

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

in the period 2010–2012

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

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

## 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 Environmental Code (chapter 6) contains the main provisions on EIA and the EIA Ordinance contains more detailed provisions. The Convention is implemented in these legal instruments. Several other acts have reference to Chapter 6 in the Environmental Code.

The Swedish Environmental Protection Agency 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.

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

Work on amending Chapter 6 in order to streamline the requirements has started.

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

All governmental authorities that are informed of activities that are likely to have significant environmental effects in another country shall notify the Swedish Environmental Protection Agency (SEPA) that is the authority responsible for the application of the Convention.

The authority that is responsible for the decision on the application also has to make sure that it contains an acceptable EIA and has to make a special decision on that and also make sure that consultation have been performed. The production of the EIA is the responsibility of the applicant. The County Administrative Board has responsibilities in the process and particularly in the early phases such as screening.

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

The Swedish Environmental Protection Agency collects the information.

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

There are no special provisions but the Swedish Environmental Protection Agency has discussed and agreed on the procedure for Espoo cases with the points of contact in neighbouring Parties.

## 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.*

The Ordinance on EIA contains a list of activities that always are to be considered as likely to have significant environmental effects. Those that also might have transboundary effects have not been singled out. That is decided upon by SEPA in the Espoo procedure. The activities in the Convention's appendix I are to be found in section 3 or the appendix 3 in the Ordinance.

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?*

In the notification letter, the Affected Party is requested to decide which appropriate means to inform the public there might be in the actual case.

## 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".*

Chapter 6 of the Environmental Code regulates the Swedish EIA procedure. The notification is usually sent when the consultation (in the scoping phase) starts with citizens and organizations that are likely to be affected in Sweden.

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

Chapter 6 paragraph 6 of the Environmental Code regulates the transboundary procedures and states that if an activity is likely to have significant environmental effects in another country, the competent authority appointed by the government (SEPA) shall inform the competent authority of that other country of the planned activity and shall give the state concerned and the public concerned the possibility to participate in consultation on the application and the environmental assessment.

The Swedish Environmental Protection Agency 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. No further requirements are given concerning the details of this transboundary procedure.

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

- 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)?*
- 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;*
- d. *The request for information from the affected Party (art. 3 para. 6), necessary for the preparation of the EIA documentation;*
- e. *How your country cooperates with the authorities of the affected Party on public participation (art. 3, para. 8);*
- 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?*

The notification from Sweden as Party of Origin contains brief information on the project and its consequences and information on where further information is available or could be found on a website. This is practical application and not especially regulated.

- 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?*

What is meant by this question? A national notification process?

- 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.*

This is not regulated. The information in the national and the transboundary consultation is sometimes the same. In the Nordic countries Swedish is understood and no translation is necessary. If information has to be translated, the content is often in the form of a summary.

- 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](http://www.unece.org/env/eia/points_of_contact.htm))?*

Yes.

#### QUESTIONS TO AFFECTED PARTY

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

Paragraph 10 in the EIA Ordinance expresses the obligations of the competent authority (SEPA) to give and receive notifications and perform the obligations stated in Article 2

point 2-4, Article 3 point 1-3 and 5-8, Article 4 point 2 and 5-7 in the EIA Convention. It also states that the competent authority may make information public in Sweden, in other Member States in the European Union and in another country that is an Affected Party according to the EIA Convention.

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

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

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

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

## **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);*

The content of the EIA is stated in Chapter 6 Section 7 in the Environmental Code.  
Contents of environmental impact assessments

(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.

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

According to Chapter 6 section 5 in the Environmental Code, the county administrative board shall during the consultation pursuant to Section 4 work for the environmental impact statement to have the direction and scope needed for the permit application.

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

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.

In chapter 2 section 6 of the Environmental Code it is stated: ” In the case of an activity or measure for whose purposes land or water areas are used, a suitable site shall be selected with regard to the purpose being achieved with a minimum of damage or nuisance to human health and the environment.” In chapter 6 section 7 of the Code it is stated that if an activity or measure shall be considered to have a significant environmental impact an environmental impact assessment shall always contain, among other requirements, 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.

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

There are no legal time limits for the consultation in Sweden. The timeframe for answers is discussed with the developer and with the Point of Contact in the Affected Party.

*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;*

See answer to question no 12.

*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;*

According to chapter 6 paragraph 8 in the Environmental Code, when an EIA documentation has been made, it shall be announced together with the application. Then the application and the EIA documentation shall be made available for the public that shall be given opportunity to comment on them before the case is assessed and decided. According to chapter 6 paragraph 9 in the Code, the authority that has to assess and decide upon an application, shall in a separate decision or in connection with the decision on the case, decide whether the EIA documentation fulfils the requirements in chapter 6. Such a decision may not be especially appealed but only in connection with an appeal of the decision on the application. When the application is assessed, the authority shall take into account the content of the EIA documentation and the result of consultations and comments according to paragraphs 4, 6 and 8 in chapter 6.

*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;*

There are no legal time limits for the consultation in Sweden. The timeframe for answers is discussed with the developer and with the Point of Contact in the Affected Party. In most cases the response has arrived in time.

*h. The procedures for public hearings domestically;*

No special legal requirements.

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

See answer to question no 12.

#### 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;*

See answer to question 12.

*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;*

See answer to question 12.

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

See answer to question 12.

## **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;*

See answer to question 12.

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

See answer to question 12.

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

See answer to question 13 f.

#### 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;*

See answer to question 12.

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

See answer to question 12.

## **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;*

There is no specific definition, see also answer to 17 b below.

- 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?*

The final decision will be a permit for the projector activity. Almost all projects or activities need a decision. The decisions are taken in accordance with different legislation and by different authorities.

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

According to chapter 6 paragraph 8 in the Code, when a decision has been made in a case with an EIA, it shall be announced. At the same time it shall be announced how the public can get access to the content in the decision. The competent authority in the state consulted with shall be informed. See also answer to question 13 f.

- 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, see answer to question 13 f.

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

## **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);*

There are no such requirements.

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

There are no such requirements.

## **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 bilateral agreements.

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.*

No.

## **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?*

Sweden has ratified.

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?*

Sweden has ratified.

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

Sweden has ratified.

## **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.*

The list is enclosed.

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.)*

No.

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.*

It is almost impossible to state a meaningful average duration of transboundary EIA procedures. The longest duration of procedure so far as Party of Origin is the Swedish Encapsulation and final repository for spent nuclear fuel. The notification began 13 December 2005. The consultation may occur in 2014. The Final decision may be made in 2015. Usually the procedures as a whole, including the final decision, can be estimated to take between two and three years. But there are many cases with longer duration.

#### 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.*

It is difficult to estimate this. Perhaps the most obvious case is the Nord Stream gas pipeline project where the first proposed route was changed for certain stretches because of the environmental risks they could lead to. For some cases the Espoo-process may have strengthened the EIA-process and put pressure on the developer to describe the environmental issues more seriously and on both sides of the border which should not have been done without the Convention.

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?*

SEPA advises the developer to provide a separate chapter on transboundary issues. It is the developers’ responsibility to determine the scope of the EIA after consultation with the County Administrative Board.

- 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?*

It is the responsibility of the developer to translate sufficient parts of the notification information and the EIA, even if this is not clearly demanded in the legislation. During the period 2010-2012 there has not been any severe problems with translations. SEPA generally discusses the need of translation with the developer and the question what material to translate, is sometimes decided together with the Affected Party. It concerns

mostly the summary and the parts in the documentation that relates to the project's likely transboundary significant environmental impacts.

- 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)?*

Mostly we try to invite the public in both countries to the same public meeting. If interpretation is needed we arrange that together with the other Party. Problems generally arise when the developer or the responsible authority arrange and decide about a public meeting in the Party of Origin without consulting the affected Party. Then the timeframes mostly become too short (time for arranging the notification consultation in the country, time for advertising etc.) and thus the affected Party has to arrange a meeting by itself. There have been complaints about too short timeframes between the advertising and the meeting. This occurs especially when many of the public are owner of summer houses and live far away from the location of the proposed project.

- 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?*

Developers in Sweden have had difficulties to get additional information from affected parties, even to get explanation to the requests that were given in the notification answer. SEPA sometimes have had problem to get in touch with the responsible authority in the notification and consultation periods when sufficient times had not been given. Sometimes no information has been given about contact information in the notification letter. This especially occurs when no contact has been made before the official notification and where no arrangement was possible beforehand in order to speed up the process. No experiences about separate consultation under article 5.

- 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;*

When there is a need for it, the content of the final decision or a summary of it has been translated into Swedish, otherwise the entire decision or a link to the decision has been sent. SEPA mostly sends the final decision to the authorities that have been involved in the case and display it on SEPAS' website together with the other collected information concerning the case. A difficult issue is to get the final decision from the Party of Origin or to send it as a Party of Origin because the decision is often taken a long time after the EIA consultations and the decision making authority might not always remember to inform about its decision.

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

We have only information about the post-project analyses made by the Nord Stream Co.

- 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.);*

The Nord Stream pipeline case is the most obvious and successful example and information on the procedures has been given at the WG in Geneva. The Scanled pipeline case with Norway and Denmark was not concluded but involved substantial work on procedures. Sweden and Norway has an on-going case concerning a cross-border power transmission line. There has been a meeting with all the involved authorities and the both developers. The legislation and the practice on the both side differs a lot and there has been some difficulties to take the same step on both sides at the same time. That has unfortunately resulted in the fact that we couldn't arrange the Espoo-notification together with the EIA-scoping consultation phase at the same time at both sides.

*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"?*

In the Nord Stream case we accomplished a good application of the Convention but at the cost of lots of resources for the developer and work for the Parties of Origin.

*i. Identify the most common means of applying the Convention (e.g., through focal points, joint bodies, multilateral agreements).*

Through Point of Contact.

#### 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.*

The Nord Stream case.

#### 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);*

No.

*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).*

Sweden produced this guidance together with Finland and the Netherlands and we based it partly on our experience.

## 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 difficulties.

## 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.*

No specific activities.

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?*

No special need.

## SUGGESTED IMPROVEMENTS TO THE REPORT

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

This questionnaire is mainly concerned with the legal requirements. Many Parties, like Sweden, may not have felt the need to specify all the procedural steps in the Convention in their legislation and thus many questions are not relevant. In some questions that you initially state only concerns legislation, there still are questions on application, as in 10 f and g. It is not clear what is meant by question 10 g.

The last questionnaire (2006-2009) also had questions on legislation but in several cases those answers could not be used because the questions this time are phrased differently. There should be some consistency in what the questionnaire is concerned with and there should not be a need to repeat the same answers for every questionnaire. It should be sufficient to report only about any changes in legislation or application.

Please indicate more clearly which cases are meant for the list in question 25.

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