. In the case described earlier, the requested information was sent to the Party of origin.

Armenia, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No experience or no response.

(b) How do you determine what is "reasonably obtainable" information?

Finland. See II.B.2.3 (a).

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders). The information is "reasonably obtainable" if it is existing information, for example inventories, references to literature, research reports and publications. Usually, no further research has to be carried out.

Bulgaria. "Reasonably obtainable" information is unclassified information about the locality, including existing land use, relative availability of appropriate areas, quality and regenerative capacity of the natural resources in the region; areas and habitats protected by law, mountain areas and woodlands, wetlands and coastal areas, areas with excessive pollution levels, heavily urbanized areas, protected areas of stand-alone or cluster cultural assets, areas and/or zones and sites enjoying a special sanitation status or subject to sanitary protection; characteristics of the potential impacts, such as territorial coverage, affected population, nature, scope, complexity, probability, duration, frequency and rehabilitation capacity.

Croatia. This is information that already exists and which is available.

Denmark. All kinds of existing information are considered 'reasonably obtainable'. Additional analysis may be carried out if time allows.

France. In France's experience, the exchanges relate to all information necessary for the project design, and not only the environmental dimension. France exchanges all information necessary. Moreover, this operates on the basis of reciprocity.

Hungary. Article 27, paragraph 4, determines two elements of the definition of "reasonably obtainable" information: first, information which is readily available at the Ministry or at the inspectorate and the consultative authorities; and

second, information which is necessary for the due consideration of the possible effects of the proposed activity on the Hungarian territory. In addition to this, information that is not available or requires a lengthy process either to find it or to produce it is not considered reasonable obtainable.

Kyrgyzstan. This is defined in the Kyrgyz law on guaranteeing the freedom of access to information.

Netherlands. Information is "reasonably obtainable" if it is existing information. One could think of inventoried references to literature, research reports and publications. No further research has to be carried out.

Poland. Reasonably obtainable information means available and already existing information.

Slovakia. Reasonably obtainable information means information that may be obtained without excessive expense.

Switzerland. Information that would not require any additional research but is easily obtainable by the affected Party, such as information on protected habitats on the Swiss side.

United Kingdom. Generally this would be information that is already publicly available; that is not confidential or commercially sensitive, legally restricted or prejudicial to legal proceedings; and that is available only at proportionate cost.

Armenia, Austria, Canada, Czech Republic, Estonia, Italy, Latvia, Lithuania, Norway, Republic of Moldova, Sweden. No experience or no response.

II.B.2.4 Response from the affected Party/Parties to the request of information (Art. 3, para. 6 "...promptly...")

(a) Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of "promptly".

Germany. See II.A.1.1 (a), II.A.1.2 (a) and II.A.2.4 (a).

Armenia. Procedures and legislation have not yet been developed.

Belgium (Flanders). "Promptly" will have to be interpreted in a way that it takes into consideration the fact that the information will have to be collected from various sources, within a reasonable timeframe and given the relevant authority's workload.

Bulgaria. "Promptly": within the time frame specified in the request from the affected Party. The deadline of the response depends on the content and kind (text or graphic) of the requested information and whether this information is available in a raw or pre-processed form or if it has to be expressly processed.

Canada. Canada has no experience in this regard given that it has not been required to apply the Espoo Convention in an operational context. In practice, however, Canada would undertake to transmit the requested information to the Party of origin without undue delay once the collation of the information had been completed by Canada.

Croatia. No legislation.

Denmark. 'Promptly' is taken to mean 'as soon as possible'. It will always take some time to collect information.

Finland. See II.B2.1 (a): "promptly" was understood in Finland's case to mean "in the time frame given".

France. There are no rules and practice, even limited, appears to indicate that it all depends on particular cases: from a few minutes to reply to an email to several weeks to collect more complex information that is difficult to access. Article 2 of the Decree of 23 April 1985, as amended, provides: "In the same way, are subject to the provisions of articles L.123-1 and following of the environmental code, public inquiries organized by the French authorities when they are consulted, if the case arises at their request, by another Member State of the European Union or Party to the Espoo Convention, on a project located within the latter's territory and likely to have a significant environmental impacts in France. These inquiries are then carried out according to the methods envisaged by the provisions of section X of chapter III of the present decree." Section X of chapter III of the same decree states: "Public inquiries into projects situated in the territory of another country and likely to have an significant environmental impact in France: The public inquiry is carried out in accordance with articles 9, 10, 10-1, 10-2, 11, 14, 15, 18, 19 and 20 of this decree, as well as according to the following methods: […]."

Hungary. According to article 27, paragraphs 1 and 4, after receiving the notification, the Ministry performs the necessary translations and asks for opinions and data from the competent inspectorate

and consultative authorities and the sends Hungary's answer plus the requested information to the Party of origin. There are no fixed procedural deadlines for these activities, but in the practice, the translation could take a week, while the exchange with the inspectorate and consultative authorities might take another two weeks.

Kyrgyzstan. No experience, but it is in the interest of both Parties to provide the information necessary for estimating the likely environmental impact early in the decision-making process, provided the information is not confidential.

Netherlands. "Promptly" will have to be interpreted in a way that it takes into consideration the fact that the information will have to be collected from various sources.

Poland. There are no provisions or procedures determining the meaning of "promptly" in Polish law. Colloquially, this word is interpreted as "as quickly as possible", which in this case means after completing the data sufficient to respond to the request.

Slovakia. The term "promptly" will be defined in bilateral agreements with all neighbouring countries, in compliance with the legislation of the concerned Parties.

Switzerland. The meaning of "promptly" would have to be in line with the procedural time limits in the country of origin.

United Kingdom. The United Kingdom would consider this to mean within a reasonable period of time, agreed with the Party of origin, that will allow the information requested to be provided.

Austria, Czech Republic, Estonia, Italy, Latvia, Lithuania, Norway, Republic of Moldova, Sweden. No experience or no response.

Public Notification (Art. 3, para. 8) (Part II.B.3)

SUMMARY:

Public notification was reported as being the responsibility of various permanent bodies (Kyrgyzstan excepted): the Espoo point of contact (Finland, United Kingdom), the provincial or local government (Austria, Croatia, France, Hungary, Kyrgyzstan, Poland), the environment minister (Bulgaria, Czech Republic, Hungary, Norway, Slovakia) or agency (Canada, Sweden), the Minister of Foreign Affairs (Canada), the competent authority (Canada, Germany, Switzerland), the Party of origin (Netherlands) or the project proponent (Italy, Kyrgyzstan).

Various means were reported for publicizing the notification, including the Internet (8 respondents), public notice boards (Czech Republic, Hungary, Poland, Slovakia, Sweden), local or national newspapers (13 respondents), the official gazette (Croatia, Switzerland), radio (Czech Republic, Poland, Slovakia) or by direct contact with NGOs (Finland) or other stakeholders (Norway, Poland).

Respondents reported few difficulties. Bulgaria reported complaints about the limited distribution of the notification. Hungary commented on the difficulty of maintaining public interest in the lengthy Espoo procedure.

II.B.3.1 Organization of the public notification

(a) Which body is responsible for notifying the affected public?

Austria. The *Land* (provincial) government is responsible.

Belgium (Flanders). Article 3.8 states that it is the responsibility of the concerned Parties to ensure that the public of the affected Party in the areas likely to be affected be informed. It is a joint responsibility of Party of origin and affected Party. This has been reflected in the bilateral agreement between Flanders and the Netherlands. In principle, it is the responsibility of the Party of origin to inform the affected public. The point of contact in the affected Party can be of assistance.

Belgium (Nuclear). The Federal Agency for Nuclear Control is responsible, in cooperation with the local authorities.

Bulgaria. In the case of a notification of a potential impact on the environment in Bulgaria resulting from a proposed activity on the territory of another State, the Minister of Environment and Water shall notify the affected public.

Canada. Arrangements for public notification would be discussed on a case-by-case basis in consultation with the point of contact of the affected country, or other responsible government officials as appropriate. For Canada, the federal departments/agencies involved in such discussions would include, as required, the Department of Foreign Affairs and International Trade (for the Minister of Foreign Affairs), the Canadian Environmental Assessment Agency (for the

Minister of the Environment), and the Responsible Authority under the Canadian Environmental Assessment Act.

Croatia. A county's administrative body in charge of environmental issues is responsible.

Czech Republic, Norway. The ministry of environment is responsible.

Denmark. In principle it is the responsibility of the Party of origin to inform the affected public. It is important, however, that this is done in cooperation with the affected Party.

Finland. The point of contact is responsible. It has, in some cases, delegated the practical arrangements to regional environment centres.

France. The prefect of the county or counties concerned is responsible:

> "The prefect refers to the president of the administrative court in the jurisdiction of which the project is likely to have the most notable impact, for the purpose of designating an investigating commissioner or a board of inquiry, and addresses to him, for this purpose, a request specifying the object of the investigation as well as the period of investigation required. The president of the administrative court or the member of the court delegated by him/her for this purpose appoints within fifteen day an investigating commissioner or an odd number of members of a board of inquiry among which he/she chooses a president. One or several substitutes can be designated according to the conditions set out in part III of the present decree; they replace the appointees in the event of their non-availability and then exert their functions until the termination of the procedure." (Decree of 12 October 1977, as amended)

Germany. See II.B.1.1 (a). With regard to article 9b, paragraph 2, of the German EIA Act, this is an obligation of the competent authority in Germany.

Hungary. The Ministry is the responsible body, but it might use the help of the municipalities directly or indirectly through the Environmental Inspectorates (art. 27, para. 1 (b)).

Italy. According to national EIA legislation, the proponent is in charge of notifying the affected (Italian) public. Since in all cases so far the proponent is a joint company (Italian plus the other Party involved in a cross-border project), the joint company has been also entrusted with notifying the Italian public in accordance with Italian law.

Kyrgyzstan. The project proponent, together with local government bodies, is responsible.

Netherlands. Article 3 (8) states that it is the responsibility of the concerned Parties to ensure that the public of the affected Party in the areas likely to be affected be informed. It is thus a joint responsibility of the Party of origin and affected Party. In the bilateral agreements the Netherlands has tried to develop and clarify this. In principle it is the responsibility of the Party of origin to inform the affected people. The point of contact in the affected Party can be of assistance.

Poland. According to the Environmental Protection Law of 27 April 2001, the relevant *Voivode* in the area affected by the possible transboundary environmental impact is responsible for notifying the affected public.

Slovakia. The Ministry of the Environment, via the affected municipality, is responsible.

Sweden. The Swedish Environmental Protection Agency is responsible (see I.A.1.3).

Switzerland. See II.A.3.3 (a). Switzerland lacks recent experience. However, it would seek to notify the public of the affected Party at the same time as the Swiss public: upon submission of the project documentation by the proponent, the competent authority would start the procedure and communicate where the project documentation is accessible to the public. Ideally, the relevant authority in the affected Party would do so at the same time, in consultation with the Swiss competent authority.

United Kingdom. The EIA branch within the Office of the Deputy Prime Minister would be responsible for making the necessary arrangements to ensure members of the public likely to be affected are given the opportunity to comment.

Armenia, Estonia, Latvia, Lithuania, Republic of Moldova. No experience or no response.

(b) Is the body referred to in subparagraph (a) permanent?

Austria, Belgium (Nuclear), Bulgaria, Canada, Croatia, Czech Republic, Denmark, Finland, France, Germany, Hungary, Netherlands, Norway, Poland, Slovakia, Sweden, Switzerland, United Kingdom. Yes, the responsible body is permanent.

Belgium (Flanders), Kyrgyzstan. No, the responsible body is not permanent.

Armenia, Estonia, Italy, Latvia, Lithuania, Republic of Moldova. No experience or no response.

Describe how the notification of the public is organized.

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Sweden. See II.A.3.1 (b).

Belgium. The local authority is responsible, in principle, for notifying the public in the Party of origin and affected Party

Bulgaria. The Minister of Environment and Water receives the notification from the Party of origin and prepares the notification of the affected public in the country.

Czech Republic. The notification is published by the Ministry of Environment on the Internet, on public notice boards and in a third way (local newspapers, radio....).

France. A decree is published, defining how the public inquiry is to be organized.

Italy. An advice, providing general information on the proposed activity and indicating where and for how long the relevant documentation is available, as well as the practicalities regarding public participation, is published in both a national and a local newspaper.

Kyrgyzstan. Notification of the public is done through mass media and local bodies of the State administration.

Switzerland. The notification of the public in the affected Party would be organized by the relevant body in the affected Party, in consultation with the competent authority in Switzerland, and ideally at the same time as in Switzerland.

Armenia, Austria, Canada, Croatia, Denmark, Estonia, Finland, Hungary, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, United Kingdom. No experience or no response.

(c) What means are used to notify the public, e.g. media?

Sweden. See II.A.3.1 (c).

Austria. The documents are available for public inspection at the authority and in the municipality for at least six weeks. Basic information about the project and where to find the documents is published in the national newspaper *Wiener Zeitung* and in two daily newspapers widely available in the affected *Land*. Furthermore this information and the project documents are usually available on the Internet.

Belgium (Flanders). Means used include public advertisements, announcements in the relevant newspapers, billposting and the Internet.

Belgium (Nuclear). The public is notified by a public letter at the town hall and sometimes by a public announcement in relevant newspapers. The EIA documentation is open to public review at the town hall.

Bulgaria. The public is notified by media (newspaper) or via the Internet.

Canada. The means for notification would be determined in consultation with the point of contact of the affected Party, or other responsible government officials as appropriate.

Croatia. The daily press and the official gazette are used.

Czech Republic. The notification is published by the Ministry of Environment on the Internet, on public notice boards and in a third way (local newspapers, radio....).

Denmark. Public announcements are made in the relevant newspapers by other means (local radio and television).

Finland. A request for comments is sent to NGOs.

France. Publication is in two local newspapers and, if the project relates to operations likely to affect the whole of the country, in two national newspapers.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). Normally means like newspapers, the Internet and official announcements of the competent authority are used for notification of the public.

Hungary. The means are identical with those that were described earlier in connection with article 7 of the EIA Decree (publication in the municipality building or in public places and other locally-used means of publication).

Italy. Newspapers are used.

Kyrgyzstan. Mass media are used.

Netherlands. Public announcements in the relevant newspapers are used.

Norway. Same as for national development cases: circulation to relevant actors.

Poland. According to the Environmental Protection Law of 27 April 2001, the relevant *Voivode* notifies the public of the proposed activity by providing the information in a customary manner at its office and via the Internet (if the *Voivode* has access to it). Moreover, some parts of the EIA documentation are placed in a publicly accessible record within 21 days. In practice, and in addition, the various media (radio, press) and correspondence with the authorities at the local level (*Starosts*, Heads of *gmina*) are used.

Slovakia. The public is notified via the media (press, radio, television, Internet), notice boards, etc.

Switzerland. Switzerland lacks recent experience, but information would be made available through newspapers/official journals, and possibly the Internet.

United Kingdom. The matter would be advertised in local and national newspapers and possibly on the Department's website. The nature of the proposal might have an influence on the media used e.g. advertising additionally in specialist journals and newspapers.

Armenia, Estonia, Latvia, Lithuania, Republic of Moldova. No experience or no response.

(d) Describe any problems you have experienced organizing the public notification

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders). Timing has been a problem.

Bulgaria. There are some complaints about the limited distribution of the notification.

Denmark. There have been no problems as such, but it is very time-consuming work involving several authorities.

France. No public notification has been made within this context, but it is based on a procedure that is implemented approximately 12,000 times a year for French domestic projects. The specific regulatory texts for projects in the territory of another country can satisfactorily adopt the rules applied to French projects.

Hungary. An Espoo procedure can take a very long time. In such case it is difficult to keep public interest alive. So the difficulty is to decide when and how intensively the information should be provided.

Kyrgyzstan. No precise procedure, but the Ministry is working with an NGO to develop a procedure.

Armenia, Austria, Canada, Croatia, Czech Republic, Estonia, Finland, Italy, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No problems, no experience or no response.

PREPARATION OF THE EIA DOCUMENTATION (PART III)

QUESTIONS TO THE PARTY IN THE ROLE OF 'PARTY OF ORIGIN' (PART III.A)

Describe the legal, administrative and other measures taken in your country as the Party of origin to implement the provisions of the Convention on the preparation of the EIA documentation referred to in this section.

EIA Documentation (Art. 4, para. 1, and App. II) (Part III.A.1)

SUMMARY:

Regarding the level at which the Party of origin consulted the affected Party in order to exchange information for the EIA documentation, respondents recorded that it was the responsibility of the EIA consultants or project proponent (France, Sweden) or of the environment ministry or competent authority (Poland), or that it was done through the point of contact in the affected Party (Canada, Croatia, Czech Republic, Finland, Hungary, United Kingdom).

Most respondents indicated that they provided all of the EIA documentation to the affected Party. Bulgaria and Canada indicated that they did so subject to confidentiality constraints, whereas Finland sought the advice of the affected Party. France noted that it also sent non-EIA project information.

Respondents described various means of identifying "reasonable alternatives" (App. II, subpara. (b)), with some confusion as to whether the question asked for a definition of "reasonable alternatives", a process for identifying potential "reasonable alternatives" or a process for determining which candidate alternatives were "reasonable". Taking the second of these interpretations, Estonia reported that EIA experts identified alternatives in consultation with the authorities, Finland relied on its EIA Act, whereas in Sweden the developer had to define alternative sites and designs.

"The environment" likely to be affected was identified by the Parties in different ways: according to the definition in the Convention (Armenia, Netherlands); by the EIA experts or project proponent (Croatia, Estonia, France, Switzerland, United Kingdom); in cooperation with the affected Party (Austria); and according to environmental legislation (Finland, Hungary, Italy, Kyrgyzstan, Sweden).

With regard to difficulties experienced in compiling the information described in Article 4, paragraph 1, and Appendix II, Croatia noted a lack of criteria, whereas Bulgaria reported a lack of information on the proposed activity or its potential transboundary impact.

III.A.1.1 Content and presentation of the EIA documentation

(a) At what level do you consult other concerned Parties in order to exchange information about the affected environment in the affected Party for the preparation of the EIA documentation?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders, Nuclear). In general, the authors of the EIA documentation (consultants) undertake investigations and research into the affected environment.

Canada. The determination of the levels to engage would be made on a case by case basis in consultation with the point of contact of the affected Party, or other responsible government officials as appropriate.

Croatia. Consultation is through a public hearing and a request to the point of contact.

Czech Republic. If the affected Party wishes to participate in the Czech EIA procedure, the Ministry of Environment sends them another letter with questions about the environment in the affected area. This information is given to the project proponent, who uses it for the documentation and expert opinion about the activity. Once this documentation is ready, the Ministry of Environment sends it to the affected Party for comments and to offer consultation.

Denmark. In general the authors of the EIA documentation undertake investigations into the affected environment and there are contacts on several levels.

France. France has never done so and considers with difficulty the value of doing so. Borders do not present an obstacle to the proponent's collection of information necessary for the evaluation of the environmental impacts of the project outside of the country's territory.

Hungary. Consultation is at the contact point level.

Italy. As specified above, in all cases in which Italy is involved, the proposed activities (tunnels, under-sea lines...) are of a cross-border nature and carried out in cooperation with the other country (joint companies). Therefore Italy is always Party of origin and affected Party at the same time and the application of the Convention is regulated by bilateral agreements. The proponent therefore prepares EIA documentation that covers the environmental effects in both Parties, including transboundary effects. This documentation is handed to the competent authorities. After that, the EIA procedures are carried out in each Party for the part of the project falling in its territory, in accordance with its national legislation. The bilateral agreements usually include exchange of EIA documentation and information on national procedures.

Netherlands. In general the authors of the EIA documents (consultants) undertake investigations of the affected environment.

Poland. Consultation is through the authority that carries out the EIA procedure and the Polish Minister of the Environment.

Republic of Moldova. Because of a lack of experience of projects and types of activity with transboundary effect, EIA documentation meeting the Convention's requirements has not been developed, and consultations of other interested Parties on information interchange accordingly had not been carried out. For national projects and types of activity, both procedures and terms of representation of the EIA documentation are specified in the EIA Regulation: Chapter II ("basic requirements for the structure of the EIA documentation"), Chapter III ("basic requirements for the maintenance of the environmental permit application (ZVOS)"), Chapter IV ("order of development and representation of the EIA documentation"). For national activities the basic requirements for EIA documentation are presented in III.B.1.1 (a).

Slovakia. Slovakia consults with the authority identified in the bilateral agreement.

Sweden. The developer is responsible for the preparation of the EIA document.

Switzerland. Lack of recent experience, but ideally at the scoping stage

United Kingdom. The United Kingdom would initially consult a Party's official point of contact. Where this is not the same person, it would also try to copy to its normal Espoo colleagues. Thereafter, contact would depend on the response from the affected Party and their advice about the most appropriate person to deal expeditiously with the matter.

Armenia, Austria, Bulgaria, Estonia, Finland, Kyrgyzstan, Latvia, Lithuania, Norway. No experience or no response.

(b) Do you give the affected Party all of the EIA documentation?

Austria, Belgium (Nuclear), Croatia, Czech Republic, Denmark, Estonia, Germany, Hungary, Italy, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Switzerland, United Kingdom. Yes, all the EIA documentation is given to the affected Party.

Belgium (Flanders), Bulgaria, Finland, France, Kyrgyzstan. No, not all the EIA documentation is given to the affected Party.

Canada. Yes, subject to any personal privacy or access to information requirements, Canada would generally provide all of the EIA documentation.

Sweden. Yes, Sweden gives the affected Party all relevant information.

Armenia, Latvia, Lithuania. No experience or no response.

If not, which parts of the documentation do you provide?

Belgium (Flanders). In principle the answer is yes, but in certain cases the proponent may ask for secrecy of certain parts of the EIA documentation.

Bulgaria. All parts of the documentation that do not contain classified information.

Finland. It is agreed upon at a meeting with the affected Party before notification

France. France sends not only information on the environment but also the complete project dossier (project description, EIA…).

Germany. See II.A.1.1 (a) and II.A.1.2 (a). The affected Party will receive the whole EIA documentation.

Armenia, Austria, Canada, Croatia, Czech Republic, Denmark, Estonia, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No experience or no response.

(c) How do you identify "reasonable alternatives" in accordance to Appendix II, subparagraph (b)?

Canada. See I.A.1.1 (a).

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Armenia. Reasonable alternatives are understood to mean real means for the achievement of the ultimate goal of the planned activity, distinct from the basic concept and based on the consideration of the given region and variations of the planned activity in terms of 'no project' and technological, landscape, social and economic changes.

Belgium (Flanders, Nuclear), Netherlands. Reasonable alternatives are alternatives that are suitable to reach the purpose set by the proponent. Reasonable alternatives are also alternatives that reduce the environmental impact and fall within the competence of the proponent

Bulgaria. "Reasonable alternatives" are the alternatives that provide for the development of an activity with minimum adverse impacts.

Croatia. This is up to the project proponent or at the request of the reviewing body.

Czech Republic. The competent authority can propose the preparation of variant approaches for the plan in the documentation, which generally differ in the location, capacity, technology employed or moment of implementation, if the implementation thereof is demonstrably useful and technically feasible. It shall be permitted only exceptionally, and with adequate justification, to propose the preparation of a variant of the design of the plan that is different from the approved land-use planning documentation.

Estonia. The EIA experts in consultation with the public and relevant authorities identify the reasonable alternatives.

Finland. Alternatives are identified on the basis of the national EIA Act.

France. Reasonable alternatives are defined in accordance with European Community legislation, as "the reasons why, notably from the point of view of environmental concerns, the presented project was adopted from among the options considered and subject to description," (Decree of 12 October 1977, as amended).

Hungary. Although article 6, paragraphs 1 and 2 (the content of the preliminary EIA documentation), and article 9, point (a) (the content of the scoping decision of the inspectorate), suggest that alternatives in the EIA documentation are desirable, there is no mandatory requirement in the Hungarian environmental law that would make the inclusion of alternatives in the EIA documentation mandatory.

Italy. The EU Directive on EIA (85/337/EEC, as amended by 97/11/EC) states that the documentation provided by the proponent should include "an outline of the main alternatives studied by the developer and an indication of the main reasons for this choice, taking into account the environmental effects". The Italian law does not establish specific rules on this: the competent authority asks the project proponent to explain the reasons on which the choice of the proposed alternative is based. A recent law on simplification of administrative procedures (Law 340/2000, article 10) foresees the possibility for the proponent to consult, at a preliminary stage and before elaborating the final version of the project, a joint meeting of all public authorities involved in the subsequent procedure ("conference of services"), in order to get an understanding of all the conditions and steps needed to obtain the authorization on the definitive project: at this stage the competent authority makes a preliminary evaluation of the preliminary project, which includes the possible alternatives, including the "zero" alternative.

Kyrgyzstan. The existing EIA regulations require consideration of alternative variants of location and technology and include the "zero" alternative.

Norway. Identification of reasonable alternatives involves the affected authorities, having a public inspection, and the control of the study programme by the Ministry of Environment.

Republic of Moldova. The expression "reasonable alternatives" is understood to mean a choice of alternative variants that provide the most effective means of reducing negative environmental impacts, using the concept of the "best available techniques".

Slovakia. Alternatives are always identified in the notification submitted by the proponent, in accordance with national legislation.

Sweden. According to the legislation, it is mandatory for the developer to give a description of possible alternative sites and alternative designs, together with a statement of the reason why a specific alternative was chosen (Environmental Code, Chapter 6, Section 7).

Switzerland. Multiple stage EIAs focus in their first stage on various alternatives; later stage EIAs tend to focus on one option.

United Kingdom. The United Kingdom EIA procedure requires information to be provided only about alternatives that the proponent may actually have studied. It does not require a study of alternatives simply for the sake of it. Where it is reasonable to consider locational studies – e.g. for waste disposal installations, motorways or airports or major storage facilities etc – the United Kingdom would expect them to be addressed in the environmental information. But alternative locations are not always open to developers. Similarly, if an applicant has considered alternative technologies – e.g. one form of waste disposal in preference to another – then again the United Kingdom would expect to see this reflected and summarized in the EIA documentation.

Austria, Denmark, Latvia, Lithuania, Poland. No experience or no response.

(d) How do you identify "the environment" that is "likely to be affected by the proposed activity and its alternatives" in accordance to Appendix II subparagraph (c), and the definition in Article 1, subparagraph (vii)?

Canada. See I.A.1.1 (a).

Czech Republic. See previous responses.

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Armenia, Belgium (Flanders, Nuclear), Netherlands. The "environment" is interpreted to include the elements listed in the definition in Article 1, paragraph (vii).

Austria. See I.A.2.1; it is identified in cooperation with the affected Party by expertise.

Bulgaria. The "environment" that is likely to be affected by the proposed activity and its alternatives should be identified on the basis of the characteristics of the proposed construction, activities and technologies, such as: size, productivity, scope, inter-relation and integration with other proposals, use of natural resources, waste generation, environmental pollution and violations, as well as risk of accidents and on the base of the locality, including sensitivity of the environment and existing land use.

Croatia. This is stipulated in the obligatory scoping and depends on the knowledge of the experts.

Estonia. This is the task of the EIA experts.

Finland. See III.A.1.1 (b): the assessment programme (scoping document) and the assessment report (review). For the purposes of this Act:

1) Environmental impact means the direct and indirect effects inside and outside Finnish territory of a project or operations on

a) human health, living conditions and amenity;
b) soil, water, air, climate, organisms and biological diversity;
c) the community structure, buildings, landscape, townscape and cultural heritage; and
d) the utilization of natural resources; plus
e) interaction between the factors referred to in sub-subparagraphs a-d.

France. The project EIA defines the environment likely to be affected. The definition of the study area is one important step in the EIA methodology. There are no general rules, apart from the objective that the study area should allow analysis of all significant environmental impacts. As for the environmental components that should be taken into account: "fauna and flora, sites and landscapes, soil, water, air, climate, natural environments and biological balances, protection of cultural features and heritage and, if the case arises, enjoyment of the vicinity (noise, vibration, odour, light) or hygiene, health, safety and public cleanliness."

Hungary. Appendix 2 of the EIA Decree on "Rules of determination of the affected territory" gives a detailed description of the identification of the likely affected environment. The full affected territory is the sum of the territory of the direct effects and of the territory of the indirect effects. This territory is larger in the preliminary phase and narrows down as the process of EIA goes forward. The text of the Appendix makes it clear that the affected territory might differ according to the environmental element (e.g. air, water, soil).

Italy. EU law requires that the developer should provide "a description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors." Italian law (Decree of the Prime Minister number 377/88) foresees that the competent authority ("inquiry" phase) review the documentation provided in order to verify, among other things, that the environmental description is correct.

Kyrgyzstan. The term "environment" is defined in the basic law on environmental protection. It defines the environment as a place inhabited by people, a biosphere serving human life and other organisms, including nature, and as a collection of natural ecological systems that are part of a habitat that may be transformed as a result of human activity.

Norway. It is very broadly defined, including all these aspects.

Republic of Moldova. The "environment" was taken to include air, water, land, flora and fauna, and material objects that will be exposed to an influence as a result of the carrying out of a planned activity. For the chosen option among alternative variants of the planned activity, these influences should be shown to be at a minimum.

Slovakia. Slovakia identifies it from the advance notification.

Sweden. The content of the EIA is stated in the Environmental Code, Chapter 6:

> Section 3 (1) The purpose of an environmental impact assessment is to establish and describe the direct and indirect impact of a planned activity or measure on people, animals, plants, land, water, air, the climate, the landscape and the cultural environment, on the management of land, water and the physical environment in general, and on other management of materials, raw materials and energy. Another purpose is to enable an overall assessment to be made of this impact on human health and the environment.
>
> Section 7 (1) An environmental impact assessment relating to an activity or measure that is likely to have a significant environmental impact shall contain the information that is needed for the purpose referred to in section 3, including:
>
> 1. a description of the activity or measure with details of its location, design and scope;
> 2. a description of the measures being planned with a view to avoiding, mitigating or remedying adverse effects, for example action to prevent the activity or measure leading to an infringement of an environmental quality standard referred to in chapter 5;
> 3. the information that is needed to establish and assess the main impact on human health, the environment and management of land, water and other resources that the activity or measure is likely to have;
> 4. a description of possible alternative sites and alternative designs, together with a statement of the reasons why a specific alternative was chosen and a description of the consequences if the activity or measure is not implemented; and
> 5. a non-technical summary of the information specified in points 1-4.

Switzerland. As a first step, Switzerland would primarily rely on the scoping process. As a second step, the EIA documentation would have to more closely focus on the environment likely to be affected. The scoping report and EIA documentation are drafted not by government bodies but by the proponent who would usually hire a consultant to do so. The drafting of both is done in line with the legal requirements and the guidelines issued by federal and cantonal authorities.

United Kingdom. The "environment" likely to be affected is listed in Article 1(vii) (definition of impacts) as "including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors". Identification in the "field" of how any of these aspects of the environment could be affected by a proposed activity would be established in studies initiated by the proponent.

Denmark, Latvia, Lithuania, Poland. No experience or no response.

(e) Describe any difficulties you have experienced in compiling the information described in Article 4, paragraph 1, and Appendix II?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders). The content requirements in Article 4, paragraph 1, and Appendix II are also included in the EIA legislation and do not cause extra difficulties in principle.

Belgium (Nuclear). The content requirements are included in the Royal Decree of 20 July 2001 and in Recommendation 1999/829, and do not cause extra difficulties.

Bulgaria. The difficulties are in relation to insufficient information about the proposed activity and potential environmental impact. In some cases, the proposed activity is described only in general terms and the potential impact is defined in detail for all aspects.

Croatia. A lack of criteria has made it difficult to compile the information.

Denmark. There would be no difficulties in compiling the information described in Article 4 (1) and Appendix II.

France. There have been no particular difficulties in the analysis of transboundary impacts: the methods and means are the same as for impacts on the country's own territory.

Netherlands. The content requirements in Article 4, paragraph 1, and Appendix II are also included in the EIA legislation in the Netherlands and do not cause extra difficulties.

Sweden. See III.A.1.1 (d) for Appendix II, items (a) to (e) and (i). In its General Guidelines, the Swedish Environmental Protection Agency has given further advice on the content of EIA that cover items (f) to (h) of Appendix II.

Switzerland. After 18 years of EIA in Switzerland, the drafting of the scoping report and the EIA report has become a standard process, with the requirements well known.

Armenia, Austria, Canada, Czech Republic, Estonia, Finland, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia, United Kingdom. No difficulties, no experience or no response.

Comments on the EIA Documentation by the affected Party (Art. 4, para. 2) (Part III.A.2)

SUMMARY:

Several respondents reported the transfer and reception of comments as being organized between the Espoo points of contact (Bulgaria, Canada, Croatia, Czech Republic, Finland). Other respondents indicated that comments were sent, either directly or via the point of contact, to the competent authority (France, Germany, Hungary, Netherlands, Switzerland) and integrated into the EIA documentation (Estonia). In Kyrgyzstan the comments are sent to the Environment Ministry, either directly or via the project proponent. The United Kingdom noted that it would have accepted comments directly from the public and authorities in an affected Party. Indeed, several Parties indicated a preference for comments being sent directly to the competent authority rather than via the point of contact (France, Germany, Netherlands, Switzerland). Only in Armenia was the recipient of comments not a permanent body.

The requirement to send comments "within a reasonable time before the final decision" was reported by the respondents as being interpreted as agreed by the points of contact (Croatia), according to the domestic EIA regulations (Bulgaria, Czech Republic, Estonia, Finland, Germany, Hungary, Kyrgyzstan, Netherlands, Norway, United Kingdom), corresponding to the period for domestic consultation (Canada, France, Switzerland) or according to bilateral agreements and the laws of the concerned Parties (Italy, Slovakia). The United Kingdom reported additional flexibility for transboundary EIAs. Several respondents noted that the specified time frame was sometimes or often exceeded (Croatia, Finland, Netherlands).

Respondents generally indicated late comments were sometimes taken into account (Croatia, Czech Republic, Germany, Hungary, Netherlands, United Kingdom), though some indicated that the deadline for comments would expire (Kyrgyzstan, Switzerland). France, Hungary Italy and the United Kingdom indicated that an extension was sometimes allowed. Moreover, if an affected Party made a reasonable request for an extension, all respondents indicated that they responded positively, if possible.

The comments received from an affected Party were used in different ways: either the EIA documentation was amended to take them into account, either by the Environment Ministry (Czech

Republic) or by the project proponent (Estonia); or, more commonly, the comments were taken into account in the decision-making process (Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Netherlands, Norway, Slovakia, Switzerland, United Kingdom).

III.A.2.1 Frequency and nature of comments from the affected Party?

(a) How is the transfer and reception of the comments organized?

Belgium (Flanders). Usually the comments on the EIA documentation are sent directly to the competent authority as this happens as part of the permit application procedure.

Belgium (Nuclear). Idem. The competent authority is the Federal Agency for Nuclear Control.

Bulgaria. The transfer and reception of comments on the EIA documentation are done between the relevant Environment Ministries (points of contact) from the concerned Parties.

Canada. The determination of the transfer and reception of the information would be made on a case-by-case basis in consultation with the point of contact of the affected Parties, or other responsible government officials as appropriate.

Croatia, Finland. It is organized between the points of contact.

Czech Republic. It is usually the environment ministry in the affected Party that collects comments from the public in the affected Party and sends them to the Ministry of Environment in the Czech Republic. The contact point in the affected Party is generally the Espoo point of contact, but that individual sometimes instructs the Czech Republic to use of a different contact, for example in a German *Land*.

Denmark. Usually the comments on the EIA documentation are sent directly to the competent authority

Estonia. The Finnish Ministry of Environment sent comments from the relevant Finnish authorities on EIA documentation. During the public hearing, these comments were introduced to the public. In addition, the EIA documentation was amended according to these comments.

France. France has not had any experience, but were the question to arise, comments would be transmitted to the authority that sent the dossier (generally the county prefect). The latter should then forward the comments to the departments that are particularly involved.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). The comments of the affected Party should be sent to the German authority competent for the EIA procedure.

Hungary. According to article 25, paragraph 5, the Ministry receives the response and comments of the affected Party and forwards them immediately to the inspectorates that then send them immediately to the project proponent for use in compiling the detailed EIA documentation.

Italy. See III.A.1.1 (a). Agreements undertaken between Italy and the other Party involved include aspects related to transfer and reception of comments. Representatives of the two countries (contact points) usually meet before taking the final decision in order to exchange the results of respective EIAs and the comments received on the whole project (which is in common, since it is a cross-border activity).

Netherlands. Usually the comments on the EIA documentation are sent directly to the competent authority.

Poland. Transfer and reception of the comments is organized by Minister of Environment or is regulated by draft agreements between Poland and the neighbouring countries.

Sweden. The Swedish Environmental Protection Agency. See I.A.1.3.

Switzerland. Comments by the public of the affected Party are sent to the competent authority in Switzerland.

United Kingdom. The United Kingdom would prefer a response from the affected Party to be co-ordinated through the appropriate point of contact in the affected Party, and sent to the point of contact in the United Kingdom. But of course if that does not happen, it will accept relevant comments made direct to it by individual members of the public or other interested bodies.

Armenia, Austria, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia. No experience or no response.

(b) Is there normally a contact point in your country through whom the comments can be transferred?

Armenia. There is no such contact point at present.

Belgium (Flanders). The EIA Unit is a point of contact but preferably the incoming comments are sent directly to the competent authority.

Belgium (Nuclear). The incoming comments are sent directly to the competent authority.

Bulgaria. Currently the contact point is Ms. Vania Grigorova, Director of Preventative activities, Ministry of Environment and Water.

Canada. The point of contact within Canada may vary depending on the circumstances at hand and based on arrangements between Canadian officials and officials of the affected Party. Generally, the point of contact for Canada could be one of the following: the Department of Foreign Affairs and International Trade (for the Minister of Foreign Affairs), the Canadian Environmental Assessment Agency (for the Minister of the Environment), and the Responsible Authority under the Canadian Environmental Assessment Act.

Croatia. Yes, it is the head of the EIA Department.

Czech Republic, Estonia, Finland, Lithuania, Poland, Sweden. Yes, there normally is a contact point through whom the comments can be transferred.

Denmark. There is a point of contact but the incoming comments can also be sent directly to the competent authority.

France. The points of contact are not always the most relevant location. The rule should be to return comments (which are indeed responses) to those who sent the documentation.

Germany. According to articles 8 and 9a of the German EIA Act, comments by the authorities and public of an affected Party shall be sent to the German licensing authority (see also II A 1.1 (a) and II A 1.2 (a)). Details of address etc. of the authority, to which comments should be sent, are included in the documents that the affected Party will receive. Any comments addressed by mistake to the point of contact (Federal Environmental Ministry) will be sent to the licensing authority.

Hungary. The contact point within the EIA Department of the Ministry of Environment and Water has the general responsibility. However, in certain cases, the competent authority can serve as contact point. If this is the case, the Ministry provides this information when answering the notification.

Italy. Yes, the EIA Directorate, Ministry of Environment.

Kyrgyzstan. There is no special coordination centre, but according to the legislation comments can be sent either directly to the body authorized for EIAs and state ecological examinations (i.e. the Ministry), or through the project proponent. It is the Ministry that will issue the final decision on the EIA.

Netherlands. There is a point of contact but preferably the incoming comments are sent directly to the competent authority.

Norway, Slovakia. The incoming comments are sent to the ministry of environment.

Switzerland. Comments should be directly sent to the competent authority granting the approval.

United Kingdom. Yes, this would be the EIA Branch of the Planning Directorate in the Office of the Deputy Prime Minister

Austria, Latvia, Republic of Moldova. No experience or no response.

(c) Is the body referred to in subparagraph (b) permanent?

Belgium (Nuclear), Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. Yes, the contact point is permanent.

Armenia, Belgium (Flanders). No, the contact point is not permanent.

Austria, Latvia. No experience or no response.

How is the transfer of the comments organized?

Switzerland. See III.A.2.1 (a).

Belgium (Flanders). The announcement (advertisement) regarding the public participation

and consultation indicates to whom the comments should be sent.

Sweden. The written comments are sent to the developer and to the permission-granting authority.

Armenia, Austria, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, United Kingdom. No experience or no response.

III.A.2.2 Time frame for comments from the affected Party on the EIA documentation (Art. 4, para. 2, "…within reasonable time before the final decision…")

(a) Describe the procedures and, where appropriate, the legislation you would apply to determine the time frame provided for in the words "within a reasonable time before the final decision".

Belgium (Flanders). The time frame for comments depends on the specific legislation to be applied. "Within a reasonable time before the final decision" is interpreted so that in any case the comments from must be able to influence the decision.

Belgium (Nuclear). The timeframe for comments is legally defined, being at least a couple of months before the final decision.

Bulgaria. According to the EPA, article 96, the project proponent shall submit the EIA documentation to the competent authority for quality evaluation. The competent authority shall evaluate the content of the EIA documentation, conforming to the consultations and the satisfaction of the requirements of the legislative framework regulating the environment within fourteen days after submission of the report. After receiving an appropriate evaluation of the report, the developer shall organize, jointly with the municipalities concerned as specified by the competent authority, a public hearing on the EIA documentation. The comments of the affected public should be provided at the public hearing or not later than 7 days after the meeting (according to article 97, paragraph 5, EPA).

Canada. As noted in response to question III.A.1.1 (a), the Canadian Environmental Assessment Act (CEAA) provides several opportunities for public participation in environmental assessments. CEAA has been structured so as to ensure that such participation takes place well in advance of any final decision about a proposed project. These opportunities for public participation are not limited only to Canadians, but extend as well to the public and authorities of affected Parties.

Croatia. It is agreed by both points of contact.

Czech Republic. The Czech Republic's legislation provides for a total of sixty days for the affected Party to express its opinion (Act 100/2001 Coll., art. 13, para. 3, art. 8, para. 3, and art. 12, para. 1).

Denmark. The time frame for comments depends on the specific legislation involved. The time frame will normally be the same as for domestic comments.

Estonia. The Party of origin sends the EIA documentation to the affected Party and determines the time frame for providing comments from the affected Party according to the EIA Act. The time frame also depends on the time schedule of the project.

Finland. The comments are submitted during the EIA procedure (EIA Decree, section 14): opinions and statements shall be lodged with the coordinating authority within the period stated in the announcement, which shall begin on the date of publication of the announcement and last at least 30 and at most 60 days. The final decision is given later in a separate procedure according to sectoral laws, e.g. the Act on Environmental Protection.

France. France arranged this consultation to occur at the same time as French authorities and public were consulted.

Germany. See II.A.1.1 (a) and II.A1.2 (a). The determination of the time frame depends on the national legislation for the licensing procedure. It varies between six weeks and two months.

Hungary. The starting date for distribution of the detailed EIA documentation to the public of the affected Party depends on internal and international procedural steps. Internally, similarly to the request and the preliminary environmental assessment, the environmental authority and the consulting authorities examine the detailed EIA, whether or not it is complete. Again, in the majority of the cases, some additional information is requested from the project proponent (art. 27 of the Code of General Administrative Rules). Also, there is a need to consider whether it is necessary to dismiss the project proposal (art. 26, para. 1). On the

international side, according to article 26, paragraph 1, the proponent shall translate the international chapter and the non-technical summary of the EIA documentation, within the time specified by the inspectorate on a case-by-case basis, taking into account the volume of the documentation and the urgency of the case. Then the inspectorate sends the detailed EIA documentation and the translations to the Ministry that forwards them to the affected Party. Naturally, there are further procedural steps on the side of the affected Party, according to its national rules. Hungary's general approach is not to exceed the deadline when making a decision on an environmental permit, which allows approximately 120 days for the procedure.

Italy. The time frame is determined, usually through bilateral agreements, taking into account the national EIA procedures, and in particular the time limits for taking the final decision required by respective national laws.

Kyrgyzstan. The legislation establishes a time frame for carrying out the state ecological examination of between 3 days and 3 months.

Netherlands. The time frame for comments depends on the specific legislation to be applied (at least four weeks). "Within a reasonable time before the final decision" is interpreted so that in any case the comments from must be able to influence the decision.

Norway. This comes under the same time-frame regulation that applies for all EIA cases, i.e. section 15 of the Norwegian EIA regulations.

Slovakia. The time frame is determined by national legislation and bilateral agreements.

Switzerland. The public of the affected Party shall be able to voice comments at the same time and within the same time frame as the public of the Party of origin.

United Kingdom. A provision relating to activities and development likely to have significant effects on another European Economic Area State or Country is included within all United Kingdom EIA legislation. These may not prescribe timescales for comments to be received and they do not define what is "reasonable". The minimum period of time for comment is that allowed to residents of the United Kingdom under the relevant legislation that would apply to a similar activity with no transboundary effects. The United Kingdom recognizes, however, that there is a need for greater flexibility in cases involving transboundary considerations. In the main, therefore, these cases are reserved for determination by the relevant Secretary of State. Timescales can be varied to suit individual cases and circumstances, subject to the need to comply with good administrative practice. In some cases involving minerals dredging in the United Kingdom section of the English Channel, it has allowed a period of ten weeks for initial comments. Often this has been extended and the process of decision-making is typically many months longer than this.

Armenia, Austria, Latvia, Lithuania, Poland, Republic of Moldova, Sweden. No experience or no response.

(b) What has been your experience of receiving comments from the affected Party/Parties within the time frame?

Estonia. See III.A.2.1 (a).

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders). The experiences vary. In most cases, the comments are received in time. Sometimes there is delay. When it concerns major developments with a high political profile, institutional flexibility is being applied.

Belgium (Nuclear). In most cases, the comments are received in time.

Croatia. The time frame is regularly exceeded.

Denmark. It varies as to whether comments are received within the time frame.

Finland. It is difficult to get comments within the time frame.

France. France's experience is limited to only one project, notified to the United Kingdom. The dossier was sent via the French Ministry of Foreign Affairs and the British Embassy in France. Despite the delays thus caused, the affected Party's response was sent to France within the time allowed by the relevant procedure, which does allow sufficiently long periods. Moreover, France was not able to authorise these projects at the same time as it was contesting British projects.

Netherlands. Experience is variable. In most cases the comments are received in time, but sometimes there is a delay.

Switzerland. A lack of recent experience, but based on experience with other cases, previous to Espoo, no particular problems envisaged.

United Kingdom. Most initial responses have been received within the time frame and where an extension has been requested responses are submitted within that time frame. But the United Kingdom has also had to send reminders to get some replies.

Armenia, Austria, Bulgaria, Canada, Czech Republic, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia, Sweden. No experience or no response.

(c) What is the consequence if the affected Party does not comply with the time frame?

Belgium (Flanders), Netherlands. If the competent authority does not receive the comments in time they cannot be taken into consideration in the decision making process.

Belgium (Nuclear). The advice will be considered as being positive.

Croatia. No consequences, though it could be considered as indicating agreement with the project.

Czech Republic. The Czech Republic tries to take late comments into account.

Denmark. If the competent authority does not receive the comments in time they cannot be taken into consideration in the decision making process.

France. If the situation arose, and the delays were justified, France would wait.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). The competent authority has to decide whether comments received after the deadline should be considered.

Hungary. Similarly to the earlier answer: the decision might be brought without consideration of the delayed comments, but if the comments arrive before the decision is actually taken, the inspectorate shall consider them. There are legal possibilities to suspend the process until the comments of the affected Party (and the results of consultation) arrive, but it depends on the mutual practice of the countries in question and on the circumstances of the case (for example, the affected Party sends a letter requesting an extension).

Italy. A reasonable extension could be allowed.

Kyrgyzstan. No account will be taken of late comments.

Switzerland. The deadline for public comments would expire.

United Kingdom. (i) They may delay the decision making process, (ii) They may miss the opportunity to influence the decision-making process, (iii) They may inadvertently withhold relevant information, (iv) The may fail to represent views of members of their public affected by the proposal, (v) They may add cost and delay if the process has to be re-opened post decision. So the United Kingdom would usually get in touch to ask if they still intend to comment. If so they will be offered a short extension to the deadline set. But the United Kingdom will not extend the timescale indefinitely so that delay becomes a tactic designed to prevent a decision being taken on a particular activity.

Armenia, Austria, Bulgaria, Canada, Estonia, Finland, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia, Sweden. No experience or no response.

(d) If an affected Party asks for an extension of a deadline, how do you react?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders), Denmark, Netherlands. If the decision-making procedure permits, an extension will be granted.

Belgium (Nuclear). An extension will be granted if a good reason is given.

Croatia, Norway. A request for an extension is agreed.

Czech Republic. If this is possible according to the law, the Czech Republic extends the deadline.

Estonia. If possible, Estonia extends the deadline.

Finland. It is possible to extend the deadline, within the time limits specified in the national EIA Act.

France. France would accept an extension if the delay were justified. It would not envisage moving ahead, unless no interest was expressed despite a reminder.

Hungary. See the last sentence of the previous response.

Italy. A reasonable extension could be allowed.

Kyrgyzstan. A decision is made on a case-by-case basis. If possible, an extension is allowed.

Slovakia. An extension would be agreed, if permitted by the time frame of the national legislation.

Switzerland. Competent authorities tend to treat requests by other authorities with great understanding. Extension of the deadline for comments by the authorities of the affected Party would hardly be a problem.

United Kingdom. Positively, whenever possible, subject to the need not to delay a decision on the application any longer than the process of good administration requires.

Armenia, Austria, Bulgaria, Canada, Latvia, Lithuania, Poland, Republic of Moldova, Sweden. No experience or no response.

III.A.2.3 The Party of origin's consideration of the comments

(a) How does the authority/body that is responsible for the EIA procedure in your country take the comments into account?

Sweden. See III.A.2.1 (c).

Belgium (Flanders). General (federal) administrative law and particular regional environmental legislation require explicit justifications of decisions, including taking into account of comments and recommendations submitted concerning the EIA documentation.

Belgium (Nuclear). Comments received can be incorporated into the final decision and can lead to specific conditions within the permit.

Croatia. Only the "environmental comments" are taken into account.

Czech Republic. The Ministry of Environment creates the final EIA statement taking into account the comments of the affected Party; if the comments are not accepted then the reasons for such a decision must be included in the statement.

Denmark. The comments will be taken into account and it would be indicated what consideration has been given to the comments and recommendations submitted concerning the EIA documentation.

Estonia. The comments are sent to the developers and to the EIA experts for them to take the comments into account and provide answers or amendments to the EIA documentation, as necessary.

Finland. Such comments are treated equally and in the same manner as the national comments:

> Section 12: The coordinating authority shall give its own statement on the assessment report and its adequacy. A summary of other statements and opinions shall be included in the statement. The assessment procedure shall be concluded when the coordinating authority hands over its statement and other statements and opinions to the developer. The statement shall likewise be supplied to authorities dealing with the project for their information.

France. France does not have any experience, but it would be required to justify the decision, taking account the comments.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). The comments will be assessed and taken into account in the final decision. If the comments have had no influence on the final decision, the decision will explain why.

Hungary. According to article 8, paragraph 3, the inspectorate takes into consideration the factual, professional and legal elements of the comments and analyses them in the written explanation of its decision. Article 8 of the Hungarian EIA Decree expressly refers to articles 24 to 26 on the relevant international (Espoo) rules.

Italy. According to the agreements undertaken, comments should be taken into account in the final decision.

Kyrgyzstan. Only the proven comments are taken into account.

Netherlands. Article 7.37 of the Environmental Management Act states that the statement of the grounds on which the decision is based shall in any event indicate: "... c. what consideration has been given to the comments and recommendations submitted concerning the environmental impact statement."

Norway. EIA regulations, section 10, number 1: the comments shall be treated the same way as other comments on the EIA documentation.

Slovakia. The authority makes a detailed analysis of the comments, taking valid comments into account.

Switzerland. The competent authority will take the comments into account, mention or refer to them in the decision and also explain its reasoning in dealing with them and how it took them into account.

United Kingdom. Legislation requires environmental information to be taken into account in the decision process. All relevant comments are taken into account together with the EIA documentation and other relevant environmental information that has been received or is available about the effect the activity may have on the environment. It is for the Competent Authority to decide how best to evaluate this information. If it does not have suitable in-house expertise it is able to commission external experts to evaluate it, or elements of it. In addition, the Competent Authority is required to consult with designated statutory bodies whose role is to ensure compliance with environmental standards and legislation. While it is not the function of these bodies to evaluate the EIA documentation, they do have specialist scientific and technical staff who will comment on specific aspects of the information. In dredging cases evaluation may be carried out by specialist government marine scientists. In others, the proposal may be subject to public inquiry where information provided will be available and may be tested in an "adversarial" system.

Armenia, Austria, Bulgaria, Canada, Latvia, Lithuania, Poland, Republic of Moldova. No experience or no response.

QUESTIONS TO THE PARTY IN THE ROLE OF 'AFFECTED PARTY' (PART III.B)

Describe the legal, administrative and other measures taken in your country as an affected Party to implement the provisions of the Convention on the preparation of the EIA documentation referred to in this section.

Character of the EIA Documentation (Art. 4, para. 1, and App. II) (Part III.B.1)

SUMMARY: The content of the EIA documentation was reported by some respondents as sometimes being inadequate (Austria, Hungary, Netherlands, Poland, United Kingdom), with the affected Party having to request additional information (Bulgaria, Croatia, Netherlands). Other Parties reported that the documentation was adequate (Czech Republic, France, Norway, Slovakia, Sweden).

III.B.1.1 Content of the EIA documentation

(a) What is your experience of the content and format of the EIA documentation? In particular, does the documentation provide adequate information on transboundary impacts for the purposes of enabling you to provide comments to the Party of origin?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Armenia. The content of the EIA documentation is not defined in legislation.

Austria. The EIA documentation is not always adequate. There have been cases where the documentation was delivered without any information about possible impacts on the environment of the affected Party.

Belgium (Flanders), Netherlands. It varies from case to case.

Bulgaria. In the single case Bulgaria has experienced, it asked for additional information in order to be able to make comments.

Croatia. If not, Croatia asks for the additional material.

Czech Republic. It happened just once and it went well.

Denmark. The EIA documentation normally provides adequate information. It has been necessary to ask for additional information, which the proponent (developer) then provided. Experience varies from case to case.

Finland. Appendix II is good as a table of contents and minimum basis for all cases, and the more detailed information needed is decided case by case. However, a separate chapter on transboundary impacts should be a practice in all documents, as it would help the affected Party to comment on the effects.

France. In France's experience, yes the documentation is adequate. That is undoubtedly a result of quality EIAs. EIAs in neighbouring States are of a similar quality to that required in France. That is a consequence of most of France's neighbours applying the same European Community rules, and the Swiss and Canadian (for Saint Pierre and Miquellon) provisions are of high quality.

Hungary. Evaluating the only relevant case, no the EIA documentation was not adequate.

Italy. As specified above, in all cases in which Italy is involved, the proposed activities (tunnels, under-sea lines...) are of a cross-border nature and carried out in common with the other country (joint companies). Therefore, Italy is always Party of origin and affected Party at the same time and the application of the convention is regulated by bilateral agreements. The bilateral agreements usually include provision for the exchange of information. They normally foresee that the proponent prepares EIA documentation that covers the environmental effects in both Parties, including transboundary effects. This documentation is handed to the competent authorities. Then each Party undertakes its EIA, i.e. related to the part of the project falling within its own territory, in accordance with its national legislation, and then makes it available to the other Party.

Norway, Slovakia, Sweden. Yes, the EIA documentation provides adequate information on transboundary impacts.

Poland. The EIA documentation sent by the Party of origin does not contain analyses of the influence of the planned investment on the environment of the affected Party. The documentation does not include material translated into language of the affected Party.

Republic of Moldova. For national projects and types of activity (without transboundary impacts), requirements for EIA documentation are set out in chapter II ("basic requirements for the structure of the EIA documentation"), in which are specified the contents in the EIA Regulation:

> 6. The EIA documentation should contain:
>
> 6.1. Definition, description and estimation of expected direct and indirect impacts of the planned projects and types of activity on: (a) Climatic conditions, atmospheric air, surface, soil and ground waters; land; underground; landscape, especially protected natural areas; vegetation and fauna; ecosystem functionality and stability; population; (b) Natural resources; (c) Cultural and historical monuments; (d) Environmental quality in urban and rural settlements; (e) Socio-economic conditions.
>
> 6.2. A comparison of the proposed alternatives and a justification of the chosen alternative.
>
> 6.3. Proposed actions or conditions that should exclude or reduce expected negative impacts (mitigation measures), or actions and conditions that would strengthen positive environmental impacts of a planned project and types of activity.
>
> 6.4. An estimation of the consequences in case the planned project and types of activity are not completed.
>
> 7. Impact of projects and types of activity should be assessed for the period of their development, completion and functioning, and also in case of decommissioning or the termination of their functioning, including the period after their decommissioning or the termination of functioning. In predicting the expected impact of projects and types of activity, all possible characteristics of the territory affected during the normal operation of the projects and during the construction of types of activity should be taken into account, as well as likely operating failures.
>
> 8. On the basis of the developed EIA documentation the proponent completes the environmental permit application (ZVOS) in which all materials are included and analysed, including all calculations and assessments carried out as a result of development of the EIA documentation.

Switzerland. A lack of recent experience, but recent discussion with the proponent or Party of origin of a major project in its early stages indicates a willingness to inform each other early and thoroughly.

United Kingdom. The United Kingdom's experience has been varied. It has experience of receiving three sets of EIA documentation from one Party. It considered one lacked detail and used prediction methods on levels and distribution of pollution that its technical experts considered were not the most appropriate model. It was able to comment though its concern about modelling methods was not taken-up by the Party of origin. The status of subsequent documentation from this Party of origin on different activities was very unclear. By contrast, information from another Party of origin was provided well in advance of any decision being taken about a proposed activity (it was at preliminary options stage) and was detailed and well presented. The only concern was that the time allowed for comment was extremely short – and had almost expired because of delays sending the documentation by post. But the United Kingdom had no problem agreeing an extension of time. Given that options were still being considered

and no decision had yet been taken on any specific option it could not say whether or not there would be a significant effect on the environment of the United Kingdom. The United Kingdom therefore asked to be kept informed of future development with this proposed initiative.

Canada, Estonia, Kyrgyzstan, Latvia, Lithuania. No experience or no response.

Comments on the EIA Documentation by the affected Party (Art. 4, para. 2) (Part III.B.2)

SUMMARY:

Respondents reported having made various comments on the EIA documentation sent to them, including regarding impact prediction methodology (Finland, United Kingdom), quantity and quality of the information (Austria, Poland), project description (Finland), consideration of alternatives (Bulgaria, Finland), potential transboundary impacts (Bulgaria, Hungary, Poland), adequacy of mitigation measures (Bulgaria, Finland, Hungary), and monitoring and post-project analysis (Bulgaria, Finland). France also reported commenting at a broader level, objecting to a category of projects being proposed.

Respondents reported the reception and transfer of comments to the Party of origin as being the responsibility of a permanent body: the point of contact (Austria, Croatia, Finland, France, Italy, Sweden, United Kingdom), the environment minister (Bulgaria, Czech Republic, Estonia, Hungary, Italy, Norway, Poland, Slovakia) or agency (Canada, Sweden), the minister of foreign affairs (Canada, France, United Kingdom), the competent authority (Canada, Germany, Kyrgyzstan) or local authorities (Kyrgyzstan). (Certain of these bodies may be equivalent in a Party.) In the Netherlands and Switzerland, the public sent comments directly to the Party of origin.

In determining a "reasonable time before the final decision" allowed for comments, affected Parties reported compliance with the Party of origin's legislation or requirements (Austria, Bulgaria, Czech Republic, France, Netherlands, Switzerland, United Kingdom) or bilateral agreements, whether formal or informal (Armenia, Bulgaria, Italy), or both bilateral agreements and the legislation of the concerned Parties (Slovakia). Others made reference to practical domestic requirements (Hungary, Poland). All nine respondents that had requested an extension of a deadline indicated that their request had been accepted.

Most respondents indicated that the Party of origin had taken into account their comments as affected Party (Austria, Croatia, Finland, France, Netherlands, Sweden). The Netherlands noted, however, that it had had to encourage a Party of origin to take account of some comments. Bulgaria and Poland reported a lack of feedback on how their comments were taken into account, while the United Kingdom recorded a lack of response to certain comments.

III.B.2.1 Frequency and nature of comments from the affected Party/Parties

(a) What kind of comments and/or objections have you made on the EIA documentation that you have received?

Estonia, United Kingdom. See III.B.1.1 (a).

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Austria. Several kinds of critical comments have been made concerning the quantity and quality of the information.

Belgium (Flanders), Netherlands. The affected Party has made different types of comment according to the specific cases.

Bulgaria. The comments (in writing) are on the alternatives to the proposed activity, the potential environmental impacts (seismic risk), the mitigation measures to keep adverse environmental impact to a minimum, and the post-project analysis.

Croatia. Croatia urges the Party of origin to agree common methodologies for impact assessment and common criteria for significance, so that both Parties have a common understanding of significant transboundary impacts.

Denmark. Different types of comment have been received, according to the specific cases.

Finland. Comments have been made on (a) the EIA programme (power plant), for example: the project description should include details, alternative cleaning technologies should be examined, various emissions should be examined and a suitable dispersion model used, and methods used in assessment should be presented adequately; and (b) on the EIA documentation, for example: verification of the modelling results in a full-scale plant, a request for information on actions reducing emissions and monitoring data on effects.

France. France expressed opposition to a category of projects related to the exploitation of aggregates in the English Channel. This opposition is not related to the fact that these projects are envisaged in the territorial waters of the United Kingdom. These projects that affect fisheries encountered strong opposition from fishermen, as much to a French project as to the British ones. France has entered into on-going bilateral discussions with the United Kingdom.

Hungary. Generally objected that the EIA documentation either does not address the transboundary impacts or in a certain context states that the mitigation measures can mitigate properly the impacts. However, the project is located close to the border, it changes radically the hydrological regime of a river of which the upstream and downstream sections form the common border and the Hungarian banks of which are in a national park.

Italy. For the time being Italy has not made any comments. It has been asked for comments only in two cases: in the first case it did not make any comments; the second case is still under examination. (In all other cases, the issue was settled in a different way; see III.B.1.1.)

Poland. The main comments to the Party of origin concern incomplete information and the lack of analyses of the influence of a planned investment on the environment of the affected Party.

Sweden. Comments have addressed the need for further investigations of different kinds according to the locality and kind of project.

Switzerland. No recent example in applying Espoo, but recent example where the "procedure" was opened before Espoo was in force (between the two countries) led to a review of the scoping documentation by cantonal and federal authorities and its communication to the competent authority in the Party of origin.

Armenia, Canada, Czech Republic, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia. No experience or no response.

III.B.2.2 Organization of the transfer of the comments

(a) Who is responsible for receiving and transferring the comments to the Party of origin?

Austria, Croatia, Finland. The point of contact is responsible.

Belgium (Flanders). In most cases, the comments are sent directly to the competent authority in the Party of origin. In some cases, they are sent through the point of contact.

Belgium (Nuclear). The Federal Agency for Nuclear Control is responsible.

Bulgaria. The Minister of Environment and Water is responsible for receiving and transferring the comments to the Party of origin.

Canada. The responsibility within Canada may vary depending on the circumstances and issues at hand. Generally, the responsibility could rest with one of the following: the Department of Foreign Affairs and International Trade (for the Minister of Foreign Affairs), the Canadian Environmental Assessment Agency (for the Minister of the Environment), and the Responsible Authority under the Canadian Environmental Assessment Act.

Czech Republic, Estonia, Norway, Poland, Slovakia. The ministry of environment is responsible.

Denmark. In most cases the comments are sent directly to the competent authority in the Party of origin, though in some cases through the point of contact.

France. The modalities are not set in stone. The point of contact (the Ministry of Foreign Affairs) receives the notification and decides who will process the proposal in conjunction with the Minister responsible for the environment. It would appear important to France, in this area, to define matters within the framework of bilateral agreements. The main thing remains information, though at the same time the notification of the focal point means that he/she can informally intervene more quickly.

Germany. According to article 9b, paragraph 1, of the German EIA Act, the comments of the German authorities shall be sent to the address as indicated by the Party of origin. In the case that the German authority, which would be competent for a similar project or activity in Germany, decides that a single comment from the German authorities would be reasonable, article 9b of the German EIA Act entitles the competent authority to act in this way. According to article 9b, paragraph 2, of the German EIA Act, the comments of the affected German public shall be sent directly to the address as indicated by the Party of origin.

Hungary. According to article 27, paragraph 5, items (a) and (b), the Ministry of Environment and

Water collects the standpoints of the Environmental Inspectorate and the consulted authorities and organizes a public forum in order to collect the opinion of the public. The Ministry transfers the comments to the Party of origin.

Italy. The point of contact (the EIA Directorate in the Ministry for Environment) is responsible.

Kyrgyzstan. The authorized body on environmental protection and local state administrations is responsible.

Netherlands. In most cases, the comments are sent directly to the competent authority in the Party of origin, in some cases through the point of contact.

Sweden. The Swedish Environmental Protection Agency is responsible.

Switzerland. Switzerland would advocate that the comments of the public are sent directly to the competent authority in the Party of origin.

United Kingdom. Generally, responsibility rests with the point of contact within the EIA branch in Office of the Deputy Prime Minister. However, for projects in Spain that may have an effect on Gibraltar, or vice versa, information is usually transmitted through the Ministry of Foreign Affairs and the British Embassy in Madrid. Direct communication takes place between officials in Northern Ireland and the Republic of Ireland where close working relationships have developed over a number of years.

Armenia, Latvia, Lithuania, Republic of Moldova. No experience or no response.

(b) Is the body referred to in subparagraph (a) permanent?

Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Netherlands, Norway, Poland, Slovakia, Sweden, Switzerland, United Kingdom. Yes, the body is permanent.

Armenia, Latvia, Lithuania, Republic of Moldova. No experience or no response.

How is the transfer of the comments organized?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Bulgaria. The originals of the comments are sent by post.

Czech Republic. The means of transfer of comments must be addressed by the bilateral agreements.

France. The comments are sent, in return, to the authority that sent the evaluation dossier, and thus the notification, since these two steps are linked.

Italy. In accordance with agreements made.

Kyrgyzstan. No experience, but similar to that for receiving comments when Party of origin.

Sweden. Written comments.

Switzerland. See above (comments sent directly).

Armenia, Austria, Belgium, Canada, Croatia, Denmark, Estonia, Finland, Hungary, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, United Kingdom. No experience or no response.

III.B.2.3 Time frame for comments from the affected Party/Parties on the EIA documentation (Art. 4, para. 2, "…within reasonable time before the final decision…")

(a) Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of the words "...reasonable time before the final decision…".

Estonia. See III.B.1.1 (a).

Denmark. See III.A.2.2 (a).

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders), Netherlands. See responses to previous questions.

Armenia. There is no procedure or legislation regarding this matter. "Reasonable time" might vary substantially, depending on the type of the planned activity and other factors, and should be established during bilateral or multilateral consultations or negotiations.

Austria. The Austrian EIA Act refers to the legislation of the Party of origin: the duration of the public inspection as well as the time for comments from the Austrian authorities is governed by the

provisions of the country where the project is to be implemented. After the comments have been sent to the Party of origin, there must be enough time for consultations. It depends on the type of project as well as on the complexity of its impacts and the political impacts of the project.

Bulgaria. The Party of origin determined a time frame of twenty days for submitting comments. According to the national legislation there is no general time frame. It will be determined case by case through bilateral agreement.

Canada. While Canada has no specific legislation for the determination of "reasonable time before the final decision", as noted earlier, the Canadian Environmental Assessment Act (CEAA) provides several opportunities for public participation in environmental assessments. CEAA has been structured so as to ensure that such participation takes place well in advance of any final decision about a proposed project. These opportunities for public participation are not limited only to Canadians, but extend as well to the public and authorities of affected Parties.

Croatia. There is no legislation. Reasonable time is any time if the affected Party agrees.

Czech Republic. It depends on the deadline specified by the Party of the origin.

France. The Party of origin is solely responsible for determining the timing.

Hungary. As affected Party, the Hungarian EIA Decree does not specify any deadlines for the process, which means that every action shall take place immediately or as soon as possible. However, Hungary has to consider the time taken by the consulting authorities and the public in forming their opinions, which is not less than thirty days.

Italy. The time frame is usually determined through bilateral agreements, taking into account the national EIA procedures, and in particular the time limits for taking the final decision required by the relevant national laws.

Kyrgyzstan. As a rule, the state ecological examination should continue in parallel, but comments should be submitted before the final decision and allowing for time needed to respond to the remarks.

Norway. Ordinary decision-making procedures are applied.

Poland. "Reasonable time" depends on the language and quality of the documentation and on the Polish procedure: on average three to five months.

Slovakia. The time frame will be defined in bilateral agreements with all neighbouring countries, in compliance with the legislation of the concerned Parties.

Switzerland. The "reasonable time frame" would be in line with the procedural requirements of the Party of origin.

United Kingdom. As the affected Party the United Kingdom would have to be guided by the timescale for comment proposed by the Party of origin – after all it would be taking part in EIA procedures. If it considered the timescale allocated for it to respond was insufficient to enable it to consult with relevant bodies in the United Kingdom, it would request an extension. Normally it allows a minimum three-week period for domestic consultation.

Finland, Latvia, Lithuania, Republic of Moldova, Sweden. No experience or no response.

(b) Have you asked for an extension of a deadline? If so, what were the results?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Austria. Reasonable requests for extensions are usually accepted.

Belgium (Flanders). On several occasions, an extension of the deadline has been requested and has been granted.

Bulgaria. Yes, Bulgaria has asked for an extension and the deadline has been extended by thirty days.

Croatia, Czech Republic, Estonia, Italy, Slovakia. No, a deadline extension has not been requested.

Denmark. Yes, an extension has been requested and been given.

Finland. Yes, it has been possible to extend the deadline, within the time frame of the EIA procedure.

France. France did this several times for projects relating to the exploitation of marine

aggregates in the English Channel. The United Kingdom always accepted the justified grounds for these requests.

Netherlands. In several cases the point of contact asked for an extension of a deadline, which was granted.

Norway, Sweden. Yes, an extension of a deadline has been asked for and been granted.

Poland. Yes. The reason was for asking for an extension was that the documentation had not been translated into the language of the affected Party. Translation of such documentation is time consuming. Comments were sent within the extended deadline.

Switzerland. No recent example. However, Switzerland would not expect any difficulty in the granting of a request for an extension of the deadline for comments by federal and cantonal authorities.

United Kingdom. Yes, the Party of origin has agreed the request in those cases where an extension was requested.

Armenia, Canada, Hungary, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova. No experience or no response.

III.B.2.4 The Party of origin's consideration of the comments

(a) What is your experience of the way the authority/body that is responsible for the EIA procedure in the Party of origin takes the comments into account?

Estonia. See III.B.1.1 (a).

Austria. The Party of origin takes the comments seriously and discusses them thoroughly with Austria.

Belgium (Flanders). In most cases, the comments were taken into consideration up to a certain level by the authorities in the Party of origin. In a few cases, a consultation was necessary.

Bulgaria. No information from the Party of origin.

Croatia. All reasonable comments were taken into account.

Denmark. Denmark does not have so much experience and has not studied closely whether its comments have had an influence on the project (activity) or altered it.

Finland. At least some, if not all, comments were taken in to account.

France. France has only experienced a single type of project. France's requests were taken into account and responses provided.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). A problem may occur in countries with separate procedures for the EIA and for the license, if different authorities carry out these procedures and the final decision is taken some time after the result of the EIA.

Netherlands. In some cases the comments were taken into consideration up to a certain level by the authorities in the Party of origin. In other cases, a consultation was necessary to focus attention on the comments.

Poland. The Party of origin does not inform Poland about the level of the compliance with the suggested comments. It supplies only an incomplete final decision.

Sweden. Yes, in some cases the comments were taken into account.

United Kingdom. Information is only available on one project. The United Kingdom's view of that case was that the Party of origin did not fully take the United Kingdom's comments into account. It did not press the matter with the Party of origin recognising that modelling techniques are open to varying interpretation.

Armenia, Canada, Czech Republic, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia, Switzerland. No experience or no response.

TRANSFER AND DISTRIBUTION OF THE EIA DOCUMENTATION (PART IV)

QUESTIONS TO THE PARTY IN THE ROLE OF 'PARTY OF ORIGIN' (PART IV.A)

Describe the legal, administrative and other measures taken in your country as the Party of origin to implement the provisions of the Convention on the transfer and distribution of the EIA documentation referred to in this section.

Transfer and Distribution of the EIA Documentation (Art. 4, para. 2) (Part IV.A.1)

SUMMARY:

As Party of origin, respondents indicated different bodies responsible for the transfer of the EIA documentation: the competent authority (Austria, Canada, France, Germany, Netherlands, Norway, Switzerland), the point of contact (Austria, Croatia, Finland, Sweden, United Kingdom), the environment minister (Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Italy, Lithuania, Poland, Slovakia) or agency (Canada, Sweden), the project proponent (Kyrgyzstan) or the Minister of Foreign Affairs (Canada). Only Kyrgyzstan and the Netherlands indicated that this body was not permanent. The actual transfer was variously undertaken by post (13 respondents), electronic mail (8 respondents) or fax (Finland), or person-to-person at a meeting (Italy, Kyrgyzstan). Slovakia and Sweden also reported posting of documentation on an Internet web site.

Finland reported technical difficulties with the transfer, the Netherlands timing problems, whereas the United Kingdom indicated that points of contact in ministries of foreign affairs were not always familiar with the Espoo Convention's requirements.

Responsibility for distribution of the EIA documentation in the affected Party was variously attributed but generally it was reported that the affected Party was responsible, with some respondents being more specific in terms of the environment ministry or the point of contact in the affected Party. Kyrgyzstan reported that the project proponent was responsible. The Netherlands reported a more direct role for its competent authority (as Party of origin) in distribution, assisted by the point of contact in the affected Party. Again, only Kyrgyzstan and the Netherlands indicated that the responsible body was not permanent. Italy and Switzerland noted that distribution within the affected Party was according to that Party's legislation.

The question regarding to whom the EIA documentation was distributed in the affected Party yielded responses that cannot be meaningfully summarized or compared. Respondents answered this question in different ways: (a) listing recipients of the EIA documentation received directly from the Party of origin, e.g. the point of contact; or (b) listing recipients of the EIA documentation received either directly or indirectly via another body, e.g. the Party of origin sent the documentation to the point of contact in the affected Party, who then sent it on to the local environmental authorities. In addition, respondents answered according to (a) their intent, (b) their legislation, or (c) their experience, or lack of it.

Sweden and the United Kingdom reported difficulties identifying appropriate contact points in regional government or competent in Espoo matters, respectively.

IV.A.1.1 Organization of the transfer of the EIA documentation

(a) Which body is responsible for the transfer?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Armenia. The appropriate body has not yet been identified, nor the necessary legislation developed.

Austria. The competent authority, in cooperation with the point of contact, is responsible.

Belgium (Flanders). The EIA Unit is responsible for the transfer of the EIA documentation.

Belgium (Marine). The Marine Protection Administration (MUMM) is responsible.

Belgium (Nuclear). The proponent submits the EIA documentation to the Federal Agency for Nuclear Control. This is the formal start of the EIA procedure. After approval by the Federal Agency for Nuclear Control, the Agency submits the EIA documentation to the European Commission, the Scientific board of the Federal Agency for Nuclear Control, and local authorities, if required.

Bulgaria, Hungary. The minister of environment and water is responsible.

Canada. The responsibility within Canada may vary depending on the circumstances and issues at hand. Generally, the responsibility could rest with one of the following: the Department of Foreign Affairs and International Trade (for the Minister of Foreign Affairs), the Canadian Environmental Assessment Agency (for the Minister of the Environment), and the Responsible Authority under the Canadian Environmental Assessment Act.

Croatia. The Ministry of Environmental Protection and Physical Planning (point of contact) is responsible.

Czech Republic, Estonia, Lithuania, Poland, Slovakia. The ministry of environment is responsible.

Denmark. The competent authority is responsible for the transfer of the EIA documentation.

Finland. The point of contact is responsible.

France. As already indicated, there is only a single step for both notification and sending of the EIA dossier. The body responsible for the transfer is thus the authority responsible for examination of the application for authorization: the prefect at the local level and the Minister at the national level. France does not therefore have anything extra to add to this part of the questionnaire.

Italy. The EIA Directorate of the Ministry of Environment, Rome, is responsible.

Kyrgyzstan. The project proponent is responsible.

Netherlands. The competent authority is responsible for the transfer of the EIA documentation. In bilateral agreements it is stated that the point of contact in the affected Party assists the competent authority in this task.

Norway. The competent authority according to the EIA regulations, Appendices I and II.

Republic of Moldova. There are no procedures defined in the national legislation for the transfer and distribution of EIA documentation for projects having transboundary impact. For projects without transboundary impact, the project proponent is responsible for the transfer and distribution of the EIA documentation.

Sweden. The Swedish Environmental Protection Agency is responsible. (See I.A.1.3.)

Switzerland. The competent authority granting approval is responsible.

United Kingdom. The responsibility generally lies with the point of contact located in the EIA branch within the Planning Directorate of the Office of the Deputy Prime Minister. For projects where Gibraltar is the Party of origin the United Kingdom would formally transmit documents to Spain, and receive any comments they may have on such proposals, via the British Embassy in Madrid. In Northern Ireland officials liaise directly with their counterparts in the Republic of Ireland with whom they have developed close informal links.

Latvia. No experience or no response.

(b) Is the body referred to in subparagraph (a) permanent?

Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Estonia, Finland, Germany, Hungary, Italy, Lithuania, Norway, Poland, Slovakia, Sweden, Switzerland, United Kingdom. Yes, the body is permanent.

Armenia, Denmark, Kyrgyzstan, Netherlands. No, the body is not permanent.

France, Latvia, Republic of Moldova. No experience or no response.

How is the transfer of the EIA documentation organized?

Bulgaria. After the appropriate evaluation of EIA documentation by the competent authority, the documentation is transferred to the contact point of the affected Party.

Czech Republic. When the documentation is ready, the Ministry of Environment sends it to the affected authorities, municipalities and regions,

publishes it on public notice board, via the Internet and in a third way, and sends it also to the affected Party for the comments.

Denmark. It depends on the specific case as to which authority is the competent authority (regional or national level), but one might also say that the body is 'permanent' because it is an authority according to legislation or an order.

Italy. Normally meetings between the two Parties are held for this purpose.

Kyrgyzstan. No experience, but according to agreement between the Parties.

Netherlands. It depends on the specific case as to which authority is the competent authority (local, provincial or national level).

Republic of Moldova. The transfer and distribution of the EIA documentation for domestic projects is defined in the following documents: EIA Regulation, chapter IV ("Order of development and representation of EIA documentation on EIA") and chapter V ("environmental permit application (ZVOS) publication and discussion"); and the Law on ecological examination and EIA, article 17 ("the Organization and carrying out EIA").

Switzerland. Between the competent authority granting approval in Party of origin and specified authority in affected Party.

Armenia, Austria, Belgium, Canada, Croatia, Estonia, Finland, France, Germany, Hungary, Latvia, Lithuania, Norway, Poland, Slovakia, Sweden, United Kingdom. No experience or no response.

(c) What means are used in order to transfer the EIA documentation?

Czech Republic. See IV.A.1.1 (b).

Austria. It is sent to the affected Party in hard copy and, if possible, in electronic form.

Belgium (Flanders, marine, Nuclear). Postal services are used at present, but electronic means are in the pipeline.

Bulgaria. The EIA documentation should be sent by post as printed material.

Canada. The most effective and reliable means of communication would be used to transfer the information such as registered mail, electronic data transfer and courier services. These arrangements would be finalized with the point of contact in the affected Party and other government officials as appropriate.

Croatia, Denmark, Netherlands, Norway, Poland. The documentation is transferred by post.

Estonia. The documentation is transferred by post and e-mail.

Finland. The documentation is transferred by post, e-mail and fax.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). Normally the documentation will be sent by post and, if available, as an electronic file.

Hungary. The documentation is transferred to the contact point of affected Party.

Italy. The documentation is transferred during meetings or via e-mail.

Kyrgyzstan. The documentation is transferred by direct contact.

Slovakia. The documentation is transferred by post, e-mail and the Internet.

Sweden. The documents are sent by post to the point of contact, with the number of copies being as requested by the affected Party. Information can also be made available on the Internet.

Switzerland. The documentation is transferred by post, special delivery.

United Kingdom. To date the United Kingdom has used paper copy. Where all the relevant information is available in a compatible electronic format this will also be used.

Armenia, France, Latvia, Lithuania, Republic of Moldova. No experience or no response.

(d) Describe any difficulties you have experienced concerning the organization of the transfer.

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders). Timing and institutional problems have been experienced.

Belgium (Nuclear). The documentation is not always delivered to the right person, and this can cause delays.

Denmark. Timing and translation difficulties have been experienced.

Finland. Only technical difficulties have been experienced.

Netherlands. The only difficulty has been timing.

United Kingdom. The United Kingdom has found that the official point of contact for Espoo is not always up-to-date or does not appear to be conversant with the requirements of the Convention. Papers sent to points of contact in Foreign Ministries do not always quickly find their way to other Departments with specific responsibility for, or knowledge of, the type of activity that is being proposed. This can cause significant delay. To overcome this, the United Kingdom tries wherever possible also to copy documentation direct to contacts within Environment Ministries who it knows are familiar with the Espoo / EIA procedures.

Armenia, Austria, Bulgaria, Canada, Croatia, Czech Republic, Estonia, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland. No difficulties, no experience or no response.

IV.A.1.2 Organization of the distribution of the EIA documentation

(a) Which body is responsible for the distribution?

Armenia. The appropriate body has not yet been identified, nor the necessary legislation developed.

Austria. Usually the point of contact or any other authority named or appointed by the affected Party.

Belgium (Flanders). The EIA Unit is responsible for the distribution of the EIA documentation, with the help of the point of contact in the affected Party.

Belgium (Marine). The competent authority in the affected Party is responsible for distributing the documentation.

Belgium (Nuclear). The Federal Agency for Nuclear Control is responsible for distributing the EIA documentation.

Bulgaria. The developer of the proposal is responsible for the distribution in the Party of origin. The relevant environment ministry (contact point) of the affected Party is responsible for the distribution of the EIA documentation in its territory.

Canada. The responsibility within Canada may vary depending on the circumstances and issues at hand. Generally, the responsibility could rest with one of the following: the Department of Foreign Affairs and International Trade (for the Minister of Foreign Affairs), the Canadian Environmental Assessment Agency (for the Minister of the Environment), and the Responsible Authority under the Canadian Environmental Assessment Act. Moreover, project proponents may be asked to provide distribution services as well.

Croatia. The point of contact is responsible.

Czech Republic, Poland, Slovakia. The ministry of environment is responsible.

Denmark. The competent authority is responsible for the distribution of the EIA documentation with the help of the point of contact in the affected Party.

Estonia. The Ministry of the Environment, together with the project proponent and EIA experts, is responsible.

Finland. The point of contact of the affected Party is responsible for distribution.

Germany. According to article 9a of the German EIA Act the German licensing authority shall make every effort to ensure that the EIA documentation is distributed to the public of the affected Party. The distribution to other authorities of the affected Party depends on the organizational arrangements with the competent authority of the affected Party.

Hungary. The affected Party shall arrange for it.

Italy. It is determined by the agreements undertaken. Usually the authorities or the contact point of the other concerned Party are responsible for it. They then refer to the Italian authorities.

Kyrgyzstan. The project proponent is responsible.

Netherlands. The competent authority is responsible for the distribution of the EIA documentation with the help of the point of contact in the affected country.

Norway. The competent authority according to the EIA regulations, Appendices I and II.

Sweden. The Swedish Environmental Protection Agency is responsible for the distribution of the EIA to the point of contact in the affected country. (See also VI.A.1.1 (a).)

Switzerland. The specified authority in the affected Party is responsible.

United Kingdom. The point of contact in the EIA Branch within the Planning Directorate of the Office of the Deputy Prime Minister coordinates on behalf of the United Kingdom.

France, Latvia, Lithuania, Republic of Moldova. No experience or no response.

(b) Is the body referred to in subparagraph (a) permanent?

Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Estonia, Finland, Germany, Hungary, Italy, Norway, Poland, Slovakia, Sweden, Switzerland, United Kingdom. Yes, the body is permanent.

Denmark, Kyrgyzstan, Netherlands. No, the body is not permanent.

Armenia, France, Latvia, Lithuania, Republic of Moldova. No experience or no response.

How is the distribution of the EIA documentation organized?

Finland. See IV.A.1.2 (a).

Bulgaria. The EIA documentation is delivered to the contact point of the affected Party.

Czech Republic. See previous answer.

Denmark. It depends on the specific case as to which authority is competent authority. See also IV.A.1.1 (b)

Italy. Concerning the authorities and the public of the other Party involved: according to legislation and practices of that Country. Concerning the Italian public and Italian authorities: In accordance with national legislation, the EIA documentation, prepared by the proponent is made available in the offices of the central (the Ministry of Environment) and regional/local government.

Netherlands. It depends on the specific case which authority is competent authority.

Switzerland. Distribution of the EIA documentation is organized in line with the national procedures of the affected Party.

Armenia, Austria, Belgium, Canada, Croatia, Estonia, France, Germany, Hungary, Kyrgyzstan. Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia, Sweden, United Kingdom. No experience or no response.

(c) To whom is the documentation distributed in the affected Party? (The central authorities, the local competent authorities, the public, the environmental authorities in the affected Party and anyone else?)

Belgium. With variations according to different practices, the documentation is distributed to the central authorities, the local competent authorities, the public and the environmental authorities in the affected Party.

Belgium (Flanders). The EIA Unit contacts the point of contact to identify to whom the EIA documentation should be provided, and how the publicity should be announced and organized in order to safeguard the public consultation..

Belgium (Nuclear). The Federal Agency for Nuclear Control contacts the European Commission, which presents the documentation to a group of experts from the “nuclear” environmental authorities from each country.

Bulgaria. The documentation is distributed to the central authorities and the environmental authorities in the affected Party, but not the local competent authorities nor the public.

Canada. Canada distributes the documentation to the central authorities, the local competent authorities, the public and the environmental authorities in the affected Party. However, these arrangements would be determined on a case-by-case basis with the point of contact of the affected Party and the involvement of other government officials as appropriate.

Croatia. The documentation is distributed to the point of contact.

Czech Republic. The Czech Republic would make the documentation available to the central authorities and to anyone else specified in draft bilateral agreements.

Denmark. Denmark distributes the documentation to the central authorities, the local competent authorities, the public and the environmental authorities in the affected Party. The competent authority contacts the point of contact to identify to whom the EIA documentation should be provided, how the publication should be made and how it is deposited for public inspection

Estonia. The documentation is distributed to EIA experts, the local competent authorities and the environmental authorities in the affected Party, but not to the public.

Finland. Finland distributes the documentation to the point of contact and not to the central authorities, the local competent authorities, the public or the environmental authorities in the affected Party.

Germany. Depends on the law and on the wishes of the affected Party.

Hungary. The documentation is distributed to the local competent authorities, the public and the environmental authorities in the affected Party. Regarding distribution to anyone else, the Hungarian regulation does not contain such provisions.

Italy. Italy distributes the documentation to the central authorities, the local competent authorities, the public and the environmental authorities in the affected Party. Regarding distribution to anyone else, see IV.A.1.2 (b); it depends on agreements made.

Kyrgyzstan. The documentation is distributed to the local competent authorities and the environmental authorities in the affected Party.

Lithuania. The documentation is distributed to the central authorities in the affected Party.

Netherlands. The Netherlands distributes the documentation to the central authorities, the local competent authorities, the public and the environmental authorities in the affected Party. The competent authority contacts the point of contact to identify to whom the EIA documentation should be provided, how the publication should be made and how it is deposited for public inspection.

Norway. Norway distributes the documentation to the central authorities, the environmental authorities and other appropriate authorities in the affected Party, but not the local competent authorities or the public.

Poland. Poland distributes the documentation to the regional and local authorities.

Slovakia. Slovakia would make the documentation available to the central authorities, the local competent authorities, the public, the environmental authorities in the affected Party and to anyone else specified in bilateral agreements.

Sweden. The point of contact in the Affected Country is often responsible for the distribution of the documents to relevant authorities organizations and to help to make it available to the public.

Switzerland. The documentation is distributed to the central authorities, the local competent authorities, the public and the environmental authorities in the affected Party, in accordance with national procedures – but would assume that all of the above receive documentation. Distribution to the public means, in the present case, making the documentation available to the public.

United Kingdom. The United Kingdom distributes the documentation to the central authorities in the affected Party, and not to the local competent authorities, the public or the environmental authorities. The United Kingdom policy is to forward documentation to the official point of contact and, as necessary, also to the Espoo or EIA contacts in the Environment Ministry. Unless otherwise agreed in a specific case, the United Kingdom leaves it to the authorities in the affected Party to determine whether it should be made available to others within their country and, if so, when and to whom. If the Central Authority determines that it does not wish to be involved in the EIA procedures for an activity initiated in another country it would be inappropriate for the Party of origin to circulate the documentation to other competent authorities or environmental bodies there without its agreement.

Armenia, Austria, France, Latvia, Republic of Moldova. No experience or no response.

(d) Describe any difficulties you have experienced concerning the organization of the distribution.

Finland. See IV.A.1.2 (c).

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders). On minor practical problems have been experienced.

Estonia. The Finnish Ministry of Environment organized the distribution of the EIA documents in Finland.

Sweden. In countries where the responsibility for the Espoo procedure has been delegated to different regional authorities, it can be difficult to find the right contacts.

United Kingdom. See IV.A.1.1 (d). Once the United Kingdom has established the most appropriate contact there have been no major difficulties.

Armenia, Austria, Bulgaria, Canada, Croatia, Czech Republic, Denmark, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Switzerland. No difficulties, no experience or no response.

QUESTIONS TO THE PARTY IN THE ROLE OF 'AFFECTED PARTY' (PART IV.B)

Describe the legal, administrative and other measures taken in your country as the affected Party to implement the provisions of the Convention on the transfer and distribution of the EIA documentation referred to in this section.

Transfer and Distribution of the EIA Documentation (Art. 4, para. 2) (Part IV.B.1)

SUMMARY:

Similarly to previous questions, the body responsible for receiving the EIA documentation in an affected Party was variously reported as being the point of contact (Austria, Canada, Croatia, Finland, Germany, Netherlands, Sweden, Switzerland, United Kingdom), the environment ministry (Bulgaria, Czech Republic, Estonia, Germany, Hungary, Italy, Lithuania, Norway, Poland, Slovakia) or agency (Canada, Sweden), the competent authority (Austria, Canada, Germany, Kyrgyzstan) or the Ministry of Foreign Affairs (Canada). (In certain countries, two of these bodies may be one and the same.) In all cases, the body was reportedly permanent.

The documentation was received in paper and electronic forms (Austria, Hungary, United Kingdom), by post (11 respondents), electronic mail (Canada, Czech Republic, Finland, Italy, Slovakia) or fax (Finland), posted on the Internet (Slovakia) or directly at meetings (Italy).

Difficulties reported with the transfer included:

- *Receipt of a single hard copy (no electronic version) making necessary scanning of the documentation for inclusion on an Internet web site (Bulgaria);*
- *A tight timetable (Czech Republic);*
- *The documentation being in the language of the Party of origin only (Poland); and*
- *Documentation not being sent or copied to the point of contact (United Kingdom).*

The body responsible for distributing the EIA documentation in an affected Party was variously reported as being the point of contact (Austria, Croatia, Finland, Netherlands, Sweden, United Kingdom), the environment ministry (Bulgaria, Czech Republic, Estonia, Hungary, Italy, Norway, Poland, Slovakia) or agency (Canada, Sweden), the competent authority (Austria, Germany, Switzerland), the project proponent (Kyrgyzstan) or the Ministry of Foreign Affairs (Canada). (Certain of these bodies may be equivalent in a Party.) Only in Kyrgyzstan was the body not reportedly permanent.

The question regarding to whom the EIA documentation was distributed in the affected Party yielded responses that again cannot be meaningfully summarized or compared. Respondents answered this question in different ways: (a) listing recipients of the EIA documentation received directly from the point of contact in the affected Party; or (b) listing recipients of the EIA documentation received either directly or indirectly via another body, e.g. the point of contact in the affected Party sent the documentation to the local authorities which then distributed it to the public in the local, affected area. In addition, respondents answered according to (a) their intent, (b) their legislation, or (c) their experience, or lack of it.

IV.B.1.1 Organization of the transfer of EIA documentation

(a) Which body is responsible for receiving the documentation?

Armenia. The appropriate body has not yet been identified.

Austria. The point of contact, or the *Land* (provincial) government that would be competent authority for this type of project if it were carried out in Austria, is responsible.

Belgium (Flanders). The point of contact is responsible, being either the official ECE Espoo point of contact or the point of contact nominated in the bilateral agreement (i.e. the EIA Unit).

Belgium (Nuclear). The point of contact is responsible, but, if the notification concerns a nuclear activity, the Federal Agency for Nuclear Control will be informed.

Bulgaria, Hungary, Norway. The ministry of environment and water is responsible.

Canada. The responsibility within Canada may vary depending on the circumstances and issues at hand. Generally, the responsibility could rest with one of the following: the Department of Foreign Affairs and International Trade (for the Minister of Foreign Affairs), the Canadian Environmental Assessment Agency (for the Minister of the Environment), and the Responsible Authority under the Canadian Environmental Assessment Act.

Croatia, Finland. The point of contact is responsible.

Czech Republic, Estonia, Lithuania, Poland, Slovakia. The ministry of environment is responsible.

Denmark. The point of contact is responsible, either the official Espoo point of contact or a point of contact nominated otherwise.

France. As already indicated, there is only a single step for both notification and sending of the EIA dossier. France does not therefore have anything extra to add to this part of the questionnaire.

Germany. The authority that would be responsible for the decision of a similar activity in Germany is responsible (art. 9b of the German EIA Act) (see also II.A.1.1 (a) and II.A.1.2 (a)). Any documentation actually addressed to the Federal Environmental Ministry (point of contact) will be sent to the aforementioned authority, in most cases via the Environmental Ministry of the respective German State.

Italy. The EIA Directorate, Ministry of Environment, is responsible.

Kyrgyzstan. The authorized body in the field of environmental protection is responsible.

Netherlands. The point of contact is responsible, either the official Espoo point of contact or the point of contact nominated in the bilateral agreement.

Sweden. The Swedish Environmental Protection Agency is responsible.

Switzerland. The Espoo contact point and relevant body of affected canton(s) are responsible.

United Kingdom. The official United Kingdom point of contact to whom all documentation should be copied is located in the EIA Branch within the Planning Directorate of the Office for the Deputy Prime Minister.

Latvia, Republic of Moldova. No experience or no response.

(b) Is the body referred to in subparagraph (a) permanent?

Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Italy, Kyrgyzstan, Lithuania, Netherlands, Norway, Poland, Slovakia, Sweden, Switzerland, United Kingdom. Yes.

Armenia, France, Latvia, Republic of Moldova. No experience or no response.

How is the reception of the documentation organized?

Bulgaria. The documentation is received in the Ministry of Environment and Water and shall be forwarded to the contact point under the Convention.

Italy. Reception is regulated by bilateral agreements.

Kyrgyzstan. Reception is in agreement with the Party of origin.

Sweden. The Swedish Environmental Protection Agency asks for the amount of copies needed for distribution to relevant authorities, municipalities, and organizations and to keep available for the public.

Switzerland. Reception is in accordance with cantonal organization.

Armenia, Austria, Canada, Belgium, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, United Kingdom. No response or no experience.

(c) What means are normally used in order to transfer the documentation?

Austria. Hard copy and, if available, electronic forms are used.

Belgium (Flanders, Nuclear), Denmark, Netherlands. The transfer of the documentation is normally carried out by postal services. The transfer is usually preceded by informal contact between the authorities in the Party of origin and the point of contact in the affected Party.

Bulgaria. The documentation could be copied or scanned and sent via Internet.

Canada. The most effective and reliable means of communication would be used to seek the transfer the information such as registered mail, electronic data transfer and courier services. These arrangements would be finalized with the point of contact in the Party of Origin and other government officials as appropriate.

Croatia, Norway, Poland. The post is used.

Czech Republic. The transfer is usually by post supported by e-mail when it is possible.

Finland. Post, e-mail and fax are used.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). Usually the documentation is sent by post.

Hungary. The contact point of Party of origin transfers the hard copy and electronic version when it is available as well.

Italy. The transfer is usually through meetings and e-mail.

Slovakia. The transfer is usually by post, e-mail and Internet.

Sweden. The Swedish Environmental Protection Agency sends the documents to the relevant authorities, municipalities and organizations, and can make advertisements in newspapers on where the documents are to be made available for the public.

Switzerland. The transfer is usually by post, special delivery.

United Kingdom. The transfer is usually by post or in electronic format where convenient for the Party of origin.

Armenia, Estonia, France, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova. No response, or no experience.

(d) Describe any difficulties you have experienced concerning the organization of the transfer of the EIA documentation.

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders). See responses to earlier questions.

Bulgaria. The EIA documentation has been provided only one hard copy so there was a need to scan the documentation and send it via Internet.

Czech Republic. The timetable is tight.

Denmark. Sometimes it is very time consuming.

Poland. The next problem is the lack of translation of documentation into the language of the affected Party. That procedure limits possibility of the full expression of the opinion of society about a planned activity.

United Kingdom. The United Kingdom has not experienced major “difficulties”, but cases where EIA documentation has not been routed through, or directly copied to, the official United Kingdom point of contact causes inconvenience and can delay the procedure in the United Kingdom and in the Country of Origin. It asks that all documentation is sent to the official point of contact and that the Party of origin advises whether it has also been sent to any other authorities in the United Kingdom. This will ensure the response is properly coordinated.

Armenia, Austria, Canada, Croatia, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Republic of Moldova, Slovakia, Sweden, Switzerland. No difficulties, no experience or no response.

IV.B.1.2 Organization of the distribution of EIA documentation

(a) Which body is responsible for the distribution of the documentation?

Armenia. The appropriate body has not yet been determined.

Austria. The point of contact or the government of the Land (province) possibly affected by the project is responsible.

Belgium (Flanders). The EIA Unit and additional points of contact are responsible.

Belgium (Nuclear). The points of contact are responsible.

Bulgaria. The Ministry of Environment and Water is responsible.

Canada. The responsibility within Canada may vary depending on the circumstances and issues at hand. Generally, the responsibility could rest with one of the following: the Department of Foreign Affairs and International Trade (for the Minister of Foreign Affairs), and the Canadian Environmental Assessment Agency (for the Minister of the Environment).

Croatia, Denmark, Finland, Netherlands. The point of contact is responsible.

Czech Republic, Estonia, Norway, Poland, Slovakia. The ministry of environment is responsible.

Germany. The authority that would be responsible for the decision on a similar project or activity in Germany is responsible (art. 9b of the German EIA Act) (see also II.A.1.1 (a) and II.A.1.2 (a)).

Hungary. The Ministry of Environment and Water (also for the necessary translations) asks for the opinion of the inspectorate and the consultative authorities, disseminates the material to the public of the concerned territory. In the latter, the ministry can ask the help of the local municipalities. The ministry is also responsible for organizing open forums to discuss the material with the representatives of the public (art. 27, para. 5, items (a) to (c) of the Hungarian EIA Decree).

Italy. The EIA Directorate, Ministry of Environment, is responsible.

Kyrgyzstan. The project proponent is responsible.

Sweden. The Swedish Environmental Protection Agency is responsible. See IV.B.1.1 (c).

Switzerland. The relevant cantonal body is responsible.

United Kingdom. The point of contact in the EIA Branch within the Planning Directorate of the Office of the Deputy Prime Minister is responsible for coordinating the distribution of documentation to interested bodies and for preparing a coordinated response the Party of origin.

France, Latvia, Lithuania, Republic of Moldova. No experience or no response.

(b) Is the body referred to in subparagraph (a) permanent?

Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Italy, Netherlands, Norway, Poland, Slovakia, Sweden, Switzerland, United Kingdom. Yes, it is permanent.

Kyrgyzstan. No, it is not permanent.

Armenia, France, Latvia, Lithuania, Republic of Moldova. No experience or no response.

How is the distribution of the documentation organized?

Sweden. See IV.B.1.1 (c).

Bulgaria. The EIA documentation was scanned and put in the website of the Ministry of Environment and Water. The information of its availability was distributed to the stakeholders in the newspapers and through letters.

Czech Republic. Is sent by the Ministry of Environment to the concerned authorities and municipalities and regions and information about this documentations is published.

Italy. In accordance with national legislation, the EIA documentation, prepared by the proponent is made available in the offices of the central (the Ministry of Environment) and regional/local government.

Switzerland. Distribution is by mail, special delivery.

Armenia, Austria, Belgium, Canada, Croatia, Denmark, Estonia, Finland, France, Germany, Hungary, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, United Kingdom. No experience or no response.

(c) To whom is the documentation normally distributed in your country? (The central authorities, the local competent authorities, the public, the environmental authorities in the affected Party and anyone else?)

Sweden. See IV.B.1.1 (c).

Austria. The documentation is normally distributed to the central authorities, the local competent authority or proponent, the public, the environmental authorities and, sometimes, non-governmental organizations (NGOs).

Belgium. With variations according to the responsible administration or authority, the documentation is normally distributed to the central authorities, the local competent authority or proponent, the public and the environmental authorities.

Bulgaria. The documentation is normally distributed to the central authorities, the local competent authority or proponent, the public, the environmental authorities and local and national NGOs.

Canada, Denmark, Estonia, Italy, Netherlands, Norway. The documentation is normally distributed to the central authorities, the local competent authority or proponent, the public and the environmental authorities.

Croatia. The documentation is normally distributed to the point of contact.

Czech Republic. The documentation is normally distributed to the local competent authority or proponent and the environmental authorities.

Finland. The documentation is normally distributed to the concerned ministries, central authorities, the regional environmental authorities in an affected area, Research Institutes and NGOs. It is not distributed to the local competent authority or to the public.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). With regard to article 7 and article 9b, paragraph 1 and 2, of the German EIA Act the public in the area likely to be affected, and the authorities that are likely to be concerned by the project or activity by reason of their specific environmental responsibilities, will receive the documentation.

Hungary. The documentation is normally distributed to the local competent authority or proponent, the public, the environmental authorities.

Kyrgyzstan. The documentation is normally distributed to the local competent authorities and the environmental authorities.

Lithuania. The documentation is normally distributed to the central authorities.

Poland. The documentation is normally only distributed to the central authorities and the local competent authority or proponent.

Slovakia. The documentation is normally distributed to the central authorities, the local competent authorities, the public and the environmental authorities in the affected Party.

Switzerland. The documentation is normally distributed to the central authorities, the local competent authority or proponent and the environmental authorities, and made available to the public.

United Kingdom. Depending on the stage within the procedure the documentation may be distributed to all or any of the central authorities, the local competent authority or proponent, the public and the environmental authorities. The United Kingdom might wish to consult with local authorities or environmental authorities to evaluate initial documentation prior to deciding whether it wished to be involved in the EIA procedures. Subsequently it would wish to involve the public as well as local and environmental authorities. NGOs are part of the public and would be consulted at this stage, too.

Armenia, France, Latvia, Republic of Moldova. No experience, or no response.

PUBLIC PARTICIPATION (PART V)

QUESTION TO THE PARTY IN THE ROLE AS A 'PARTY OF ORIGIN' (PART V.A)

Describe the legal, administrative and other measures taken in your country as the Party of origin to implement the provisions of the Convention on public participation.

Opportunity and organization of public participation (Art. 2, para. 6, and Art. 4, para. 2) (Part V.A.1)

SUMMARY:

In order to assure that the opportunity given to the public in the affected Party was equivalent to that in the Party of origin, respondents indicated various measures, including discussing with the affected Party how this might best have been achieved (Austria, Bulgaria, Sweden, Switzerland, United Kingdom). Austria also noted the importance of early distribution of the EIA documentation, whereas Canada and Germany reported that they applied their domestic legislation in full to the participation of the public in the affected Party. Estonia reported that the public in the affected Party was in fact consulted before its own. Croatia and Hungary noted that comments received were considered according to the same criteria, irrespective of whether they came from the public in the Party of origin or the affected Party. The Czech Republic and Hungary noted the importance of distributing all information to the affected Party. France limited itself to including public participation methodologies in the dossier sent to the affected Party, whereas Italy reported that all its transboundary projects had been subject to bilateral agreements that set out equal requirements for public participation. The Netherlands assured equal participation at both the scoping and main consultation stages. Finland reported the importance of both timing and materials.

The information provided to the public of the affected Party included the project (planning) application (Austria, Hungary, Netherlands), the project description (Bulgaria, Switzerland), the notification (Czech Republic, Hungary, Poland), the original or revised EIA documentation (Austria, Bulgaria, Czech Republic, Estonia, Hungary, Italy, Netherlands, Poland, Switzerland), the EIA programme (Estonia), the EIA procedure (Netherlands), the expert opinion (Czech Republic) and the decision (Austria, Hungary). Canada listed a large range of information as being accessible to both its own public and the public in an affected Party; Norway and Slovakia too noted that the same information was made available to all. Kyrgyzstan suggested that all information would be available. The United Kingdom reported that all requested information was forwarded as it became available.

Responsibility for organizing public participation in the affected Party was reported by the Parties in their role of Party of origin as being with the affected Party (Austria, Bulgaria, Estonia, Hungary, Italy, Switzerland), the project proponent (Kyrgyzstan) or the environment ministry (Czech Republic, Estonia, Norway, Poland). The Netherlands, Poland and the United Kingdom noted the importance of their own competent authority working with the affected Party to determine the public participation procedure. In Finland, the point of contact in the affected Party, the regional environmental centre and the project proponent organized public participation jointly. In Croatia, it was the project proponent together with the competent authority in the affected Party that organized public participation. Similarly, in Slovakia, it was the project proponent in collaboration with the affected municipality. In Sweden, the project proponent prepared the information; the Swedish Environmental Protection Agency then transmitted and advertised it. Four respondents indicated that the body responsible for organizing this public participation was not permanent (Bulgaria, Kyrgyzstan, Netherlands, Sweden).

Bulgaria indicated that public participation in the affected Party was organized according to its legislation, whereas Italy and Switzerland referred to the affected Party's legislation. Kyrgyzstan noted the assistance of non-governmental organizations (NGOs).

Respondents in their role of Party of origin reported on whether they initiated public hearings (or inquiries) in an affected Party. Several

respondents said that they had not (Czech Republic, Netherlands, Sweden, Switzerland, United Kingdom), with this being the responsibility of the affected Party (Estonia, Hungary). Switzerland noted that it would have had to be organized in collaboration with the authorities in the affected Party and the project proponent. Similarly Bulgaria and Croatia noted the need for discussion with the affected Party. Austria and Italy indicated that it might have been possible, whereas Norway reported that it had initiated public hearings at the time of notification and of release of the EIA documentation. Slovakia suggested it would be possible in certain circumstances.

The public of the affected Party, public authorities, organizations and other individuals were able to participate in public hearings in the Party of origin, according to all but one respondent in the role of Party of origin; Italy indicated that they normally would not have been able to participate. In Canada, participation was subject to the normal Canadian entry requirements; Kyrgyzstan similarly noted that participation was subject to border controls. Hungary noted that its legislation did not require it to notify the affected Party that the public hearing was taking place.

Austria, Canada, Norway, Slovakia and Switzerland reported that a joint public hearing might have been initiated, as did Bulgaria in the case of a joint EIA. Switzerland noted that a joint hearing would most likely have been organized in the Party of origin. Croatia and the United Kingdom indicated that no joint hearings were initiated.

Several respondents described informal guidelines and draft or signed bi- and multilateral agreements providing for the entry into the Party of origin of the public from the affected Party, usually defining practical matters such as invitation and translation (Austria, Germany, Hungary, Lithuania, Netherlands, Norway, Poland). Some of the same respondents and some others indicated that the public of an affected Party could anyway have participated under national legislation (Croatia, Czech Republic, Germany, Netherlands, Switzerland, United Kingdom).

Difficulties reported by respondents were interpretation (Czech Republic), a lack of public interest (Finland, Kyrgyzstan, Sweden), border controls (Kyrgyzstan), unjustified demands made of the project proponent (Kyrgyzstan), reconciling timing of public participation in joint EIAs (Italy), and identification of a suitable point of contact in the affected Party (United Kingdom).

V.A.1.1 Opportunity for public participation

(a) How do you ensure that the opportunity given to the public of the affected Party/Parties is equivalent to the one given to your own public as required in Article 2, paragraph 6?

Austria. Austria sends the documentation to the affected Party at a reasonable time before public participation in Austria starts; it consults with the affected Party to find out the best ways to provide its public with the information.

Belgium (Brussels). The EIA process provides for public participation in two stages: (1) during the scoping phase, the public is given the opportunity to make suggestions regarding the project's specification of the contents of the EIA documentation; and (2) once the EIA documentation is finished and declared as complete by the Steering Committee, there is the opportunity for the public to comment both in writing and orally in the Consultation Committee.

Belgium (Flanders). In the Flemish EIA process public participation occurs in two stages: (1): in the scoping phase, the public is given the opportunity to make suggestions for the project-specific guidelines for the content of the EIA documentation; and (2) once the EIA documentation been prepared and included as part of the permit application documentation, there is the opportunity for the public to comment both in writing and orally at a public hearing during the permit application procedure. At the same time as the public in Flanders is informed, the publication in the affected Party has to take place. This implies that, in the scoping phase, the notification of intent might be translated and made public in the affected Party and after the EIA documentation has been prepared the summary is translated and the (complete) documentation is made public in the affected Party.

Belgium (Marine). The authorities in the affected Party are informed at the same time as the public in Belgium. The public in the affected Party has one month more than the Belgian public to react, in order to overcome distribution problems for the authorities. All information is immediately available on the website.

Belgium (Nuclear). The public is notified by a public letter at the town hall and sometimes by a public announcement in relevant newspapers. The public can consult the EIA documentation at the town hall and comment on it in writing. At the same time as the public is informed in Belgium, the

public participation in the affected Party takes place.

Bulgaria. According to Bulgarian Environmental legislation (Regulation on EIA) the EIA procedure shall be determined by discussion between the Concerned Parties case by case. The Concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed.

Canada. As noted in the response to question I.A.1.1 (a), the Canadian Environmental Assessment Act provides several opportunities for public participation in environmental assessment. These opportunities are not limited only to Canadians, but extend as well to the public and authorities of an affected Party.

Croatia. All comments of both Parties are handed over to the reviewing body to be considered with the same criteria.

Czech Republic. The Ministry of Environment sends all information about the activity to the affected Party and this should these distributed to the other stakeholders.

Denmark. The EIA process in Denmark provides for public participation in two stages. First, before the EIA documentation is prepared, in the scoping phase, the public is given the opportunity to make suggestions for the project-specific guidelines for the content of the EIA documentation. Secondly, once the EIA documentation has been prepared, there is the opportunity for the public to comment both in writing and orally at a public hearing. The publication in the affected Party would to take place at the same time as the domestic public is informed.

Estonia. The public of the affected Party are consulted before the public of the Party of origin.

Finland. Finland assures that the opportunity given to the public of the affected Party is equivalent to the one given to the domestic public by providing adequate time (see II.A.1.3) and materials (see III.A.1.1 (b) and II.A.3.1 (b)).

France. France accompanied its ratification of the Convention by an explanatory statement specifying "the Convention implies that it is up to each Party to provide, on its territory, the provision to the public of the EIA dossier, to inform the public and to collect their comments, unless otherwise provided by a bilateral agreement." As Party of origin, France limits itself to the sending of the dossier and to respond to any request from the affected Party. The transmitted dossier includes a section indicating methods for public participation for the project in question.

Germany. According to article 9a of the German EIA Act, the legal provisions that determine the participation of the German public are also to be applied vis-à-vis the public of an affected Party.

Hungary. All of the documents that are displayed for the Hungarian public to make comments on are sent to the affected Party roughly at the same time as Hungarian public received them, requesting comments from the public of the affected Party. The comments received from the public of the affected Party shall be considered the same way as the Hungarian public's. In addition article 26, paragraph 1, obliges the proponent to translate the international chapter and the non-technical summary to the language of the affected Party requested in its response to the notification. However, the Ministry does not forward to the affected Party only the translated materials but the whole detailed environmental impact study (art. 26, para. 2, of the Hungarian EIA Decree).

Italy. As specified above, in all cases Italy is involved, the proposed activities (tunnels, under-sea lines...) are of a cross border nature and carried out in common with the other country (joint companies). Therefore Italy is always Party of origin and affected Party at the same time and the application of the convention is regulated by bi-lateral agreements. These agreements also settle the issues related to public participation. They usually foresee that the public of the two Parties should have access to the same documentation and could comment on the entire project, including transboundary effects.

Kyrgyzstan. The opportunities are equivalent. The opportunities depend on the procedures established to promote public participation.

Netherlands. In the Netherlands the EIA process provides for public participation in two stages. First, before the EIA documentation is prepared, in the scoping phase, the public is given the opportunity to make suggestions for the project-specific guidelines for the content of the EIA documentation. Secondly, once the EIA documentation has been prepared there is the opportunity for the public to comment both in writing and orally at a public hearing. At the same time as the public in the Netherlands is informed, the publication in the affected country has to take place. This implies that in the scoping phase the notification of intent is translated and made public in the affected country and after the EIA

documentation has been prepared the summary is translated and the (complete) documentation is made public in the affected country.

Republic of Moldova. Public participation in the EIA of projects is more completely defined for domestic projects: EIA Regulation, section V ("Publication and discussion of the conclusion on EIA") and section VI ("Participation in EIA initiative and public associations"); Regulation on public participation in development and decision-making on environmental questions, chapter V ("Procedure for appeal to the public"), articles 20 and 21; Regulations about consultation of the population during development and the statement of the design documentation on arrangement of territory and town-planning, chapter II ("the Organization of consultation with the population").

Slovakia. The public participation is in accordance with national legislation and bilateral agreements.

Sweden. In the notification letter, the Swedish Environmental Protection Agency asks what the appropriate means to inform the public might be in the actual case. (See II.A.3.1 (a).)

Switzerland. The notification of the public in the affected Party would be organized by the relevant body in the affected Party, in consultation with the competent authority in Switzerland, and ideally at the same time as in Switzerland; i.e. the public of the affected Party shall be able to voice comments on the project documentation and the EIA documentation at the same time and within the same time frame as the public of the Party of origin.

United Kingdom. Compliance with the requirement in Article 2.6 depends to a large extent on the cooperation of the relevant authorities in the affected Party. In the cases the United Kingdom has handled to date, the affected Party has accepted the responsibility for advertising to its affected public information about the activity, where documentation may be viewed, where, how and by when to make comments etc. In doing so it works closely with these authorities to ensure that full opportunity is given to enable the public to make known their relevant views and to have them transmitted to the United Kingdom. If it were to arrange to hold a public inquiry to discuss the proposed activity prior to any decision being taken it would notify the affected Party of the dates and request them to advertise it in the affected part of their country. They and members of their public would be able to make representations to the inquiry and would be able to attend and give evidence to it.

Armenia, Latvia, Lithuania, Norway, Poland. No experience or no response.

(b) What material do you provide to the public of the affected Party at the different stages of the EIA procedure?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Sweden. See II.A.3.1 (a) to (c).

Austria. The EIA documentation, the project application and the decisions are provided.

Belgium (Flanders). In the scoping phase, the notification of intent (translated) and additional information on the procedure and the possibilities for input on scoping issues are provided. After the preparation of the EIA documentation, the EIA documentation (translated summary), and additional information on the procedure and the possibilities for involvement and for making comments, are provided.

Belgium (Marine). The permit application file, the EIA documentation and a non-technical summary are sent to the affected Party.

Belgium (Nuclear). The EIA documentation is provided.

Bulgaria. The Party of origin shall notify the affected Party about the proposed activity at the earliest stage on EIA procedure. The description of the proposed activity and information about the potential environmental impact are submitted with the notification. The affected Party shall inform the public from the concerned region. After developing the EIA documentation and its evaluation the Party of origin provides the report to the affected Party which shall distribute the information to its public.

Canada. The public of the affected Party has access to the same wide range of documentation that is publicly available to Canadians within the context of an environmental assessment under the Canadian Environmental Assessment Act. The documents range from: public notices, project description documents, scoping documents for the environmental assessment, the environmental analysis documentation prepared by the proponent, the environmental analysis documentation prepared by government officials, the screening report, comprehensive study report, the mediation report, the public review panel report, the decisions of the Responsible Authorities and/or the Minister of the Environment in relation to the environmental assessment procedures and the project itself, and

follow-up or monitoring programme documentation.

Croatia. Information is provided at the request of the point of contact of the affected Party.

Czech Republic. The notification, documentation and, according to bilateral agreements, also the expert opinion are provided.

Denmark. In principle, it would be the same material as provided for the domestic public. In practice, not all material will always be translated. A summary will always be translated as well as information on the procedure, time frame, possibilities for involvement, etc. The point of contact in the affected Party will normally be contacted to provide guidance on this matter

Estonia. The EIA programme and EIA documentation are provided.

Finland. The same material that the point of contact of the affected country receives can be provided to the public, that is the notification, the scoping document, the EIA report and the statements of the competent authority.

Hungary. The request and the preliminary impact study (together with the notification); the detailed environmental impact study (plus translations - see the answer in the previous point); the final decision and the decisions, if any, as the results of legal remedies

Italy. Usually agreements foresee that the EIA documentation related to the entire project (which is in all cases of a cross-border nature) should be made available. The documentation covers also transboundary effects.

Kyrgyzstan. No experience, but this would comply with statutory acts defining three stages of discussion on the EIA. The full range of documents and analytical results for the project would be available.

Netherlands. In the scoping phase: the notification of intent (translated) and additional information on the procedure and the possibilities for input. After the preparation of the EIA documentation: the EIA documentation (with translated Summary) and additional information on the procedure and the possibilities for involvement and for making comments.

Norway, Slovakia. The same information is provided to the domestic public and the public in the affected Party.

Poland. Poland has no experience form practical point of view. According to Polish law at the notification stage having acquired information on the likely transboundary impact of the proposed project, the Minister of Environment shall immediately notify affected Party and enclose this information. At the preparation of the EIA documentation stage having obtained the EIA documentation, the Minister of Environment shall forward it immediately to the state (the affected Party) that participates in the EIA in a transboundary context procedure. After making corrections in the EIA documentation according to comments from public and authorities of affected Party the improved EIA documentation is sent again to the affected Party.

Switzerland. Project documentation and EIA documentation.

United Kingdom. If, prior to a formal application for consent for an activity to go ahead, the United Kingdom has sufficient information that suggests the activity is likely to have a significant effect on the environment of another country then it will share that information and ask whether the other country wishes to be involved in the EIA procedure. But more often than not, the United Kingdom does not have detailed information until a formal application is made at which stage the applicant should also submit the EIA documentation. At this stage if it is clear, or considered likely, that the proposal is likely to have an affect on another Party, then the United Kingdom will provide details of the proposals and the available environmental information so that the affected Party can decide whether it wishes to take part. If further information is requested from the proponent this will also be forwarded when it becomes available.

Armenia, France, Latvia, Lithuania, Republic of Moldova. No experience or no response.

V.A.1.2 Organization of the public participation

(a) Who is responsible for the organization of the public participation?

Germany. See II.A.1.1 (a), II.A.1.2 (a), II.A.3.1 (a) and II.A.3.1 (b).

Sweden. See II.A.3.1 (b).

Armenia. The necessary legal acts have not yet been developed. No experience.

Austria. The affected Party is responsible.

Belgium (Flanders). The organization of the (local) public participation is the responsibility of the competent authority (local authority). For organizing the public participation in the affected Party, the competent authority relies on the point of contact for assistance in practical matters.

Belgium (Marine). At the national level, the Marine Protection Administration as competent authority is responsible. In the affected Party, the competent authority that has been contacted by the Marine Protection Administration is responsible for transferring the information to the public. The public in the affected Party can react directly to the competent authority in Belgium.

Belgium (Nuclear). The local authorities are responsible.

Bulgaria. The developer is responsible for the organization of the public participation in the Party of origin according to the EPA and EIA Regulation. The affected Party determines the responsible person/body for the organization of the public participation according to its national EIA system.

Canada. In the case of screening under the Canadian Environmental Assessment Act (CEAA), as described in preceding responses, public participation is not mandatory. When the federal Responsible Authority decides to proceed with public consultations on the project, it is ultimately responsible for the conduct of such consultations, even where the actual conduct of the assessment is delegated to another party.

In a case of comprehensive study the public consultation is initially organized by the federal Responsible Authority or its delegate who must consult the public regarding the scope of the environmental assessment, the ability of the comprehensive study to address issues relating to the project and whether there are public concerns about the project. Following these consultations the Responsible Authority issues a report to the Minister of the Environment who must determine whether the project should continue to be assessed as a comprehensive study or be referred to a mediator or independent review panel. The Minister's decision must take into account the recommendations from the Responsible Authority that describes, among other things, public concerns about the project, potential for adverse environmental effects and the ability of the comprehensive study process to address issues related to the project.

If the assessment continues as a comprehensive study, the Responsible Authority must provide an opportunity for the public to participate. Once the comprehensive study report complete, the Responsible Authority is required to transmit it to the Minister of the Environment who must make the report available for public comment. The Canadian Environmental Assessment Agency coordinates the public consultation on behalf of the Minister of the Environment. After the public comment period, the Minister of the Environment issues a decision statement on whether the project is likely to cause significant adverse environmental effects. The decision statement cannot be issued until at least 30 days has passed from the time the comprehensive study has been made available for public comment.

In the case of assessment by a mediator or panel appointed by the Minister of the Environment, the assessment is conducted independently from government. Accordingly, the responsibility for public consultations rests with the mediator or the panel of experts appointed by the Minister of the Environment. Among other things, the Canadian Environmental Assessment Agency provides administrative support to the mediator and to the panel in regard to the public consultations activities.

CEAA permits also Responsible Authority to delegate any part of the screening or comprehensive study process to another person, including for example, other government departments, or consultants. However, the Responsible Authority retains, even where delegation occurs, the legal responsibility for ensuring that the requirements of CEAA are met, including those in relation to public consultation.

Croatia. It is organized in the line with national legislation. In Croatia it is developer with the administrative body in charged for the environmental issues in affected county.

Czech Republic, Norway. The ministry of environment is responsible.

Denmark. The competent authority is responsible for organizing the domestic public participation. For organizing the public participation in the affected Party, the competent authority relies on the point of contact there for assistance in practical matters. It will be the competent authority in the effected Party that will, in principle, 'take over' the organization of the public participation and then submit the outcome to the Party of origin.

Estonia. The competent authorities, being the environment ministry in each Party, are responsible for organizing the public participation in the affected Party.

Finland. The point of contact of the affected Party, the regional environmental centre and the proponent, are usually together responsible.

Hungary. The country of origin has no jurisdiction to organize public participation on the territory of the affected Party, so the Hungarian environmental act and EIA Decree do not contain regulations concerning this issue. In Hungary participation is organized by the Environmental Inspectorate and concerned municipalities.

Italy. Each Party usually applies the national provisions on public participation. Authorities of the concerned Party are in charge of informing and consulting their own public.

Kyrgyzstan. The project proponent is responsible.

Netherlands. For organizing the national public participation the competent authority is responsible. For organizing the public participation in the affected country the competent authority relies on the point of contact for assistance in practical matters.

Poland. According to Polish law after confirmation on participation in the EIA in transboundary context procedure by affected Party, the Minister of Environment together with relevant authority which caries out EIA procedure in Poland shall agree with interested Party (affected Party) on the dates of the stages of the procedure. It means that Poland is flexible in organization public participation. Transmittal of comments depends on the agreement between Poland as Party of origin and the affected Party. Usually the authority responsible for collecting comments from the affected Party is the Minister of Environment.

Slovakia. The affected municipality, in collaboration with the project proponent, is responsible.

Switzerland. The relevant body in the affected Party is responsible.

United Kingdom. The official United Kingdom point of contact in the EIA Branch in the Office of the Deputy Prime Minister would be responsible for ensuring adequate public participation in liaison with authorities in the affected Party and the Competent Authority or Authorities responsible for the activity in the United Kingdom.

France, Latvia, Lithuania, Republic of Moldova. No experience or no response.

(b) Is the body referred to in subparagraph (a) permanent?

Canada, Croatia, Czech Republic, Estonia, Germany, Hungary, Italy, Norway, Poland, Slovakia, Switzerland, United Kingdom. Yes, it is permanent.

Belgium. It depends on which authority is the competent authority in a specific case as to whether the body is permanent.

Bulgaria, Denmark, Kyrgyzstan, Netherlands, Sweden. No, it is not permanent.

Armenia, Austria, Finland, France, Latvia, Lithuania, Republic of Moldova. No experience or no response.

How is public participation organized?

Bulgaria. According to the EPA and the EIA Regulation the developer of the proposal shall:

- Notify the competent authority and the concerned public at the earliest stage;
- Carry out consultations on the scope of the EIA documentation;
- Organize the public access to the EIA documentation within a period of minimum 30 days after a publication of announcement in the media;
- Give the stakeholders notice through the media or in another appropriate manner of the venue and date of the meeting of public hearing and the way of submission of written comments;
- Send the comments to the authority competent to make an EIA decision not later than 7 days after the public hearing.

Czech Republic. Public is send by information about any material that is created in Czech EIA procedure and has the opportunity to make its own comments.

Denmark. It depends on which authority is the competent authority in a specific case. See also V.A.1.2 (a).

Italy. Each Party usually applies the national provisions on public participation.

Kyrgyzstan. Public participation is organized either through mass media or by local state administrations with the help of NGOs.

Netherlands. It depends on which authority is competent authority in a specific case. See also V.A.1.2 (a).

Switzerland. Public participation is organized accordance with the national provisions of the affected Party, with deadlines in accordance with provisions of Party of origin.

Armenia, Austria, Belgium, Canada, Croatia, Estonia, Finland, France, Germany, Hungary, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia, Sweden, United Kingdom. No experience or no response.

(c) Do you initiate a public hearing for the affected public, and at what stage?

(i) In the affected Party?

Denmark. See V.A.1.1 (a).

Austria. Such a hearing may be initiated, depending on the type of project, on the need for translation and on the number of affected persons on the territory of the affected Party.

Belgium (Flanders), Netherlands. No, the Party of origin does not initiate a public hearing for the affected public as a rule.

Belgium (Marine). A public hearing is not organized, but a consultation among competent authorities of the concerned Parties can be organized. This consultation is held in Belgium or in the other Party.

Belgium (Nuclear), Czech Republic. No, the Party of origin does not initiate a public hearing for the affected public.

Bulgaria. The initiative for a public hearing in the affected Party is discussed between the concerned Parties case by case or through bilateral EIA agreements.

Croatia. Such a hearing is initiated in agreement with the point of contact in the line with national legislation.

Estonia. No, the affected Party initiates the public hearing in the affected Party.

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Hungary. No. However, the draft Hungarian-Slovak bilateral agreement contains such an arrangement that in the affected country the affected Party organizes the public hearing.

Italy. It depends on their national legislation.

Norway. Yes, with the notification and with the EIA documentation.

Slovakia. Yes, it would be possible, depending on the individual circumstances.

Sweden. See II.A.3.1 (a). So far no hearing has been held in any affected Party

Switzerland. No recent experience - public hearing would have to be organized in collaboration with authorities of affected Party and proponent.

United Kingdom. The United Kingdom has not been requested to provide a public hearing in a country that may be affected by an activity initiated in the United Kingdom. (It is assumed that "public hearing" referred to here is what the United Kingdom refers to as a "public inquiry". In the United Kingdom a "public hearing" tends to be a simpler, quicker and less formal procedure than "public inquiry". It usually takes the form of a round-the-table discussion without cross-examination or advocacy. It is possibly more suited for small numbers – controversial projects with significant transboundary effects may attract more supporters and opponents and be more suited to public inquiry.)

Armenia, Canada, Finland, *France, Kyrgyzstan, Latvia, Lithuania, Poland, Republic of Moldova*. No experience or no response.

(ii) In the Party of origin? If so, can the public of the affected Party, public authorities, organizations or other individuals come to your country to participate?

Estonia, Finland, Norway. Yes, a public hearing is initiated in the Party of origin.

Austria. Yes. If necessary and in cooperation with the affected Party, Austria enables the public of the affected Party to participate.

Belgium (Flanders). A public hearing can be organized during the scoping phase. A public hearing (information meeting) is mandatory after the preparation of the EIA documentation, when the EIA documentation is part of the permit application file. This hearing is open to the public of the affected Party, public authorities and other organizations.

Belgium (Nuclear). No, a public hearing is not initiated in the Party of origin.

Bulgaria. According to Regulation on EIA the public of the affected Party, public authorities, organizations or other individuals could take a part in the public hearings in the Party of origin.

Canada. Yes, subject to the normal Canadian entry requirements.

Croatia. Yes, a public hearing is open to the public for both countries.

Czech Republic. Yes, after expert opinion is made the Czech Republic has a public hearing about the documentation and the expert opinion to which everyone can come.

Denmark. Yes, a hearing is open and therefore also open to the public of the affected Party, public authorities and other organizations.

Germany. A public hearing is usually an inherent part of the German EIA procedure. According to article 9a of the German EIA Act the public of the affected Party is entitled to participate.

Hungary. There is no mention of the public of the affected Party in the legal provisions on notification about a public hearing in the EIA Decree (art. 30) or in the General Rules on Environmental Protection (art. 93). However, according to General Rules of Administrative Procedure, there shall not be made any differentiation between the clients according to their citizenship (art. 2, para. 5, of the Code of General Administrative Rules), so there is no legal exclusion if some of the concerned individuals or the organizations from the affected Party participate on the hearing.

Italy. Normally, a public hearing is not initiated in the Party of origin. Other means are used. In a specific EIA procedure to be applied to power stations, the public participation takes places during a public hearing.

Kyrgyzstan. The public may come to Kyrgyzstan provided they have no difficulties crossing the border.

Netherlands. Usually a public hearing takes place after the preparation of the EIA documentation. This hearing is open to the public of the affected Party, public authorities and other organizations.

Poland. Poland has no practical experience in this field. According to Polish law, authority responsible for EIA procedure and granting final decision may conduct an administrative hearing open to the public after sending the information concerning environmental impact of planed project and receiving all comments from public and interested authorities. It means that public hearing will be on the stage of distribution of the EIA documentation and collecting comments from public. In accordance to Polish law the affected Party (public interested in EIA procedure) can be invited into administrative hearing open to the public described above. Probably the administrative hearing open to the public will be organized for public and authorities by Party of origin as well as by affected Party as they so agree.

Slovakia. Yes, and it is no problem for the public of the affected Party to participate.

Sweden. The meetings in Sweden are open for participation from the affected Party.

Switzerland. If there is a public hearing, the public authorities, organizations and other individuals of affected Party would of course be allowed to participate.

United Kingdom. Where a public inquiry is being held to consider whether the proposed activity is to be allowed to go ahead members of the public from the affected Party are allowed to attend and make representations.

Armenia, France, Latvia, Lithuania, Republic of Moldova. No experience or no response.

(iii) As a joint hearing in either of the above?

Germany. See V.A.1.2 (c) (ii).

Austria, Norway, Slovakia. Yes, a public hearing is initiated as a joint hearing in either Party.

Belgium (Flanders). Joint hearings are possible as long as the relevant legislation is being applied.

Belgium (Nuclear), Croatia. No, a public hearing is not initiated as a joint hearing in either Party.

Bulgaria. A joint hearing with participation of public from the affected Party and Party of origin is organized when there is a joint EIA. Usually the public hearing is organized separately in the affected Party and in the Party of origin. The representatives of the competent authority and public from the affected Party could participate in the discussion in the Party of origin as well as the opposite.

Canada. Canada would not seek to limit the participation of the affected Party's public in a joint hearing, if hearings were held in Canada. Normal Canadian entry requirements would apply, however, to those individuals wishing to enter Canada to participate in the hearing sessions in Canada.

Denmark. In practice, yes, a public hearing is initiated as a joint hearing in either Party.

Switzerland. This may be a possibility, but joint hearing might then in all likelihood be in the Party of origin.

United Kingdom. This would only occur where an activity required approval from more than one jurisdiction – in effect where the Parties were both Party of origin and affected Party. The United Kingdom has not had such activities and do not anticipate any.

Armenia, Czech Republic, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Poland, Republic of Moldova, Sweden. No experience or no response.

(d) Do you have a bi-/multilateral agreement concerning the entrance/allowance of the public of the affected Party/Parties into your country? Please provide examples.

Armenia. Armenia has borders with four countries. There are no problems crossing the frontier with Georgia, but it is not a Party to the Convention. Another neighbour, Turkey, is also not yet a Party, while Iran is outside the UNECE region. There are no general or Espoo-specific agreements with neighbouring countries, except Georgia, allowing the public to cross borders.

Austria. Austria is preparing such agreements with the Czech Republic and Slovakia. There are informal guidelines with Liechtenstein and Switzerland.

Belgium (Flanders). The involvement of the public of the affected Parties is included in the legislation. The practical aspects of public involvement are covered in the bilateral arrangement.

Belgium (Marine, Nuclear), Bulgaria, Canada, Slovakia. No.

Croatia. Croatia does not have such a type of agreement, but everybody is allowed to participate to the hearing.

Czech Republic. No, everyone can attend according to the Czech Republic's act.

Denmark. The involvement of the public of the affected Parties is provided for in the legislation. See V.A.1.1 (b).

Germany. Several bilateral agreements are currently under negotiation (Germany-Poland, Germany-Czech Republic, Germany-Netherlands). Article 9a of the German EIA Act provides equal rights to participate in the EIA procedure to the public of the affected Party. However, the aforementioned agreements will include additionally provisions on translations.

Hungary. Hungary has no bilateral agreements yet. The draft agreement mentioned in V.A.1.2 (c) (i) arranges for invitation of the public of the affected Party to the Hungarian public hearing. The Slovak participants should arrange for translation on their own.

Italy. Bilateral agreements cover issues related to public participation (see V.A.1.1); they normally foresee that each Party applies its own national law. There are no specific provisions on entrance of the public of the other Party in Italy.

Lithuania. Draft Agreement between the Government of the Republic of Lithuania and the Government of the Republic of Poland on the implementation of the Convention on EIA in a Transboundary Context. Draft Agreement between the Government of the Republic of Lithuania and the Government of the Republic of Latvia on EIA in a Transboundary Context.

Netherlands. In the legislation the involvement of the public of the affected Parties is included. In bilateral arrangements the practical aspects of public involvement are also covered.

Norway. Please see the Nordic Environmental Agreement.

Poland. There is not any bi-/multilateral agreement concerning the entrance of the public of the affected Party into Poland, but there are provisions concerning this issue in the draft of the bilateral agreements on implementation of the Espoo Convention.

Switzerland. No restrictions on the public of the affected Party entering Switzerland

United Kingdom. The United Kingdom assumes that the intention of this question is to establish whether it has concluded any bi or multi-lateral agreements with other countries. The United Kingdom has not. If the intention is to establish whether members of the public of an affected Party are can make representations in person in the United Kingdom, that issue was addressed in the previous question (see response to question V.A.1.1 (a)).

Estonia, Finland, France, Kyrgyzstan, Latvia, Republic of Moldova, Sweden. No experience or no response.

(e) Describe any uncertainties or difficulties concerning the organization of the public participation.

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Austria. Translation of the documents that are not submitted in the language of the affected Party is very expensive. When only parts of the documentation are translated, the public blames the competent authority of the affected Party for withholding information.

Belgium (Flanders). Minor practical and organizational issues occur.

Belgium (Nuclear). There is not much participation by the public

Czech Republic. Interpretation.

Finland. The public is not interested enough.

Italy. No major difficulties encountered. It's sometimes difficult to coordinate the 2 EIA procedures when the national legislations foresee public participation at a different stage of the procedure (for instance in one country at the stage of preliminary project, and in the other country at the final stage of definitive project).

Kyrgyzstan. Problems include difficulties crossing borders, public passivity, and unjustified demands being made of a project.

Poland. Poland has no experience as Party of origin. According to Polish law after confirmation on participation in the EIA in transboundary context procedure by affected Party, the Minister of Environment together with propriety authority which caries out EIA procedure shall agree with interested Party (affected Party) on the dates of the stages of the procedure. It means that Poland is flexible what should help avoid most problems concerning transboundary co-operation included public participation.

Sweden. A lack of interest from the public is a problem.

United Kingdom. Other than identifying the point of contact in the affected Party, none to date.

Armenia, Bulgaria, Canada, Croatia, Denmark, Estonia, France, Latvia, Lithuania, Hungary, Netherlands, Norway, Republic of Moldova, Slovakia, Switzerland. No uncertainties or difficulties, no experience or no response.

Result of public participation (Part V.A.2)

SUMMARY:

Respondents reported various experiences of receiving comments from the public in the affected Party: Italy and Sweden noted few responses; Slovakia suggested that the number of responses depended on the potential impact of the project; the Netherlands and Switzerland reported that comments were sent direct to the competent authority; the Czech Republic considered the comments it received relevant but that they arrived late; Croatia remarked that it was difficult to distinguish the environmental concerns expressed in the comments; and the United Kingdom reported that the comments it received were not accompanied by an indication of their source, whether from government, NGOs or the public.

The respondents also indicated how the public participation was useful: identifying public concerns (Croatia, Netherlands, United Kingdom); providing more information about the affected area (Czech Republic, Kyrgyzstan, Slovakia); increasing transparency and accountability (Germany, Italy); possibly increasing acceptance of the final decision (Germany, United Kingdom); identifying alternatives and mitigation measures (Kyrgyzstan, Netherlands, Slovakia, United Kingdom); and leading to revision of the EIA documentation (Kyrgyzstan, Poland).

The public response was taken into account in the EIA procedure in various ways: inclusion in the EIA documentation (Estonia, Netherlands, Poland, Sweden); responded to by the project proponent (Bulgaria, Croatia); or taken into account by the competent authority in its decision (Bulgaria, Czech Republic, Finland, Hungary, Italy, Kyrgyzstan, Poland, Slovakia, Switzerland, United Kingdom).

V.A.2.1 Results of public participation

(a) What has been your experience of receiving a response from the public in the affected Party/Parties? How does the public of the affected Party/Parties respond?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders). In most cases, the public reacts directly to the competent authority.

Belgium (Marine). The public in the affected Party reacts directly to the Belgian competent authority. It is well organized and reacts within the set time limits.

Belgium (Nuclear). There is not much response.

Croatia. It depends. If they oppose the project there are difficulties to recognize environmental concerns in their comments.

Czech Republic. The responses provide relevant information, but late.

Denmark. In most cases the public reacts directly to the competent authority.

Italy. Very few responses have been received.

Kyrgyzstan. No experience, but there has been experience of an NGO helping participation, but not really from the affected Party.

Netherlands. In most cases the public reacts directly to the competent authority.

Slovakia. The response depends on the kind and scope of the proposed project and it potential impacts.

Sweden. Not much experience, just some comments from special interest groups.

Switzerland. No recent experience with applying Espoo. However, replies would not go to point of contact but to the competent authority granting approval. In recent case preceding application of Espoo, public of affected Party voiced its opinions.

United Kingdom. Responses to date have been submitted by the affected Party's point of contact. These did not specify the source of the comments, e.g. from government authorities, environmental bodies or members of the public. It is therefore not possible to say whether these included comments that came from the public.

Armenia, Austria, Bulgaria, Canada, Estonia, Finland, France, Hungary, Latvia, Lithuania, Norway, Poland, Republic of Moldova. No experience or no response.

(b) In what way is the public participation useful?

Belgium (Flanders). In the scoping phase, the input from the public can draw attention to issues of specific interest for the affected Party and may lead to the formulation of suggestions to take certain alternatives into account. It is also useful to identify at an early stage potential conflict issues.

Belgium (Marine). It can draw the attention of the Belgian authorities to sensitive issues that have maybe been underestimated.

Belgium (Nuclear). The input from the public can draw attention to issues of specific interest for the affected Party and may lead to the formulation of suggestions to take certain alternatives into account. It also may lead to specific conditions in the authorisation (permit).

Croatia. It sheds more light on public concerns.

Czech Republic. Valuable information about the site, conditions.

Denmark. In the scoping phase, the input from the public can draw attention to issues of specific interest for the affected Party and may lead to the formulation of suggestions to take certain alternatives into account.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). Public participation is always useful, because it will contribute to transparency, to better decision-making and, possibly, greater acceptance of the final decision.

Italy. It increases transparency and accountability.

Kyrgyzstan. The public is able to supply information on their local area that the project proponent is often unable to obtain; potential adverse impacts may thus be revealed and dealt with. In addition, justified comments from the public and the authorities have to be taken into account.

Netherlands. In the scoping phase the input from the public can draw the attention to issues of specific interest for the affected Party and may lead to formulate suggestions to take certain alternatives into account.

Poland. Comments and recommendations submitted by the affected Party (coming from the participation of authorities and public of the affected Party) may be taken into account in the

EIA documentation. Because of that, the EIA documentation may be changed by suggestions of the affected Party, which will guarantee that the final decision shall take into account the comments of the affected Party.

Slovakia. Public participation warns of local problems, helps to implement an environmentally acceptable activity and to develop mitigation measures.

Switzerland. The right of the public to participate and the value of public participation is a given.

United Kingdom. The United Kingdom cannot answer for the specific cases on which it has consulted affected Parties. In general terms it is important that relevant views of the public are identified and taken into account at an early stage. The public can help to identify key environmental issues and propose acceptable ways of mitigating adverse effects of the activity. Discussing with the public in advance of finalising proposals for the activity can also help allay public concerns about the effect of the activity and minimise difficulties at later stages of the decision-making process.

Armenia, Austria, Bulgaria, Canada, Estonia, Finland, France, Hungary, Latvia, Lithuania, Norway, Republic of Moldova, Sweden. No experience or no response.

(c) How do you take the public response into account in the various stages of the EIA procedure?

Canada. See I.A.1.1 (a).

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders). The public response is incorporated in the various documents: (1) the public input during the scoping phase should be included in the EIA documentation; and (2) the public input based on the EIA documentation and forwarded during the permit application procedure should be included in the final decision.

Belgium (Marine). The reactions from the public (Belgian and from abroad) are taken into account in the EIA documentation and in the advice from the administration to the competent minister. A document containing a brief synthesis and analyzing the different arguments is made public.

Belgium (Nuclear). Based on the comments of the public, the local authorities can advise the Federal Agency for Nuclear Control. These will be referred to in the advice in the permit but this advice is not always legally binding.

Bulgaria. The developer shall submit to the competent authority the results of the public discussion, including the opinions and minutes of proceedings within seven days after holding the discussion. The developer provides to the competent authority also his comments on the public opinions. The competent authority shall make an EIA decision within three months after the discussion, taking into account the results pointed above, in compliance with the legislation.

Croatia. All public concerns have to be answered before final decision.

Czech Republic. In each stages the public comments must be taken into account by competent authority; they comment notification, documentation and expert opinion as well, EIA statement is make by competent authority on the base of all materials and all public comments

Denmark. The public response is incorporated into the various documents.

Estonia. Before adoption of the EIA programme and report the comments and answers are annexed to the EIA programme and report.

Finland. The coordination authority shall give its own statement on the assessment report and its adequacy. A summary of other statements and opinions shall be included in the statement. The assessment procedure shall be concluded when the coordinating authority hands over its statement and other statements and opinions to the developer. The statement shall likewise be supplied to authorities dealing with the project for their information.

Hungary. Article 8, paragraph 3, prescribes that the inspectorate shall take the public response in due account and shall give a detailed explanation about this in the reasoning part of its decision. The explanation shall analyse the factual, professional and the legal elements of the comments.

Italy. Agreements undertaken usually foresee, before taking the final decision, an exchange of the results of EIA procedure, public participation and consultation in both countries. These should be taken into account when adopting the final decision.

Kyrgyzstan. Only justified comments are taken into account.

Netherlands. The public response was taken into account by the competent authority in its final decision.

Poland. According to Polish law having obtained the EIA documentation, the Minister of Environment shall forward it immediately to the state (affected Party) that participates in the EIA in transboundary context procedure. Comments and recommendations submitted by the affected Party (from the participation of authorities and public of the affected country) shall be taken into account in the EIA documentation and on stage of granting final decision.

Slovakia. Well-founded and valid responses and suggestions are always taken into account.

Sweden. In the application the developer shall give information about any consultations that have taken place under the EIA procedure.

Switzerland. Public response to competent authority granting approval (not to contact point), but competent authority would take opinions voiced by public in affected Party into account in its decision-making (public of affected Party has a right to appeal). See also III A 2.3 (a) above (page 33).

United Kingdom. EIA Regulations require that members of the public have the opportunity to inspect details of the proposed activity and the relevant environmental information, including the EIA documentation, and are given an opportunity to make representations on them to the Competent Authority before a decision can be taken on whether the activity is allowed to go ahead. Relevant comments submitted by the public must be taken into account when the competent authority decides whether to grant consent, and the decision must state that they have been so taken into account.

Armenia, Austria, France, Latvia, Lithuania, Norway, Republic of Moldova. No experience or no response.

QUESTIONS TO THE PARTY IN THE ROLE AS AN 'AFFECTED PARTY' (PART V.B)

Describe the legal, administrative and other measures taken in your country as the affected Party to implement the provisions of the Convention on public participation.

Opportunity and organization of the public participation (Art. 2, para. 6, and Art. 4, para. 2) (Part V.B.1)

SUMMARY:

Some respondents in their role of affected Party reported positively on the opportunity given to their public to participate in the EIA procedure (Austria, Croatia, Netherlands, Norway). Austria reported having organized the informing of the public, having had its public invited to a public hearing in a Party of origin and having had access to a very useful Internet web site in the Party of origin. Italy and Switzerland reported implementation of joint EIAs. France had recently introduced a law on public inquiries for projects affecting France. However, Bulgaria reported a very limited opportunity to participate and Hungary reported that it was only notified two years after the public participation had been completed. Sweden noted that despite effective publicity, public interest had been lacking.

The respondents reported that their public was informed of this opportunity by newspaper advertisement (nine respondents), press releases (Sweden), Internet web site notices (Austria, Poland, Switzerland), letters to the competent authority (Bulgaria, United Kingdom), contacting NGOs (Finland), public notice boards (Poland, Slovakia), local radio (Slovakia), decrees (France), or official gazette notices (Switzerland).

Two Parties (Croatia, Norway) reported public inquiries initiated in their country, as affected Party, by a Party of origin. Two respondents (Canada, United Kingdom) indicated that this would have required prior discussion and their approval.

All respondents providing a clear answer reported that they considered the opportunities provided to their public, as affected Party, were equivalent to those given to the public in the Party of origin. The United Kingdom stated that it depended on the information and amount of time given by the Party of origin.

Public participation in the affected Party was reported as being in accordance with the legislation of the Party of origin (Austria, Croatia, Czech Republic, Germany, Italy, Netherlands), the legislation of the affected Party (Bulgaria, Croatia, France, Hungary, Italy, Poland, Switzerland, United Kingdom), bi- or multilateral agreements (Bulgaria, Czech Republic, Italy, Netherlands, Poland) or ad-hoc procedures (Finland, Sweden). Switzerland and the United Kingdom indicated that, though they applied domestic procedures, they also respected the timetable defined by the Party of origin.

V.B.1.1 Opportunity for public participation

(a) What has been your experience of the Party of origin providing your public with the opportunity to participate in the EIA procedure as required in Article 2, paragraph 6?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Austria. In the cases in which Austria has participated, it informed its public itself, but in one case the information given by the competent authority of the Party of origin on its website was very useful. In one case, the Party of origin organized a hearing on its territory for the affected public of Austria.

Belgium (Flanders), Denmark, Netherlands. In general the experience has been satisfactory.

Bulgaria. There was very limited possibility provided by the Party of origin for Bulgaria's affected public to participate in the EIA procedure: lack of early notification, limited transfer of EIA documentation and limited time frame for comments, restrictions for the distribution of the documentation.

Croatia. Neighbouring counties have the similar procedure for the public hearing so the public has the same opportunities.

France. France itself assures the participation of the public on the national territory. It recently introduced into national law a collection of rules on the organization of public inquiries into projects affecting French territory. This law is very new, so it does not yet have any experience of its implementation.

Hungary. In the only case when significant effects occur, the notification was sent two years later as the public participation procedure had taken place.

Italy. As specified above, in all cases Italy is involved, the proposed activities (tunnels, under-sea lines...) are of a cross border nature and carried out in common with the other country (joint companies). Therefore Italy is always Party of origin and affected Party at the same time and the application of the convention is regulated by bi-lateral agreements. These agreements also settle the issues related to public participation. They usually foresee that the public of the two countries should have access to the same documentation and could comment on the entire project, including transboundary effect.

Norway. The experience has been good.

Poland. Party of origin provides EIA documentation to the Minister of Environment, who shall immediately forward it to the *voivode* relevant in the light of the affected area in Polish side. *Voievode* shall make available for public review EIA documentation in the Polish language. Public and interested authorities have 21 days to send their comments to the *voivode*.

Sweden. Advertisements and information to the press on planned projects. The documents have been available at regional and local authorities. Interest from the public has been very low.

Switzerland. No recent experience, but see reference to joint EIA procedures above: Switzerland and its cantons are participating in quite a few joint EIAs with adjoining Parties (hydropower plants on rivers forming the border, roads, gas-pipelines, etc.), where a procedure to grant approval takes place on either side of the border.

United Kingdom. The United Kingdom has no experience of a Party of origin organizing public participation in the United Kingdom. If a case arose in which the United Kingdom authorities (point of contact) considered there was a need to consult members of the public, it would discuss within Government and expert bodies. If the decision is taken to participate, it would recommend that the Party of origin forward all relevant documentation to the United Kingdom point of contact who would make arrangements for competent authorities in the affected areas to arrange necessary public participation. (As in (b) below.)

Armenia, Canada, Czech Republic, Estonia, Finland, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Slovakia. No experience or no response.

(b) By what means is your public normally informed of this opportunity?

Germany. See II.A.1.1 (a), II.A.1.2 (a) and II.A.3.1 (c).

Sweden. See V.B.1.1 (a).

Austria. The public is normally informed by announcements in newspapers (see II.B.3.1 (c)), on the web site of the affected *Länder*, and by the point of contact, if applicable.

Belgium. The public is normally informed by public announcement or advertisement in newspapers, by being available for public inspection, and by use of the Internet.

Bulgaria. The public is normally informed by newspaper or letters sent by the competent authority.

Croatia. The public is normally informed by announcements in the daily press.

Denmark. The public is normally informed by public announcements in newspapers and by other means.

Finland. The point of contact requests comments on the materials supplied. Usually NGOs are considered to represent public opinion.

France. The public is normally informed by a declaration of public inquiry. The prefect, having consulted the investigating commissionaire or the president of the board of inquiry, defined by decree:

- The subject of the investigation, the date it will begin and its duration, which can be neither less than one month nor exceed two months, except for a single extension of 15 days decided by the investigating commissionaire or the president of the board of inquiry;
- The locations, as well as the days and hours, where the public may consult the inquiry dossier and record its comments in a register opened for this reason;
- The names and qualifications of the investigating commissionaire or the members of the board of inquiry and their possible replacements;
- The locations, days and hours where the investigating commissionaire or a member of the board of inquiry will be available to the public to receive its comments;
- The locations where, at the end of the inquiry, the public may consult the report or conclusions of the investigating commissionaire or the board of inquiry.

Italy. Italy's authorities are normally in charge of defining the means, in accordance with the agreements undertaken with the other Party.

Netherlands. The public is normally informed by public announcement in papers and by deposit for public inspection.

Norway. The public is normally informed by the same means as information on notifications and EIA documentation.

Poland. Placing the information on the notice board at the seat of authority responsible for the public participation provides the notification of the public. Propriety information are also provided by publication in the local press, by placing the information on the www homepage of the authority and in a manner commonly used in locality that can be affected by Party of origin.

Slovakia. The affected municipality informs the public through the normal means: the media, notice boards, local radio, etc.

Switzerland. The public would normally be informed by public announcement in the newspaper or official journal – possibly Internet.

United Kingdom. The point of contact in Office of the Deputy Prime Minister would notify the relevant competent authority in the area likely to be affected. He would arrange for copies of the environmental documentation to be made available to the Competent Authority and request the authority to place these at suitable locations within the area. The Competent Authority would be required to advertise details of the proposed activity in appropriate sections of local and national press, including details of where and when details of activity may be inspected, and how, to whom and by when any relevant comments on the activity may be made.

Armenia, Canada, Czech Republic, Estonia, Hungary, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova. No experience or no response.

(c) Does the Party of origin often initiate a public hearing in your country? Please provide examples.

Austria, Belgium (Flanders), Bulgaria, Czech Republic, Finland, France, Italy, Netherlands, Sweden. No, it does not.

Canada. If a Party of origin wished to initiate a public hearing in Canada pursuant to the Party of origin's legislation, prior discussion with and approval by the Government of Canada would be required.

Croatia. This occurred once, for an Espoo case with Slovenia for a wastewater treatment plant.

Denmark. This has occurred, but Denmark has little experience.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). There is no information available that a Party of origin has initiated any public hearing in Germany in a transboundary EIA procedure.

Norway. Yes – Norway is asked if it is necessary.

Poland. Poland has not practical experience in this field. Public hearing organized by Party of Origin was always in its country. Poland as affected Party was invited to participate in German and Czech side.

United Kingdom. The United Kingdom is not aware of any examples of a Party of origin making a request to initiate a public hearing/inquiry in the United Kingdom. As stated in V.B.1.1 (a), the United Kingdom as an affected Party would seek to make such arrangements, but would consult fully with the Party of origin to accommodate as much of the Party's hearing or inquiry requirements as United Kingdom legislation would allow.

Armenia, Estonia, Hungary, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Slovakia, Switzerland. No experience or no response.

(d) Do you normally consider the opportunities given to your public equivalent to the ones given to the public in the Party of origin as required in Article 2, paragraph 6?

Armenia. In principle, Armenia believes that the opportunities given to the public of both Parties concerned should be equivalent. However, practical arrangements for participation should be determined by the national legislation of each of the Parties.

Austria, Belgium (Flanders), Croatia, Czech Republic, Denmark, Netherlands, Slovakia. Yes, the opportunities given to the public in the affected Party and in the Party of origin are normally considered equivalent.

France. Yes. France has the impression that rules relating to public participation (framed by the same European Community law for most of its neighbours) are of equal quality on both sides of the frontiers.

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Italy. Yes, it is normally established by bilateral agreements that the opportunities given to the public in the affected Party and in the Party of origin are equivalent. See V.B.1.1.

Kyrgyzstan. Yes, opportunities should be equivalent.

Norway. As far as it is possible, the opportunities given to the public in the affected Party and in the Party of origin are normally considered equivalent.

Poland. According to Polish law, the Minister of Environment sends the EIA documentation to the *voivode* (regional level) after receiving the EIA documentation from the Party of origin. It means that authority in Polish side carries out the public participation procedure (collect comments and preparing draft of statement). On the other hand the comments from public are sent directly to Polish authority. They never have sent to the authority responsible for public participation in Party of origin. Polish Minister of Environment has to prepare statement of affected Party with included comments form the public participation than. Because of the necessity of translation, consultation with experts and other bodies, the procedure for public participation which effect is the statement of the Minister of Environment takes more time than in the Party of origin in most cases.

Switzerland. Yes, but no recent example (but a considerable number of joint EIAs).

United Kingdom. As an affected Party, the opportunity given to the United Kingdom public depends upon the Party of origin providing the same information and timescale to the United Kingdom as it does for its own public. The United

Kingdom has no reason to believe they do not do so.

Bulgaria, Canada, Estonia, Finland, Hungary, Latvia, Lithuania, Republic of Moldova, Sweden. No experience or no response.

V.B.1.2 Organization of the public participation

(a) Is the public participation normally organized in accordance with the legislation of the affected Party, the Party of origin, ad hoc procedures or bi-/multilateral versions of these?

Armenia. No experience. See also the answer to the previous question.

Austria. It is organized in accordance with the legislation of the Party of origin.

Belgium (Flanders). In principle, the public participation is organized in accordance with the legislation of the Party of origin and with the bilateral agreement or another ad hoc arrangement.

Belgium (Nuclear). Normally, the public participation should be organized in accordance with the legislation of the Party of origin

Bulgaria. The public participation normally shall be organized in accordance with the legislation of the affected Party or through bi/multilateral agreements.

Croatia. It is organized in accordance with the national legislation of both Parties.

Czech Republic. It is organized in accordance the legislation of the Party of origin. When the Czech Republic has bilateral agreements, then it will be according to these.

Denmark. Normally, the public participation is organized in accordance with the legislation of the Party of origin and with bilateral agreements. Within Denmark's limited experience, the procedure for public participation does not differ much from the procedure in Denmark.

Finland, Sweden. The public participation is normally organized in accordance with *ad hoc* procedures.

France. Public participation is organized within the framework of the legislation of the country in which it is conducted.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). Usually the procedure follows mainly the legislation of the Party of origin for maintaining equal rights of participation for the public in both countries (e.g. with regard to the time frame for submitting comments).

Hungary. When Hungary is the affected Party, the Ministry of Environment and Water shall organize public participation according to article 27, paragraph 5, of the EIA Decree, as it was described earlier.

Italy. It depends on bi-lateral agreements, which usually foresees that the legislation of affected Party should apply.

Kyrgyzstan. No experience. However, according to the current legislation and international bilateral and tripartite agreements, the Party of origin should notify and carry out joint actions, for example the state ecological examination of projects having transboundary impact.

Netherlands. Normally, the public participation is organized in accordance with the legislation of the country of origin and with bilateral agreements.

Poland. Public participation in Poland is organized in accordance with the national legislation and provisions of the Espoo Convention. In some cases draft of bilateral agreements can support process of transboundary co-operation especially in translation issues. According to bilateral agreement between Poland and Germany EIA documentation and other documentation (ex: scoping paper, letters, final decision) is translated by Party of Origin into language of affected Party. Because of that Parties can save some time. According to Polish law authority responsible for public participation (*voivode*) shall make available to the public EIA documentation in the Polish language. If the Party of origin did not translate the EIA documentation, it is translated by the affected Party thus it consumes time and increases costs.

Switzerland. No recent experience - but would foresee that public participation is organized by relevant (cantonal) body in Switzerland - in consultation with the competent authority in Party of origin - in accordance with Swiss provisions but respecting time limits set by procedural provisions of Party of origin (public participation at the same time and within the same time frame as the public participation in the Party of origin).

United Kingdom. The United Kingdom would use the procedures applicable for the approval of similar activities in the United Kingdom. If the

Party of origin allowed a longer period for response that that normally allowed under United Kingdom procedures, the United Kingdom would of course work to that deadline.

Canada, Estonia, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia. No experience or no response.

Result of public participation (Part V.B.2)

SUMMARY:

More than three quarters of the respondents indicated that the public in the affected Party participated in the EIA procedure. Estonia reported that participation varied, whereas Italy, Sweden and the United Kingdom indicated that the public did not participate. Italy reported that this was probably due to a lack of interest, whereas Sweden noted that the projects notified to it were large, complicated and in remote areas.

Respondents' experiences with respect to the response of the Party of origin to public comments varied substantially: thorough bilateral discussions (Austria); taken into account in the final decision (Italy, Netherlands, Poland, Switzerland); or a lack of feedback (Bulgaria). Finland, France and Poland noted that public comments were combined with official ones in the response to the Party of origin.

V.B.2.1 Results of public participation

(a) Does the public of the different affected areas normally participate in EIA procedures?

Austria, Belgium, Bulgaria, Croatia, Czech Republic, Germany, Hungary, Kyrgyzstan, Netherlands, Norway, Poland, Slovakia, Switzerland. Yes, the public of the different affected areas normally does participate.

Belgium (Flanders). Participation is not overwhelming and reflects quite often a rather limited interest.

Estonia. Sometimes yes, sometimes no, depending on personal interest.

Finland, Italy, Sweden, United Kingdom. No, the public of the different affected areas normally does not participate.

Armenia, France, Latvia, Lithuania, Republic of Moldova. No experience or no response.

If not, describe the reasons why the public does not participate.

France. The French regulation exists only since 2003 and has yet to be implemented.

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Italy. Probably there is a low interest in the projects.

Sweden. Big and complicated projects far from people

United Kingdom. In mainland Great Britain there have as yet been no cases notified to the United Kingdom where it has considered that activities initiated in another country would have a significant effect on its environment such that it would wish to take part in the EIA procedure prior to a decision being taken on whether the activity is allowed to go ahead. So it has not needed to initiate procedures to obtain the views of the public. Had it done so, the procedures described elsewhere in this questionnaire would apply and the public would be given an opportunity to offer comments on the proposals. Whether they would choose to do so is a matter for them, but experience of EIA issues in the United Kingdom suggests they would do so.

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Finland, Hungary, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Switzerland. No experience or no response.

(b) What is your experience of the Party of origin taking into account the comments of your public in the various stages of the EIA procedure?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Austria. They discuss them thoroughly with Austria.

Belgium (Flanders). Generally, comments and concerns of the public are taken into consideration, although the comments are not always met.

Bulgaria. No information provided by the Party of origin.

Croatia. Public is not concerned with the transboundary effects.

Czech Republic. Part of the written conclusions about screening procedure shall be a summary evaluation of all the comments of the public and other relevant authority. Then public comments must be taken into account id documentation, expert opinion and in EIA statement as well.

Denmark. Generally speaking, comments of the public are taken into consideration although the comments are not always met.

Finland. The opinions of the public are summarized in the comments of the point of contact (as the affected) Party and are taken account of in the same way as the comments.

France. France does not have any experience, but its understanding of the Convention is that it is the affected Party that draws conclusions from the public participation in its territory and that makes this information known to the inquiry commissioner at the same time as giving its opinion on the project.

Italy. Agreements undertaken usually foresee, before taking the final decision, an exchange of the results of EIA procedure, public participation and consultation in both countries. These should be taken into account when adopting the final decision.

Netherlands. Generally speaking, comments of the public are taken into consideration although the comments are not always met.

Poland. Comments of the Polish public are the base to make the statement of the Minister of Environment send after receiving EIA documentation, and participation of authorities and public of Poland. This statement can be taken into account as corrections of the documentation (preparation of EIA documentation stage) and during preparation of final decision (final decision stage).

Switzerland. Lack of recent experience but, based on other dealings with neighbouring countries, would expect comments of public to be fully taken into account.

United Kingdom. In the recent past the United Kingdom has experienced contact with two Parties of Origin both regarding several proposals. The EIA procedures for one Party's proposals all appeared to be well advanced. United Kingdom authorities did pass on comments regarding "effects modelling", but as mentioned in a previous answer the comments were not included in the final EIA documentation. As the affected Party was a United Kingdom independent territory details of the proposals were forwarded to the territory's own authorities for consideration. The United Kingdom does not know whether any comments from these authorities and the public were submitted, and if they were whether they were taken into account. The other Party has notified the United Kingdom of several activities, but all these had only got as far as the initial notification stage. The United Kingdom point of contact notified interested United Kingdom authorities who requested to be kept informed about the proposals and the United Kingdom has requested to have sight of EIA documentation if the proposals reach this stage of the EIA procedure. The United Kingdom point of contact would inform the public where it was considered there were likely to be significant effects on the United Kingdom environment.

Armenia, Canada, Estonia, Hungary, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia, Sweden. No experience or no response.

CONSULTATION (PART VI)

QUESTIONS TO THE PARTY IN THE ROLE AS A 'PARTY OF ORIGIN' (PART VI.A)

Describe the legal, administrative and other measures taken in your country as the Party of origin to implement the provisions of the Convention on consultation referred to in this section.

Existence and entry into consultations (Part VI.A.1)

SUMMARY:

As Parties of origin, respondents described their limited but diverse experiences of consultations pursuant to Article 5 of the Convention. Bulgaria and Italy reported that these had occurred within joint Environmental Impact Assessments (EIA). Croatia reported that consultations were difficult when an affected Party is a priori against a project. France noted the necessity to extend deadlines to assure adequate consultation for projects subject to dispute. The Netherlands, Sweden and Switzerland described procedural matters. The United Kingdom reported on early and effective consultations with Ireland.

Only Finland and the Netherlands declared not having entered into consultations with the affected Party. However, France indicated that no consultations occurred if the affected Party did not respond to the notification or indicated that it had no particular comments to make. Similarly, the Netherlands reported that no consultations were needed when it was determined that the transboundary impact was limited.

The respondents determined in various ways the meaning of "without undue delay" with respect to entering into consultations: immediately after notification (Slovakia); once the EIA documentation had been subject to quality evaluation (Bulgaria); bearing in mind practicalities and reciprocity (France); preferably once the affected Party has commented on the EIA documentation (Germany); once the EIA documentation has been sent to the affected Party (Hungary, Netherlands, Poland, United Kingdom); according to bilateral agreements and national legislation (Italy); or at the same time as consulting the domestic authorities (Sweden).

Again, the respondents interpreted the reasonable time frame for consultation in different ways, with France reporting time frames exceptionally extending to two years. The Netherlands provided a range of three weeks to three months for consultation, whereas Germany indicated that it depended on the issues to be discussed. Croatia and Italy indicated that it depended upon the equivalent domestic procedures in the concerned Parties. Italy also noted the relevance of bilateral agreements.

VI.A.1.1 Consultations (Art. 5)

(a) What is your experience with consultation pursuant to Article 5?

Armenia. The necessary legislative, administrative and other measures have not yet been developed. No experience.

Belgium (Flanders, Nuclear), Denmark. Practical experience with consultation is still limited.

Belgium (Marine). If consultation takes place it is firstly done at the administrative level. If different opinions rise and cannot be resolved, consultation may proceed at the ministerial level.

Belgium (Nuclear). It is a legal requirement that the competent authority (the Federal Agency for Nuclear Control) has to mention the results of the consultation, but the competent authority does not have to take them into consideration when making a final decision.

Bulgaria. There is no EIA procedure in which Bulgaria is a Party of origin till now. Bulgaria and Romania have taken part in a joint EIA – the second Danube bridge Vidin-Calafat – and the consultations have initiated from both concerned Parties.

Croatia. Real challenges are facing Croatia. This is when affected Party a priori is not in favour of the project (power plant on the river Drava – an Espoo case under way with Hungary), In all other

cases, it means when the project is not disputed Article 5 is implemented very smoothly.

France. The only regulation in French law pertaining to such consultations is that concerning the prolongation of the procedure. France's experience would appear to show that when projects are the subject of real dispute, these consultations must continue for as long as no agreement is reached between the two Parties. France does not have any experience involving more than two Parties.

Germany. In principle consultations, that means exchange of information and direct communication and discussion of topics in the framework of the transboundary EIA procedure between the competent authorities of both Parties involved, can always be very useful. With regard to article 8, paragraph 2, of the German EIA Act in addition formal consultations could be held on the high level of the Ministries of the Federal government and the *Länder* government, if they are necessary. Since Germany is a Party to the Espoo Convention there was in accordance with the neighbouring countries no need for such formal high-level consultations in a transboundary EIA procedure for a project or an activity falling in the scope of the Convention.

Italy. Consultations are held in the framework of bilateral agreements established between the two Parties involved. Such agreements are set up sometimes before and sometimes after the notification. In some cases a Joint Body, consisting of representatives from each side, has been created in order to facilitate the exchange of information and the co-ordination of the internal procedures.

Netherlands. Once the EIA documentation has been completed, the competent authority will publish this document in the area likely to be affected and provide the relevant authorities in the affected area with the documentation. In accompanying letters information is provided on the EIA procedure and the timetable for comment. The affected country will be asked to indicate whether it wants to enter into consultation within a specific time in order to minimize delays in the decision-making process. It is a legal requirement that the competent authority takes the results of the consultation into consideration when making a final decision. The practical experience with consultation is still limited.

Sweden. The EIA is a part of the application documents the developer has to give to the permitting authority (in most cases an environmental court). The EIA will be sent for comments to the affected Party either from the Swedish Environmental Protection Agency or direct from the environmental court.

Switzerland. Lack of experience, but Switzerland favours earlier involvement at the scoping stage, where appropriate.

United Kingdom. The United Kingdom's experience of consultation relates to a number of proposals where it has the only land border with another Party, i.e. the Irish Republic, and a proposal that required consultation with a number of potential "affected Parties" on the "mainland" of Europe. The authorities of Northern Ireland and the Irish Republic have a good flexible relationship regarding proposals with possible transboundary effects. The authorities consult in the very early stages of the EIA procedures so that the EIA takes into account potential transboundary effects. The flexibility extends to consultation on the content of an environmental assessment. Another proposal that related to "mainland" Europe identified five countries that potentially could be affected. Of these only two said that they wanted to be involved in the EIA procedure and submitted comments about the EIA documentation.

Austria, Canada, Czech Republic, Estonia, Finland, Hungary, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia. No experience or no response.

(b) Have you ever been involved in EIA procedures where your country (as a Party of origin) did not enter into consultations pursuant to Article 5?

Belgium, Finland, Netherlands. Yes.

Armenia, Austria, Bulgaria, Croatia, Denmark, Estonia, France, Germany, Hungary, Italy, Kyrgyzstan, Poland, Slovakia, Sweden, United Kingdom. No.

Canada, Czech Republic, Latvia, Lithuania, Norway, Republic of Moldova, Switzerland. No experience or no response.

If so, what were the reasons?

Belgium (Flanders), Netherlands. In many cases there was no need for formal consultations pursuant to Article 5. In most cases this was due to the fact that the assessment showed that the transboundary impact was limited after all.

Belgium (Marine). If there were no objections to the project in question, consultations were not entered into.

Belgium (Nuclear). In many cases there was no need for formal consultations pursuant to Article 5 because a positive opinion was given.

Czech Republic. See answer to previous question.

France. It is not a situation to be excluded. For example, France notifies a project accompanied by its EIA study but the affected Party does not answer or indicates that it does not have any particular observations. France would consider in this situation that the examination of the dossier can continue domestically.

Germany. On the Federal level is no information about such a transboundary EIA procedure available since Germany is a Party to the Espoo Convention.

Armenia, Austria, Bulgaria, Canada, Croatia, Denmark, Estonia, Finland, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No experience or no response.

VI.A.1.2 Timing of entry into consultation (Art. 5, "…without undue delay...")

(a) Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of "undue delay"?

Armenia. The necessary legislation and procedures have not yet been developed.

Belgium (Flanders). See also II.A.2.4 (a). The expression is defined legally.

Belgium (Marine). The expression is legally defined as 90 days after sending the information, or 90 days before the final decision.

Belgium (Nuclear). The time frames for responding are legally defined.

Bulgaria. According to the EPA (Art. 96, paragraph 6) and the EIA Regulation (Art. 25 (6)) after the completion of the EIA documentation the competent authority should evaluate its quality. These provisions concern the EIA in a transboundary context, too. This means that the entry into consultation is only after the quality evaluation.

Croatia. This is stipulated in the Convention by the procedure. There is no special national legislation and it depends on the commitment of the both Parties. It could be the problem with "foot dragging".

Denmark. Practical experience is limited, but according to Danish legislation, and the general procedure in such matters, Denmark would avoid 'undue delay'.

France. France does not have any rule on this, but it always keeps in mind that it is as difficult (and often long) for a Party affected by a French project to give its opinion as it is for France to give its opinion on a foreign project.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). Consultations are possible during the whole transboundary EIA procedure. Article 5 indicates that consultations shall take place immediately after the completion of the EIA documentation. The more appropriate time seems to be after the affected Party has given its comments on the EIA documentation.

Hungary. According to article 26, paragraph 2, the Ministry furthers the detailed environmental impact study to the affected Party and in the same time initiate consultations on that.

Italy. It depends on the bilateral agreements and the time limits imposed by national legislation.

Netherlands. See also VI.A.1.1 (a). The legislation (Environmental Management Act) states in article 7.38e that in the event that another country may suffer significant adverse environmental effects as the result of an activity in the Netherlands, in preparation for which EIA documentation must be drawn up, the Minister of Housing, Spatial Planning and the Environment may stipulate that the competent authority must take the decision, in preparation for which the EIA documentation must be drawn up, only after the Dutch Minister has had the opportunity, for thirteen weeks after the end of the public participation, of forwarding to the competent authority the outcome of the consultation.

Poland. According to Polish law after forwarding by the Minister of Environment EIA documentation to affected Party, the authority responsible for EIA in transboundary procedure shall hold consultation with affected Party in accordance to the dates of the stages of the procedure agreed earlier (on the confirmation of participation stage).

Slovakia. The timing will be determined by the bilateral agreement; immediately after delivering the notification.

Sweden. It will be sent to the affected Party at the same time as the permitting authority sends the application with the EIA for comments in Sweden.

United Kingdom. As in the VI.1.1 (a) above, the United Kingdom would allow any Party that felt it may be affected an opportunity to consider the relevant EIA documentation before deciding whether it wished to take part in the EIA procedure or before initiating further consultation with them. The United Kingdom would generally expect that the EIA documentation submitted to an affected Party would be complete and comprehensive - in effect including provisions of Article 4 and 5 as a single activity. However, if an affected Party considered a need for consultation beyond this, the United Kingdom would consider with them whether, and to what extent, further consultation as described in Article 5 was necessary. It has no legislation that defines "undue delay".

Austria, Canada, Czech Republic, Estonia, Finland, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Switzerland. No experience or no response.

(b) What is your experience of the agreement of a reasonable time frame for consultation pursuant to Article 5?

Bulgaria. There is still no agreement signed on this issue.

Belgium (Flanders). This depends on the particular situation.

Belgium (Marine). Authorities of affected Parties have never commented on the time frame.

Belgium (Nuclear). The time frame varies between two and six months.

Croatia. This is the time frame equivalent to the time for the related procedure within the each country for the national procedures.

France. For several dossiers (French and British) relating to the exploitation of marine aggregates in the English Channel, this 'reasonable time frame' has been extended since 2001. France is taking care, however, to make this the exception rather than the rule.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). The conditions for a reasonable time frame can be different in each case. The Parties will have to take into account mainly the number and importance of issues for the agenda of the consultations. Additional necessary arrangements for travel, the availability of interpreters etc. will have an influence.

Italy. It depends on the bilateral agreements and the time limits imposed by national legislation.

Netherlands. This depends on the particular situation. It may vary between three weeks and three months.

Armenia, Austria, Canada, Czech Republic, Denmark, Estonia, Finland, Hungary, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No experience or no response.

Character and organization of consultation (Part VI.A.2)

SUMMARY:

Respondents reported that in their limited experience consultations had covered matters referred to in paragraphs (a) to (c) of Article 5. Two respondents noted that consultations related to other matters: legal issues (Italy); and civil liability and scientific issues (Germany).

Consultations were reportedly held in the Party of origin (Croatia, Germany, Netherlands, Poland, Slovakia, United Kingdom), the affected Party (Italy, Norway), alternately in the two Parties (Hungary), or as determined case by case (Canada).

Several respondents indicated that consultations took place at the (federal) governmental level (Bulgaria, Canada, Croatia, Germany, Hungary, Italy, Norway), at the provincial or state or regional level (Bulgaria, Canada, Croatia, Germany, Italy, Norway), at the local level (Bulgaria, Canada), or among experts (Netherlands). In Poland and the United Kingdom, the level corresponded to the level of the competent authority, though, in the case of Poland, via the Environment Minister. In Slovakia, the level varied.

The consultations reportedly involved various bodies and individuals from the concerned Parties, depending on the complexity and contentiousness of the project, for example: the public (Bulgaria, Sweden); the 'authorities' (Sweden); national

government officials (United Kingdom); central, regional or local authorities with environmental responsibilities (Bulgaria, Canada, Hungary, Switzerland); the ministry of foreign affairs (Canada, France); the environment ministry (France, Germany, Hungary, Italy) or agency (Canada); the appropriate sectoral ministry (Canada, France); the competent authority (Germany, Netherlands, Switzerland); experts (Canada, Netherlands, Switzerland, United Kingdom); the project proponent (Switzerland); and other stakeholders (Canada, Croatia, Sweden).

As to the means of communication for consultations, respondents indicated correspondence (Sweden, United Kingdom), meetings, or both (Bulgaria, Croatia, Germany, Hungary, Italy, Kyrgyzstan, Netherlands). Italy and the United Kingdom also noted the use of the telephone. France and Switzerland indicated that a whole range of communication means was envisaged.

The timing of the consultation was variously reported as being: at a very early stage (Italy); once it had been decided to proceed with the EIA procedure, so as to define the scope (Bulgaria, Switzerland); while identifying potential impacts (Kyrgyzstan); once the EIA documentation had been sent to the affected Party (Bulgaria, Germany, Hungary, Netherlands, Poland, United Kingdom); once the affected Party's comments on the EIA documentation had been considered (Germany); after information had been exchanged, but before the public inquiry (Croatia); well in advance of a final decision (Canada); ongoing, following notification (France); at each step in the EIA procedure (Germany, Italy); and at the very end of the EIA procedure (Italy).

VI.A.2.1 Content of the consultation

(a) In your experience, do consultations cover the matters referred to in paragraphs (a) to (c) of Article 5?

Denmark, Germany. See VI.A.1.1 (a).

Belgium (Flanders), Netherlands. The practical experience with consultation (Art. 5) is limited. The cases that have occurred cover the matters referred to in paragraphs (a) to (c) of Article 5 and mostly deal with technical matters.

Belgium (Marine), Croatia. Yes.

Bulgaria. The matters referred to in paragraphs (a) to (c) of Art. 5 have been the most important topics referred to in the consultations organized under the joint EIA - Second Danube Bridge.

France. These three points, when they are relevant ('possible', 'could', 'foreseeable', etc.), may be found in the EIA study or the project itself and are, thus, taken into account.

Italy. Generally, yes. Alternatives, mitigation and compensation measures are already in the analysis provided by the proponent.

Poland. There are no practical experiences in this field. According to Polish law consultation between Poland and affected Party concerning the measures to eliminate or reduce the transboundary impact on the environment.

Sweden. Yes, where appropriate.

United Kingdom. The United Kingdom has no experience, but it would hope that the environmental information submitted to the affected Party would provide all relevant information, including the information referred to in paragraphs (a) to (c) of Article 5.

Armenia, Austria, Canada, Czech Republic, Estonia, Finland, Hungary, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia, Switzerland. No experience or no response.

(b) Do the consultations often relate to other matters?

Belgium (Flanders, Marine). Yes, when "political aspects" get involved.

Belgium (Nuclear), Bulgaria, Croatia, Denmark, Kyrgyzstan, Netherlands, Slovakia, Sweden, United Kingdom. No, they do not relate to other matters.

Germany, Italy. Yes, they do relate to other matters.

Armenia, Austria, Canada, Czech Republic, Estonia, Finland, France, Hungary, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Switzerland. No experience or no response.

If so, describe them.

France. Article 5, paragraph (c) ('Any other appropriate matters'), is sufficiently broad that nothing is excluded.

Germany. In consultations in an EIA procedure, that has been started before Germany was a Party to the Convention, matters like civil liability for potential damage and specific scientific issues of water management played an important role.

Italy. In some cases they cover other issues. For instance, an *ad hoc* group has been established for specific issues (legal).

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, Hungary, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No experience or no response.

VI.A.2.2 Organization of the consultation

(a) Do you usually hold the consultation in your country or in the affected Party/Parties?

Sweden. See VI.A.1.2 (a).

Belgium. The location varies.

Croatia, Denmark, Germany, Netherlands, Poland, Slovakia, United Kingdom. My country.

Canada. The determination of the location of the consultation would be made on a case-by-case basis in consultation with the point of contact of the affected Party and other government officials as required.

Hungary. It is held in both countries by turns.

Italy, Norway. Affected Party.

Armenia, Austria, Bulgaria, Czech Republic, Estonia, Finland, France, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Switzerland. No experience or no response.

(b) On what level do you arrange for consultation? Governmental, regional, local?

Sweden. See VI.A.1.2 (a).

Belgium (Flanders). The consultations are preferably organized in the Party of origin. However, if the situation occurs it may be organized in the affected Party as well. Primarily, consultation will have to be carried out at an expert level. If problems remain unsolved, the regional or even the national government level has to be involved besides the relevant regional and local authorities.

Belgium (Marine). Consultations have been held in both locations; consultation is between the competent administrations (responsible for North Sea matters) of both Parties.

Bulgaria. The consultations are arranged on governmental level as well as on regional or local level depending on the scope and potential environmental impacts of the proposed activity.

Canada. The consultations would involve, as a minimum, officials of the federal government and depending on the circumstances and the issues at hand officials at the provincial and municipal levels of government, and possibly Aboriginal representatives

Croatia. Consultations are at Governmental and stakeholder levels.

Denmark. The consultations are preferably organized in the Party of origin. However, if the situation occurs it may be organized in the affected Party as well. Primarily, consultation will have to be carried out at an expert level. If problems remain unsolved, the national Government level has to be involved as well as the relevant regional and local authorities. If desired, the consultation could also be held in the affected Party.

France. Consultation does not necessarily imply a meeting. Meetings only appear necessary for very significant projects: for example, the exploitation of English Channel marine aggregates by France. In that instance, a meeting was arranged in France.

Germany. See 1.1 (a). According to article 8, paragraph 2, of the German EIA Act, the Ministries at State and at Federal level are jointly responsible to hold formal consultations.

Hungary. Consultation is arranged tat the Governmental level.

Italy. Consultation is arranged tat the Governmental level (joint bodies established by bilateral agreements). The Regions involved often also participate.

Netherlands. The consultations are preferably organized in the country of Origin. However, if the situation occurs it may be organized in the country of the affected Party as well. Primarily, consultation will have to be carried out at an expert level. If problems remain unsolved, the national government

level has to be involved besides the relevant regional and local authorities.

Norway. Consultation is arranged tat the Governmental and regional levels.

Poland. Poland has no practical experiences in this field. According to Polish law, when Poland is the Party of origin the authority responsible for carrying out the EIA in transboundary context procedure shall hold consultations via the minister responsible for the environment. Where the Minister of Environment deems it purposeful because of the importance or intricacy of the case, he may take over the consultations.

Slovakia. The consultations are held on the appropriate level.

United Kingdom. In the United Kingdom the consultation is arranged by the competent authority in which area the proposed activity is to take place or by the authority that is responsible for authorising the proposed activity. Consultation could take place at any one of the three levels – central, regional or local government – consulting with various environmental authorities and the public as necessary. The United Kingdom's consultation with affected Parties has always taken place with authorities at national government level with these authorities taking responsibility for arranging consultation within their own country.

Armenia, Austria, Czech Republic, Estonia, Finland, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Switzerland. No experience or no response.

(c) Who usually participates in the consultation? Describe the responsibilities of the authorities involved.

Belgium (Flanders). At first the competent authority in the Party of origin and the point of contact, and other relevant levels of government authorities, in the affected Party (expert level) participate. If no agreement is reached or solution found, the consultation continues involving the regional or even the national government level.

Belgium (Marine). In general, the civil servants of the competent authorities participate. Sometimes staff members of the Cabinet of Ministers are present. When no agreement is found, consultation at the ministerial level is needed.

Belgium (Nuclear). The competent authority in the Party of origin (the Federal Agency for Nuclear Control), the European Commission and the local authorities participate.

Bulgaria. The authorities with specific environmental responsibilities on central, regional or local level and concerned public from the Party of origin and affected Party usually take a part in consultations. The authorities mentioned provide information and clarify the specific requirements regarding the scope and content the EIA documentation.

Canada. The participants in the consultations would vary depending on the complexity of the issues involved in the consultation initiatives. The participants may include senior level government officials for the Department of Foreign Affairs and International Trade, the Canadian Environmental Assessment Agency, the federal Responsible Authority under the Canadian Environmental Assessment Act, and technical professionals from federal expert government departments. Other participants could include provincial and municipal government officials, Aboriginal organizations and/or experts. Project proponents may also be called upon to be become a participant in the consultation.

Croatia. National and local authorities in charge of the specific environmental issues and other stakeholders participate.

Denmark. At first the competent authority in the Party of origin, the point of contact and other relevant levels of government authorities in the affected Party (expert level) usually participate. If no agreement is reached or solution found, the consultation continues involving the national Government level. Until now Denmark has not had such cases.

France. France's experience allows it to generalize only with difficulty. However, if a meeting is organized, it seems to imply the presence of a representative of the ministries in charge: environment, the economic sector concerned, and foreign affairs.

Germany. In addition to the authorities mentioned in VI.A.2.2 (b), usually at least the licensing authority and other concerned authorities should participate.

Hungary. The Ministry always involves the inspectorate in the consultations and in case of necessity also can involve the consulting authorities (art. 26, para. 2).

Italy. The Ministry of Environment participates.

Kyrgyzstan. No experience, but the responsibilities of the authorities should include assistance and servicing of meetings, definition of consultation and public participation conditions, and recording of comments.

Netherlands. At first, the competent authority in the Party of origin and the point of contact and other relevant levels of government authorities in the affected Party participate (expert level). If no agreement is reached or solution found, the consultation continues involving the national government level.

Slovakia. Who participates will be defined in bilateral agreements with all neighbouring countries, in compliance with the legislation of the concerned Parties.

Sweden. Written comments from authorities, organizations and the public are gathered by the point of contact in the affected Party.

Switzerland. Would see the following participants: competent authority granting approval, proponent, environmental protection agencies at cantonal and possibly federal level, possibly contact point, other authorities and experts.

United Kingdom. The United Kingdom's experience as a Party of origin is that consultation between itself and affected Parties is carried out at Government level with officials and experts from both sides. The United Kingdom has no experience of consulting with the public of affected Parties.

Armenia, Austria, Czech Republic, Estonia, Finland, Latvia, Lithuania, Norway, Poland, Republic of Moldova. No experience or no response.

(d) By what means do you usually communicate in consultations? For example by meeting, exchange of written communications…?

Sweden. See VI.A.2.2 (c).

Belgium (Flanders, Marine), Denmark, Germany, Netherlands. Communication is usually in a meeting preceded by an exchange of written communications.

Belgium (Nuclear). An exchange of written communications

Bulgaria. The consultations are conducted on meetings between the Concerned Parties as well as through exchange the written communications.

Croatia, Hungary. Both meetings and written communications are usually employed.

France. A whole range of means may be envisaged according to the level, from courier and telephone to letters or meetings of differing degrees of formality.

Italy. Meetings, and written and oral communications are used.

Kyrgyzstan. No experience, but both meetings and written communications would be appropriate.

Slovakia. Whatever means necessary may be used; it will be defined in bilateral agreements.

Switzerland. Lack of experience, but envisage different means (meetings, formal statements, Internet, etc.)

United Kingdom. Normally communication is by exchange of written communication. In Ireland consultation may begin at an informal level by an initial phone call and followed by written communication if required.

Armenia, Austria, Canada, Czech Republic, Estonia, Finland, Latvia, Lithuania, Norway, Poland, Republic of Moldova. No experience or no response.

(e) Article 5 of the Convention is not particularly prescriptive about the timing of consultation. At which moment in the EIA does the consultation take place?

Sweden. See VI.A.1.2 (a).

Belgium (Flanders), Netherlands. After the EIA documentation has been prepared, it will be sent (without undue delay) to the affected Party, made public and laid down for public inspection. In the accompanying letter the question will be posed whether there is a need for consultation. See also VI.A.1.1 (a).

Belgium (Marine). The consultation takes place after the consultation of the public (national and transboundary) has taken place, and before the advice has been sent (on the EIA documentation) to the minister who takes the final decision.

Belgium (Nuclear). Consultation is after the EIA documentation has been sent to the local authorities or the European Commission.

Bulgaria. After a decision has been taken that an EIA is necessary the consultation between the Concerned Parties shall be organized on the scope of EIA and after the preparation of the EIA documentation.

Canada. As noted earlier, the Canadian Environmental Assessment Act (CEAA) provides several opportunities for public participation in environmental assessments. CEAA has been structured so as to ensure that such participation takes place well in advance of any final decision about a proposed project. While Canada does not yet have operational experience with the application of the Espoo Convention, the timing of consultation would likely occur in a manner that is consistent with domestic requirements, that is, well in advance of any final decisions.

Croatia. No specific rule, but usually after exchange of the information and before public hearing and of course final decision.

France. In France, there are two main stages to the procedure:

- the notification accompanied by the EIA;
- the discussions, requests, exchanges of information that follow and that vary significantly in nature and size according to the project.

Germany. Consultations can take place at each step of the procedure. But it may be useful to have consultations after the affected Party has given its comments on the EIA documentation and the Party of origin has had enough time to assess these comments. See VI.A.1.2 (a).

Hungary. According to article 26, paragraph 2, the inspectorate that receives the detailed EIA documentation from the requestor shall send it to the ministry immediately, which furthers it to the affected Party also without delay, and, as noted in the previous point, the Ministry initiates the consultations together with sending the materials. This altogether means that consultation preferably takes place at the beginning of the detailed EIA process. Article 26, paragraph 3, shows that the results of the consultation can form the basis of further discussion with the Hungarian consultative authorities and of requesting additional information from the requestor (initiator of the project, investor).

Italy. It depends on agreements. Consultations relating to the coordination of the EIA national procedures take place at the very early stage of the procedure. Thereafter some meetings are held when the procedures are under way in order to exchange the first results and the comments of the public. After the EIA procedures are completed meetings to exchange the final results and discuss about it are also held.

Kyrgyzstan. Consultation takes place at the stage of identification of environmental impacts.

Poland. According to Polish law, once the Minister of Environment has forwarded the EIA documentation to the affected Party, the authority responsible for EIA in transboundary procedure shall hold consultations with the affected Party in accordance with the dates of the stages of the procedure agreed earlier (on the confirmation of participation stage).

Slovakia. The time frame will be according to needs and defined in bilateral agreements with all neighbouring countries, in compliance with the legislation of the concerned Parties.

Switzerland. The earlier the consultation is held the better, with the best initial consultation already at the scoping stage.

United Kingdom. The United Kingdom has no practical experience. However, as explained in answer to an earlier question, it would hope that full environmental information would minimise the need for formal consultation. But any necessary consultation would follow after the environmental information was submitted to the affected Party.

Armenia, Austria, Czech Republic, Denmark, Estonia, Finland, Latvia, Lithuania, Norway, Republic of Moldova. No experience or no response.

QUESTIONS TO THE PARTY IN THE ROLE AS AN 'AFFECTED PARTY' (PART VI.B)

Describe the legal, administrative and other measures taken in your country as an affected Party to implement the provisions of the Convention on consultation referred to in this section.

Existence and entry into consultations (Part VI.B.1)

SUMMARY:

In the role of affected Party the respondents reported various though limited experiences of consultation: the need for several meetings to reach agreement (Austria); consultation only began once the EIA documentation had been produced (Bulgaria); consultation was effective (Croatia); consultation was limited to requests for additional information (Hungary); consultation was governed by bilateral agreements (Slovakia) that were sometimes established prior to notification, sometimes after (Italy); consultations only began once a decision had been made and at the request of the affected Party (Poland); and the use of informal contacts (United Kingdom).

Five of fourteen respondents indicated that they had been involved in EIA procedures where the Party of origin did not initiate consultations; the other seven reported that they had not been excluded in this way. The Netherlands reported having requested a consultation after it had received EIA documentation that had caused serious concerns. Sweden was not consulted regarding a project for which EIA was not mandatory. Poland, as noted above, requested consultation after a decision had been made without its participation.

VI.B.1.1 Entry into consultation (Art. 5)

(a) What is your experience of consultation pursuant to Article 5?

Denmark, Germany. See VI.A.1.1 (a).

Austria. It is necessary to have several meetings extended at least over several months in order to come to an agreement with the Party of origin.

Belgium (Flanders), Netherlands. The practical experience with consultation as referred to in Article 5 is still limited.

Bulgaria. The consultation started only after EIA documentation has been prepared. The Party of origin has submitted the documentation so that the affected Party might express its opinion and send comments.

Croatia. Such consultations work.

France. France's experience as affected Party is exactly the same as that as Party of origin as it is limited to a single project type (marine aggregates exploitation) with the United Kingdom. France is, according to the individual project, by turns affected Party and Party of origin. The responses are thus the same, mutatis mutandis, as above for Party of origin.

Hungary. The consultations were limited to ask for additional information properly addressing the transboundary impacts.

Italy. Consultations take the form of bilateral agreements. Such agreements are sometimes set up before and sometimes after the notification.

Poland. Poland has only one experience with consultation pursuant to Article 5 of the Espoo Convention as an affected Party. The consultations were held after granting permission and as a result of a special request by Poland. During this consultation some problems occurred with the interpretation of the Convention's provisions.

Slovakia. The form and means of consultation will be defined in national legislation and will always be defined in bilateral agreements.

Switzerland. Lack of experience, but Switzerland favours earlier involvement at the scoping stage, where appropriate.

United Kingdom. The United Kingdom has no experience of formal consultation. Between Northern Ireland and the Republic of Ireland informal relationships have built up over a number of years and these may be used to establish whether either Party wishes to be involved in specific cases.

Armenia, Canada, Czech Republic, Estonia, Finland, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Sweden. No experience or no response.

(b) Have you been involved in EIA procedures where the Party of origin has not initiated consultation?

Belgium (Flanders), France, Germany, Netherlands, Poland, Sweden. Yes.

Armenia, Austria, Belgium (Nuclear), Bulgaria, Croatia, Denmark, Hungary, Italy, Kyrgyzstan, Slovakia, United Kingdom. No.

Canada, Czech Republic, Estonia, Finland, Latvia, Lithuania, Norway, Republic of Moldova, Switzerland. No experience or no response.

If so, please describe the circumstances.

Germany. See VI.A.1.1 (a) and VI.1.1 (b).

Belgium (Flanders). In a limited number of cases, the content of the EIA documentation that was presented to the Flemish authorities gave rise to serious comments, which were brought to the attention of the authorities in the Party of origin in the form of a request for formal consultation as mentioned in Article 5.

France. This situation seems difficult to imagine. It would first be necessary to ask to be consulted.

Netherlands. The content of the EIA documentation, which was presented to the Netherlands authorities gave rise to serious comments which were brought to the attention of the authorities in the country of origin in the form of a request for formal consultation as mentioned in Article 5 in a limited number of cases.

Poland. The Party of origin granted permission for a planned project without consultation. Consultations were held later because Poland was not satisfied with the decision.

Sweden. Where the EIA was not mandatory for the project.

Armenia, Austria, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia, Switzerland, United Kingdom. No experience or no response.

Character and organization of consultations (Part VI.B.2)

SUMMARY:

Some respondents (Croatia, France, Italy, Netherlands, Slovakia, Sweden, United Kingdom) reported that consultations did generally cover the matters referred to in paragraphs (a) to (c) of Article 5, whereas Austria and Hungary said they did not. Bulgaria reported that the matters were partially covered. Four out of eleven respondents indicated that consultations covered other matters, with Poland noting the importance of compensation arrangements and Kyrgyzstan noting organizational matters.

Six Parties reported that consultations were held in the Party of origin, whereas France and the United Kingdom said that they were held in their country, i.e. the affected Party.

Several respondents indicated that consultations primarily took place at the (federal) governmental level (Austria, Bulgaria, Germany, Hungary, Italy, Netherlands, Poland, Sweden), at the provincial or state or regional level (Austria, Germany, Italy, Poland), at the local level (Bulgaria), or among experts (Netherlands). Croatia and France reported that meetings took place at all levels, whereas in Slovakia and the United Kingdom they were at the relevant levels.

The consultations reportedly involved various bodies and individuals from the concerned Parties, for example: the public (Bulgaria); national and local authorities (Croatia, Hungary, Kyrgyzstan, Netherlands, Switzerland); provincial or regional authorities (Austria, Poland); environmental authorities or agencies (Bulgaria, Hungary, Switzerland, United Kingdom); the Ministry of Foreign Affairs (France); the environment ministry (Austria, France, Germany, Italy, Poland); the appropriate sectoral ministry (France); the competent authority (Germany); experts (Netherlands, Poland, Switzerland); the project proponent (Kyrgyzstan); non-governmental organizations (NGOs) (Bulgaria, United Kingdom); and other stakeholders (Bulgaria, Croatia).

As to the means of communication for consultations, respondents indicated correspondence (Poland, Sweden, United Kingdom), meetings (Austria, Hungary), or both (Bulgaria, Croatia, France, Germany, Italy, Kyrgyzstan, Netherlands). Italy also noted the use of the telephone and the United Kingdom reported that other means might also have been appropriate.

Switzerland indicated that a whole range of communication means was envisaged.

In the role of affected Party, the timing of the consultation was variously reported as being: at a very early stage or at the scoping stage (Bulgaria, Switzerland, United Kingdom); after notification (France); during identification of potential impacts (Kyrgyzstan); during preparation of the EIA documentation (Bulgaria); once the quality of the EIA documentation had been confirmed (Bulgaria); once the EIA documentation had been received by the affected Party (Germany, Netherlands, United Kingdom); after consultation of the public (Austria); once the affected Party's comments on the EIA documentation had been considered (Germany, Poland); after information had been exchanged, but before the public inquiry (Croatia); at each step in the EIA procedure (Germany); according to bilateral agreements (Italy); as and when necessary (Slovakia); or according to the Party of origin's legislation (Sweden).

VI.B.2.1 Content of the consultation

(a) In your experience, do consultations cover the matters referred to in paragraphs (a) to (c) of Article 5?

Denmark. See VI.A.1.1 (a).

France. See VI.A.2.1.

Germany. See VI.A.1.1 (a) and VI.1.1 (b).

Hungary. See VI.B.1.1.

Austria. In the case Austria took part in there were no consultations about paragraphs (b) or (c) of Article 5.

Belgium (Flanders, Nuclear), Netherlands. The experience being limited, it can be confirmed that consultations usually cover the matters referred to in paragraphs (a) to (c) of Article 5.

Bulgaria. In the case Bulgaria has experienced, the matters referred to in paragraphs (a) to (c) have been covered partially.

Croatia, Italy, Sweden. Yes, they do cover these matters.

Kyrgyzstan. No experience, but it would probably to also cover organizational matters.

Poland. Except matters referred to in paragraphs (a) to (c) of Article 5, in Polish experience the most important for the authorities and public of the affected country is socio-economic effects that can be caused by planned project. That why during consultation Polish side as affected Party demands for guarantees of compensations for people or companies affected by a planned project.

Slovakia. Yes, on the whole, they do cover these matters.

United Kingdom. As an affected Party the United Kingdom has been satisfied that the Party of origin has provided information that meets the requirements of Article 5. As mentioned earlier in one example it was not clear whether the United Kingdom was being consulted about EIA documentation or notification that the EIA procedure was about to begin.

Armenia, Canada, Czech Republic, Estonia, Finland, Latvia, Lithuania, Norway, Republic of Moldova, Switzerland. No experience or no response.

(b) Do the consultations relate to other matters?

Austria, Belgium, Bulgaria, Croatia, Denmark, Italy, Netherlands, Sweden, United Kingdom. No.

Germany, Kyrgyzstan, Poland, Slovakia. Yes.

Armenia, Canada, Czech Republic, Estonia, Finland, Hungary, Latvia, Lithuania, Norway, Republic of Moldova, Switzerland. No experience or no response.

If so, describe them.

France. See VI.A.2.1.

Germany. See VI.A.1.1 (a) and VI.1.1 (b).

Kyrgyzstan. Organizational problems.

Poland. Paragraphs (a) to (c) of Article 5 are so general that it is difficult to describe all matters to which consultations relate. Compensation for people or companies affected by a planned project, guaranteed by a Party of origin, are very important.

Slovakia. Depends case-by-case.

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, Hungary, Italy, Latvia, Lithuania,

Netherlands, Norway, Republic of Moldova, Sweden, Switzerland, United Kingdom. No experience or no response.

VI.B.2.2 Organization of the consultation

(a) In what country is the consultation usually held?

Belgium, Bulgaria, Croatia, Denmark, Germany, Netherlands, Norway, Poland. The consultation is usually held in the Party of origin.

France, United Kingdom. The consultation is usually held in the affected Party.

Armenia, Austria, *Canada, Czech Republic, Estonia, Finland*, *Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Slovakia, Sweden, Switzerland*. No experience or no response.

(b) On what level is the consultation normally held? Governmental, regional, local?

Austria. The point of contact (the Ministry of Environment) and several *Länder* (provinces) take part from the Austrian side; from the Party of origin's side it is the competent authority.

Belgium (Flanders). Consultations are normally first held at the expert level. If problems remain the national government level has to be involved besides the relevant local levels.

Belgium (Nuclear). Consultations are normally held at the expert level.

Bulgaria. The consultations are held on governmental level as well as local level depending on the scope and potential environmental impacts of the proposed activity.

Croatia. Consultation meetings are held with all levels.

Denmark. Consultations are normally first held at expert the level. If problems remain the national Government level has to be involved as well as the relevant regional level. Until now Denmark has not had cases involving its national Government.

France. In this situation, with France as affected Party, it will employ all the necessary means to consult, applying to the matter the same rules applied to French projects. This consultation can be made at several levels, to be decided by the ministry to which the dossier was handed.

Germany. See VI.A.1.1 (a), VI.1.1 (b) and VI.A.2.2 (b). With regard to Article 9b, paragraph 3, of the German EIA Act the procedure is identical to the case that Germany would be Party of origin.

Hungary. Consultations are normally held at the Governmental level.

Italy. Consultations are normally held at the Governmental level, plus at Regional level as necessary.

Netherlands. Consultations are normally first held at the expert level. If problems remain the national government level has to be involved besides the relevant regional and local levels.

Poland. The consultation where Poland participated as affected Party was arranged on governmental level but some representatives of *voivod* (regional level) were present.

Slovakia. According to needs.

Sweden. The documents will be sent to the point of contact at the Swedish Environmental Protection Agency (SEPA). SEPA distribute the documents for comments to relevant authorities, organizations and make them available for the public. SEPA gathers the comments and send them to the Party of origin (with a summary in English if necessary).

United Kingdom. As an affected Party, any consultations the United Kingdom was involved with would be within the United Kingdom. It would expect the Party of origin to contact the United Kingdom point of contact who would then discuss arrangements for any necessary consultation at relevant levels.

Armenia, Canada, Czech Republic, Estonia, Finland, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Switzerland. No experience or no response.

(c) Who normally participates in the consultation?

Germany. See VI.A.1.1 (a), VI.1.1 (b) and VI.A.2.2 (c).

Austria. Representatives of the above-mentioned bodies normally participate.

Belgium (Flanders). At first the competent authority in the country of origin and the point of contact and other relevant levels of government authorities in the affected Party discuss or exchange information at an expert level. If no agreement can be reached or solution found, the consultation continues involving regional or national government levels.

Belgium (Nuclear). The competent authority in the Party of origin, the European Commission and the local authorities normally participate.

Bulgaria. In the case Bulgaria has experienced, the competent environmental authorities, other interested authorities, environmental NGOs and public participate in consultations.

Croatia. National and local authorities and other stakeholders normally participate.

Denmark. At first the competent authority in the Party of origin and the point of contact and other relevant levels of Government authorities in the affected Party discuss or exchange information at an expert level. If no agreement can be reached or solution found, the consultation continues involving national Government levels. Denmark has not had cases involving its national Government.

France. When a dossier is sent to France, the concerned departments are consulted. France does not have rules covering this matter, apart from those rules for consultation regarding national projects. Thus, for the marine aggregates extraction projects sent to France, the consultation took place within the framework of an ad hoc inter-ministerial structure involving all the government departments concerned (agriculture and fisheries, maritime transport, industry, interior, foreign affairs, etc).

Hungary. The concerned Environmental Inspectorate (always); the consultative authorities (in case of important professional issues belonging to their scope of authority)(with analogical use of art. 26, para. 2)

Italy. The Ministry of Environment normally participates.

Kyrgyzstan. No experience, but authorities, local management and the project proponent should participate.

Netherlands. At first the competent authority in the country of origin and the point of contact and other relevant levels of government authorities in the affected Party discuss or exchange information at an expert level. If no agreement can be reached or solution found, the consultation continues involving national government levels.

Poland. Representatives of Poland as affected Party were people from the Ministry of Environment, people from the regional level (*voivoda*) and experts involved earlier as members of special body.

Slovakia. Participants will always be defined in an agreement.

Switzerland. Switzerland would see the following participants: environmental protection agencies at cantonal and possibly federal level, possibly contact point, other authorities and experts.

United Kingdom. The United Kingdom would normally expect the Party of origin to make initial contact with the United Kingdom Espoo point of contact in the EIA Branch of the Office of the Deputy Prime Minister. The point of contact would then consult other Government Departments, to establish which is responsible for the consent system under which the proposal falls within United Kingdom legislation and to establish whether there are likely to be significant effects on the United Kingdom environment. Government Agencies and possibly NGOs could also be consulted for their expertise to establish the likelihood of effects.

Armenia, Canada, Czech Republic, Estonia, Finland, *Latvia, Lithuania, Norway, Republic of Moldova, Sweden*. No experience or no response.

(d) By what means do you usually communicate in consultations? For example by meeting, exchange of written communications…?

Germany. See VI.A.1.1 (a), VI.1.1 (b) and VI.A.2.2 (d).

Austria, Hungary. Communication is usually in a meeting.

Belgium (Flanders), Netherlands. The usual means are a meeting preceded by an exchange of written communications.

Belgium (Nuclear). Communication is usually by the exchange of written communications.

Bulgaria. The consultations are conducted on meetings between the Concerned Parties as well as through exchange the written communications.

Croatia. The usual means are a meeting and written communications.

Denmark. The usual means are a meeting preceded by an exchange of written communications. Telephone calls can also be used.

France. Generally, it takes the form of a formal written consultation. The department in charge of the dossier contacts colleagues in other ministries, whose advice it requests. One or more meetings may be necessary.

Italian. The usual means are meetings and written and oral communications.

Kyrgyzstan. No experience, but both meetings and written communications would be appropriate.

Poland. Poland as an affected Party was invited by letter to participate the consultation. The Minister of Environment notifies authorities on regional level also by mail.

Slovakia. Whatever means are appropriate.

Sweden. Written comments are usual.

Switzerland. Switzerland has a lack of experience, but envisages different means (meeting, formal statements, Internet, etc.).

United Kingdom. As mentioned in answer to other questions consultation is normally by written communication. But other means might be also appropriate.

Armenia, Canada, Czech Republic, Estonia, Finland, *Latvia, Lithuania, Norway, Republic of Moldova*. No experience or no response.

(e) Article 5 of the Convention is not particularly prescriptive about the timing of consultation. At what stage in the EIA procedure does a consultation usually take place?

Germany. See VI.A.1.1 (a), VI.1.1 (b) and VI.A.2.2 (e).

Austria. Consultation usually takes place after the consultation of the public.

Belgium (Flanders). Consultation is usually after the EIA documentation has been prepared and been made public as part of the permit application procedure.

Belgium (Nuclear), Netherlands. Consultation is usually after the EIA documentation has been prepared.

Bulgaria. A consultation shall be organized at scoping and during the preparation of the EIA documentation. Upon positive evaluation of the quality of the report by the competent authority the developer of the investment proposal shall organize further consultations.

Croatia. As answered previously.

Denmark. The consultation usually takes place after the EIA documentation has been prepared, but it could also be at an early stage depending on the case.

France. The consultation occurs after notification, at the convenience of the affected Party, which is equally sovereign with respect to the conduct of administrative consultations as it is with respect to organization of public participation.

Italy. It depends on agreements (see part B).

Kyrgyzstan. Consultation usually takes place at the stage of identification of the environmental impacts.

Poland. From practical point of view Poland as affected Party can be involved into process of consultation after collecting the comments of authorities and public. It means that, after preparing the statement of the Minister of Environment, including comments from public participation as well as expert's opinions, it is reasonable to start the consultation. Comments and opinion are always connected with details from the EIA documentation (the public participation procedure in Poland is carried out after preparing the EIA documentation). It is very important to start consultation before granting the final decision.

Slovakia. Consultation takes place at whatever stage is necessary and in agreement with the other Parties.

Sweden. The timing depends on the EIA legislation in the Party of origin.

Switzerland. The earlier consultation takes place the better, with the best initial consultation already at the scoping stage.

United Kingdom. In the role as an affected Party the United Kingdom has experiences from two Parties. One Party has initiated consultation on

several projects with the United Kingdom at a preliminary stage when the concept of a proposed development was being studied. Another Party did not consult with the United Kingdom until the EIA documentation had been produced. Northern Ireland and the Irish Republic have developed an informal bilateral consultation procedure (see other references to Northern Ireland and the Irish Republic). It is quite common for both Parties to establish whether either Party wishes to participate in EIA procedures by an initial telephone conversation. Procedures are formalised if the affected Party wishes to participate following the initial telephone discussions.

Armenia, Canada, Czech Republic, Estonia, Finland, Hungary, Latvia, Lithuania, Norway, Republic of Moldova. No experience or no response.

FINAL DECISION (PART VII)

QUESTIONS TO THE PARTY IN THE ROLE AS A 'PARTY OF ORIGIN' (PART VII.A)

Describe the legal, administrative and other measures taken in your country as the Party of origin to implement the provisions of the Convention on the final decision referred to in this section.

Character of the final decision (Art. 6) (Part VII.A.1)

SUMMARY:

In the role of Party of origin, all respondents confirmed that the final decision contained the reasons and considerations on which the decision was based.

Respondents indicated that the decision often contained other information (Croatia, Slovakia, Sweden), for example: a project description (Austria, Finland, France); an overview of the licensing or decision-making procedure (Austria, Finland, Switzerland); an overview of the EIA (Austria); conditions imposed (Bulgaria, Czech Republic, France, United Kingdom); or deadlines and liability for non-compliance with the conditions (Bulgaria).

Croatia noted that if additional information on a significant transboundary impact became available at a later stage, it sometimes had difficulties assuring the cooperation of the project developer. No Party indicated that a request for consultation had been made because of such information, though France noted that an indemnity might have been due.

With regard to the taking into account in the final decision of the outcome of the EIA, comments from the affected Party and consultations, several respondents noted again that the final decision contained the reasons and considerations on which the decision was based (Canada, Finland, Germany, Hungary, Kyrgyzstan, Netherlands, Norway, Switzerland). Slovakia stated that the EIA and valid comments were taken into account. Hungary described the evaluation of comments as comprising factual, professional and legal analyses. Germany noted the importance of defining measures to prevent, reduce or mitigate adverse transboundary impacts. The Czech Republic noted that its final decisions included the opinion of the affected Party, or explained why it was not included. Estonia reported attaching the environmental requirements to the final EIA documentation. The United Kingdom explained that the final decision had to include an explicit declaration that the EIA documentation had been taken into account.

All respondents indicated that comments from the public and authorities in an affected Party were taken into consideration in the same way as domestic comments, though Germany noted that the affected Party's comments were expected to focus on transboundary impacts. No difficulties were reported in the preparation of the final decision.

The final decision was reported as being sent to various bodies and individuals in the affected Party: the point of contact (Canada, Croatia, Finland, France, Hungary, Italy, Netherlands, Sweden, United Kingdom); government authorities (Kyrgyzstan, Norway); the competent authority (Estonia, Kyrgyzstan); authorities responsible for EIA (Italy); ministries (Czech Republic); authorities that had been consulted or otherwise involved (France, Germany, Switzerland, United Kingdom); the project proponent (Kyrgyzstan); all those who had submitted comments (Netherlands); and others that had been identified by the affected Party (Canada). No respondent reported receiving an official complaint from the affected Party that the final decision was not easily understandable.

The means of publication of the final decision was described by a number of respondents: made publicly available (Austria, Bulgaria, Hungary, Netherlands, Poland, Sweden); published in newspapers (Bulgaria, France, Italy, United Kingdom) possibly including in the affected Party (Germany); advertised in the affected Party (Sweden); published in an official journal (France, Italy); placed on an Internet web site (Italy); or publication was as for domestic EIA (Czech Republic). Croatia reported that the decision was only made available to the parties in the administrative procedure.

VII.A.1.1 Content of the final decision

(a) Does the final decision contain the reasons and considerations on which the decision is based (Art. 6, para. 2)?

Hungary. See V.A.2.1.

Armenia. The necessary legislative and administrative measures have not yet been developed.

Austria, Croatia, Czech Republic, Denmark, Estonia, Finland, Germany, Slovakia, Sweden, Switzerland. Yes, the final decision does contain the reasons and considerations on which the decision is based.

Belgium (Flanders). Yes, the final decision contains the reasons and considerations on which the decision is based. This is explicitly provided for in the EIA legislation (Decree of 18 December 2002).

Belgium (Marine). The final decision contains the reasons and considerations on which the decision is based, as explicitly provided for in the legislation (Royal Decree of 7 September 2003). The Minister must provide a justification if an advice is not followed.

Belgium (Nuclear). Yes, this is provided for by the legislation.

Bulgaria. According to the EPA, article 99, the EIA decision shall contain the grounds of fact and law on which the decision is delivered and reasons on which the decision is based.

Canada. The Canadian Environmental Assessment Act requires that for each screening, comprehensive study, mediation, and review panel undertaken a report on the environmental effects of the proposed project be prepared. The report will contain the findings and conclusions concerning the environmental effects of the project and will serve to inform the decision(s) to be taken by the Minister of the Environment and/or a federal responsibility authority in regard to a proposed project. These reports are publicly available. Generally the report will address the following subject areas:

- The description of the proposed project (activities included in the project and when these are to be carried out);
- Project alternatives (alternative means of carrying out the project, and/or alternatives to the project);
- The scope of the environmental assessment (scope of the project assessed, factors considered in the environmental assessment, scope of the factors considered);
- The public consultation programme (how was public input solicited, who was consulted, what information came forward from the public, how was this information incorporated in the environmental assessment process);
- Description of the existing environment (general environmental context, environmental components in the study area, the relationship among environmental components, sensitivities to disturbance, potential environmental hazards to the project);
- Predicted environmental effects of the proposed project (effects of the project on environmental components, environmental changes on: human health, socio-economic conditions, physical and cultural heritage, the current use of lands for traditional purposes by Aboriginal persons, cumulative effects of the project, effects on the sustainable use of renewable resources, effects of the environment on the project, effects of possible malfunctions, methods used to predict effects);
- Mitigation measures (planned mitigation measures, effectiveness of planned mitigation measures);
- Determination of the significance of the environmental effects (are the residual environmental effects adverse, significant and likely to occur?);
- Follow-up programme (objectives of the follow-up programme, elements of the follow-up programme, responsibility for the implementation of the follow-up programme);
- Conclusions and recommendations (recommendation about the project, outstanding issues and concerns, conditions for approval).

France. Under French law, all decisions have to be justified. Article 7 of the EIA Decree provides an obligation to make available to the public the content of the decision granting or refusing authorization of a project, indicating on the one hand the reasons or considerations that were the basis of the decision and, on the other hand, what conditions are to be imposed, if necessary, such as a description of the measures to be taken to prevent, reduce or of possible compensate for the project's environmental impacts. The results of transboundary consultations are included.

Italy. According to the Italian legislation, the result of the EIA procedure in Italy is a decree on the "environmental compatibility" of the proposed activity. The decree is issued by the Minister of Environment and the Minister for Cultural Heritage, on the basis of the opinion of an independent "EIA Commission" that is in charge of assessing the documentation provided by the proponent. The opinion, and subsequently the decree, could be either negative (the project is not "environmental compatible" since significant environmental effects are to be expected) or positive (in this case specific conditions/prescriptions for the execution of the project are normally settled in the decree in order to avoid or mitigate possible environmental impacts) If this opinion is negative, the project is not normally put in place. Just in some extraordinary circumstances the Council of Ministers can decide

to give the development consent even if EIA procedure has produced a negative result. The final decision is transmitted to the other Party, along with the reasons and considerations.

Kyrgyzstan. No experience, but the final decision should be sufficiently justified. Any comments or remarks should be discussed and any changes to the project implementation should be justified.

Netherlands. Environmental Management Act:

Article 7.37: The statement of the grounds on which the decision is based shall in any event indicate:

a) how account has been taken of the environmental impact of the activity to which the decision refers, described in the EIA documentation
b) what consideration has been given to the alternatives described in the EIA documentation
c) what consideration has been given to the comments and recommendations submitted concerning the EIA documentation.

Article 7.38f: The statement of the grounds on which the decision is based shall in any event indicate:

a) what consideration has been given to any major adverse transboundary environmental effect mentioned in the EIA documentation
b) what consideration has been given to the results of the consultation.

Republic of Moldova. Requirements for the final decision are defined in national legislation, in the EIA Regulation, chapter VIII ("Conclusion of the state ecological examination of the EIA documentation"):

Article 26: On the basis of the results of the state ecological examination of the EIA documentation and of the consideration of the results of public discussions, a conclusion is drawn on the state ecological examination of the EIA documentation. In the absence of a positive conclusion, physical and legal persons do not have the right to finalize the EIA documentation and to develop the scheduled and design documentation on the project.

Article 27: The EIA documentation when authorized forms the basis for development of the chapter on "Preservation of the environment" during development of the design documentation for the corresponding project.

Article 29: The Central Environmental Department without fail brings to the notice of the public through mass media the results of the ecological examination of the EIA documentation within 10 days of the statement of the results of examination and decision-making concerning the EIA documentation.

Article 30: The Central Environmental Department provides storage and maintenance of an archive of environmental permit application (ZVOS), which is accessible to the public.

United Kingdom. The United Kingdom has not yet made a final decision on any proposed activity that has been subject to the procedures of the Espoo Convention. However, by Regulation the United Kingdom is required to notify any country consulted in accordance with Article 5 of the decision taken about the proposed activity and shall forward to it in a statement

- the content of the decision and any conditions attached to it;
- the main reasons for the decision and considerations on which it's based; and,
- a description, where necessary, of the main measures to avoid, reduce and, if possible, to offset the major adverse effects of the development.

Latvia, Lithuania, Norway, Poland. No experience or no response.

(b) Does the decision often also contain other elements?

Belgium (Flanders, Nuclear), Netherlands. See VII.A.1.1 (a).

Austria. Yes, usually an overall project description and an overview of the licensing procedure and the EIA.

Belgium (Marine). The decision also often contains issues (objectives, principles) that are part of the general Marine Environment Protection law. The EIA done by the administration should also be considered.

Bulgaria. According to the EPA, article 99, the EIA decision shall contain also: the name of the issuing authority; the name, place of residence/registered office of the developer; operative part; conditions for implementation, including measures to prevent, reduce or offset significant adverse effects on the environment, as well as deadlines for compliance, where necessary; appellate authority and time limit for appeal; liability for non-compliance with the conditions set in the decision; date of issue and signature.

Croatia, Slovakia, Sweden. Yes.

Czech Republic. Yes, the content is in annex 6 to the Act; e.g. conditions for the all stages of the activity.

Finland. For example, a decision always contains a quite detailed technical description of a plan, a description on the decision-making procedure (excluding the EIA procedure, because in Finland these procedures are two separate stages). According to the national legislation (here, the Act on Environmental Protection) it must become obvious how the EIA documentation and a co-ordination authority's statement on it were taken account into by the permission granting authority.

France. The decision includes, of course, indications of the works or operations authorized and, possibly, particular prescriptions or conditions.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). The final decision will contain all elements that are necessary with regard to the Federal EIA Act and to the special legislation on the licensing for the proposed project or activity.

Italy. The decision is consistent with the results of the EIA.

Switzerland. A description of the procedural history is included.

United Kingdom. The United Kingdom has no experience, so at this stage it does not know. But the decision may refer to legally enforceable conditions designed to ensure the activity is carried out in a specified manner and in accordance with the consent.

Armenia, Canada, Denmark, Estonia, Hungary, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Republic of Moldova. No experience or no response.

(c) What is your experience of providing additional information on the significant transboundary impact of the proposed activity in accordance with Article 6, paragraph 3?

Germany. See II.A.1.1 (a) and II.1.2 (a).

Croatia. Sometimes there are some difficulties to ensure the developer is cooperative.

Armenia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. Little or no experience, or no response.

(d) Is there often a request for consultation about whether the final decision should be revised in accordance with Article 6, paragraph 3?

Croatia, Estonia, Italy, Slovakia, Sweden, United Kingdom. No.

France. France has no experience in this matter. However, a similar decision would imply, except in particular circumstances, the payment of an indemnity to the beneficiary.

Germany. See II.A.1.1 (a) and II.1.2 (a). There is no information of any case available since Germany is a Party to the Convention.

Armenia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Finland, Hungary, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Switzerland. No experience or no response.

(e) How do you take due account of the outcome of the EIA, the comments from the affected Party/Parties and the consultations on the final decision (Art. 6, para. 1)?

Belgium (Flanders), Canada, Denmark, Netherlands. See VII.A.1.1 (a).

Finland. See VII.A1.1 (b).

Belgium (Marine). The EIA done by the competent authorities, the advice to the Minister and the final decision by the Minister all take into consideration these elements.

Belgium (Nuclear). All advice is taken into account but is not legally binding.

Croatia. This is an administrative procedure and the final decision could be challenged.

Czech Republic. Section 13 (5) The Ministry shall incorporate the opinion of the affected state in the statement, or shall set forth therein the reasons why it did not incorporate it partly or entirely in its statement.

Estonia. According to the Estonian EIA act, the decision-maker shall take into account the results of the EIA and the environmental requirements are annexed to the EIA documentation.

Germany. See II.A.1.1 (a) and II.1.2 (a). With regard to articles 11 and 12 of the Federal EIA Act the competent authority has to take the outcome of

the EIA, the comments from the affected Party and the results of the consultations into consideration before the final decision. Very important is the possibility of measures to prevent, reduce or mitigate any significant adverse (transboundary) environmental impacts of the proposed project or activity in the final decision.

Hungary. Article 8, paragraph 3, of the EIA Decree. obliges the Environmental Inspectorate and the consultative authorities to take into due account the comments they received from the public and from the Affected Country (both are referenced to by exact numbers of articles and Paragraphs). The evaluation of the comments should be involved in the reasoning of the decision. The evaluation shall involve the factual, professional and legal analyses of the comments.

Italy. All these elements are assessed by the EIA Commission and integrated in the EIA decision (decree on environmental feasibility).

Kyrgyzstan. No experience, but comments would be incorporated at all stages in the procedure, if they are justified.

Norway. According to the EIA regulations §14, in the final document you provide an account of among other issues how the environmental impacts and the comments are taken into account.

Slovakia. They are always taken into account, if valid.

Sweden. In the application the developer shall give information on any consultation that have taken place under the EIA procedure. The permitting authority sends the application and the EIA for comments.

Switzerland. Done not by contact point or environmental protection agencies at cantonal and federal level, but rather by competent authority granting approval. Taking due account of the aspects mentioned, where they form part of the procedure, is standard practice in decision-making in Switzerland.

United Kingdom. United Kingdom EIA Regulations require that any decision to authorise development consent for an activity that is subject to an EIA shall not be taken unless the relevant environmental information has first been taken into account. The Competent Authority responsible for taking the decision is required to state in its decision that it has done so. Environmental information is defined as "the environmental statement, including any further information, any representations made by any body required by Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effect of the development". A Competent Authority may determine an application for development consent for a proposed activity without first taking into the environmental information into account - but in these circumstances it may only refuse the application.

Armenia, Austria, Bulgaria, France, Latvia, Lithuania, Poland, Republic of Moldova. No experience or no response.

(f) 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 public in your country?

Belgium (Flanders, Marine, Nuclear), Croatia, Czech Republic, Denmark, Estonia, Italy, Kyrgyzstan, Netherlands, Slovakia, Sweden, United Kingdom. Yes, they are taken into consideration in the same way.

Canada. Although Canada has had no requirement to date to apply the Espoo Convention in an operational context, Canada would likely give equal consideration to the comments received from the public and authorities of an affected Party.

Finland. Yes. See also V.A.2.1 (c).

Germany. See II.A.1.1 (a) and II.1.2 (a). There can be obviously no distinction between the comments of the authorities and the public of the Party of origin and the authorities and the public of the affected Party. The only practical difference may be that the comments of the authorities and the public of the affected Party will be in principle more related to the transboundary impacts and that the comments of the authorities and the public of the Party of origin will be in principle more related to the impacts on its own territory.

Hungary. Article 8, paragraph 3, as quoted above, handles these comments in parallel, in a completely identical way.

Switzerland. As above.

Armenia, Austria, Bulgaria, France, Latvia, Lithuania, Norway, Poland, Republic of Moldova. No experience or no response.

(g) Describe any difficulties you have experienced in the preparation of the final decision pursuant to Article 6?

Germany. See II.A.1.1 (a) and II.1.2 (a).

Belgium (Flanders). One difficulty is dealing with non-relevant issues coming out of the public participation.

Belgium (Marine). Certain non-scientific arguments or issues not related to environmental impacts may cause problems.

Armenia, Austria, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No difficulties, no experience or no response.

VII.A.1.2 Provision of the final decision

(a) To what authorities in the affected Party/Parties do you provide the final decision?

Belgium (Flanders), Netherlands. The final decision is provided to the point of contact and to all those who have submitted comments. Further details are to be included in bilateral agreements.

Belgium (Marine). The final decision is sent to the authorities of the affected Party at the same time as it is sent to the proponent.

Belgium (Nuclear). The final decision is provided to the authorities that were consulted for advice.

Canada. Canada would make the decision available to the point of contact of the affected Party and to other officials, bodies and organization, identified by the affected Party.

Croatia, Sweden. The final decision is provided to the point of contact.

Czech Republic. Until now, the final decision is provided to the ministries.

Denmark. The final decision is provided to the point of contact and to all those who have submitted comments.

Estonia. The final decision is provided to the competent authority.

Finland. The point of contact sends a decision only to the point of contact of the affected Party.

France. No experience. However, France will send the decision to the designated point of contact in the affected Party and copies to others identified during the consultation process. In addition, a notification of the decision is prepared.

Germany. According to article 8, paragraph 3, of the German EIA Act the licensing authority has to provide the decision including the reasons on which the decision is based to the authorities of the affected Party which have been involved in the transboundary EIA procedure.

Hungary. The final decision on the EIA is provided to the contact point nominated by the affected Party (art. 26, para. 4, of the Hungarian EIA Decree).

Italy. Contact point, authorities in charge of EIA in the affected Countries. The decision is published on the Official journal and on the Ministry of Environment's website.

Kyrgyzstan. The final decision is provided to the local authorities, the authorized body and the project proponent.

Norway. The final decision is provided to the Governmental authorities.

Slovakia. Which authorities are to receive the final decision will be defined in bilateral agreements with all neighbouring countries, in compliance with the legislation of the concerned Parties.

Switzerland. The final decision is provided to the authorities consulted beforehand, and possibly others.

United Kingdom. The United Kingdom has not yet made any final decisions on activities subject to consultation under the Convention. When it does so, it will notify the point of contact and other relevant authorities in the affected Party with whom it has formally consulted about the proposal.

Armenia, Austria, Bulgaria, Latvia, Lithuania, Poland, Republic of Moldova. No experience or no response.

(b) Have the authorities and public of the affected Party/Parties ever complained that the final decision is not easily understandable?

Belgium (Flanders, Nuclear), Croatia, Finland, Italy, Norway, Slovakia, Sweden, United Kingdom. No, they have not complained.

Belgium (Marine). No, they have not complained, and until now the final decisions have been available in the language of the affected Party.

Czech Republic. They have not complained officially.

France. No experience. However, it appears obvious to France that these authorizations, which are no different from other authorisations (of which several thousand are granted each year), would have been modified long ago if it were the case that the decision were not understandable.

Germany. See II.A.1.1 (a) and II.1.2 (a). There is no information on any such complaints available.

Switzerland. No knowledge of such a complaint (but complaint would in all likelihood be addressed to competent authority, not environmental protection agencies).

Armenia, Austria, Bulgaria, Canada, Denmark, Estonia, Hungary, Kyrgyzstan, Latvia, Lithuania, Netherlands, Poland, Republic of Moldova. No experience or no response.

(c) What arrangements are there for the publication of the final decision?

Finland. See VII.A.1.2 (a).

Austria. In Austria, the decision shall be made available for public inspection at the authority and the host municipality for a minimum of eight weeks. This can be done on the territory of an affected Party as well (depends on individual agreements with affected Parties).

Belgium (Flanders). The arrangements are defined in the environmental permit legislation (decree of 1985 and regulations from 1991 as amended). The competent authority shall also publish its decision as soon as possible.

Belgium (Marine). The final decision is published in part in the State Gazette. The complete decision is available on request.

Belgium (Nuclear). The final decision is published in the State Gazette.

Bulgaria. Usually the announcement for the final decision taken is published in national newspaper. The document (final decision) is publicly accessible.

Croatia. As administrative procedure it is available only for the parties in the procedure.

Czech Republic. The arrangements are the same as for all materials in the Czech EIA procedure.

Denmark. The competent authority shall publish its decision as soon as possible.

France. Conditions for the publication of the final decision (Official Journal or departmental collections of administrative acts) are defined within each authorisation procedure. In addition, "The informing of the public provided for by article L.222-1 of the environmental code is provided for by the competent authority according to the methods provided for in regulatory requirements applicable to planning or intended work. In the absence of such provisions, this notification is published by putting it in two newspapers distributed in the affected counties (*départements*); for activities of national importance, it is also published in two nationally-distributed newspapers." (Decree of 12 October 1977, as amended.)

Germany. According to article 8, paragraph 3, of the German EIA Act the decision has to be sent to the authorities of the affected Party that participated in the transboundary EIA procedure. If individuals of the affected Party have participated in the EIA procedure the German licensing authority will send the decision directly to these individuals. If more than 50 individuals have participated in the transboundary EIA procedure the competent German authority can make the decision public by announcement in newspapers of the affected country or in similar media. Bilateral agreements can contain special provisions on the publication of the final decision; for example the competent authority of the affected country can be responsible for the distribution and publication of the final decision to its own public.

Hungary. The inspectorate sends the decision to the notaries of the concerned municipalities to make it public (art. 12 and 18 of the Hungarian EIA Decree).

Italy. The assessments and the final decision is published on newspapers and on the Official

Journal of the Republic. The Ministry for Environment also usually publishes the decrees on the Ministry's website.

Kyrgyzstan. Publication arrangements would depend on the type of project but would allow widespread communication.

Netherlands. Environmental Management Act: Article 7.38, 2: The competent authority shall also publish its decision as soon as possible.

Poland. The decision is announced in a publicly available record.

Slovakia. The means of publication are set out in the national legislation.

Sweden. There will be an advertisement with information on were the final decision is available. The Swedish Environmental Protection Agency can advertise in the affected Party if needed.

Switzerland. The arrangements are the same as for the project documentation and EIA documentation in the stage of public participation.

United Kingdom. In the United Kingdom the relevant competent authority is required to publish a notice in a newspaper circulated in the area of the proposed activity of the final decision and where information relating to the decision is available for public inspection. The information shall include the (a) the content of the decision and any conditions attached thereto;(b) the main reasons and considerations on which the decision is based; and, (c) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development. The United Kingdom would notify the point of contact and any relevant authorities in an affected Party of the final decision. It would expect them to make suitable arrangements to publicise the decision, but would discuss with them as necessary.

Armenia, Canada, Estonia, Latvia, Lithuania, Norway, Republic of Moldova. No experience or no response.

Provision of final decision (Part VII.A.2)

SUMMARY:

Respondents indicated in very different ways how the provision of the final decision to the affected Party was organized. Some answered in terms of the practical means of transfer: it was sent by post (Austria, France, United Kingdom) or by electronic mail (Austria, United Kingdom). Some indicated senders: the point of contact (Bulgaria, Sweden); the environment ministry (Czech Republic, Hungary); or the competent authority (Netherlands, Switzerland). Some reported recipients: the point of contact (Bulgaria, France, Sweden, United Kingdom); or the consultees (France, United Kingdom). While others again described the procedural framework: bilateral agreements (Italy, Netherlands, Slovakia) or domestic legislation (Czech Republic, Hungary, Slovakia).

Respondents provided further information on which body was responsible for sending the final decision to the affected Party: the point of contact (Finland, Italy, Sweden, United Kingdom); the environment ministry (Bulgaria, Czech Republic, Estonia, Hungary, Poland, Slovakia) or agency (Canada, Sweden); the Ministry of Foreign Affairs (Canada); the competent authority (Canada, Croatia, Estonia, France, Germany, Netherlands, Norway, Switzerland); or the competent authority in cooperation with the point of contact (Austria). Italy once again made reference to bilateral agreements, whereas Kyrgyzstan reported that the same contact as used previously would be used at this stage also.

In terms of difficulties, only Sweden provided a response, noting a long delay between the EIA procedure and the arrival of the final decision.

VII.A.2.1 Organization of the provision of final decision

(a) How is the provision of the final decision to the affected Party/Parties normally organized?

Germany. See VII.A.1.2 (c).

Austria. It can be sent as a hard copy and in electronic form.

Belgium (Flanders). The competent authority is responsible for the provision and sends it by post. Further details about the provision can be included in bilateral agreements.

Belgium (Marine). The decision is sent by mail by the competent administration (Marine Protection Administration).

Belgium (Nuclear). The competent authority is responsible for the provision by sending the decision by the postal service.

Bulgaria. Until now Bulgaria does not have any experience as a Party of origin. Normally the final decision should be provided through the points of contact for the Convention.

Croatia. It is built into the location permit.

Czech Republic. Section 13 (6) The Ministry shall be obliged to send to the affected state the statement within 15 days of issue thereof and the related decision issued pursuant to the special regulations: 1) within 15 days of receipt thereof. The administrative authorities shall be obliged to send these decisions to the Ministry on the basis of a request there from.

Denmark. The competent authority is responsible for the provision.

Finland. The final decision is sent by post.

France. The decision would be sent by letter to the point of contact in the affected Party and copied to the departments that were consulted during the consultation process. As for the rest, the state services responsible for monitoring the legality of decisions by courts and administrative courts, if referred to, would intervene.

Hungary. According to article 26, paragraph 4, the inspectorate sends the decision to the Ministry that furthers it to the affected Party. Insofar there are other decisions in the case, following any legal remedies, those shall be sent in the similar way.

Italy. It is organized within the framework of bilateral agreements.

Kyrgyzstan. No experience, but it would involve the same points of contact as used at other stages of the consultation process.

Netherlands. The competent authority is responsible for the provision. Further details about the provision can be included in bilateral agreements.

Slovakia. The provision of the final decision is in accordance with national legislation and bilateral agreements.

Sweden. The Swedish Environmental Protection Agency sends the final decision to the point of contact in the affected country.

Switzerland. Competent authority granting approval communicates its decision to affected Party.

United Kingdom. This is sent by post and possibly by e-mail to the main contact in the affected Party. The United Kingdom would also normally notify any relevant authorities in the affected Party with whom it had consulted.

Armenia, Canada, Estonia, Latvia, Lithuania, Norway, Poland, Republic of Moldova. No experience or no response.

(b) Which body is responsible for the transfer?

Belgium (Flanders, Marine), Denmark, Hungary, Netherlands. See VII.A.2.1 (a).

Armenia. The appropriate body has not yet been identified. No experience.

Austria. The competent authority, in cooperation with the point of contact, is responsible.

Belgium (Nuclear). The Federal Agency for Nuclear Control is responsible.

Bulgaria. The Ministry of Environment and Water is responsible.

Canada. The responsibility within Canada would vary depending on the circumstances and issues at hand. Generally, the responsibility could rest with one of the following: the Department of Foreign Affairs and International Trade (for the Minister of Foreign Affairs), the Canadian Environmental Assessment Agency (for the Minister of the Environment), and the Responsible Authority under the Canadian Environmental Assessment Act.

Croatia. The authorities in charge of issuing the location permit are responsible.

Czech Republic, Poland, Slovakia. The ministry of environment is responsible.

Estonia. The Ministry of Environment and the competent authority are responsible.

Finland. The point of contact is responsible.

France. The competent authority, i.e. that responsible for approving the authorisation (minister, prefect, local authority) according to the procedures, is responsible for this transmission.

Germany. See II.A.1.1 (a), II.1.2 (a) and VII.A.1.2 (a). The competent authority in the Party of origin for the transboundary EIA procedure is responsible.

Italy. It depends on the agreements undertaken, which often establish a joint body. Otherwise, the contact point is in charge of transmitting the decision.

Kyrgyzstan. No experience, but the project proponent, the authorized body or local self-government institutions would be responsible.

Norway. The competent authority according to the EIA regulations, appendices I and II, is responsible.

Sweden. The Swedish Environmental Protection Agency is responsible.

Switzerland. The competent authority granting approval is responsible.

United Kingdom. The point of contact in the EIA branch of the Office of the Deputy Prime Minister would coordinate the transfer of information.

Latvia, Lithuania, Republic of Moldova. No experience or no response.

(c) Describe any difficulties you have experienced in arranging the provision of the final decision?

Germany. See II.A.1.1 (a) and II.1.2 (a).

Sweden. The final decision often arrives a long time after the EIA procedure.

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Switzerland, United Kingdom. No difficulties, no experience or no response.

Possibility of legal challenge (Part VII.A.3)

SUMMARY:

Respondents described the possibility for an affected Party or its public to challenge a final decision in the courts of the Party of origin. Such a right to challenge was reported by several respondents (Austria, Croatia, Germany, Italy, Netherlands, Slovakia, Switzerland, United Kingdom). The Netherlands noted that the challenge would have been of the planning decision rather than of the EIA. Canada, too, reported the possibility to challenge through judicial review, noting that a person would have needed to demonstrate a direct effect on them, rather than a general interest; Germany too would have required that a direct effect be demonstrated. Sweden reported that reciprocal arrangements existed among the Nordic States to allow such a challenge. The Czech Republic, France, Norway and Poland indicated that such a challenge would not have been possible.

The possibility of a legal challenge was reportedly described in the final decision issued by several Parties (Croatia, Germany, Hungary, Netherlands, Switzerland). Austria noted that it might have included such information. Canada remarked that it was for appellants to inform themselves of their rights to challenge decisions.

Respondents indicated that an appellant would have been informed of the result of an appeal (Canada, Norway, Slovakia, Sweden, United Kingdom), according to domestic law (Croatia, Hungary) or bilateral agreements (Austria). The Netherlands reported that appellants would not have been informed automatically, and Poland that they would not have been informed at all.

VII.A.3.1 Provide information on any right to challenge the final decision

(a) Do(es) the affected Party/Parties or the public in that Party/those Parties have the possibility to challenge the final decision in your national courts?

Armenia. The necessary legal and statutory acts have not yet been developed. No experience.

Austria. Neighbours have *locus standi* and the right to file appeals and to complain to the Administrative Court or the Constitutional Court. Neighbours are persons who might be threatened or disturbed or whose rights *in rem* might be harmed in Austria or abroad by the construction, operation

or existence of the project as well as the owners of facilities in which persons stay temporarily on a regular basis with regard to the protection of such persons; not considered as neighbours are persons who stay temporarily in the vicinity of the project and do not have rights *in rem*; with regard to neighbours abroad, the principle of reciprocity applies to states not parties to the Agreement on the European Economic Area.

Belgium (Flanders, Marine, Nuclear). In the situation that one wants to react on the fact that no EIA is carried out or that the EIA documentation is of poor quality or the competent authority does not take the results into account in the decision, one has to wait until the decision has been taken. In Belgium, there is no access to justice in relation to EIA but to the decision for which the EIA is carried out. An appeal against the final decision can be introduced in the administrative court (State Council), which is the competent court. All those concerned (national and trans-frontier) have access to justice in the framework of that decision.

Canada. The ability of an affected Party or its public to challenge the final decision in Canada's Federal Court would depend on whether the Party in question would qualify for standing before the court. Generally, challenges would take the form of judicial review. Pursuant to section 18.1(1) of Canada's Federal Court Act, an application for judicial review may be made "by anyone directly affected by the matter in respect of which relief is sought". A mere general interest in the matter is insufficient to establish standing.

Croatia. Each party that is recognized in the administrative procedure could challenge the final decision.

Czech Republic, Norway, Poland. No, they do not have the possibility to challenge the final decision in the Party of origin's national courts.

France. The Convention does not make any provisions in this area. Only general French law is applicable and it does not provide for any particular methods for legal challenges linked with the environment or with transboundary effects of projects.

Germany. The final decision may be challenged by anyone whose rights it may affect. This applies also to any individual of an affected Party. Members of the public, which pursuant to the judgment of the Federal Administrative Court (*Bundesverwaltungsgericht*) can also include citizens of other countries, can bring an action against the final decision on the project consent in a German court. There is also the possibility here of provisional legal protection. The condition for the permissibility of the action is the existence of a right of action, i.e. it must be possible that the protected rights of the complaining person(s) are injured by the authority decision. Such a right of action exists as a rule for the persons affected by the impacts of a project, as long as life or physical integrity or other public entitlements can be affected by the project. In the framework of such an action, mistakes in the EIA can be applied; the standard for the court in such mistakes in the EIA is whether they can have influenced the decision of the competent authority.

Italy. The Italian legislation on the administrative procedure (law 241/90) provides the public concerned (not necessarily Italian citizens) with the right to accede to documents and to participate in the administrative procedure if they might be affected by the resulting decision. Such rights are guaranteed by judicial remedies, i.e. by the possibility to challenge the decision. In particular, the environmental impact assessment may be appealed to the Administrative Regional Courts or to the President of the Republic.

Netherlands. In the situation that one wants to react on the fact that no EIA is carried out or that the EIA documentation is of poor quality or the competent authority does not take the results into account in the decision, one has to wait until the decision has been taken. In the Netherlands, there is no access to justice in relation to EIA but to the decision for which the EIA is carried out. All those concerned (national and trans-frontier) have access to justice in the framework of that decision.

Slovakia, Switzerland. Yes, they have the possibility to challenge the final decision in the Party of origin's national courts.

Sweden. In the Nordic countries there exist a possibility to appeal against a decision in another Nordic country. In each country there is a responsible authority (in Sweden, the Swedish Environmental Protection Agency) that can appeal against a decision. Also persons who might be affected by the project can appeal.

United Kingdom. It is understood that there is nothing in United Kingdom Court Rules that would prevent an affected Party or the public in the affected Party from bringing before the United Kingdom Courts a challenge against a final decision. The applicant would have to demonstrate "standing" in relation to the case.

Bulgaria, Denmark, Estonia, Finland, *Hungary, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova*. No experience or no response.

VII.A.3.2 Notification about the opportunity to appeal

(a) If the affected Party/Parties or its/their public have the possibility to challenge the decision, are they so informed? And by what means?

France. See VII.A.3.1 (a).

Austria. Information is not mandatory, but it can provided in the information about the issuing of the decision according to special agreements with the affected Party.

Belgium (Flanders, Marine, Nuclear), Netherlands. With the decision, information is given on the possibility to challenge it.

Canada. As for any Canadian, the onus is on an affected Party or its public to inform itself of its rights to challenge decisions.

Croatia. It is stipulated in the law and in the decision.

Czech Republic. No. No one, even from the Czech Republic, can appeal against EIA statement (its not binding, not done under civil code therefore no appeals).

Denmark. The possibility to challenge the decision is indicated with the decision information.

Germany. See II.A.1.1 (a) and II.1.2 (a). The information on the conditions of the opportunity to appeal is part of the reasons of the final decision.

Hungary. The main part of the written form of the final decision shall contain a clear description of the possibilities for legal remedies (art. 43, para. (1) point b).)

Italy. It might be exchange of such information in the framework of bilateral agreements undertaken to apply the Convention. Since now, there has never been the need to give such information.

Norway. According to the Nordic Environmental Convention, affected citizens in the other Nordic countries have the same opportunity to appeal as own country's citizens.

Poland. They cannot challenge the decision.

Sweden. The court should inform the responsible authority in the affected country.

Switzerland. Provision in decision informs of rights.

United Kingdom. The United Kingdom has not yet taken any final decision on activities subject to the Espoo procedures. But had it done so, it is unlikely that it would formally notify the affected Party that it had a right to challenge the decision. However, in coming to a decision it would have taken full account of any views expressed by an affected Party. From these it may have been clear whether they would be likely to challenge any decision to approve the activity. If this was the case, it is possible that the United Kingdom would have discussed with them the available means of challenge.

Armenia, Bulgaria, Estonia, Finland, *Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Slovakia*. No experience or no response.

VII.A.3.3 Notification about the results of appeals

(a) Is the affected Party/Parties informed of the results of any appeal?

France. See VII.A.3.1 (a).

Austria. Yes, according to bilateral agreements.

Belgium (Flanders, Marine, Nuclear), Netherlands. This is not done automatically.

Canada. If an affected Party obtained standing to challenge a decision in Canada's Federal Court, it would be informed of the results. If a third party were to challenge a decision in Canada's Federal Court, affected Parties with an interest in, but not a formal party or intervenor to the matter in court, could inform themselves of the outcome of such a challenge by monitoring the Federal Court's website, at http://www.fct-cf.gc.ca/, or contacting the Federal Court Registry.

Croatia. No experience, but according to the law it would be informed.

Germany. See II.A.1.1 (a) and II.1.2 (a). Normally any information about appeals should be exchanged in bilateral working groups on EIA or in any other bilateral body with the purpose of environmental cooperation.

Hungary. Yes, according to the last sentence of article 25, paragraph 4, of the Hungarian EIA Decree.

Norway, Sweden. Yes.

Poland. No.

United Kingdom. The United Kingdom would of course notify any affected Party of the outcome of any appeal against a final decision. If the appeal or legal challenge were brought by an affected Party, the result would be notified directly to the applicant or his legal representative.

Armenia, Bulgaria, Czech Republic, Denmark, Estonia, Finland, *Italy, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Slovakia, Switzerland*. No experience or no response.

QUESTIONS TO THE PARTY IN THE ROLE AS AN 'AFFECTED PARTY' (PART VII.B)

Describe the legal, administrative and other measures taken in your country as the affected Party to implement the provisions of the Convention on the final decision referred to in this section.

Character of the final decision (Art. 6) (Part VII.B.1)

SUMMARY: In their role of affected Party, respondents described their experience of the content of the final decision and its provision to them by the Party of origin. The Netherlands and the United Kingdom reported difficulties in understanding fully the decisions received. Poland reported an incomplete final decision that did not make reference to its opinion. Sweden remarked that the decision arrived years after the EIA procedure was completed. Croatia declared that the decision enabled application of the necessary protection measures. Italy noted once again its experience related to joint EIAs, circumventing many of the problems that might have been expected with a transboundary EIA procedure.

VII.B.1.1 Content and presentation of the final decision

(a) What is your experience of the content of the decision and its provision to you by the Party of origin?

Germany. See II.A.1.1 (a) and II.1.2 (a).

Belgium (Flanders, Nuclear). Experience is still very limited. It may be difficult to get a proper understanding of the decision without a special explanatory note.

Croatia. It enables application of all necessary protection measures.

Denmark. Experience is still very limited. It may be difficult to get a proper understanding of the decision without a special explanatory note.

Italy. Account should be taken of the fact that in all cases that Italy has applied the Convention, joint cross-border activities were under evaluation, so that the two final decisions (development consents) refer to the same project, or, to be more precise, to two different parts of the same project. This implies that before issuing the final decision, the two countries involved consult each other in order to reach an agreement and to arrive at the same decision. Consequently, there is no clear difference between Party of origin and the affected Party. All issues related to transboundary EIA are settled by bilateral agreements.

Kyrgyzstan. No experience. The Party of origin can present the conclusions of the state ecological examination of a project if there are no confidentiality restrictions.

Netherlands. Experience is still very limited. It may be difficult to get a proper understanding of the decision without a special explanatory note. (Information is to be added by points of contact at the provincial level.)

Poland. In one case final decision was incomplete and did not contain any postulate of the affected Party.

Sweden. The final decision can come years after the EIA procedure. (See VII.A.2.1 (c).)

United Kingdom. Only one country has sent the United Kingdom EIA documentation that could be interpreted as a "final decision". However, it was not readily clear what decision had been taken or why. The United Kingdom would have preferred a much shorter and more transparent form of notification.

Armenia, Austria, Bulgaria, Canada, Czech Republic, Estonia, Finland, France, Hungary, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia, Switzerland. No experience or no response.

Transfer of final decision (Part VII.B.2)

SUMMARY:

The final decisions were received by various bodies and individuals in the affected Party, including: the point of contact (Austria, Bulgaria, Finland, France, Italy, Netherlands, Sweden, United Kingdom); the environment ministry (Austria, Bulgaria, Czech Republic, Norway, Poland, Slovakia) or agency (Canada, Sweden); the Ministry of Foreign Affairs (Canada); the provincial government (Austria); national and local authorities (Croatia, Kyrgyzstan); the project proponent (Croatia, Kyrgyzstan); or the competent authority (Germany, Kyrgyzstan, United Kingdom). France remarked that it was for the Party of origin to decide.

Distribution of the final decision within the affected Party was reportedly, and as appropriate, by official notice in the 'mass media' (Bulgaria), newspapers (Austria, Canada, Germany, Italy, Kyrgyzstan, Norway, United Kingdom), in the official journal (Italy), on an Internet web site (Austria, Canada, Germany) or through meetings (Kyrgyzstan). Several respondents simply reported public access to the decision (Austria, Bulgaria, Hungary, Netherlands, Norway, Switzerland). In Finland, the non-governmental organizations (NGOs) consulted were sent copies; in Sweden, all those consulted received copies. Canada reported that stakeholders were sent information on the decision. Poland reported distribution to local authorities. France remarked that Article 6 of the Convention did not impose such a requirement. Croatia, too, reported that the public was not informed.

No respondent reported difficulties with the publication of the final decision, though Croatia noted that it was not a public document. No respondent indicated clearly that there had been a complaint that a final decision was not easily understandable.

VII.B.2.1 Organization of the transfer of the final decision

(a) Who normally receives the final decision?

Austria. The point of contact (the Ministry of Environment), or the *Land* (provincial) government, normally receives the notification.

Belgium (Flanders, Nuclear), Denmark, Finland, Italy, Netherlands. The point of contact normally receives the notification.

Bulgaria. The Ministry of Environment and Water (the point of contact) normally receives the notification.

Canada. The responsibility for receiving a final report within Canada would vary depending on the circumstances and issues at hand. Generally, the responsibility could rest with one of the following: the Department of Foreign Affairs and International Trade (for the Minister of Foreign Affairs), the Canadian Environmental Assessment Agency (for the Minister of the Environment), the President of the Canadian Environmental Assessment Agency.

Croatia. The developer, national and local authorities, and the inspector normally receive the notification.

Czech Republic, Norway, Poland, Slovakia. The ministry of environment normally receives the notification.

France. The authority designated as the point of contact, unless there is a separate bilateral arrangement, but this is a decision for the Party of origin.

Germany. See II.A.1.1 (a) and II.1.2 (a). Normally the competent authority for the transboundary EIA procedure in the affected Party should receive the final decision.

Kyrgyzstan. The authorized body, the project proponent and the local authorities usually receive the final decision.

Sweden. The Swedish Environmental Protection Agency normally receives the notification.

Switzerland. The Swiss (federal or cantonal) authority referred to in the reply to the notification normally receives the notification.

United Kingdom. The United Kingdom would expect the Party of origin to send the final decision to the United Kingdom point of contact. It would hope that it would also send a copy to other competent authorities in the affected Party that had contributed to the EIA procedure, if there had been direct contact.

Armenia, Estonia, Hungary, Latvia, Lithuania, Republic of Moldova. No experience or no response.

(b) How is the final decision distributed in your country in order to inform the public?

Austria. The final decision is distributed on the Internet. Hard copies are available at some authorities and municipalities. Information about the distribution is published in daily newspapers.

Belgium (Flanders). The final decision is usually published and made available to the public.

Bulgaria. According to the EPA, article 99 (4) the competent authority shall announce the decision through the national media of mass communication and/or in another appropriate manner. The competent authority (the Minister of Environment and Water) shall ensure access to the content of the decision following the delivery thereof, including access to the annexes to the said decision.

Canada. The most effective and reliable means of communication would be used to transmit the decision. These would include: mail outs to stakeholder groups and associations, electronic data transfer, Internet postings, possible notices in newspapers.

Croatia. The public is not informed officially.

Czech Republic. The final decision is distributed in the same way as other materials.

Denmark. The final decision is usually published and laid down for inspection.

Finland. (At least to NGOs which have been requested to give comments.)

France. Article 6 does not appear to express such a requirement.

Germany. See II.A.1.1 (a) and II.1.2 (a). If the Party of origin does not distribute the final decision, the competent German authority will inform the German public by official announcement in newspapers or any similar media, including the Internet.

Hungary. There are provisions on active dissemination of the final decision only concerning the internal process, which are to be used mutatis mutandis in the international processes, too. According to article 12, paragraphs 1 and 2, of the Hungarian EIA Decree, the inspectorate sends the final decision to the concerned municipalities that shall exhibit it in their offices and publicly announce the content and the accessibility of the decision.

Italy. The final decision is published in newspapers and the official journal.

Kyrgyzstan. The final decision may be distributed via 'round-table' and other meetings and by press notices.

Netherlands. It usually is published and laid down for inspection.

Norway. It "shall be made public" (section 33-7). The final decision is advertised in newspapers.

Poland. Final decision is transferred to local authorities of government administration and further for local authorities of self-governed administration.

Slovakia. The Slovak authorities distribute the final decision.

Sweden. The Swedish Environmental Protection Agency sends it to those who have provided comments during the EIA procedure if the decision is not sent directly to them.

Switzerland. Final decision would be made available to the public through Swiss authority.

United Kingdom. In the United Kingdom the relevant competent authority is required to publish a notice in a newspaper circulated in the area of the proposed activity of the final decision and where information relating to the decision is available for public inspection. The information shall include the (a) the content of the decision and any conditions attached thereto; (b) the main reasons and considerations on which the decision is based; and (c) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development.

Armenia, Estonia, Latvia, Lithuania, Republic of Moldova. No experience or no response.

(c) Describe any difficulties you have experienced with the transfer and publication of the final decision?

Germany. See II.A.1.1 (a) and II.1.2 (a).

Croatia. The final decision is not a public document.

Denmark. Difficulties have been experienced with the translation of the final decision.

Armenia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No difficulties, no experience or no response.

(d) Have you, your authorities or public every complained that a final decision is not easily understandable?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Poland. See VII.B.1.1.

Czech Republic, Finland, Italy, Kyrgyzstan, Slovakia, United Kingdom. No.

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Denmark, Estonia, France, Hungary, Latvia, Lithuania, Netherlands, Norway, Republic of Moldova, Sweden, Switzerland. No experience or no response.

Possibility of legal challenge (Part VII.B.3)

SUMMARY:

Seven respondents indicated that they sometimes had the right to make a legal challenge of a decision taken by the Party of origin (Austria, France, Germany, Italy, Netherlands, Sweden, Switzerland); four others indicated that they did not (Czech Republic, Norway, Poland, Slovakia). The United Kingdom did not know. Sweden again made reference to reciprocal arrangements among the Nordic countries with respect to legal appeals. Austria noted that such possibilities existed in some of its neighbouring countries. France, Germany, Italy and Switzerland remarked that it depended on the domestic law of the Party of origin.

Austria, Sweden and the United Kingdom expected to be informed of the outcome of such an appeal. Armenia, Croatia and Poland did not expect to be informed, nor did Kyrgyzstan always, and the Netherlands indicated that it did not expect the Party of origin to be proactive in this regard.

The remaining questions relate to notification of the public of the final decision, rather than of the commencement of the EIA procedure. However, this was not apparent in the questionnaire causing some confusion among the respondents.

Austria reported that the notification of the public of the final decision included the (summary of the) decision, where it was possible to inspect it and the possibility of appeal according to bilateral agreements. The United Kingdom reported inclusion of the decision and its justification.

With the exception of Poland, the respondents indicated that the notification of the final decision in the affected Party contained the same information as that provided in the Party of origin, if possible (Czech Republic, Germany, Italy, Norway). The notification of the public was done as soon as possible after receipt of the final decision (Austria, Norway, United Kingdom).

VII.B.3.1 Provide information on any right to challenge the decision

(a) Do you as an affected Party or your public sometimes have the legal opportunity to challenge the final decision in the national courts of the Party of origin?

Austria, Belgium, France, Germany, Italy, Netherlands, Sweden, Switzerland. Yes.

Czech Republic, Denmark, Norway, Poland, Slovakia. No.

Armenia, Bulgaria, Canada, Croatia, Estonia, Finland, Hungary, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, United Kingdom. No experience, not known or no response.

If so, please provide details.

Sweden. See VII A 3.1 (a).

Austria. Individual subjects possibly affected by the decision have the opportunity to challenge the decision in some neighbouring countries of Austria.

Belgium. See responses by France and the Netherlands.

France. This Convention does not include any provision for access to justice; only national law in the Party of origin appears applicable.

Germany, Italy, Switzerland. Such an opportunity would be in accordance with the affected Party's legislation.

United Kingdom. The United Kingdom simply does not know whether it could challenge in the Courts of the Party of origin a final decision that would have a significant effect on the United Kingdom environment and with which it disagreed.

If it felt so strongly it would probably explore that possibility with the Party of origin during discussions.

Armenia, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, *Hungary, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia*. No experience, or no response.

(b) Are you as an affected Party informed of the result of any appeal?

Germany. See II.A.1.1 (a), II.A.1.2 (a) and VII.A.3.3 (a).

Armenia, Croatia, Poland. No, the affected Party is not informed.

Austria. Yes, the affected Party is informed.

Belgium, Netherlands. The affected Party is not actively informed.

Denmark. Not actively informed, but Denmark would surely be informed.

Kyrgyzstan. Kyrgyzstan is not always informed.

Sweden. Yes, Sweden has been informed in the cases that it has appealed.

United Kingdom. The United Kingdom has not made any appeal. Had it done so, it would expect to be informed of the outcome.

Bulgaria, Canada, Czech Republic, Estonia, Finland, France, Hungary, Italy, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia, Sweden, Switzerland. No experience, or no response.

VII.B.3.3 Content of the public notification

(a) What is normally the content of the public notification?

Germany. See II.A.1.1 (a) and II.1.2 (a).

Austria. Content of the public notification normally: characteristics of the decision; place and time of possible inspection; where provided for in bilateral agreements, opportunities to challenge the decision.

Croatia. The public notification normally contains relevant information about the project, and information on where to find more comprehensive information.

Italy. In accordance with national law, the notification takes the form of an advice to be published on the newspapers.

Kyrgyzstan. The notification of the public is done through issuing newsletters, holding 'round-table' meetings, and holding meetings presenting information on the planned activity, including its benefits and potential adverse consequences.

Switzerland. Regarding making available the decision: lack of recent experience in applying Espoo (but wealth of experience with joint EIAs).

United Kingdom. It is not clear what "public notification" refers to here. Assuming it is notification of the decision, the United Kingdom authorities would notify the relevant "public" of the decision and the reasons for it as provided by the Party of origin.

Armenia, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Estonia, Finland, *France, Hungary, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden*. No experience, no information or no response.

(b) Does the content of the notification to the public of your country have the same detail as the notification to the public of the Party of origin?

Czech Republic, Italy. Yes, it does.

Germany. See II.A.1.1 (a) and II.1.2 (a). There should be no difference in the information given to the public in the Party of origin and the public in the affected Party.

Kyrgyzstan. The information should be the same, but it might depend on the significance of any potential impact on affected Parties.

Norway. If possible, yes.

Poland. No, it does not have the same content.

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Denmark, Estonia, Finland, France, Hungary, Latvia, Lithuania, Netherlands, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No experience, no information, do not know or no response.

VII.B.3.4 Timing of the notification to the public

(a) At what stage in the EIA procedure is the affected public of your country notified?

Austria. The public should be notified as soon as the decision has been issued.

Croatia. They are notified at a public hearing before the final session of the reviewing body.

Czech Republic. The Czech Republic sends this decision to the affected Party.

France. They are notified within a reasonable period following receipt of the dossier notified by the Party of origin.

Germany. According to article 9b, paragraph 2, of the German EIA Act, the authority that would be responsible for a similar project in Germany shall announce the project in a suitable manner to the public, in the areas likely to be affected and on the basis of the documentation provided by the other Party. At what stage in the decision-making procedure the public will be notified thus depends on the time when the Party of origin provides such documents.

Hungary. It depends on the decision-making procedure of the country of origin.

Italy. At a very early stage of the procedure, since the proponent (in most cases a joint company), in accordance with national law, has the obligation to inform the public authorities and the public at the same time.

Kyrgyzstan. The public is notified when the environmental impacts have been identified. Deadlines should be established taking into account possible unforeseen situations and should be consistent with the general timetable for the EIA process.

Norway. The public is notified as soon as possible after the result is received.

Poland. The public is notified after receiving the documentation.

United Kingdom. The public would be informed as soon as possible after the United Kingdom point of contact had received the decision.

Armenia, Belgium, Bulgaria, Canada, Denmark, Estonia, Finland, *Latvia, Lithuania, Netherlands, Republic of Moldova, Slovakia, Sweden, Switzerland*. No experience, no information or no response.

POST-PROJECT ANALYSIS (PART VIII)

QUESTIONS TO ALL PARTIES (PART VIII.A)

Describe the legal, administrative and other measures taken in your country to implement the provisions of the Convention on post-project analysis referred to in this section.

Post-project analysis (Art. 7, para. 1) (Part VIII.A.1)

SUMMARY:

The respondents reported limited experience of post-project analysis, with a number of exceptions, generally relating to domestic EIA. Specifically, in Kyrgyzstan and the Netherlands, post-project analysis was always required, though it never occurred in the former. In Croatia, France, Norway, Poland, Slovakia and the United Kingdom it depended on individual cases. The requirement was under development in Switzerland. In Canada, it was dependent upon the type of EIA that had been undertaken, being compulsory for full EIAs. In France and Slovakia, post-project analysis was required for certain types of activities. In the Netherlands and Norway, it is the competent authority that initiated it. In the Netherlands, Poland and Slovakia, the project proponent carried it out.

Those respondents that indicated why post-project analyses were undertaken, whether or not compulsorily, generally indicated that they were done to:

- *Monitor compliance with the conditions in the licences;*
- *Review predicted environmental impacts for proper management of risks and uncertainties;*
- *Modify the activity or develop mitigation measures in case of harmful effects on the environment; and*
- *Provide the necessary feedback in the project implementation phase.*

Only a few respondents indicated that post-project analyses were undertaken so as to learn from experience.

VIII.A.1.1 Post-project analysis

What is your experience of Post-project analysis under the Convention? Please provide details including:

(a) Who has initiated the Post-project analysis?

Belgium (Flanders). No experience, but practice may begin soon as the EIA legislation of 2002 includes monitoring provisions.

Belgium (Marine). Monitoring is automatically obliged on proponents for permitted activities. The monitoring has to be co-ordinated by the Belgian competent authorities for environmental impacts both on the national territory as well as with respect to transboundary impacts.

Belgium (Nuclear). The competent authority is legally obliged to monitor the project. The proponent has to submit on request to the competent authority any information or assistance that the competent authority may reasonably require to carry out the investigation. The competent authority is required to take the necessary action when environmental impacts exceed those predicted in the EIA documentation. In most case the proponent also has to initiate a monitoring programme.

Denmark. The proponent has to submit on request to the competent authority any information or assistance that the competent authority may reasonably require to carry out the investigation. The competent authority is required to take the necessary action when environmental impacts exceed those predicted in the EIA documentation.

France. France has no experience. However, with respect to the matter of aggregates exploitation in the English Channel, this question is central to the discussions.

Kyrgyzstan. The carrying out of post-project analysis is specified in the statutory act on carrying out of EIA as an obligatory element of the EIA.

Netherlands. In the Netherlands, the competent authority is legally obliged to monitor the project. The proponent has to submit on request to the competent authority any information or assistance

which the competent authority may reasonably require to carry out the investigation. The competent authority is required to take the necessary action when environmental impacts exceed those predicted in the EIA documentation.

Norway. The competent authority can initiate post-project analysis.

Poland. Poland has no experience in this field. However, according to the Act of 27 April 2001 (Environmental Protection Law), the authority that issues a decision on a building consent may impose on the applicant the obligation to submit a post-project analysis that compares the findings of the EIA documentation, and the provisions of the decision on building consent, with the real effects of the project on the environment and the real measures undertaken to reduce them.

Republic of Moldova. The Republic of Moldova has neither experience in, nor legislation stipulating the need for, post-project analysis.

Slovakia. The project proponent initiates it.

Switzerland. Switzerland has no recent experience of post-project analysis under the Convention, but Swiss EIA practice is heading towards giving post-project analysis greater weight (e.g. a relevant provision in legislation regarding the construction of freeways).

Armenia, Austria, Bulgaria, Canada, Croatia, Czech Republic, Estonia, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Sweden, United Kingdom. No experience or no response.

(b) How often are EIA procedures accompanied by post-project analysis?

Belgium (Marine, Nuclear). EIA procedures are always accompanied by post-project analysis. It is obligatory.

Croatia. Whether EIA procedures are accompanied by post-project analysis depends on the final decision.

Denmark. Post-project analysis often accompanies EIA procedures.

France. Post-project analysis of impacts is required for about half of all projects subject to EIA.

Kyrgyzstan. EIA procedures are never accompanied by post-project analysis.

Netherlands. Post-project analysis is an obligatory element in every EIA procedure.

Norway. A study of 52 non-representative EIA cases that received a final decision after 1 August 1999 showed that 26 of them were accompanied by a requirement for post-project analysis. In ten cases it is possible to make the interpretation that they are, but it was decided by the researcher that what was found was not enough to represent a requirement for post-project analysis. In six cases it was explicitly decided by the competent authority that post-project analysis was not necessary. The study contains no mention of the Espoo Convention.

Slovakia. Whether EIA procedures are accompanied by post-project analysis depends on each case.

United Kingdom. There are no provisions for post-project analysis in the United Kingdom EIA legislation or in the requirements of the EIA Directive with which the United Kingdom legislation must comply. Under the Convention it is for the Parties to determine whether post-project analysis is to take place. The United Kingdom has not asked, or been asked, for post-project analysis as part of any individual EIA procedure.

Armenia, Austria, Bulgaria, Canada, Czech Republic, Estonia, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Poland, Republic of Moldova, Sweden, Switzerland. No experience or no response.

(c) Whether it is determined, as a general rule, that Post-project analysis is appropriate for particular types of project.

Belgium (Marine). Post-project analysis is always obligatory, but its importance may vary according to the type of project.

Belgium (Nuclear). In case an obvious environmental impact has been identified, post-project analysis will be included as a licensing (permit) condition.

Bulgaria. There is no legal provision in the national EIA legislation. As a Party to the Convention, Article 7 should be directly implemented.

Croatia. It depends on the final decision.

France. Post-project analysis of impacts is required under several regulations for projects

relating to installations for environmental protection, projects relating to installations subject to the law on water, large transport infrastructure projects and mining projects.

Germany. In the German EIA Act, there is no special provision on post-project analysis in the transboundary context. Under German law, it is incumbent on the supervisory body of a competent authority - which is determined by the relevant law on the licensing of a project or activity - to ensure compliance with the conditions of the licensing decision and to intervene in case of non-compliance, especially in situations of danger for human health.

Kyrgyzstan. Statutory acts do not specify project types requiring post-project analysis.

Norway. No, it is not.

Poland. There is no such as general rule. The need of post-project analysis is in each case determined by the authority that issues a decision on building consent.

Slovakia. Yes, it is.

United Kingdom. For certain types of activity, e.g. those that result in emissions and discharges or waste disposal, the environmental authorities responsible for regulating them carry out continuous monitoring. Such arrangements will apply to most of the activities listed in Appendix I to the Convention, and in Annex I to the EIA Directive. Additionally monitoring of elements of the activity may be required as a condition of approval of the development consent, e.g. deposit of waste from quarrying etc. There is no general requirement for post project analysis in the United Kingdom.

Armenia, Austria, Canada, Czech Republic, Denmark, Estonia, Finland, Hungary, Italy, Latvia, Lithuania, Netherlands, Republic of Moldova, Sweden, Switzerland. No experience or no response.

(d) Whether you cooperate in Post-project analysis with concerned Parties.

Germany. See II.A.1.1 (a) and II.1.2 (a).

Belgium (Flanders), Netherlands. No experience yet. It is the intention to cooperate.

Belgium (Marine). No experience yet, but transboundary consultation is foreseen in case significant or important effects are identified or proven.

Czech Republic. Yes, the Czech Republic cooperates.

Norway. No, Norway does not cooperate.

Poland. No experience in this field. There is no legal obligation (in the national legal acts) to co-operate in post-project analysis with concerned Parties as well. However the question of cooperation in this field is regulated in the draft bilateral agreements between Poland and interested countries.

Armenia, Austria, Bulgaria, Canada, Croatia, Denmark, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No experience or no response.

(e) Whether the Post-project analysis leads to a different conclusion than the conclusion reached under the initial EIA.

Germany. See II.A.1.1 (a) and II.1.2 (a).

Belgium (Marine). In a monitoring programme, the Marine Protection Administration has to evaluate whether an activity remains acceptable for the marine environment. If not, the Minister can withdraw the permit. If the activity remains acceptable, the permit conditions can be changed, as can the monitoring and the compensatory and other measures to improve the environment. For these reasons, the permit can be temporary suspended. In case of transboundary impacts, the affected Party is informed promptly and a consultation can be organized.

Belgium (Nuclear). The competent authority is required to take the necessary action in case the actual environmental impacts exceed those predicted in the EIA documentation.

Czech Republic. Yes, the post-project analysis leads to a different conclusion from that reached under the initial EIA.

Denmark. As indicated above, when environmental impacts exceed those predicted, the competent authority is required to take the necessary action.

Netherlands. As indicated above, when environmental impacts exceed those predicted in

the EIA documentation the competent authority is required to take the necessary action.

Norway. This has not been studied systematically and comparatively in a larger number of cases.

Slovakia. No, the post-project analysis does not lead to a different conclusion from that reached under the initial EIA.

Armenia, Austria, Bulgaria, Canada, Croatia, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Poland, Republic of Moldova, Sweden, Switzerland, United Kingdom. No experience or no response.

VIII.A.1.2 For which of the following reasons is Post-project analysis generally undertaken?

(a) To monitor compliance with the conditions in the licences?

(b) To review predicted environmental impacts for proper management of risks and uncertainties?

(c) To modify the activity or develop mitigation measures in case of harmful effects on the environment?

(d) To learn from experience?

(e) To provide the necessary feedback in the project implementation phase?

(f) Other purposes?

Some respondents have indicated general expectations of post-project analysis whereas others have reported on their experience.

Belgium, Denmark, Netherlands, Switzerland. Post-project analysis is undertaken for reasons (a) to (e).

Bulgaria. Post-project analysis is undertaken for reasons (a), (b), (c) and (e), but not reason (d).

Canada. Post-project analysis is undertaken for reasons (a) to (e). Under the Canadian Environmental Assessment Act (CEAA), follow-up is mandatory in the case of comprehensive study and review panel appointed by the Minister of the Environment. It is discretionary in the case of a screening assessment undertaken pursuant to CEAA. The follow-up activities under CEAA are consistent with the reasons (a) to (e).

Croatia. Post-project analysis is undertaken for reasons (a), (b), (c) and (e).

Czech Republic. Post-project analysis is undertaken for reasons (a) to (d).

Germany. Post-project analysis is undertaken for reasons (a), (b), (c) and (e), but not reason (d). See II.A.1.1 (a), II.A.1.2 (a) and VIII.1.1 (c). Normally under the specific legislation for the licensing of the project or activity supervision will take place based on the reasons indicated in the table.

Kyrgyzstan. Post-project analysis is undertaken for reasons (a), (c) and (d).

Norway. Post-project analysis is undertaken for reasons (b), (c) and (e), but not reasons (a) and (d).

Slovakia. Post-project analysis is undertaken for reasons (a), (b) and (c).

United Kingdom. Post-project analysis is undertaken for reasons (a) to (e). These are all reasons for which post-project analysis might usefully be carried out. However, please note that post-project analysis is not a formal part of the United Kingdom EIA procedures.

Armenia, Austria, Estonia, Finland, France, Hungary, Italy, Latvia, Lithuania, Poland, Republic of Moldova, Sweden. No experience or no response.

Result from Post-project analysis and information to the other concerned Parties (Art. 7, para. 2) (Part VIII.A.2)

SUMMARY: There was no reported experience of informing another Party, or being informed by another Party, of a significant adverse transboundary impact, identified as a result of post-project analysis.

VIII.A.2.1 Information to the other concerned Parties

(a) Where, as a result of Post-project analysis it is concluded that there is a significant adverse transboundary impact by the activity, how do you inform the other Party about this pursuant to Article 7, paragraph 2?

Germany. See II.A.1.1 (a) and II.1.2 (a).

Canada. The determination on the ways and means to communicate the information would be

made on a case-by-case basis. The responsibility for the communication of the information would vary depending on the circumstances and issues at hand. Generally, the responsibility could rest with one of the following: the Department of Foreign Affairs and International Trade (for the Minister of Foreign Affairs), the Canadian Environmental Assessment Agency (for the Minister of the Environment), the Responsible Authority under the Canadian Environmental Assessment Act, and the President of the Canadian Environmental Assessment Agency.

Croatia. The other Party is informed via the Point of contact.

Czech Republic. The other Party is informed by letter.

Netherlands. The competent authority shall compile a report on the investigation and shall forward a copy of it as soon as possible to the proponent, to the Commission for EIA (independent experts) and to the advisers. The competent authority shall at the same time publish the report. Mutatis mutandis this publication will also take place in the affected country.

Norway. The other Party is informed by post.

United Kingdom. The United Kingdom has no experience of this. Were this situation to arise, it would notify the point of contact in the affected Party.

Armenia, Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland. No experience or no response.

(b) What is your experience of being informed pursuant to Article 7, paragraph 2?

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No experience or no response.

VIII.A.2.2 Consultation in accordance with Article 7, paragraph 2

(a) What is your experience of consultation about necessary measures to reduce or eliminate the impact pursuant to Article 7, paragraph 2?

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No experience or no response.

TRANSLATION (PART IX)

QUESTIONS TO ALL PARTIES (PART IX.A)

Describe any legal, administrative or other framework in your country that provides for translation as discussed in this section. (Art. 4, para. 1, and App. II.)

Basic information about translation (Part IX.A.1)

SUMMARY:

Respondents indicated various approaches to overcoming language constraints during consultations. Some respondents reported that consultation was, if possible, in all the languages of the concerned Parties (Bulgaria, Germany, Norway, United Kingdom), others that interpreters were available as necessary (Austria, Netherlands). In other instances, it depended on bilateral agreements (Czech Republic, Poland, Slovakia). Several respondents noted use of English as a common language (Bulgaria, Estonia, Hungary, Italy, Sweden); Finland used Swedish and English in hearings; Kyrgyzstan generally used Russian. Sweden required that court submissions be in Swedish. Canada and Switzerland reported reliance on their national languages for consultation with their neighbours.

One respondent indicated that it translated all documents into the language of the affected Party (United Kingdom); others translated selected sections (Finland, Sweden), in some cases according to bilateral agreements (Austria, Czech Republic, Italy, Poland, Slovakia), domestic law (Hungary, Netherlands, Poland) or on the basis of reciprocity (Germany). Some respondents reported translation of some documentation into English (Bulgaria, Croatia, Estonia). In Canada, all documentation had to be produced in the national languages (English and French); translation into other languages would have been discussed with the affected Party. Norway did not provide translation of consultation documentation. Again, Switzerland reported reliance on its national languages for consultation with its neighbours.

Several respondents indicated that the final decision was, or would have been, translated into the language of the affected Party, as necessary and according to bilateral agreements (Austria, Germany, Hungary, Italy, Netherlands, Poland, Slovakia, Sweden, United Kingdom). However, three Parties (Croatia, Czech Republic, Norway) noted that the decision was not translated.

Several respondents also indicated that interpretation was, or would have been, provided in hearings, again as necessary and according to bilateral agreements (Austria, Bulgaria, Croatia, Czech Republic, Germany, Slovakia); again other respondents (Estonia, Netherlands, Norway, Sweden) indicated that they were not. Kyrgyzstan indicated that interpretation had not been necessary. This would appear to have been an area where there was still rather limited experience, especially in terms of hearings in an affected Party.

IX.A.1.1 In what language does the consultation take place?

Austria. Depends on agreements between the Parties; usually there are interpreters available, if there is no common language.

Belgium, Denmark, Netherlands. Consultation takes place in the language of the Party of origin, with the opportunity for translation or interpretation

Bulgaria. In the case of the joint EIA the consultations were in the languages of the concerned Parties and in English. There is no legal provision.

Canada. Consultation would take place in either or both the French and English languages, the two officials languages of Canada.

Croatia. Consultation takes place in the language agreed between the points of contact, if there is no other bilateral agreement.

Czech Republic. Depends on the bilateral agreements, but usually in the language of the Party of origin.

Estonia. Consultation takes place in English.

Finland. Consultations have been conducted in English, Swedish, Estonian and Russian.

France. France does not have any regulatory provisions.

Germany. Normally consultation take place in the languages of the Party of origin and of the affected Party with the help of an interpreter.

Hungary. In general English or if it is necessary in mother languages by help of interpreters.

Italy. Generally, consultation takes place in English.

Kyrgyzstan. Consultation takes place in the language that is officially accepted, usually Russian.

Norway. Consultation takes place in each State's national language. No difficulties between the Nordic countries in this matter.

Poland. Language, in which consultation takes place, usually is indicated in the draft bilateral agreements between Poland and interested countries.

Slovakia. According to bilateral agreements.

Sweden. Between themselves, the Nordic countries can often use their own languages. Sometimes the letters and documents are translated to English. The environmental court can ask for translation of the comments to Swedish.

Switzerland. In the language prevalent in the particular region (may be bilingual): German, French, Italian and Romanch.

United Kingdom. The United Kingdom's experience is limited. However, when it consults with other countries that may be affected Parties, it has tried to provide information in the language of those Countries.

Armenia, Latvia, Lithuania, Republic of Moldova. No experience or no response.

IX.A.1.2 Which, if any, part(s) of the consultation documentation are translated into the language(s) of the affected Party/Parties? (Please describe each part or stage of the procedure.)

Austria. According to the draft bilateral agreements, translation is provides for: the EIA documentation as far as transboundary effects are concerned; important expertise drawn up during the procedure as far as transboundary effects are concerned; and the binding parts of the decision and those parts of the reasons relevant for transboundary impacts. One neighbouring country would provide Austria with translated documents only on the basis of a valid bilateral agreement that does not yet exist.

Belgium (Flanders). The notification of intent (starting document) and the summary of the EIA documentation are translated in the language of the affected Party.

Belgium (Marine). In most cases, the consultation documents are translated into the language of the affected Party.

Bulgaria. In the case of the joint EIA, all the EIA documentation was translated into the languages of the concerned Parties and into English. In the case of being affected Party, it received the EIA documentation in English.

Canada. In accordance with the Official Languages Act of Canada, all documents produced to inform the public about the environmental assessment procedure and that are issued to solicit public input must be available in both official languages of Canada. These documents may include public notices, news releases, screening reports, comprehensive study reports, mediator reports, review panel reports, decision statements about the project. The determination to translate the environment impact assessment documentation in a language other than the official languages of Canada, would be made on a case by case basis following consultation with the affected Party.

Croatia. Basic information is translated into English (if national languages are not used). All other documentation is up to the affected Party to translate.

Czech Republic. Depends on the bilateral agreements: notification as a whole; part of documentation and expert opinion.

Denmark. The notification of intent (starting document) and the summary of the EIA documentation are translated into the language of the affected Party. It could also be agreed that parts of the documents are written in English. In practice, sometimes a more substantial part of the documentation is translated. If Sweden and Denmark exchange documents or notifications, this is seldom translated as Danish and Swedish are close to each other. However, documents for public participation will be translated.

Estonia. The EIA programme and the summary of the EIA documentation were translated into English.

Finland. The following parts are translated: the notification to the affected Party; comments on the EIA document to the Party of origin; and the EIA programme and report to the affected Party.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). With regard to the EIA documentation the non-technical summary and, where necessary, further project details of relevance to the transboundary public participation, especially on the transboundary environmental impacts of the proposed project or activity, should be translated in the language of an affected Party, if the principles of reciprocity and equivalence are met in relation to this affected Party (art. 9a, para. 2, of the German EIA Act).

Hungary. According to article 26, paragraph 1, the following materials shall be translated into the language of the affected Party.

- The international chapter of the detailed EIA (art. 15, para. 8, of the Hungarian EIA Decree); and
- The non-technical summary (art. 17 of the Decree).

Italy. Project description, analysis of environmental effects, comments (by the public and the authorities), and any other relevant document, in accordance with the bilateral agreements taken in order to apply the Convention. In some cases only summary of the documents are translated.

Netherlands. The notification of intent (starting document) and the summary of the EIA documentation are translated in the language of the affected Party. This is based on a legal obligation. In practice sometimes a more substantial part of the documentation is translated.

Norway. None.

Poland. Poland as a Party of origin: No experience in this field. . According to the Act of 27 April 2001 - Environmental Protection Law, the applicant is obliged to prepare documentation indispensable for the EIA procedure to be carried out, in the language of the affected Party. Precise scope of this documentation, which has to be translated in the language of the affected Party, is defined in the draft bilateral agreements between Poland and interested countries. Generally, the translated documentation has to be sufficient to make a risk assessment and to take a position on the proposed activity by the affected Party. Poland as an affected Party: So far Poland has received EIA documentation in Polish or in English. In one case Poland has received EIA documentation in the language of the Party of origin. Generally not the whole EIA documentation is translated, but only those parts of it that are required to permit assessment of the possible transboundary impact on the environment.

Slovakia. According to bilateral agreements.

Sweden. Notification letter, EIA summary; EIA document and the comments could be translated.

Switzerland. Particular linguistic areas tend to border on countries where the same language is spoken.

United Kingdom. The United Kingdom has encouraged the proponent of the activity to provide notification documentation and the EIA documentation in the languages of the affected Parties.

Armenia, France, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova. No experience, or no response.

IX.A.1.3 Is the final decision translated into the language(s) of the affected Party/Parties?

Austria, Canada. See IX.A.1.2.

Switzerland. See IX.A.1.1.

Croatia, Czech Republic, Norway. No.

Denmark. Partly.

Finland. The final decisions have been translated into the language of the affected Party.

Germany. According to article 8, paragraph 3, of the German EIA Act, the licensing authority may provide for a translation of the final decision if the principles of reciprocity and equivalence are met in relation to an affected Party.

Hungary. There is no requirement on the language in the recent EIA Decree, but according to the draft Hungarian-Slovakian agreement the decision should be translated into Slovak language. It is not necessary to translate those parts of the decision that do not include any data or information on the transboundary impacts. These parts should be sent in Hungarian with the references of non-translated texts.

Italy. Yes.

Netherlands. It is translated in part (not based on a legal requirement).

Poland. Poland as a Party of origin: No experience and legal provisions in this field. The question of the translation of a final decision usually is regulated in the draft bilateral agreements between Poland and interested countries. According to those agreements, Poland will be responsible for transmitting the final decision translated in the language of the affected Party. Poland as an affected Party: so far, Poland as the affected Party has not received any final decision completely translated into Polish. Within the procedures that had been commenced, Poland received only some parts of the final decision and in one case did not receive any decision at all.

Slovakia. According to bilateral agreements.

Sweden. Yes if needed it can be translated.

United Kingdom. The United Kingdom has no experience of this, but would generally try to provide notification to the affected Parties in the language of their countries.

Armenia, Belgium, Bulgaria, Estonia, France, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova. No experience, or no response.

IX.A.1.4 Are the proceedings in oral hearings interpreted into the language(s) of the affected Party/Parties?

Switzerland. See IX.A.1.1.

Austria. Yes, depending on agreements with the affected Party.

Bulgaria. Yes, in the case of the joint EIA.

Canada. The determination to provide interpretation services in a language other than the official languages of Canada would be made on a case-by-case basis following consultation with the affected Party.

Croatia. Yes.

Czech Republic. Yes, they should be.

Denmark. Not known, but it is unlikely.

Estonia, Norway, Netherlands. No.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). Normally there will be an interpreter for participants of an affected Party in a hearing.

Hungary. There is no such a provision in the recent EIA Decree.

Italy. Normally not, since hearings have not been held in transboundary EIA cases.

Kyrgyzstan. Translation is not required.

Poland. Poland as a Party of origin: No experience and legal provisions in this field. Poland as an affected Party: so far, some Parties of origin assures the translation into Polish during the oral hearings, whereas some of them did not. As regards many problems in this field, the question of interpretation of the oral hearings has to be regulated in the bilateral agreements.

Slovakia. According to bilateral agreements.

Sweden. No, Sweden has only had informal meetings where it has used the English language.

United Kingdom. The United Kingdom has no experience of this. But oral hearings in the United Kingdom are conducted in English without translation. If a person from an affected Party attended or took part in such a hearing they would have to communicate in English. If a hearing, or part of one, were to be held in an affected Party then interpretation would become an issue that would have to be discussed with the authorities there.

Armenia, Belgium, Finland, France, Latvia, Lithuania, Republic of Moldova. No experience, or no response.

Responsibilities for translation (Part IX.A.2)

SUMMARY:

The respondents indicated that translation of basic information was generally the responsibility of the Party of origin (Austria, Croatia, Czech Republic, Estonia, Finland, Germany, Poland, United Kingdom); specifically, translated EIA documentation was provided by the project proponent (Bulgaria, Estonia, Germany, Hungary, Netherlands, Norway, Sweden, United Kingdom), whereas the formal notification was translated by the competent authority (Netherlands) or by the proponent (United Kingdom). Two respondents indicated that the affected Party was responsible for translation of its comments into the language of

the Party of origin (Sweden – for the environmental court – and Finland). Five of the respondents indicated that responsibility for translation varied from case to case (Austria, Estonia, Netherlands, Poland) or according to bilateral agreements (Slovakia), whereas nine said that it did not. Kyrgyzstan reported that translation had not generally been necessary.

Several Parties reported problems with translation, particularly with respect to costs (Austria, Czech Republic, Estonia, Finland, Poland) and delays (Finland, Poland). Hungary noted that translation into English, even rather than Hungarian, might be preferred because of quality problems.

Certain respondents indicated that they translated all documents when responsible (Bulgaria, Italy, United Kingdom); others translated only parts of the documentation as discussed with the affected Party (Austria, Finland, Sweden), or according to bilateral agreements (Czech Republic, Germany, Italy, Poland, Slovakia) or domestic law (Hungary, Netherlands). Germany noted that, unfortunately, there was so far no provision in the Convention regarding responsibility for any translation, so there could not be any legal responsibility as such for translations. Some respondents reported translation of some documentation into English (Croatia, Estonia). As mentioned above, in Canada, all documentation had to be produced in the national languages (English and French); translation into other languages would have been discussed with the affected Party.

Several respondents reported reliance on translation into the language of the affected Party (Czech Republic, Netherlands, United Kingdom), whereas others noted the use of either English or the language of the affected Party (Bulgaria, Croatia, Sweden). Estonia noted the use of English only. Germany, too, used the language of the affected Party, except when dealing concurrently with several States on the shores of the Baltic Sea, when English was used. In Canada, all documentation had to be produced in the national languages (English and French). Thus, English was reported as being used as a common language, even where it was not the language of any of the concerned Parties (notably Estonia, Hungary, Italy); the other official UNECE languages (French and Russian) were only reported as being used where they were the or a national language of one of the concerned Parties.

As Party of origin, translation costs for the EIA documentation were reported by most respondents as being the responsibility of the developer; translation of notifications and decisions was reported by several respondents as being paid for by the authorities (Germany, Netherlands, Poland). As affected Party, Hungary and Poland reported that the Ministry of Environment and the regional authorities, respectively, were responsible for translation costs. Germany and the Netherlands noted that the competent authority was often responsible for the costs of translation and interpretation. In the United Kingdom, the developer was encouraged to bear all costs, but the Government was ultimately responsible.

IX.A.2.1 Which Party normally arranges for translation

(a) Who is normally responsible for the translation of the documents in the EIA procedure?

Switzerland. See IX.A.1.2.

Austria. Responsibility for translation depends on the bilateral agreements between the Parties. In the future it could be arranged in the following way:

- For the documents listed under 1.2, the Party of origin is responsible;
- For all other documents, the affected Party is responsible.

Belgium (Flanders), Denmark, Netherlands. The proponent (EIA documentation) and the competent authority (decision) are responsible.

Belgium (Marine). No experience, but in principle the Party of origin is responsible.

Belgium (Nuclear). The Federal Agency for Nuclear Control and the European Commission is responsible.

Bulgaria, Norway. The developer is normally responsible for the translation of the documents.

Canada. Where Canada is the Party of Origin, Canada would ensure the translation of the environmental assessment documentation in accordance with its obligations under the federal environmental assessment framework. The responsibility for the translation may rest with the federal Responsible Authority under the Canadian Environmental Assessment Act, the Canadian Environmental Assessment Agency, and other relevant federal governments departments and agencies as required.

Croatia. Basic information is translated into English (if national languages are not used). All other documentation is up to the affected Party to translate.

Czech Republic. The Party of origin is responsible.

Estonia. The Party of origin is responsible, with translated EIA documentation being provided by the project proponent.

Finland. The point of contact is responsible for arranging the translation.

Germany. Normally the Party of origin should be responsible for translations ("Polluter-Pays-Principle"). According to article 9a, paragraph 2, of the German EIA Act the German licensing authority may demand of the developer to provide a translation of the documents which are relevant for the participation of the public of the affected Party. However, this is restricted to the case that the principles of reciprocity and equivalence are met in relation to the affected Party.

Hungary. The applicant (requester) is responsible, according to article 26, paragraph 1, of the EIA Decree.

Italy. It depends on the bilateral agreements undertaken. In some cases, the proponent is a joint company (Italian plus other Party involved) and directly provides for the documentation in the two languages. In other cases local authorities (border Provinces) have been entrusted of translating the comments received.

Kyrgyzstan. Translation is not generally required.

Poland. Generally the Party of origin is responsible for the translation (however the applicant is responsible for some of the translations). Detailed regulations are included in the draft bilateral agreements between Poland and interested countries. So far, lack of binding agreements causes many difficulties in this field within the EIA procedures that has been commenced.

Slovakia. Responsibility is according to bilateral agreements.

Sweden. The developer is responsible for the translation.

United Kingdom. As an affected Party, the United Kingdom has experience of one Party of origin providing documentation translated into English and another that has not. As the Party of origin, it has so far been able to provide documentation in the language of the affected Party. In the United Kingdom, the developer is encouraged to provide documentation in the appropriate languages. If he will not meet the costs of translation, the United Kingdom will discuss this matter with the affected Party.

Armenia, France, Latvia, Lithuania, Republic of Moldova. No experience, or no response.

(b) Does the translation responsibility vary with the different EIA cases?

Poland. See IX.A.2.1 (a).

Austria, Belgium (Flanders, Nuclear), Denmark, Netherlands, Slovakia. Yes, responsibility varies.

Croatia, Czech Republic, Finland, Germany, Hungary, Norway, Sweden, United Kingdom. No, responsibility does not vary.

Estonia. Yes, responsibility varies according to the length of the EIA documentation.

Italy. Responsibility normally does not vary.

Armenia, Bulgaria, Canada, France, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Switzerland. No experience, or no response.

(c) Have you experienced any problems concerning the organization of translation and who should be responsible for the translation?

Germany. See II.A.1.1 (a), II.1.2 (a) and IX.A.2.1 (a).

Austria. Yes. One neighbouring state would provide Austria with a translation of the documentation or even only parts of it only on the basis of a bilateral agreement that does not yet exist. Translation of the documents that are not submitted in the language of the affected Party is very expensive. When you translate only parts of the documentation, the public blames you as the competent authority of the affected Party to withhold information.

Belgium (Flanders). Yes, problems have been experienced due to the costs of translating documents

Belgium (Nuclear). Yes, problems have been experienced because translation is time consuming.

Bulgaria. The developer should be responsible for the translation.

Croatia. Basic information should be translated into English (if national languages are not used). All other documentation is up to the affected Party or translation is agreed.

Czech Republic. Yes, but because of cost of these translations.

Denmark. Yes, minor problems.

Finland. Yes. It should be discussed and decided at a very early stage who will be responsible for the practical arrangements and for paying the cost of translations, and the time needed for translation should be added to the preliminary time frame.

Hungary. Sometimes it is better to get translation in English than in Hungarian or in the mother language of the neighbouring country because the English version provides better quality control of translation than a Croatian or Slovenian, German, Slovakian, Ukrainian, Romanian, Serbian one.

Poland. Poland as a Party of origin: No experience in this field. Poland as an affected Party: Lack of time and high cost of translation are the most crucial problems for Poland as the affected Party. The need of translation of the received EIA documentation into Polish causes problems with the compliance with time frames in the procedure. The Party of origin should be responsible for the translation.

Slovakia, Sweden. No problems have been experienced.

United Kingdom. No. When the United Kingdom was presented with documents that required translation it simply arranged for it to happen and had to meet the costs. In cases where it is the Party of origin, it encourages the proponent of the activity to meet translation cost. So far the proponent has been prepared to meet those costs.

Armenia, Canada, Estonia, France, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Republic of Moldova, Switzerland. No experience, or no response.

IX.A.2.2 Determination of what should be translated

(a) If your country is responsible for the translation, do you translate all the documents?

Belgium (Flanders), Canada, Croatia, Denmark, Netherlands. See IX.A.1.2.

Austria. No, Austria tries to find out which parts are relevant for the environmental impacts on its country and it translates only these parts.

Belgium (Nuclear). Yes, all documents are translated if required.

Bulgaria. Yes, all documents are translated in the case of a joint EIA.

Czech Republic. No, the Czech Republic translates them in part.

Estonia. Estonia does not translate all documents.

Finland. Finland does not usually translate all documents.

Germany. See II.A.1.1 (a), II.A.1.2 (a) and IX.A.1.2. Unfortunately, there is so far no legal obligation on translation in the Convention. Therefore, there can be no responsibility.

Hungary. Hungary does not translate all documents. See IX.A.1.2.

Italy. Yes, Italy translates all documents.

Poland. No experience in this field. Detailed provisions in this field are included in the draft bilateral agreements between Poland and interested countries.

Slovakia. According to bilateral agreements.

Sweden. The need for translation will be decided together with the point of contact in the affected Party.

United Kingdom. As before, the United Kingdom encourages the proponent of an activity to meet translation costs. If the United Kingdom provides translated documents, it would expect to translate all relevant documents, just as it would

provide all relevant documents in the English language.

Armenia, France, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Switzerland. No experience, or no response.

(b) How do you determine whether to translate the whole or only some of the documents?

Austria, Sweden. See IX.A.2.2 (a).

Canada, Croatia. See IX.A.1.2.

Belgium (Flanders), Netherlands. Whether the whole or some of the documents are translated depends on the content of the documents (and, more precisely, whether the transboundary aspects have been elaborated).

Belgium (Nuclear). Whether the whole or some of the documents are translated depends on the content of the documents.

Czech Republic. By experience, according to the drafts of bilateral agreement.

Denmark. The decision depends on the case and the content of the documents.

Finland. Agreed between the Parties. See III.A.1.1 (b).

Germany. See II.A.1.1 (a), II.A.1.2 (a) and IX.A.1.2. Bilateral agreements may contain special provisions on the question that require documents be translated.

Hungary. EIA Decree clearly determines it.

Italy. Depending on their relevance and length, and in accordance with agreements undertaken with the other Party involved in the transboundary EIA.

Norway. It is asked whether it is necessary, but never set out.

Poland. Poland as a Party of origin: No experience in this field. Poland as an affected Party: There are only those parts of EIA documentation translated into Polish, which describes and assess the possible transboundary impact of the proposed activity. Moreover, the non-technical summary is translated, too. Additionally, detailed provisions in this field are included in the draft bilateral agreements between Poland and interested countries.

Slovakia. According to bilateral agreements.

United Kingdom. As Party of origin, see IX.A.2.2 (a) above. As an affected Party receiving documents in the language of the Party of origin, the United Kingdom would translate all documents provided so that it could establish whether they are relevant – unless it understands the language in which the documents are submitted in which case it may be more selective.

Armenia, Bulgaria, Estonia, France, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Switzerland. No experience, or no response.

(c) Do you translate the documents into the languages of the affected Parties, or just into one or more of the official UNECE languages? Please explain how you determine this.

Canada, Croatia. See IX.A.1.2.

Belgium (Flanders, Nuclear). Translation is to the official languages of the affected Party.

Bulgaria. The documents are normally translated just into English. Depending on the case (the joint EIA) the documents could be translated into the languages of the Concerned Parties.

Czech Republic. Just the affected Party because it is more practical.

Denmark. The documents are translated to the languages of the affected Parties. It could also be agreed that some documents could be in English (some of them are already). Denmark does not translate from Danish into Swedish, as the languages are understandable to each other.

Estonia. Estonia translated into English because it is an international language.

Finland. For the Nordic Countries translation is into Swedish, for Russia into Russian, and for other countries into English.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). Normally documents are translated in the language of the affected Party. Only if more than one Party could be affected by the proposed project or activity it may be sensible to translate documents in one of the official ECE languages or in a common language of these Parties. For this approach exits some experience with regard to activities in the Baltic Sea (translation into English instead of translations into all the Nordic languages).

Hungary. The Hungarian rules do not differentiate between languages. Hungary accepts any languages of the neighbouring countries

Italy. The documents are mainly translated into the language of the other Party, as agreed by the two Parties.

Netherlands. The documents are translated into the languages of the affected Parties.

Slovakia. The documents are translated according to bilateral agreements.

Sweden. In some cases the summary is translated to the language of the affected Party and the whole EIA and other documents are translated to English.

United Kingdom. If the United Kingdom provides translation it will be into the language or languages of the affected Parties.

Armenia, Austria, France, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Switzerland. No experience, or no response.

(d) Describe any difficulties you have experienced relating to what language(s) the documents should be translated into.

Estonia. The number of papers to be translated (the report was about 100 pages and also the annexes); and the cost of the translation

Germany. See II.A.1.1 (a) and II.1.2 (a). Normally this will depend on a common agreement of the countries involved in the transboundary EIA procedure in each single case.

United Kingdom. Please see above. No difficulties.

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland. No experience, no difficulties or no response.

IX.A.2.3 Cost of the translation

(a) Who is normally responsible for the cost of the translations?

Austria. As an affected Party: point of contact or/and affected *Land* (provincial) government. As a Party of origin: project sponsor, competent authority or/and point of contact.

Belgium (Flanders), Netherlands. The proponent is responsible for the costs of the translation of the notification of intent and the summary of the EIA documentation. The competent authority is responsible for the costs of the translation of the accompanying letters, the decision (part) and for the costs of translation and interpretation at the public hearing.

Belgium (Marine). No experience, but in principle the Party of origin is responsible.

Belgium (Nuclear). The Federal Agency for Nuclear Control or the European Commission is responsible, depending on who does the translation

Bulgaria, Estonia, Finland, Norway, Sweden. The developer is responsible for the cost of the translations.

Canada. Where Canada is the Party of Origin, Canada would incur the costs for the translation of the environmental assessment documentation into English and French that it would normally be obliged to translate within the context of the federal environmental assessment framework. The determination of responsibility for other translation costs would be made on a case-by-case basis following consultation with the affected Party.

Croatia. The developer is responsible for the basic information.

Czech Republic. Whoever sends the material or according to the bilateral agreement is responsible.

Denmark. The proponent is responsible for the costs of the translation of the notification of intent and of the summary of the EIA documentation. The competent authority is responsible for the costs of the translation of the accompanying letters, the decision (part) and for the costs of translation and interpretation at the public hearing.

Germany. If the developer has to provide a translation of parts of the EIA documentation in accordance with article 9a, paragraph 2, of the German EIA Act, the developer will cover the costs. Other translations, e.g. the translation of the final decision and the costs of the interpretation at public hearings will often be borne by the competent authority. The relevant legislation of the German States contains provisions on the extent to which these costs will have to be reimbursed by the developer.

Hungary. The proponent is responsible for the translation of the relevant parts of the EIA documentation. As the affected Party, the Ministry shall arrange for translation of documents (art. 27, para. 1, item 5).

Italy. It depends on the agreements undertaken with the other Party involved in the transboundary EIA. The proponent or the public authorities are usually in charge of the costs.

Poland. Poland as a Party of origin: The applicant is responsible for the cost of translation of the EIA documentation. The authority that issues the final decision is responsible for the cost of translation of this decision. Poland as an affected Party: According to the Act of 27 April 2001 (Environmental Protection Law), the relevant *Voivode* is responsible for the cost of translation of the EIA documentation.

Slovakia. According to bilateral agreements.

United Kingdom. The United Kingdom has encouraged, but cannot compel, the proponent to meet translation costs. If he refuses to do so the United Kingdom would liaise with the affected Party or Parties to discuss the matter. If translation was essential and there was no alternative, the Government would have to meet the costs.

Armenia, France, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Switzerland. No experience, or no response.

Quality of translation (Part IX.A.3)

SUMMARY: No respondent reported problems assuring the quality of translations, with professional translators being used, nor did the respondents experience problems as the affected Party. However, only half of the ten Parties providing a meaningful response to the relevant question indicated that, generally, sufficient documentation was translated to enable participation in the EIA procedure. The remaining respondents indicated both good and bad experiences.

IX.A.3.1 Evaluation of the translation

(a) How do you assure the quality of translation?

Germany. See II.A.1.1 (a) and II.1.2 (a).

Norway. See above.

Belgium (Flanders, Nuclear). The quality of translation is assured by the use of certified, sworn translators.

Bulgaria. There is no official guarantee of the quality of the translation.

Canada. The Translation Bureau of the Government of Canada assures the translation and revision needs of federal departments and agencies. Its services include vocal interpretation, sign-language interpretation and terminology. The Translation Bureau ensures that its translators are also experts in the technical aspect of translating in foreign and Aboriginal languages, whether it involves using special software for preparing or adapting Web pages to accommodate foreign characters and texts. Canada's translators provide professional service through all stages of the document production process, from translation and revision to proofreading, layout and printing. In addition, accredited interpreters handle can handle a wide range of assignments (private and public meetings) in Canada's official languages, as well as in foreign, Aboriginal and sign languages.

Croatia. The quality of translation is assured by the use of qualified professionals.

Czech Republic. The Ministry of Environment does it through the licensed agencies.

Denmark. The quality of translation is assured by the involvement of certified translators.

Hungary. In case of complaint or other reasons to suppose that the quality of translation is poor, there are procedural possibilities to give back to the applicant and require the revision of the translation.

Italy. Usually, the contact points supervise the whole documentation.

Netherlands. The quality of translation is assured by the involvement of certified, sworn translators.

Poland. Poland as a Party of origin: No experience in this field. Poland as an affected Party: The quality of translation of the received documentation is assured by hiring professional translators.

United Kingdom. The United Kingdom would use translators who are contracted to the Department. Their language skills are very high otherwise they would be unable to secure Government contracts. The contractors also provide

an independent "proof reading" service to monitor the translation for accuracy and understanding.

Armenia, Austria, Estonia, Finland, France, Kyrgyzstan, Latvia, Lithuania, Republic of Moldova, Slovakia, Sweden, Switzerland. No experience, or no response.

(b) What is your experience of the quality of translated documents from the other Party?

Germany. See II.A.1.1 (a) and II.A.1.2 (a).

Belgium (Flanders, Nuclear), Netherlands. In most cases the translations are of reasonable quality.

Bulgaria. No difficulties when the translated documents have been reviewed.

Croatia. Adequate.

Czech Republic. The Czech Republic has just one case (Slovak) and they did not translate.

Denmark. In most cases the translations are of good quality.

France. Good.

Hungary. Usually good.

Italy. They are usually of a good or sufficient quality.

Poland. The quality of translated documents from the other Parties varies.

United Kingdom. Those documents that have been provided in the English language have been clear and easy to understand.

Armenia, Austria, Canada, Estonia, Finland, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia, Sweden, Switzerland. No experience, or no response.

(c) Is it your experience that other Parties translate enough of the documentation to allow you to participate in the EIA procedure?

Germany. See II.A.1.1 (a) and II.1.2 (a).

Austria. Sometimes they do not translate at all.

Belgium (Flanders, Nuclear), Croatia, Czech Republic, Denmark, Netherlands. Yes, other Parties do translate enough of the documentation.

Finland. Other Parties do not always translate enough of the documentation. See IX.A.2.1 (c).

France. Yes, for those projects were not subject to public participation. In the event that project dossiers are made available to the public, the question would need to be asked again.

Hungary. It depends on case. There are both good and bad experiences as well.

Italy. Generally yes, other Parties translate enough of the documentation.

Poland. No, other Parties do not translate enough of the documentation. See also II.B.1.6 (a).

United Kingdom. In the United Kingdom's experience, the documents received have either been fully translated or not translated at all. Those not submitted in the English language were translated by the United Kingdom. It was then able to take part in the EIA procedure. It has no way of knowing whether there were other documents not forwarded to it.

Armenia, Bulgaria, Canada, Estonia, Kyrgyzstan, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia, Sweden and Switzerland. No experience, or no response.

CONTACT POINTS (PART X)

QUESTIONS TO ALL PARTIES (PART X.A)

Existence and character of contact points (Part X.A.1)

SUMMARY: The list of points of contact appended to decision I/3 and updated via the Convention's web site was generally considered useful by the respondents, but concerns were expressed regarding its being up to date and problems occurring if no named individual was identified (i.e. only an organization, though the Czech Republic noted that because of staff movements it was difficult to name an individual). Additional points of contact had been established informally, to satisfy requirements of decentralized government or as a result of bi- or multilateral agreements with other Parties.

X.A.1.1 Existence of contact points

(a) What is your experience of the use of the list of points of contact appended to decision I/3?

Austria. The list is not always up to date.

Belgium (Flanders). It is a useful list in case there is no bilateral agreement indicating points of contact at sub-national government level.

Belgium (Marine). It is a useful list for problematic cases. In principle, the contact points for North Sea matters are used.

Bulgaria. Bulgaria usually prefers to address the notification to the points of contact.

Croatia. The list is not updated.

Czech Republic. The Czech Republic generally relies on its own contacts; when it does not have such, it uses contact points.

Denmark. The list is useful if there is no bilateral agreement indicating points of contact at regional government level.

Estonia, Finland, Hungary. The list is useful.

France. The contact points are essential. Their function comprises the transmission of the dossier to the department that will be responsible for it. This 'one-stop shop' is vital for avoiding the misdirection or loss of dossiers.

Germany. Contact points are helpful, if the affected Party is not aware which authority is responsible for transboundary EIA in the Party of origin.

Italy. Positive experience: the list has been often used.

Kyrgyzstan. There is no point of contact.

Netherlands. It is a useful list in case there is no bilateral agreement indicating points of contact at regional government level.

Poland. Notification, requests to be involved in EIA procedure in transboundary context as affected Party, and additional questions are sent directly from Polish point of contact to the point of contacts of the other countries.

Republic of Moldova. The points of contact have not been used.

Slovakia. Good experience of using the list.

Sweden. The point of contact at the Swedish Environmental Protection Agency (SEPA) is responsible for the Espoo-cases in Sweden. SEPA always sends the documents to the point of contact in the affected country. For some cases, Sweden also has other contacts on other authorities in the affected Party.

Switzerland. The point-of-contact system appears to be very useful.

United Kingdom. Points of contact are not always named individuals, so papers only sent to an address can easily get delayed in the system. The delay is transferred through the EIA procedure. It is not clear how much points of contact have knowledge of the EIA procedures in their countries or recognise the need to pass papers quickly to their experts.

Armenia, Canada, Latvia, Lithuania, Norway. No experience or no response.

(b) Have you established a supplementary point of contact pursuant to a bilateral or multilateral agreement?

Austria, Canada, Czech Republic, Estonia, Finland, Kyrgyzstan, Slovakia, Sweden. No, a supplementary point of contact has not been established.

Belgium (Flanders). Yes, a supplementary point of contact was established in the agreement between the region of Flanders and the Netherlands.

Belgium (Marine). Yes, there are contact points for North Sea matters.

Belgium (Nuclear). Yes, there is a European Commission contact point.

Croatia. Yes, the Ministry of Foreign Affairs is a supplementary point of contact.

Denmark, Netherlands. Yes, a supplementary point of contact has been established.

France. France does not have any bilateral agreements apart from project-specific ones. In such cases, there is a separate contact from the Espoo point of contact. In the same way, after an initial contact, direct links are created between the departments responsible for the dossier in the Party of origin and the affected Party or Parties.

Germany. No. However, in relation to Republic of Poland and the Czech Republic it is likely that the Environmental Ministries of the German States in the border regions will be nominated as addressees for notifications in the case of Germany as an affected Party.

Hungary. Not yet, but it is Hungary's intention to establish a supplementary point of contact.

Italy. No. In some cases a joint body has been established composed of national representatives (contact point plus others).

Poland. In the draft bilateral agreements, the Minister of Environment was appointed as point responsible for co-ordination of all activities regarding these agreements.

Switzerland. Switzerland plans to establish supplementary points of contact at cantonal levels.

United Kingdom. No, but staff in the Department of the Environment in Northern Ireland have over the years developed informal working agreements and contacts with their colleagues in Republic of Ireland.

Armenia, Bulgaria, Latvia, Lithuania, Norway, Republic of Moldova. No experience or no response.

(c) Describe any difficulties you have experienced in establishing a point of contact.

Belgium (Marine). No difficulties as there are regular contacts with competent authorities.

Czech Republic. Changes in staff cause difficulties. The Czech Republic therefore only indicates the EIA department.

France. It is advisable at the same time to advance the role of the focal point.

Armenia, Austria, Bulgaria, Canada, Croatia, Denmark, Estonia, Finland, Germany, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No difficulties, no experience or no response.

INQUIRY PROCEDURE (PART XI)

QUESTIONS TO THE CONCERNED PARTIES (PART XI.A)

Experiences from inquiry procedures (Part XI.A.1)

SUMMARY: No Party reported application of the inquiry procedure.

XI.A.1.1 General

(a) Provide information on cases where the inquiry procedure has been applied (Art. 3, para. 7, and App. IV). If none, are there any special reasons for this?

Armenia. The inquiry procedure has not yet been applied because of the lack of precedent.

Germany. There have been no cases with inquiry procedures in Germany as Party of origin. The reason for this is, that there was so far no need for an inquiry procedure, because due to German law a transboundary EIA has to be carried out for all projects or activities listed in the Annex 1 of the German EIA Act, if a project or activity is likely to have significant adverse transboundary environmental impacts. With regard to article 8 of the German EIA Act a neighbouring country will be notified, if it requests a notification and no notification has taken place. There have been a few cases, for example in relation to Austria, where the notification has taken place only on the request of another country.

Netherlands. No experience. Reason for this may be that article 7.38 d states that in the event that another country suspects that it may suffer serious adverse environmental effects as a result of an activity in the Netherlands, in preparation for which EIA documentation must be drawn up, the provisions regarding EIA in a transboundary context shall be applied at the request of that country.

Sweden. In one case Sweden has asked for an EIA to be done for a project. The procedure started and no inquiry commission was needed.

Switzerland. No such experience, but would consider, in agreement with at least some of Switzerland's neighbouring countries, that if a possibly affected country requests to be notified, then it shall be notified. This appears to be a much more efficient procedural step than to engage both countries in lengthy inquiry procedures.

United Kingdom. None. But then the United Kingdom would not expect to have to refer any cases to inquiry. Such references would surely be quite exceptional. It might be more appropriate to ask if there were special reasons why cases were being referred to inquiry.

Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Norway, Poland, Republic of Moldova, Slovakia. No experience or no response.

SETTLEMENT OF DISPUTES (PART XII)

QUESTIONS TO ALL PARTIES (PART XII.A)

Experiences of settlement of disputes (Art. 15 and App. VII) (Part XII.A.1.1)

SUMMARY: Only one Party reported a dispute, which had yet to be resolved.

XII.A.1.1 General

(a) Describe any experiences you have had with formal settlement of disputes under the Convention.

Germany. There have been no cases of formal settlement of disputes under the Convention involving Germany since it became a Party to the Convention.

Poland. The Polish Minister of Environment has sent to the German Federal Minister of Environment, Nature Conservation and Nuclear Safety a letter with a request to start the negotiation between Parties. The dispute arose regarding the interpretation of the "taking into account" in the final decision of comments from the public participation as well as the outcome of the consultation. The first negotiation meeting took place in Wrocĺow (Poland), 12 February 2003.

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Republic of Moldova, Slovakia, Sweden, Switzerland, United Kingdom. No experience, or no response.

BILATERAL AND MULTILATERAL AGREEMENTS (PART XIII)

QUESTIONS TO ALL PARTIES (PART XIII.A)

Existence of bi-/multilateral agreements (Part XIII.A.1)

SUMMARY:

Parties reported on their bi- and multilateral agreements with their geographical neighbours, as summarized in the list below. Few agreements had been finalized, but many draft agreements had been prepared and informal agreements established:

- *Austria: draft agreements with the Czech Republic and Slovakia; informal agreements with Liechtenstein and Switzerland.*
- *Czech Republic: draft agreements with Austria, Germany, Poland and Slovakia.*
- *Estonia: agreements with Finland and Latvia.*
- *Finland: agreement with Estonia.*
- *Germany: draft agreements with the Czech Republic, the Netherlands and Poland; planned informal agreements with Austria, Liechtenstein and Switzerland; Sar-Lux-Lor Recommendation with France and Luxembourg; tripartite recommendation with France and Switzerland.*
- *Italy: agreement with Croatia; intergovernmental conference with France; project-specific agreements with Austria and Switzerland.*
- *Latvia: agreement with Estonia.*
- *Lithuania: draft agreements with Latvia and Poland.*
- *Netherlands: draft agreements with the region of Flanders (Belgium) and Germany.*
- *Norway: Nordic Environmental Protection Convention with Denmark, Finland and Sweden.*
- *Poland: draft agreements with the Czech Republic, Germany and Lithuania; talks with Belarus, Slovakia and the Ukraine.*
- *Slovakia: agreements being drafted with Austria, the Czech Republic, Hungary and Poland.*
- *Switzerland: informal agreements with Austria and Liechtenstein.*

Armenia, Bulgaria, Croatia, France, Hungary and the United Kingdom reported having no such agreements with their neighbours. Furthermore, no agreements were reported for long-range transboundary impacts, i.e. to address instances where a proposed activity was likely to have an adverse environmental impact on another Party that was not an immediate geographical neighbour.

The agreements that did exist, whether formal, informal or draft, were based to varying degrees on the provisions of Appendix VI (Elements for bilateral and multilateral cooperation), with some (e.g. the informal agreements between Austria, Liechtenstein and Switzerland) being in line with the Appendix, whereas some others had little in common and might even have pre-dated the Convention (e.g. the Nordic Environmental Protection Convention).

XIII.A.1.1 Provide information on bi-/multilateral agreements

(a) Do you have any bilateral or multilateral agreements based on the EIA Convention (Art. 8 and App. VI)?

Austria, Belgium, Denmark, Estonia, Finland, Italy, Latvia, Lithuania, Netherlands, Norway, Poland, Slovakia, Switzerland. Yes.

Armenia, Bulgaria, Canada, Croatia, Czech Republic, Germany, Hungary, Kyrgyzstan, Republic of Moldova, Sweden, United Kingdom. No.

France. No experience or no response.

If so, list them.

Austria. There are three bi-/multilateral agreements involving Austria:

- Informal trilateral guideline with Switzerland and Liechtenstein;
- Draft agreement with Czech Republic; and
- Draft agreement with Slovakia.

Belgium (Flanders). There is the draft Dutch-Flemish agreement on EIA in a Transboundary Context.

Czech Republic. The Czech Republic has draft agreements with all its neighbours.

Denmark. No formal written agreement, but annual meetings with Sweden and with Germany on EIA in a transboundary context.

Estonia. Estonia has bilateral agreements with Latvia (1997) and Finland (2002).

Finland. Finland has a bilateral agreement with Estonia, established in 2002.

France. Some international treaties for carrying out of projects, most often of linear infrastructure, allow the implementation of Article 8 of the Convention. These agreements are not based on the Convention, but they integrate, along with other regulations, provisions to assure that the two Parties share the EIA of projects of common interest.

Germany. There are several arrangements regulating transboundary EIA. However, these are not based formally on the Espoo Convention or the EC EIA Directives. Some arrangements have even been developed solely based on practical needs (e.g. coordination of activities regarding water management) and do thus make neither reference to the EC Directives nor to the Espoo Convention.

(a) The following agreements or documents meet in part the provisions of the EC EIA Directive and of the Espoo Convention, but without making reference to these documents:

- Recommendations of the German-French-Swiss Governmental Commission for Co-operation on Activities with Environmental Relevance along the Upper Rhine River of 13 March 1996 (so-called Tripartite Recommendations; in force since 1 May 1996). The recommendations propose in Article 1 to the competent authorities in the region of the Upper Rhine River to inform and consult each other on activities which are listed in the Annex and which are likely to cause significant adverse transboundary impacts. A procedure is set up in the Articles 3 to 9;
- Recommendations of the German-French-Luxembourg Governmental Commission on the Bilateral Notification of Newly Planned and of Amendments to Existing Activities Which Need a Development Consent of 1 July 1986 (so-called Saar-Lor-Lux-Recommendation; in force). The recommendations provide that the parties will inform each other on activities with likely adverse impacts on the territory of the other party. The procedure includes the occasion for the authorities of an affected party to submit comments.

(b) The following agreements make reference to the Espoo Convention (not to the EIA Directive) and determine that Espoo has to be applied between the contracting parties. However, they do not fix further details on transboundary EIA:

- Agreement between Germany and Poland on the Cooperation in the Field of Environmental Protection of 7 April 1994 (in force since 31 August 1998). See Article 5 of this agreement;
- Agreement between Germany and the Czech Republic on the Cooperation in the Field of Environmental Protection of 24 October 1996 (in force since 2 January 1999). See Article 4 of this agreement.

(c) On-going activities:

- Agreements between Germany and Poland on transboundary EIA (in preparation);
- Agreement between Germany and the Netherlands on transboundary EIA (in preparation);
- Agreement between Germany and the Czech Republic on transboundary EIA (in preparation);
- Informal agreement between Switzerland, Austria, Liechtenstein, Germany on transboundary EIA (planned).

Italy. Agreements have been set up for all cases of implementation of the Espoo Convention, since they all refer to cross-border activities:

- with Croatia (to deal with all activities falling under Espoo Convention);
- with France (Intergovernmental Conference);
- with Switzerland (for the Aosta-Martigny railway tunnel);
- with Austria (Brennero railway tunnel).

Latvia. Latvia has one bilateral agreement: the Agreement between the Government of the Republic of Estonia and the Government of the Republic of Latvia on EIA in a transboundary context (entry into force: 14 March 1997).

Lithuania. There are two bilateral agreements involving Lithuania:

- Draft bilateral Agreement between the Government of the Republic of Lithuania and the government of the Republic of Latvia on EIA in a Transboundary Context; and
- Draft Agreement between the Government of the Republic of Poland and Government of the Republic of Lithuania on implementation of the Convention on EIA in a Transboundary Context.

Netherlands. There are two draft bilateral agreements for the Netherlands:

- Draft Dutch-Flemish agreement on EIA in a Transboundary Context; and
- Draft agreement between the Government of the Netherlands and the Federal Republic of Germany on EIA in a transboundary context.

Norway. The Nordic Environmental Convention (1974) is between Norway, Finland, Sweden and Denmark.

Poland. No bi-/multilateral agreement has yet been signed by Poland, but it does have three draft bilateral agreements.

- Draft bilateral agreement between The Government of Polish Republic and The Government of Federal Republic of Germany on the implementation of the Convention on EIA in a transboundary context;
- Draft of bilateral agreement between The Government of Polish Republic and The Government of Republic of Lithuania on the implementation of the Convention on EIA in a transboundary context: and
- Draft bilateral agreement between the Government of Polish Republic and the Government of Czech Republic on the implementation of the Convention on EIA in a transboundary context

Poland is also holding talks with Belarus, Slovakia and the Ukraine.

Slovakia. Agreements are being prepared with:

- Hungary;
- Czech Republic;
- Austria; and
- Poland.

Switzerland. A draft proposed trilateral agreement involving Switzerland, Austria and Liechtenstein comprises three proposals:

- Austria as country of origin, Liechtenstein and Switzerland as affected Parties;
- Liechtenstein as country of origin, Austria and Switzerland as affected Parties; and
- Switzerland as country of origin, Austria and Liechtenstein as affected Parties.

There is a planned extension to other neighbouring countries.

Armenia, Bulgaria, Canada, Croatia, Hungary, Kyrgyzstan, Republic of Moldova, Sweden, United Kingdom. No such agreements, or no response.

(b) Briefly describe the nature of this/these agreement(s).

Germany. See XIII.A.1.1 (a).

Austria. See above.

Belgium (Flanders). The Dutch-Flemish agreement contains some general principles on applying EIA in a transboundary context. It also provides step-by step practical guidance on the process for those involved. Items dealt with are:

- The area of application of EIA in a transboundary context;
- Institutional arrangements (contact points);
- Procedural aspects (notification, public participation, consultation, decision); and
- Financial aspects.

The agreement is a kind of practical guidance and is not yet formalized. It is being revised due to the above-mentioned Flemish EIA legislation of 18 December 2002

Czech Republic. All details about the transboundary EIA are included.

Denmark. Is has been agreed to have annual meetings; more meetings could be held if necessary. An Agenda is prepared before the meetings. Items dealt with are for example: institutional arrangements (contact points); procedural aspects (notification, public participation, consultation, decision); exchange of information on ongoing activities and notifications; exchange of information on new national legislation and procedures. The meetings are useful and are often followed up. The aim is to make things as uncomplicated as possible.

Estonia. These agreements are general and describe the notification, consultation between Parties and sending information about the likely significant adverse environmental impact.

Finland. The objective of the agreement is to promote and develop further the implementation of the convention between the parties. The agreement applies to proposed activities listed in an annex to the agreement, and to any other proposed activity under the national EIA procedure of the Party of origin, when the Parties decided on case-by-case application. The Parties have established a joint EIA commission that has an advisory role and acts as a forum for information exchange and dispute settlement.

France. They are agreements linked to the realization of projects, the completion of which requires the agreement of two parties:

- With respect to their land-take (Geneva Airport);
- Or with respect to their management (Basel Airport);
- Or with respect to their linear transboundary characteristics (bridge, tunnel, road, railway lines, power lines, pipelines etc.).

Italy. With Croatia: Between the two countries there is an agreement since 1998, when it has been decide to establish a Joint Body representing the 2 governments and to assess projects falling under the scope of the Convention within ad hoc working groups, consisting of representatives from each side, in order to facilitate the exchange of information and the co-ordination of the internal procedure. With France: The transboundary cooperation with France, mainly in the field of road and rail transport, normally takes place through an intergovernmental conference (IGC), with the participation of both delegations, which is in charge of establishing working groups in order to carry out a preliminary assessment of first draft project, the environmental impact, the possible alternatives, etc. Projects currently under its competence are: a proposal for high-speed railways Turin-Lyon and the Frejus tunnel. In other cases: agreements are in place to deal with the environmental effects of joint cross-border projects (namely tunnels).

Kyrgyzstan. There are two or three international agreements in the field of environmental protection that, though they were not established under the Convention, do not contradict the Convention either.

Latvia. According to the article 3 of the above-mentioned Agreement, co-operation between two countries is concentrating on the proposed activities listed in Appendix I to the Espoo Convention as well as on activities listed in Annex to this Agreement. Case-by-case approach is used to decide whether this Agreement applies to the activities not included in Appendix I to the Convention and Annex to this Agreement if they are likely to cause a significant adverse transboundary impact. A Joint Commission on EIA in a transboundary context has been established in accordance with the provisions of the Article 4. Commission's main task is to decide on procedural issues for conducting of transboundary EIA. Joint Commission decides on the necessity of the joint EIA and defines procedure of the joint EIA for each case separately. Draft format for Notification has been prepared where the following issues have been reflected:

- Provisions on time - limits for the notification;
- The content of the notification;
- Form of notification;
- Public notification;
- Responsibility for the translation and the costs of translation.

As far as the determination of "significance" is concerned, the criterion for location of an activity within a distance of 15 km from the border is included in the agreements.

Netherlands. Both these agreements contain some general principles on applying EIA in a transboundary context and provide step-by step practical guidance on the process for those involved. Items dealt with are:

- The area of application of EIA in a transboundary context;
- Institutional arrangements (contact points);
- Procedural aspects (notification, public participation, consultation, decision, post-project analysis);
- Translation; and
- Financial aspects.

These agreements are practical guidance. They are not yet formalized.

Norway. Harmonise each nations environmental acts, and providing the same rights in relation to polluting activities regardless of country.

Poland. The basis of the draft bilateral agreements described above is the Espoo

Convention but, during the process of negotiations, the Parties involved decided to make these agreements more exact and detailed than the Convention. The bilateral agreements should give direction of application Espoo Convention so they regulate:

- Translation of EIA documentation;
- Time frame for preparing and sending statement of affected Party;
- Format for notification;
- Principles of public participation; and
- Distribution and content of EIA documentation.

These draft agreements take into account differences between Parties. At the moment, the draft of Polish-German Agreement is more detailed than the others. Draft of Polish-German Agreement is specific agreement with administrative arrangements. It is a sort of guidelines book for Polish and German officials, describing stages of EIA procedures. Other agreements are more general with references to the articles and annexes of the Convention

Switzerland. The draft proposal seeks to clarify, define and harmonise the procedural steps to be taken in each country.

Armenia, Bulgaria, Croatia, Hungary, Lithuania, Republic of Moldova, Slovakia, Sweden, United Kingdom. No such agreements, or no response.

(c) To what extent are the(se) agreement(s) based on Appendix VI?

Germany. See XIII.A.1.1 (a).

Austria. They contain provisions according to paragraphs (a), (b) and (c) of Appendix VI; they do not refer to the other paragraphs.

Belgium (Flanders), Netherlands. The agreements mainly deal with the practical institutional administrative aspects of the process of EIA in a transboundary context, Appendix VI (b).

Czech Republic. They are not at all based on Appendix VI.

Finland. It is partially based on Appendix VI, e.g. (b), (d) and (g) are included in the agreement.

France. The point in common is that they implement the environmental objectives of this Convention; the principal difference is that they relate to individual projects.

Italy. They facilitate the application of the Espoo Convention by coordinating and synchronising the national EIA procedures, identifying modalities to consult the authorities and the public of the two Parties, exchange notification, documentation and the results of the procedures, any other related issue.

Latvia. Most of elements to be found in Appendix VI are taken into account in the agreement.

Norway. It was already in existence when the Espoo convention went into force.

Poland. Three mentioned above drafts of agreements include elements for bilateral and multilateral co-operation from appendix VI of Espoo Convention. They especially refer to paragraphs 1 and 2 sub-paragraphs (a), (b), (c) and (d).

Switzerland. Drafts of "proposal to apply the Espoo-Convention – application aid" are very much in line with Appendix VI.

Armenia, Bulgaria, Canada, Croatia, Denmark, Estonia, Hungary, Kyrgyzstan, Lithuania, Republic of Moldova, Slovakia, Sweden, United Kingdom. No such agreements, or no response.

(d) Provide detailed information on bi-/multilateral agreements on long-range transboundary impacts.

Finland. See XIII.A.1.1 (b).

Armenia. Armenia has not concluded such agreements.

Czech Republic. There is no such definition in the legislation, nor in the draft legislation, but the Czech Republic does not specify in these documents anything about effects just being on neighbours, so long-range effects are also covered.

France. No such agreement has been signed under this Convention. The existence of other treaties in this field makes it unlikely that any such initiative will be pursued.

United Kingdom. Though not expressly stated, the United Kingdom assumes this section refers to long-range transboundary environmental impacts and not to bi-/multi lateral agreements that may

have been negotiated under other Conventions. In which case the answer is none.

Austria, Belgium, Bulgaria, Canada, Croatia, Denmark, Estonia, Germany, Hungary, Italy, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, Sweden, Switzerland. No response.

RESEARCH PROGRAMME (PART XIV)

QUESTIONS TO ALL PARTIES (PART XIV.A)

Parties' experiences on research programmes (Part XIV.A.1)

SUMMARY: The only reported research directly related to EIA in a transboundary context was a project involving Germany and Poland.

XIV.A.1.1 General

(a) Briefly describe the research programmes you have undertaken (Art. 9)

Canada. The Canadian Environmental Assessment Agency has a programme in place to support research and development in the field of environmental assessment. The purpose of the programme is to help the federal government meet future challenges and improve the practice of environmental assessment in a manner that is relevant, credible, efficient, and encourages innovation and excellence. To date, research reports have been produced in the following areas of study:

- Climate Change and Environmental Assessment;
- Follow-Up;
- Regional Environmental Effects Frameworks; and
- Significance.

Further information on the Agency's research and development programme can be obtained at the following Internet site: http://www.ceaa.gc.ca/0010/0001/index_e.htm

Denmark. The has been research and monitoring of the effect of offshore wind farms on benthic communities, fish, mammals and birds, comparing the situations before and after the establishment of two large demonstration offshore wind farms.

Germany. See response by Poland.

Hungary. These types of programmes being more general are undertaken independently of EIA regulation and implementation in the framework of numerous environmentally focused research programmes.

Kyrgyzstan. A uniform approach to carrying out EIA is being developed jointly by the countries of the Central Asian Region. Joint environmental monitoring of transboundary projects is carried out under an agreed programme.

Poland. Poland has no experience in this field. This aspect of the Espoo Convention was not taken into account during negotiation of the above-mentioned drafts of bilateral agreements. However, Poland did participate in a research project organized by the German Environmental Agency; the aim of this research project was to determine the best way for Poland and Germany to cooperate in the procedure for EIA in a transboundary context.

Switzerland. No research programme specifically tied to Espoo, but multitude of other environmental research in Switzerland

United Kingdom. United Kingdom research is related to EIA generally and not specifically to EIA in a transboundary context. Currently the United Kingdom supports, or is proposing, the following research:

- Fuzzy set theory: A project to examine environmental significance and how this can be evaluated. The EIA Centre at Oxford Brookes University is carrying out the project. It is part funded by the EIA branch at the Office of the Deputy Prime Minister and the Social Science Research Council. It is due to report in 2004.
- Scoping: New project to begin in 2003 financed by the Office of the Deputy Prime Minister to establish whether, and the extent to which, scoping contributes to and improves the effectiveness of the EIA procedure.

Armenia, Austria, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Netherlands, Norway, Republic of Moldova, Slovakia, Sweden. No research, or no response.

GENERAL QUESTIONS (PART XV)

QUESTIONS TO ALL PARTIES (PART XV.A)

Information on domestic variations in application of the Convention (Part XV.A.1)

SUMMARY:

Some respondents reported that minor variations might have occurred in the implementation of the Convention within their country as a result of bilateral agreements (Austria, Hungary, Italy, Netherlands). Italy and Switzerland indicated that variations might have occurred because of regional (within country) responsibilities. More than half of the respondents indicated that there should not have been any variations.

Most respondents indicated that a single point of contact within the equivalent of a ministry of environment or a national EIA agency was responsible for the coordinated application of the Convention. In Germany, the various competent authorities were responsible. In France, it was a joint responsibility of the Ministry of Foreign Affairs and the Ministry of Environment and Sustainable Development.

Four fifths of the respondents indicated that a single body was responsible for collecting information on all transboundary EIA cases. France, Germany, Kyrgyzstan and the Netherlands indicated that there was no such body. Generally, the body responsible was the same as that responsible for the coordinated application of the Convention.

Austria and Poland each reported a single difference of opinion with a Party of origin regarding interpretation of the terms "major" or "significant" (see Part I of questionnaire).

Several respondents described cross-border projects, employing various organizational approaches: joint EIA (Bulgaria, France, Italy, Switzerland) done under bilateral agreements (France, Italy); and Parties being in turn considered both Party of origin and affected Party (Germany, Poland).

XV.A.1

(a) Does the implementation and application of the Convention (as described in all the answers to the question in this questionnaire) vary depending on what body/authority in your country is responsible for the EIA procedure?

Croatia, Czech Republic, Estonia, Finland, Norway, Sweden. No, it does not vary.

Austria. It depends on which country is the Party of origin, because it has to be adapted to the national EIA and licensing procedure. It depends on agreements (formal and informal) between the Parties.

Belgium. The implementation and application of the Espoo Convention in Belgium is rather complicated due to the particular constitutional and institutional arrangements in vigour. The protection of the environment is in principle a competency of the three regions: Brussels, Flanders and Wallonia. This means that each region also has EIA legislation. Furthermore, the regions have a treaty-making competency, which means that they can conclude legally binding agreements with another State, e.g. a bilateral agreement as provided for by the Espoo Convention. On the other hand a limited number of "sectoral" environmental issues remain within the competency of the federal level in Belgium: the protection of the Marine Environment, Nuclear installations, transit of waste, product norms. So there exists federal EIA legislation relating to the federal legislation with respect to licensing activities in the North Sea and nuclear installations. The different regional and federal legislations make it difficult to assess in detail the Espoo practice by Belgian authorities. The application may also be different according to which country is the affected Party; France, Germany, Luxembourg and the Netherlands are the neighbouring countries. There is only one bilateral agreement with the Netherlands. This agreement is an agreement between the region of Flanders and the Dutch provincial and national authorities.

Bulgaria. The Ministry of Environment and Water is responsible for EIA procedure in a transboundary context. This authority is permanent.

Canada. Within Canada, the responsibility for the implementation of the Espoo Convention rest

with the Canadian Environmental Assessment Agency, the federal agency also responsible for the administration of the Canadian Environmental Assessment Act through which the Espoo Convention is implemented. As such, the Agency would ensure a consistent national approach to the fulfilment of Canada's obligations under the Espoo Convention.

Denmark. In principle, the implementation and application will be the same regardless of which authority is the competent authority.

France. These replies relate to the implementation of projects having a sufficiently significant impact that a particular procedure is implemented. Alongside these 'significant' projects, it is necessary to take into account the situation of projects that are 'less significant', but the location of which, on the very edge of accessible natural borders (borders with Belgium and Luxembourg, parts of borders with Switzerland, Italy and Spain), make it necessary to apply an additional procedure. It is clear that, under these conditions, even if only the precautionary principle were applied, there exist significant differences between the methods applied in implementing the Convention.

Germany. From a legal point of view there should be no domestic variations in the application of the Convention. See II.A.1.1 (a) and II.A.1.2 (a).

Hungary. There is no legal possibility to vary the authority responsible for the EIA procedure, this authority is always the Environmental Inspectorate in Hungary. The international rules do not vary depending on the countries as Party of origin or as affected Party. However it can depend on the countries later when bilateral agreements are adopted.

Italy. No; it mainly depends in bi-lateral agreements with the other Party concerned. The EIA procedure is in any case fixed by national law (implementing EU law on EIA); without prejudice to national legislation, some further aspects may be regulated at the regional level (i.e., by regional law). Consequently there might be some slight differences from Region to Region in the EIA national procedure, but the Ministry of Environment is in all cases the body in charge of applying the Convention.

Kyrgyzstan. Normative legal regulations on EIA have been developed in Kyrgyzstan in accordance with the requirements of the Convention. Of the neighbouring countries, only Kazakhstan is a Party to the Convention. The project proponent is responsible for carrying out the EIA procedure, whereas the Ministry of Environment and Extreme Situations is responsible for carrying out the state ecological examination.

Netherlands. In principle the implementation and application will be the same regardless which authority is competent authority. There may however be some minor deviations. The application may however be slightly different according to which country is affected country. The Netherlands has different agreements with different neighbouring countries.

Poland. According to Polish law, the Minister of the Environment is responsible for co-ordinating all activities connected with the application of the Espoo Convention in both cases (whether Poland is an affected Party or the Party of origin). In cases when Poland is the Party of origin, the authority responsible for national EIA procedure carried out the EIA procedure in a transboundary context. The Minister of Environment (ex. consultation) can carry out some stages of the procedure for EIA in a transboundary context. In cases when Poland is the affected Party, the Minister of Environment co-operates with the *voivode* (regional level) in the public participation stage (preparing the statement of the Minister of Environment)

Republic of Moldova. In the national legislation, the procedures for application of EIA for domestic projects (not having transboundary impact) are described in detail, whereas the procedures and means of carrying out EIA for projects with transboundary impact are insufficiently defined. According to the national legislation, the project proponent organizes and carries out EIA of domestic projects. In the EIA Law, article 17 (1), it is specified:

> "the organization and carrying out EIA at all stages of planning and designing of projects, the financing of development of the EIA documentation, the organization of public discussions of the planned activity, and the presentation of the EIA documentation with necessary documents on the coordination for the state ecological examination are carried out by the project proponent with the participation as appropriate of the documentation developers". In addition, "the EIA Documentation can be developed by persons and the organizations having the appropriate license, issued by the Central Environmental Department on the basis of the qualification certificate" (art. 10, chapter IV., Positions about EIA).

The final stage is that the environmental permit application (ZVOS) passes the state ecological examination in the Ministry of Ecology, Construction and Territorial Development, which issues the final conclusion on the EIA.

Switzerland. In spite of the lack of recent experience (at the exclusion of joint EIAs) the following statement may reply to this question: Competent authorities granting approval may be at different levels at both the federal (federal parliament, federal government, federal ministries, federal agencies) and the cantonal level. With 26 cantons in Switzerland, one can expect some variation to take place.

United Kingdom. The point of contact in the EIA branch at the Office of the Deputy Prime Minister will be co-ordinating activities relating to transboundary EIA so there will be a standardised approach.

Armenia, Latvia, Lithuania, Slovakia. No experience or no response.

(b) Is there any one authority that assures a coordinated application of the Convention?

United Kingdom. See XV.A.1 (a).

Armenia. The Ministry of Wildlife Management assures a coordinated application.

Austria. Yes, the point of contact (the Ministry of Environment) assures a coordinated application.

Belgium. No, there is not one authority that assures a coordinated application of the Convention, because of the particular federal structure of the Belgian state.

Bulgaria. The Ministry of Environment and Water is responsible for the EIA procedure in a transboundary context. This authority is permanent.

Canada. Yes, the responsibility for the implementation of the Espoo Convention rests with the Canadian Environmental Assessment Agency, the federal agency also responsible for the administration of the Canadian Environmental Assessment Act.

Croatia. The Ministry of Environmental Protection and Physical Planning assures a coordinated application.

Czech Republic, Denmark, Lithuania, Norway, Poland, Slovakia. Yes, the ministry of environment assures a coordinated application.

Estonia. Yes, the point of contact is in the Ministry of Environment, which is also the competent authority for transboundary EIAs and the bilateral agreements.

Finland. The point of contact assures a coordinated application.

France. Two government departments contribute to the follow-up of the Convention: the Ministry of Foreign Affairs (Directorate for the UN and non-governmental organizations); and the Ministry of Environment and Sustainable Development (DGAFAI/SAI and DEEEE – Directorate-General for Administration, Finance and International Affairs (International Affairs Department) and the Directorate for Economic Surveys and Environmental Evaluation).

Germany. No. Each competent authority for a transboundary EIA procedure is responsible for the correct application of the German EIA Act and the requirements of the Convention.

Hungary. The Ministry of Environment and Water assures a coordinated application.

Italy. The Ministry of Environment (EIA Department) is in charge of applying the Convention.

Kyrgyzstan. Responsibility for performance of obligations under the Convention was assigned to the Ministry of Ecology and Extreme Situations, according to the government order on ratification of the Convention.

Netherlands. The Minister of Housing, Spatial Planning and the Environment is coordinating.

Republic of Moldova. The Ministry of Ecology, Construction and Territorial Development coordinates application of the Convention.

Sweden. The Swedish Environmental Protection Agency is responsible.

Switzerland. The EIA Unit of the Swiss Agency for the Environment, Forests and Landscape is does so as far as other matters allow it to do so.

Latvia. No experience or no response.

(c) Is there in your country an organization/authority that collects information on all the transboundary EIA cases under the Convention?

Austria, Bulgaria, Canada, Croatia, Czech Republic, Estonia, Finland, Italy, Latvia, Lithuania, Norway, Poland, Slovakia, Sweden, Switzerland, United Kingdom. Yes.

Belgium, Denmark, France, Germany, Kyrgyzstan, Netherlands. No.

Armenia, Hungary, Republic of Moldova. No response.

If so, please name it.

Austria. See XV.A.1 (b).

Bulgaria. The Ministry of Environment and Water, Department of EIA and environmental audit, collects the information.

Canada. The Canadian Environmental Assessment Agency collects the information.

Croatia. The Ministry of Environmental Protection and Physical Planning.

Czech Republic, Estonia, Italy, Lithuania, Norway, Slovakia. The ministry of environment collects the information.

Finland. The point of contact collects the information.

Latvia. The State EIA Bureau collects the information.

Poland. According to Polish law (Environmental Protection Law), all information regarding EIA in a transboundary context is collected and made accessible by a special division within the Ministry of Environment – the Centre for Environmental Information.

Sweden. The Swedish Environmental Protection Agency collects the information.

Switzerland. The EIA Unit of the Swiss Agency for the Environment, Forests and Landscape collects the information, as far as they receive it.

United Kingdom. The EIA branch in the Office of the Deputy Prime Minister collects the information.

Armenia, Belgium, Denmark, France, Germany, Hungary, Kyrgyzstan, Netherlands, Republic of Moldova. No such body, or no response.

(d) Have you had any differences of opinion with other concerned Parties concerning the interpretation of the terms mentioned in Part I, and, if so, how were they settled?

Belgium, Bulgaria, Croatia, Estonia, Finland, France, Germany, Hungary, Italy, Kyrgyzstan, Slovakia, United Kingdom. No.

Austria. Yes, there was the question whether storage facilities for spent nuclear fuel in Southern Germany in a distance between 60 and 250 kilometres from the Austrian border can have relevant transboundary impacts. Finally the Parties agreed to perform a transboundary EIA procedure.

Poland. Only once Polish point of contact had to ask point of contact of Party of origin to sent him all information concerning planned project, because of the possible environmental impact. Except this Parties always sent notification even if there is only suspicion on the transboundary significant adverse environmental impact.

Armenia, Canada, Czech Republic, Denmark, Latvia, Lithuania, Netherlands, Norway, Republic of Moldova, Sweden, Switzerland. No response.

(e) How do you treat joint cross-border projects from an organizational point of view?

Belgium (Flanders). Each case will be considered on its specific possibilities. As much as possible, a common procedure will be created or agreed (*ad hoc* formalisation) taking into account the strongest aspects of both EIA procedures.

Bulgaria. Joint EIA: the EIA procedure is organized jointly, including preparation of the EIA documentation by common team of experts.

Canada. Canada would initiate consultations with the government authorities in the neighbouring jurisdictions. The discussions would focus on the following areas of cooperation:

- Information sharing on the project and its potential environmental effects;
- Legislative or regulatory requirements for the conduct of environmental assessment procedures;
- Public communication and participation requirements/opportunities in the environmental assessment procedures;
- The technical review of the environmental information;
- The possibility of joint hearings;

- The timing and announcements of decisions; and
- Follow-up requirements.

Denmark. Each case will be considered on its specific possibilities. A common procedure will be created as far as possible.

France. France has raised this question several times. It is answered within the framework of bilateral agreements that embody the desire of two or more governments to complete a joint project. The question frequently remains to be debated with certain countries regarding the application of Article 8.

Germany. See II.A.1.1 (a) and II.A.1.2 (a). Normally each Party will carry out a licensing procedure including a transboundary EIA for the part of the project on its own side of the border. In each of these procedures the other Party will participate as affected Party. If both countries agree to carry out a common EIA for the project as a whole this may be a possible alternative.

Hungary. The developer shall carry out EIA for that particular part of a project that is physically located in a country according its national legislation.

Italy. By setting bilateral agreements. In all cases where Italy applies the Convention, joint cross-border projects have been the subject.

Kyrgyzstan. The project proponent directs documentation to both Parties for their consideration. The Party of origin is responsible for gathering and summarising comments. Joint consideration of the comments is not excluded.

Netherlands. Each case will be considered on its specific possibilities. As much as possible a common procedure will be created taking into account the strongest aspects of both EIA procedures.

Poland. In some cases one country can be Party of origin and affected Part at the same time. Parties usually agree on time frame for preparing and sending statement of affected Party, common pattern for notification and common content of EIA documentation. Public participation procedure and granting final decision are carried out separately.

Sweden. The Swedish Environmental Protection Agency discusses the procedure with the points of contact in the other countries of origin.

Switzerland. Switzerland and its cantons are participating in quite a few joint EIAs with adjoining Parties (hydropower plants on rivers forming the border, roads, gas-pipelines, etc.), where a procedure to grant approval takes place on either side of the border.

United Kingdom. The only such case the United Kingdom is aware of involved a hotel straddling the border between Northern Ireland and the Republic of Ireland. Planning applications (applications for development consent) were submitted to relevant authorities in each country. Since the major part of the development was in the North, the authorities there took the lead role but liaised closely with colleagues in the Republic to ensure full and proper consideration of issues.

Armenia, Austria, Croatia, Czech Republic, Estonia, Finland, Latvia, Lithuania, Norway, Republic of Moldova, Slovakia. No experience, or no response.

EXPERIENCES AND OPINIONS (PART XVI)

QUESTIONS TO ALL PARTIES (PART XVI.A)

Further comments to the implementation of the Convention (Part XVI.A.1)

SUMMARY:

All respondents indicated that the questionnaire covered every aspect of the implementation of the Convention. However, several respondents indicated that the questionnaire was too long, detailed and repetitive (Croatia, Estonia, France, Germany, Italy, Sweden, Switzerland, United Kingdom) and that a shorter, more concise questionnaire might elicit more and better responses. Further changes to the questionnaire were suggested.

Several Parties reported problems with the implementation of the Convention, some of which had already been described earlier in the questionnaire. Several respondents indicated the need for bilateral agreements to address detailed procedural arrangements (Bulgaria, Poland). Translation and its costs were again highlighted as issues (Austria, Poland). A number of further problems were identified where certain Parties required clarification of the Convention's provisions. Hungary reported practical staffing limitations. Kyrgyzstan noted that not all its neighbours were Parties to the Convention. The Republic of Moldova reported poor domestic legislation and a lack of experience in transboundary EIA.

Suggestions as to how problems might have been resolved included:

- *Good practice guidance, which had been provided and was welcomed (Bulgaria, Croatia, Netherlands, Switzerland, United Kingdom);*
- *Good bilateral and multilateral agreements (Czech Republic, Poland);*
- *Amendments to the Convention, including a new provision on responsibility for translation (Austria, Germany), revisions to Appendix I (Estonia, Germany), clarification of the obligation in Article 5 to hold consultations even when the affected Party has indicated it does not wish to be consulted further (Germany) and a requirement for a separate chapter in the EIA documentation on significant adverse transboundary impacts (Finland, Hungary); and*
- *Additional guidelines on the different stages of the process defined in the Convention, and training in transboundary EIA using case studies from other countries (Republic of Moldova).*

XVI.A.1.1 Does this questionnaire cover every aspect of the implementation of the Convention?

Austria, Belgium, Bulgaria, Croatia, Denmark, Estonia, France, Germany, Hungary, Italy, Lithuania, Kyrgyzstan, Netherlands, Norway, Poland, Republic of Moldova, Slovakia, United Kingdom. Yes, it covers every aspect.

Armenia, Canada, Czech Republic, Finland, Latvia, Sweden, Switzerland. No response.

Please provide details.

France. This questionnaire is far too long and detailed. The information to be drawn from it risks being dubious because of the lack of a description of the context. A significant simplification is essential.

Republic of Moldova. The questionnaire has captured in sufficient detail all aspects of the implementation of the Convention. The Republic of Moldova suggests development, under the direction of Secretary to the Convention, of guidelines on environmental impact in a transboundary context, paying special attention to those issues raised by the responses to the questionnaire. For the Republic of Moldova, the issues relate to: a notification procedure; procedures for the transfer and distribution of information; procedures on the transfer and distribution of the EIA documentation; carrying out post-project analysis; the research programme; and a procedure for the conclusion of bilateral and multilateral agreements. The Republic of Moldova also suggests inclusion in the Convention's Work Plan the carrying out of educational seminars on development and introduction of EIA in a transboundary context, using EIA case studies from other countries.

Armenia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Slovakia, Sweden, Switzerland, United Kingdom. No response.

XVI.A.1.2 Describe any problems, including those relating to technical, administrative and financial capacity, that you have had with the implementation of this Convention.

Austria. The Convention does not solve the problem of what has to be translated and who pays for the translations. It could be useful to deal with these problems in the Convention.

Belgium (Flanders, Marine, Nuclear). Practical experience is within different authorities at different levels of government. It is time-consuming and labour-intensive work to collect this information from all the relevant sources. There is doubt about the added value of such extensive research.

Bulgaria. There are no detailed arrangements in the Convention for important steps in the EIA procedure in a transboundary context. Therefore usually there is a need of additional negotiations and signing of general or specific agreements.

Czech Republic. Consultation which according to Article 5 must be held even when no one want them really; post-project analysis and consultations – up to which moment can this be carried out; cost of translations (the Ministry of Environment pays for this); not meeting the timetables from affected Parties.

Denmark. Practical experience is within different authorities at different levels of government and the public. All in all it is time-consuming and labour-intensive work to collect this information from all the relevant sources. Some authorities (and the public) expect that the Convention can solve a many more transboundary (and domestic) problems than it is foreseen.

Hungary. The usual problems of public administration such as lack of committed, skilled staff or overloading occasionally arise.

Kyrgyzstan. Problems include not all Kyrgyzstan's neighbours being Party to the Convention as well as cross-border movements, financing and time limitations on the process.

Netherlands. Practical experience is within different authorities at different levels of government. It is a time consuming and labour intensive work to collect this information from all the relevant sources.

Poland. The Espoo Convention is too general and without more detailed bilateral agreements, it implementation could be problematic. In applying the provisions of the Espoo Convention, the following questions have arisen:

- The Scope of the EIA documentation to be translated into language of affected Party;
- Who does cover costs of translation EIA documentation, final decision and other documents and letters?
- Who does cover costs of renting halls, translation during the meetings, consultations and so on?
- Is carrying out consultation before granting final decision obligatory or not? (Art. 5 of the Convention)
- When exactly consultation should be carried out after or before public participation?
- What does it mean to "take into account" comments received from public of affected Party (Art. 6)? Is this obligatory or not?
- What are the consequences of granting final decision without carrying out consultation?
- Does the procedure of settlements of disputes (Art. 15) stop the national EIA procedure?

Republic of Moldova. Difficulties in filling in the questionnaire were caused by poor national legislation in this area and the absence of experience in carrying out real transboundary EIAs. The Republic of Moldova has experienced difficulties in the revision of the national legislation and statutory acts in this area.

United Kingdom. The United Kingdom has not had any problems other than those reported earlier in the questionnaire.

Armenia, Canada, Croatia, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Norway, Slovakia, Sweden, Switzerland. No problems, no experience or no response.

XVI.A.1.3 Have you any suggestions as to how problems arising under this Convention could be resolved? Guidance on good practice? Amendment to the Convention? (Please give full details.)

Austria. There could be a new provision in the Convention about the translation: which documents and who is responsible for their translation.

Belgium. Refer to document "Draft Guidance on practical application of the Espoo Convention" that was prepared by a working group lead by Finland, Sweden and Netherlands. Also refer to the Protocol on Strategic Environmental Assessment (Kiev, 21 May 2003).

Bulgaria. The recent Guidance on good practice will contribute to the better implementation of the Convention.

Croatia. They may be resolved by having lots of experience of all Parties and appropriate guidance on good practice.

Czech Republic. Have good bilateral agreements.

Denmark, Netherlands. Refer to document "Draft Guidance on practical application of the Espoo Convention" that was prepared by a working group lead by Finland, Sweden and Netherlands.

Estonia. The Convention should be reviewed and amended, as it is very old (eleven years already). The list in Appendix I needs to be reviewed and amended if necessary.

France. This is question to which it is not possible to answer in a general way, but only case by case. France's general feeling is that the Convention was drafted in sufficiently broad terms to allow the application of the principles that it introduced into every situation, and thus to integrate the environment into the prevention of conflicts between States (most often neighbours, though not necessarily). France is thus, generally, in favour of the development of further guides, as long as they result from a critical examination of practice and do not simply extend the text of the Convention, which often introduces inconsistencies, by further 'rules' that have to be followed.

Germany. (a) One of the most important practical problems arising under the Espoo Convention is the question of necessary translations of documents. Enclosed is therefore again a German proposal for an amendment of the convention, that was first presented in the Task Force Meeting on amendments in Rome on the 12 - 14 September 2001:

UN ECE Espoo Convention - Task Force Meeting on amendments, Rome, 12-14 September 2001; Proposal by Germany:

Article 4 - PREPARATION OF THE ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTATION

...

2. The Party of origin shall furnish the affected Party, as appropriate through a joint body where one exists, with the environmental impact assessment documentation. In this context the Party of origin must also provide for a translation of the non-technical summary pursuant to Appendix II letter (i) and, where necessary, of other data on the proposed activity which are relevant for the transboundary public participation, especially data on transboundary environmental impacts. The concerned Parties shall arrange for distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity.

Reason: Conducting an effective transboundary public participation requires that the most important documents on the proposed activity are available to the public in translation. Such translation incurs costs and can lead to delays in the proceedings. It is therefore appropriate that the Party of origin is under obligation to furnish the affected Party with translations of the main documents.

Germany thinks that a little more work on this proposal is needed:

- For matters of clarification it seems better to substitute the word "also" in Germany's proposed new sentence by the words "in addition"
- In cases where some Parties are affected, it may be appropriate to translate some of the documents only in one of the official ECE-languages or in a language that several countries can understand. In this regard exits some practical experience in cases in the Baltic Sea. Therefore a second alternative at the end of the sentence could be useful.

(b) A purely practical problem is the wording of Article 5 of the Convention. Article 5 contains a legal obligation for the Party of origin to enter into consultations with the affected Party. There is in practice very often no need for consultations, because the affected Party is satisfied with the EIA documentation and the way the Party of origin is dealing with the likely significant adverse transboundary environmental impacts of the proposed project or activity and the planned measures to mitigate and/or reduce possible impacts. A more practical approach would be that the Parties shall enter without delay into consultations, if the affected Party informs the Party of origin that consultations are necessary.

(c) With regard to the general idea of "modernising" the convention, Germany thinks that in Appendix I to the Convention should be added the activities that are listed in Annex I of the EC EIA Directive but for the time-being not mentioned in Annex I of the Espoo Convention.

Hungary. Amendment of the Convention: It should include a new requirement on the EIA documentation: "the documentation shall contain an independent chapter on the significant adverse transboundary impacts". Reasons: Certain projects are very complicated and if it is so the complete EIA documentation may have 10 000 pages as well. (This was so in Hungary's case.) Almost all of the chapters of the EIA documentation may contain some information about transboundary impacts, so the whole documentation, written in the language of the Party of origin, should be examined by the affected Party. It is takes very much time, needs very much translation and money – unnecessarily. This problem would be solved by the implementation of the new requirement suggested above.

Italy. The Convention could be improved and put in line with some recent technical and legislative development, but they are not strictly necessary.

Poland. The solution is to have good bilateral and multilateral agreements. These are very important to speed up the process.

Republic of Moldova. See XVI.A.1.1.

Switzerland. Switzerland welcomes the Guidance on good practice, and – together with Switzerland's neighbouring German-speaking countries – is in the process of translating it into German; is discussing similar steps with Italy for an Italian version of the Guidance; support current discussions within Working Group on EIA on possible amendments to Convention

United Kingdom. Although it is ten years since the Convention was signed, in many ways it is still in its infancy. There is little practical experience of how it is operating, or little has been reported, so there is limited evidence on which to base suggestions to resolve problems or to justify amendment. The most significant documents in this respect are those produced by Finland, Sweden and Netherlands on practical application of the Directive. These address issues commonly perceived to be causing difficulty. Taking account of these, and Parties correctly applying the procedures already adopted by the Convention, should ensure improved application and limit the need for further guidance or amendment.

Armenia, Canada, Finland, Kyrgyzstan, Latvia, Lithuania, Norway, Slovakia, Sweden. No suggestions or no response.

XVI.A.1.4 Should this questionnaire be changed in any way? Comments and suggestions would be welcome.

Belgium (Flanders, Marine, Nuclear). This questionnaire is much to long. A shorter, more focused – on particular items (e.g. scoping, public participation, transfer of documents, etc.) – questionnaire might be more relevant.

Croatia. If it were shorter the response rate would be greater.

Denmark. The questionnaire is to long. Too many questions ask about almost the same thing; see, for example, see some of Denmark's responses. Many questions ask that respondents 'describe problems and difficulties'. It sounds rather negative as if only problems are expected. What about good experience? What about asking about the usefulness of the Convention? Has the Convention helped to improve the environment or to avoid some damage to the environment? But maybe this has nothing to do with the implementation.

Estonia. This questionnaire contains many questions that are too detailed. If Estonia has no experience in some areas it cannot provide an answer.

France. The questionnaire is far too long and much too repetitive for the steps that practice is tending to simplify.

Germany. Transboundary EIA may be carried out in different ways, depending on the respective affected Party and the number of affected Parties that may participate in the same EIA procedure. For Germany as a State with nine neighbouring States and nearly 18 different procedures for the cases of Germany as Party of Origin or as affected Party may occur. The structure of the questionnaire is not appropriate to cover this variety of approaches. The task to fill in the questionnaire in a sound way requires in Germany an inadequate amount of capacity since in most cases State level authorities are responsible for transboundary EIA (Germany comprises 16 States). In addition, in most cases these authorities are not identical with the State Ministries but on a lower administrative level. The experience with transboundary EIA is thus spread over a large number of authorities. Some questions of the questionnaire are addressed to the Federal level some to the State level – these require at least answers from 13 States (i.e. those with external boundaries). The questions in the questionnaire contain very often overlaps in different chapters. The distinction in Party of origin (A) and affected Party (B) is not very useful, a comprehensive

approach would have been better. An additional problem is the current electronic format of the questionnaire that was not always so convenient as appropriate. For example there is no possibility to maximize the boxes for the answers. If no answer to the YES/NO-Questions is given, it is very often not possible to give reasons for this in the box below. For future activities it seems to be more effective, if Parties would submit translations of their national legislation on EIA in one of the official UNECE languages together with some additional information on the legal systems and practical experiences of the application off the Convention. The approach of such a comprehensive questionnaire should not be repeated.

Italy. A shorter questionnaire would be more suitable. This one is comprehensive but contains too many questions on details. Furthermore, some of these questions are difficult to answer in a generic way, which could cover all cases (for instance how do you determine what is a "prompt" reply). Some general questions on the national application of the EIA procedure, and on the various stages of it, could be more appropriate than the detailed ones. Since all projects that Italy is involved in (i.e. to which Italy has applied the Convention up to now) are of a common cross-border nature, it has been sometimes hard to give detailed answers, since they depend on specific bilateral agreements with the other Party involved. For these kinds of cases a questionnaire only referring to a single case would be much easier to answer.

Switzerland. Switzerland considers the questionnaire to be fairly long. Based on the answers that are received, it might be appropriate to discuss its streamlining.

Poland. This questionnaire should have some recommendations to complete it on the basis of national legislation, even if country has no practical experience neither as affected Party neither as Party of origin.

Sweden. Sweden has had huge problems in opening the questionnaire since the firewall systems at the Swedish Environmental Protection Agency and the Ministry of Environment do not permit installation of the executable documents etc. needed to fill it in. It is too extensive and there are a lot of duplications of questions. If there is to be a follow up of this questionnaire (if needed) after a couple of years, regard has to be taken to the result of this one. There is no need for a new questionnaire other when circumstances have changed considerably in a Party. A general reporting system must be based on a much shorter and concise questionnaire. It should be made as a Word for Windows document that is easy to fill in or where you only refer to the relevant questions when answering.

United Kingdom. The questionnaire is very detailed, but as a consequence it is overlong and repetitive. It is intimidating and its length may significantly reduce the number of Parties who will take the time to complete the questionnaire. One wonders whether it was necessary for the questionnaire to be so detailed – perhaps a more selective approach to the key information that is required was called for. Few, if any of the questions, allow for simple "number crunching" so its analysis will be very time-consuming and possibly open to misinterpretation. The format in which the questionnaire is presented for completion was unfamiliar and not exactly user-friendly. Accessing the software was difficult and then working in it was not easy. For example it was not possible to access simple word-processing tools such as spell-check or formatting. This added to the time to complete. Transferring to colleagues to review was near impossible. The questionnaire, and what the Convention wants the reporting system to deliver, need to be reviewed before Parties are asked to complete s similar questionnaire.

Armenia, Austria, Bulgaria, Canada, Czech Republic, Finland, Hungary, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Slovakia. No suggestions or no response.

ANNEX I – DECISION III/1 ON THE REVIEW OF IMPLEMENTATION

The Meeting,

Recalling its decision II/10 on the review of the Convention,

Having analysed the responses provided by the Parties to the questionnaire for the reporting system,

1. Adopts the Review of Implementation 2003 – Summary, as appended to this decision;

2. Requests the secretariat to make the Summary and the full Review of Implementation 2003 available on the web site of the Convention;

3. Noting further areas of improvement as highlighted in the Review of Implementation 2003, requests Parties to ensure that:

(a) The contact details of their points of contact are transmitted to the secretariat, which shall make this information available on the Convention's web site;

(b) Their points of contact are competent in the application of the Convention;

(c) The contents of the notifications issued by the Parties of origin comply with Article 3, paragraph 2, of the Convention and with decision I/4;

(d) The final decisions made by the Parties of origin are provided to the affected Parties as soon as possible after they have been taken;

(e) The contents of the final decisions made by the Parties of origin comply with Article 6, paragraph 2, of the Convention;

(f) The public of the concerned Parties is encouraged to participate in procedures under the Convention;

(g) In compliance with Article 9 of the Convention, they exchange information with the other Parties on the results of their research programmes;

4. Notes that the Review of Implementation 2003 suggests that the implementation of the Convention can be strengthened through subregional cooperation and the preparation of bilateral and multilateral agreements;

5. Requests the secretariat to bring to the attention of the Implementation Committee general compliance issues identified in the Review of Implementation 2003, and requests the Implementation Committee to take these into account in its work;

6. Requests the Implementation Committee to prepare a revised and simplified questionnaire on the implementation of the Convention for consideration by the Working Group on Environmental Impact Assessment and for circulation by the secretariat thereafter;

7. Requests Parties to complete the revised and simplified questionnaire and decides that a second draft review of implementation based on the responses will be presented at the fourth meeting of the Parties, and that the work plan shall reflect the elements required to prepare the second draft review.

ANNEX II – RESPONSE TO THE QUESTIONNAIRE FROM THE EUROPEAN COMMUNITY

The European Community's response to the questionnaire on implementation of the Espoo Convention prepared pursuant to Decision II/11 of the Second Meeting of Parties to the Convention, dated 23 July 2003.

The European Community is competent to adopt the framework legislation to be applied by the authorities of its Member States in relation to EIAs. In that role, it adopted Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (EIA Directive). In accordance with its responsibilities, it thereby modified Directive 85/337/EEC by Directive 97/11/EC[1] to fully align this framework with the obligations arising from Espoo Convention and has consequently ratified the Espoo Convention in 1997.

In accordance with the European Community Treaty, a directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods. (art. 189)

In accordance with the legal and institutional system set up by the European Community Treaty, Member States have transposed the common rules in their respective national legislation.[2] Therefore, national authorities are vested with the responsibility to apply the detailed procedures for development consent.

The European Community, while it is a Party to the Convention, does not exercise responsibilities as Party of Origin or Affected Country insofar as it does not give any development consent. In Decision 1/3 of the first meeting of the Parties, the European Community is not listed in the list of contact points. Therefore, the fact that the questionnaire refers to the implementation of the Espoo Convention obligations and the procedures put in place by the Parties clearly refers to procedures put in place by the Member States of the European Community (domestic law) in order to meet the obligations laid down in both the Espoo Convention and the EIA Directive.

Therefore, the European Commission cannot provide information as regards all the questions found in the said questionnaire. However, there are some questions where the European Commission can provide some useful information.

1. Directive 2003/35 of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regards to public participation and access to justice Council Directive 85/337/EEC (OJ No. L 156, 25.6.2003, p.17 aligns to the provision of the Aarhus Convention on public participation and access to justice. Deadline for transposition is two years from the entry into force.

   In the longer term, this legislative development will have an impact in the national implementation of the following parts of the questionnaire: Part V (Public participation), Part VI (Consultation), Part VI (Final Decision and in particular point 3: possibility of legal challenge.

2. For Part XIV: The following research projects have been finalised today and could be of relevance to this section. List of research found in web address: http://europa.eu.int/comm/environment/eia/eia-support.htm

   - EIA - Guidance on Screening - 2001 Screening checklist
   - EIA - Guidance on Scoping - 2001 Scoping checklist
   - EIA Review Check List - 2001
   - Update of 5-years EIA Report-2003
   - IMPEL-report on Interrelation between IPPC, EIA, SEVESO Directives and EMAS Regulation – 1998
   - Update of 5-years EIA Report – 1997
   - Strategy for EIA/SEA Research in EU – 1997
   - Evaluation of the performance of the EIA process – 1996
   - A study on cost and benefits in EIA/SEA - 1996
   - Study on the Assessment of Indirect and Cumulative Impacts as well as Impact interactions

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[1] OJ L073, 14 March 1997

[2] See also the 5 Years Report for the application and effectiveness of the EIA Directive (97/11/EC) that is available on the web site of the Espoo Convention. (http://www.unece.org/env/eia/review_eia_directive.html): How successful are the EU Member States in implementing the EU EIA Directive (and by extension the Espoo Convention)?

ANNEX III – RESPONSE TO THE QUESTIONNAIRE FROM ARMENIA (IN RUSSIAN)

I.A.1.1 (a)	В 1995 г. принят закон РА "Об экспертизе воздействия на окружающую среду", в котором отражены основные принципы ОВОС, включая мнение затрагиваемых общин, общественные слушания, а также необходимость проведения экспертизы воздействия на окружающую среду концепций. В статье 4 приведен список намечающейся деятельности, подлежащей экспертизе. Однако специальных процедур и законодательства в соответствующей сфере в республике не имеется. Мы бы применили подходы, принятые Всемирным Банком и Европейским сообществом с привязкой их к местным условиям.
I.A.1.2 (a)	В настоящее время подобная процедура отсутствует. Считаем, что для разработки такой процедуры необходимо установить критерии оценки воздействия на окружающую среду планируемой деятельности.
I.A.1.3 (a)	Процедура должна устанавливаться путем двухсторонних или многосторонних консультаций.
I.A.1.4 (a)	См. 1.3 а)
I.A.2.1 (a)	В республике нет специальных нормативно-правовых актов, регулирующих порядок и процедуру проведения ОВОС, в том числе в трансграничном контексте. Отсутствуют также научно обоснованные методы и критерии оценки степени и масштабов воздействия.
I.A.2.2 (a)	В республике нет специальных нормативно-правовых актов, регулирующих порядок и процедуру проведения ОВОС, в том числе в трансграничном контексте. Отсутствуют также научно обоснованные методы и критерии оценки степени и масштабов воздействия.
II.A.1.1 (a)	Порядок уведомления для осуществления положений Конвенции в стране не разработан.
II.A.1.1 (b)	
II.A.1.1 (c)	
	Нет практики.
II.A.1.2 (a)	Нет практики.
II.A.1.2 (b)	Нет практики.
II.A.1.2 (c)	
II.A.1.2 (d)	
II.A.1.2 (e)	Нет практики.
II.A.1.3	Нет практики.
II.A.1.4	
	Законодотельство по ОВОС отсутствует. Практического осуществления нет. См. также стр.3 п.1.1.а.
II.A.1.5 (a)	Опыта нет.
II.A.1.6 (a)	Практика отсутствует.
II.A.1.6 (b)	Практика отсутствует.
II.A.1.6 (c)	Практика отсутствует.
II.A.1.6 (d)	Практика отсутствует.
II.A.1.6 (e)	Практика отсутствует.
II.A.1.7	Практика отсутствует
II.A.2.1 (a)	
II.A.2.1 (b)	Практика отсутствует.
II.A.2.2 (a)	Практика отсутствует.

II.A.2.2 (b)	Практика отсутствует.
II.A.2.3 (a)	Практика отсутствует.
II.A.2.3 (b)	Практика отсутствует.
II.A.2.4 (a)	Практика отсутствует.
II.A.2.5 (a)	Практика отсутствует.
3.1 (a)	В соответствии с законом РА "Об экспертизе воздействия на окружающую среду" под термином "подвергаемая воздействию община" понимается население области, общины, подвергаемые возможному воздействию намечаемой деятельности на окружающую среду.
II.A.3.1 (b)	Практика отсутствует.
II.A.3.1 (c)	Практика отсутствует.
II.A.3.1 (d)	Практика отсутствует.
II.A.3.2 (a)	Практика отсутствует.
II.A.3.2 (b)	
II.A.3.3 (a)	Практика отсутствует.
II.A.3.4 (a)	Практика отсутствует.
II.B.1.1 (a)	Практика отсутствует
II.B.1.2 (a)	Практика отсутствует.
II.B.1.2 (b)	Практика отсутствует.
II.B.1.3 (a)	Практика отсутствует.
II.B.1.4 (a)	Практика отсутствует.
II.B.1.5 (a)	Практика отсутствует.
II.B.1.5 (b)	Практика отсутствует.
II.B.1.5 (c)	Практика отсутствует.
II.B.1.6 (a)	Практика отсутствует.
II.B.2.1 (a)	Практика отсутствует.
II.B.2.2 (a)	Практика отсутствует.
II.B.2.2 (b)	Практика отсутствует.
II.B.2.3 (a)	Практика отсутствует.
II.B.2.3 (b)	Практика отсутствует.
II.B.2.4 (a)	Процедура и законодательство не разработаны.
II.B.3.1 (a)	Практика отсутствует.
II.B.3.1 (b)	Практика отсутствует.
II.B.3.1 (c)	Практика отсутствует.
II.B.3.1 (d)	Практика отсутствует.
III.A.1.1 (a)	Практика отсутствует.
III.A.1.1 (b)	
III.A.1.1 (c)	Под разумными альтернативами следует понимать другие, отличающиеся от основного варианта, реальные решения для достижения конечной цели планируемой деятельности, основанные на рассмотрении возможных для данного региона и типа намечаемой деятельности вариантов инженерно-технических, технологических, ландшафтных, социальных и других экономически приемлемых решений.
III.A.1.1 (d)	Мы принимаем формулировку "окружающей среды", приведенную в подпункте vii статьи 1 Конвенции Эспо.
III.A.1.1 (e)	Практика отсутствует.
III.A.2.1 (a)	Практика отсутствует.
III.A.2.1 (b)	В настоящее время подобный центр отсутствует.
III.A.2.1 (c)	Нет.
	Практика отсутствует.
III.A.2.2 (a)	Соответствующие процедуры и законодательство в стране не разработаны
III.A.2.2 (b)	Практика отсутствует.
III.A.2.2 (c)	Практика отсутствует.
III.A.2.2 (d)	Практика отсутствует.

III.A.2.3 (a)	Практика отсутствует.
III.B.1.1 (a)	Содержание документации об ОВОС законодательно не закреплено.
III.B.2.1 (a)	Практика отсутствует.
III.B.2.2 (a)	Практика отсутствует.
III.B.2.2 (b)	Практика отсутствует.
III.B.2.3 (a)	Процедура и законодательство по данному вопросу отсутствуют. "Разумные сроки" могут колебаться в больших интервалах, в зависимости от вида планируемой деятельности и иных факторов, и должны устанавливаться в процессе двухсторонних/многосторонних консультаций/переговоров.
III.B.2.3 (b)	Практика отсутствует.
III.B.2.4 (a)	Практика отсутствует.
IV.A.1.1 (a)	В настоящее время подобная структура не определена и необходимые нормативные акты не разработаны.
IV.A.1.1 (b)	Нет. Практика отсутствует.
IV.A.1.1 (c)	Практика отсутствует.
IV.A.1.1 (d)	Практика отсутствует.
IV.A.1.2 (a)	В настоящее время подобная структура не определена и необходимые нормативные акты не разработаны.
IV.A.1.2 (b)	Практика отсутствует.
IV.A.1.2 (c)	Практика отсутствует.
IV.A.1.2 (d)	Практика отсутствует.
IV.B.1.1 (a)	В настоящее время подобный орган не определен.
IV.B.1.1 (b)	Практика отсутствует.
IV.B.1.1 (c)	Практика отсутствует.
IV.B.1.1 (d)	Практика отсутствует.
IV.B.1.2 (a)	В настоящее время подобный орган не определен.
IV.B.1.2 (b)	Практика отсутствует.
IV.B.1.2 (c)	
V.A.1.1 (a)	Практика отсутствует.
V.A.1.1 (b)	Практика отсутствует.
V.A.1.2 (a)	В настоящее время необходимые правовые акты не разработаны. Практика отсутствует.
V.A.1.2 (b)	Практика отсутствует.
V.A.1.2 (c) (i)	Практика отсутствует.
V.A.1.2 (c) (ii)	Практика отсутствует.
V.A.1.2 (c) (iii)	Практика отсутствует.
V.A.1.2 (d)	Республика Армения граничит с четырьмя странами, из которых с одной, Грузией, которая не является Стороной Конвенции Эспо, проблем с пересечением государственной границы не существует. Одна из вышеназванных стран не является страной Европейского региона, другая, Турция, не является Стороной Конвенции. Для остальных, помимо Грузии, соседних стран к настоящему времени специальных соглашений о въезде общественности по специальным программам, в частности в рамках конвенции Эспо, не существует.
V.A.1.2 (e)	Практика отсутствует.

V.A.2.1 (a)	Практика отсутствует.
V.A.2.1 (b)	
V.A.2.1 (c)	Практика отсутствует.
V.B.1.1 (a)	Практика отсутствует.
V.B.1.1 (b)	Практика отсутствует.
V.B.1.1 (c)	Практика отсутствует.
V.B.1.1 (d)	Мы в принципе считаем, что возможности, предоставляемые общественности обеих сторон должны быть равнозначными, однако конкретные формы участия должны быть определены национальным законодательством каждой из сторон.
V.B.1.2 (a)	Практика отсутствует. См также предыдущий пункт.
V.B.2.1 (a)	Практика отсутствует.
V.B.2.1 (b)	Практика отсутствует.
VI.A.1.1 (a)	Соответствующие законодательные, административные и иные меры в настоящее время не разработаны. Практика отсутствует.
VI.A.1.1 (b)	Нет. Отсутствие прецедента.
VI.A.1.2 (a)	Соответствующие законодательство и процедуры не разработаны.
VI.A.1.2 (b)	Практика отсутствует.
VI.A.2.1 (a)	Практика отсутствует.
VI.A.2.1 (b)	
VI.A.2.2 (a)	
VI.A.2.2 (b)	Практика отсутствует.
VI.A.2.2 (c)	Практика отсутствует.
VI.A.2.2 (d)	Практика отсутствует.
VI.A.2.2 (e)	Практика отсутствует.
VI.B.1.1 (a)	Практика отсутствует.
VI.B.1.1 (b)	Нет.
VI.B.2.1 (a)	Практика отсутствует.
VI.B.2.1 (b)	
VI.B.2.2 (a)	
VI.B.2.2 (b)	Практика отсутствует.
VI.B.2.2 (c)	Практика отсутствует.
VI.B.2.2 (d)	Практика отсутствует.
VI.B.2.2 (e)	Практика отсутствует.
VII.A.1.1 (a)	Соответствующие законодательные, административные меры к настоящему времени не разработаны.
VII.A.1.1 (b)	
VII.A.1.1 (c)	Практика отсутствует.
VII.A.1.1 (d)	Практика отсутствует.
VII.A.1.1 (e)	Практика отсутствует.
VII.A.1.1 (f)	Практика отсутствует.
VII.A.1.1 (g)	Практика отсутствует.
VII.A.1.2 (a)	Практика отсутствует.
VII.A.1.2 (b)	Практика отсутствует.
VII.A.1.2 (c)	Практика отсутствует.
VII.A.2.1 (a)	Практика отсутствует.
VII.A.2.1 (b)	В настоящее время подобный орган не определен. Практика отсутствует.
VII.A.2.1 (c)	Практика отсутствует.
VII.A.3.1 (a)	В настоящее время необходимые правовые и нормативные акты не разработаны. Практика отсутствует.
VII.A.3.2 (a)	Практика отсутствует.
VII.A.3.3 (a)	Практика отсутствует.
VII.B.1.1 (a)	Практика отсутствует.

VII.B.2.1 (a)	Практика отсутствует.
VII.B.2.1 (b)	Практика отсутствует.
VII.B.2.1 (c)	Практика отсутствует.
VII.B.2.1 (d)	Практика отсутствует.
VII.B.3.1 (a)	
VII.B.3.1 (b)	Нет.
VII.B.3.3 (a)	Практика отсутствует.
VII.B.3.3 (b)	Практика отсутствует.
VII.B.3.4 (a)	Практика отсутствует.
VIII.A.1.1 (a)	В настоящее время соответствующие нормативные акты не разработаны. Практика отсутствует.
VIII.A.1.1 (b)	Практика отсутствует.
VIII.A.1.1 (c)	В настоящее время соответствующие нормативные акты не разработаны. Практика отсутствует.
VIII.A.1.1 (d)	Практика отсутствует.
VIII.A.1.1 (e)	Практика отсутствует.
VIII.A.1.2 (a)	
VIII.A.1.2 (b)	
VIII.A.1.2 (c)	
VIII.A.1.2 (d)	
VIII.A.1.2 (e)	
VIII.A.1.2 (f)	
VIII.A.2.1 (a)	Практика отсутствует.
VIII.A.2.1 (b)	Практика отсутствует.
VIII.A.2.2 (a)	Практика отсутствует.
IX.A.1.1	Практика отсутствует.
IX.A.1.2	Практика отсутствует.
IX.A.1.3	Практика отсутствует.
IX.A.1.4	Практика отсутствует.
IX.A.2.1 (a)	Практика отсутствует.
IX.A.2.1 (b)	Практика отсутствует.
IX.A.2.1 (c)	Практика отсутствует.
IX.A.2.2 (a)	Практика отсутствует.
IX.A.2.2 (b)	Практика отсутствует.
IX.A.2.2 (c)	Практика отсутствует.
IX.A.2.2 (d)	Практика отсутствует.
IX.A.2.3 (a)	Практика отсутствует.
IX.A.3.1 (a)	Практика отсутствует.
IX.A.3.1 (b)	Практика отсутствует.
IX.A.3.1 (c)	Практика отсутствует.
X.A.1.1 (a)	Практика отсутствует.
X.A.1.1 (b)	Практика отсутствует.
X.A.1.1 (c)	Практика отсутствует.
XI.A.1.1 (a)	Процедура запроса не применялась из-за отсутствия прецедента.
XII.1.1 (a)	Практика отсутствует.
XIII.A.1.1 (a)	Нет.
XIII.A.1.1 (b)	
XIII.A.1.1 (c)	
XIII.A.1.1 (d)	Подобных соглашений Республика Армения не заключала.
XIV.1.1 (a)	
XV.A.1.1 (a)	
XV.A.1.1 (b)	Министерство охраны природы РА.
XV.A.1.1 (c)	
XV.A.1.1 (d)	Практика отсутствует.

XV.A.1.1 (e) Практика отсутствует.
XVI.A.1.1 (a)

XVI.A.1.2
XVI.A.1.3
XVI.A.1.4

ANNEX IV – RESPONSE TO THE QUESTIONNAIRE FROM FRANCE (IN FRENCH)

I.A.1.1 (a) Nous ne faisons pas directement référence à l'annexe 1 de la convention. En application du droit communautaire et de sa transposition en droit national, tout projet soumis à une étude d'impact sur l'environnement doit faire l'objet de consultations transfrontières lorsqu'il est susceptible d'avoir des impacts sur l'environnement d'un autre Etat (Décret du 17 octobre 1977 modifié). Nous ne disposons pas de critères précis pour apprécier la probabilité d'impact transfrontière. La localisation d'un projet près d'une frontière est souvent une condition déterminante. Mais l'étude d'impact doit étudier les impacts d'un projet, où qu'ils se trouvent.

I.A.1.2 (a) Ces critères sont définis dans notre réglementation (Décret n° 77-1141 du 12 octobre 1977). Ils comprennent deux catégories :
- les travaux d'entretien et de grosses réparations et certains travaux de modernisation qui n'impliquent pas de modification des lieux ;
- les travaux qui modifient substantiellement les caractéristiques des ouvrages existants ou en augmentent la capacité, à l'exception de quelques types de modifications qui en sont toujours dispensés : ouvrages et travaux sur le domaine public fluvial et maritime, canalisation et ouvrages de production d'énergie hydraulique, du transport de gaz, etc.

I.A.1.3 (a) Voir question 1.1

I.A.1.4 (a) Voir question 1.2

I.A.2.1 (a) L'étude d'impact relative au projet doit analyser autant les impacts sur le territoire national que les impacts sur le territoire d'autre pays. C'est une analyse qui est conduite au cas par cas, tout dépend des caractéristiques du territoire et de la nature du projet, sans qu'il soit possible de déterminer les règles générales. Ces résultats montrent qu'il existe la possibilité d'un impact transfrontière notable et une appréciation de son importance.

I.A.2.2 (a) La réglementation et la démarche sont exactement les mêmes.

II.A.1.1 (a) L'autorité compétente, celle qui assure la gestion de la procédure de demande d'autorisation (un service de l'Etat) ou une collectivité territoriale, est responsable de la notification. Le dossier est formellement transmis par le préfet du département au niveau local (et non par ses services) ou par le ministre des affaires étrangères au niveau national (et non par les ministères en charge du dossier). Lorsque l'autorité compétente est une collectivité territoriale, elle fait transmettre le dossier par le préfet du département. Le ministère des affaires étrangères est informé dans tous les cas.

II.A.1.1 (b) Oui

II.A.1.1 (c) Oui

Comme il a été indiqué dans les réponses aux questions 1.2 et 1.1 ci-dessus, il existe deux possibilités :

1. une notification au niveau national, après concertation interministérielle, par le ministre des affaires étrangères ;
2. une notification au niveau local, cas le plus fréquent, par le préfet du département.

« Lorsque l'autorité compétente estime qu'un projet est susceptible d'avoir des incidences notables sur l'environnement d'un autre Etat membre de l'Union européenne ou partie à la convention d'Espoo ou lorsque les autorités de cet autre Etat en fait la demande. Cette autorité sitôt après avoir pris l'arrêté ouvrant l'enquête publique, transmet un exemplaire du dossier aux autorités de cet Etat, en leur indiquant les délais de la procédure. Elle en informe au préalable le ministre des affaires étrangères. Lorsque l'autorité compétente est une collectivité territoriale, elle fait transmettre le dossier par le préfet du département. » (Décret du 12 octobre 1977 modifié).

II.A.1.2 (a) Nous avons une seule expérience et la transmission d'un seul dossier aux autorités anglaises, par le préfet du département, via le ministre des affaires étrangères. Nous allons préciser les modalités de cette transmission par une circulaire.

II.A.1.2 (b) Oui, nous transmettons la totalité du dossier dont dispose le service chargé de son instruction (il comprend principalement le descriptif technique du projet et l'étude de ses impacts sur l'environnement). Par ailleurs, nous sommes prêts à fournir toute information complémentaire demandée par les services du pays affecté auquel le dossier est transmis.

II.A.1.2 (c) Non

II.A.1.2 (d) Nous n'avons pas défini de cadre précis pour cette notification qui est faite à l'initiative de services différents et qui doit tenir compte de la spécificité de chacun des projets. Dans nos discussions avec les services nous leur demandons de s'appuyer sur ce document en précisant qu'il s'agit d'une référence commune qui identifie les points qui doivent être présentés dans la notification.

II.A.1.2 (e) Nous ne distinguons pas les deux phases : la notification répond à la totalité des exigences de l'article 5. La procédure en deux étapes prévue par cet article nous semble être lourde et constituerait un allongement inutile de la procédure. De plus, cette procédure en deux phases n'est pas compatible avec la possibilité ouverte par le paragraphe 1 de l'article 3 qui prévoit la possibilité d'une notification au moment où le public concerné est consulté. Notre pratique est la suivante :
- nous notifions un projet avec le dossier dont nous disposons (le même que celui qui est transmis à l'autorité compétente au niveau national et au public dans le cadre de l'enquête publique);
- nous nous engageons à répondre à toute demande complémentaire que nous pourrions recevoir du pays affecté.

II.A.1.3 Nous avons demandé au préfet de procéder à cette notification « sitôt avoir pris l'arrêté ouvrant l'enquête publique », c'est-à-dire au dernier moment prévu par la Convention. Ce moment nous semble adéquat car il garantit que le dossier transmis est complet (le rapport décrivant les incidences sur l'environnement et la version définitive de la demande sont disponibles à ce stade). C'est aussi le moment où les avis de tous les services consultés en France sont entrepris. Ce choix laisse un délai de l'ordre de trois mois pour que le pays affecté fasse connaître son avis. Ce délai nous semble suffisant pour la plupart des dossiers, en cas de difficulté (voir granulats marins) les délais prévus par la plupart des procédures nationales peuvent être prolongés. « Les délais prévus par les procédures réglementaires applicables aux projets en cause sont augmentés, le cas échéant, pour tenir compte du délai de consultation des autorités étrangères. » (décret du 12 octobre 1977 modifié)

II.A.1.4 Sans

En France, en application de la directive 85/337 sur l'évaluation des incidences de certains projets publics ou privés sur l'environnement ce cadrage préalable (scoping) est facultatif : « Le pétitionnaire ou le maître d'ouvrage peut obtenir de l'autorité compétente pour autoriser ou approuver le projet de lui préciser les informations qui devront figurer dans l'étude d'impact. Les précisions apportées par l'autorité compétente n'empêchent pas celle-ci de faire, le cas échéant, compléter le dossier de demande d'autorisation ou d'approbation et ne préjugent pas de la décision qui sera prise à l'issue de la procédure d'instruction. » (décret du 12 octobre 1977 modifié)

II.A.1.5 (a) Notre expérience est très limitée, non seulement parce que nous avons ratifié tardivement (2000) la convention, mais aussi parce que les projets importants susceptibles d'avoir un impact transfrontière sont bien identifiés et, généralement, étudiés pour limiter ces impacts transfrontière, voire instruits en tenant compte de contacts informels avec l'autorité compétente de l'Etat affecté.

II.A.1.6 (a) Dans les notifications, la France indique le délai fixé par la procédure nationale d'autorisation correspondante.

II.A.1.6 (b) Le critère utilisé est celui qui est fixé par chacune des procédures. L'objectif est de ne pas augmenter les délais opposés au pétitionnaire. Ainsi, en France, il s'agit souvent de trois mois (procédure dans le domaine de l'urbanisme) et des délais plus longs au titre du code minier ou dans le cadre de la déclaration d'utilité publique.

II.A.1.6 (c) Notre expérience n'est pas significative. Elle est limitée à un projet d'exploitation de granulats marins notifié au Royaume-Uni. La réponse a été fournie dans un délai de 7 mois qui était compatible à la procédure d'autorisation engagée. Ce délai inclue un temps de transmission particulièrement long.

II.A.1.6 (d) La conséquence peut être :
- un rappel par le pays d'origine indiquant au pays affecté qu'il n'a pas reçu de réponse et s'il lui donne un délai complémentaire (cas d'un projet notifié par le Royaume-Uni à la France). Nous pourrions, sur la base de la réciprocité, agir de la même manière ;

	- la clôture de l'instruction du projet sans réponse du pays affecté (s'il s'agit d'une question mineure et que tout indique qu'il n'y aura pas de demande particulière du pays affecté).
II.A.1.6 (e)	Si les arguments développés dans cette demande sont jugés acceptables, ce qui est plus que probable, la demande sera acceptée. Il existe une tradition dans nos relations avec les Etats voisins qui veut qu'aucune conclusion ne soit tirée avant qu'un accord ne soit trouvé, s'il y a un enjeu important..
II.A.1.7	Notre expérience est trop limitée pour tirer un enseignement, sinon sur le fait que les projets susceptibles d'avoir un impact transfrontière notable se laissent difficilement encadrer par une procédure rigide. La plus grande souplesse est nécessaire et la disposition réglementaire la plus importante est de pouvoir prolonger les délais d'instruction des projets correspondants.
II.A.2.1 (a)	Non
II.A.2.1 (b)	Nous n'avons pas d'expérience. Le cas le plus probable nous semble être celui où le consultant, chargé de préparer le rapport sur les incidences sur l'environnement recueille les informations dont il a besoin. Cette recherche d'information ne nous semble pas exiger une intervention de l'autorité administrative du pays d'origine.
II.A.2.2 (a)	Ce serait le responsable de la procédure de demande d'autorisation.
II.A.2.2 (b)	Cette demande serait faite à l'autorité qui a notifié le projet ou à l'organisme que cette dernière aurait désignée.
II.A.2.3 (a)	Ne sais pas (voir question 2.1).
II.A.2.3 (b)	Ne sais pas.
II.A.2.4 (a)	Ne sais pas.
II.A.2.5 (a)	Nous n'avons pas d'expérience et ce n'est pas un thème sur lequel nous souhaitons réglementer.
II.A.3.1 (a)	La France a accompagné sa signature de la convention par une déclaration interprétative prévoyant que cette responsabilité de l'identification du public à consulter relève de l'autorité compétente de ce pays. Nous n'avons donc pas de commentaire sur les questions suivantes qui relèvent, de notre point de vue, de la seule responsabilité de ces Etats.
II.A.3.1 (b)	Voir question (a).
II.A.3.1 (c)	Voir question (a).
II.A.3.1 (d)	Voir question (a).
II.A.3.2 (a)	Voir question (a).
II.A.3.2 (b)	Voir question (a).
II.A.3.3 (a)	Voir question (a).
II.A.3.4 (a)	Voir question (a).
II.B.1.1 (a)	Sauf indication contraire donnée par la France au pays d'origine, cette notification est faite au Ministère des Affaires Etrangères avec une copie aux points focaux indiqués sur le site des Nations Unies (Commission Economique pour l'Europe). Ainsi, pour les granulats marins, un organisme interministériel regroupant tous les ministères concernés (le conseil général de la mer) a été désigné.
II.B.1.2 (a)	Nous sommes favorables à une notification qui comporte les éléments suivants : - une lettre indiquant la nature du projet, le type de procédure engagé et le délai de réponse ; - un document précisant la nature et les délais de cette procédure ; - le résumé non technique de l'étude d'impact du projet ; - le dossier de demande d'autorisation proprement dit et, surtout, l'étude d'impact.
II.B.1.2 (b)	C'était le cas pour tous les projets notifiés par le Royaume-Uni et les Pays-Bas. Ce document nous paraît devoir rester un cadre commun fixant des règles qui doivent être mises en oeuvre en l'absence d'accords bilatéraux ou de traditions bien établies d'échanges entre pays voisins. Ce ne doit pas être un bordereau obligatoire à remplir.
II.B.1.3 (a)	Notre expérience est très limitée. Dans ces exemples, le délai fixé par la notification n'a pas permis à la France de faire connaître sa position dans des délais compatibles à ceux des procédures concernées pour les projets notifiés par le Royaume-Uni. Notre expérience dans ce domaine montre la difficulté de répondre rapidement. Aussi, supposant qu'il risquait d'en être de même pour les Parties affectées lorsque nous sommes pays d'origine, nous avons introduit dans notre droit la disposition suivante suffisamment souple pour mettre en oeuvre la Convention: « Les délais prévus par les procédures réglementaires applicables aux projets en cause sont augmentés, le cas échéant, pour tenir compte du délai de consultation des autorités étrangères. » (décret du 12 octobre 1977 modifié).
II.B.1.4 (a)	Lorsqu'un projet est notifié à la France, nous avons toujours été informés préalablement, d'une

manière ou d'une autre, soit par nos collègues des ministères en charge de l'environnement, soit par les consultants chargés de préparer le rapport sur les incidences environnementales. Il n'est pas nécessaire de consulter très longtemps pour décider d'une position à prendre, sauf s'il existe un conflit dont l'issue est incertaine, comme par exemple entre l'activité de pêche et l'extraction de granulats dans la mer.

II.B.1.5 (a) Les délais indiqués n'ont pas été suffisants pour que la France réponde dans les délais, pourtant raisonnables, proposés par le Royaume-Uni. Les négociations qui ont été engagées ont abouti, dans un premier temps, à une décision commune de différer toute décision sur les demandes en cours d'instruction avant d'avoir arrêté un cadre commun définissant les conditions générales de l'exploitation des granulats marins dans la Manche. La France n'a pas réussi à définir une position interministérielle complète rapidement de sorte qu'une nouvelle notification a été faite par le Royaume-Uni. Aucune réponse définitive n'a encore été faite au premier projet notifié par le Royaume-Uni.

II.B.1.5 (b) Pour le premier projet notifié par le Royaume-Uni, la France n'a pu répondre dans les délais souhaités. Mais nous ne considérons pas que la question était celle des délais proposés, mais plutôt la difficulté de prendre une position sur des dossiers nouveaux (qu'ils soient anglais ou français) pour lesquels des conflits d'intérêt existent.

II.B.1.5 (c) Nous n'avons rien demandé formellement, mais devant notre incapacité à répondre dans les délais pour ces projets nouveaux et importants, le Royaume-Uni a accepté de reporter plusieurs fois ces délais pour permettre aux discussions de ce poursuivre et de définir une position commune sur les conditions générales d'exploitation des granulats marins dans la Manche.

II.B.1.6 (a) Nous n'avons pas rencontré de problèmes autres que ceux qui sont liés à la mise en place de dispositifs français pour l'instruction des documents qui nous sont transmis (rôle du Ministère en charge de l'environnement et autorité assurant la tutelle du secteur économique concerné, rôle des services locaux). De la même manière, ces projets ont été notifiés à la France alors que la réglementation communautaire n'avait pas été transcrite en droit interne. De plus, la réglementation dans ce secteur est ancienne et relativement mal adaptée. Une révision des procédures correspondantes est en cours en France.

II.B.2.1 (a) Nous avons reçu aucune demande correspondante, sinon dans le cadre de l'instruction de projets d'intérêt commun (ligne ferroviaire nouvelle entre la France et l'Italie par exemple). Pour l'instruction des projets notifiés par le Royaume-Uni, des informations ont été recueillies directement par une antenne du consultant à Paris. Nous disposons par contre d'une expérience dans ce domaine, dans le cadre des organes intergouvernementaux mis en place pour la réalisation de certains grands projets d'intérêt commun ligne ferroviaire, pont ou tunnel par exemple).

II.B.2.2 (a) Le ministère des affaires étrangères, point de contact, doit être destinataire de toutes les notifications et de toutes demandes d'informations complémentaires. Il est souhaitable qu'une copie soit transmise au ministère en charge de l'environnement, point focal. Pour simplifier les choses, le point local se chargerait de la collecte des informations souhaitées, éventuellement auprès d'autres services.

II.B.2.2 (b) Oui

Les ministères ont ce statut de permanence. De la même manière, il existe des organes permanents qui ont été mis en place pour un certain nombre de projets définis chacun par un accord international. Il est possible, à titre d'exemple, de citer les commissions intergouvernementales pour la préparation de la réalisation d'une liaison ferroviaire à grande vitesse entre Lyon et Turin ou pour celle du tunnel du Fréjus entre la France et l'Italie).

II.B.2.3 (a) Dans le cadre des accords internationaux, mis en place à cette fin, nous n'avons jamais éprouvé de difficulté.

II.B.2.3 (b) Dans ces expériences, les échanges portent sur l'ensemble des informations nécessaires à la conception d'un ouvrage (et non la seule dimension « environnement »). Nous échangeons l'ensemble des informations nécessaires. De plus, tout fonctionne sur la base d'une réciprocité.

II.B.2.4 (a) Il existe aucune règle et les pratiques, même limitées, semblent montrer que tout est affaire de cas particuliers, quelques minutes pour répondre à un e-mail plusieurs semaines pour recueillir des informations plus complexes difficiles à mobiliser. L'article 2 du décret du 23 avril 1985 modifié prévoit : « De même, sont soumises aux dispositions des articles L.123-1 et suivants du code de l'environnement, les enquêtes publiques organizées par les autorités françaises lorsqu'elles sont consultées, le cas échéant à leur demande, par un autre Etat membre de l'Union européenne ou partie à la convention d'Espoo, sur un projet localisé sur le territoire de ce dernier et susceptible d'avoir en France des incidences notables sur l'environnement. Ces enquêtes sont alors menées selon les modalités prévues par les dispositions de la section X du

chapitre III du présent décret. »
Il est créé dans le chapitre III du décret du 23 avril 1985 susvisé une section X ainsi rédigée :
« Section X - Enquêtes publiques portant sur des projets localisés sur le territoire d'un autre Etat et susceptible d'avoir en France des incidences notables sur l'environnement
L'enquête publique est effectuée conformément aux articles 9, 10, 10-1, 10-2, 11, 14, 15, 18, 19 et 20 du présent décret, ainsi que selon les modalités suivantes : [...]

II.B.3.1 (a) Le préfet du ou des départements concernés.
« Le préfet saisit, en vue de la désignation d'un commissaire enquêteur ou d'une commission d'enquête, le président du tribunal administratif dans le ressort duquel le projet est susceptible d'avoir les incidences les plus notables et lui adresse, à cette fin, une demande précisant l'objet de l'enquête ainsi que la période d'enquête retenue.
Le président du tribunal administratif ou le membre du tribunal délégué par lui à cet effet désigne dans un délai de quinze jours un commissaire enquêteur ou les membres, en nombre impair, d'une commission d'enquête parmi lesquels il choisit un président.
Un ou plusieurs suppléants peuvent être désignés dans les conditions prévues au présent III ; ils remplacent les titulaires en cas d'empêchement de ces derniers et exercent alors leurs fonctions jusqu'au terme de la procédure. » (Décret du 12 octobre 1977 modifié)

II.B.3.1 (b) Oui
L'arrêté fixant l'organization de l'enquête publique est publié.

II.B.3.1 (c) Cette publication est faite dans deux journaux locaux et, depuis, lorsque le projet concerne des opérations susceptibles d'affecter l'ensemble du territoire dans deux journaux nationaux.

II.B.3.1 (d) Aucune notification n'a été faite dans ce cadre, mais il s'agit d'une procédure calquée sur celle qui est mise en oeuvre pour les projets français et réalisée environ 12 000 fois par an. Les textes réglementaires spécifiques se contentent d'adopter les règles appliquées aux projets français à ces projets localisés sur le territoire d'un autre Etat.

III.A.1.1 (a) Nous ne l'avons jamais fait et nous envisageons difficilement l'intérêt de le faire. Les frontières ne constituent pas un obstacle pour que le pétitionnaire recueil les informations nécessaires pour apprécier les effets de son projet sur l'environnement en dehors du territoire national.

III.A.1.1 (b) Non
La France transmet non seulement des informations sur l'environnement, mais aussi la totalité du dossier relatif au projet (description du projet, étude d'impact, ...).

III.A.1.1 (c) Les alternatives raisonnables sont définies conformément à la législation communautaire comme « les raisons pour lesquelles, notamment du point de vue des préoccupations d'environnement, parmi les parties envisagées qui feront l'objet d'une description, le projet présenté a été retenu ». (Décret du 12 octobre 1977 modifié)

III.A.1.1 (d) C'est l'étude des incidences de projet qui en décide. La désignation de l'aire d'étude est une des phases importantes de la méthodologie d'étude d'impact. Il n'y a pas de règles générales, sinon en terme d'objectif cette aire d'étude doit permettre d'analyser tous les effets notables sur l'environnement. Quant aux composantes de l'environnement qui doivent être prises en compte : « la faune et la flore, les sites et paysages, le sol, l'eau, l'air, le climat, les milieux naturels et les équilibres biologiques, sur la protection des biens et du patrimoine culturel et, le cas échéant, sur la commodité du voisinage (bruits, vibrations, odeurs, émissions lumineuses) ou sur l'hygiène, la santé, la sécurité et la salubrité publique. »

III.A.1.1 (e) Il n'existe pas de difficulté particulière pour l'analyse des effets transfrontière : les méthodes et les ressources sont les mêmes que pour les effets sur le territoire national.

III.A.2.1 (a) Nous avons aucune expérience mais, si la question devait se poser, ceux-ci seraient transmis à l'autorité qui a envoyé le dossier (généralement le préfet de département). Celui-ci devrait alors le transmettre à ceux de ces services qui sont particulièrement concernés.

III.A.2.1 (b) Les points de contact ne sont pas toujours le lieu le plus pertinent. La règle devrait être l'envoi de ces commentaires (qui sont une réponse) à celui qui a transmis les documents.

III.A.2.1 (c) Oui

III.A.2.2 (a) Nous avons fixé cette consultation au même moment que celui où nous consultons les services administratifs concernés et le public en France.

III.A.2.2 (b) Notre expérience est liée à un seul projet, notifié au Royaume Uni. Le dossier a été transmis via le ministère des affaires étrangères et l'ambassade du Royaume Uni en France. Malgré ce retard, la réponse de la Partie affectée nous a été transmise dans des délais compatibles avec ceux de la procédure concernée qui prévoit des délais suffisamment longs. De plus, la France ne pouvait pas autoriser ces projets dans le même temps où elle contestait les projets anglais.

III.A.2.2 (c)	Si la question se posait et si les délais étaient justifiés, nous devrions attendre.
III.A.2.2 (d)	Nous accepterions si la demande était justifiée. Nous ne pourrions envisager de passer outre que si aucun intérêt n'était manifesté malgré un rappel.
III.A.2.3 (a)	Nous n'avons pas d'expérience, mais nous serions tenus de motiver la décision en tenant compte de cet avis.
III.B.1.1 (a)	Dans notre expérience oui. Cela vient certainement du fait que les études d'impact sont de qualité. Leur qualité est, dans les Etats voisins d'une qualité comparable à ce qui est demandé en France. Cela est lié au fait que la plupart de nos voisins appliquent les mêmes règles communautaires et les dispositifs suisse et canadien (pour Saint Pierre et Miquelon) sont de bonne qualité.
III.B.2.1 (a)	Nous avons manifesté d'opposition qu'à une catégorie de projets : les projets liés à l'exploitation des granulats dans la Manche. Cette opposition n'est pas liée au fait que ces projets sont envisagés dans les eaux sous autorité du Royaume Uni. Ces projets qui affectent les ressources piscicoles ont rencontré une forte opposition des pêcheurs, tant sur un projet français que sur les projets britanniques. Nous avons engagé des discussions bilatérales avec les autorités du Royaume-Uni qui se poursuivent.
III.B.2.2 (a)	La doctrine n'est pas définitivement fixée. Le point de contact (Ministère des Affaires Etrangères) reçoit la notification et décide de qui instruira la demande en liaison avec le Ministère en charge de l'environnement. Il nous semble important, dans ce domaine de préciser les choses dans le cadre d'accords bilatéraux. L'essentiel reste l'information, en même temps que la notification du point focal qui peut, informellement, intervenir plus rapidement.
III.B.2.2 (b)	Oui Ces commentaires sont transmis, en retour, à l'autorité qui a transmis le dossier d'évaluation et donc la notification puisque ces deux phases ne sont pas dissociées.
III.B.2.3 (a)	La Partie d'origine est la seule à décider du moment de cette notification.
III.B.2.3 (b)	Nous l'avons fait pour plusieurs projets relatifs à l'exploitation des granulats marins dans la Manche. Le Royaume-Uni a accepté le bien fondé de ces demandes.
III.B.2.4 (a)	Nous disposons d'une expérience limitée à un seul type de projet. Nos demandes ont été prises en compte et des réponses ont été fournies.
IV.A.1.1 (a)	Nous l'avons déjà indiqué : il existe une seule phase qui regroupe « notification » et transmission du « dossier d'évaluation de l'impact de l'environnement ». Il s'agit donc de l'autorité responsable de l'instruction de la demande d'autorisation : le préfet au niveau local et le Ministre au niveau national. Nous n'avons donc aucun commentaire nouveau à apporter dans cette partie du questionnaire.
IV.A.1.1 (b)	Idem.
IV.A.1.1 (c)	Idem.
IV.A.1.1 (d)	Idem.
IV.A.1.2 (a)	Idem.
IV.A.1.2 (b)	Idem.
IV.A.1.2 (c)	Idem.
IV.A.1.2 (d)	Idem.
IV.B.1.1 (a)	Nous l'avons déjà indiqué : il existe une seule phase qui regroupe « notification » et transmission du « dossier d'évaluation de l'impact sur l'environnement ». Nous n'avons donc aucun commentaire nouveau.
IV.B.1.1 (b)	Idem.
IV.B.1.1 (c)	Idem.
IV.B.1.1 (d)	Idem.
IV.B.1.2 (a)	Idem.
IV.B.1.2 (b)	Idem.
IV.B.1.2 (c)	

	Idem.
V.A.1.1 (a)	La France a accompagné sa ratification de la convention par une déclaration interprétative précisant que « la convention implique qu'il appartient à chaque partie de pourvoir, sur son territoire, à la mise à disposition du public du dossier d'évaluation de l'impact sur l'environnement, à l'information du public et au recueil de ses observations, sauf arrangement bilatéral différent ». Comme pays d'origine nous nous limitons à transmettre le dossier, à répondre à toute demande de la Partie affectée. Dans le dossier transmis, une pièce indique les modalités de participation du public pour le projet en cause
V.A.1.1 (b)	Sans objet.
V.A.1.2 (a)	Sans objet.
V.A.1.2 (b)	Sans objet.
V.A.1.2 (c) (i)	Sans objet.
V.A.1.2 (c) (ii)	Sans objet.
V.A.1.2 (c) (iii)	Sans objet.
V.A.1.2 (d)	Sans objet.
V.A.1.2 (e)	Sans objet.
V.A.2.1 (a)	Sans objet.
V.A.2.1 (b)	Sans objet.
V.A.2.1 (c)	Sans objet.
V.B.1.1 (a)	Nous assurons nous même cette participation du public sur le territoire national. Nous avons introduit récemment dans notre droit national un ensemble de règles pour organizer l'enquête publique des projets qui affectent le territoire français. Ce droit est très récent et nous n'avons aucune expérience de sa mise en oeuvre.
V.B.1.1 (b)	Arrêté d'organization d'enquête. Le préfet, après consultation du commissaire enquêteur ou du président de la commission d'enquête, précise par arrêté: 1° L'objet de l'enquête, la date à laquelle celle-ci sera ouverte et sa durée, qui ne peut ni être inférieure à un mois ni, sauf prorogation d'une durée maximum de quinze jours décidée par le commissaire enquêteur ou par la commission d'enquête, ne pourra excéder deux mois. 2° Les lieux, ainsi que les jours et heures où le public pourra consulter le dossier d'enquête et présenter ses observations sur le registre ouvert à cet effet. 3° Les noms et qualités du commissaire enquêteur ou des membres de la commission d'enquête et de leurs suppléants éventuels. 4 Les lieux, jours et heures où le commissaire enquêteur ou un membre de la commission d'enquête se tiendra à la disposition du public pour recevoir ses observations. 5° Les lieux où, a l'issue de l'enquête, le public pourra consulter le rapport et les conclusions du commissaire enquêteur ou de la commission d'enquête.
V.B.1.1 (c)	Non
V.B.1.1 (d)	Oui. Nous avons le sentiment que les règles relatives à la participation du public (encadrée par le même texte communautaire pour la plupart de nos voisins) sont d'égale qualité des deux côtés de nos frontières.
V.B.1.2 (a)	La participation du public est organizée dans le cadre de la législation du pays dans lequel elle est conduite.
V.B.2.1 (a)	La réglementation française existe depuis 2003, mais elle n'a encore jamais été mise en oeuvre.
V.B.2.1 (b)	Nous n'avons pas d'expérience, mais dans notre compréhension de la convention c'est à la partie affectée de tirer les conséquences de cette participation du public et de faire connaître les conclusions du commissaire enquêteur chargé de l'enquête en même temps que son avis sur le projet qui a été modifié.
VI.A.1.1 (a)	La seule modalité réglementaire de cette consultation en droit français est celle qui concerne l'allongement des procédures. Notre expérience semble montrer que lorsque les projets font l'objet d'un désaccord réel, ces consultations doivent se poursuivre aussi longtemps qu'un accord n'a pas été obtenu entre les deux parties. Nous n'avons pas d'expérience concernant plus de deux parties.

VI.A.1.1 (b) Non
C'est une situation qu'il ne faut pas exclure. Ainsi, la France notifie un projet, accompagné de l'étude de ses impacts sur l'environnement, la partie affectée ne répond pas ou indique qu'elle n'a pas d'observation particulière. Nous considérerons dans ces conditions, que l'instruction de ce dossier peut se poursuivre.

VI.A.1.2 (a) Nous n'avons aucune règle et, gardons toujours à l'esprit qu'il est aussi difficile (et souvent long) à un pays affecté par un projet français de donner son avis qu'à la France sur un projet étranger.

VI.A.1.2 (b) Sur plusieurs dossiers (français et britanniques) relatifs à l'exploitation des granulats marins dans la Manche ce « délai raisonnable » se prolonge depuis 2001. Nous nous gardons bien toutefois de faire de ce cas particulier une règle générale.

VI.A.2.1 (a) Ces trois points étant, lorsqu'ils sont pertinents (« possibles », « pourraient », « envisageables », etc...) se trouvent dans l'étude d'impact ou le projet lui-même et sont, à ce titre, pris en compte.

VI.A.2.1 (b)
Le point « toute autre question » est assez large pour que rien ne soit oublié.

VI.A.2.2 (a)

VI.A.2.2 (b) La consultation n'implique pas obligatoirement une réunion. Cette solution ne semble nécessaire que pour des projets très sensibles (l'exploitation des granulats dans la Manche pour la France par exemple). Au cas particulier, une réunion a été organizée en France.

VI.A.2.2 (c) Notre expérience nous permet difficilement de généraliser. Toutefois, si une réunion est organizée, elle semble impliquer la présence de représentant des ministères en charge :
- de l'environnement ;
- du secteur économique concerné ;
- des affaires étrangères.

VI.A.2.2 (d) L'ensemble des moyens peut être envisagé, selon les niveaux de responsabilité du courrier et du téléphone à des lettres ou des réunions plus au moins formelles.

VI.A.2.2 (e) Pour la France, il existe une procédure en deux phases principales :
- la notification accompagnée de l'étude d'impact du projet ;
- les concertations, demandes et échanges d'information qui suivent et sont de nature et d'ampleur très différentes selon les projets.

VI.B.1.1 (a) Notre expérience est exactement symétrique à celle du pays d'origine puisqu'elle est limitée à un type de projets (exploitation de granulats marins) avec le Royaume-Uni. La France est, selon les projets, à la fois pays d'origine et pays affecté. Les réponses sont donc, sauf mentions contraires les mêmes que celles relatives à la situation comme partie d'origine.

VI.B.1.1 (b) Oui
Cette situation semble difficile à imaginer. Il faudrait d'abord demander à être consulté.

VI.B.2.1 (a) Idem question 2.1 (VI)

VI.B.2.1 (b) Oui
Idem question 2.1 (VI)

VI.B.2.2 (a) Mon pays

VI.B.2.2 (b) Dans cette situation, la France pays affecté, prendra tous les moyens nécessaires pour consulter, appliquant en la matière les règles qui seraient appliquées aux projets français. Cette consultation peut être faite à plusieurs niveaux, mais c'est un ministère, à qui le dossier a été confié, qui devra en décider.

VI.B.2.2 (c) Lorsqu'un dossier lui est transmis la France consulte les services concernés par le projet. Nous n'avons pas de règles en la matière, sinon d'appliquer les mêmes règles que pour les projets nationaux pour organizer cette consultation. Ainsi, pour les projets d'extraction de granulats marins qui nous ont été transmis, la consultation a été, dans le cadre d'une structure interministérielle ad hoc, tous les départements ministériels concernés (agriculture et pêche, transport maritime, industrie, intérieur, affaires étrangères, etc.).

VI.B.2.2 (d) D'une manière générale, il s'agit d'une consultation formelle écrite. Le service en charge du dossier s'adresse aux collègues des autres ministères à qui il demande leur avis. Une ou des réunions peuvent être nécessaires.

VI.B.2.2 (e) Cette consultation intervient après qu'un projet ait été notifié, à la convenance du pays affecté, aussi souverain dans la conduite de ces consultations administratives que pour l'organization de la participation du public.

VII.A.1.1 (a) En droit français, toute décision doit être motivée. L'article 7 du décret sur les études d'impact prévoit l'obligation de mettre à la disposition du public la teneur de la décision d'octroi ou de refus d'autorisation du projet, en indiquant d'une part les motifs ou considérations qui ont

	fondés cette décision, d'autre part les conditions dont elle est assortie ainsi que, le cas échéant, la description des mesures destinées à supprimer, réduire et, si possible compenser les effets du projet sur l'environnement. Le résultat des consultations transfrontières en fait partie.
VII.A.1.1 (b)	La décision comporte naturellement des indications sur les travaux ou le fonctionnement autorisé et, éventuellement, des prescriptions particulières.
VII.A.1.1 (c)	Nous avons autorisé aucun projet pour lequel une consultation transfrontière préalable ait été organizée.
VII.A.1.1 (d)	Nous avons aucune expérience dans ce domaine. Une décision semblable impliquerait, sauf situation particulière, le paiement d'indemnités au bénéficiaire.
VII.A.1.1 (e)	Nous n'avons, à ce jour, autorisé aucun projet pour lequel nous aurions engagé une procédure de consultation transfrontière dans le cadre de la mise en oeuvre de cette convention que nous avons ratifiée avec retard.
VII.A.1.1 (f)	Nous n'avons pas d'expérience.
VII.A.1.1 (g)	Idem
VII.A.1.2 (a)	Idem. Nous transmettrons cette décision au point de contact désigné par le pays affecté et des copies aux autres intervenants éventuels que la concertation aura révélé. De plus, une information est organizée sur cette décision.
VII.A.1.2 (b)	Idem. Mais, il nous semble évident que ces autorisations, qui ne diffèrent pas des autres autorisations (dont plusieurs milliers sont délivrées chaque année) auraient été modifiées depuis longtemps si tel était le cas.
VII.A.1.2 (c)	Les conditions de la publication de la décision finale (Journal Officiel ou recueil des actes administratifs départementaux) sont définies dans le cadre de chaque procédure d'autorisation. De plus, « L'information du public prévue à l'article L.122-1 du code de l'environnement est assurée par l'autorité compétente selon les modalités prévues par les dispositions réglementaires applicables à l'aménagement ou à l'ouvrage projeté. A défaut de telles dispositions, cette information est faite par une mention insérée dans deux journaux diffusés dans le ou les départements intéressés ; pour les opérations d'importance nationale, elle est faite en outre dans deux journaux à diffusion nationale. » (Décret du 12 octobre 1977 modifié)
VII.A.2.1 (a)	La décision serait transmise au point de contact du pays affecté et copies aux services qui seraient intervenus lors des concertations, par lettre. Pour le reste, les services de l'état dans le cadre du contrôle de la légalité des décisions des tribunaux administratifs et les tribunaux, s'ils étaient saisis, interviendraient.
VII.A.2.1 (b)	L'autorité compétente pour délivrer l'autorisation (ministre, préfet, collectivités territoriales) selon les procédures, serait chargée de cette transmission.
VII.A.2.1 (c)	Nous n'avons pas d'expérience.
VII.A.3.1 (a)	La convention ne prévoit aucune disposition dans ce domaine. Seul le droit général français est applicable. Il prévoit aucune modalité particulière pour les contentieux liés à l'environnement ou aux effets transfrontières des projets.
VII.A.3.2 (a)	Idem.
VII.A.3.3 (a)	Idem.
VII.B.1.1 (a)	Nous n'avons pas d'expérience.
VII.B.2.1 (a)	L'autorité désignée comme point de contact, sauf arrangement bilatéral différent, mais il s'agit d'une décision de la Partie d'origine.
VII.B.2.1 (b)	L'article 6 ne nous semble pas formuler cette exigence.
VII.B.2.1 (c)	Nous n'avons pas d'expérience.
VII.B.2.1 (d)	Idem
VII.B.3.1 (a)	Oui Cette convention ne prévoyant aucune disposition sur l'accès à la justice, seul le droit national dans le pays d'origine nous semble applicable.
VII.B.3.1 (b)	Nous n'avons pas d'expérience.
VII.B.3.3 (a)	Idem.
VII.B.3.3 (b)	Idem.
VII.B.3.4 (a)	Dans des délais raisonnables après réception du dossier notifié par la partie d'origine.
VIII.A.1.1 (a)	Nous avons aucune expérience. Toutefois, dans le cadre de la concertation en cours sur les projets d'exploitation de granulats dans la Manche, cette question est au centre des discussions.
VIII.A.1.1 (b)	L'analyse des impacts du projet a posteriori (ou ex-post) est exigée pour environ la moitié des projets qui font l'objet d'une étude d'impact.
VIII.A.1.1 (c)	L'analyse des impacts du projet a posteriori (ou ex-post) est exigée, au titre de plusieurs

	réglementations, pour les projets d'installations classées pour la protection de l'environnement, les installations soumises à autorisation au titre de la loi sur l'eau, les grands projets d'infrastructures de transport, les projets miniers.
VIII.A.1.1 (d)	Nous n'avons aucune expérience.
VIII.A.1.1 (e)	Idem.
VIII.A.1.2 (a)	
VIII.A.1.2 (b)	
VIII.A.1.2 (c)	
VIII.A.1.2 (d)	
VIII.A.1.2 (e)	
VIII.A.1.2 (f)	Idem.
VIII.A.2.1 (a)	Idem.
VIII.A.2.1 (b)	Idem.
VIII.A.2.2 (a)	Idem.
IX.A.1.1	Nous avons aucune dispositions réglementaires.
IX.A.1.2	Idem.
IX.A.1.3	Idem.
IX.A.1.4	Idem.
IX.A.2.1 (a)	Idem.
IX.A.2.1 (b)	Idem.
IX.A.2.1 (c)	Idem.
IX.A.2.2 (a)	Idem.
IX.A.2.2 (b)	Idem.
IX.A.2.2 (c)	Idem.
IX.A.2.2 (d)	Idem.
IX.A.2.3 (a)	Idem.
IX.A.3.1 (a)	Idem.
IX.A.3.1 (b)	Bonne.
IX.A.3.1 (c)	Oui, pour des projets qui n'ont pas fait l'objet d'une participation du public. Dans l'hypothèse d'une mise à la disposition du public de ces projets la question se reposerait peut-être.
X.A.1.1 (a)	Ces points de contact sont indispensables. Leur fonction consiste à transmettre le dossier au service qui sera chargé de son instruction. Ce « guichet unique » est indispensable pour éviter que les dossiers soient mal transmis et se perdent.
X.A.1.1 (b)	Nous n'avons pas d'accords bilatéraux autres que relatifs à des projets particuliers. Dans ce cas, un interlocuteur différent du point de contact existe. De la même manière, après un premier contact, des liens directs s'établissent entre les services en charge du dossier dans le pays d'origine et le ou les pays affectés.
X.A.1.1 (c)	Il convient de mettre parallèlement en avant le rôle du point focal.
XI.A.1.1 (a)	Nous n'avons pas d'expérience dans ce domaine.
XII.1.1 (a)	Nous n'avons pas d'expérience dans ce domaine.
XIII.A.1.1 (a)	Des traités internationaux pour la réalisation, le plus souvent d'infrastructures linéaires, permettent de mettre en oeuvre l'article 8 de la Convention. Ces accords ne sont pas basés sur la convention, mais ils intègrent, à côté d'autres règles, les dispositions pour vérifier que les deux parties partagent l'analyse des impacts sur l'environnement de projets d'intérêt commun.
XIII.A.1.1 (b)	Il s'agit d'accords liés à la réalisation de projets dont la réalisation implique l'accord de deux parties : - soit par rapport à leur emprise territoriale (aéroport de Genève) ; - soit par rapport à leur gestion (aéroport de Bâle) ; - soit par rapport à leur caractère linéaire transfrontière (pont, tunnel, route, voies ferrées, lignes électriques, pipelines,...)
XIII.A.1.1 (c)	Le point commun est qu'ils mettent en oeuvre les objectifs environnementaux de cette convention, la différence principale est qu'ils sont relatifs à un seul projet.
XIII.A.1.1 (d)	Au titre de cette convention, aucun accord n'a été signé. L'existence d'autres traités dans ce domaine rend improbable une initiative en ce sens.
XIV.1.1 (a)	Nous avons entrepris aucun programme de recherche au titre de cette Convention.
XV.A.1.1 (a)	Ces réponses reposent sur la mise en oeuvre des projets dont l'impact est suffisamment important pour qu'une procédure particulière soit mise en oeuvre. A côté de ces projets

	« importants » il faut tenir compte de la situation de projets « moins importants » mais dont la situation, en limite des parties du territoire naturel non accidenté (tranche avec la Belgique, le Luxembourg, une partie de la Suisse, de l'Italie et de l'Espagne) qui rend nécessaire une procédure complémentaire. Il est clair, dans ces conditions, qu'il existe ne serait-ce qu'en application du principe de précaution, des différences importantes dans les modalités de mise en oeuvre de la Convention.
XV.A.1.1 (b)	Deux départements ministériels concourent au suivi de cette Convention (le Ministère des affaires étrangères - Direction des Nations-Unies des organizations non gouvernementales et le Ministère de l'environnement et du développement durable - DGAFAI/SAI et DEEEE [Direction générale de l'administration, des finances et des affaires internationales (Service des affaires internationales) et direction des études économiques et de l'évaluation environnementale].
XV.A.1.1 (c)	Non
XV.A.1.1 (d)	Non
XV.A.1.1 (e)	Nous avons évoqué plusieurs fois la question : elle est réglée dans le cadre d'accords bilatéraux qui concrétisent la volonté de deux ou plusieurs gouvernements à réaliser un projet commun. La question reste toutefois débattue avec certains pays pour l'utilisation de l'article 8.
XVI.A.1.1 (a)	Oui Ce questionnaire est beaucoup trop long et détaillé. Les informations qui en seront tirées risquent d'être suspectes en l'absence d'une explicitation du contexte. Une simplification importante est indispensable.
XVI.A.1.2	Nous n'avons pas rencontré de difficulté particulière.
XVI.A.1.3	C'est une question à laquelle il n'est pas possible de répondre d'une manière générale, seulement au cas par cas. Notre sentiment général est, toutefois que le texte de la Convention, a été rédigé en des termes suffisamment larges pour permettre la mise en oeuvre des principes qu'il introduit dans toutes les situations et intégrer ainsi l'environnement dans la prévention des conflits entre Etats (le plus souvent voisins, mais pas uniquement). Nous sommes donc, d'une manière générale, favorables à la multiplication des guides, à conditions qu'ils résultent de l'examen critique des pratiques et ne se limitent pas à prolonger le texte, souvent non normatif de la convention, par d'autres « règles » pas plus opposables.
XVI.A.1.4	Il est beaucoup trop long, beaucoup trop répétitif pour des phases de la procédure que la pratique conduit à simplifier.

ANNEX V – RESPONSE TO THE QUESTIONNAIRE FROM KYRGYZSTAN (IN RUSSIAN)

I.A.1.1 (a)	Перечень деятельности, требующей процедуры ОВОС, изложен в “Инструкции о порядке проведения ОВОС на окружающую среду (ОВОС) в Кыргызской Республике Этот перечень идентичен перечню определенному Конвенцией. Кроме того существует перечень видов деятельности, исключаемых из проведения ОВОС.
I.A.1.2 (a)	В данной ситуации возможны консультации заинтересованных сторон.
I.A.1.3 (a)	При отсутствии в указанном перечне , объектов подлежащих ОВОС, возможны консультации с затрагиваемой стороной. Законодательство отсутствует. Такие случаи на имели место быть.
I.A.1.4 (a)	Опыт отсутствует.
I.A.2.1 (a)	Национальное законодательство Кыргызстана в области ОВОС предусматривает запрет начала реализации проекта деятельности, подлежащей ОВОС без наличия положительного заключения государственной экологической экспертизы. В случае трансграничного воздействия , согласно международных Соглашений, осуществляется совместная экологическая экспертиза таких объектов.
I.A.2.2 (a)	По данной ситуации отсутствует практический опыт.
II.A.1.1 (a)	В настоящее время отсутствует механизм уведомления. Специально уполномоченный орган в области охраны окружающей среды.
II.A.1.1 (b)	Нет
II.A.1.1 (c)	Да Опыт отсутствует. Но ведутся работы по выработке механизма передачи уведомления в том числе.
II.A.1.2 (a)	Ограничение сроков проведения и рассмотрения ОВОС органами управления, что не позволяет осуществить уведомление и провести совместные действия.
II.A.1.2 (b)	Опыт отсутствует.
II.A.1.2 (c)	Нет
II.A.1.2 (d)	На практике был пример уведомления, когда страна не являлась стороной Конвенции и формат уведомления был произвольный.
II.A.1.2 (e)	Опыт отсутствует.
II.A.1.3	По вышеназванной причине не представляется возможным определить сроки уведомления.
II.A.1.4	Нет Национальное законодательство предусматривает на 3-ем этапе ОВОС “Выявление предполагаемых последствий” проведение общественных слушаний.
II.A.1.5 (a)	Опыт отсутствует.
II.A.1.6 (a)	Сроки могут зависеть от установленных сроков инициатора проекта.
II.A.1.6 (b)	1. Наличие механизма взаимодействия. 2.Ограничения по срокам подготовив и рассмотрения вышестоящими органами управления.
II.A.1.6 (c)	Опыт отсутствует.
II.A.1.6 (d)	Не учетом их мнения.,
II.A.1.6 (e)	Решение данного вопроса будет в каждом конкретном случае рассматриваться отдельно.
II.A.1.7	Не определен механизм уведомления затрагиваемой стороны. Вышестоящие органы исполнительной власти зачастую диктуют сроки проведения и рассмотрения ОВОС по объектам, оказывающим воздействия на окружающую среду.
II.A.2.1 (a)	Нет
II.A.2.1 (b)	Необходимость в информации определяется рассматриваемым объектом и наличием

	необходимого объема информации у стороны происхождения о затрагиваемой окружающей среде затрагиваемой стороны.
II.A.2.2 (a)	Отсутствует какой-то специализированный орган по взаимодействию. Возможно организовать запрос должен инициатор проекта или разработчик ОВОС или компетентный орган.
II.A.2.2 (b)	Опыт отсутствует. При выработке механизма взаимодействия необходимо определить порядок запроса. Возможно информацией обладает компетентный орган.
II.A.2.3 (a)	Объем информации необходимый для проведения ОВОС изложен в Инструкции и порядке проведения ОВОС. Запрашиваемый объем зависит от наличия существующей базы данных и в каждом конкретном случае будет рассматриваться отдельно.
II.A.2.3 (b)	Опыт отсутствует.
II.A.2.4 (a)	В нашем понимании запрашиваемая информация должна быть предоставлена , так как затрагиваемая сторона в первую очередь заинтересована в ее использовании разработчиками ОВОС в целях уменьшения воздействий.
II.A.2.5 (a)	Опыт отсутствует.
II.A.3.1 (a)	Общественность, условия жизни которой мог быть затронуты планируемой деятельностью
II.A.3.1 (b)	Инициатор проекта организует и осуществляет общественные слушания.
II.A.3.1 (c)	Для уведомлен общественности используются как СМИ, так и проведение “Круглых столов”, через местные госадминистрации и др.
II.A.3.1 (d)	Опыт отсутствует, но согласно заключенных международных Соглашений, существующие положения их предусматривают информирование затрагиваемой стороны о намечаемой хозяйственной деятельности.
II.A.3.2 (a)	Информация содержит основные направления деятельности и приглашение для обсуждения.
II.A.3.2 (b)	Нет Нельзя ответить однозначно, да или нет. Информация зависит от планируемой деятельности, насколько она задевает интересы обоих сторон.
II.A.3.3 (a)	Этап 3 Выявление экологических последствий.
II.A.3.4 (a)	Трудности организационного характера. Отсутствие процедуры.
II.B.1.1 (a)	Опыт отсутствует.
II.B.1.2 (a)	Опыт отсутствует.
II.B.1.2 (b)	Опыт отсутствует.
II.B.1.3 (a)	Сроки должны быть установлены для реального рассмотрения и принятия решения.
II.B.1.4 (a)	В Кыргызстане вопросы разработки ОВОС возложены на инициатора проекта. Вопросы государственной экологической экспертизы на специально уполномоченный орган по проведению ГЭЭ т.е. Министерство экологии и чрезвычайных ситуаций.
II.B.1.5 (a)	Опыт отсутствует. Но считаем , что для ответа должны быть сроки строго регламентированы, так как планирование и реализация проекта также строго регламентирована по срокам как правило.
II.B.1.5 (b)	Опыт отсутствует. Но как и любой срыв сроков исполнения ведет к непредсказуемым последствиям , вплоть до неучтения мнения.
II.B.1.5 (c)	Опыт отсутствует.
II.B.1.6 (a)	Опыт отсутствует.
II.B.2.1 (a)	Опыт отсутствует.
II.B.2.2 (a)	“Специально уполномоченный орган , ответвленный за исполнением обязательств по выполнению Конвенции.”
II.B.2.2 (b)	Да Опыт отсутствует.
II.B.2.3 (a)	Опыт отсутствует.
II.B.2.3 (b)	Согласно Закона КР “О гарантиях и свободе доступа к информации” регламентируется понятие
II.B.2.4 (a)	Опыт отсутствует. Участие в процессе ОВОС должны быть заинтересованы обе стороны, в целях определения возможных последствий на ранних стадах принятия решений, поэтому информация, которая необходима для проведения оценки последствий должны быть предоставлена , если она не относится к информации с ограничениями.
II.B.3.1 (a)	Инициатор проекта совместно с органами местных гос администраций.
II.B.3.1 (b)	Нет Уведомление общественности организовано через СМИ, местные органы

	Госадминистрации.
II.B.3.1 (c)	СМИ
II.B.3.1 (d)	Отсутствие четкой процедуры. В настоящее время ведется работа над ней Министерством совместно с НПО
III.A.1.1 (a)	
III.A.1.1 (b)	Нет Значительный опыт отсутствует, но имело место быть проектирование предприятия, материалы по которому рассматривались совместно.
III.A.1.1 (c)	Существующая нормативная база содержит требования по приведению в ОВОС альтернативных вариантов, которые предусматривают варианты по размещению, по технологии и не исключается “нулевой вариант”.
III.A.1.1 (d)	Понятийный термин “Окружающая среда” дан в основном законе КР Об охране окружающей среды., согласно которого окружающая среда- это среда обитания человека, биосфера, служащая средством и местом жизни человека и других живых организмов, включая природу, как систему естественных экологических систем и ту часть естественной среды , которая преобразована в результате деятельности человека.
III.A.1.1 (e)	Опыт отсутствует.
III.A.2.1 (a)	Опыт отсутствует.
III.A.2.1 (b)	Специальный Координационный центр в Кыргызстане отсутствует. Замечания согласно законодательства могут быть переданы либо через инициатора проекта специально уполномоченному органу в области ОВОС или ГЭЭ(МЭиЧС КР) . Так как окончательное заключение в области ОВОС выдает МЭиЧСКР.
III.A.2.1 (c)	Да
III.A.2.2 (a)	Законодательством КР установлены сроки Проведения ГЭЭ от3\х дней до 3-х месяцев.
III.A.2.2 (b)	Опыт отсутствует.
III.A.2.2 (c)	Не учетом их мнения.
III.A.2.2 (d)	В каждом конкретном случае принимается решение. При наличии возможности сроки продлеваются.
III.A.2.3 (a)	Учитываются только обоснованные замечания.
III.B.1.1 (a)	Опыт отсутствует.
III.B.2.1 (a)	Опыт отсутствует.
III.B.2.2 (a)	Специально уполномоченный орган по охране окружающей среды и местные госадминистрации.
III.B.2.2 (b)	Да Обратная связь, аналогична встречной. Опыт отсутствует
III.B.2.3 (a)	Как правило проведение ГЭЭ должно идти параллельно , но замечания должны поступить до принятия окончательного решения и еще должно быть зарезервировано время для снятия замечаний.
III.B.2.3 (b)	Опыт отсутствует.
III.B.2.4 (a)	Опыт отсутствует.
IV.A.1.1 (a)	Инициатор проекта.
IV.A.1.1 (b)	Нет Опыт отсутствует. По договоренности сторон.
IV.A.1.1 (c)	Прямое общение
IV.A.1.1 (d)	Опыт отсутствует.
IV.A.1.2 (a)	Инициатор проекта
IV.A.1.2 (b)	Нет Опыт отсутствует.
IV.A.1.2 (c)	 Да Да Нет
IV.A.1.2 (d)	Опыт отсутствует.
IV.B.1.1 (a)	Специально уполномоченный орган в области охраны окружающей среды
IV.B.1.1 (b)	Да По договоренности со стороной происхождения,
IV.B.1.1 (c)	Опыт отсутствует.
IV.B.1.1 (d)	Опыт отсутствует.

IV.B.1.2 (a)	Инициатор проекта
IV.B.1.2 (b)	Нет Опыт отсутствует.
IV.B.1.2 (c)	 Да Да
V.A.1.1 (a)	Возможности равноценны. Возможности зависят от установленных процедур по привлечению общественности к участию и ее активности.
V.A.1.1 (b)	Опыт отсутствует. Но согласно нормативных актов представляется для обсуждения на 3-ем этапе пр выявлении экологических последствий. представляется полный пакет документов по проекту и результатам исследований.
V.A.1.2 (a)	Инициатор проекта.
V.A.1.2 (b)	Нет Участие общественности организовывается либо через СМИ, либо через местные госадминистрации с помощью НПО.
V.A.1.2 (c) (i)	Опыт отсутствует.
V.A.1.2 (c) (ii)	Если отсутствуют проблемы со свободным пересечением границ.
V.A.1.2 (c) (iii)	Опыт отсутствует.
V.A.1.2 (d)	-
V.A.1.2 (e)	Пересечение границ, общественная пассивность, необоснованность требований к проекту.
V.A.2.1 (a)	Опыт отсутствует. Существует опыт с помощью участия НПО, причем не совсем проживающих на затрагиваемой территории.
V.A.2.1 (b)	Общественность способна предоставить специфическую информацию о территории на которой она проживает, о которой может не знать разработчик, выявить и зафиксировать возможные неблагоприятные отдаленные последствия. Кроме того, общественность не под властна органам власти, с ее мнением органы власти вынуждены считаться и учитывать, если они конечно обоснованы.
V.A.2.1 (c)	Учитывается только обоснованные предложения.
V.B.1.1 (a)	Опыт отсутствует.
V.B.1.1 (b)	Опыт отсутствует.
V.B.1.1 (c)	Опыт отсутствует.
V.B.1.1 (d)	Возможности должны быть равнозначными.
V.B.1.2 (a)	Согласно действующему законодательству и международным двухсторонним и трехсторонним соглашениям Стороны должны информировать и проводить совместные действия например ГЭЭ по объектам имеющих трансграничное воздействие. Но опыт отсутствует.
V.B.2.1 (a)	Да -
V.B.2.1 (b)	Опыт отсутствует.
VI.A.1.1 (a)	Опыт отсутствует.
VI.A.1.1 (b)	Нет -
VI.A.1.2 (a)	Опыт отсутствует.
VI.A.1.2 (b)	Опыт отсутствует.
VI.A.2.1 (a)	Опыт отсутствует.
VI.A.2.1 (b)	Нет -
VI.A.2.2 (a)	-
VI.A.2.2 (b)	Опыт отсутствует.
VI.A.2.2 (c)	Опыт отсутствует. Но в обязанности органов власти должно входить содействие и обеспечение встреч, определение сроков консультаций и участия общественности и представления замечаний.
VI.A.2.2 (d)	Опыт отсутствует. Не исключены оба способа.
VI.A.2.2 (e)	на этапе выявления экологических последствий.
VI.B.1.1 (a)	Опыт отсутствует.
VI.B.1.1 (b)	Нет -

VI.B.2.1 (a)	Опыт отсутствует. Возможно необходимо оговаривать организационные вопросы.
VI.B.2.1 (b)	Да Организационные вопросы
VI.B.2.2 (a)	-
VI.B.2.2 (b)	Опыт отсутствует.
VI.B.2.2 (c)	Опыт отсутствует. Но для участия в консультациях должны участвовать органы власти, местного управления, инициатор проекта.
VI.B.2.2 (d)	Опыт отсутствует. Оба способа приемлемы.
VI.B.2.2 (e)	На этапе выявления экологических последствий.
VII.A.1.1 (a)	Опыт отсутствует. Окончательное решение должно быть обосновано достаточно. В случае отклонения каких-то предложений или замечаний ил в целом проекта от реализации должны быть аргументировано обоснованы причины отклонения.
VII.A.1.1 (b)	Опыт отсутствует.
VII.A.1.1 (c)	Опыт отсутствует.
VII.A.1.1 (d)	Нет
VII.A.1.1 (e)	Опыт отсутствует. Внесение дополнений и изменений возможно на всех стадиях, если они достаточно серьезно обоснованы.
VII.A.1.1 (f)	Да
VII.A.1.1 (g)	Опыт отсутствует.
VII.A.1.2 (a)	Местным органам власти , специально уполномоченному органу и инициатору проекта..
VII.A.1.2 (b)	Опыт отсутствует.
VII.A.1.2 (c)	В зависимости от рассматриваемого объекта, доступности для широкого обозрения..
VII.A.2.1 (a)	Опыт отсутствует. Используются те же канал связи, что и при совместной работе на других стадиях общения.
VII.A.2.1 (b)	Опыт отсутствует. Инициатор проекта, специально уполномоченный орган, местный орган самоуправления
VII.A.2.1 (c)	Опыт отсутствует.
VII.A.3.1 (a)	Опыт отсутствует.
VII.A.3.2 (a)	
VII.A.3.3 (a)	
VII.B.1.1 (a)	Опыт отсутствует. Сторона происхождения может представить заключение ГЭЭ по данному объекту, если оно не имеет ограничений для ознакомления.
VII.B.2.1 (a)	Специально уполномоченный орган, инициатор проекта , местные органы власти.
VII.B.2.1 (b)	Пути информирования включают проведение “Круглых столов”, встреч, изложением в печати.
VII.B.2.1 (c)	Опыт отсутствует.
VII.B.2.1 (d)	Нет
VII.B.3.1 (a)	
VII.B.3.1 (b)	Не всегда.
VII.B.3.3 (a)	Уведомление общественности осуществляется путем выпуска информационных бюллетеней, проведения “Круглых столов”, встреч, на которых излагается информация о планируемой деятельности, включая достоинства и недостатки проекта непредвиденных.
VII.B.3.3 (b)	Информация практически должна быть идентичной, но может зависеть от уровня вредного воздействия на Стороны
VII.B.3.4 (a)	На этапе выявления экологических последствий. Сроки должны быть установлены с учетом возможных непредвиденных ситуаций и согласовываться с общими сроками.
VIII.A.1.1 (a)	Проведение после проектного анализа предусмотрено нормативным актом по проведению ОВОС, как обязательный элемент продолжения ОВОС.
VIII.A.1.1 (b)	Нет
VIII.A.1.1 (c)	Нормативными актами не конкретизированы виды проектов.
VIII.A.1.1 (d)	Опыт отсутствует.
VIII.A.1.1 (e)	Опыт отсутствует.
VIII.A.1.2 (a)	Да
VIII.A.1.2 (b)	
VIII.A.1.2 (c)	Да
VIII.A.1.2 (d)	Да
VIII.A.1.2 (e)	

VIII.A.1.2 (f)	
VIII.A.2.1 (a)	Опыт отсутствует.
VIII.A.2.1 (b)	Опыт отсутствует.
VIII.A.2.2 (a)	Опыт отсутствует. В случае необходимости принятия мер по уменьшению или устранению воздействия возможны консультации.
IX.A.1.1	На официально принятом. и Обычно на русском.
IX.A.1.2	Опыт отсутствует.
IX.A.1.3	Опыт отсутствует.
IX.A.1.4	Перевод не требуется
IX.A.2.1 (a)	Как правило перевод не требуется.
IX.A.2.1 (b)	
IX.A.2.1 (c)	
IX.A.2.2 (a)	
IX.A.2.2 (b)	
IX.A.2.2 (c)	
IX.A.2.2 (d)	Опыт отсутствует.
IX.A.2.3 (a)	
IX.A.3.1 (a)	
IX.A.3.1 (b)	
IX.A.3.1 (c)	
X.A.1.1 (a)	Координационный центр отсутствует.
X.A.1.1 (b)	Нет
X.A.1.1 (c)	
XI.A.1.1 (a)	Опыт отсутствует.
XII.1.1 (a)	Опыт отсутствует.
XIII.A.1.1 (a)	Нет
XIII.A.1.1 (b)	Существуют двух, трех сторонние международные Соглашения в области охраны окружающей среды, но они заключены не во исполнение Конвенции, но тем не менее они не идут вразрез Конвенции.
XIII.A.1.1 (c)	
XIII.A.1.1 (d)	
XIV.1.1 (a)	В рамках стран ЦАР разрабатывается единый подход к проведению ОВОС. Осуществляется совместный мониторинг окружающей среды на трансграничных объектах по согласованной программе.
XV.A.1.1 (a)	Нормативные правовые акты Кыргызстана в Области ОВОС разработаны с учетом требований положений Конвенции. Из ближайших стран Конвенция ратифицирована только Казахстаном. За проведение процедуры ОВОС отвечает инициатор проекта, за проведение ГЭЭ отвечает МЭиЧС КР (Министерство экологии и чрезвычайных ситуаций КР).
XV.A.1.1 (b)	Согласно постановления Правительства Кр о ратификации данной Конвенции ответственность за выполнение обязательств возложена на МЭиЧС КР.
XV.A.1.1 (c)	Нет
XV.A.1.1 (d)	Нет
XV.A.1.1 (e)	Инициатор проекта направляет документы на рассмотрение обеих сторон. Сторона происхождения берет на себя сбор замечаний и обобщение их. Не исключен способ совместного рассмотрения.
XVI.A.1.1 (a)	Да
XVI.A.1.2	Не все страны, граничащие с нашей страной являются сторонами этой Конвенции Пересечение границ. Финансирование этих работ. Ограниченность сроков исполнения.
XVI.A.1.3	
XVI.A.1.4	

ANNEX VI – RESPONSE TO THE QUESTIONNAIRE FROM THE REPUBLIC OF MOLDOVA (IN RUSSIAN)

I.A.1.1 (a)	Определение предлагаемой деятельности, требующей процедуры ОВОС, отражено в Законе Республики Молдова 851-XIII от 29.05.1996 г. “Обо экологической экспертизу и оценки воздействия на окружающую среду”, и как составляющая часть закона - “Положение об оценке воздействия на окружающую среду”, в дальнейшем “Положение об ОВОС”. Для планируемой деятельности с трансграничным воздействием в “Положении об ОВОС”, в разделе IX, ст. 31 указано: “В случае, когда воздействие на окружающую среду имеет трансграничный характер, порядок проведения ОВОС определяется согласно Конвенции об оценке воздействия на окружающую среду в трансграничном контексте”. Для проведения ОВОС на национальном уровне, без трансграничного воздействия в разделе X этого же Положения указан “Перечень объектов и видов деятельности, для которых обязательна разработка документации по ОВОС до начала их проектирования”. Проведение ОВОС приватизируемых предприятий регламентируется Постановлением Правительства №394 от 8.04.1998г. “Положение об оценке воздействия на окружающую среду приватизируемых предприятий”, пункты 2,4.
I.A.1.2 (a)	
I.A.1.3 (a)	Процедуре ОВОС могут быть подвергнуты и другие виды деятельности национального уровня, не указанные в Перечне объектов и видов деятельности, для которых обязательна разработка документации по ОВОС до начала их проектирования (гл. X, Положение об ОВОС). Это указано в следующих документах: - В Законе об экологической экспертизе и оценке воздействия на окружающую среду, ст.16 (2) “Процедуре ОВОС, по решению центрального органа по природным ресурсам и охране среды, подлежат в обязательном порядке документы стратегического характера по развитию национальной экономики, а также другие объекты и виды деятельности в зависимости от уровня ожидаемого воздействия на окружающую среду”. - В “Положении об ОВОС”, раздел I, пункт 4 “При необходимости по решению центрального ведомства среды процедуре ОВОС могут быть подвергнуты и другие объекты и виды деятельности в зависимости от уровня ожидаемого воздействия на окружающую среду”.
I.A.1.4 (a)	
I.A.2.1 (a)	
I.A.2.2 (a)	
II.A.1.1 (a)	1. В национальном законодательстве не установлены процедуры уведомления к Стороне, выступающей в роли “Стороны происхождения” и в роли “Затрагиваемой стороны”. Процедура уведомления Затрагиваемой стороны в ранее проведенной оценке воздействия на окружающую среду в трансграничном контексте (Терминал в Giurgulest,1995г.) устанавливалась Правительством. Для объектов и видов деятельности национального уровня (без трансграничного воздействия) организация и проведение ОВОС осуществляется заказчиком с участием разработчиков проектной документации (это отражено в ст.17 Закона об экспертизе и оценке воздействия на окружающую среду).
II.A.1.1 (b)	Нет
II.A.1.1 (c)	

В Республике Молдова проводилась процедура ОВОС только по одному объекту (терминал в Giurgulesti) в 1994-1995.
Правительство Румынии и Украины были проинформированы о выборе участка под строительство и начала проектирования терминала в Giurgulesti.

II.A.1.2 (a)
II.A.1.2 (b)
II.A.1.2 (c)
II.A.1.2 (d)
II.A.1.2 (e)
II.A.1.3
II.A.1.4 Да

II.A.1.5 (a)
II.A.1.6 (a)
II.A.1.6 (b)
II.A.1.6 (c)
II.A.1.6 (d)
II.A.1.6 (e)
II.A.1.7
II.A.2.1 (a)
II.A.2.1 (b) 2. В республике не было опыта проведения процедуры по предоставлению и передачи информации.
II.A.2.2 (a)
II.A.2.2 (b)
II.A.2.3 (a)
II.A.2.3 (b)
II.A.2.4 (a)
II.A.2.5 (a)
3.1 (a) 3. В национальном законодательстве также не определены процедуры уведомления общественности Затрагиваемой стороны и Стороны происхождения при проведении ОВОС в трансграничном контексте.
Для проведения ОВОС объектов национального значения, без трансграничного воздействия, уведомление общественности страны и определение “общественности” указано:
- в Положении об ОВОС, раздел V “Опубликование и обсуждение заключения по ОВОС”, раздел VI “Участие в ОВОС инициативных и общественных объединений”,
- в Положении об участия общественности в разработке и принятия решений по вопросам окружающей среды (утверждено Постановлением Правительства №72 от 25.02.2000г.), глава V “Процедура привлечения общественности”, пункты 20,21.
в Положении о консультациях населением в процессе разработки и утверждения проектной документации по обустройству территории и градостроительству (утверждено Постановлением Правительства №951 от 14.10.1997г.), глава II “Организация консультирования с населением”
В Положении об ОВОС, в главе V установлена следующая процедура уведомления:
п.13 “Заказчик направляет Заключение по оценке воздействия (ЗВОС) в соответствующие министерства и ведомства по профилю объекта или вида деятельности и в органы местного публичного управления, на территории которых намечается строительство нового объекта, расширение, реконструкция, модернизация, консервация или снос существующего объекта либо реализация нового вида деятельности. Органы местного публичного управления в течение 5 дней после получения ЗВОС должны объявить через средства массовой информации, где и когда можно ознакомиться с этим документом, получить его копию, провести по нему общественную экологическую экспертизу и общественные обсуждения. Доступ общественности к документам по ОВОС и к ЗВОС должен быть открыт в течение 30 календарных дней. В этот срок замечания по данным документам могут быть направлены в письменной форме лицу, указанному органами местного публичного управления”
(см. продолжение в следующем пункте)
II.A.3.1 (b) п.14 “Органы местного публичного управления должны направить замечания, полученные в результате общественного обсуждения ЗВОС, и свои замечания

	заказчику, а копию этих замечаний - центральному ведомству среды в течение 14 дней по истечению срока, указанного в пункте 13 настоящего положения. п. 15 “Министерства и ведомства должны направить свои замечания по ЗВОС заказчику и копию их - центральному ведомству среды в течение 50 дней после получения ЗВОС. п. 16 “В случае, если ЗВОС содержит сведения, составляющие государственную тайну, положение пункта 23 настоящего положения не применяется”
II.A.3.1 (c)	
II.A.3.1 (d)	
II.A.3.2 (a)	
II.A.3.2 (b)	
II.A.3.3 (a)	
II.A.3.4 (a)	
II.B.1.1 (a)	
II.B.1.2 (a)	
II.B.1.2 (b)	
II.B.1.3 (a)	
II.B.1.4 (a)	
II.B.1.5 (a)	
II.B.1.5 (b)	
II.B.1.5 (c)	
II.B.1.6 (a)	
II.B.2.1 (a)	
II.B.2.2 (a)	
II.B.2.2 (b)	
II.B.2.3 (a)	
II.B.2.3 (b)	
II.B.2.4 (a)	
II.B.3.1 (a)	
II.B.3.1 (b)	
II.B.3.1 (c)	
II.B.3.1 (d)	
III.A.1.1 (a)	а) В связи с отсутствием объектов и видов деятельности с трансграничным воздействием документация по ОВОС в соответствии с требованиями Конвенции не разрабатывалась, и соответственно не проводились консультации с другими заинтересованными Сторонами по обмену информацией. Для объектов и видов деятельности национального уровня требования к документации об ОВОС и процедуры и сроки представления этой документации указаны в Положении об ОВОС: - глава II “Основные требования к составу документации по ОВОС”, - глава III “Основные требования к содержанию Заявления о воздействии на окружающую среду (ЗВОС), - глава IV “Порядок разработки и представления документации по ОВОС”. Основные требования к документации по ОВОС объектов национального уровня указаны на стр. 34
III.A.1.1 (b)	
III.A.1.1 (c)	Выражение “разумные альтернативы” понимается, как выбор альтернативных вариантов, которые обеспечивают наиболее эффективные меры по ослаблению негативного воздействия на окружающую среду, используя концепцию “лучших доступных технических методов
III.A.1.1 (d)	Окружающая среда – внешняя среда, включая воздух, воду, землю, флору и фауну, материальные объекты, которые будут подвергаться воздействию в результате реализации планируемой деятельности. При выборе альтернативных вариантов планируемой деятельности эти воздействия должны быть сведены к min.
III.A.1.1 (e)	
III.A.2.1 (a)	

III.A.2.1 (b)
III.A.2.1 (c)

III.A.2.2 (a)
III.A.2.2 (b)
III.A.2.2 (c)
III.A.2.2 (d)
III.A.2.3 (a)
III.B.1.1 (a) Для объектов и видов деятельности национального уровня (без трансграничного воздействия) требования к документации об ОВОС содержится в Положении об ОВОС, глава II “Основные требования к составу документации по ОВОС”, в которой указано:
“6. Документация по ОВОС должна содержать:
6.1. Материалы, в которых устанавливается, описывается и оценивается ожидаемое прямое и косвенное воздействие намечаемых объектов и видов деятельности на:
a) климатические условия, атмосферный воздух, поверхностные, грунтовые и подземные воды, почвы, недра, ландшафты, особо охраняемые природные территории, растительный и животный мир, функциональность и стабильность экосистем, население;
b) природные ресурсы
c) культурные и исторические памятники
d) качество среды в городских и сельских поселениях
e) социально-экономическую ситуацию
6.2. Сравнение предлагаемых альтернативных решений и обоснование наилучшего решения.
6.3. Предлагаемые мероприятия или условия, которые должны исключить или снижать ожидаемое негативное воздействие, либо мероприятия и условия, которые усиливали бы положительное воздействие на окружающую среду намечаемых объектов и видов деятельности.
6.4. Оценку последствий в случае, если намечаемые объекты и виды деятельности не будут реализованы.
7. Воздействие объектов и видов деятельности должно быть оценено на период их разработки, реализации и функционирования, а также на случай ликвидации или прекращения их функционирования, включая период после их ликвидации или прекращения функционирования. При прогноз ной оценке ожидаемого воздействия объектов и видов деятельности должны учитываться все возможные характеристики территории, подвергаемой воздействию как в нормальном режиме работы объектов и реализации видов деятельности, так и в случае вероятных аварий.
8. На основе разработанной документации по ОВОС заказчик оформляет Заявление о воздействии на окружающую среду (ЗВОС), в котором систематизированы и проанализированы все материалы, расчеты и исследования, выполненные в результате разработки документации по ОВОС”.
III.B.2.1 (a)
III.B.2.2 (a)
III.B.2.2 (b)

III.B.2.3 (a)
III.B.2.3 (b)
III.B.2.4 (a)
IV.A.1.1 (a) В национальном законодательстве не установлена процедура передачи и распространение документации по ОВОС для объектов и видов деятельности в трансграничном контексте.
Для проектов и видов деятельности национального и локального уровня передачу и распространение документации по ОВОС осуществляет заказчик.
IV.A.1.1 (b)
Передача и распространение документации по ОВОС объектов и видов деятельности национального уровня отражено в следующих документах:
- Положение об ОВОС, глава IV “Порядок разработки и представление документации по ОВОС”, глава V “Опубликование и обсуждение ЗВОС”;
- Закон об экологической экспертизе и оценке воздействия на окружающую среду,

	ст.17 “Организация и проведение ОВОС”.
IV.A.1.1 (c)	
IV.A.1.1 (d)	
IV.A.1.2 (a)	
IV.A.1.2 (b)	
IV.A.1.2 (c)	
IV.A.1.2 (d)	
IV.B.1.1 (a)	
IV.B.1.1 (b)	
IV.B.1.1 (c)	
IV.B.1.1 (d)	
IV.B.1.2 (a)	
IV.B.1.2 (b)	
IV.B.1.2 (c)	
V.A.1.1 (a)	В связи с отсутствием объектов и видов деятельности с трансграничным воздействием участие общественности в роли “Стороны происхождения” и “Затрагиваемой Стороной” в процедуре ОВОС не осуществлялось. Наиболее полно в законодательных документах отражено участие общественности в проведении ОВОС объектов и видов деятельности национального уровня , а именно: - Положение об ОВОС, раздел V “Опубликование и обсуждение заключения по ОВОС”, раздел VI “Участие в ОВОС инициативных и общественных объединений”, - Положение об участия общественности в разработке и принятия решений по вопросам окружающей среды, глава V “Процедура привлечения общественности”, пункты 20, 21. - Положение о консультациях населением в процессе разработки и утверждения проектной документации по обустройству территории и градостроительству”, глава II “Организация консультирования с населением”
V.A.1.1 (b)	
V.A.1.2 (a)	
V.A.1.2 (b)	
V.A.1.2 (c) (i)	
V.A.1.2 (c) (ii)	
V.A.1.2 (c) (iii)	
V.A.1.2 (d)	
V.A.1.2 (e)	
V.A.2.1 (a)	
V.A.2.1 (b)	
V.A.2.1 (c)	
V.B.1.1 (a)	
V.B.1.1 (b)	
V.B.1.1 (c)	
V.B.1.1 (d)	
V.B.1.2 (a)	
V.B.2.1 (a)	
V.B.2.1 (b)	
VI.A.1.1 (a)	В связи с отсутствием объектов и видов деятельности с трансграничным воздействием консультации с затрагиваемой Стороной не проводились

VI.A.1.1 (b)

VI.A.1.2 (a)
VI.A.1.2 (b)
VI.A.2.1 (a)
VI.A.2.1 (b)

VI.A.2.2 (a)
VI.A.2.2 (b)
VI.A.2.2 (c)
VI.A.2.2 (d)
VI.A.2.2 (e)
VI.B.1.1 (a)
VI.B.1.1 (b)

VI.B.2.1 (a)
VI.B.2.1 (b)

VI.B.2.2 (a)
VI.B.2.2 (b)
VI.B.2.2 (c)
VI.B.2.2 (d)
VI.B.2.2 (e)

VII.A.1.1 (a) В национальном законодательстве вопросы окончательного решения отражены в Положении об ОВОС, глава VIII “Заключение о государственной экологической экспертизе документации по ОВОС”:
“ п.26 На основании результатов государственной экологической экспертизы документации по ОВОС и рассмотрения результатов общественных обсуждений составляется заключение о государственной экологической экспертизе документации по ОВОС. При отсутствии такого положительного заключения физические и юридические лица не имеют право утверждать документацию по ОВОС и разрабатывать плановую и проектную документацию на объекты и виды деятельности.
п.27 Утвержденная в установленном порядке документация по ОВОС служит основанием для разработки раздела “Охрана окружающей среды” в процессе разработки проектной документации для соответствующих объектов.
п. 29 Центральное ведомство среды в обязательном порядке доводит до сведения общественности через средства массовой информации результаты экологической экспертизы документации по ОВОС в срок не позднее 10 дней после утверждения результатов экспертизы и принятия решения в отношении документации по ОВОС
п. 30 Центральное ведомство среды обеспечивает хранение и содержание архива ЗВОС, которые доступны для общественности”

VII.A.1.1 (b)
VII.A.1.1 (c)
VII.A.1.1 (d)
VII.A.1.1 (e)
VII.A.1.1 (f)
VII.A.1.1 (g)
VII.A.1.2 (a)
VII.A.1.2 (b)
VII.A.1.2 (c)
VII.A.2.1 (a)
VII.A.2.1 (b)
VII.A.2.1 (c)
VII.A.3.1 (a)
VII.A.3.2 (a)
VII.A.3.3 (a)
VII.B.1.1 (a)
VII.B.2.1 (a)
VII.B.2.1 (b)
VII.B.2.1 (c)

VII.B.2.1 (d)	
VII.B.3.1 (a)	
VII.B.3.1 (b)	
VII.B.3.3 (a)	
VII.B.3.3 (b)	
VII.B.3.4 (a)	
VIII.A.1.1 (a)	В республике нет опыта проведения послепроектного анализа. В законодательстве не предусмотрено проведение послепроектного анализа.
VIII.A.1.1 (b)	
VIII.A.1.1 (c)	
VIII.A.1.1 (d)	
VIII.A.1.1 (e)	
VIII.A.1.2 (a)	
VIII.A.1.2 (b)	
VIII.A.1.2 (c)	
VIII.A.1.2 (d)	
VIII.A.1.2 (e)	
VIII.A.1.2 (f)	
VIII.A.2.1 (a)	
VIII.A.2.1 (b)	
VIII.A.2.2 (a)	
IX.A.1.1	
IX.A.1.2	
IX.A.1.3	
IX.A.1.4	
IX.A.2.1 (a)	
IX.A.2.1 (b)	
IX.A.2.1 (c)	
IX.A.2.2 (a)	
IX.A.2.2 (b)	
IX.A.2.2 (c)	
IX.A.2.2 (d)	
IX.A.2.3 (a)	
IX.A.3.1 (a)	
IX.A.3.1 (b)	
IX.A.3.1 (c)	
X.A.1.1 (a)	Координационные центры не использовались и не создавались.
X.A.1.1 (b)	
X.A.1.1 (c)	
XI.A.1.1 (a)	Процедуры запроса не применялись
XII.1.1 (a)	Опыт по урегулированию споров не имеется
XIII.A.1.1 (a)	Двусторонних и многосторонних соглашений на основе Конвенции об ОВОС в трансграничном контексте н имеется
XIII.A.1.1 (b)	
XIII.A.1.1 (c)	
XIII.A.1.1 (d)	
XIV.1.1 (a)	Программа исследований не проводилась
XV.A.1.1 (a)	В национальном законодательстве очень подробно описано применение ОВОС для объектов и видов деятельности национального уровня и недостаточно прописаны процедуры и механизмы проведения ОВОС для видов деятельности с трансграничным воздействием. В соответствии с национальным законодательством, организация и проведение ОВОС объектов и видов деятельности без трансграничного воздействия осуществляется заказчиком. В Законе об экспертизе и оценке воздействия на окружающую среду, ст.17 (1) указано: “Организация и проведение ОВОС на всех этапах планирования и проектирования объектов, финансирование разработки документации по ОВОС, организация общественных обсуждений намечаемой деятельности, представление документации по ОВОС с необходимыми документами о согласовании на

государственную экологическую экспертизу осуществляется заказчиком с участием в установленном порядке разработчиков документации".
"Документация по ОВОС может разрабатываться лицами и организациями, владеющими соответствующей лицензией, выданной центральным ведомством среды на основании квалифицированного сертификата" (п.10, гл. IV., Положения об ОВОС).
На заключительной стадии ЗВОС проходит государственную экологическую экспертизу в Министерстве экологии, строительства и развития территории, которое выдает окончательное заключение по ОВОС.

XV.A.1.1 (b) Орган власти, обеспечивающий координацию применения Конвенции, является Министерство экологии, строительства и развития территории.

XV.A.1.1 (c)

XV.A.1.1 (d)

XV.A.1.1 (e)

XVI.A.1.1 (a)

1.Опросник достаточно подробно охватил все аспекты осуществления Конвенции.
Предлагаем разработать под руководством Секретариата Конвенции Руководство по оценке воздействия на окружающую среду в трансграничном контексте, уделяя особое внимание тем вопросам, которые возникали в ходе заполнения оп росника.
Для нас- это в первую очередь процедуры по уведомлению, передачи информации и распространении информации, процедуры по передачи и распространению документации по ОВОС, проведение послепроектного анализа, программы исследований, процедуры заключения двусторонних и многосторонних договоров.
А также предлагаем включить в Рабочий план проведение учебных семинаров по разработке и внедрению ОВОС в трансграничном контексте с использованием опыта проведения ОВОС в других странах.

XVI.A.1.2 Трудности заполнения данного вопросника вызваны несовершенством национального законодательством в этой области и отсутствия опыты в проведении конкретных оценок воздействия на окружающую среду в трансграничном контексте.
Поэтому при пересмотре национального законодательства и нормативных актов в этой области столкнулись с некоторыми трудностями.

XVI.A.1.3 Предлагаем разработать под руководством Секретариата Конвенции Руководство по оценке воздействия на окружающую среду в трансграничном контексте, уделяя особое внимание тем вопросам, которые возникали в ходе заполнения оп росника.
Для нашей республики - это в первую очередь процедуры по уведомлению, передачи информации и распространении информации, процедуры по передачи и распространению документации по ОВОС, проведение послепроектного анализа, программы исследований, процедуры заключения двусторонних и многосторонних договоров.
А также предлагаем включить в Рабочий план проведение учебных семинаров по разработке и внедрению ОВОС в трансграничном контексте с использованием опыта проведения ОВОС в других странах.

XVI.A.1.4