

Questionnaire for the

REPORT OF <b>The Netherlands</b> ON THE IMPLEMENTATION OF THE PROTOCOL ON STRATEGIC ENVIRONMENTAL ASSESSMENT TO THE CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT
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in the period 2010-2012

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

*In this part, please describe the legal, administrative and other measures taken in your country to implement the provisions of the Protocol. This part should describe the framework for your country's implementation, and not experience in the application of the Protocol.*

### Article 2 - Definitions:

1. Is the definition of plans and programmes for the purpose of the Protocol the same in your legislation as in article 2, paragraph 5? Please specify.

- a) Yes ☐
- b) Yes, with some differences:
- c) No (please provide the definition):
- d) There are no definitions of plans and programmes in the legislation ☒X

Your comments: Pursuant to section 7.2 of our Environmental Act plans and programs are to be appointed for which in preparation an environmental impact assessment has to be made by means of a general administrative rule. In this general administrative rule („Besluit mer“) per activity plans have been appointed that are possibly a framework for these activities. Thus, all relevant legal and administrative plans are appointed by this general administrative rule. Also, for each legal or administrative plan that requires an Appropriate Assessment a environmental impact assessment also has to be made (section 7.2.a. Wm).

2. Is the definition of “environmental, including health effect” in your legislation the same as in article 2, paragraph 7? Please specify.

- a) Yes ☐
- b) Yes, with some differences: X
- c) No (please provide the definition):
- d) There is no definition of “environmental, including health effect” in the legislation ☐

Your comments:

In our Environmental Act, section 1.1. Wm ,subsection 2, the protection of humans (including human health) are part of the effects on the environment. Literal quotation:

Section 1.1 Wm, subsection 2:

2. In this Act and the provisions based thereon:

- a. ‘effects on the environment’ always includes impacts on the physical environment, in terms of the protection of human beings, animals, plants and materials, of water, soil and air and of landscape, scientific and cultural values and of climate control, and the relationships between them;
- b. ‘effects on the environment’ includes effects relating to efficient waste management or efficient wastewater management, effects relating to the consumption of energy and raw materials, and effects relating to the transport of persons or goods to and from the establishment;

3. Is the definition of “the public” according to article 2, paragraph 8, in your legislation the same as in the Protocol? Please specify.

- a) Yes ☐
- b) Yes, with some differences:
- c) No (please provide the definition):
- d) There is no definition of the public in the legislation x☐

Your comments: A definition of the public is not necessary as everyone can express their opinion on the Environmental Report. The public is everyone.

4. Are there any conditions for non-governmental organizations to be able to take part in the assessment procedure? Please specify.

a) Yes (please provide the conditions):

b) No ☐ X

Your comments: Pursuant to section 7.11 Wm everyone can express their opinion on the environmental report and draft-plan.

### Article 3 – General provisions:

5. Provide legislative, regulatory and other measures you have adopted in your country to implement the Protocol (art. 3, para. 1) (you can choose more than one option).

a) Law on SEA (please indicate number/year/name): Stb, 2006, 336

„Wet van 5 juli 2006 tot wijziging van de Wet milieubeheer in verband met de uitvoering van richtlijn nr. 2001/42/EG van het Europees Parlement en de Raad van de Europese Unie van 27 juni 2001 betreffende de beoordeling van de gevolgen voor het milieu van bepaalde plannen en programma's (PbEG L 197) (milieu-effectrapportage plannen)“

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

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

d) Administrative (please indicate number/year/name): Besluit van 4 juli 1994, houdende uitvoering van het hoofdstuk Milieu-effectrapportage van de Wet milieubeheer („Besluit milieueffectrapportage“) , amended in 2011 ([Besluit tot wijziging van het Besluit milieueffectrapportage en het Besluit omgevingsrecht](#) (reparatie en modernisering milieueffectrapportage) (Staatsblad 102, jaargang 2011).

e) Other (please specify):

6. Indicate the specific legislation in your country, if any, that assures that the requirements of article 3, paragraphs 6 and 7, are met, and that these rights of the public are observed (you can choose more than one option).

a) Constitution ☐ X

b) Law on public participation (please indicate number/year/name):

c) Law on SEA ☐ X

d) Legislation which transposes the Protocol on SEA (please indicate number/year/name):

e) Legislation which transposes the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (please indicate number/year/name):

f) Other (please, specify): Algemene Wet Bestuursrecht“ (general administrative law act)

Your comments:

Our constitution contains general provisions as freedom of speech.

As indicated above pursuant to section 7.11 Wm everyone (so regardless of citizenship) can express their opinion on the environmental report and draft-plan.

#### Article 4 – Field of application

7. List the types of plans and programmes that require SEA in your legislation (art. 4, para. 2).

Legal and administrative plans and programs that require a SEA, are these plans that set the framework for future development consent for activities that require an EIA (as listed in Annex 1 and 2 of the SEA Directive). These are spatial plans pursuant to our Spatial Planning Act, plans pursuant to our Planning Act Traffic and Transport, a spatial development plan pursuant to the Act on Rural Development, reconstruction plans under the Reconstruction Act, national water plan and regional water plans under the Water Act. Also, for each legal or administrative plan that requires an Appropriate Assessment a environmental impact assessment also has to be made (section 7.2.a. Wm).

8. Explain how you define whether a plan or programme “set the framework for future development consent” (art. 4, para. 2).

We have no definition, we use the same phrase in law. A plan sets the framework for future development consent, in case the plan appoints activities as meant in Annex 1 or Annex 2 of the SEA Protocol.

9. Explain how the terms “plans and programmes . . . which determine the use of small areas at local level” (art. 4, para. 4) are interpreted in your legislation.

Our national legislation has no provision on the use of small areas at the local level.

10. Explain how you identify in your legislation a “minor modification” to a plan or programme (art. 4, para. 4).

See answer under question 9.

#### Article 5 – Screening

11. How do you determine which other plans and programmes should be subject to a SEA according to article 4, paragraphs 3 and 4 (art. 5, para. 1)? Please specify.

- a) On a case-by-case basis ☐
- b) By specifying types of plans and programmes ☐
- c) By using a combination of (a) and (b) ☒
- d) Other (please specify): See the answers to questions 1 and 7. The case by case basis (a) applies to deciding whether a specified (b) plan or program is setting a framework for future developments that possibly require an EIA (directly or after screening). This decision is made by the competent authority. No specific screening arrangements.

12. Describe the procedures required in your legislation for consulting the environmental and health authorities (art. 5, para. 2, art. 6, para. 2, and art. 9, para. 1). If different in screening, scoping and on the draft plans and programmes and the environmental report, please specify.

Regarding scoping: our Environmental Act (section 7.8 Wm) determines that advisors and relevant authorities are consulted on the scope and detail of the environmental report (what information should the environmental report contain). Also, the Netherlands

Commission for Environmental Assessment (NCEA) may be consulted voluntarily on the scope and level of the environmental report.

For screening as described in the answer to question 11 this is not the case. The competent authority must decide whether (he wants) his plan or programme (to be) is setting a framework, that is free for the competent authority to decide.

For the environmental report the competent authority must consult the NCEA; besides this, everybody is entitled to express their views during the public participation, including relevant authorities.

13. Do you provide opportunities for the public concerned to participate in screening and/or scoping of plans and programmes in your legislation (art. 5, para. 3, and art. 6, para. 3)?

If yes, please specify (you can choose more than one option).

- a) By sending written comments to the competent authority ☒x
- b) By sending written comments to the local municipality ☐
- c) By providing answers to a questionnaire ☐
- d) By taking part in a public hearing ☐
- e) There are no opportunities for public participation in screening and/or scoping ☐
- f) Other (please specify): in addition to written comments oral comments can be given as well when there is the opportunity to express views in the scoping phase. Also competent authorities may organise hearings or meetings for the public or specific stakeholders.

Your comments:

Regarding scoping: the SEA procedure prescribes that the public is informed at an early stage about the intention to develop a plan or program and a SEA is carried out for this plan of program. In this publication the competent authority is obliged to – amongst other things like information on the outline of the plan - give information on who is given the opportunity to express their views on what. In practice this is more or less always the public (concerned) which is given the opportunity to express their views on the intention to develop a specific plan or program together with the scope and level of detail of the SEA (alternatives etc).

14. At what stage of the procedure for a plan or programme does your legislation require you to make the screening decision publicly available? What information do you provide in the screening decision (art. 5, para. 4)?

When the draft-plan is made publicly available. The information includes a motivation why the competent authorities have decided a SEA is not necessary.

## Article 6 – Scoping

15. How do you determine what is relevant information to be included in the environmental report in accordance with article 7, paragraph 2 (art. 6, para. 1)? Please specify (you can choose more than one option).

- a) By using annex IV ☒X
- b) By using the comments from the concerned authorities ☐X
- c) By using the comments from the public concerned, if it has been consulted ☒x
- d) As determined by the competent authority based on its own expertise ☐x
- e) By using other means (please specify):

Your comments: Annex IV is translated in our Environmental Act. Advisors and relevant authorities are consulted on the scope and detail of the SEA report (e.g. the relevant information to include in the environmental report). When the public is consulted during the scoping phase (which often is the case in practice) the comments are taken into account as well when determining the scope and level of detail of the SEA report.

## **Article 7 – Environmental report**

16. How do you determine “reasonable alternatives” in the context of the environmental report (art. 7, para. 2)? Please specify.

- a) On a case-by-case basis ☒X
- b) As defined in the national legislation (please specify):

17. How do you ensure sufficient quality of the reports? Please specify.

- a) The competent authority checks the information provided and ensures it includes all information required under annex IV as a minimum before making it available for comments ☒X
- b) By using quality check lists ☐
- c) There are no specific procedures or mechanisms ☐
- d) Other (please specify): It is regulated by law that the Netherlands Commission for Environmental Assessment (NCEA) advises on the environmental report (does the SEA contain all relevant information necessary for the decision on the plan or program at stake of the De Commissie voor de mer adviseert over het MER (art. 7.12 Wm). On a voluntary basis the competent authority can also ask for an advice of the NCEA on the scope and level of detail of the environmental report (information the report should contain).

Your comments: The responsibility for ensuring a sufficient quality of the environmental report lies with the competent authority of the plan or program.

## **Article 8 – Public participation**

18. How do you ensure the “timely public availability” of draft plans and programmes and the environmental report (art. 8, para. 2)? Please specify (you can choose more than one option).

- a) Through public notices ☒X
- b) Through electronic media ☒X
- c) Through other means (please specify):

Your comments: The draft plan or draft program and the environmental report is made public by a publication in one or more daily national, regional and/ or local (news)papers or in another suitable manner. In the case of a national plan, a notification about the draft-plan and SEA report is also published in the governmental gazette. the Het ontwerpplan en MER worden terinzage gelegd en er wordt kennis van gegeven (art. 7.11 Wm). The draft-plan or program is made available for the public to look into electronically as well as physically (information on this is given in the publication).

19. How do you identify the public concerned (art. 8, para. 3)? Please specify (you can choose more than one option).

- a) Based on the geographical location of the plans and programmes ☒x
- b) By making the information available to all public and letting them identify themselves as public concerned ☐X
- c) By other means (please specify):

Your comments: In practice it is a combination of a en b. By law everybody is entitled to express their views on any draft-plan or program if they wish to do so. However, when it concerns a local or regional plan, the publication is usually done in the regional and/or local (news)papers, as in practice the competent authority usually identifies the relevant stakeholders (including the public) for a certain plan or program as part of the process in order to communicate as effectively and efficiently as possible. So within the context of communicating the competent authority does identify the public concerned through stakeholder analysis.

20. How can the public concerned express its opinion on the draft plans and programmes and the environmental report (art. 8, para. 4)? Please specify (you can choose more than one option).

- a) By sending comments to the relevant authority/focal point ☒X
- b) By providing answers to a questionnaire ☐
- c) Orally ☐X
- d) By taking part in a public hearing ☐X
- e) Other (please specify):

Your comments: Views/ comments can be put forward in writing (being electronically or by post) or orally, that is up to the person, organisation or company in question . Sometimes a public hearing is organised by the competent authority, but this is not obligatory and not always the case.

21. Do you have a definition in your legislation of the term “within a reasonable time frame” (art. 8, para. 4)? Please specify.

- a) Yes (please provide the definition): X The timeframe to put forward views on the SEA report (together with the draft plan or program) is stipulated by law and is (always) six weeks.
- b) No, the time frame is given by a number of days for each commenting period ☐
- c) No, it is defined case by case ☐
- d) Other (please, specify):

## **Article 10 – Transboundary consultations**

22. As a Party of origin, when do you notify the affected Party (art. 10, para. 1)? Please specify.

- a) During scoping ☐X

- b) When the draft plan or programme and the environmental report have been prepared ☒x
- c) At other times (please specify):

Your comments:

The Affected Party is usually notified in the scoping phase and important potential transboundary effects are expected / are not unlikely to occur. Often this is preceded by an "informal notification" giving information on the plan or project and – when available information on the possible transboundary effects – which also gives the opportunity to request assistance of the Affected Party when necessary on matters as which authorities to consult in the transboundary procedure etc. When the draft plan or program and the environmental report is prepared, the Affected Party is provided with this information and in a way notified again. When the Affected Party has not been notified in the scoping phase because potential transboundary effects were not to be expected in this phase, it is also possible that the Affected Party is notified as soon as possible in case the information gathered for the environmental report shows that there are important potential transboundary effects, e.g. when the draft plan and environmental report has been prepared.

23. As a Party of origin, what information, do you include in the notification (art. 10, para. 2)? Please specify.

- a) The information required by article 10, paragraph 2 ☒X
- b) The information required by article 10, paragraph 2, plus additional information (please specify):

24. As a Party of origin, does your legislation indicate a reasonable time frame for the transmission of comments from the affected Party (art. 10, para. 2)? Please specify.

- a) Yes (please, indicate how long): six weeks
- b) No ☐

Your comments: The time frame given to the Affected Party for the transmission of comments is identical to the timeframe given nationally, which is six weeks (our legislation stipulates that everyone can express their views during a period of six weeks on the draft plan or program and environmental report as also mentioned above).

25. If the affected Party has indicated that it wishes to enter into consultations, how are the detailed arrangements, including the time frame for consultations, agreed (art. 10, paras. 3 and 4)? Please specify.

- a) Following those of the Party of origin ☒X
- b) Following those of the affected Party ☐
- c) Other (please specify): certain matters, as f.e. which authorities to include are

Your comments: In principle the procedure of the Country of Origin is followed as agreed in bilateral agreements. However, on request of the Affected Party or certain elements/ matters arrangements are agreed in consultation (f.e. which matters to address, whether or not to organise a meeting etc).

## Article 11 – Decision



26. When a plan or programme is adopted, explain how your country ensures that due account is taken of the (art. 11, para. 1).

- a) Conclusions of the environmental report ☐
- b) Mitigation measures ☐
- c) Comments received in accordance with articles 8 to 10 ☐

Your comments: Our Environmental Law obligates the competent authority to motivate the draft plan or program (decisions taken). The plan should contain:

- the way in which environmental effects described in the environmental report are taken into account (including preventive, mitigating and possibly compensation measures)
- what is considered regarding the comments and views (and consultations) expressed by the public and the Netherlands Commission for Environmental Assessment (including the public and authorities of the Affected Party).

27. How and when do you inform your own public and authorities (art. 11, para. 2)?

A national plan has to be published in the Government Gazette, unless stipulated otherwise in a legal provision. Regional plans and programs are made public through a publication in a governmental paper or a daily, news or local paper, or in another suitable manner. Electronic publication can only take place in a governmental paper, unless stipulated otherwise in a legal provision. Also, all persons or organisations (private, governmental, advisory) that have submitted comments or advice are informed individually about the final plan or program (decision) and through which channel it has been made publically available.

28. How do you inform the public and authorities of the affected Party (art. 11, para. 2)?  
Please specify.

- a) By informing the point of contact ☐
- b) By informing the contact person of the ministry responsible for SEA, who then follows the national procedure and informs his/her own authorities and public ☐
- c) By informing all the authorities involved in the assessment and letting them inform their own public ☐
- d) Other (please, specify): the public (private persons, NGO's, private companies) and authorities that have submitted comments are informed personally about the final plan or program (decision). In other words, this is identical to the way the national public and authorities are informed.

## **Article 12 – Monitoring**

29. Describe the legal requirements for monitoring the significant environmental, including health, effects of the implementation of the plans and programmes adopted under article 11 (art. 12, paras. 1 and 2).

Our Environmental Law obligates the competent authority which has taken the decision regarding a certain plan or program is obligated to assess the consequences of the execution of the plan. The competent authority determines the timeframe and moment that the monitoring and evaluation is to be commenced and in which way it will be conducted. This information is part of the final decision.

## **Article 13 – Policies and legislation**

30 Do you have national legislation on the application of principles and elements of the Protocol as regards policies and legislation (art. 13, paras. 1–3)? Please specify.

- a) Yes (please specify which articles of the Protocol apply): X
- b) No ☐

Your comments: With the development of regulations the so-called “instructions for regulations” have to be taken into account. These state that the consequences for the environment of the regulation have to be exemplified in the motivation as part of the legal regulation. These instructions for regulations also in principle apply to policy rules. Besides this, the competent authority can make a so called “Structuurvisie” (“Structure visions”) (legally based in our Spatial Act) which is a self-binding policy vision (e.g. so only binding for the competent authority itself) which is subject to a SEA when the vision sets a framework for future activities that require an EIA (or screening for an EIA).

## PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2010 -2012

*In this part, please report on your country's practical experiences in applying the Protocol (and not your country's procedures, which were described in part one). The focus of this section should be on identifying good practices as well as difficulties encountered in applying the Protocol in practice. The goal is to enable Parties to share solutions. Please therefore provide appropriate examples highlighting application of the Protocol in your country and innovative approaches to improve its application.*

31 Does your country object to the information on SEA procedures provided in this section being compiled and made available on the website of the Protocol? Please specify (indicate “yes” if you object).

- a) Yes ☐
- b) No ☒ X

## DOMESTIC AND TRANSBOUNDARY IMPLEMENTATION IN THE PERIOD 2010–2012

32 Which competent authority/authorities are responsible for carrying out the SEA procedure in your country? Please specify.

- a) If they are different for different types of plans and programmes ☐
- b) If they are different at different levels (national, regional, local) ☐ X *Depending on the level, the national authorities, regional authorities (provinces) or the local authorities (municipalities) are the competent authority for spatial plans. The same applies to other plans, like for example water plans.*
- c) If they are different for domestic and transboundary procedures ☐
- d) Please name the responsible authority/authorities:

33 Does your SEA documentation always include a specific (sub)chapter on information on potential transboundary effects? Please specify.

- a) Yes ☐
- b) No, only when potential transboundary effects are identified ☐ X *(in case of a plan which covers an area close to the border but does not have any transboundary effects, it is recommended and safe to say common practice that this is explicitly mentioned in the SEA report, but ultimately this is up to the competent authority. In our bilateral agreement there is the arrangement that in case of plans or programs which cover an*

*area within 5 km of the border the neighboring country is also informed when there are no important transboundary effects (to be expected) out of good neighbourship), so it makes sense to include a separate chapter for plans covering an area close to the border.*

## CASES DURING THE PERIOD 2010-2012

- 34 If possible, provide the (approximate) number of domestic and transboundary SEA procedures initiated during the given period and list them by referring to the sectors in article 4, paragraph 2.

Around 75 SEA's (domestic and transboundary) were carried out in the period 2009-2012, based on the data of the Netherlands Commission for Environmental Impact Assessment; the Commission registers the advices they have given for plans and projects. In the registration no distinction has been made between domestic and transboundary, but for the most part the SEA's that have been carried out will be for domestic plans with no possible important transboundary impacts. It is not possible to categorize them as they SEA's are not registered by sector as referred to in article 4, paragraph 2 of the Protocol. However, quite a large number of plans concern spatial plans (either being national, provincial or municipal), water plans or policy visions with spatial implications concerning a theme (f.e. wind energy or pipelines).

## EXPERIENCE WITH THE STRATEGIC IMPACT ASSESSMENT PROCEDURE IN 2010-2012

- 35 If your country has had practical experience in implementing the Protocol, has this supported the integration of environmental, including health, concerns into the development of plans and programmes? Have the conclusions included in the environmental report influenced the drafting and resulted in altering of a plan or programme? Please, provide examples, if you have this information.

We have experience in implementing the SEA Protocol, enabling competent authorities to take environmental aspects into account in the final decision, thus integrating environmental (including health) concerns into the development of plans and programs. A few examples illustrating that the SEA report has influenced the drafting of a plan resulting in altering a plan or program are the following:

- **The National Policy Strategy on Pipelines (NPSP)** is a central government policy strategy aimed at reserving space in the Netherlands over the coming 20 to 30 years for new pipelines that will transport hazardous substances. These would be underground pipelines for transporting natural gas, oil products and chemicals across provincial and, in some cases, national boundaries. The National Policy Strategy designates a main network of routes along which space should be reserved to guarantee the continuity of pipeline transport of national importance in the future. The final plan has been altered in certain cases due to the outcomes of the SEA; mostly the alterations concerned certain pipelines routes having been dropped due to environmental reasons (mostly safety). Also, as a result of the initial SEA process, new alternatives for pipelines routes have been researched in an additional SEA and again put forward for public consultation.

- **Provinciaal Omgevingsplan Limburg 2014 (POL 2014):** this plan combines a spatial plan, an environmental policy plan, a regional waterplan and a provincial traffic and transport plan. For this plan the SEA is been conducted in two phases, a new approach which has been chosen deliberately and approved by the NCEA. In the first phase the SEA was used as a research tool to indicate the central themes for the provincial spatial environment plan and the alternatives. The results of the SEA process served as the basis for the so called draft outline sketch POL 2014, a document comprising a description of the ambitions and challenges for the province of Limburg, scenario's of the visions for the three provincial region's, the priority themes, there relationship/interlinkage and the instruments to realise the ambitions. This Outline served as the starting point for further development and operationalisation of the provincial plan and administrative regulation. The proposals in the Outline document are further developed and researched in phase 2 for which a draft SEA will be conducted (in the year 2013). This SEA will contain the preferred alternative (draft decision).

Regarding the scoping document for the SEA broad public consultation has taken place, including transboundary (Belgium and Germany). Regarding the transboundary consultations, several informal bilateral meetings have taken place regarding their views on the plan and SEA. Valuable information has been required in this process for the purpose of conducting the SEA. Also, the text of the scoping document has been adjusted due to remarks abroad, mentioning explicitly that the the transboundary impact of the preferred alternatieve and cumulative effects in a transboundary context will be taken into account. Also domestic remarks have led to alterations in the scoping document, the basis for the SEA. It is to early in the process if the SEA (second phase) will also lead to an alteration in the preferred alternative and final plan in the second phase.

With respect to a further subject specific support and knowledge of certain transboundary aspects in the plan, there have been additional expert meetings between Netherlands and respectively Germany and Belgium for subjects as nature and landscape, mobility and infrastructure and location policy of windfarms.

- 36 If your country has experienced substantial difficulties interpreting particular terms (or particular articles) in the Protocol, please indicate them. Does your country work together with other Parties to find solutions? If not, how does your country overcome the(se) problem(s)? Please, provide examples, if available.

No, we have not experienced substantial difficulties interpreting particular terms or articles in the Protocol. This can be partly attributed to the bilateral arrangements/agreements between respectively the Netherlands-Germany and the Netherlands-Flanders. Both documents are a practical implementation of the national and international regulations regarding transboundary SEA.

- 37 Please share with other Parties your country's experience of applying the Protocol in practice, if such information is available. 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. Please detail:

- a. Your country's experience with domestic procedures:

- i. Has your country carried out monitoring according to article 12 and, if so, for what kinds of plans or programmes?

We do not have an administrative body that registers the monitoring of plans and programs.

- ii. Please provide examples of good practice cases, whether complete cases or good practice elements (e.g., consultation or public participation) within cases. Would your country like to present a case to be published on the website of the Convention and its Protocol as a “case study fact sheet”?

Good practice examples, besides the examples already mentioned under question 35, are:

- the SEA which has been carried out for the **Spatial Environment Plan** of the province of Overijssel, but this plan was conducted partly outside the reviewperiod (2008-2009)
  - **Intermunicipal structure spatial vision Maasplassen and SEA**: this plan is in the preparatory process, the province of Limburg functions as the lead authority in the procedure): in this SEA process regarding the transboundary aspect, the relevant Belgium authorities have been consulted with the drafting of the Masterplan Maasplassen, as the operational measures in the Belgium part of the Maas and Maasplassen can influence the water level in the Netherlands and vice versa. The scoping document has been shared with different Belgium authorities at the national, regional and local level. Their reactions have led to alterations in the scoping document, serving as a starting document for the SEA and the Masterplan (spatial plan). Also in the further process the Belgium authorities have supplied valuable information/content for the SEA to be conducted.
  - **SEA for a spatial integration plan N280 West and a SEA for the N266 Randweg Nederweert (infrastructural plan Midden Limburg)**. In both SEA processes stakeholder dialogue has been applied. In these dialogues the most important stakeholder groups are represented (companies, local communities etc). The stakeholders are periodically consulted in the preparation and conducting of the scoping document, including the alternatives and the SEA report. This with the purpose of creating a large support for operational measures. In addition, valuable information has been retrieved from the stakeholder dialogues used to prepare, make and judge the different documents. The stakeholders have valued the cooperation positively as well.
- b. Your country's experience with transboundary procedures:
- i. Translation is not addressed in the Protocol. How has your country addressed the question of translation? What difficulties has your country experienced in relation to translation and interpretation, and what solutions has your country applied?

Section 7.7, subsection 2 of our Environmental Act stipulates that on request of the competent authority the one responsible for the plan has to make a translation of the non-technical summary of the SEA report. In addition, translation is a topic addressed in the bilateral agreement with Germany. Ultimately, the information translated is a customized decision that lies with the competent authority in the Party of origin, which will depend on the project and the actual (expected) transboundary effects and thus has to be determined on a case-by case basis. In the bilateral agreement with Germany it is recommended that

respectively the notification of intent, when available the scoping guidelines for the SEA report, the non-technical summary of the SEA report and – when available - the separate chapter on transboundary effects, the legend of relevant maps, and the relevant sections on transboundary issues of the draft plan in general is reasonable information to translate.

For obvious reasons translation is not an issue between Belgium (Flanders) and the Netherlands. Between Belgium (Walloon region) there is the language issue as the official language differs (French and Dutch). We have no bilateral arrangements with the Walloon region; in general the Dutch competent authorities themselves translate the non-technical summary and in case of a separate chapter/section on transboundary issues and effects, this is translated as well. The latter is determined on a case-by-case basis.

The Netherlands have experienced some (minor) difficulties in the reviewperiod relating to translation in case of SEA's from abroad. Sometimes the translation is of poor quality, non-existent or in English (which is not always suitable/sufficient for public participation). The relevant competent authorities have applied different solutions in the past. In the case of a poor translation, one solution is that the Dutch competent authorities hire a translator themselves to translate the relevant documents in correct Dutch (f.e. the notification for the public). In the case of a translation being absent, the Dutch authorities may formally request for a translation of at least the non-technical summary. However it is not uncommon for the Dutch authority involved to translate the (relevant parts of the) documentation themselves, which in the case of Germany is not in line with the bilateral agreement.

ii. What does your country usually translate as a Party of origin?

Depending in the phase in which the SEA is in and the competent authority, the competent authority translates the notification and the offer letter. In the scoping phase (relevant parts of the) scoping document or starting document of a plan may be translated as well when available; in the draft plan and SEA report stage, the non-technical summary and the chapter on transboundary effects of the SEA-report and the information concerning transboundary effects in the (draft-)plan itself is usually translated.

iii. Has your country carried out transboundary public participation according to article 10, paragraph 4? If so, how? Was your country the Party of origin or the affected Party? What has been your country's experience of the effectiveness of public participation? 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?

Yes, in case of plans or programs which had or were expected to have (a) significant (chance on) transboundary environmental effects, transboundary public participation has been carried out. This has been in the role of Party of Origin as well as Affected Party.

We are not aware of any complaints from the public regarding transboundary SEA procedures. Sometimes in advance the Affected Party requests to be informed and consulted timely, which is done accordingly.

- iv. Does your country have examples of organizing transboundary SEA procedures for joint cross-border plans and programmes? If yes, describe such examples, if possible.
- To assess the effects to lead more water of the river the Meuse to Flemish and Dutch channel systems, Flanders has conducted a voluntary SEA. The results of the SEA have been used by the Netherlands in a feasibility study with public participation. This may not be an example of a formal transboundary procedure for a joint cross-border plan, but is a nice example of good cooperation including SEA. We have no knowledge of other transboundary procedures for joint cross-border plans.
- v. Please provide examples of good practice cases, whether complete cases or good practice elements (e.g., consultation or public participation) within cases. Would your country like to present a case within a “case study fact sheet” to be published on the website of the Convention and its Protocol?

See above for examples of good practice elements within cases. At the moment we do not necessarily wish to provide a case study fact sheet but we are willing to investigate with the provinces if needed.

#### COOPERATION BETWEEN PARTIES IN 2010–2012

- 38 Does your country have any successful examples of how it has overcome difficulties arising from different legal systems in neighbouring countries?

In our bilateral agreements with Flanders and Germany we have made practical arrangements concerning the execution of transboundary procedures in order to ensure an efficient procedure. The basic rule is that in principle, the national procedure of the Party of Origin is followed; ofcourse the procedure can be adjusted in a particular case after consultation with the Affected Party. This as a preventive measure to overcome difficulties arising from different legal systems.

#### EXPERIENCE REGARDING GUIDANCE IN 2010–2012

- 39 Are you aware of any use in your country of the Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment available online<sup>1</sup>? If yes, please describe any experience with using this guidance document and how it might be improved or supplemented.

No, we do not have any information on the use of the Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment in our country. We do have not put the Resource Manual online on a national governmental website as we have national guidelines in place (which are online); these do however contain the main principles of the Resource Manual. In addition, the bilateral agreements do contain the main principles of the Resource Manual as well.

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<sup>1</sup> [http://www.unece.org/env/eia/pubs/sea\\_manual.html](http://www.unece.org/env/eia/pubs/sea_manual.html)

40 Do you provide any assistance and guidance to the public? If yes, please specify.

We do not have special guidance in place for the public; there is the general guidance that can be consulted by the public as well. In addition, on request, in a specific procedure the public may be assisted with information on how to express their opinion etcetera by the competent authority.

41 Do you support associations, organizations or other groups that promote the Protocol? If yes, please specify which and how.

No. This said, the Netherlands does not have any specific national associations, organisations or other groups that promote the Protocol to our knowledge. We do however support the Netherlands Commission for Environmental Assessment (NCEA), besides their legal task to advice on the quality of SEA and EIA reports, to enhance the knowledge on both EIA and SEA on subjects that might be found difficult at times (how do you define alternatives, what is the level of detail).

42 Has your country had difficulties implementing the procedure defined in the Protocol?

No.

#### AWARENESS OF THE PROTOCOL

43 Does your country see a need to improve the application of the Protocol in your country and, if so, how does it intend to do so?

Not explicitly as competent authorities are quite aware of the legal obligations to prepare a SEA for certain plans and programs, but ofcourse there is always room for improvement in order to maintain and ameliorize the quality of the process and the environmental report. To this purpose there are various things in place, as the guidance on SEA, the knowlegde function of the NCEA and our Ministry organises a meeting every two years there is a meeting organised by the for policy makers and experts in the field that are involved in EIA and SEA one way or another, to discuss different themes within EIA or SEA. In addition, the association for environmental experts (VVM, member and co-founder of the European Network of Environmental Professionals ([ENEP](#)) also pays regular attention to the subject in events organised by them.

#### SUGGESTED IMPROVEMENTS TO THE REPORT

44 Please provide suggestions for how this report may be improved.

Still some overlap of questions can be avoided, in part 1 concerning the legal issues as the practical part (by asking practical examples you have the feeling there is some overlap. Maybe a suggestion is to ask for a few practical examples and to highlight certain aspects of the procedure).

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