

**Questionnaire for the report of DENMARK [NAME OF COUNTRY] on
the implementation of the Convention on Environmental Impact
Assessment in a Transboundary Context in the period 2013–2015**

Information on the focal point for the Convention

1. Name and contact information: Thilde Flindt

Information on the point of contact for the Convention

2. Name and contact information (if different from above):

Information on the person responsible for preparing the report

3. Country: Denmark
4. Surname: Flindt
5. Forename: Thilde
6. Institution: Danish Nature Agency, Ministry of Environment and Food
7. Postal address: Haraldsgade 53, DK-2100 Copenhagen
8. E-mail address: thini@nst.dk
9. Telephone number: 0045 72544833, 0045 93597144
10. Fax number:
11. Date on which report was completed: 30.march 2016

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.

Please do not reproduce the text of the legislation itself but summarize and explicitly refer to the relevant provisions transposing the Convention text (e.g., EIA Law of the Republic of ..., art. 5, para. 3, of Government Resolution No. ..., para. ... item...)

Article 1

Definitions

I.1. Is the definition of impact for the purpose of the Convention the same in your legislation as in article 1?

- (a) Yes
- (b) Yes, with some differences (please provide details):
- (c) No (please provide the definition):
- (d) There are no definitions of impact in the legislation

Your comments:

I.2. Is the definition of transboundary impact for the purpose of the Convention the same in your legislation as in article 1? Please specify each below.

- (a) Yes
- (b) Yes, with some differences (please provide details):
- (c) No (please provide the definition):
- (d) There are no definitions of transboundary impact in the legislation

Your comments:

I.3. Please specify how major change is defined in your national legislation:

The Danish legislation is compliance with the EC EIA directive incl. the projects listed in annex I and II.

I.4. How do you identify the public concerned? Please specify (more than one option may apply):

- (a) Based on the geographical location of the proposed project
- (b) By making the information available to all members of the public and letting them identify themselves as the public concerned
- (c) By other means (please specify):

Your comments:

Article 2 General provisions

I.5. Provide legislative, regulatory, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2):

(a) Law on EIA: Planning act number 1529 of 23. November 2015.

(b) EIA provisions are transposed into another law(s) (please specify):
The Raw Material Act, Consolidated Act No. 1585 of 10. December 2015.

The Law on the use of Danish subsoil, Consolidated Act No 960 of 13 September 2011.

The Law of Environmental Protection of the Sea, Act No 1616 of 10. December 2015.

The Law of the Continental Shelf, Consolidated Act No 1101 of November 2005.

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

Statutory Order on the environmental assessment of certain private and public constructions, No 1832 of 16. December 2015.

Statutory Order on Environmental Assessment of Marine Farms, No 382 of 25 April 2012.

Statutory Order of EIA regarding Off Shore Soil Storage, Off Shore Pipe Lines and Other Off Shore Activities, No 1419 of 3. December 2015.

Statutory Order on EIA of certain projects in the territorial sea, No 579 of 29. May 2013.

(d) Administrative (please indicate number/year/name):

(e) Other (please specify): Guidance document on EIA of Danish Off Shore Wind Farms, October 2012.

Your comments: A bill proposing a common law on EIA and SEA is under preparation.

I.6. Please describe any differences between the list of activities in your national legislation and appendix I to the Convention, if any:

(a) There is no difference, all activities are transposed in the national legislation as is

(b) It differs slightly (please specify):

Your comments:

I.7. Identify the competent authority/authorities responsible for carrying out the EIA procedure in your country (please specify):

(a) There are different authorities at national, regional, local levels

(b) They are different for domestic and transboundary procedures

(c) Please name the responsible authority/authorities:

(d) There is no single authority responsible for the entire EIA procedure:

Your comments:

I.8. Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it:

(a) No

(b) Yes (please specify): Danish Nature Agency, Ministry of Environment and Food

Your comments:

I.9. How does your country, as Party of origin and as affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to the Party of origin's public, as required in article 2, paragraph 6 (please explain):

As Party of origin: Denmark asks the affected Party what kind of information they need for their procedure for Public Participation in the affected Party before we notify or consult according to the Espoo Convention. The information is all based on the same material that is being used for public participation in Denmark. The material to the affected Party should concentrate on transboundary issues.

As affected party: When Denmark receives the information from the party of origin, its send out to the concerned authorities, organisations and public.

Article 3 Notification

I.10. As Party of origin, when do you notify the affected Party (art. 3, para. 1)? Please specify:

- (a) During scoping
- (b) When the EIA report has been prepared and the domestic procedure started
- (c) After finishing the domestic procedure
- (d) At other times (please specify): The notification is sent at the same time as the publication of the “notification of intent” takes place.

Your comments:

I.11. Please define the format of notification:

- (a) It is the format as decided by the first meeting of the Parties in its decision I/4 (ECE/MP.EIA/2, annex IV, appendix)
- (b) The country has its own format (please attach a copy)
- (c) No official format used

Your comments: In principle we use the format but over time it has developed. Depending on the case there can be additional relevant information.

I.12. As a Party of origin, what information do you include in the notification (art. 3, para. 2)? Please specify (more than one options may apply):

- (a) The information required by article 3, paragraph 2
- (b) The information required by article 3, paragraph 5
- (c) Additional information (please specify):

Your comments:

I.13. As a Party of origin, does your national legislation contain any provision on receiving a response to the notification from the affected Party in a reasonable time frame (art. 3, para. 3, “within the time specified in the notification”)? Please specify:

- (a) National legislation does not cover the time frame
- (b) Yes, it is indicated in the national legislation (please indicate the time frame):
- (c) It is determined and agreed with each affected Party case by case in the beginning of the transboundary consultations (please indicate the average length in weeks):
The timeframe is usually between 4-8 weeks.

Your comments: In principle the timeframe is the same as for the domestic responses.

Please specify the consequence if a notified affected Party does not comply with the time frame, and the possibility of extending a deadline: If the time frame is not complied with, the whole procedure will suffer from delays. Normally a short extension of the deadline is considered.

I.14. How do you inform the public and authorities of the affected Party (art. 3, para 8)? Please specify:

(a) By informing the point of contact to the Convention listed on the Convention website¹

(b) Other (please specify): If Denmark has the contact information on other relevant authorities in the affected party these will also be informed.

Your comments: The Point of contact in the affected party will guide to the relevant authorities in the affected party.

I.15. On what basis is the decision made to participate (or not) in the transboundary EIA procedure as affected Party (art. 3, para. 3)? Please specify:

(a) Notified ministry/authority of the affected Party responsible for EIA decides on its own based on the documentation provided by Party of origin

(b) Based on the opinions of the competent authorities of the affected Party

(c) Based on the opinions of the competent authorities and that of public of the affected Party

(d) Other (please specify): and based on the opinions of the relevant NGOs

Your comments:

I.16. If the affected Party has indicated that it intends to participate in the EIA procedure, how are the details for such participation agreed, including the time frame for consultations and the deadline for commenting (art. 5)? Please specify:

(a) Following the rules and procedures of the Party of origin

(b) Following the rules and procedures of the affected Party

(c) Other (please specify): Denmark asks the affected Party what kind of information they need and where it should be send to in the affected Party (which Authorities). The information is based on the same information that is used for public participation in Denmark.

Your comments:

Article 4

Preparation of the environmental impact assessment documentation

I.17. How do you ensure sufficient quality of the EIA documentation as Party of origin? Please specify:

(a) The competent authority checks the information provided and ensures it includes all information required under appendix II as a minimum before making it available for comments

(b) By using quality checklists

(c) There are no specific procedures or mechanisms

(d) Other (please specify):

¹ List available from http://www.unece.org/env/eia/points_of_contact.htm.

Your comments:

I.18. How do you determine the relevant information to be included in the EIA documentation in accordance with article 4, paragraph 1? Please specify (more than one option may apply):

- (a) By using appendix II
- (b) By using the comments received from the authorities concerned during the scoping phase, if applicable
- (c) By using the comments from members of the public during the scoping phase, if applicable
- (d) As determined by the proponent based on its own expertise
- (e) By using other means (please specify):

Your comments:

I.19. How do you determine “reasonable alternatives” in accordance with appendix II, paragraph (b)?

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

Your comments: The developer is obliged to outline the main alternatives studied with an indication of the main reasons for the choices made taking into account the environmental effects.

Article 5 Consultations on the basis of the environmental impact assessment documentation

(a) Public participation

I.20. How can the public concerned express its opinion on the EIA documentation of the proposed project (art. 5)? Please specify (more than one option may apply):

As Party of origin

- (a) By sending comments to the competent authority/focal point
- (b) By taking part in a public hearing
- (c) Other (please specify): When an affected Party so wishes the Point of Contact in the Party of Origin as well as the affected Party cooperates, coordinates and facilitate consultations in either of the countries.

As affected Party

- (d) By sending comments to the competent authority/focal point
- (e) By taking part in a public hearing
- (f) Other (please specify):

Your comments:

I.21. Please indicate whether your national EIA legislation requires the organization of a public hearing on the territory of the affected Party in cases where your country is the country of origin:

- (a) Yes
- (b) No

Your comments:

I.22. Please indicate whether your national EIA legislation requires the organization of public hearings in cases where your country is the affected Party:

- (a) Yes
- (b) No

Your comments: A bill proposing a new common law is under preparation in Denmark. When this bill enters into force the answer to I.22 will be yes.

(b) Consultations

I.23. Does your national EIA legislation have any provision on the organization of transboundary consultations (expert, joint bodies, etc.) between the authorities of the concerned Parties? Please specify:

- (a) Yes, it is obligatory
- (b) No, it does not have any provision on that
- (c) It is optional (please specify):

Your comments:

**Article 6
Final decision**

I.24. Please indicate all points below that are covered in a final decision related to the implementation of the planned activity (art. 6, para. 1):

- (a) Conclusions of the EIA documentation
- (b) Comments received in accordance with article 3, paragraph 8, and article 4, paragraph 2
- (c) Outcome of the consultations as referred to in article 5
- (d) Outcomes of the transboundary consultations
- (e) Comments received from the affected Party
- (f) Mitigation measures
- (g) Other (please specify):

I.25. 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):

- (a) Yes
- (b) No

Your comments:

I.26. Is there any regulation in the national legislation of your country that ensures the implementation of the provisions of article 6, paragraph 3?:

- (a) No
- (b) Yes (please specify): Statutory order number 71 of 4. November 1999.

Your comments:

I.27. Do all activities listed in appendix I (items 1-22) require a final decision to authorize or undertake such an activity?:

- (a) Yes
- (b) No (please specify those that do not):

Your comments:

I.28. For each type of activity listed in appendix I that does require a final decision, please indicate the legal requirements in your country that identify what is regarded as the “final decision” to authorize or undertake such an activity (art. 6 in conjunction with art. 2, para. 3), and the term used in the national legislation to indicate the final decision in the original language: A final decision would be a “permit” according to the legislation. It could also be a rejection of a project. It depends on the type of project which authority is responsible for the permit. There can be different authorities involved in the final decision and permission. It could for instance be The Ministry of Environment, The Ministry of Climate, Energy and Building, Ministry of Transport or a municipality. The competent authorities evaluate the project on the basis on the EIA report and the back ground reports that follow the scope of Appendix II of the Convention. The competent authority asks for further information if necessary until the information is considered sufficient to base an appropriate permit or rejection on, and to set out the right conditions on which the permission for the project is based. A final decision would be a “permit” according to the legislation or a rejection of a project.

Your comments:

Article 7

Post-project analysis

I.29. Is there any provision regarding post-project analysis in your national EIA legislation (art. 7, para. 1)?:

- (a) No
- (b) Yes (please specify the main steps to be taken and how the results of it are communicated):

Your comments: It has become more common in the EIA-procedure to include post-project analysis. The permitting authority may decide that a monitoring/ environmental programme shall be prepared.

Article 8

Bilateral and multilateral cooperation

(a) Agreements

I.30. Does your country have any bilateral or multilateral agreements based on the Convention (art. 8, appendix VI)?:

- (a) No
- (b) Yes Please specify with which countries:

If publicly available, please also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.

I.31. What issues do these bilateral agreements cover (appendix VI)? (more than one option may apply):

- (a) Specific conditions of the subregion concerned
- (b) Institutional, administrative and other arrangements
- (c) Harmonization of the Parties' policies and measures
- (d) Developing, improving, and/or harmonizing methods for the identification, measurement, prediction and assessment of impacts, and for post-project analysis
- (e) Developing and/or improving methods and programmes for the collection, analysis, storage and timely dissemination of comparable data regarding environmental quality in order to provide input into the EIA
- (f) Establishment of threshold levels and more specified criteria for defining the significance of transboundary impacts related to the location, nature or size of proposed activities
- (g) Undertaking joint EIA, development of joint monitoring programmes, intercalibration of monitoring devices and harmonization of methodologies
- (h) Other, please specify:

Your comments: No formal written agreement, but frequent meetings are held with Sweden and with Germany on EIA in a transboundary context. The subregional meetings under the Espoo-convention (work programme) are very useful.

(b) Procedural steps required by the national legislation

I.32. Please describe the steps required in your national legislation for a transboundary EIA procedure:

- (a) When EIA in a transboundary context is part of a domestic EIA procedure: Scoping, Preparation of the EIA, Information and public hearing of the EIA, incl. affected parties, Assessment of the EIA (on the basis of the public hearing, Final decision), Permit and related information, Redress.
- (b) When EIA in a transboundary context is a separate procedure (please provide of how this procedure links to the domestic procedure and whether the steps are different): The main rule is that the steps are the same as in the domestic procedure, but there will be made national specific acts for such projects, where the exact procedures will be decided.

Alternatively, this question can be answered or supported by providing a schematic flowchart showing these steps.

Your comments:

I.33. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?:

- (a) No
- (b) Yes (please specify):
 - (i) Special provisions: PCI according to EU-legislation

(ii) Informal arrangements: Bilateral agreements concerning specific projects.

Your comments:

I.34. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for nuclear power plants (NPPs)?:

(a) No

(b) Yes (please specify):

(i) Special provisions:

(ii) Informal arrangements:

Your comments:

Part two

Practical application during the period 2013–2015

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. 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.

II.1. Does your country object to the information on transboundary EIA procedures that you provide in this section being compiled and made available on the website of the Convention? Please specify (indicate "yes" if you object):

(a) Yes

(b) No

Your comments:

1. Experience in the transboundary environmental impact assessment procedure during the period 2013–2015

Cases during the period 2013–2015

II.2. If your country's national administration has a record 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 them in the tables II.2 (a) and II.2 (b) below (adding additional rows as needed).

Table II.2 (a)

Transboundary EIA procedures: As Party of origin

Name of case	Starting date (date notification sent)	Length of the main steps in months		Final decision (date of issuing, if information is available)
		Submission of the environmental report	Transboundary consultations (expert), if any Public participation, including public hearing, if any	
1. Danish Oil and gas project ” Dan and Gorm”	30. april 2015			
2. Danish oil and gas project “Harald”	30. april 2015			
3. Danish windfarms sæby, sejrø bugt,	24. february 2014			

Name of case	Starting date (date notification sent)	Length of the main steps in months			Final decision (date of issuing, if information is available)
		Submission of the environmental report	Transboundary consultations (expert), if any	Public participation, including public hearing, if any	
<i>smålandsfar vandet and Rønne banke.</i>					
4. <i>Ravn Oil field</i>	<i>1 july 2013.</i>				
...					

Your comments: *examples.*

Table II.2 (a)
Transboundary EIA procedures: As affected Party

Name of case	Starting date (date notification sent)	Length of the main steps in months			Final decision (date of issuing, if information is available)
		Submission of the environmental report	Transboundary consultations (expert), if any	Public participation, including public hearing, if any	
<i>1 Hornsea Offshore</i>					
<i>2 Northern Energy . Global Tech II</i>					
<i>3 Nord.Link cable</i>					
<i>4 Bürgerwindpark . Süderlügum GmbH & Co</i>					
<i>5 Hinkley Point C</i>					
<i>6. Borkum Riffgrund</i>					
<i>7. Windpower Stora Middelgrund</i>					
<i>8. East Anglia Three Offshore Windfarm</i>					
<i>9. Adlergrund Offshore Windfarm</i>					

10. Ringhals 5 – Nuclearpower Hallands län

11. Project COBRA cable 29. September 2015

12. Nuclear Power Plant Poland 7. December 2015

13. Swedish interim storage, encapsulation and final disposal of spent nuclear fuel 5. February 2016

14. PALLAS reactor 17. February 2016

Your comments: *Examples.*

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.

II.3. Translation is not addressed in the Convention. How has your country addressed the question of translation? What difficulties has your country as Party of origin and affected Party experienced relating to translation and interpretation, and what solutions has your country applied? (Please specify, among others, the parts and type of the documentation translated, language, costs, etc.):

(a) As Party of origin: No translation between Denmark, Norway and Sweden as we understand each others languages. For the notification letters for other countries we use English. Some of the bigger EIA will also be in English. There will also be a summery in the language of the specific countries. Before notifying Denmark (Point of Contact) asks what kind of translation the Affected Party need.

(b) As affected Party: No translation between Denmark, Norway and Sweden as we understand each others languages. If we receive material in other languages (exept from English) we have to translate it into English or Danish.

II.4. Describe any difficulties that your country has encountered during transboundary public participation (expert consultation, public hearing, etc.), including on issues of timing, language and the need for additional information: We have not experienced any serious difficulties but of course translation of letters in other languages and different formal procedures can be a barrier but so far not a crucial one. Article 5 supports the possibility of information of the project and the possibility to comment on the project.

II.5. Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects or that of an NPP?:

(a) Yes

(b) No

II.6. If you answered yes to question II.5, please provide information on your country's experiences describing, for example, means of cooperation (e.g., contact points, joint bodies, bilateral agreements, special and common provisions, etc.), institutional arrangements, and how practical matters are dealt with (e.g., translation, interpretation, transmission of documents, etc.):

- (a) For joint cross-border projects:
- (b) For NPPs:

II.7. Name examples of good practice cases, whether complete cases or good practice elements (e.g., notification, consultation or public participation) within cases: The Nord Stream Project and Skanled Gas Pipe Line. Joint meetings between Points of Contact and between Points of Contact and developer. Agreements on the timing of for instance notification and consultation letters.

II.8. Would your country like to introduce a case in the form of a Convention "case study fact sheet"?

- (a) No
- (b) Yes (please indicate which cases):

II.9. Has your country carried out post-project analyses in the period 2013–2015:

- (a) No
- (b) Yes (please indicate which projects, along with the challenges in implementation and any lessons learned):

2. Experience in using the guidance in 2013–2015

II.10. Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online?:

(a) Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context (ECE/MP.EIA/7):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

(b) Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendix):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

(c) Guidance on the Practical Application of the Espoo Convention (ECE/MP.EIA/8):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

3. Clarity of the Convention

II.11. Has your country had difficulties implementing the procedures defined in the Convention, either as Party of origin or as affected Party, because of a lack of clarity of the provisions?:

No

Yes (please indicate which provisions and how they are unclear):

4. Suggested improvements to the report

II.12 Please provide suggestions for how this report may be improved.