

Questionnaire for the report of MALTA on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context in the period 2016–2018

Information on the focal point for the Convention

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Part one

Current legal and administrative framework for the implementation of the Convention

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

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:

The definition of 'impact' in the Maltese EIA Regulations, 2017 (S.L. 549.46), which transposes the EIA Directive (Directive 2011/92/EU, as amended by Directive 2014/52/EU), is defined in more detail as follows:

"impact" has the same meaning as "effect", while "effect" is defined as follows:

"effect" means an effect on the environment, and includes:

- (a) direct effects on the environment, which are caused by a project or by any related intervention or action;
- (b) indirect and secondary effects on the environment, caused by a project or by related interventions or actions, which may be later in time or further removed in distance, or which may arise indirectly as a result of: changes induced by the project or intervention; displacement of other uses; opportunity cost of the proposed use or commitment; or interaction of the project or intervention with natural or anthropogenic forces or with the surrounding environment;
- (c) cumulative effects on the environment; and
- (d) effects on human health and safety, socio-economic conditions, natural and cultural heritage, and quality of life, resulting from alterations to the environment.

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:

The definition of 'transboundary impact' in the Maltese EIA Regulations, 2017 (S.L. 549.46) is included as follows:

"transboundary impact" means any impact, occurring wholly or partly in a State, that is caused by a project or intervention which is situated wholly or partly in another State.

Which reference to the abovementioned definition, "State" means a country which is a member of the European Union or a party to the Convention on Environment Impact Assessment in a Transboundary Context of the United Nations Commission for Europe, and includes any land, sea, water bodies and airspace under such country's jurisdiction.

Part VII of the above-quoted Regulations is also relevant.

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

There is no specific definition of 'major change' in the Maltese EIA Regulations, 2017 (S.L. 549.46). However, any changes or extensions to approved projects or reactivation of projects would need to be screened for EIA requirements in accordance with Schedule I, as follows:

- Category 13.0.1.1: Any change to, or extension of, projects (even if the project is already authorised, executed or in the process of being executed) where the change or extension itself meets the thresholds or criteria set out in Category I;

- Category 13.0.2.1: Any change to, or extension of, projects (even if the project is already authorised, executed or in the process of being executed), particularly projects covered by Category I or Category II, where the change or extension itself does not fall under Category I but: (i) meets the thresholds or criteria set out in Category II; or (ii) may have significant adverse effects on the environment.

- Category 13.0.2.2: Projects in Category I, undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.

The above would also apply to transboundary development projects.

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:

The Maltese EIA Regulations, 2017 (S.L. 549.46) define the "public concerned" as follows: "means the public affected or likely to be affected by, or having interest in, the environmental decision-making procedures relevant to these regulations, and also includes non-Governmental organizations that promote environmental protection and that meet the relevant requirements at law."

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 Impact Assessment Regulations, 2017.
- (b) EIA provisions are transposed into another law(s) (please specify): N/A
- (c) Regulation (please indicate number/year/name):

Environmental Impact Assessment Regulations, 2017/Legal Notice 412 of 2017/Subsidiary Legislation 549.46

- (d) Administrative (please indicate number/year/name): N/A
- (e) Other (please specify): N/A

Your comments:

All provisions associated with transboundary EIA procedures are detailed in Part VII of the Maltese Environmental Impact Assessment Regulations, 2017 (S.L. 549.46), as follows:

25.(1) Where the Minister is aware that a project in Malta may have significant effects on the environment in another State, or where another State that may be affected so requests in line with the provisions of the Directive or of the Convention, the Minister shall notify that State, as soon as possible and not later than when the public in Malta is informed in accordance with these regulations, and shall include the following information:

- (a) information on the project and its location, together with the available information on the possible transboundary impacts;
- (b) information on the nature of the possible decisions; and
- (c) any other information which the Minister deems reasonable, the Minister shall also give that State, hereinafter referred to as "the interested State", thirty calendar days within which to indicate whether it wishes to participate in the environmental decision-making procedures, including the development consent procedure, the environmental impact assessment and or scoping, as may be relevant.

(2) If another State considers that the environment under its jurisdiction is likely to be adversely affected by a project which is proposed to be carried out in Malta and which is within the scope of these regulations, but no notification has taken place in accordance with sub-regulation (1), the Minister shall, at the request of that State, exchange sufficient information for the purposes of holding discussions on whether there is likely to be a significant adverse transboundary impact.

(3) If, pursuant to sub-regulations (1) and (2), the interested State indicates to the Minister that it intends to participate in such procedures, the Minister shall, if he has not already done so, send to that State the required information as laid down in these regulations and, once it is submitted to the Authority, the EIA report.

(4) The interested State may enter into consultations with the Minister concerning, inter alia:

- (a) the potential transboundary effects of the project;
- (b) possible alternatives to the project, including the no-action alternative where relevant;
- (c) measures to prevent, reduce, eliminate or offset any significant transboundary impacts;

- (d) monitoring of the effects of such measures, and of the project;
- (e) possible mutual assistance in preventing, reducing, eliminating or offsetting any significant adverse impact of the project; and or
- (f) any other appropriate matters as relevant to the project. To this effect, the interested State shall agree with the Minister on a reasonable time-frame for the consultation period, taking into account the nature, scale and characteristics of the proposed project and its location. The interested State shall also promptly provide the Minister with information relating to the environment under its jurisdiction which may potentially be adversely affected, where such information is necessary or relevant for the assessment.

(5) The interested State may arrange for the information to be made available, within a reasonable time, to the relevant authorities and the public in its territory such that they can forward their opinion within a reasonable time and participate effectively in the relevant environmental decision-making procedures before any consent for the project is granted. Within the time-frame established through the provisions of sub-regulation (4), the interested State shall forward its opinion to the Minister, who shall in turn forward such opinion to the Authority.

(6) The Minister shall provide to the interested State information about:

- (a) the final decision on the proposed project;
- (b) the reasons and considerations on which the decision was based;
- (c) the terms and conditions attached to the decision, including the relevant measures to avoid, reduce, or offset the major adverse effects;
- (d) the public participation process; and
- (e) any other ancillary information which the interested State may reasonably request in line with the Directive or the Convention, or which the Minister deems appropriate. The interested State may make such information available in an appropriate manner to the public concerned in its own territory.

(7) If additional information on the significant transboundary impact of a project proposed in Malta, which was not available at the time a decision was made and which could have materially affected the decision, becomes available to the Minister or to an interested State before work on the project commences, the Minister shall immediately inform the interested State and vice-versa, as relevant. In such instances, any one or both parties may request that consultations be held on whether the decision needs to be revised.(8) Where the monitoring of a project or any other post-project analysis reveals any significant adverse transboundary impacts or any factors that may result in such impacts, the Minister shall immediately inform the interested State or vice-versa, as relevant. Both parties shall then enter into consultations on the measures that should be undertaken

(8) Where the monitoring of a project or any other post-project analysis reveals any significant adverse transboundary impacts or any factors that may result in such impacts, the Minister shall immediately inform the interested State or vice-versa, as relevant. Both parties shall then enter into consultations on the measures that should be undertaken to prevent, reduce, eliminate or offset such impact, including any mutual assistance to this effect.(9) The transmission of information to the interested State, and the receipt of information by such State, shall be subject to the limitations contained in any law in force in Malta. Transboundary impacts of projects in other States.

26.(1) The Minister shall have the right to be notified by another State about any project in that State which may have a potentially significant effect on the environment in Malta, as

soon as possible and no later than when the public in that same State is informed. The Minister shall respond to any such notification, acknowledging receipt and indicating whether Malta intends to participate in the relevant procedures in line with this regulation.

(2) Where, following such notification, the Minister is of the opinion that a project proposed in another State may have a potentially significant effect on the environment in Malta, or where the Minister deems appropriate in line with the provisions of the Directive or of the Convention, he shall as soon as possible and within the time-frame specified in the notification, inform the State in which the project is to be undertaken, of Malta's request to participate in the environmental decision-making procedures in that State, including the development consent procedure, the environmental impact assessment and or scoping, as may be relevant, and he shall request the information listed in sub-regulation (1) of regulation 25.

(3) If the Minister considers that the environment under Malta's jurisdiction is likely to be adversely affected by a project which is proposed to be carried out in another State, but no notification has taken place in accordance with sub-regulations (1) and (2), the Minister shall as soon as possible request that State to exchange sufficient information for the purposes of determining whether there is likely to be a significant adverse transboundary impact such that the matter should be followed up further in line with this regulation.

(4) The Minister shall forward to the Authority the information indicated in sub-regulations (2) and (3), as relevant. The Authority shall make this information available to the consultees and the public in Malta such that they can forward their opinion and participate effectively in the environmental decision-making procedures before any consent for the project is granted, and may apply any provisions of these regulations as it deems relevant and appropriate to this effect. The Minister shall also seek an agreement with the State in which the project is to be undertaken on a reasonable time-frame for consultation, taking into account the nature, scale and characteristics of the proposed project and its location. The Minister shall also promptly provide that State with reasonably obtainable information relating to the potentially affected environment under Malta's jurisdiction, where such information is necessary or relevant for the assessment.

(5) The Minister, acting on the advice of the Authority and taking into consideration the comments of the public, shall enter into consultations with the State in which the project is to be undertaken concerning, inter alia, the considerations listed in sub-regulation (4) of regulation 25.

(6) The State in which the project is to be undertaken shall provide to the Minister information about the aspects listed in paragraphs (a) to (d) of sub-regulation (6) of regulation 25, and any other ancillary information which the Minister may reasonably request in line with the Directive or the Convention. When the Minister receives such information, he shall provide a copy thereof to the Authority which shall then publish it through at least one daily or weekly newspaper in Maltese and one in English, and on the Authority's website.

(7) If additional information on the significant transboundary impact of a project proposed in another State, which was not available at the time a decision was made and which could have materially affected the decision, becomes available to the Minister or to that State before work on that project commences, the Minister shall immediately inform the other State and vice-versa, as relevant. In such instances, any one or both parties may request that consultations be held on whether the decision needs to be revised.

(8) Where the monitoring of a project or any other post-project analysis reveals any significant adverse transboundary impacts or any factors that may result in such impacts, the Minister shall immediately inform the State in which the project is to be undertaken or shall ensure that such State immediately informs him, as relevant. Both parties shall then enter into consultations on the measures that should be undertaken to prevent, reduce, eliminate or offset such impact, including any possible mutual assistance to this effect.

(9) The transmission of information by the State in which the project is to be undertaken, and the receipt of such information by the Minister, shall be subject to the limitations in force in the State in which the project is to be undertaken.

27. For the purposes of both regulations 25 and 26:

(a) Discussions, consultations and provision of information may also be conducted through an appropriate joint body, where one exists.

(b) In the exercise of his rights, duties and functions, the Minister shall act on the advice of the Authority. The Authority, as well as all other relevant Government entities, shall furnish the Minister with all such documentation, information and advice as he requests.

28.(1) The Minister, acting on the advice of the Authority, may enter into discussions with another State to determine whether a project, or combination of projects, not listed in Schedule I or in the legislation of that State is likely to cause a significant adverse transboundary impact such that the provisions of regulation 25 or regulation 26, as relevant, should apply.

(2) The Minister shall ensure that any disagreements or disputes with another State on matters relating to these regulations, including differences of opinion on whether a significant transboundary impact is likely or on the procedures or time-frames to be followed, are settled in line with the provisions of the Directive and the Convention, as relevant.

(3) The Minister may also enter into any other bilateral or multilateral agreements with other States on matters related to environmental impact assessment, as he deems appropriate in line with the provisions of the Directive and the Convention, as relevant.

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:

The list of activities included in Appendix I of the Convention covered by the list of projects listed Annex I and Annex II of the EIA Directive (Directive 2014/52/EU, as amended by Directive 2011/92/EU), is included in Schedule I (Regulation 10) of the Maltese EIA Regulations, 2017 (S.L. 549.46). A copy of the EIA Regulations, 2017, including Schedule I can be accessed through this link:

[https://era.org.mt/en/Documents/EIA%20Regs%20\(S.L.%20549.46\)%20eng.pdf](https://era.org.mt/en/Documents/EIA%20Regs%20(S.L.%20549.46)%20eng.pdf)

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:

The Competent Authority for the carrying out the EIA procedure is the Environment and Resources Authority (ERA), together with the line Ministry responsible for the environment (Ministry for the Environment, Sustainable Development and Climate Change)

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):

Your comments:

Yes. The Environment and Resources Authority (ERA).

I.9. How does your country, as a Party of origin and as an 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):

Response to Question I.5 above refers. Details of Part VII of the Environmental Impact Assessment Regulations, 2017 (S.L. 549.46), are included in the same reply.

Article 3 Notification

I.10. As a 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):

Your comments:

As per Regulation 25(1) of the Maltese EIA Regulations, 2017 (S.L. 549.46), when the Minister is aware that a project in Malta may have significant effects on another affected Party, this should be aware as soon as possible, and not later than when the public in Malta is informed. Detailed abstract from Part VII of the EIA Regulations is as per below:

25 (1) Where the Minister is aware that a project in Malta may have significant effects on the environment in another State, or where another State that may be affected so requests in line with the provisions of the Directive or of the Convention, the Minister shall notify that State, as soon as possible and not later than when the public in Malta is informed in accordance with these regulations, and shall include the following information:

- (a) information on the project and its location, together with the available information on the possible transboundary impacts;
- (b) information on the nature of the possible decisions; and
- (c) any other information which the Minister deems reasonable, the Minister shall also give that State, hereinafter referred to as "the interested State", thirty calendar days within which to indicate whether it wishes to participate in the environmental decision-making procedures, including the development consent procedure, the environmental impact assessment and or scoping, as may be relevant.

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:

The EIA Regulations, 2017 (S.L. 549.46) do not specify the format of the notification per se, however it shall include the following information (Regulation 25(1) of the same Regulations refers):

(a) information on the project and its location, together with the available information on the possible transboundary impacts;

(b) information on the nature of the possible decisions; and

(c) any other information which the Minister deems reasonable, the Minister shall also give that State, hereinafter referred to as "the interested State", thirty calendar days within which to indicate whether it wishes to participate in the environmental decision-making procedures, including the development consent procedure, the environmental impact assessment and or scoping, as may be relevant.

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:

Response to Question I.11 above refers.

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):

Your comments:

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

In accordance with Regulation 25(1), of the EIA Regulations, 2017 (S.L. 549.46), the affected Party has thirty calendar days to provide a response indicating its participation in the environmental impact assessment process as per below:

- (c) any other information which the Minister deems reasonable, the Minister shall also give that State, hereinafter referred to as "the interested State", thirty calendar days within which to indicate whether it wishes to participate in the environmental decision-making procedures, including the development consent procedure, the environmental impact assessment and or scoping, as may be relevant.

There are no legal or administrative consequences if a notified affected Party does not comply with the time frame as specified above.

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):

Your comments:

With reference to Regulation 25(5) of the EIA Regulations, 2017 (S.L. 549.46), the interested State may arrange for the information to be made available, within a reasonable time, to the relevant authorities and the public in its territory such that they can forward their opinion within a reasonable time and participate effectively in the relevant environmental decision-making procedures before any consent for the project is granted. Within the time-frame established through the provisions of sub-regulation (4), the interested State shall forward its opinion to the Minister, who shall in turn forward such opinion to the Authority.

I.15. On what basis is the decision made to participate (or not) in the transboundary EIA procedure as an 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 the 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 the public of the affected Party

(d) Other (please specify):

Your comments:

Regulation 26 of the EIA Regulations, 2017 (S.L. 546.46) states that:

26(1): The Minister shall have the right to be notified by another State about any project in that State which may have a potentially significant effect on the environment in Malta (as an affected Party), as soon as possible and no later than when the public in that same State is informed. The Minister shall respond to any such notification, acknowledging receipt and indicating whether Malta intends to participate in the relevant procedures in line with this regulation.

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

(2) Where, following such notification, the Minister is of the opinion that a project proposed in another State may have a potentially significant effect on the environment in Malta, or where the Minister deems appropriate in line with the provisions of the Directive or of the Convention, he shall as soon as possible and within the time-frame specified in the notification, inform the State in which the project is to be undertaken, of Malta's request to participate in the environmental decision-making procedures in that State, including the development consent procedure, the environmental impact assessment and or scoping, as may be relevant, and he shall request the information listed in sub-regulation (1) of regulation 25.

(3) If the Minister considers that the environment under Malta's jurisdiction is likely to be adversely affected by a project which is proposed to be carried out in another State, but no notification has taken place in accordance with sub-regulations (1) and (2), the Minister shall as soon as possible request that State to exchange sufficient information for the purposes of determining whether there is likely to be a significant adverse transboundary impact such that the matter should be followed up further in line with this regulation.

(4) The Minister shall forward to the Authority the information indicated in sub-regulations (2) and (3), as relevant. The Authority shall make this information available to the consultees and the public in Malta such that they can forward their opinion and participate effectively in the environmental decision-making procedures before any consent for the project is granted, and may apply any provisions of these regulations as it deems relevant and appropriate to this effect. The Minister shall also seek an agreement with the State in which the project is to be undertaken on a reasonable time-frame for consultation, taking into account the nature, scale and characteristics of the proposed project and its location. The Minister shall also promptly provide that State with reasonably obtainable information relating to the potentially affected environment under Malta's jurisdiction, where such information is necessary or relevant for the assessment.

(5) The Minister, acting on the advice of the Authority and taking into consideration the comments of the public, shall enter into consultations with the State in which the project is to be undertaken concerning, inter alia, the considerations listed in sub-regulation (4) of regulation 25.

(6) The State in which the project is to be undertaken shall provide to the Minister information about the aspects listed in paragraphs (a) to (d) of sub-regulation (6) of regulation 25, and any other ancillary information which the Minister may reasonably request in line with the Directive or the Convention. When the Minister receives such information, he shall provide a copy thereof to the Authority which shall then publish it through at least one daily or weekly newspaper in Maltese and one in English, and on the Authority's website.

(7) If additional information on the significant transboundary impact of a project proposed in another State, which was not available at the time a decision was made and which could have materially affected the decision, becomes available to the Minister or to that State before work on that project commences, the Minister shall immediately inform the other State and vice-versa, as relevant. In such instances, any one or both parties may request that consultations be held on whether the decision needs to be revised.

(8) Where the monitoring of a project or any other post-project analysis reveals any significant adverse transboundary impacts or any factors that may result in such impacts, the Minister shall immediately inform the State in which the project is to be undertaken or shall ensure that such State immediately informs him, as relevant. Both parties shall then enter into consultations on the measures that should be undertaken to prevent, reduce, eliminate or offset such impact, including any possible mutual assistance to this effect.

(9) The transmission of information by the State in which the project is to be undertaken, and the receipt of such information by the Minister, shall be subject to the limitations in force in the State in which the project is to be undertaken.

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):

Your comments:

Reply to Question 1.15 above refers.

Articles 3.8 and 4.2

Public participation

I.17. How can the public express its opinion on the EIA documentation of the proposed project (art. 5)? Please specify (more than one option may apply):

As a 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):

Public participation, as emphasised by the First Amendment to the Espoo Convention, is included all throughout the local EIA Regulations, as stipulated by the Directive per se. The same process for consultation with the public that is carried out for local, non-transboundary cases would apply, i.e. (i) during the scoping stage as stipulated by Regulation 16(3) and (ii) public consultation upon submission of the EIA Report, as stipulated by Regulation 19 of the same Regulations.

As an 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:

The same provisions in the EIA Regulations, 2017 (S.L. 549.46), with respect to public participation and consultation with the public would apply, as deemed relevant and appropriate. Regulation 26(4) of the same Regulations, in fact notes the following:

(4) The Minister shall forward to the Authority the information indicated in sub-regulations (2) and (3), as relevant. The Authority shall make this information available to the consultees and the public in Malta such that they can forward their opinion and participate effectively in the environmental decision-making procedures before any consent for the project is granted, and may apply any provisions of these regulations as it deems relevant and appropriate to this effect. The Minister shall also seek an agreement with the State in which the project is to be undertaken on a reasonable time-frame for consultation, taking into

account the nature, scale and characteristics of the proposed project and its location. The Minister shall also promptly provide that State with reasonably obtainable information relating to the potentially affected environment under Malta's jurisdiction, where such information is necessary or relevant for the assessment.

I.18. 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:

There is no specific requirement in the EIA Regulations, 2017 (S.L. 549.46), stipulating that a public hearing would need to be carried out on the territory of the affected Party when Malta is the country of origin. In terms of consultation, as stipulated by Regulation 25(5), it is the Interested State (i.e. the affected Party) that may arrange for the information to be made available, within a reasonable time, to the relevant authorities and the public in its territory such that they can forward their opinion within a reasonable time and participate effectively in the relevant environmental decision-making procedures before any consent for the project is granted.

I.19. 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:

There is no specific requirement in the EIA Regulations, 2017 (S.L. 549.46), stipulating that a public hearing would need to be carried out when a country is the affected Party and reply to Question I.17 above refers. In this regard, the same provisions in the EIA Regulations, 2017, with respect to public participation and consultation with the public would apply, as deemed relevant and appropriate. Regulation 26(4) of the same Regulations, in fact notes the following:

(4) The Minister shall forward to the Authority the information indicated in sub-regulations (2) and (3), as relevant. The Authority shall make this information available to the consultees and the public in Malta such that they can forward their opinion and participate effectively in the environmental decision-making procedures before any consent for the project is granted, and may apply any provisions of these regulations as it deems relevant and appropriate to this effect. The Minister shall also seek an agreement with the State in which the project is to be undertaken on a reasonable time-frame for consultation, taking into account the nature, scale and characteristics of the proposed project and its location. The Minister shall also promptly provide that State with reasonably obtainable information relating to the potentially affected environment under Malta's jurisdiction, where such information is necessary or relevant for the assessment.

Article 4

Preparation of the environmental impact assessment documentation

I.20. How do you ensure sufficient quality of the EIA documentation As a 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):

Your comments:

In terms of quality control, the requirements for proposals which do not have any transboundary impacts, as detailed in Regulation 18 of the EIA Regulations, 2017 (S.L. 549.46), are also applicable in the case of projects that may have transboundary effects.

I.21. 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:

In terms of the relevant information to be included in the EIA documentation, the requirements for proposals which do not have any transboundary impacts, as detailed in Regulation 18 of the EIA Regulations, 2017 (S.L. 549.46), are also applicable in the case of projects that may have transboundary effects.

I.22. 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:

Your comments:

In terms of reasonable alternatives, the requirements for proposals which do not have any transboundary impacts, as detailed in Regulation 18(1) of the EIA Regulations, 2017 (S.L. 549.46), are also applicable in the case of projects that may have transboundary effects.

Article 5

Consultations on the basis of the environmental impact assessment documentation

I.23. Does your national EIA legislation have any provision on the organization of transboundary consultations 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:

Response to Question I.15 applies. In addition, as per Regulation 28, the Minister may enter into discussions with another State to determine whether a project, or combination of projects, not listed in Schedule I, or in the or in the legislation of that State is likely to cause a significant adverse transboundary impact such that the provisions of Regulation 25 and 26, as relevant, should apply.

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):

As indicated by Regulation 25(6) of the EIA Regulations, 2017 (S.L. 549.46):

The Minister shall provide to the interested State information about:

- (a) the final decision on the proposed project;
- (b) the reasons and considerations on which the decision was based;
- (c) the terms and conditions attached to the decision, including the relevant measures to avoid, reduce, or offset the major adverse effects;
- (d) the public participation process; and
- (e) any other ancillary information which the interested State may reasonably request in line with the Directive or the Convention, or which the Minister deems appropriate. The interested State may make such information available in an appropriate manner to the public concerned in its own territory.

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: Yes. Reply to Question I.24 above refers, in that the information that would be communicated to the interested State, would also include information pertaining to the public participation process (Regulation 25(6) of the EIA Regulations, 2017 refers).

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):

Your comments: Regulation 26(7) states the following: "If additional information on the significant transboundary impact of a project proposed in another State, which was not available at the time a decision was made and which could have materially affected the decision, becomes available to the Minister or to that State before work on that project commences, the Minister shall immediately inform both parties may request that consultations be held on whether the decision needs to be revised.

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: All activities listed in Appendix I would require a final decision (i.e. a development permit).

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: As indicated in the reply for Question I.27, all activities listed in Appendix I would require a final decision (i.e. a development permit), arising from the requirements of the Development Planning Act, 2016 (Cap. 522) and the relative subsidiary legislation, Development Planning Procedure for Applications and their Determination Regulations, 2016 (S.L. 552.13).

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:

Post-project analysis is carried out through monitoring in line with the legal requirements associated with the standard EIA process. This is detailed in Part VIII of EIA Regulations, 2017 (S.L. 549.46). The same requirements would apply for projects with transboundary effects.

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: N/A

Your comments:

(b) Procedural steps required by national legislation

I.32. Please describe how the steps required for a transboundary EIA procedure under your national legislation correlate to domestic EIA in the lead-up to the final decision. If there are differences in the procedures for screening/scoping or for preparation of the environmental impact assessment and consultation, please specify.

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

Your comments: Same process applies for project proposals that are of transboundary nature.

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:

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 2016–2018

Please report on your country's practical experiences in applying the Convention (not your country's procedures described in part one), whether As a 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 2016–2018

Cases during the period 2016–2018

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 a 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 a Party of origin

Project name	Starting date (date notification sent)	Affected Party/ Parties	Timing of the notification (screening, scoping or preparation of the EIA documentation)	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.							
2.							
3.							
4.							
...							

Your comments:

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. The Convention does not mention the translation of EIA documentation as an important prerequisite for the participation of potentially affected Parties in a transboundary EIA procedure. Please explain:

(a) How has your country addressed the issue of the translation of EIA documentation? N/A

(b) What difficulties has your country experienced with regard to translation and interpretation, both as a Party of origin and as an affected Party, and what solutions has it found? N/A

(c) Which Party covers the cost of translation of EIA documentation?

(i) As a Party of origin:

(ii) As an affected Party:

(iii) Other, please specify: N/A

(d) What parts of the EIA documentation does your country usually translate?

(i) As a Party of origin: N/A

(ii) As an affected Party: N/A

(e) Please indicate whether and how the issue of translation is addressed in bilateral agreements between your country and other Parties. N/A

(f) As a Party of origin, in which language do you usually provide EIA documentation to the affected Party?

(i) English

(ii) The affected Party's language

(iii) Other (please, specify)

(g) As an affected Party, from which language do you usually translate?

(i) English

(ii) Language of the Party of origin

(iii) Other (please, specify) N/A

(h) Describe any difficulties that your country has encountered during public participation procedures and consultations under article 5, for example with regard to timing, language and the need for additional information. N/A

(i) As a Party of origin:

Experience with public participation
Experience with consultations under article 5

(ii) As an affected Party:

Experience with public participation

Experience with consultations under article 5

- (i) Please describe how the costs of interpretation during the hearings are covered:
- (ii) By the Party of origin:
- (iii) By the affected Party:
- (iv) Shared by both Parties concerned:
- (v) Developer:
- (vi) Other, please specify

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: N/A

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. Please provide examples from your experience during the reporting period (either complete cases or elements such as notification, consultation and public participation) that, in your view, constitute good practice:

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 2016–2018

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 a Party of origin or as an 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 further suggestions (preferably specific drafting proposals) for how this report could be improved. N/A