

REPORT OF ON THE IMPLEMENTATION OF THE PROTOCOL ON STRATEGIC ENVIRONMENTAL ASSESSMENT TO 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 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 ☐

Your comments:

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:
- c) No (please provide the definition):
- d) There is no definition of “environmental, including health effect” in the legislation ☐

Your comments:

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 ☐

Your comments:

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 ☒

Your comments:

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): Environmental code (1998:808) and the ordinance (1998:905) on environmental impact assessments

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

Your comments:

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 ☐
- b) Law on public participation (please indicate number/year/name):
- f) Law on SEA Environmental code (1998:808) and the Ordinance (1998:905) on environmental impact assessments
- c) Legislation which transposes the Protocol on SEA (please indicate number/year/name):
- d) 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):
- e) Other (please, specify):

Your comments:

Article 4 – Field of application

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

When an authority or a municipality establishes or changes a plan or a programme which is required in law or another statute, the authority or municipality shall make an environmental assessment of the plan, programme or change if its realization is likely to have a significant environmental impact. The purpose of the environmental assessment is to integrate the environmental aspects into the plan or the programme so that a sustainable development is promoted. Types of plans and programmes are specified in 4 § of the EIA-ordinance.

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

4-5 §§ of the EIA-ordinance

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.

4 § of the EIA-ordinance

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

4 § of the EIA-ordinance

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):

Your comments:

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.

6:16 of the environmental code and 8 § of the EIA-ordinance.

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 ☒
- 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):

Your comments:

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)?

6 § of the Ordinance. The decision is to be made public when it has been taken.

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 ☒
- b) By using the comments from the concerned authorities ☒
- c) By using the comments from the public concerned, if it has been consulted ☒
- d) As determined by the competent authority based on its own expertise ☒

By using other means (please specify):

Within the frame of an environmental assessment the authority or municipality shall establish an environmental impact statement where the significant environmental impact that the realization of the plan or programme is likely to have is identified, described and assessed. Reasonable alternatives in view of the purpose or geographical scope of the plan or programme shall also be identified, described and assessed.

The environmental impact statement shall contain

1. a summary of the content of the plan or programme, its main purpose and relation to other relevant plans and programmes;
2. a description of the environmental conditions and the probable development of the environment if the plan, programme or change is not realized;

3. a description of the environmental conditions in the areas which are likely to be significantly affected;
4. a description of the relevant existing environmental problems that have connection with such a natural area referred to in Chapter 7 or another area of particular importance for the environment;
5. a description of how the relevant environmental quality objectives and other environmental considerations are taken into account in the plan or programme;
6. a description of the significant environmental impact which is likely to arise relating to biological diversity, population, human health, wildlife, flora, land, water, air, climate factors, material assets, landscape, buildings, ancient and cultural remains and other cultural heritage as well as the mutual relationship between these environmental aspects;
7. a description of the planned measures to prevent, hinder or combat significant negative environmental impact;
8. a summary report on how the assessment has been made, what reasons are taken into account for a decision on different alternatives and any problems in connection with the compilation of the information;
9. a report on the planned measures for follow-up and supervision of the significant environmental impact that the realization of the plan or programme causes; and
10. a non-technical summary of the information referred to in (1–9).

An environmental impact statement pursuant shall contain the information which is reasonable with regard to

1. assessment methods and present knowledge;
2. the content of the plan or programme and the level of detail;
3. the interest of the public; and
4. that certain questions can be assessed better in connection with the examination of other plans and programmes or in the permit examination procedure for activities or measures.

Your comments:

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):

Your comments:

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):

Your comments:

Before an authority or a municipality decides on the extent and the level of detail for the environmental impact statement, the authority or municipality shall consult the or those municipalities and county administrative boards which are affected by the plan or programme. For plans and programmes on a national level, the consultation shall instead be made with the Swedish Environmental Protection Agency, the Swedish Agency for Marine and Water Management and other affected Governmental administrative authorities.

The consultations on the environmental report can give information on the quality.

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 ☒
- b) Through electronic media ☒
- c) Through other means (please specify):

Your comments:

The authority or municipality that has established an environmental impact statement pursuant to Section 12 shall make it and the draft of the plan or programme available to the concerned municipalities and authorities as well as to the public. They shall be given reasonable time to give their opinion. (Chapter 6 paragraph 14 Env. Code)

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 ☐
- b) By making the information available to all public and letting them identify themselves as public concerned ☒
- c) By other means (please specify):
- d) Your comments:

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 ☒
- b) By providing answers to a questionnaire ☐
- c) Orally ☐
- d) By taking part in a public hearing ☒
- e) Other (please specify):

Your comments:

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):
- 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):

Your comments: Its stated in the environmental code that they shall be given reasonable time to give their opinion.

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
☐

c) At other times (please specify):

Your comments:

If an environmental impact statement refers to a plan or a programme whose realization is likely to have a significant environmental impact in another country, the responsible authority designated by the Government shall send the description and the draft plan or programme to the country concerned. Such information shall also be supplied if another country which is likely to be exposed to a significant environmental impact so requests.

If the country concerned so requests, a consultation shall be made concerning the environmental impact across the border that the realization of the plan or programme is likely to have and the planned measures to prevent, hinder or combat significant negative environmental impact. (chapter 6 paragraph 15 Environmental Code)

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):

Your comments:

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):

b) No X

Your comments:

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 ☐

b) Following those of the affected Party ☐

c) Other (please specify):

Your comments: 10 § of the EIA-ordinance refers to art. 10.

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:

Chapter 6 paragraph 16 Environmental Code:

When the plan or programme has been adopted, the decision-making authority or municipality shall show in a compilation

- 1. how the environmental aspects have been integrated into the plan or programme;
- 2. how the environmental impact statement and the comments from the consultation have been taken into account;
- 3. the reasons for the adoption of the plan or programme in-stead of the alternatives that have been taken into consideration; and
- 4. the measures intended to be taken for follow-up and supervision of the significant environmental impact that the realization of the plan or programme causes.

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

The compilation and the plan or programme shall be made available to those with whom consultations have been made. They shall also be informed about the adoption of the plan or programme.

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):

Your comments:

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).

It follows from 6:18 of the Environmental Code that when a plan or a programme has been adopted, the decision-making authority or municipality shall acquire knowledge about the significant environmental impact that the realization of the plan or programme actually causes. This is to be done in order to make the authority or municipality at an early stage aware of such significant environmental impact that has not been identified previously so that appropriate remedial measures can be taken.

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): All articles.
- b) No ☐

Your comments: The purpose of the Environmental Code is to promote a sustainable development which will assure a healthy and sound environment for present and future

generations. Such development is based on recognition of the fact that nature is worthy of protection and that our right to modify and exploit nature carries with it a responsibility for sound management of natural resources.

The Environmental Code shall be applied in such a way as to ensure that

1. human health and the environment are protected against damage and nuisance, whether caused by pollutants or other impacts;
2. valuable natural and cultural environments are protected and preserved;
3. biological diversity is preserved;
4. the use of land, water and the physical environment in general is such as to secure a long term good management in ecological, social, cultural and economic terms; and
5. reuse and recycling, as well as other management of materials, raw materials and energy, are encouraged with a view to establishing and maintaining natural cycles.

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 X
b) If they are different at different levels (national, regional, local) X
c) If they are different for domestic and transboundary procedures ☐ For certain parts of the procedure.
d) Please name the responsible authority/authorities: The authority responsible for drafting and adopting the plan is responsible for the procedure. The Swedish Environmental Authority (SEPA) is responsible for the transboundary consultations and is Point of Contact.

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

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.

Domestic around 400. Transboundary as Party of Origin 5. Not possible to list all.

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.

No studies have been made that could show this.

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 problems

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?

Only through already existing general monitoring schemes.

- 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"?

No examples.

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?

This is decided case by case in cooperation with the other Party.

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

The summary, the map legends and any specific issue that is asked for by the other Party.

- 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?)

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 could arise when 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.

- 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.

No.

- 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?

No examples.

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?

No difficulties.

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 online¹? If yes, please describe any experience with using this guidance document and how it might be improved or supplemented.

No.

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

¹ http://www.unece.org/env/eia/pubs/sea_manual.html

SEPA has produced Swedish guidance on SEA: Practical guidelines on strategic environmental assessment of plans and programmes (Handbook 2009:1). An English version can be found at: <http://www.naturvardsverket.se/Om-Naturvardsverket/Publikationer/ISBN/6300/978-91-620-6383-2/>

There are also guidance and information on SEPA's webpage www.naturvardsverket.se

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

No

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?

The Swedish Government is currently reviewing chapter 6 in the Environmental Code in order to make the requirements on EIA and SEA more clear and streamlined.

SUGGESTED IMPROVEMENTS TO THE REPORT

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

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