
Questionnaire for the report of the Netherlands 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: Germt de Vries, germt.de.vries@minienm.nl

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: The Netherlands
4. Surname: de Vries
5. Forename: Germt
6. Institution: Ministry for Infrastructure and the Environment
7. Postal address: P.O. Box 20901, 2500 EX The Hague, The Netherlands
8. E-mail address: germt.de.vries@minienm.nl
9. Telephone number: +31 6 5274 0002
10. Fax number: -
11. Date on which report was completed: March 31, 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 x**
- (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: The definition is virtually the same. Literal quotation from the Act of Environmental Management, Section 1.1 Wm, subsection 2:

2. In this Act and the provisions based thereon:

a. 'effects on the environment' in any case, 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;

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 x**
- (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: It is the same definition of impact as used for domestic projects, only with the addition 'transboundary'.

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

The term 'major change' is not implemented in legislation as such, but the obligation to carry out an EIA is linked to the possibility of serious adverse effects on the environment of the proposed activity.

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 x*

(b) *By making the information available to all members of the public and letting them identify themselves as the public concerned x*

(c) *By other means (please specify):*

Your comments: It is a combination of a and b. By law everybody is entitled to express their views on any licence decision if they wish to do so. Notification of the project and the EIA is based on the geographical position of the project and the environmental effects of the project (local, regional, national or international).

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: Environmental Management Act (chapter 7) / Environmental Assessment Modernisation Act (Stb 2010, nr. 20)

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

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

(d) Administrative (please indicate number/year/name): Administrative Act to EIA: Besluit van 4 juli 1994, houdende uitvoering van het hoofdstuk Milieueffectrapportage 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):

Your comments: Direct quotation of the Dutch Environmental Management Act:

§ 7.11. Activities with possible transboundary environmental effects

Section 7.38a

1. If the information gathered in the framework of this Chapter shows that the proposed activity may have serious adverse effects on the environment of another country, the government of that country or an authority designated by that government must be notified as soon as possible.

2. Without prejudice to subsection 1, if an activity proposed in a plan may have serious adverse effects on the environment in another country, the following must be provided to the government of that country or an authority designated by that government in that country:

a. the draft plan and, if not contained in the draft plan, the EIA report, at the same time as they are deposited for inspection in the Netherlands;

b. the adopted plan and, if not contained in that plan, the EIA report, at the same time as they are made public in the Netherlands.

3. Without prejudice to subsection 1, if an activity proposed in a decision may have serious adverse effects on the environment in another country, the following must be provided to the government of that country or an authority designated by that government in that country:

a. the application referred to in section 7.28, or the provisional draft decision or draft decision as well as the EIA report and, if applicable, recommendations as referred to in section 7.26 or 7.27, at the same time as they are deposited for inspection in the Netherlands;

b. the decision and the EIA report at the same time as they are made public in the Netherlands.

4. Sections 3:16, subsections 1 and 2 of the General Administrative Law Act and sections 7.9, subsection 2 (c), section 7.25 or section 7.27, subsection 4 apply mutatis mutandis to the bodies that the competent authority of the other country has designated for that purpose by virtue of their specific responsibility for environmental matters. The documents referred to in subsections 2 and 3 must also be sent to these bodies.

5. The documents to be supplied pursuant to subsection 2 or 3 serve as the basis for consultations with administrative authorities in the country concerned on any serious adverse effects that the activity may have on the environment in that country, and the measures being considered to prevent or limit those effects.

6. The competent authority is charged with the tasks arising from the application of subsections 1 to 4. The competent authority must supply information and also send the documents provided pursuant to subsections 2 and 3 to Our Minister; these documents also serve as the basis for the consultations, referred to in subsection 5, to be held by the competent authority.

7. Our Minister is charged, in a general sense, with maintaining contacts with the government of the other country and is involved in consultations at government level if the consultations on a proposed activity between the competent authority and the administrative authorities of that country have not led to the desired outcome.

8. Further rules concerning the provisions of subsections 2 to 5 may be laid down by ministerial order.

Section 7.38d

If another country thinks it may suffer serious adverse environmental effects as the result of an activity in the Netherlands proposed in a plan or decision, the competent authority or Our Minister must apply section 7.38a, subsections 1 to 5 at the request of that country, having regard to the division of tasks between the competent authority and Our Minister referred to in section 7.38a, subsections 6 and 7.

Section 7.38e

If another country may suffer serious adverse environmental effects as a result of an activity in the Netherlands proposed in a plan or decision, Our Minister may determine that the competent authority must not adopt that plan or decision until Our Minister has had the opportunity, for thirteen weeks after the deadline for stating views on the draft plan or on the application, provisional draft decision or draft decision, to send the competent authority the outcome of the consultations referred to in section 7.38a, subsection 7.

Section 7.38g

If a proposed activity in another country may have serious adverse effects on the environment in the Netherlands, Our Minister must maintain contacts with that country if no contacts on a proposed activity have been established between the administrative authorities directly involved in the Netherlands and the administrative authorities in the other country or if the contacts have not led to the desired outcome.

Besides these legal and administrative measures we have bilateral agreements with respectively the Flanders Region (Belgium) and Germany about the practical implementation of the Convention in transboundary procedures.

1.6. 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 x (please specify):***

Your comments: The list of activities (Annex C and D of the Administrative Act to EIA (“Besluit milieueffectrapportage”)) is a direct translation of Annex I and II of the Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment. All Espoo Convention Appendix I activities fall within the scope of EIA in the Netherlands.

1.7. 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 x***

(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: Governance and governmental authority in the Netherlands is decentralised, with the Ministry of Infrastructure and the Environment the main responsible authority for environmental management. There is no national environmental management authority. Both EIAs and SEAs can be performed at national, provincial, or municipal level. The ‘competent authority’ is the administrative body deciding on the permit for the project, using the Environmental Report as part of the motivation for the decision. This may either mean the responsible minister, the Provincial Executive or the responsible town council.

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

(a) ***No x***

(b) Yes (please specify):

Your comments: No. The Netherlands Commission on Environmental Assessment (NCEA) does register the EIA procedures which have to follow the 'full-fledged procedure', including transboundary, but there is no specific focus on transboundary EIA cases nor are they assigned a specific task to collect information on transboundary procedures (nor information on the entire course of the procedure).

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):

We have bilateral agreements/arrangements with both Germany and Flanders; giving similar opportunity to the public of the affected Party in comparison to our own public is one of the topics covered by these arrangements. Besides this, we have the following legal provisions in the Act on Environmental Management regarding informing the (public) of the Affected Party:

- Section 7.26 , subsection 6, that notification must be given in a publication in another country if there may be serious adverse effects on the environment in that other country.
- Section 7.30 Wm:
 - 1. If the procedure for arriving at the decision provides for public notification of the provisional draft decision or draft decision, public notice of the EIA report must be given at the same time, except in cases as referred to in section 7.29. If this procedure provides for public notification of both the provisional draft decision and draft decision, public notice will be given of the EIA report at the same time as the provisional draft decision.
 - 2. Subsection 1 applies mutatis mutandis to public notification in a publication in another country if the activity may have serious adverse effects on the environment in that country.
- Section 7.32 Wm, subsection 1: If an application as referred to in section 7.28 or the provisional draft decision or draft decision as referred to in section 7.30 are deposited for inspection and everyone is given the opportunity to state their views, views on the EIA report may be expressed at the same time as views on the application or the draft or provisional draft which were deposited for inspection with the EIA report.
- Section 7.38.a. e.v.: this section contains the provisions on informing an consulting the affected public (see question I.5 on general provisions for the legal text)

On request of the competent authority the developer may take care of translation of the notification and organization of the participation.

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 x***
- (b) *When the EIA report has been prepared and the domestic procedure started x*
- (c) *After finishing the domestic procedure*
- (d) *At other times (please specify): X*

Your comments: This may depend on the moment in the EIA procedure when it becomes clear that transboundary effects might occur. This can be either prior to the whole EIA procedure, during the process of gathering information for the EIA or after finishing the Environmental Report. By law, the (government or authority of) the affected Party has to be notified ‘as soon as possible’.

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 x (see Appendices II & III)***

(c) *No official format used*

Your comments: There are bilateral agreements on EIA and SEA with the German Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit and with the Belgian Flanders Region. The format as agreed on in the bilateral agreement with Germany on transboundary EIA is roughly a translation of the format as decided on. In the agreement with the Flanders Region no specific format is prescribed, but it contains a ‘roadmap’ in which all points mentioned in the format as decided on are addressed.

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 x***

(b) ***The information required by article 3, paragraph 5 x***

(c) ***Additional information (please specify): x***

Your comments: Pursuant to section 7.38a, subsection 3 of the Act on Environmental Management the competent authority has to send to the affected Party

- the application for the permit, or the provisional draft decision or draft decision as well as the EIA report and, if applicable, recommendations on the scope of the EIA, at the same time as they are deposited for inspection in the Netherlands;
- the decision and the EIA report at the same time as they are made public in the Netherlands.

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 x (please indicate the average length in weeks):***

Your comments: According to the bilateral agreements, the time frame and other procedural issues follow as much as possible the procedures concerned from the Party of origin. However, those are to be used ‘flexibly and effectively’ (according to the agreements). The standard Dutch time frame is 6 weeks, but the competent authority may wish to extend this for very extensive and/or complicated projects.

Please specify the consequence if a notified affected Party does not comply with the time frame, and the possibility of extending a deadline:

Strictly speaking, if the Affected Party has not replied in the given time frame, the competent authority is entitled to make the decision. In practice, in most cases a short extension of the deadline is considered, in case an affected Party asks for an extension of a deadline.

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 x**
- (b) **Other (please specify): x** Usually the relevant (bordering) competent authority/-ies and/or point of contact are informed about an upcoming EIA procedure and the occurrence of possible transboundary environmental effects. If necessary the point of contact (as mentioned in the agreements with Flanders and Germany) is consulted on which authorities and other relevant parties to involve in the affected party and practicalities such as in which newspapers to publish notifications.

Your comments:

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 x**
- (b) **Based on the opinions of the competent authorities of the affected Party x**
- (c) **Based on the opinions of the competent authorities and that of public of the affected Party**
- (d) **Other (please specify):**

Your comments: The relevant authorities whose area of authority is affected by a certain activity or interest decide whether or not to participate in the EIA procedure (being local, regional and/or national). In most cases the notification is followed by a positive response to participate in the EIA procedure, when a transboundary effect is to be expected. Criteria for participation are the expected transboundary impact and the level of public interest involved.

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):** Following the rules and procedures as set out in the bilateral agreements (which states 'the rules and procedures of the Party of origin, but used flexibly and effectively'.)

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

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 x**
- (b) *By using quality checklists*
- (c) *There are no specific procedures or mechanisms*
- (d) **Other (please specify): x** The competent authority is required in most cases (more than 80%) to ask for independent advice on the quality of the EIA, by the Netherlands Commission for Environmental Assessment (NCEA), in addition to the check by the competent authority themselves.

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 X see section 7.23 Environmental Management Act*
- (b) **By using the comments received from the authorities concerned during the scoping phase, if applicable x**
- (c) **By using the comments from members of the public during the scoping phase, if applicable x**
- (d) **As determined by the proponent based on its own expertise**
- (e) **By using other means (please specify):** The competent authority can ask the NCEA for an advice on the scope of the EIA.

Your comments:

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

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

Your comments:

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 x**
- (b) **By taking part in a public hearing x**
- (c) *Other (please specify):*

As affected Party

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

Your comments: In the domestic procedure, the EIA report is published together with the draft decision. The public can express their views on both within a time frame of six weeks. It is not obligatory to organise a public hearing as well, but the competent authority often chooses to do so with substantial, complex or contentious projects. Since the bilateral agreements with Germany and the Flanders region state that the domestic procedure applies ('used flexibly and effectively'), the above applies more or less the same to projects with transboundary effects.

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 x**

Your comments: See answer on the above question

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 x**

Your comments: See answer on the above question

(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 x**
- (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** *x*
 - (b) **Comments received in accordance with article 3, paragraph 8, and article 4, paragraph 2** *x*
 - (c) **Outcome of the consultations as referred to in article 5** *x*
 - (d) **Outcomes of the transboundary consultations** *x*
 - (e) **Comments received from the affected Party** *x*
 - (f) **Mitigation measures** *x if applicable*

(g) **Other (please specify):** The competent authority can only make a final decision when the EIA report is deemed complete and accurate and can serve as the basis for the final decision (section 7.28 Wm and 7.36a. Wm). When making a decision, the competent authority must take into account all the effects that the activity to which the decision relates may have on the environment. The competent authority may a) include in the decision any conditions, regulations and restrictions necessary for the protection of the environment, in addition to the conditions, regulations and restrictions which it is entitled under that statutory provision to include; b) decide that the activity must not be undertaken if it could lead to unacceptable adverse effects on the environment (Section 7.35 Wm).

Regarding the content of the decision, the decision must state how the following issues, if applicable, have been taken into consideration (section 7.37 Wm):

- the possible environmental effects of the activity, as described in the EIA report;
- the alternatives described in the EIA report;
- public views on the EIA report;
- advice from the NCEA, either on scoping or on the quality and completeness of the EIA report;
- any possible serious adverse transboundary environmental effects which have been identified in the EIA report;
- the results of the consultations of relevant authorities

Also, the competent authority must stipulate the deadline or deadlines for initiating a post-project evaluation of the environmental effects.

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** *x*
- (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** *x* (please specify): The competent authority should inform and consult the affected Party. If necessary the competent authority should take corrective measures and examine if the decision needs to be revised. In section 7.36a, subsection b. Wm, is stated that the competent authority does not make the final decision in case the information included in the EIA report can no longer reasonably serve as the basis for the decision.

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:

Your comments: For industrial activities a permit or licence to operate is required according to the ‘Act General Provisions Environmental Planning Law’ (Wet algemene bepalingen Omgevingsrecht). Depending on the activity, a permit based on respectively the ‘Nuclear Act’ (Kernenergiewet vergunning), the ‘Water Act’ (Waterwet vergunning), the ‘Mining Act’ (Mijnbouw vergunning), the ‘Extraction Act’ (Ontgrondingenvergunning), or the ‘Aviation Act’ (Wet Luchtvaart) is required. In case of the construction of roads, railways and such a decision based on the so called Tracé Act (Tracé wet) is required. If there is no relevant permit / license to operate appointed to an activity, the municipal spatial plan is appointed as backstop and a decision based on the the Spatial Planning Act is required (for example in case of a urban development project). See appendix I for a complete, translated list of decisions.

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): The Act on Environmental Management obligates the competent authority to make an evaluation of the environmental effect of the activity. Section 7.39 stipulates: The competent authority that has taken a decision, in the preparation of which an EIA report was drawn up, shall investigate the effects of the activity concerned on the environment, either during or after its completion. In the decision the competent authority has to indicate the timeframe and method of investigation (section 7.37, subsection 3 Wm). The competent authority shall compile a report on the investigation and shall forward a copy of it as soon as possible to the developer, to the relevant authorities and, if applicable, to the NCEA. The competent authority shall at the same time publish the report. Mutatis mutandis this publication will also take place in the affected country. (section 7.41 Wm).

Your comments:

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 x Please specify with which countries:** The Netherlands has bilateral arrangements with Germany (one arrangement with the Federal Government together with the Länder Niedersachsen and Nordrhein-Westfalen) and the Flanders Region (Belgium) (Appendices II and III).

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 x**

(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: The agreement between the Government of the Netherlands and the Federal Republic of Germany on EIA in a transboundary context has been updated and extended with arrangements on SEA in a transboundary context in 2013. The bilateral arrangements can be seen as a guideline for a good and effective cooperation in organising transboundary issues and consists of working arrangements on issues such as: scope, definitions, contact points, notification, public participation, language, costs and consultation. These issues are in accordance with Appendix VI of the Convention. The Netherlands also has a bilateral agreement with Belgium/Flanders on EIA in a Transboundary Context. It is intended to update this agreement shortly. The content is similar to the agreement with Germany and provides working arrangements on informing and giving the opportunity to participate in transboundary (EIA) procedures.

(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:**

When it appears that a proposed activity may have serious adverse effects on the environment of another country, the government of that country or an authority designated by that government must be notified as soon as possible. The affected party receives

-
- the application for the permit;
 - if applicable, recommendations on the scope of the EIA;
 - the provisional draft decision or draft decision as well as the EIA report;

at the same time as they are deposited for inspection in the Netherlands and the public of the affected party can give their opinion on those documents in the same way the Dutch inhabitants can.

(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): **non applicable***

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:*

(ii) *Informal arrangements:*

Your comments: Each case is considered on its specific features and possibilities. Usually both countries endeavour to create a procedure which is as close as possible to a common domestic procedure, while accommodating the legal requirements from both countries.

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:

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. Structural measures for preservation of the tidal area 'Het Zwin'	February 13 2007	Belgium: 2008 NL: October 2013			13 jan 2009 in Belgium; NL: 25 juni 2014
2. High-voltage line Doetinchem–Voorst	September 9 2009	September 26, 2014			
3. Third Rail Zevenaar-German	Januari 7, 2011	September 24, 2012			

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>border</i>					
4. <i>New shipping lock Terneuzen</i>	<i>January 14, 2014</i>	<i>May 28, 2015</i>			<i>March 1st, 2016</i>
5. <i>Helicopterplaat Eemshaven</i>	<i>April 16, 2014</i>				

Your comments: There is no specific administration of EIAs for transboundary projects or for projects with transboundary effects. The abovementioned projects are some examples of transboundary projects. Neither are the duration of EIA-procedures as a whole or the separate steps registered on local, regional or national level.

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	
1. <i>COBRA-cable (German part of high voltage line NL-DK)</i>	<i>2014</i>				
2. <i>Landkreis Emsland, extension of pig farm</i>	<i>2014</i>				
3. <i>Gemeinde Bunde, repowering windfarm</i>	<i>2014</i>				
4. <i>Landkreis Emsland, poultry farm</i>	<i>2015</i>				
5. <i>Landkreis Emsland, extension windfarm</i>	<i>2015</i>				

Your comments: There is no specific administration of EIAs for transboundary projects or for projects with transboundary effects. The abovementioned projects are some examples of projects with transboundary effects in the Netherlands.

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: The developer is obliged to translate the non-technical summary of the EIA report on request of the competent authority; also the competent authority can request the developer to translate the notification.

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 to translate of the draft decision

- the notification of intent;
- the scoping guidelines for the EIA report (if available);
- the non-technical summary of the EIA report;
- the separate chapter on transboundary effects (if available);
- the relevant sections on transboundary issues for the affected party (if available).

For obvious reasons translation is not an issue between Belgium (Flanders) and the Netherlands. Between Belgium (Walloon region) the language is an 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.

(b) *As affected Party:*

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:

In the review period there have been a few complaints of Dutch citizens about the limited information on procedural matters in the public notification of some German EIA procedures. In response, the Dutch-German commission for spatial planning has published a guidance for Dutch citizens on how and when to participate in spatial planning procedures in Germany.

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 x**

(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: Joint cross-border projects occur on a regular basis, e.g.: rail-motor- and waterway projects, pipelines or high-voltage lines, cross border industrial sites and nature development projects. Examples in the review period are the project 'Structural measures for preservation of the tidal area 'Het Zwin' and the High Voltage Line Doetinchem-Voorst.

The project 'Structural measures for preservation of the tidal area 'Het Zwin'' concerns a transboundary project (90% of the project area was in Belgium, only 10% in the Netherlands), for which a combined EIA/SEA was carried out. The EIA procedures and the decisionmaking procedures in both countries are different, which explains the great difference in date of submission of environmental report. In Belgium the official submission of the report is prior to the decision; in the Netherlands the EIA report is presented to the public together with the draft decision and with the 'appropriate assessment' pursuant to the Birds' and Habitats Directive. No special difficulties were encountered concerning the joint EIA procedure; the only difficulties concerned the 'appropriate assessment'. The national legislation implementing the Birds and Habitats Directive has different consequences in the Netherlands than in Belgium and in Dutch SEA procedures it has to be included in the SEA Report.

The project 'New shipping lock Terneuzen' could have had consequences for the Antwerp Harbour, which was reason for intense cooperation with the Antwerp authorities. There have been public hearings in both Belgium and the Netherlands.

(b) For NPPs: non applicable

II.7. Name examples of good practice cases, whether complete cases or good practice elements (e.g., notification, consultation or public participation) within cases: A good practice case is the bilateral agreement with Germany.

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

(a) **No x**

(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 x (please indicate which projects, along with the challenges in implementation and any lessons learned): The Act on Environmental Management obligates the competent authority to make an evaluation of the EIA Report, however, there is no central registration of those post project analyses.

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 this was used as a reference document to draw up the bilateral agreements between respectively Belgium (Flanders) and Germany besides the legal requirements we have in the Netherlands regarding public participation. Also, with the revision of our EIA (and SEA) law (which came into effect 1 July 2010) national guidance was developed. Transboundary procedures are part of the national guidance; the essence of the guidance adopted by the Meeting of the Parties is reflected in our national guidance as well.

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 x The Netherlands is not part of a sub-region under the Espoo Convention.

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 x

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 x

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.

Unfortunately the layout is very difficult to work with. The combination of ticking boxes that are, actually, not tickable, open text fields and changing margins and enumerations (which, moreover, change again when text is imported from other sources) make it rather chaotic and difficult to go through the questionnaire and find back previous given answers. Also the layout of Table II.2 (a) makes it impossible to write case names etc. An editable .pdf format with rimmed text fields to fill in might be easier. Even better would be a web form; this might also facilitate processing the submitted forms.

Also, it is often unclear whether questions aim at domestic EIAs for projects with transboundary adverse effects, EIAs for transboundary projects and joint transboundary EIAs in which authorities from different countries cooperate.

