

**REPORT OF ESTONIA ON THE IMPLEMENTATION
OF THE CONVENTION ON ENVIRONMENTAL
IMPACT ASSESSMENT IN A TRANSBOUNDARY
CONTEXT**

in the period 2006–2009

Information on the focal point for the Convention

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

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

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).*

The Estonian Parliament Riigikogu ratified the Convention on environmental impact assessment in a transboundary context (Espoo Convention) on 15th November 2000 and for Estonia the Convention entered into force on 24th July 2001.

On the basis of the Act on Accession to the Transboundary Environmental Impact Assessment Convention (Espoo) an agreement between the Government of the Republic of Estonia and the Government of the Republic of Finland on Environmental Impact Assessment in a Transboundary Context was signed in 2002 (on 21st February 2002). The agreement between the Government of the Republic of Estonia and the Government of the Republic of Latvia was signed in 1997 (on 14th March 1997). These agreements are general and establish which projects are subject to environmental impact assessment (EIA), the EIA procedure, e.g. the notification and consultation between the Party of origin and the affected Party, sending information relating to the potentially affected environment under the jurisdiction of the affected Party, where such information is necessary for the preparation of an EIA documentation etc.

The requirements of the Espoo Convention are transposed into the Estonian legislation by the provisions of the Environmental Impact Assessment and Environmental Management System Act (hereinafter also "the Act") which entered into force on 3rd April 2005.

Estonia became the Party of the first and the second amendment to the Convention and the Party to the Protocol on Strategic Environmental Assessment (SEA) on 12th April 2010 (ratification by The Estonian Parliament on 13th January 2010).

2. *Indicate any further measures to implement the provisions of the Convention that are planned for the near future.*

Further measures are not planned for the near future.

TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE

3. *Describe your country's national and transboundary environmental impact assessment (EIA) procedures and authorities (art. 2.2):*
 - a. *Describe the EIA procedure in your country and indicate which steps of the EIA procedure include public participation;*

One of the main objective of the Environmental Impact Assessment and Environmental Management System Act is to provide a compulsory assessment of the likely significant effects on the environment of certain public and private sector projects. Environmental impact shall be assessed upon application for or application for amendment of a development consent if a proposed activity which is the basis for application for or amendment of the development consent potentially results in the significant environmental impact. Environmental impact shall be also assessed if activities are proposed which alone or in conjunction with other activities may potentially significantly affect a Natura 2000 site.

A developer (person who proposes the activity and intends to carry it out) is obliged to carry out EIA for the intended activities listed in § 6 (1) of the Act. Projects which are likely to have significant effects on the environment by virtue of their nature, size or location, may be subject to EIA according to individual case examination (based on criteria set up by § 6 (3)).

The developer shall submit the application for the development consent (a building permit, a permit for special use of water etc) to a decision-maker (the issuer of the development consent: municipalities, the Ministry of the Environment, the Environmental Board etc) who shall make a decision to initiate or refuse to initiate EIA of the proposed activity. The decision shall be made available to the public.

Should the decision-maker initiate EIA, the developer and EIA experts shall prepare an EIA programme. The decision-maker shall organise a public display of the programme after which the developer shall organise a public hearing in order to inform the public of the proposed activity and the EIA programme. If necessary, the developer and the EIA experts shall amend the EIA programme on the basis of the proposals made by the public.

A supervisor of EIA shall consider the EIA programme after the public consultation. The Ministry of the Environment is the supervisor of EIA if The Government of the Republic of Estonia or the Ministry of the Environment issued the development consent or if potential environmental impact of the activities may become transboundary. In the other cases, the supervisor of EIA is the Environmental Board. The supervisor of EIA shall notify the public of approval of the EIA programme. If the programme is not approved, it is required to publish the programme again, to amend the programme or to provide supplementary responses to the proposals, objections and questions submitted regarding the programme.

The EIA experts shall identify, assess and describe the likely impact of the proposed activity on the environment, analyse the possibilities for the prevention and mitigation of such impact and make proposals regarding the choice of the most suitable solution. An EIA report shall be published and the results of publication shall be taken into account pursuant to the procedure in case of the EIA programme.

After that the supervisor of EIA shall make a decision to approve the EIA report and determine environmental requirements or refuse to approve the report. Environmental requirements are measures with the purpose of determination of which is to prevent or minimize the potential negative environmental impact arising from the proposed activity. The decision to approve the report shall be published.

b. Describe how the different steps of the transboundary EIA procedure set out in the Convention fit into your country's national EIA procedure;

According to the Environmental Impact Assessment and Environmental Management System Act, the decision-maker has to analyse whether the proposed activity may cause the significant environmental impact and affect another states. If the potential significant environmental impact of the proposed activity may be transboundary or if the affected state applies thereof, the Ministry of the Environment shall send a notice regarding initiation of EIA together with the description of the proposed activity and information on environmental impact potentially resulting from the proposed activity to the affected state as soon as possible but no later than the decision-maker gives notification of initiation of EIA in Estonia. The affected state shall be given at least thirty days as of the date of receipt of the notice concerning the initiation of EIA to respond to the notice.

If, after receipt of the information specified above, the affected state gives notification of its wish to participate in EIA, the application for the development consent, data concerning the decision-maker and the supervisor of EIA, specifying the person who may be addressed with questions and comments, and information on EIA of the proposed activity and the processing of the application for the development consent shall be sent to the affected state if it has not been done before.

If the affected state does not respond within a prescribed term or does not wish to participate in EIA, the following procedures do not apply upon EIA.

At the request of the affected state, the Ministry of the Environment shall forward the draft EIA programme and report to the affected state as soon as possible but not later than the public display of the programme or report commences in Estonia.

At the request of the affected state, its representative is permitted to participate in the EIA proceedings and consultations are commenced concerning environmental impact resulting from the proposed activity and the measures for the mitigation or prevention of such impact.

The Ministry of the Environment and the affected state shall agree on the necessary procedure and the actual schedule of the consultations, giving notification to the public and the agencies of the affected state and provision of sufficient time for the submission of options on the EIA programme and report for them. It shall also be agreed on the time when the proposals, objections and questions received in the course of the EIA shall be submitted to the affected state for obtaining an opinion and on the drafts of the decisions which must be submitted to the affected state for obtaining an opinion. All received remarks have to be taken into account.

The development consent shall be issued by the decision-maker. The Ministry of the Environment shall notify the state which participated in EIA in a transboundary context of issue of or refusal to issue the development consent necessary for the activity with the significant transboundary environmental impact and shall forward the decision to issue or refusal to issue the development consent to the state.

If Estonia is the affected state, the Ministry of the Environment shall notify the state in which the transboundary environmental impact originates of its intention to participate in EIA in a transboundary context and of the need for consultations within thirty days after the receipt of the notice. The Ministry of the Environment shall give notification of publication of the documents on EIA through the official publication

- c. *List the different authorities that are named responsible for different steps of the transboundary EIA procedure (notification, consultation between Parties, public participation, etc.). Also list the authorities responsible for the domestic EIA procedure, if they are different;*

The Ministry of the Environment is responsible for the consultations with the affected state (see above).

The decision-maker (the issuer of the development consent: municipalities, the Ministry of the Environment, the Environmental Board, the Estonian Road Administration etc) are competent to:

- make the decision to initiate or refuse to initiate EIA of the proposed activity;
- organise the public display of the draft EIA programme and report in Estonia;
- make the decision to issue or refuse to issue the development consent;
- inform the public of made decisions (e.g. initiation of EIA etc), of publication of the EIA programme and report and of issuing the development consent (the Estonian public).

The functions of the supervisor of EIA (the Ministry of the Environment or the Environmental Board) are:

- to verify, if necessary, the lawfulness of the decision to initiate or refuse to initiate EIA of the proposed activity;
- to verify the compliance of the EIA programme with the established requirements and make the decision regarding approval of the EIA programme;
- to inform the public of approval of the EIA programme;
- to check whether the expert holds the licence for EIA;
- to verify the compliance of proceedings regarding EIA with the requirements of legislation;
- to verify the compliance of the EIA report with the approved EIA programme and the established requirements, make the decision on approval of the report and determination of the environmental requirements;
- to inform the public of approval of the EIA report and of determination of environmental requirements;
- to ex-post evaluate EIA.

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

The Ministry of the Environment collects that information.

4. *Does your country have special provisions for joint cross-border projects (e.g. roads, pipelines)?*

No, EIA shall be carried out according to the Environmental Impact Assessment and Environmental Management System Act that provides legal basis and the EIA procedure for all projects. Still the Party of origin and the affected Party have to agree on how EIA and the consultations should be carried out.

5. *Is appendix I to the Convention transposed into your country's national legislation? Does your country's legislation already cover the revised appendix I in the second amendment (ECE/MP.EIA/6, decision III/7), and if so, how? Please describe any differences between the national list and appendix I to the Convention. Please explain how your country interprets terms such as "large" and "major" used in appendix I (including in items 4, 8, 11, 14, 16, 17 and, as appropriate, 22).*

EIA is mandatory in case of the projects listed in § 6 (1) of the Environmental Impact Assessment and Environmental Management System Act, which is equivalent to Annex I of the Convention. The decision-maker has to review the application for the development consent and make the decision concerning the necessity of EIA. If environmental impact may extend to the territory of the another state, the decision-maker shall initiate the transboundary EIA.

The Act covers the revised appendix I in the second amendment, also in the way that was described earlier (see answer to question 3b). Thus the affected parties are notified early if a proposed activity is likely to cause a significant adverse transboundary impact.

The terms "large" and "major" are also interpreted using the thresholds of EIA directive and national thresholds which sometimes are stricter. For example the proposed activity "initial smelting of pig iron or steel" is always obligatory EIA, in the case of deforestation of large areas EIA is compulsory in conversion of forest land or wetlands with a total area of more than 100 hectares by draining, deforestation, etc. Installation of wind farms in water bodies is compulsory EIA, while construction of wind farms on land the threshold for screening is a wind farm with more than five windmills with a total capacity of over 7.5 MWth. As said earlier, the aspect of transboundary EIA must always be considered.

6. *Please describe:*

- a. *The legislation and, where appropriate, the procedures your country 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);*

According to the Environmental Impact Assessment and Environmental Management System Act the decision-maker shall examine the application (new one or the application for amending the permit) to determine whether EIA should be initiated. EIA is mandatory in case of the projects listed in § 6 (1) of the Act. In case of other activities, the decision-maker shall analyse the environmental impact in each specific case to decide whether the proposed activity may impact the environment significantly or not.

- b. *How your country conducts transboundary EIA cooperation (through points of contact, through joint bodies or within bilateral or multilateral agreements);*

Transboundary EIA cooperation is conducted through points of contact and joint bodies and within bilateral agreements.

- c. *How a change to an activity is considered as a "major" change;*

According to the Environmental Impact Assessment and Environmental Management System Act, environmental impact is assessed upon application for or application for amendment of the development consent if the proposed activity which is the basis for application for or amendment of the development consent potentially results in significant environmental impact.

If changing the activity requires amending the development consent, the decision-maker has to examine the necessity of EIA.

- d. *How such an activity, or such a change to an activity, is considered “likely” to have a “significant” adverse transboundary impact (art. 2.3 and 2.5, and the Guidelines in appendix III).*

See the answer above. If the potential significant environmental impact of the proposed activity may be transboundary, then transboundary EIA has to be initiated. The decision-maker shall examine the environmental impact resulting from the proposed activity on the basis of the following criteria: the environmental conditions of the area where the activity is carried out and its vicinity; the nature of the activity; the consequences associated with the activity; the possibility that emergency situations resulting from the activity arise; the presumed impact of the proposed activity on a Natura 2000 site or any other protected natural object; and the magnitude, spatial extent, duration, frequency and reversibility, effect and cumulativeness of the impact and the transboundary impact and the probability of the impact.

PUBLIC PARTICIPATION

7. *Does your country have its own definition of “the public” in national legislation, compared to article 1(x)? How does your country, 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 country’s public as required in article 2, paragraph 6?*

No, each interested person (included agencies) and persons whose rights may be affected by the proposed activity, can participate in EIA.

The Ministry of the Environment and the affected state shall agree on the necessary procedure and the actual schedule of the consultations, giving notifications to the public and the agencies of the affected state and provision of sufficient time for the submission of options on the EIA programme and report for them.

Article 3

Notification

QUESTIONS TO PARTY OF ORIGIN

8. *Describe how your country determines 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 does your country usually notify the affected Party (art. 3.1)*

The Ministry of the Environment shall send the notification to the affected Party as soon as possible but not later than the decision-maker gives notification of initiation of EIA in Estonia. The Estonian public shall be notified of initiation of EIA of the proposed activity within fourteen days after the decision to initiate EIA is made.

9. *Does your country provide any information to supplement that required by article 3, paragraph 2?*

The notification contains the information required by Article 3, paragraph 2 of the Convention.

10. *Does your country use the format for notification (as decided by the first meeting of the Parties, decision I/4, in document ECE /MP.EIA/2)? If not, in what format does your country normally present the notification?*

We have followed the proposed guidelines in the report of the first meeting of the Parties in composing the notification.

A letter from the Ministry of the Environment has been used as the notification.

11. *Describe the criteria your country uses 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 does your country react?*

The affected state is given at least thirty days as of the date of receipt of the notice concerning the initiation of EIA to respond to the notice. The bilateral agreement with Finland establishes that the affected Party has to respond to the notification within two months.

We have given at least a month to respond to the notification. If the answer delays a couple of days, we are going to take into account the position of the affected Party. The deadline could be extended, but the Ministry of the Environment has to inform the developer about that.

12. *Describe when your country provides 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?*

The description of the proposed activity and information on the environmental impact potentially resulting from the proposed activity shall be sent to the affected Party with the notification. If the affected state would like to participate in EIA, the application for the permit, the data concerning the decision-maker and the supervisor of EIA, specifying the person who may be addressed with questions and comments and information on EIA of the activity, and the processing of the application for the permit shall be sent to the affected Party if it has not been done before. The affected states have also opportunity to comment the EIA programme and report.

13. *How does your country determine whether it should request information from the affected Party (art. 3.6)? When does your country normally request information from the affected Party? What kind of information does your country normally request? How does your country determine the time frame for a response from the affected Party to a request for information, which should be “prompt” (art. 3.6)?*

Estonia shall request information from the affected Party if we do not have enough information relating to the potentially affected environment under the jurisdiction of the affected Party. Information shall be requested while composing the EIA report. The response should be given as soon as possible, the deadline shall be determined by an official letter.

14. Please describe:

- a. *How your country cooperates with the authorities of the affected Party on public participation (art. 3.8), taking into account that the Party of origin and affected Party are both responsible;*

We shall notify all relevant authorities and public (in Estonia) of publication of the EIA programme and report etc by official letters, advertisements in newspapers, internet (including the homepage of the Ministry of the Environment).

The Ministry of the Environment shall send the notification to the affected Party after initiation of EIA. The EIA programme and report shall be sent as soon as possible but not later than the publication commences in Estonia. The notification shall consist basically the same information as the notification to the Estonian public: the description of the proposed activity, information on the environmental impact potentially resulting from the proposed activity, the dateline for comments on the EIA programme or report, contact data etc.

According to the Environmental Impact Assessment and Environmental Management System Act, at the request of the affected state, its representative is permitted to participate in EIA and the consultations are commenced concerning the environmental impact resulting from the proposed activity and the measures for the mitigation or prevention of such impact. The Ministry of the Environment and the affected Party have to agree on the necessary procedure and the actual schedule of the consultation, giving notification to the public and the agencies of the affected state and provision of sufficient time for the submission of opinions on the EIA programme and report for them.

Based on the bilateral agreement with Finland, the affected state is responsible for informing their public about the proposed activity. The affected state has to give the public and the agencies the opportunity to submit opinion on the proposed activity.

- b. *How your country identifies, in cooperation with the affected Party, the “public” in the affected area;*

The affected area is identified based on the significant environmental impact of the proposed activity in the EIA documentation. It is stipulated in the national legislation that each interested person and persons whose rights may be affected by the proposed activity, can participate in EIA.

The Ministry of the Environment informs the affected Party (a notice concerning the initiation of EIA). The affected Party identifies the public in the affected area in their country, also following their national legislation.

- c. *How the public in the affected Party is notified (what kinds of media, etc are usually used). What is normally the content of the public notification?;*

The affected Party notifies the public in their country following their national legislation. The input from the party of Origin can be used in the public notification (description of the proposed activity, the term for submission of comments etc).

- d. *Whether the notification to the public of the affected Party has the same content as the notification to your country’s public. If not, describe why not. At what stage in the EIA procedure does your country normally notify the public of the affected Party?*

See the answer above.

The Ministry of the Environment shall send the affected state as soon as possible a notice concerning the initiation of EIA if the potentially significant environmental impact of a proposed activity is likely to be transboundary or if the affected state so requests.

15. *Does your country 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 as listed on the Convention website (http://www.unece.org/env/eia/points_of_contact.htm)?*

Yes, the list of contact points is used.

QUESTIONS TO AFFECTED PARTY

16. *Describe the process of how your country decides whether or not to participate in the EIA procedure (art. 3.3)? Who participates in the decision-making, e.g. central authorities, local competent authorities, the public, environmental authorities? Describe the criteria or reasons your country uses to decide.*

We shall participate in the EIA procedure if the proposed activity may impact our environment. The aspect of who shall participate in the decision-making depends on the proposed activity – municipalities, ministries, environmental authorities etc (who are the competent authorities in the specific question, for example the Ministry of Economic Affairs and Communications in case of energy projects). We shall organise a meeting or ask an official opinion of authorities to make the decision whether Estonia should participate in the EIA procedure or not.

17. *When the Party of origin requests your country to provide information relating to the potentially affected environment, how does your country determine what is “reasonably obtainable” information to include in its response? Describe the procedures and, where appropriate, the legislation your country that would apply in determining the meaning of “promptly” in the context of responding to a request for information (art. 3.6)*

If the Party of origin requests us to provide information relating to the potentially affected environment, we can send them data of environmental monitoring, studies etc (which are available to us).

According to § 6 of the Response to Memoranda and Requests for Explanations Act, a response to a memorandum or request have to be provided without undue delay but not later than within 30 calendar days after the date of registration thereof.

18. *Please describe:*

a. *How your country cooperates with the authorities of the Party of origin on public participation (art. 3.8), taking into account that the Party of origin and affected Party are both responsible;*

Cooperation with authorities is done on national level, through central state authorities.

b. *How your country identifies the “public” in the affected area;*

The Ministry of the Environment sends letters concerning the publication of EIA documentation to persons whose rights the proposed activity may concern in Estonia (depending on the proposed activity, the possible significant impact etc). Each interested person can participate in EIA.

- c. *How the public is notified (e.g. what kinds of media, etc., are usually used). What is normally the content of the public notification?;*

If necessary then competent authorities in the specific question are informed about the notification from the party of Origin. We do not have a specific format for that.

If the Ministry of the Environment intends to participate in the EIA in a transboundary context, then usually the public shall be notified in the stage of publication of the EIA documentation. For that purpose the Ministry of the Environment shall give notification of publication of the documents on EIA through the publications specified in the Act at least: in the official publication *Ametlikud Teadaanded*; in one national newspaper or one local or county newspaper; in at least one public building or place of the location of the proposed activities (e.g. shop, library, school, bus stop). In practice the homepage of the Ministry of the Environment is also widely used.

The forementioned notice regarding the publication of the EIA documentation contains at least the same information as in national legislation (contact details, description of the proposed activity, time and place for accessing the documentation etc), but sometimes aspects due to the specific EIA system of the party of Origin are also included.

- d. *At what stage in the EIA procedure does your country normally notify its public?*

See the answer above.

The public is notified as soon as possible depending on the term when the EIA documentation will be received.

Article 4

Preparation of the environmental impact assessment documentation

QUESTIONS TO PARTY OF ORIGIN

19. *What is the legal requirement for the minimum content of the EIA documentation (art. 4.1, appendix II)?*

The requirements for the EIA report are established by § 20 of the Estonian Environmental Impact Assessment and Environmental Management System Act. The EIA report contains all the reasonably required information (following the provisions of the EIA directive, the Convention, Annex III of the bilateral agreement with Finland). In the case of transboundary EIA an overview of the results of consultations upon EIA in a transboundary context must also be included.

The content of the report shall be determined while composing the EIA programme (below).

20. *Describe your country's procedures, if any, for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (art. 4.1).*

The content of the report (which alternatives shall be analysed in EIA, information on the potential sources of impact, the size of the impact area and the affected environmental elements of the proposed activity and the reasonable alternatives thereof) shall be determined while composing the EIA programme. The EIA programme shall be prepared by the developer and the EIA experts after initiation of EIA. The programme shall be published (feedback from the public) and approved by the supervisor of EIA. The EIA report is also published similarly in the later stage of the EIA procedure.

21. *How does your country identify “reasonable alternatives” in accordance with appendix II, paragraph (b)?*

The alternatives are different ways in which the developer can feasibly meet the project’s objectives. In identifying different alternatives the following aspects should be taken into account and studied in EIA: locations or alignments, site lay out and project design, size and scale, working or management arrangements, production methods and technologies, time scale for construction and operation and the „do nothing“ alternative. Which alternatives are relevant in case of each project, it depends on the nature of the project. The reasonable alternatives shall be identified while composing the EIA programme, nevertheless additional alternatives might occur during the following process.

22. *How does your country identify “the environment that is likely to be affected by the proposed activity and its alternatives” in accordance to appendix II, paragraph (c), and how does it define “impact” in accordance with article 1(vii)?*

See the answer to question 20.

Environmental impact is a wide term which encompasses potential direct or indirect effect of activities on human health and well-being, the environment, cultural heritage or property.

23. *Does your country give the affected Party all of the EIA documentation (art. 4.2)? If not, which parts of the documentation does your country provide?*

Yes, all the EIA documentation is given to the affected Party.

24. *How does your country cooperate with the authorities of the affected Party on distribution of the EIA documentation and the submission of comments (art. 4.2), taking into account that the Party of origin and affected Party are both responsible? How does the competent authority in your country (as the Party of origin) deal with the comments (art. 4.2)?*

At the request of the affected state, the Ministry of the Environment shall forward the draft EIA programme and report to the affected state as soon as possible but not later than the public display of the programme or report commences in Estonia.

The Ministry of the Environment and the affected state shall agree on the necessary procedure and the actual schedule of the consultations, giving notification to the public and the agencies of the affected state and provision of sufficient time for the submission of opinions on the EIA programme and report for them.

According to the bilateral agreement with Finland, the affected Party is responsible for informing their public and publication of the EIA documentation. The affected state has to submit all received opinions and proposals on the proposed activity and the EIA programme or report to the Party of origin within two months after receiving the documentation from the Party of origin.

The Ministry of the Environment shall forward all received comments to the developer who together with the EIA experts has to make the necessary amendments to the programme or report, explain why proposals and objections are taken into account and justify why they are not taken into account and respond to the questions. The answers shall be sent to the affected Party.

If the Ministry of the Environment and the affected state agree that also the drafts for the decisions to grant or refuse to grant development consent and the draft of the development consent must be submitted to the affected state for obtaining an opinion, the decision-maker shall send the drafts of such documents after preparation thereof to the Ministry of the Environment who shall forward them to the affected state for obtaining an opinion. The affected state shall be given at least thirty days to provide an opinion. In making the decision, the decision-maker shall consider the opinion of the affected state.

25. *Describe the procedures and, where appropriate, the legislation that define the time frame for comments provided “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 does your country react?*

At the request of the affected Party, the Ministry of the Environment shall forward the draft EIA programme and report to the affected state and determine the time frame for providing comments. The EIA programme and report shall be forwarded as soon as possible but not later than the public display of this documentation commences in Estonia. The procedure and the time frame of the consultations and publication of the EIA documentation shall be agreed on between the Ministry of the Environment and the affected state.

According to the bilateral agreement with Finland, the affected state has to submit opinions on the EIA programme and report within two months. If the comments of the affected Party delays a couple of days, it is not a problem. The deadline could be also extended, but the Ministry of the Environment has to consult with the developer about that.

26. *What material does your country provide, together with the affected Party, to the public of the affected Party?*

The EIA programme and report are provided. Also additional material concerning the proposed activity and the EIA can be made public.

27. *Does your country 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?

See the answer to question 24. Still, the public hearing for the affected public should be organised by the affected Party (in their country).

QUESTIONS TO AFFECTED PARTY

28. *Describe the procedures and, where appropriate, the legislation your country 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)?*

Publication of the EIA documentation and consultations with the affected Party have to be organised before the final decision. The principle is that the public must be given sufficient time for the submission of comments on the EIA documentation.

In practice usually the Party of origin prescribes the term for the submission of comments. If necessary then additional time can be asked.

29. *How does your country cooperate with the authorities of the Party of origin on the distribution of the EIA documentation and the submission of comments (art. 4.2), taking into account that the Party of origin and affected Party are both responsible?*

Cooperation with authorities is done on national level, through central state authorities. The Ministry of the Environment shall send the proposals and objections submitted regarding the documents on EIA to the state in which the transboundary environmental impact originates.

30. *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, with the legislation of the Party of origin, with ad hoc procedures, or with bilateral or multilateral agreements?*

The affected Party is responsible for organising the public participation (public hearing and consultations with relevant authorities in their country). The public participation is normally organized in accordance with national legislation, also taking into account the agreements between the Parties.

Article 5

Consultations

QUESTIONS TO PARTY OF ORIGIN

31. *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 your country would apply to determine the meaning of “undue delay”, with regard to the timing of the entry into consultation? Does your country normally set the duration for consultations beforehand? If there seems to be no need for consultation, how does your country determine not to carry out consultations?*

According to § 30 of the Environmental Impact Assessment and Environmental Management System Act, at the request of the affected state, its representative is permitted to participate in EIA and consultations are commenced concerning environmental impact resulting from the proposed activity and the measures for the mitigation or prevention of such impact. The necessary procedure and the actual time schedule of the consultations shall be agreed on between Estonia and the affected state.

32. *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?*

The Ministry of the Environment is responsible for consultations with the affected Party, that is why consultations shall be arranged on national level. The Ministry of the Environment can involve the authorities which are competent or participate in EIA proceedings in Estonia (e.g. the decision-maker, relevant ministries etc – for example the Ministry of Economic Affairs and Communications in case of energy projects) to find the best solution to carry out EIA (so that the requirements of EIA of the Party of origin and the affected Party shall be fulfilled) and all aspects shall be analysed and taken into account. The duties of all authorities shall be agreed in consultation. In practice the communication is mostly done by exchanging written communications.

QUESTIONS TO AFFECTED PARTY

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

See the answer above.

Article 6

Final decision

QUESTIONS TO PARTY OF ORIGIN

34. *For each type of activity listed in appendix I, identify what is regarded as the “final decision” to authorize or undertake a proposed activity (art. 6 in conjunction with art. 2.3); also provide the term used in the national legislation in the original language. Do all projects listed in appendix I require such a decision?*

The final decision is a decision to issue or refuse to issue the development consent. The development consent is a document permitting the proposed activity with the potentially significant environmental impact - the building permit, the waste permit, the permit for special use of water etc. All projects listed in Appendix I of the Convention require applying the development consent.

In Estonian the "final decision" is called "lõppotsus", but in the national legislation the term "final decision" is regarded as development consent - "tegevusluba". This is the wide term used but as said earlier there are many specific development consents with different terms.

35. *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)?*

According to the Environmental Impact Assessment and Environmental Management System Act, the EIA programme and report have to be amended on the basis of the submitted proposals and remarks regarding the programme or report. Upon making the decision to issue or refuse to issue the development consent, the issuer of the development consent has to take into account the results of EIA and consultations.

36. *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. 6.1)?*

Yes, these comments are taken into consideration in the same way.

37. *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)*

The final decision shall contain the reasons and considerations on which the decision is based. The Ministry of the Environment shall notify the affected Party which participated in EIA in a transboundary context of issue of or refusal to issue the development consent necessary for the activity with the significant environmental impact and shall forward the decision to issue or refusal to issue the consent to the state.

38. *If additional information becomes available according to article 6, paragraph 3, before the activity commences, how does your country consult with the affected Party? If need be, can the decision be revised? (art. 6.3)*

The affected Party shall be informed about received additional information.

If additional information is significant, the requirements of the development consent shall be revised. Also EIA could be initiated if the activity may affect the environment.

Article 7

Post-Project Analysis

39. *How does your country determine whether it should request a post-project analysis to be carried out (art. 7.1)?*

After publication of the EIA report, taking into account the results of publication and the consultations, the supervisor of EIA shall make the decision to approve the report and determine the environmental requirements, e.g. environmental monitoring, or refuse to approve the report. Usually, if the proposed activity potentially has significant environmental impact, environmental monitoring is necessary.

The supervisor of EIA shall carry out the ex-post evaluation of EIA on the basis of the results of environmental monitoring. If it becomes evident in the course of ex-post evaluation that the results of environmental monitoring do not comply with the requirements provided for in legislation or the development consent, the decision-maker shall amend the conditions of the development consent on the basis of the proposal of the supervisor of EIA or repeal the consent.

According to the bilateral agreements with Latvia and Finland, the Party of origin and the affected Party shall determine the necessity of the post-project analysis (e.g. environmental monitoring) taking into account the significance of environmental impact resulting from the proposed activity.

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

The Ministry of the Environment shall inform the affected Party about that.

However, if it becomes evident that the activity has significant environmental impact, it is required to decide whether it is necessary to amend the conditions of the development consent or repeal it. Also EIA could be initiated if the permit should be amended (the consultations with the affected Party have to be done also).

According to the bilateral agreement with Finland, also the consultations shall be commenced concerning environmental impact resulting from the proposed activity and the measures for the mitigation or prevention of such impact.

Article 8

Bilateral and multilateral agreements

41. *Does your country have any bilateral or multilateral agreements based on the 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.*

Estonia has bilateral agreements with Latvia (1997) and Finland (2002). These agreements are general and establish which projects are subject to EIA, the EIA procedure, e.g. the notification and consultation between the Party of origin and the affected Party, sending information relating to the potentially affected environment under the jurisdiction of the affected Party, where such information is necessary for the preparation of an EIA documentation etc.

The agreements are annexed to the report (in English).

42. *Has your country established any supplementary points of contact pursuant to bilateral or multilateral agreements?*

No, supplementary points of contact have not been established.

Article 9

Research programmes

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

We are not aware of specific research in relation to EIA in a transboundary context. Nevertheless research has been done regarding the national EIA system and transboundary EIA is also a part of this, so this way the effectiveness of the current EIA system can be analysed.

Ratification of the amendments to the Convention and of the Protocol on Strategic Environmental Assessment

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

See the answer to question 1.

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

See the answer to question 1.

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

See the answer to question 1.

PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2006–2009

Please report on your country's practical experiences of applying the Convention (not your country's procedures described in part one), whether as Party of origin or affected Party. The focus here is on identifying good practices as well as difficulties Parties have encountered in applying the Convention in practice; the goal is to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve its application.

CASES DURING THE PERIOD 2006–2009

47. *Does your country's national administration have information on the transboundary EIA procedures that were under way 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 your country does not have any experience of applying the Convention, why not?*

1) Estonia as the affected Party

Full transboundary EIAs:

Fennovoima nuclear power plant (Finland);
Expansion of the repository for spent nuclear fuel (Finland);
Extension of the Olkiluoto nuclear power plant by a fourth unit (Finland);
Supplementing the Loviisa nuclear power plant with a third plant unit (Finland);
Construction of nuclear power plant in Lithuania;
Nord Stream gas pipeline.

Notification only: during the period in question Estonia has been notified a couple of times by Latvia.

2) Estonia as the Party of origin

Full transboundary EIA:

EIA and SEA of an energy complex development project in Narva;
Construction of offshore wind farms near the Northwest Coast of Estonia (ongoing EIA).

During the period in question The Russian Federation has also been notified a couple of times, but they have not responded.

48. *Does your country object to the above list of transboundary EIA procedures being included in a compilation of such procedures to be made available on the website of the Convention? (Indicate "yes" if you object.)*

No, we do not object.

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

No, there have not been this kind of projects.

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

The duration of the transboundary EIA procedure significantly depends on the specific project in question - the proposed activity. For example the Nord Stream gas pipeline EIA took approximately two years.

The procedure of notification: according to the Act, the affected state shall be given at least thirty days as of the date of receipt of the notice concerning the initiation of EIA to respond to the notice.

Public consultation (authorities, NGOs etc) is the procedure which takes time, but the overall duration may also be affected by the aspect of public interest and their feedback. For example in the case of affected Party the Ministry of the Environment shall send the proposals and objections submitted regarding the documents on EIA to the state in which the transboundary environmental impact originates.

Practical questions (transfer of EIA documentation, publication, composing answers-letters etc) are often the aspects which influence the duration of the whole process. The duration may be bigger if consultations between the Parties are needed and organised. It is important to point out that agreements between the countries in a specific case can also influence the duration.

In conclusion it is complicated to say the average duration of transboundary EIA. The experiences of Estonia as the Party of origin are smaller than the experiences of Estonia as the affected Party. But the experience so far shows that in the first case the procedure's duration is about a year, but in the second case the duration can be significantly bigger, i.e. more than a year (the whole transboundary EIA procedure from the notification to the final decision).

EXPERIENCE OF THE TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE IN 2006–2009

51. *If your country has 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.*

The implementation of the Convention has supported the forementioned aspects concerning the transboundary environmental impacts. The comments of Estonia as the affected Party and also the comments of the affected parties have been taken into account in the EIA procedures - this is a very important aspect in protecting the environment and promoting sustainable development.

52. *How has your country interpreted in practice the various terms used in the Convention, and what criteria has your country used to do this? Key terms include the following: “major change” (art. 1 (v)), “a reasonable time” (art. 3.2(c), art. 4.2), “promptly” (art. 3.6) and “a reasonable time frame” (art. 5). (Do not provide references to answers to earlier questions 6 (b), 11, 13, 25 and 31.) If your country experiences substantial difficulties interpreting particular terms, does your country work together with other Parties to find solutions? If not, how does your country overcome the problem?*

As indicated in the question these terms and aspects have already been described in Part I.

The principle in submitting information (comments, proposals, questions etc) and EIA documentation is "as soon as possible". But at the same time when talking about publication then the principle is that the public and the authorities must have enough time to submit proposals, objections and comments regarding the documents.

So there are provisions in the national regulation regarding the aspects in question. But it can also be pointed out that the terms are also interpreted in the context on specific projects, i.e. agreements between countries concerning the procedure and schedule of the consultations etc. For example in the case of complicated projects additional time can be asked for sending the comments.

53. *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.*

a. *How in practice has your country identified transboundary EIA activities for notification under the Convention, and determined the significance and likelihood of adverse transboundary impact?;*

The aspect if the proposed activities potentially result in significant environmental impact which may be transboundary, must already be considered when the decision-maker initiates or refuses to initiate the EIA. The decision-maker has to consider the possible impacts and the extent of impact area - whether the activity may affect the another state's environment or not.

The aspect of possible adverse transboundary impact is highlighted through the whole EIA procedure.

b. *Indicate whether a separate chapter is provided on transboundary issues in the EIA documentation. How does your country determine how much information to include in the EIA documentation?;*

In case of transboundary EIA transboundary impacts must be analysed in the EIA report and the report must also include an overview of the results of consultations upon environmental impact assessment in a transboundary context. The EIA report also discusses the proposals, objections and questions submitted regarding the report (including comments made by the affected Parties). All the relevant aspects must be analysed in the report. So in practice the amount of information can vary.

c. *What methodology does your country use in impact assessment in the (transboundary) EIA procedure (e.g. impact prediction methods and methods to compare alternatives)?;*

Environmental impact is assessed and the EIA report is composed by the EIA experts who choose methodology for impact assessment. Usually the experts have used different methods (gathering information, comparing alternatives etc).

d. *Translation is not addressed in the Convention. How has your country addressed the question of translation? What does your country usually translate? What difficulties has your country experienced relating to translation and interpretation, and what solutions has your country applied?;*

In practice the main documents sent by the Party of origin to Estonia as the affected Party are in Estonian, but additional materials may be in English or in the native language.

- e. *How has your country organized transboundary public participation in practice? As Party of origin, has your country organized public participation in affected Parties and, if so, how? What has been your country's experience of the effectiveness of public participation? Has your country experienced difficulties with the participation of its public or the public of another Party? (e.g. have there been complaints from the public about the procedure?);*

We have not organised transboundary public participation in affected Parties.

Public participation is very important in the EIA procedure: the involvement and feedback of the public contributes in achieving the objectives of EIA and the effectiveness of the procedure.

The effectiveness of public participation depends on several factors like informing the public (is it done early or not, what methods are used and what is the extent), the term to access relevant documents and submit comments (sufficient time, different methods of submitting comments) etc.

We have not experienced complaints concerning public participation.

- f. *Describe any difficulties that your country has encountered during consultations, for example over timing, language and the need for additional information. As an affected Party, have consultations under article 5 supported the prevention, reduction or control of possible significant transboundary environmental impacts?;*

Sometimes additional time is needed for submitting comments.

The consultations have contributed in the prevention, reduction or control of possible significant environmental impact. For example in the case of Nord Stream several consultations were held.

- 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;*

The decision to issue or refuse issue of a development consent is made after the EIA procedure has finished (the approval of the EIA report by the supervisor).

In practice the form and the content of the final decision (the development consent) may differ: the requirements for specific development consents are regulated in different national legislation. Nevertheless the decision to issue or refuse issue the development consent must be argued.

The Ministry of the Environment shall notify the state which participated in the EIA about the final decision and shall forward the decision to issue or refusal to issue the development consent to the state.

- h. *Has your country carried out post-project analyses and, if so, on what kinds of project?;*

No experience.

- i. *Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your country's experiences describing, for example, means of cooperation (e.g. contact points, joint bodies, bilateral agreements), institutional arrangements, and how practical matters are dealt with (e.g. translation, interpretation, transmission of documents, etc.);*

No experience.

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

The cooperation between Estonia and other countries concerning the EIA in a transboundary context is good. The necessary material has been received, also additional time is provided if necessary. The public displays and public hearings organised in Estonia indicate that the public is interested in participating in these procedures.

We would not like to introduce a case.

- k. *Identify the most common means of applying the Convention (e.g. through focal points, joint bodies, multilateral agreements).*

The Convention is applied through focal points, joint bodies and multilateral agreements. For example the joint commission on EIA in a transboundary context under the two agreements, between Estonia and Latvia, also between Estonia and Finland.

CO-OPERATION BETWEEN PARTIES IN 2006–2009

54. *Does your country have any successful examples of how it has overcome difficulties arising from different legal systems in neighbouring countries?*

These kind of questions are solved in agreements and consultation between the Parties.

EXPERIENCE IN USING THE GUIDANCE IN 2006–2009

55. *Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online? Describe your country's experience with using these guidance documents and how they might be improved or supplemented:*

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

We are aware of the guidances. Still in practice the experiences gathered in the different EIAs in a transboundary context are the basis for applying the Convention.

- b. *Guidance on subregional cooperation;*

See the answer above.

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

See the answer above.

CLARITY OF THE CONVENTION

56. *Has your country 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 one above 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 your country encounters when applying the Convention.

We have gathered practical experience mostly as the affected Party. There are provisions in the Convention which are left to interpret for the Party (or Parties). Still in practice and in cooperation with other countries possible problems can be solved (consultations, agreements, guidances).

We have had few projects with potential transboundary impacts (so-called Espoo cases) originating from Estonia and that is the reason why it is rather complicated to point out specific strengths and weaknesses in this context.

The practice of being affected Party is much bigger. It is very important that we have the opportunity to participate and to give opinion in the projects which may impact us in different ways. The agreements between Latvia and Finland have also helped to overcome potential problems (for example annual meetings are organised between the forementioned countries to discuss among other things the issues of EIA in a transboundary context).

AWARENESS OF THE CONVENTION

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

Information concerning the Convention and guidance on the application of the Convention are available on the website of the Ministry of the Environment. So-called explanatory work concerning the Convention has also been done among different stakeholders. The aspect of transboundary impact is also included in national guidances.

58. Does your country see a need to improve the application of the Convention in your country and, if so, how does it intend to do so? What relevant legal or administrative developments are proposed or ongoing?

In conclusion the overall application of the Convention and the cooperation with other parties is effective, nevertheless raising awareness continues (including entering into force of the SEA protocol).

SUGGESTED IMPROVEMENTS TO THE REPORT

59. Please provide suggestions for how this report may be improved.

As the report is very comprehensive covering many different aspects of the application of the Convention, it would be useful to reduce the amount of questions which deal with the same aspects. At the same time it would be useful to change the structure of some "long" questions in the questionnaire: it would be easier to answer if a question would not incorporate several other questions.

* * * * *