

**REPORT OF BELGIUM FOR 2003-2005
ON THE IMPLEMENTATION OF THE ESPOO
CONVENTION ON ENVIRONMENTAL IMPACT
ASSESSMENT IN A TRANSBOUNDARY CONTEXT**

for the period mid-2003 to end of 2005

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PART I – CURRENT LEGAL AND ADMINISTRATIVE FRAMEWORK FOR THE IMPLEMENTATION OF THE CONVENTION

Please provide the information requested below in Part I, 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 not be used to describe your experience of applying the Convention, i.e. just the framework for its implementation.

Article 2

General Provisions

DOMESTIC IMPLEMENTATION OF THE CONVENTION

1. *List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (Art. 2.2).*

Federal Agency for Nuclear Control (for nuclear matters):

Royal Decree of 20/07/01 and the European Commission Recommendation 1999/829 of 6/12/99 on the application of Article 37 of the Euratom Treaty.

Flanders Region:

Flemisch Decree of 18/12/2002 (date of publication 13/02/2003).

Flemisch Order of 10/12/2004 (date of publication 17/02/2005).

Brussels-Capital Region:

The provisions of the convention are implemented in COBAT article 18§6, art 25 §6, art 35 §3 and art 48§5.

TRANSBOUNDARY EIA PROCEDURE

2. *Describe your national and transboundary EIA procedures and authorities (Art. 2.2):*
 - a. *Describe your EIA procedure and indicate which steps of the EIA procedure include public participation.*

Federal Agency for Nuclear Control (for nuclear matters):

In accordance with article 6 of the Royal Decree of 20/07/01, the EIA-report is part of the license application. If the license application is complete, it is transferred to the Scientific Council of the FANC. The latter gives a preliminary advice.

Then the license application- together with the preliminary advice- is transferred to the mayor of the town where the establishment is located. When there are other towns located within a radius of 5 km, the same procedure will be followed for these towns. The public is notified by a public letter at the town hall. For 30 days the license application, including the EIA report can be consulted by the public. The public has the opportunity to comment in writing. After this public enquiry, the bench of aldermen gives an advice concerning the license application. The result of the public enquiry and the advice of the bench of aldermen are sent back to the

FANC by the mayor within a term of 60 days after the receipt of the license application.

Afterwards the completed license application is sent to the Provincial council. Again an advice has to be given within a term of 30 days.

In parallel with the consultations of the local communities and the provincial council, some international consultations may take place. .

In the cases provided by article 37 of the Euratom Treaty, the FANC seeks the advice of the European Commission.

The Scientific Council of the FANC can also consult the European Commission about the general and specific aspects on safety of an establishment or the effect on the environment.

When the Scientific Council of the FANC decides that the proposed activity can have a significant transboundary impact, the FANC has to send the notification directly to the States in question.

Then, the Scientific Council of the FANC gives a final advice.

Finally, the FANC decides whether the permit will be granted or not.

Only the second step includes public participation.

Flanders Region:

Scheme of the EIA procedure used for the projects mentioned on annex I of the Flemisch Order of 10/12/2004:

Notification by the proponent to the EIA-authority --> EIA-authority decides about contents and completeness of the notification --> consultation of public, administrations and the town council --> EIA-authority decides on the guidelines --> final EIA-report --> EIA-authority performs a quality control and takes a decision about the final EIA-report.

Article 4.3.4 §4 of the Flemisch decree of 18/12/2002 provides 30 days for the public to give their comment. The public can consult the notification in the town hall, the town council is free to choose the way in which they announce the public consultation, often the announcement is made by a public letter at the town hall. The public can send their comment on the notification to the EIA-authority or they can send their comment to the mayor and the mayor sends the comment to the EIA-authority.

Article 4.3.5§1 sub 2° of the Flemisch decree of 18/12/2002 states that the EIA-authority has to take into account the comment made by the public when they decide on the guidelines.

Article 4.3.9§1 of the Flemisch decree of 18/12/2002 provides that the final EIA-report, the decision about the approval of the EIA-report and the guidelines can be consulted by the public at the office of the EIA-authority after the decision about the approval of the final EIA-report has been sent to the proponent.

Scheme of the EIA procedure used for the projects mentioned on annex II of the Flemisch Order of 10/12/2004:

Motivated request (screening and scoping) by the propoent to discharge the project of a full EIA-procedure (the scheme of the full EIA-procedure you can find above) -- > within 60 days the EIA-authority decides about the request.

Article 4.3.3§6 states that the decision is a public document, that can be consulted by the public at the office of the EIA-authority, 70 days after the motivated request done by the propoent.

Walloon Region : The legislation precibes that that a public consultation shall be organized by the developer before the introduction of the permit's request. The pertinent public remarks and observations shall be examined in the EIA. After the introduction of the request, a public hearing is organized (30 days) during which the public may introduce its last observations. The decision shall take those observations in consideration.

b. Describe how the different steps of the transboundary EIA procedure mentioned in the Convention fit into your national EIA procedure.

Federal Agency for Nuclear Control (for nuclear matters):

There exist no formal notification.

The applicant prepares the environmental impact assessment report and present this to the FANC.

There exist several consultations:

- consultation of the Scientific Council of the FANC,
- consultation of the European Commission (in the cases provided by article 37 of the Euratom Treaty),
- consultation of the bench of aldermen,
- consultation of the Provincial council.

After these consultations the FANC prepares the license which is delivered by Royal Decree, countersigned by the minister of Interior.

The FANC is legally obliged to monitor the project.

Flanders Region:

Transboundary steps used for the projects mentioned on annex I of the Flemisch Order of 10/12/2004:

Article 4.3.4 §5 of the Flemisch decree of 18/12/2002 provides 40 days for the transboundary authority (when significant environmental effects are expected or when the transboundary authority asks to take part in the procedure) to give their comment on the notification. Article 4.3.5§1 sub 2° of of the Flemisch decree of 18/12/2002 states that the EIA-authority has to take into account the comment made by the transboundary authority when they decide on the guidelines. The decision about the guidelines has to be send to transboundary authority.

Article 4.3.8 §3 of the Flemisch decree of 18/12/2002 states that the decision about the final EIA-report has to be send to the transboundary authority (when significant environmental effects are expected or when the transboundary authority asks to take part in the procedure) .

Transboundary steps used for the projects mentioned on annex II of the Flemisch Order of 10/12/2004:

Article 4.3.3 §5 of the Flemisch decree of 18/12/2002 states that the motivated request (screening and scoping) by the propoent to discharge the project of a full

EIA-procedure has to be send to the transboundary authority (when significant environmental effects are expected or when the transboundary authority asks to take part in the procedure) for comment. The provided timing for comment is 30 days. Article 4.3.3 §9 of the Flemisch decree of 18/12/2002 states that the final decision has to be send to the transboundary authority.

- c. *List the different authorities that are named responsible for different steps of the transboundary EIA procedure. Also list the authorities responsible for the domestic EIA procedure, if they are different.*

Federal Agency for Nuclear Control (for nuclear matters):
In both cases the FANC is responsible.

Flanders Region:
In both cases the Flemisch EIA-authority is responsible.

- d. *Is there one authority in your country that collects information on all the transboundary EIA cases under the Convention? If so, name it. If not, do you intend to establish such an authority?*

Federal Agency for Nuclear Control (for nuclear matters); Flanders Region;
Brussels-Capital Region; Management Unit of the Mathematical Model of the North Sea (for marine matters); Walloon Region:
No, there is no such authority.

3. *Do you have special provisions for joint cross-border projects (e.g. roads, pipelines)?*

Federal Agency for Nuclear Control (for nuclear matters):
/

Flanders Region:
Each case will be considered on its specific possibilities. As much as possible, a common procedure will be created or agreed (ad hoc formalisation) taking into account the strongest aspects of both EIA procedures.

Brussels-Capital Region:
Not applicable to the Brussels region as it is situated in the middle of Belgium.

Walloon Region:
Each case will be considered on its specific possibilities. As much as possible, a common procedure will be created or agreed (ad hoc formalisation) taking into account the strongest aspects of both EIA procedures.

IDENTIFICATION OF A PROPOSED ACTIVITY REQUIRING EIA UNDER THE CONVENTION

4. *Is your country's list of activities subject to the transboundary EIA procedure equivalent to that in Appendix I to the Convention?*

Federal Agency for Nuclear Control (for nuclear matters):
The Royal Decree of 20/07/01 and the European Commission Recommendation 1999/829 of 6/12/99 on the application of Article 37 of the Euratom Treaty contains a list of activities which are subjected to EIA procedures.
All "nuclear" Appendix I activities are included in this list.

Flanders Region:

Flemisch Order of 10/12/2004 contains two lists of activities which are subjected to an EIA-procedure, corresponding to the EC-directive. All the activities of Appendix I of the Convention are included in the lists of the Flemisch Order.

Walloon Region :

The list of activities covers more than the one listed in Appendix I of the Convention. In fact all the projects or activities submitted to EIA shall be examined on the transboundary impacts aspect.

5. *Please describe:*

- a. *The procedures and, where appropriate, the legislation you would apply to determine that an “activity”, or a change to an activity, falls within the scope of Appendix I (Art. 2.3), or that an activity not listed should be treated as if it were (Art. 2.5);*

Federal Agency for Nuclear Control (for nuclear matters):

The Royal decree of 20 July 2001 (art. 3.1), in addition to existing EU legislation (Recommendation 1999/829; Euratom Treaty art. 37), contains a list of activities subject to an EIA procedure, which includes all ‘nuclear’ Appendix 1 activities. This legislation contains procedural provisions and content requirements for EIA. The afore-mentioned Royal Decree and EU Recommendation contain more activities than included in Appendix I. For the extra activities, the Espoo Convention will also be applied in case of a likely significant transboundary impact.

Flanders Region:

The Flemisch decree of 18/12/2002 supplemented the existing Decree on General Provisions for Environmental Policy Management with a new Title (IV) on EIA and SEA (and safety reporting). This Title IV contains chapters with procedural provisions for EIA and SEA, and content requirements for the EIA documentation for projects or plans. These chapters describe the procedure to determine whether an EIA is mandatory for an activity. These chapters also include provisions with respect to the implementation of the Espoo Convention.

The Flemisch Order of 10/12/2004 contains the lists of EIA obligatory activities. All Appendix I activities fall within the scope of EIA in Flanders. The order contains more activities than included in Appendix I. For the extra activities, the Convention will also be applied in case of a likely significant adverse transboundary impact.

Brussels-Capital Region:

The projects are subject to two different legislations:

- (1) the legislation on urban and town planning (COBAT, 2004);
- (2) the ordinance about the environmental permit - for exploiting, 1992, last amendment in 1999).

There is a screening approach for the definition of the kinds of projects and the thresholds that trigger (or not) the EIA procedure. The classification is made using the thresholds. Both legislations make a differentiation between projects for which an EIA realized by a certified consultant is always required (lists of projects with classification 1A or from the annex A of the COBAT) and projects for which the developer needs only to submit himself a report on the environmental impacts (lists of projects with classification 1B or from annex B of the COBAT).

Management Unit of the Mathematical Model of the North Sea (for marine matters): The Law on the Protection of the Marine Environment of 20 January 1999, together with two royal decrees (7 September 2003; 9 September 2003, specific on EIA), contains provisions on EIA with respect to activities in the Belgian part of the North Sea (art. 25). All Espoo-listed activities are covered but in practice this means only pipelines. All activities for which a permit is required are subject to public consultation (national and international). An exemption is possible in case the project will have limited impacts but this will never be the case with the projects included in Appendix I of the Espoo Convention.

Walloon Region :

The instance in charge of to examine if the request is properly introduced shall estimate if the activity is likely to have transboundary impacts.

If appropriate, the instance send to competent authorities of the affected Party the request, the EIA and all the information relating to the transboundary impacts (decree of 27 May 27 relating to the book 1 of the environment code - Art. 76 § 1)

b. How a change to an activity is considered as a “major” change;

Federal Agency for Nuclear Control (for nuclear matters):

The Royal decree of 20 July 2001 contains provisions to decide when a change of an activity listed in Appendix I shall be considered as a major change. The criteria mentioned in Annex III of Directive 85/337/EG and in Recommendation 19999/829 are used.

Flanders Regions:.

The EIA legislation contains descriptions of the changes or extensions of projects for which an EIA is obligatory and for those for which the proponent can chose to ask the competent authority to determine whether an EIA is necessary, given the size, location or effects.

Brussels-Capital region:.

The two Ordinances contain descriptions of the changes or extensions of projects for which an EIA is obligatory, or which have to be considered by the competent authority to determine whether an EIA is necessary, given the size, location or effects.

Management Unit of the Mathematical Model of the North Sea (for marine matters):

The Royal decree of 7 September 2003 stipulates that each modification or transformation of an activity that has been permitted, that may cause greater or other impacts on the environment, should be submitted to the permit procedure including an EIA and consultation.

Walloon Region : The EIA legislation contains descriptions of the changes or extensions of projects for which an EIA is obligatory, or which have to be considered by the competent authority to determine whether an EIA is necessary, given the size, location or effects.

- c. *How such an activity, or such a change to an activity, is considered likely to have a “significant” adverse transboundary impact (Art. 2.5, Guidelines in Appendix III); and*

Federal Agency for Nuclear Control (for nuclear matters):

It is primarily the decision of the Federal Agency for Nuclear Control (FANC) as competent authority whether an activity is likely to have significant adverse impacts. When such is obvious, using the criteria mentioned in the Recommendation, the FANC sends the notification to the European Commission.

In addition, local authorities of neighbouring countries can be notified and consulted (if within a radius of 5 km of the nuclear installation).

The Scientific Council of the FANC can also consult the European Commission about general and specific security aspects or environmental impacts. If the latter include transboundary aspects, the FANC has to send the notification directly, or on request, to the concerned State.

Flanders Region:

It is primarily the decision of the competent authority (i.e. the EIA Unit of the Flemish environment administration) whether an activity is likely to have a significant adverse transboundary impact. When it is obvious to the competent authority that a proposed activity in Flanders may have a significant adverse impact on the environment in another Party, the competent authority will have to send the notification or the motivated request (screening and scoping) by the proponent to discharge the project of a full EIA-procedure to the point of contact in the affected Party. The competent authority decides case-by-case, taking into consideration the specific situation, type of activity, type of effects and distance to the border.

Brussels-Capital Region:

Not applicable to the Brussels region as it is situated in the middle of Belgium.

Management Unit of the Mathematical Model of the North Sea (for marine matters):

It is the responsibility of the Party of origin (the competent authority) to decide whether an activity is likely to have significant adverse transboundary impacts, in accordance to art. 19 of the Royal Decree of 7 September 2003. The Marine Environment Protection Law does not contain criteria regarding ‘significance’ or ‘likely’. In the case of a request by a possibly affected Party, the request to obtain the notification document should be done within 60 days.

Walloon Region : The consideration is made on a case-by-case analysis by the instance in charge of to examine if the request is properly introduced. In case of doubt, the likely affected Party is informed of the request and invited to say if it wants to participate at the EIA procedure.

- d. *How you would decide whether it is “likely” to have such an impact. (Art. 2.3)*

Federal Agency for Nuclear Control (for nuclear matters):

It is primarily the decision of the Federal Agency for Nuclear Control (FANC) as competent authority whether an activity is likely to have significant adverse impacts. When such is obvious, using the criteria mentioned in the Recommendation, the FANC sends the notification to the European Commission.

In addition, local authorities of neighbouring countries can be notified and consulted (if within a radius of 5 km of the nuclear installation).

The Scientific Council of the FANC can also consult the European Commission about general and specific security aspects or environmental impacts. If the latter include transboundary aspects, the FANC has to send the notification directly, or on request, to the concerned State.

Flanders Region:

The competent authority decides case-by-case, taking into consideration the specific situation, type of activity, type of effects and distance to the border.

Walloon Region :

See previous answer.

PUBLIC PARTICIPATION

6. *Do you have your own definition of “the public” in your national legislation, compared to Article 1(x)? How do you, together with the affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to your own public as required in Article 2, paragraph 6?*

Federal Agency for Nuclear Control (for nuclear matters):

The public is notified by a public letter at the town hall and sometimes by a public announcement in relevant newspapers. The public can consult the EIA documentation at the town hall and comment on it in writing. At the same time as the public is informed in Belgium, the public participation in the affected Party takes place.

Flanders Region:

The definition in the Flemish legislation (EIA) is the same as article 1(x) and also mentions organisation or groups.

In the Flemish EIA process public participation occurs in two stages: (1): in the scoping phase, the public is given the opportunity to make suggestions for the project-specific guidelines for the content of the EIA documentation; and (2) once the EIA documentation has been prepared and included as part of the permit application documentation, there is the opportunity for the public to comment both in writing and orally at a public hearing during the permit application procedure. At the same time as the public in Flanders is informed, the publication in the affected Party has to take place. This implies that, in the scoping phase, the notification of intent might be translated and made public in the affected Party and after the EIA documentation has been prepared the summary is translated and the (complete) documentation is made public in the affected Party. All information is immediately available on the website

Brussels-Capital Region:

The EIA process provides for public participation in two stages: (1) during the scoping phase, the public is given the opportunity to make suggestions regarding the specifications for the contents of the EIA report - EIS - about the project; (2) once the EIS is finished and declared as complete by the Steering Committee, there is the opportunity for the public to comment both in writing and orally in the Consultation Committee.

Management Unit of the Mathematical Model of the North Sea (for marine matters):

The authorities in the affected Party are informed at the same time as the public in Belgium. The public in the affected Party has one month more than the Belgian public to react, in

order to overcome distribution problems for the authorities. All information is immediately available on the website.

Walloon Region :

There is no definition of the public. Public means anybody of the territory. In case of EIA, a public hearing is organized during 30 days. If a project is likely to have transboundary impacts the affected Party receives :

- the EIA report ;
- the address of the competent authority with time of the final decision ;
- the modalities of the public hearing including the dates of starting and closure of the public hearing and the address where the observations have to be addressed

Article 3

Notification

QUESTIONS TO PARTY OF ORIGIN

7. *Describe how you determine when to send the notification to the affected Party, which is to occur “as early as possible and no later than when informing its own public”? At what stage in the EIA procedure do you usually notify the affected Party? (Art. 3.1)*

Federal Agency for Nuclear Control (for nuclear matters):

No formal notification exists.

Flanders Region:

In principle, the notification is sent at the same time as the publication of the “notification of intent” takes place domestically (scoping phase).

The motivated request (screening and scoping) by the proponent to discharge the project of a full EIA-procedure is sent to the affected party at the same time as domestically authorities are asked for advice.

Walloon Region : The affected Party receives the information at the latest when the public of the Party of origin is informed.

8. *Describe how you determine the content of the notification? (Art. 3.2)*

Federal Agency for Nuclear Control (for nuclear matters):

No formal notification exists.

Flanders Region:

For Projects mentioned on annex I of the Flemish Order of 10/12/2004:

Article 4.3.4§1 of the Flemish decree of 18/12/2002 states that a notification at least has to contain:

- *a description of the project and the spatial location
- *the permits that will be necessary for the project
- *the information that is necessary for a transboundary exchange
- *the existing information from other EIA-procedures
- *a description of how the EIA will be carried out
- *a description of the possible (or already considered) alternatives for the projects and pros and cons of them

When the notification is send to the transboundary authorities, the letter states that (cfr. artikkel 4.3.4§5 of the Flemisch decree of 18/12/2002) that the transboundary authority has to give their comment within 40 days.

The EIA-authority in Flanders checks the contents and completeness of the notification and decides about it.

For Projects mentioned on annex II of the Flemisch Order of 10/12/2004:

Article 4.3.3§4 of the Flemisch decree of 18/12/2002 states that the the motivated request (screening and scoping) by the propopent to discharge the project of a full EIA-procedure at least has to contain:

*a descripton of the project and the spatial location

*the information that is necessary for a transboundary exchange

* a motivation for the request and all the information that is necessary to decide about the request

When the request is send to the transboundary authorities, the letter states that (cfr. article 4.3.3§5 of the Flemisch decree of 18/12/2002) the transboundary authority has to give their comment within 30 days. The letter also have to contain a description of the EIA and permit procedure that is necessary for the project.

9. *Describe the criteria you use to determine the time frame for the response to the notification from the affected Party (Art 3.3, “within the time specified in the notification”)? What is the consequence if an affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?*

Federal Agency for Nuclear Control (for nuclear matters):

No formal notification exists.

Flanders Region:

The time frame refers to the time frame of the decision-making procedure as provided for in the relevant legislation (e.g. environmental permit or building permit). In most cases a short extension of the deadline is considered

Walloon Region:

The time frame refers to the time frame of the decision-making procedure as provided for in the relevant legislation (e.g. environmental permit or building permit). In most cases a short extension of the deadline is considered

10. *Describe when you provide relevant information regarding the EIA procedure and proposed activity and its possible significant adverse transboundary impact as referred to in Article 3, paragraph 5. Already with the notification or later in the procedure?*

Federal Agency for Nuclear Control (for nuclear matters):

No formal notification exists.

Flanders Region:

The information is already submitted with the notification or with the motivated request (screening and scoping) by the propopent to discharge the project of a full EIA-procedure .

Walloon Region :

In most cases, the information is already submitted with the notification.

11. *How do you determine whether you should request information from the affected Party (Art. 3.6)? When do you normally request information from the affected Party? What kind of information do you normally request? How do you determine the time frame for a response from the affected Party to a request for information, which should be “prompt” (Art. 3.6)?*

Federal Agency for Nuclear Control (for nuclear matters):
No formal notification exists.

Flanders Region:

In the scoping phase, it becomes clear on which information the EIA documentation should focus. Additional information can be obtained from one (or more) meeting(s). Information on particular aspects or features of the state of the environment is normally requested. 'Promptly' is determined taking into account the procedures and practices.

Walloon Region :

The legislation set a minimum content of any EIA according to the criteria of the Annex IV of the EU directive 85/337/CEE. The report is communicated to the competent authorities of the affected Party who are free to request additional request information. We expect to have the answer within the delay of public inquiry.

12. *How do you consult with the authorities of the affected Party on public participation (Art. 3.8)? How do you identify, in cooperation with the affected Party, the “public” in the affected area? How is the public in the affected Party notified (what kinds of media, etc are usually used)? What is normally the content of the public notification? Does the notification to the public of the affected Party have the same content as the notification to your own public? If not, describe why not. At what stage in the EIA procedure do you normally notify the public of the affected Party?*

Federal Agency for Nuclear Control (for nuclear matters):
No formal notification exists.

Flanders Region:

The identification of the public depends on the type of activity, the likely impact and the location (distance from the border). The EIA Unit and the point of contact in the affected Party together can best identify how the public is to be informed. This is done in a dialogue between those authorities. The public is notified by a public announcement in relevant newspapers or in any other way the point of contact in the affected Party may suggest. The announcement contains the names and addresses of the proponent, the EIA Unit and the competent authority for the final decision, together with a description of the proposed activity (type and size), the location of the proposed activity and the decision or decisions for which the EIA is being carried out. Furthermore, the announcement should include information on the timing and the way suggestions for the content of the EIA documentation can be delivered to the EIA Unit. If an information meeting is to be organized, the public announcement should also contain information on this meeting. In principle, the public of the affected Party/Parties is normally notified at the same time and with the same information as the public in Flanders is informed for the first time. This is after the “notification of intent” has been submitted to the EIA Unit.

Walloon Region :

In addition of the national authorities of the likely affected Party, the authorities of the cities likely to be affected are consulted. The notification contains the

- the EIA report ;
- the address of the competent authority with time of the final decision ;

- the modalities of the public hearing including the dates of starting and closure of the public hearing and the address where the observations have to be addressed

13. *Do you make use of contact points for the purposes of notification as decided at the first meeting of Parties (ECE/MP.EIA/2, decision I/3), and listed on the Convention website at http://www.unece.org/env/eia/points_of_contact.htm?*

Yes, the points of contact are made use of in this way.

14. *Do you provide any information to supplement that required by Article 3, paragraph 2? Do you, furthermore, follow the proposed guidelines in the report of the first meeting of the Parties (ECE/MP/2, decision I/4)? If not, in what format do you normally present the notification?*

Federal Agency for Nuclear Control (for nuclear matters):
No formal notification exists.

Flanders Region:

Supplementary information is only provided in response to specific requests. The competent authority sends the (translated) 'notification of intent', with an accompanying letter, to the affected Party. In addition, a letter is sent from the regional ministry to the affected Party.

Walloon Region :

The notification contains the informations mentioned in the article 3 § 2 and the EIA. Any additional information is given on request.

QUESTIONS TO AFFECTED PARTY

15. *Describe the process of how you decide whether or not you want to participate in the EIA procedure (Art. 3.3)? Who participates in the decision-making, for example: central authorities, local competent authorities, the public and environmental authorities? Describe the criteria or reasons you use to decide?*

Federal Agency for Nuclear Control (for nuclear matters):

In most cases, the notification is followed by a positive response to participate in the EIA procedure. Criteria for participation are the expected transboundary impact and the level of public interest involved.

Flanders Region:

In most cases, the notification is followed by a positive response to participate in the EIA procedure or to be kept informed of developments in the procedure. Criteria for participation are the expected transboundary impact and the level of public interest involved.

Walloon Region :

When the Government receives information from a Party of origin, he transmits those informations to the local competent authorities likely to be affected who are in charge to proceed at a public inquiry and to an environmental council.

16. *When the Party of origin requests you to provide information relating potentially affected environment: (a) how do you determine what is "reasonably obtainable" information to include in your response; and (b) describe the procedures and, where appropriate, the*

legislation you would apply to determine the meaning of “promptly” in the context of responding to a request for information? (Art. 3.6)

Federal Agency for Nuclear Control (for nuclear matters):

The information is reasonable obtainable if it is existing information, for example inventories, references to literature, research reports and publications. Usually, no further research has to be carried out. Promptly will have to be interpreted in a way that it takes into consideration the fact that the information will have to be collected from various sources, within a reasonable timeframe and given the relevant authority’s workload.

Flanders Region:

The information is “reasonably obtainable” if it is existing information, for example inventories, references to literature, research reports and publications. Usually, no further research has to be carried out. “Promptly” will have to be interpreted in a way that it takes into consideration the fact that the information will have to be collected from various sources, within a reasonable timeframe and given the relevant authority’s workload.

Walloon Region :

The information is “reasonably obtainable” if it is existing information, for example inventories, references to literature, research reports and publications. Usually, no further research has to be carried out. “Promptly” will have to be interpreted in a way that it takes into consideration the fact that the information will have to be collected from various sources, within a reasonable timeframe and given the relevant authority’s workload.

Article 4

Preparation of the EIA documentation

QUESTIONS TO PARTY OF ORIGIN

17. What is the legal requirement for the content of the EIA documentation (Art. 4.1)?

Federal Agency for Nuclear Control (for nuclear matters):

The Royal Decree of 20/07/01 and the European Commission Recommendation 1999/829 of 6/12/99 on the application of Article 37 of the Euratom Treaty.

Flanders region:

Article 4.3.7 §1 of the Flemisch decree of 18/12/2002 describes the necessary content of the EIA.

Brussels Capital Region :

The same as in the Directive.

Walloon Region : The content of the annex IV of the 85/337/CEE EU Directive

18. Describe your country’s procedures for determining the content of the EIA documentation (Art. 4.1).

Federal Agency for Nuclear Control (for nuclear matters):

The content of the EIA report is fixed by the Royal Decree of 20/07/01 and the European Commission Recommendation 1999/829 of 6/12/99 on the application of Article 37 of the Euratom Treaty.

Flemisch region:

The content of the report is fixed by Article 4.3.7 §1 of the Flemisch decree of 18/12/2002.

Brussels Capital Region:

The diverse Administrations concerned prepare specifications for the content of the EIA that are submitted to the 1st public inquiry.

Walloon Region : The content is legally defined

19. *How do you identify “reasonable alternatives” in accordance with Appendix II, alinea (b)?*

Federal Agency for Nuclear Control (for nuclear matters):

Reasonable alternatives are alternatives that are suitable to reach the purpose set by the proponent. Reasonable alternatives are also alternatives that reduce the environmental impact and fall within the competence of the proponent.

Flanders Region:

Reasonable alternatives are alternatives that are suitable to reach the purpose set by the proponent. Reasonable alternatives are also alternatives that reduce the environmental impact and fall within the competence of the proponent.

Walloon Region:

Reasonable alternatives are alternatives that are suitable to reach the purpose set by the proponent. Reasonable alternatives are also alternatives that reduce the environmental impact and fall within the competence of the proponent

20. *How do you identify “the environment that is likely to be affected by the proposed activity and its alternatives” in accordance to Appendix II, alinea (c), and the definition of “impact” in Article 1(vii)?*

Federal Agency for Nuclear Control (for nuclear matters); Flanders Region; Walloon Region:

The “environment” is interpreted to include the elements listed in the definition in Article 1, paragraph (vii).

Brussels Capital Region :

geographical areas to be considered in the analysis of the different environmental approaches are defined in the specifications prepared by the Administrations.

21. *Do you give the affected Party all of the EIA documentation (Art. 4.2)? If not, which parts of the documentation do you provide?*

Federal Agency for Nuclear Control (for nuclear matters):

In principle all of the EIA documentation is given, but in certain cases the proponent may ask for secrecy of certain parts of the EIA documentation.

Flanders Region and Walloon Region:

In principle all of the EIA documentation is given, but in certain cases the proponent may ask for secrecy of certain parts of the EIA documentation.

22. *How is the transfer and reception of the comments from the affected Party organized? How does the competent authority in your country (as the Party of origin) deal with the comments? (Art. 4.2)*

Federal Agency for Nuclear Control (for nuclear matters):

Usually the comments on the EIA documentation are sent directly to the competent authority as this happens as part of the permit application procedure. The competent authority is the Federal Agency for Nuclear Control. Comments received can be incorporated into the final decision and can lead to specific conditions within the permit.

Flanders Region:

Usually the comments on the EIA documentation are sent directly to the competent authority as this happens as part of the permit application procedure. The announcement (advertisement) regarding the public participation and consultation indicates to whom the comments should be sent. General (federal) administrative law and particular regional environmental legislation require explicit justifications of decisions, including taking into account of comments and recommendations submitted concerning the EIA documentation.

Walloon Region : The notification contains the address where the observations have to be addressed

23. *Describe the procedures and, where appropriate the legislation you would apply to determine the time frame for comments provided for in the words “within a reasonable time before the final decision” (Art. 4.2)? What is the consequence if the affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?*

Federal Agency for Nuclear Control (for nuclear matters):

The timeframe for comments is legally defined, being at least a couple of months before the final decision. Belgium (Nuclear). If the competent authority does not receive the comments in time, the advice will be considered as being positive. An extension will be granted if a good reason is given.

Flanders Region and Walloon Region:

The time frame for comments depends on the specific legislation to be applied. “Within a reasonable time before the final decision” is interpreted so that in any case the comments from the affected party must be able to influence the decision. If the competent authority does not receive the comments in time they cannot be taken into consideration in the decision making process. If the decision-making procedure permits, an extension will be granted.

24. *What material do you provide, together with the affected Party, to the public of the affected Party?*

Federal Agency for Nuclear Control (for nuclear matters) and Walloon Region:

The EIA documentation is provided

Flanders Region:

In the scoping phase, the notification of intent (translated) and additional information on the procedure and the possibilities for input on scoping issues are provided. After the preparation of the EIA documentation, the EIA documentation (translated summary), and additional information on the procedure and the possibilities for involvement and for making comments, are provided.

Management Unit of the Mathematical Model of the North Sea (for marine matters):

The permit application file, the EIA documentation and a non-technical summary are sent to the affected Party.

25. *Do you initiate a public hearing for the affected public, and at what stage, whether in the affected Party, in your country or as a joint hearing? If a public hearing is held in your country, as Party of origin, can the public of the affected Party, public authorities, organizations or other individuals come to your country to participate?*

Federal Agency for Nuclear Control (for nuclear matters):

If requested, a public information hearing can be held during the public enquiry in the local communities. This public information hearing can take place either in the Party of origin or the Affected Party.

Flanders Region and Walloon Region:

No, the Party of origin does not initiate a public hearing in the affected Party for the affected public as a rule. A public hearing can be organized during the scoping phase. A public hearing (information meeting) is mandatory after the preparation of the EIA documentation, when the EIA documentation is part of the permit application file. This hearing is open to the public of the affected Party, public authorities and other organizations. Joint hearings are possible as long as the relevant legislation is being applied.

Management Unit of the Mathematical Model of the North Sea (for marine matters):

A public hearing in the affected Party is not organized, but a consultation among competent authorities of the concerned Parties can be organized. This consultation is held in Belgium or in the other Party.

QUESTIONS TO AFFECTED PARTY

26. *Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of the words “within a reasonable time before the final decision”, this being the time frame for comments (Art. 4.2)?*

Federal Agency for Nuclear Control (for nuclear matters):

The timeframe for comments is legally defined in the legislation of the Party of Origin.

Flanders Region:

The timeframe for comments is legally defined in the legislation of the Party of Origin.

27. *Who is responsible for the organization of the public participation in the affected Party? Is the public participation normally organized in accordance with your legislation as the affected Party, or with the legislation of the Party of origin, or with ad hoc procedures, or with bilateral or multilateral agreements?*

Federal Agency for Nuclear Control (for nuclear matters):

Normally, the public participation should be organized in accordance with the legislation of the Party of origin

Flanders Region and Walloon Region:

In principle, the public participation is organized in accordance with the legislation of the Party of origin and with the bilateral agreement or another ad hoc arrangement.

Article 5

Consultations

QUESTIONS TO PARTY OF ORIGIN

28. *At which step of the EIA procedure does the consultation in accordance with Article 5 generally take place? Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of “undue delay”, with regard to the timing of entry into consultation? Do you normally set the duration for consultations beforehand? If there seems to be no need for consultation, how do you determine not to carry out consultations?*

Federal Agency for Nuclear Control (for nuclear matters):

Consultation is after the EIA documentation has been sent to the local authorities or the European Commission. The time frames for responding are legally defined.

Flanders Region:

After the EIA documentation has been prepared, it will be sent (without undue delay) to the affected Party, made public and laid down for public inspection. In the accompanying letter the question will be posed whether there is a need for consultation. Practical experience with consultation is still limited.

Management Unit of the Mathematical Model of the North Sea (for marine matters):

The consultation takes place after the consultation of the public (national and transboundary) has taken place, and before the advice has been sent (on the EIA documentation) to the minister who takes the final decision. The expression "undue delay" is legally defined as 90 days after sending the information, or 90 days before the final decision.

Walloon Region :

The process of consultation is not foreseen by the legislation

29. *On what level do you arrange for consultation: national, regional or local? Who usually participates in the consultation? Describe the responsibilities of the authorities involved. By what means do you usually communicate in consultations, for example by meeting, exchange of written communications?*

Federal Agency for Nuclear Control (for nuclear matters):

The competent authority in the Party of origin (the Federal Agency for Nuclear Control), the European Commission and the local authorities participate. Communication is usually by an exchange of written communication.

Flanders Region:

The consultations are preferably organized in the Party of origin. However, if the situation occurs it may be organized in the affected Party as well. Primarily, consultation will have to be carried out at an expert level. If problems remain unsolved, the regional or even the national government level has to be involved besides the relevant regional and local authorities. At first the competent authority in the Party of origin and the point of contact, and other relevant levels of government authorities, in the affected Party (expert level) participate. If no agreement is reached or solution found, the consultation continues involving the regional or even the national government level. Communication is usually in a meeting preceded by an exchange of written communications.

Management Unit of the Mathematical Model of the North Sea (for marine matters):

Consultations have been held in both locations; consultation is between the competent administrations (responsible for North Sea matters) of both Parties. In general, the civil servants of the competent authorities participate. Sometimes staff members of the Cabinet of Ministers are present. When no agreement is found, consultation at the ministerial level is needed. Communication is usually in a meeting preceded by an exchange of written communications.

QUESTIONS TO AFFECTED PARTY

30. *On what level is the consultation normally held: national, regional or local? Who normally participates in the consultation? By what means do you usually communicate in consultations, for example by meeting or by the exchange of written communications? How do you indicate if there is no need for consultations?*

Federal Agency for Nuclear Control (for nuclear matters):

Consultations are normally held at the expert level. The competent authority in the Party of origin, the European Commission and the local authorities normally participate. Communication is usually by the exchange of written communications.

Flanders Region:

Consultations are normally first held at the expert level. If problems remain the national government level has to be involved besides the relevant local levels. At first the competent authority in the country of origin and the point of contact and other relevant levels of government authorities in the affected Party discuss or exchange information at an expert level. If no agreement can be reached or solution found, the consultation continues involving regional or national government levels. The usual means of communication are a meeting preceded by an exchange of written communications. Practical information is still limited

Article 6

Final decision

QUESTIONS TO PARTY OF ORIGIN

31. *Describe what is regarded as the “final decision” to authorize or undertake a proposed activity (Art. 2.3). Do all projects listed in Appendix I require such a decision?*

Federal Agency for Nuclear Control (for nuclear matters):

The final decision takes the form of a Royal Decree.

Flanders Region:

A permit is the final decision. All the projects listed in Appendix I require such a decision.

Walloon Region : All the project of the Appendix I need a permit granted by competent authority.

32. *How does the EIA procedure (including the outcome) in your country, whether or not transboundary, influence the decision-making process for a proposed activity? (Art. 6.1)*

Federal Agency for Nuclear Control (for nuclear matters):

All advice is taken into account but is not legally binding.

Flanders Region:

The final decision contains the reasons and considerations on which the decision is based. This is explicitly provided for in the EIA legislation (Decree of 18 December 2002).

Management Unit of the Mathematical Model of the North Sea (for marine matters):

The EIA done by the competent authorities, the advice to the Minister and the final decision by the Minister all take into consideration these elements.

Walloon Region :

The decision of the competent authority shall be motivated and shall take in consideration the comments of the public including those of the affected Party.

33. *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 public in your country (Art. 6.1)?*

Federal Agency for Nuclear Control (for nuclear matters); Flanders Region; Management Unit of the Mathematical Model of the North Sea (for marine matters); Walloon Region: Yes, they are taken into consideration in the same way.

34. *How is the obligation to submit the final decision to the affected Party normally fulfilled? Does the final decision contain the reasons and considerations on which the decision is based? (Art. 6.2)*

Federal Agency for Nuclear Control (for nuclear matters):
Yes, this is provided for by the legislation.

Flanders Region:

Yes, the final decision contains the reasons and considerations on which the decision is based. This is explicitly provided for in the EIA legislation (Decree of 18 December 2002).

Management Unit of the Mathematical Model of the North Sea (for marine matters):

The final decision contains the reasons and considerations on which the decision is based, as explicitly provided for in the legislation (Royal Decree of 7 September 2003). The Minister must provide a justification if an advice is not followed.

Walloon Region : Yes, the final decision must be motivated

35. *If additional information comes available according to paragraph 3 before the activity commences, how do you consult with the affected Party? If need be, can the decision be revised? (Art. 6.3)*

Federal Agency for Nuclear Control (for nuclear matters):
No experience as yet.

Flanders Region:

No experience as yet.

Article 7

Post-Project Analysis

36. *How do you determine whether you should request a post-project analysis to be carried out (Art. 7.1)?*

Federal Agency for Nuclear Control (for nuclear matters):

In case an obvious environmental impact has been identified, post-project analysis will be included as a licensing (permit) condition.

Management Unit of the Mathematical Model of the North Sea (for marine matters):

Post-project analysis is always obligatory, but its importance may vary according to the type of project.

37. *Where, as a result of post-project analysis, it is concluded that there is a significant adverse transboundary impact by the activity, how do you inform the other Party and consult on necessary measures to reduce or eliminate the impact pursuant to Article 7, paragraph 2?*

Federal Agency for Nuclear Control (for nuclear matters):

No experience as yet.

Flanders Region:

No experience as yet.

Article 8

Bilateral and multilateral agreements

38. *Do you have any bilateral or multilateral agreements based on the EIA Convention (Art. 8, Appendix VI)? If so, list them. Briefly describe the nature of these agreements. To what extent are these agreements based on Appendix VI and what issues do they cover? If publicly available, also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.*

Flanders Region:

There is the draft Dutch-Flemish agreement on EIA/SEA in a Transboundary Context. The agreement contains some general principles on applying EIA/SEA in a transboundary context. It also provides step-by step practical guidance on the process for those involved.

Items dealt with are:

- The area of application of EIA in a transboundary context;
- Institutional arrangements (contact points);
- Procedural aspects (notification, public participation, consultation, decision); and
- Financial aspects.

The agreement is a kind of practical guidance and is not yet formalized. The agreement mainly deals with the practical institutional administrative aspects of the process of EIA in a transboundary context, Appendix VI (b).

Walloon Region :

No agreement so far.

39. *Have you established any supplementary points of contact pursuant to bilateral or multilateral agreements?*

Federal Agency for Nuclear Control (for nuclear matters):

Yes, there is a European Commission contact point.

Flanders Region:

Yes, supplementary points of contact were established in the agreement between the region of Flanders and the Netherlands.

Management Unit of the Mathematical Model of the North Sea (for marine matters):

Yes, there are contact points for North Sea matters.

Walloon Region :

No

Article 9

Research programmes

40. Are you aware of any specific research in relation to the items mentioned in Article 9 in your country? If so, describe it briefly.

Walloon Region :

No

Ratification of the amendments to the Convention and of the Protocol on SEA

41. If your country has not yet ratified the first amendment to the Convention, does it have plans to ratify this amendment? If so, when?

The country has plans to ratify, a concrete timing is not available at the moment

42. If your country has not yet ratified the second amendment to the Convention, does it have plans to ratify this amendment? If so, when?

The country has plans to ratify, a concrete timing is not available at the moment

43. If your country has not yet ratified the Protocol on SEA, does it have plans to ratify the Protocol? If so, when?

The country has plans to ratify, a concrete timing is not available at the moment

PART II – PRACTICAL APPLICATION DURING THE PERIOD 2003-2005

Please report on your practical experiences of applying the Convention (not your procedures described in Part I), whether as Party of origin or affected Party. The focus here is on identifying the best practice as well as difficulties Parties encountered in applying the Convention in practice to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve application of the Convention.

CASES DURING THE PERIOD 2003-2005

44. *Do you have any practical experience of applying the Convention in this period (yes/no)? If you do not have any such experience, why not?*

Federal Agency for Nuclear Control (for nuclear matters):

Yes

Flanders region:

Yes

Management Unit of the Mathematical Model of the North Sea (for marine matters):

No, no new projects were started.

Walloon Region :

No

45. *Does your national administration have information on the transboundary EIA procedures that were underway during the period? If so, please list these procedures, clearly identifying for each whether your country was the Party of origin or the affected Party. If you have not provided a list of transboundary EIA procedures in connection with previous reporting, also provide a list of those procedures. If possible, also indicate for each procedure why it was considered necessary to apply the Convention.*

Federal Agency for Nuclear Control (for nuclear matters):

FANC as party of origin:

- replacement of the steamgenerator and power increase at the Nuclear power station Doel 2

- Increase of fuel enrichment at the nuclear power station Doel 1 and Doel 2

FANC as affected party:

- Increase of fuel enrichment at the nuclear power station of Borsele

Flanders Region:

15 EIA transboundary procedures started between 2003-2005

•Construction of a railway. The transboundary procedure was between Flanders (party of origin) and Brussels Capital Region (affected party).

•Chemical installation with a production capacity of organic chemicals of more than 100.000 ton/year. The transboundary procedure was between Flanders (party of origin) and the Netherlands (affected party).

- A Water management project with possible impact on a natura 2000 area. The transboundary procedure was between Flanders (party of origin) and the Netherlands (affected party).
- Construction of a railway and motorway and changes on the existing motorway. The transboundary procedure was between Flanders (party of origin) and Brussels Capital Region (affected party).
- Thermal power station with a heat output of 300 megawatts of more. The transboundary procedure was between Flanders (party of origin) and Brussel Capital Region (affected party).
- Waste-disposal installations for the incineration or chemical treatment of non-hazardous waste with a capacity exceeding 100m³/day. The transboundary procedure was between Flanders (party of origin) and Brussel Capital Region (affected party).
- Water management project with possible impact on areas with important nature values. The transboundary procedure was between Flanders (party of origin) and the Walloon Region (affected party).
- A Water management project with possible impact on a natura 2000 area. The transboundary procedure was between Flanders (party of origin) and the Netherlands (affected party).
- Water management project with possible impact on a natura 2000 area and area with important landscape values. The transboundary procedure was between Flanders (party of origin) and the Walloon Region (affected party).
- Other installations designed to hold water or store it on a long-term basis with possible impact on a natura 2000 area and on other areas with important nature values. The transboundary procedure was between Flanders (party of origin) and the Netherlands (affected party).
- Industrial plants for the production of pulp from timber or similar fibrous materials and the production of paper and board with a production capacity exceeding 200 tonnes per day. The transboundary procedure was between Flanders (party of origin) and the Netherlands (affected party).
- Installations for the intensive rearing of pigs with more than 3 000 places for production pigs (over 30 kg). The transboundary procedure was between Flanders (party of origin) and the Netherlands (affected party).
- Installations for the intensive rearing of pigs with more than 3 000 places for production pigs (over 30 kg). The transboundary procedure was between Flanders (party of origin) and the Walloon Region (affected party).
- Production of organical chemicals with a capacity of 100.000 ton/year or more and production of anorganical chemicals with a capacity of 250.000 ton/year or more. The transboundary procedure was between Flanders (party of origin) and the Netherlands (affected party).
- Quarries and open-cast mining where the surface of the site exceeds 10 hectares. The transboundary procedure was between Flanders (party of origin) and the Walloon Region (affected party).

Management Unit of the Mathematical Model of the North Sea (for marine matters):
No

46. *Are there other projects than those mentioned above for which a transboundary EIA procedure should have been applied, but was not? Explain why.*

Federal Agency for Nuclear Control (for nuclear matters):
No

Management Unit of the Mathematical Model of the North Sea (for marine matters):

No

47. *Provide information on the average durations of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.*

Federal Agency for Nuclear Control (for nuclear matters):
Around two months

Flanders Region:

The provided timing for the individual steps between Flanders region as party of origin and the affected party you can find in the answer on question 2b. The EIA procedure with transboundary implications takes about 10 to 30 days longer than a standard EIA procedure.

Management Unit of the Mathematical Model of the North Sea (for marine matters):
Not relevant

EXPERIENCE OF THE TRANSBOUNDARY EIA PROCEDURE IN 2003-2005

48. *If you have had practical experience, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.*

Federal Agency for Nuclear Control (for nuclear matters):
The transboundary environmental impacts were not significant

Flanders Region:
Not relevant

Management Unit of the Mathematical Model of the North Sea (for marine matters):
Not relevant.

Walloon Region :
No

49. *How have you interpreted in practice the various terms used in the Convention, and what criteria have you used to do this? Key terms include the following: “promptly” (Art. 3.6), “a reasonable time” (Art. 3.2(c), Art. 4.2), “a reasonable time-frame” (Art. 5), and “major change” (Art. 1(v)). If you are experiencing substantial difficulties interpreting particular terms, do you work together with other Parties to find solutions? If not, how do you overcome the problem?*

Federal Agency for Nuclear Control (for nuclear matters):
The timeframes are legally defined. A change is considered as a major change by using the criteria mentioned in the Recommendation.

Flanders Region:
The timeframes are legally defined.

Management Unit of the Mathematical Model of the North Sea (for marine matters):
Not relevant

50. *Share with other Parties your experience of using the Convention. In response to each of the questions below, either provide one or two practical examples or describe your general experience. You might also include examples of ‘lessons learned’ in order to help others.*

- a. *How in practice have you identified transboundary EIA activities for notification under the Convention, and determined the significance and likelihood of adverse transboundary impact?*

Federal Agency for Nuclear Control (for nuclear matters):
The general procedure will always be followed.

Flanders Region:

In practice a transboundary procedure is started for all the projects within 5 km of the border or with possible effects in the area within 5 km of the border. Unless it's a project where transboundary impact is certainly not be expected, then we notify the transboundary authority that the project is situated within 5 km of the border but we - unless they ask for it - won't start a transboundary procedure.

For all the casse in an area wider then 5 km of the border, the competent authority decides case-by-case, taking into consideration the specific situation, type of activity, type of effects and distance to the border to decide if a transboundary procedure is necesarry.

Management Unit of the Mathematical Model of the North Sea (for marine matters):
Not relevant

- b. *Indicate whether a separate chapter is provided on transboundary issues in the EIA documentation. How do you determine how much information to include in the EIA documentation?*

Federal Agency for Nuclear Control (for nuclear matters):
According to the European Commission Recommendation 1999/829 of 6/12/99, special attention has to given to the boundary effects.

Flanders region:

A separate chapter on transboundary issues is provided in the EIA documentation, the transboundary impact is discribed in that chapter.

Management Unit of the Mathematical Model of the North Sea (for marine matters):
Not relevant

- c. *What methodology do you use in impact assessment in the (transboundary) EIA procedure (for example, impact prediction methods and methods to compare alternatives)?*

Federal Agency for Nuclear Control (for nuclear matters):
Criteria exist.

Management Unit of the Mathematical Model of the North Sea (for marine matters):
Not relevant

- d. *Translation is not addressed in the Convention. How have you addressed the question of translation? What do you usually translate? What difficulties have you experienced relating to translation and interpretation, and what solutions have you applied?*

Federal Agency for Nuclear Control (for nuclear matters):
Not applicable

Flanders Region:

The notification is translated and the non-technical summary and the specific chapter in the EIA about transboundary impact.

Management Unit of the Mathematical Model of the North Sea (for marine matters):
Not relevant

- e. *How have you organized transboundary public participation in practice? As Party of origin, have you organized public participation in affected Parties and, if so, how? What has been your experience of the effectiveness of public participation? Have you experienced difficulties with the participation of your public or the public of another Party? (For example, have there been complaints from the public about the procedure?)*

Federal Agency for Nuclear Control (for nuclear matters):

The general procedure will always be followed. There was little response and no complaints.

Flanders Region

A cross-border plan with the Netherlands on the Scheldt estuary confirmed the importance of good agreements between the parties on the way to make the public announcements and to make the public participations concordant in time. Good agreements make the public participation work better

Management Unit of the Mathematical Model of the North Sea (for marine matters):
Not relevant

- f. *Describe any difficulties that you have encountered during consultations, for example over timing, language and the need for additional information.*

Federal Agency for Nuclear Control (for nuclear matters):

No difficulties

Flanders Region:

No difficulties

Management Unit of the Mathematical Model of the North Sea (for marine matters):
Not relevant

- g. *Describe examples of the form, content and language of the final decision, when it is issued and how it is communicated to the affected Party and its public.*

Federal Agency for Nuclear Control (for nuclear matters):

The final decision is in form of a Royal Decree. It is transferred to the European Commission and the relevant towns.

Flanders Region:

The final decision on the EIA is a report, which can be followed by a permit. Both decisions (on the EIA and the permit) are sent to the authority of the affected party.

Management Unit of the Mathematical Model of the North Sea (for marine matters):
Not relevant

h. Have you carried out post-project analyses and, if so, on what kinds of projects?

Federal Agency for Nuclear Control (for nuclear matters):

No

Flanders Region:

No

Management Unit of the Mathematical Model of the North Sea (for marine matters):

Not relevant

Walloon Region :

No

i. Do you have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your experiences describing, for example, any bilateral agreements, institutional arrangements, and how practical matters are dealt with (contact points, translation, interpretation, transmission of documents, etc.).

Federal Agency for Nuclear Control (for nuclear matters):

No

Flanders Region:

Yes. See question 50, e: the Scheldt estuary (a plan rather than a project). Sharing the same language was certainly a pro in this case.

Management Unit of the Mathematical Model of the North Sea (for marine matters):

Not relevant

j. Name examples of good practice cases, whether complete cases or good practice elements (e.g. notification, consultation or public participation) within cases. Would you like to introduce your case in a form of Convention's fact sheet?

Federal Agency for Nuclear Control (for nuclear matters):

No experience

Management Unit of the Mathematical Model of the North Sea (for marine matters):

Not relevant

Walloon Region :

No

CO-OPERATION BETWEEN PARTIES IN 2003-2005

51. Do you have any successful examples of how you have overcome difficulties arising from different legal systems in neighbouring countries?

Federal Agency for Nuclear Control (for nuclear matters):

Limited experience has shown no difficulties arising from different legal systems.

Flanders Region:

No examples, no difficulties have been experienced yet.

Management Unit of the Mathematical Model of the North Sea (for marine matters):

Not relevant

Walloon Region :

No

EXPERIENCE IN USING THE GUIDANCE IN 2003-2005

52. *Have you used in practice the following guidance, recently adopted by the Meeting of the Parties and available on-line? Describe your experience of using these guidance documents and how they might be improved or supplemented.*

a. *Guidance on public participation in EIA in a transboundary context;*

Federal Agency for Nuclear Control (for nuclear matters):

No

Flanders Region:

No

Management Unit of the Mathematical Model of the North Sea (for marine matters):

Not relevant

Walloon Region :

No

b. *Guidance on subregional cooperation; and*

Federal Agency for Nuclear Control (for nuclear matters):

No

Flanders Region:

No

Management Unit of the Mathematical Model of the North Sea (for marine matters):

Not relevant

Walloon Region :

No

c. *Guidelines on good practice and on bilateral and multilateral agreements.*

Federal Agency for Nuclear Control (for nuclear matters):

No

Flanders Region:

No

Management Unit of the Mathematical Model of the North Sea (for marine matters):

Not relevant

Walloon Region :

No

CLARITY OF THE CONVENTION

53. *Have you had difficulties implementing the procedure defined in the Convention, either as Party of origin or as affected Party? Are there provisions in the Convention that are unclear? Describe the transboundary EIA procedure as applied in practice, where this has varied from that described in Part I or in the Convention. Also describe in general the strengths and weaknesses of your country's implementation of the Convention's transboundary EIA procedure, which you encounter when actually applying the Convention.*

Federal Agency for Nuclear Control (for nuclear matters):
It brings along little additional value.

AWARENESS OF THE CONVENTION

54. *Have you undertaken activities to promote awareness of the Convention among your stakeholders (e.g. the public, local authorities, consultants and experts, academics, investors)? If so, describe them.*

Walloon Region :
No

55. *Do you see a need to improve the application of the Convention in your country and, if so, how do you intend to do so? What relevant legal or administrative developments are proposed or on-going?*

Walloon Region :
No

SUGGESTED IMPROVEMENTS TO THE REPORT

56. *Please provide suggestions for how the report may be improved.*