

Questionnaire for the

**REPORT OF NORWAY ON THE IMPLEMENTATION
OF THE CONVENTION ON ENVIRONMENTAL
IMPACT ASSESSMENT IN A TRANSBOUNDARY
CONTEXT**

in the period 2010–2012

Information on the focal point for the Convention

Name and contact information:

Jørgen Brun MoE, p.o.box 8013 NO-0030 Oslo Norway, jb@md.dep.no, phone/fax +47
22245933/2759

Information on the point of contact for the Convention

Name and contact information (if different from above):

As above

Information on the person responsible for preparing the report

- i. Country: all as above
- ii. Surname:
- iii. Forename:
- iv. Institution:
- v. Postal address
- vi. E-mail address
- vii. Telephone number
- viii. Fax number

Date on which report was completed: 4 March 2013

PART ONE – CURRENT LEGAL AND ADMINISTRATIVE FRAMEWORK FOR THE IMPLEMENTATION OF THE CONVENTION

In this part, please provide the information requested, or revise any information relative to the previous report. Describe the legal, administrative and other measures taken in your country to implement the provisions of the Convention. This part should describe the framework for your country's implementation, and not experience in the application of the Convention.

Article 2

General Provisions

1. *List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2).*

The Convention is implemented through the Planning and Building Act of 1 July 2009, §§ 4-2 and 14-6, and one joint Regulation on EIA and SEA to the law of 1 July 2009 giving supplementary provisions to the law. Guidance to the Regulation of June 2009.

Indicate any further measures to implement the provisions of the Convention that are planned for the near future.

The Regulation on EIA and SEA is being amended at the time being. The amended Regulations will include some minor procedural clarifications on the implementation of the Convention.

3. *List the different authorities that are named responsible for the implementation of the EIA procedure in the transboundary context and domestically.*

Ministry of Environment is both point of contact and focal point, but can delegate the roles to the competent authority from case to case (not widely used).

When Norway is party of origin: For plans, the planning authorities (municipality and county) are competent authority and responsible for the procedural steps according to the Convention. For certain Annex I projects The Pollution Control Authority, Norwegian Water Resources and Energy Directorate, Ministry of Petroleum and Energy Norwegian Radiation protection Authority and the Coast Directorate are competent authority and responsible for the procedural steps according to the Convention.

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

no

5. *Does your country have special provisions for transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?*

no

IDENTIFICATION OF A PROPOSED ACTIVITY REQUIRING ENVIRONMENTAL IMPACT ASSESSMENT UNDER THE CONVENTION

6. *Is appendix I to the Convention transposed fully into your country's national legislation? Please describe any differences between the national list and appendix I to the Convention.*

Yes.

Differences: Our national annex I list has the following national activities in addition to the appendix I to the Convention : Annex I point 1) Industry, business or public buildings above NOK 500 mill or 15.000 m2 available building space 2) zoning plans for holiday houses and housing areas in conflict with master plan.

7. *Does your country's legislation already cover fully the revised appendix I in the second amendment (ECE/MP.EIA/6, decision III/7)?*

yes

PUBLIC PARTICIPATION

8. *How does your country, together with the affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to your country's public as required in article 2, paragraph 6?*

Contacting the affected party by phone from case to case and discussing and comparing ways to involve the public.

Article 3

Notification

QUESTIONS TO PARTY OF ORIGIN

9. *Describe how your country determines when to send the notification to the affected Party, which is to occur "as early as possible as and no later than when informing its own public".*

Affected party shall be notified at the same time as the first hearing for own public i.e. at the stage of the domestic hearing of a proposal for an "assessment program". In some cases the application of the Convention has become clear during this hearing period which has led to a delay in the notification to the affected party with some weeks and a prolongment of time frame.

10. *Indicate whether and how the following provisions are reflected in your national legislation:*

- a. *The stage in the EIA procedure when your country usually notifies the affected Party (art. 3.1);*

as 9. Above. Specified in our legislation.

- b. *The format for notification. Please indicate whether this is the format as decided by the first meeting of the Parties in its decision I/4 (ECE /MP.EIA/2, annex IV, appendix). If not, does your country use a format of its own (in which case, please attach a copy of it)?*

Uses the format decided by MOP 1, whereby the main elements are specified in our legislation.

- c. *The time frame for the response to the notification from the affected Party (cf. art. 3, para. 3, "within the time specified in the notification"), the consequence if an affected Party does not comply with the time frame, and the possibility of extending a deadline;*

We negotiate and accept delays if within reasonable timeframes. Not specified in our legislation.

- d. *The request for information from the affected Party (art. 3 para. 6), necessary for the preparation of the EIA documentation;*

Information sharing through the process from case to case. Specified in our legislation.

- e. *How your country cooperates with the authorities of the affected Party on public participation (art. 3, para. 8);*

We can require the competent authority and developer to hold a meeting in the affected party open for the public. Specified in our legislation.

- f. *When and how the public in the affected Party is notified (what kinds of media, etc., are usually used). What is normally the content of the public notification?*

This is normally done by the affected party following our notification as party of origin of the point of contact in affected party. By internet, letter and meeting if required. Containing the elements covered in Article 3 in a proposal for an assessments program, including a description of possible transboundary impacts. Not specified in our legislation.

- g. *When and how the public in the Party of origin is notified (what kinds of media, etc. are usually used). What is normally the content of the public notification?*

At the same time as notification to affected party, by internet, letter and meeting if required, containing the same elements as covered in Article 3 in a proposal for an assessment program, but of course focused on the domestic issues. Specified in our legislation.

- h. *Whether the notification to the public of the affected Party has the same content as the notification to your country's public. If not, describe why not.*

Yes. Not specified in our legislation.

11. *Does your country make use of contact points for the purposes of notification, as decided at the first meeting of Parties (ECE/MP.EIA/2, annex III, decision I/3), and as listed on the Convention website (http://www.unece.org/env/eia/points_of_contact.htm)?*

Yes. Specified in guidance.

QUESTIONS TO AFFECTED PARTY

12. *Indicate whether and how the following provisions are reflected in your national legislation:*

- a. *How your country decides whether or not to participate in the EIA procedure (art. 3, para. 3)?*

Concerned authorities and interests are involved to decide participation or not from case to case and depending on the likely significances of impacts in the same way as if national EIA. If in doubt we always participate. Specified in our legislation.

- b. *The request from the Party of origin for information (art. 3, para. 6), necessary for the preparation of the EIA documentation;*

Specified in our legislation.

- c. *How your country cooperates with the authorities of the Party of origin on public participation (art. 3, para. 8);*

As affected party we normally handle the public participation on basis of information from the party of origin and supplemented by meeting organised by the party of origin if required. Not specified in our legislation.

d. When and how the public is notified (e.g., what kinds of media, etc., are usually used).

This is normally done within two weeks following the notification from the party of origin, by internet, letter and meeting if required. How is specified in our legislation. When will be specified in the ongoing amendment of our Regulation.

Article 4

Preparation of the environmental impact assessment documentation

QUESTIONS TO PARTY OF ORIGIN

13. Indicate the legal requirements in your country, if any, related to:

a. The content of the EIA documentation (art. 4, para. 1; appendix II);

Description of the effects of the project including the following topics to the extent necessary:

a) A description of the project, including

- the purpose of the projects,
- types of activities, including appurtenant activities,
- a description of the reference alternative,
- the time schedule for the project,
- architectural and aesthetic design, features and qualities,
- types and quantities of emissions
- land-use and
- labour requirements

b) A survey of public and private measures necessary for the implementation of the project.

c) An account of how the project relates to municipal and county plans and of the permits issued by public authorities necessary for its implementation.

d) A description of the environment, natural resources and societal conditions, including an account of plans, objectives and guidelines for the areas involved.

e) A description of the effects of the plan or project on the population's health and access to outdoor areas, crime prevention, universal design, buildings and services, fauna and flora, soil, water, air, climate gas emissions, the landscape, Sami natural and cultural heritage, material assets, cultural heritage and cultural environments, aesthetic considerations, effects from climate change, emergency preparedness and the risk of accidents and interactions between these elements. The effects shall be described in relation to plans, objectives and guidelines for the environment, natural resources and the community in the areas involved. When several development projects in an area may collectively have significant effects, the project's cumulative nature in relation to other projects carried out and planned in the project's area of influence shall be assessed. In cases involving reindeer husbandry interests, the overall effects of plans and projects within individual reindeer pasture districts shall be assessed. A brief account shall be given of the basic data and methods used to describe the effects of the project, and of any lack of know-how or technical deficiencies encountered in compiling and using the data and methods.

- f) A description in accordance with e) above of the effects on any other state that may be affected by the project.
- g) A summary of the project's effects and a comparison and evaluation of the alternatives in relation to their effects and in relation to relevant plans, objectives and guidelines.
- h) An account of measures that can be taken to prevent or mitigate any inconvenience or adverse effects of the project.
- i) The recommendation of the proposer regarding his choice of alternative.
- j) An evaluation of the need for, and possibly, proposals for further studies before the project is carried out.
- k) An evaluation of the need for, and possibly, proposals for studies for the purpose of monitoring and elucidating the actual effects of the project.

The environmental impact assessment shall contain necessary illustrations and maps. A summary of the proposed application with an environmental impact assessment shall be prepared. All specified in our legislation.

- b. The procedures for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (art. 4, para. 1);*

Scoping is regulated through the assessment process itself with participation of authorities and the public from both parties. Specified in our legislation.

- c. The identification of "reasonable alternatives" in accordance with appendix II, paragraph (b);*

Case by case and limited in the Regulation to alternatives that are "realistic" and "relevant".

- d. The procedures and format for providing the EIA documentation domestically;*

The proposer is responsible for preparing and handing in the project application with an environmental impact assessment document to the competent authority. Specified in our legislation.

- e. The procedures and format for providing the EIA documentation to the affected Party. If there is a difference between the procedures and format domestically and for the affected Party, please explain;*

As d. above.

- f. The procedures for the examination of, and the deadlines for comments on, the EIA documentation domestically, and how the comments submitted domestically are addressed;*

This is organised by the competent authority through the public hearing of the application with EIA. This documentation by the proposer is sent to concerned authorities, relevant interest organisations and affected public and made available for public inspection on internet, and in meeting if required. Minimum 6 weeks public hearing period. The competent authority shall, on basis of the consultation, decide whether there is a need for supplementary assessments. Any such shall be circulated for comments to those who have submitted comments on the proposal. Acceptance of the EIA documentation is done as part of the development decision. The need for an environmental follow-up program shall be considered in the decision making process and if needed requirements for such shall be included in the decision. All specified in our legislation.

- g. *The procedures for the examination of, and the deadlines for comments on, the EIA documentation from the affected Party, and how the comments submitted by the affected Party are addressed;*

As f. above.

- h. *The procedures for public hearings domestically;*

As f. above.

- i. *The procedures for public hearings held on the territory of the affected Party.*

This is done by the point of contact in the affected party following the notification. If meeting is requested this is organised by competent authority and developer. The last is specified in our legislation.

QUESTIONS TO AFFECTED PARTY

14. *Indicate the legal requirements in your country, if any, related to:*

- a. *The procedures and deadlines for comments on the EIA documentation to be submitted to the Party of origin;*

MoE is responsible for sending comments to the party of origin on basis of the comments received in the hearing/public participation domestically. Specified in our legislation. Deadlines set case by case with party of origin.

- b. *The procedures for public participation in the review of the EIA documentation domestically, and the authority responsible for the execution of the aforementioned procedures;*

EIA documentation sent to concerned authorities, relevant interest organisations and affected public and made available for public inspection on internet, and in meeting if required. Normally 6 weeks public hearing period. MoE responsible. Specified in our regulation.

- c. *The procedures for the examination of the EIA documentation domestically.*

It is not clear what is meant by “examination”. See answer to 14a above.

Article 5

Consultations

QUESTIONS TO PARTY OF ORIGIN

15. *Indicate the legal requirements in your country, if any, related to the following provisions:*

- a. *The procedures for cooperation with the affected Party related to consultations;*

No legal requirements*.

- b. *The stages, procedures and deadlines for consultations with the affected Party;*

No legal requirements*.

- c. *The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.*

No legal requirements*.

***The topics covered by Art. 5 are addressed in the process of the EIA and the EIA is not completed before the decision is taken. The Regulation states that supplementary assessments and consultation may be required by the competent authority on basis of comments from the e.g. the affected party until decision is taken. In this process, after hearing of EIA and before decision is taken, written communication and meetings are organised case by case if requested by the affected party.**

QUESTIONS TO AFFECTED PARTY

16. *Indicate the legal requirements in your country, if any, related to the following provisions:*

- a. *The procedures for interaction with the Party of origin related to consultations;*

No legal requirements. Case by case.

- b. *The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.*

No legal requirements. Case by case. MoE and authorities concerned will participate.

Article 6

Final decision

QUESTIONS TO PARTY OF ORIGIN

17. *Indicate the legal requirements in your country, if any, related to the following provisions:*

- a. *The definition of "final decision" related to the implementation of the planned activity; the content of decisions; and procedures for their adoption;*

Decision allowing authorization of the proposed activity. Following a procedure in the Planning and Building Act and/or sector acts. When two, or more, acts are involved we have two, or more, decisions and they are coordinated in time to be one final decision. In the documentation following the final decision the impacts and the comments received in the EIA process, including possible alternatives and need for monitoring programme, shall be described and evaluated in relation to the decision. All specified in our legislation.

- b. *For each type of activity listed in appendix I, identify what is regarded as the "final decision" to authorize or undertake a proposed activity (art. 6 in conjunction with art. 2, para. 3); also provide the term used in the national legislation in the original language. Do all projects listed in appendix I require such a decision?*

"Konsesjonsvedtak" = final decision according to sector acts.

"Planvedtak" = final decision according to the Planning and Building Act.

Yes, all require such a decision.

- c. *The procedures for informing of the "final decision" domestically and for the affected Party;*

Final decision with reasons is sent affected party at same time as sent and made publically available domestically. Will be specified for affected party after amendment of Regulation.

- d. *Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and the public in your country (art. 6, para. 1)?*

Yes. Specified in our legislation.

- e. *The opportunity to review the decision if, before the activity is implemented, additional information becomes available according to article 6, paragraph 3.*

If the additional information is of relevance to comments made by the affected party they will be consulted upon. The decision can be revised. Specified in the relevant sector legislation.

Article 7

Post-Project Analysis

18. *Indicate the legal requirements in your country, if any, related to:*

- a. *Post-project analysis (art. 7, para. 1);*

An assessment shall be made and insofar as is necessary requirements shall be set for investigations with a view to monitoring and ascertaining the actual effects of projects. Specified in our legislation.

- b. *Procedures for informing of the results of post-project analysis.*

Information on results shall be given to all parties that participated in the EIA process. Will possibly be specified after amendment of our Regulation.

Article 8

Bilateral and multilateral agreements

19. *Does your country have any bilateral or multilateral agreements based on the Convention (art. 8, appendix VI)? If so, list them. Briefly describe the nature of these agreements. To what extent are these agreements based on appendix VI and what issues do they cover? If publicly available, also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.*

no

20. *Has your country established any supplementary points of contact pursuant to bilateral or multilateral agreements?*

no

Article 9

Research programmes

21. *Are you aware of any specific research in relation to the items mentioned in article 9 in your country? If so, describe it briefly.*

Ratification of the amendments to the Convention and of the Protocol on Strategic Environmental Assessment

22. *If your country has not yet ratified the first amendment to the Convention, does it have plans to ratify this amendment? If so, when?*

23. *If your country has not yet ratified the second amendment to the Convention, does it have plans to ratify this amendment? If so, when?*

24. *If your country has not yet ratified the Protocol on SEA, does it have plans to ratify the Protocol? If so, when?*

PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2010–2012

Please report on your country's practical experiences in applying the Convention (not your country's procedures described in part one), whether as Party of origin or affected Party. The focus here is on identifying good practices as well as difficulties Parties have encountered in applying the Convention in practice; and the goal is to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve its application.

CASES DURING THE PERIOD 2010–2012

25. *If your country's national administration has a list of transboundary EIA procedures that were under way during the reporting period, in which your country was Party of origin or affected Party, please list it.*

No list

26. *Does your country object to the inclusion of the above list of transboundary EIA procedures in a compilation of such procedures to be made available on the website of the Convention? (Indicate "yes" if you object.)*

27. *Provide information and explanations on the average duration of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.*

As a whole: average duration 1-2 years, but very dependent on type of case and complexity
steps: pre assessment of possible requirement for transboundary EIA: 1 month,
notification: 2-4 months, preparation of EIA documentation 4-12 months, consultation: 2-6
months, final decision: 2-6 months

EXPERIENCE IN THE TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE DURING THE PERIOD 2006–2009

28. *If your country has had practical experience in the transboundary EIA procedure during the reporting period, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.*

Yes it has supported mitigation measures regarding birds for wind farms.

29. *Please share with other Parties your country's experience of using the Convention in practice. In response to each of the questions below, either provide one or two practical examples or describe your country's general experience. You might also include examples of lessons learned in order to help others:*

- a. *Indicate whether a separate chapter is provided on transboundary issues in the EIA documentation. How does your country determine how much information to include in the EIA documentation?*

Yes, separate chapter so it is possible to find it. How much information to include: we recommend that the EIA report includes all important conditions but is short and possible to read for "everyone" and that supplementary documentation is Annexed to the report making it possible to go deeper for interested.

- b. *Translation is not addressed in the Convention. How has your country addressed the question of translation? What does your country usually translate? What difficulties has your country experienced relating to translation and interpretation, and what solutions has your country applied?*

No translation between Norway, Sweden and Denmark because we understand each others languages. With Finland we usually translate the EIA report and a summary. normally sufficient.

- c. *How has your country organized transboundary public participation in practice? As Party of origin, has your country organized public participation in affected Parties and, if so, how? Has your country experienced difficulties with the participation of its public or the public of another Party (e.g., have there been complaints from the public about the procedure)?*

Normally we organise public participation when affected party and vice versa. but in some cases there have been meetings organised by Norway as party of origin in affected party by the competent authority and proposer. this has given a positive effect on public participation. no complaints known

- d. *Describe any difficulties that your country has encountered during consultations, for example over timing, language and the need for additional information. As an affected Party, have consultations under article 5 supported the prevention, reduction or control of possible significant transboundary environmental impacts?*

No difficulties. Consultations has to some degree in cases supported prevention and reduction of possible impacts, but more normal is a abandoning of projects, if significant transboundary environmental impacts are identified.

- e. *Describe examples of the form, content and language of the final decision, when it is issued and how it is communicated to the affected Party and its public;*

Letter of 2 -4 pages giving the permission and general terms if yes, and requirements for monitoring/post project analysis. Translated if needed and sent point of contact in affected party. we could however have better routines for this so as to send this with no delay to affected party.

- f. *Has your country carried out post-project analyses and, if so, on what kinds of project?*

Wind farms

- g. *Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your country's experiences describing, for example, means of cooperation (e.g., contact points, joint bodies, bilateral agreements), institutional arrangements, and how*

practical matters are dealt with (e.g., translation, interpretation, transmission of documents, etc.);

Overhead electric power lines between Norway and Sweden. Meetings with the most relevant authorities on high enough level and at early stage was crucial for coordinated and well driven process. Structured tables of the two countries procedural steps for the project according to the legal systems as basis for negotiating terms of Espoo process.

- h. Name examples of good practice cases, whether complete cases or good practice elements (e.g., notification, consultation or public participation) within cases. Would your country like to introduce a case in the form of a Convention's "case study fact sheet"?*
- i. Identify the most common means of applying the Convention (e.g., through focal points, joint bodies, multilateral agreements).*

Point of contact/focal points. Competent authority in cases where MoE delegates the role as focal point.

CO-OPERATION BETWEEN PARTIES IN 2010–2012

- 30. Does your country have any successful examples of how it has overcome difficulties arising from different legal systems in neighbouring countries? If so please specify.*

Overhead electric power lines between Norway and Sweden. Meetings with the most relevant authorities on high enough level and at early stage was crucial for coordinated and well driven process. Structured tables of the two countries procedural steps for the project according to the legal systems as basis for negotiating terms of Espoo process.

EXPERIENCE IN USING THE GUIDANCE IN 2010–2012

- 31. Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online? Describe your country's experience with using these guidance documents and how they might be improved or supplemented.*

- a. Guidance on public participation in EIA in a transboundary context (ECE/MP.EIA/7);*
yes
- b. Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendix);*
no
- c. Guidelines on good practice and on bilateral and multilateral agreements (ECE/MP.EIA/6, annex IV, appendix).*
yes

CLARITY OF THE CONVENTION

- 32. Has your country had difficulties implementing the procedure defined in the Convention, either as Party of origin or as affected Party? Are there provisions in the Convention that are unclear?*

No but joint cross border projects are challenging.

AWARENESS OF THE CONVENTION

33. *Has your country undertaken activities to promote awareness of the Convention among stakeholders (e.g., the public, local authorities, consultants and experts, academics, investors)? If so, describe them.*

Several presentations held at seminars on the basic requirements of the convention.

34. *Does your country see a need to improve the application of the Convention in your country and, if so, how does it intend to do so?*

Some of the challenges/shortcomings pointed out in this report will be assessed and may lead to minor procedural changes in the ongoing amendment of the SEA an EIA Regulation in Norwa.

SUGGESTED IMPROVEMENTS TO THE REPORT

35. *Please provide suggestions for how this report may be improved.*

As pointed out above, still some unclear questions, still too long and too many overlapping questions.

* * * * *