

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

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11. Date on which report was completed: **29 March 2019**

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): **There is a definition in Chapter 6 Section 2 of the Environmental Code which is more detailed than article 1 of the Convention. For example, the different types of possible impacts are listed (direct, indirect, positive or negative, cumulative or not cumulative effects).**

(c) No (please provide the definition):

(d) There are no definitions of impact in the legislation

Your comments:

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

(a) Yes

(b) Yes, with some differences (please provide details):

(c) No (please provide the definition):

(d) There are no definitions of transboundary impact in the legislation

Your comments: **The preparatory works state that the definition of the term impact (or environmental effect), includes transboundary impacts, i.e. the impacts that are covered by an EIA are not limited geographically.**

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

The word major is not used. It is not important whether the change is major. The relevant question is instead which impacts the change can lead to.

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

(a) Based on the geographical location of the proposed project

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

(c) By other means (please specify):

Your comments:

Article 2 General provisions

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

(a) Law on EIA:

(b) EIA provisions are transposed into another law(s) (please specify): **The Environmental Code (chapter 6) contains the main provisions on EIA. Several other acts have reference to Chapter 6 in the Environmental Code.**

(c) Regulation (please indicate number/year/name): **The Ordinance (2017:966) on Environmental Assessments and the Ordinance (2013:251) on Environmental Examination.**

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

(e) Other (please specify):

Your comments: **There has been a recent change in the Swedish EIA and SEA legislation, partly due to the transposition of the revised EIA Directive. The changes legislation came into force on 1 January 2018.**

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 for which an EIA is required consists of far more activities than the activities listed in appendix I to the Convention.**

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

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

(b) They are different for domestic and transboundary procedures

(c) Please name the responsible authority/authorities:

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

Your comments:

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

(a) No

(b) Yes (please specify): **Swedish Environmental Protection Agency, SEPA (Point of contact)**

Your comments: **All governmental authorities that are informed of activities that are likely to have significant environmental effects in another country shall notify the Swedish Environmental Protection Agency.**

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): **The obligations laid down in the article and paragraph in question has been transposed in Chapter 6 Section 35 of the Environmental Code in conjunction with Section 24 of the Ordinance (2017:966) of Environmental Assessment. In practice, depending on the case and party concerned, we sometimes have informal contacts about the public participation, trying to use the same public meeting in the Party of origin if possible and formally invite the public in the notification letter. In general, we inform the affected party before the notification and the submission of the EIA-report to give the affected party preparedness for the public participation.**

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: **The notification is usually sent when the consultation (in the scoping phase) starts with citizens and organizations that are likely to be affected in Sweden.**

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:

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: **Not all information required by article 3 paragraph 5 is available at the notification and therefore not always included. (scoping phase).**

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): **The time frame is not specified any further. Hence it is only stated that the time frame should be reasonable. What a reasonable time frame is must be decided on a case by case basis.**

(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: **If no answer is received in time, we sometimes remind the notified party. Inquiries about the possibility to extend the deadline are met positive if possible. Even late given response about participating in the EIA-procedure have always given the affected party right to participate in the next phase of the EIA-procedure.**

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: **Information on the notification in the affected Party is given by the authority of the point of contact in the affected Party or some other relevant authority there. The notification from Sweden as Party of origin contains brief information on the project and its consequences and information on where further information is available or could be found on a website**

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): Case by case, see our comments below

Your comments: **The competent authority, the Swedish Environmental Protection Agency (SEPA), makes the decision if Sweden will participate or not. In most cases the decision is made based on the result of the circulation of the notification to authorities, municipalities and NGO:s and the result of the public participation. In some cases SEPA decides on its own or if necessary, consults expert authorities or the county administrative board before deciding if Sweden would participate or not.**

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:

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):

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

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: **Public hearing is not always arranged**

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: **If a public meeting is requested from the affected party, Sweden will then, together with the affected party, arrange a public hearing if possible.**

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: **If a public hearing is requested in Sweden, SEPA will, together with the party of origin, arrange a public hearing in Sweden.**

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): **The permitting authorities have to ensure that the EIA report meet the legal requirements and thus have a sufficient quality before making it available for the public (publish a notice). Sweden sends the EIA report, or an adequate summary, on transboundary submission for comments after the permitting authority have published the notice.**

Your comments:

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: **We have national legislation which specify the required content of the EIA, see Chapter 6 Section 35 and 37 of the Environmental Code and also Section 16-19 in the Ordinance (2017:966) of Environmental Assessments.**

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: **The reasonable alternatives should include location, technology, size, precautions etc. (see Section 35 in the Environmental Code and Section 17 in the Ordinance [2017:966] of Environmental Assessment). According to Chapter 6 Section 32 of the Environmental Code, the County Administrative Board should involve itself in the scoping phase in way that promotes that the content of the environmental impact statement gets the extent and level of detail needed for the permit applications.**

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:

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): **There are a number of other points that should be included in the final decision, these are listed in Chapter 22 section 25 of the Environmental Code and include e.g. the environmental conditions.**

I.25. Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and the public in your country (art. 6, para. 1)?:

(a) Yes

(b) No

Your comments:

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

(a) No

(b) Yes (please specify): **See Section 24 in the Ordinance (2017:966) of Environmental Assessments**

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: **It is not allowed to undertake activities listed in appendix I of the convention without having concluded a certain permit procedure prescribed in the Environmental Code. Within the permit procedure, an environmental impact assessment is required. The permit procedure is concluded by a “final decision”. The “final decision” is normally taken either by a Land and Environment Court through a judgement or by a County Administrative Board through a decision. With both the decision and the judgement an application to authorize or undertake such an activity is denied or allowed. The final decision does contain restrictions on how to perform the activities and how to minimize effects on the environment etc.**

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): **See Section 24 in the Ordinance (2017:966) of Environmental Assessments. Moreover, Chapter 26 of the Environmental Code includes provisions on supervision. The supervisory authority shall, on its own initiative or upon notification, to the extent necessary, supervise compliance with the provisions of the Environmental Code and provisions, judgements and other decisions adopted in pursuance thereof and take any measures necessary to ensure that faults are corrected. In the case of environmentally hazardous activities or water operations which require a permit the supervisory authority shall also continuously assess if the conditions are sufficient.**

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 Please specify with which countries:

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

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

(a) Specific conditions of the subregion concerned

(b) Institutional, administrative and other arrangements

(c) Harmonization of the Parties' policies and measures

(d) Developing, improving, and/or harmonizing methods for the identification, measurement, prediction and assessment of impacts, and for post-project analysis

(e) Developing and/or improving methods and programmes for the collection, analysis, storage and timely dissemination of comparable data regarding environmental quality in order to provide input into the EIA

(f) Establishment of threshold levels and more specified criteria for defining the significance of transboundary impacts related to the location, nature or size of proposed activities

(g) Undertaking joint EIA, development of joint monitoring programmes, intercalibration of monitoring devices and harmonization of methodologies

(h) Other, please specify:

Your comments:

(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: **There are no detailed provisions on this theme other than those that follow by the Convention. In practice, the transboundary EIA procedure follow the domestic EIA procedure A schematic flowchart for the EIA procedure can be found here (unfortunately only available in Swedish and the transboundary EIA procedure is not mentioned but since it follows the domestic procedure it could be worth mentioning):**
<http://www.naturvardsverket.se/upload/stod-i-miljoarbetet/vagledning/miljobedomning/Miljobedomning-specifik-902.svg>

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? **Outside the Nordic countries Sweden communicate in English regarding the notification letter, scoping document, EIA report, expert documents etc. We also translate the non-technical summary and other core parts of the EIA into the language of the affected party, decided case-by-case together with the developer and in some cases we also ask the affected Party of sufficient translation. It is the developer's duty to translate the documents. Sometimes the developer also translates the final decision, otherwise we summarise the final decision in English in a letter. Between the Nordic countries Swedish is acceptable, except for communication with Finland there we need additional translation into Finnish.**

(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? **We have got the request from the public in affected Party to translate all the EIA documentation not only into English, but also into that country's language. From some countries we also receive statements and opinions from authorities and the public in that countries language.**

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

(i) As a Party of origin: **Party of origin (in that way described in II.3 (a))**

(ii) As an affected Party: **Party of origin**

(iii) Other, please specify:

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

(i) As a Party of origin: **The non- technical summary into that countries language and mostly the whole EIA report into English. In some cases we also translate the whole EIA report into that countries language. We try to have a discussion with the PoC in the affected country about that parts of the EIA that are relevant to translate.**

(ii) As an affected Party:

(e) Please indicate whether and how the issue of translation is addressed in bilateral agreements between your country and other Parties. **No bilateral agreements**

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

(i) English **(Outside the Nordic countries)**

(ii) The affected Party's language **At least the non- technical summary. (Outside the Nordic countries)**

(iii) Other (please, specify) **Swedish within the Nordic countries**

(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)

(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.

In cross-border cases we have tried to have joint letter, documents and time-frames for notification and consultation, but in some cases this intention has failed, and some Party have leaved the joint agreement and act accordingly to their own timeframe.

In one particular case Sweden as a Party of Origin had to respond to each individual/NGO that had given their opinion in regard to article 4, with no support from the PoC in the affected country which complicated the process and made it time and resource consuming.

(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

Denmark invited Sweden to a consultation meeting regarding an offshore wind power park in Denmark, due to that reason that Sweden in the response had dissuaded from the planned location of that power plant.

- (i) Please describe how the costs of interpretation during the hearings are covered:
- (i) By the Party of origin: **If interpretation is needed during the hearing, it is the Party of origin that cover the costs.**
- (ii)
- (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: **see II.3 (b)**

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: **For Nord Stream 2 we had a good cooperation regarding common provisions, timing, translations etc. In the end not all Parties had the possibility to follow the agreed provisions.**

(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.