Ouestionnaire for the

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

in the period 2010–2012

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

1. List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2).

In order to streamline all the requirements on EIA and SEA procedures, including the transboundary one, on January 2008, it has been issued the legislative decree number 4 as modification of the previous legislative decree number 152 of April 3 2006. With the entry into force of the decree number 4/2008, the previous legislative framework, dated back to 1988, has been repealed except for the technical requirements. Therefore, the following decrees setting up technical requirements to draw up the environmental study are still in force namely: DPCM on December 1988 and the DPR (Presidential Decree) on September 1999 number 348. The Ministry of the Environment is responsible for the EIA and SEA transboundary procedure in implementing the article 32 of the amended decree 152/2006. The subsequent amending legislative decree n. 128 of June 29 2010 has partially modified such provisions (legislative decree n. 128/2010, art. 2).

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

None because there is not need of any other measure.

3. List the different authorities that are named responsible for the implementation of the EIA procedure in the transboundary context and domestically.

The Ministry of the Environment (IMELS - Italian Ministry for the Environment Land and Sea) is responsible for the EIA and SEA transboundary procedure in implementing the article 32 of the amended decree 152/2006, while the notification to the affected Party is up to the Ministry of Foreign Affaires.

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

The Authority responsible for collecting information on all transboundary EIA cases is the Ministry for the Environment (IMELS).

5. Does your country have special provisions for transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?

None (see the article 32 of the amended decree 152/2006); we don't have any special provision for cross-border projects.

In case of joint cross- border projects provisions could be included in bilateral or multilateral agreements.

IDENTIFICATION OF A PROPOSED ACTIVITY REQUIRING ENVIRONMENTAL IMPACT ASSESSMENT UNDER THE CONVENTION

- 4. Is appendix I to the Convention transposed fully into your country's national legislation? Please describe any differences between the national list and appendix I to the Convention.
 - Our national list goes beyond the appendix I to the Convention. All projects listed in the appendix I are included in the domestic list that is more extensive of the appendix I as such. The list of the National EIA projects includes a wider range of activities and sizes. The transboundary EIA procedure is applied even in the case when an activity, not listed in the appendix I, is likely to cause a significant adverse impact.
- 5. Does your country's legislation already cover fully the revised appendix I in the second amendment (ECE/MP.EIA/6, decision III/7)?

The national list of projects/activities goes beyond the appendix I and the second amendment to the Espoo convention according to the European legislation in force. Therefore the transboundary procedure is applied on a list of projects more extensive than the list in appendix I of the convention as well as the list in the second amendment too. In particular the amended legislative decree number 152/2006 sets out a list of project and the relevant competence namely: in annex II are included projects up to a threshold and the competence for the EIA domestic and transboundary procedure is at national level. According to annexes III and IV of the above mentioned decree, that are including projects below thresholds described in annex II, as well as specific activities which the negative effects are limited to the local level, the EIA procedure is developed at local level even if the project could have a transboundary impact; in the latter case, the local Authorities have the duty to promptly inform the IMELS about the transboundary impact and to collaborate in order to develop any procedural step of the transboundary procedure. Therefore, the responsibility of the transboundary procedure is always up to IMELS. Only for projects and activities included in annex IV the screening procedure has to be applied by local authorities.

PUBLIC PARTICIPATION

6. 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?

The definition of the public is: whoever is affected or has an interest including associations representing citizens. In case of transboundary EIA procedure the duty to inform the public of the affected Party is up to such Party.

Article 3

Notification

QUESTIONS TO PARTY OF ORIGIN

7. Describe how your country determines when to send the notification to the affected Party, which is to occur "as early as possible as and no later than when informing its own public".

In general, the affected Party is informed as soon as the national Authority has become acquainted with the project under evaluation and not later when than the public at national level is informed.

- 8. Indicate whether and how the following provisions are reflected in your national legislation:
 - a. The stage in the EIA procedure when your country usually notifies the affected Party (art. 3.1);
 - The mentioned article 32 does not establish a precise timing for this requirement, but usually the notification to the affected Party occurs in the early stages of the EIA procedure.
 - b. The format for notification. Please indicate whether this is the format as decided by the first meeting of the Parties in its decision I/4 (ECE/MP.EIA/2, annex IV, appendix). If not, does your country use a format of its own (in which case, please attach a copy of it)?
 - The information reported into the notification is a non technical synthesis of the project with the aim to provide later more information upon request of the affected Party. Furthermore the affected Party can participate to the procedure if it communicates its interest upon request and in this case all the available information regarding the EIA procedure is provided to the affected Party through for projects included in the national list.
 - c. The time frame for the response to the notification from the affected Party (cf. art. 3, para. 3, "within the time specified in the notification"), the consequence if an affected Party does not comply with the time frame, and the possibility of extending a deadline;
 - The time frame for the response from the affected Party is within 90 days from the communication of interest or more in case of specific agreements between the Parties. This time frame is linked to the procedure at national level that usually has to be concluded within 150 days. If the time frame of 90 days is expired and an additional time frame is required, also the time frame of 90 days could be extended.
 - d. The request for information from the affected Party (art. 3 para. 6), necessary for the preparation of the EIA documentation;
 - Similar cases have never occurred and there are not related provisions in our national legislation.
 - e. How your country cooperates with the authorities of the affected Party on public participation (art. 3, para. 8);
 - The public of the affected Party is consulted on the basis of specific agreements between the Parties defining, on a case by case base, the modalities and time frame for consultation and participation.
 - f. When and 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 public in the affected Party is notified in the early phase after that the affected Party decides to partecipate to the procedure and the kinds of media to use are to be indicated by the same affected Party. All the documentation related to the environmental Impact Study is available to the public at national and international level without any restriction.
 - g. 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.

See the previous answer.

9. 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, annex III, decision I/3), and as listed on the Convention website (http://www.unece.org/env/eia/points_of_contact.htm)?
Yes.

QUESTIONS TO AFFECTED PARTY

- 10. Indicate whether and how the following provisions are reflected in your national legislation:
 - a. How your country decides whether or not to participate in the EIA procedure (art. 3, para. 3)?
 - b. The request from the Party of origin for information (art. 3, para. 6), necessary for the preparation of the EIA documentation;
 - c. How your country cooperates with the authorities of the Party of origin on public participation (art. 3, para. 8);
 - d. When and how the public is notified (e.g., what kinds of media, etc., are usually used).

Article 4

Preparation of the environmental impact assessment documentation

QUESTIONS TO PARTY OF ORIGIN

- 11. Indicate the legal requirements in your country, if any, related to:
 - a. The content of the EIA documentation (art. 4, para. 1; appendix II);

The national technical legislation (DPCM 27-12-1988) indicates the contents of the EIA documentation and is consistent with the appendix II of the Convention. Besides, the national legislation goes beyond the Appendix II of the Convention in requesting more detailed and extensive information.

b. The procedures for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (art. 4, para. 1);

The procedures to determine the content of the EIA documentation on a case-by-case basis ("scoping procedure") are described in the art. 21 ("Definizione dei contenuti dello studio di impatto ambientale" that is "Definition of the contents of the environmental impact study") of the amended legislative decree number 152/2006.

Based on preliminary project, preliminary environmental study and a report that shows a plan of work for the preparation of the environmental impact study, the proponent has the right to request a

consultation phase with the competent authority and the parties responsible for environmental matters in order to define the information to be included, the corresponding level of detail and the methods to be adopted.

Then the competent authority:

- a) decides on the conditions for the development and definition of the project and of the environmental impact study;
- b) considers the main alternatives, including the alternative zero;
- c) shal check on the basis of the available documentation, also with reference to the location of the project, the existence of any element of incompatibility;
- d) in the absence of such evidence, indicates the conditions for obtaining, during the presentation of the final project, the necessary acts of consent, without prejudice to the definition of the subsequent procedure.

This consultation process referred to in paragraph 1 shall be completed within 60 days.

a. The identification of "reasonable alternatives" in accordance with appendix II, paragraph (b);

The environmental impact study, elaborated by the proponent, have to consider the alternatives, included the alternative zero, in order to evaluate the more reasonable one; afterwards only the more reasonable alternatives are subjected to the EIA.

b. The procedures and format for providing the EIA documentation domestically;

The EIA documentation has to be provided as indicated by the art. 23 of the amended legislative decree number 152/2006.

The application form shall be made by the proposer to the competent authority. To it has to bee attached the final project, the environmental impact study, the non-technical summary and a copy of the notices to the public published on newspapers.

The EIA documentation also includes the list of any permissions, agreements, concessions, licenses, permits etc. and consents, however denominated, already acquired or to be acquired for the realisation and the entry into operation of the work, as well as a copy in electronic, on a suitable support, of the works, in accordance with the original presented.

The documentation is submitted on electronic digital form and, in cases of particular technical difficulties, on paper too.

c. The procedures and format for providing the EIA documentation to the affected Party. If there is a difference between the procedures and format domestically and for the affected Party, please explain;

There are not differences between the procedures and format domestically and for the affected Party; all the documentation is available to the affected Party while other more specific and detailed information is sent upon request.

d. The procedures for the examination of, and the deadlines for comments on, the EIA documentation domestically, and how the comments submitted domestically are addressed;

The art. 24 ("Consultation") of the amended legislative decree 152/2006 defines the procedures for the examination of, and the deadlines for comments on, the EIA documentation domestically, and how the comments submitted domestically have to be addressed. Advice on the project must be given on newspapers and on the website of the competent authority. In the case of projects under state jurisdiction, the publication must be carried out on a national newspaper and a regional newspaper in each region directly affected. In the case of projects for which the competence to carry out the environmental assessment lies with the regional authorities, the publication on newspapers has to be at the regional or provincial level. Within a period of 60 days from the submission of the application, anyone interested can see and examine the project and all its environmental studies and technical documentation, and submit its observations, providing new or additional relevant information and assessment and the EIA final decision must take into account all the comments received, considering the same, individually or in group of identical comments.

The comments of the public have to be addressed in any form to the competent authority and can consists in a simple letter or in more articulated documents.

The competent authority shall publish on its website all the submitted documentation, including ll the comments of the public.

e. The procedures for public hearings domestically;

The amended legislative decree 152/2006, art. 24 ("Consultation"), paragraphs 6 and 7, defines the procedures for public hearings domestically; the competent authority can decide that the consultation has to be done by carrying out a public hearing to examine the environmental impact study, the advices provided by other public administrations and public comments, without causing interruption or suspension of the deadline; the public hearing is concluded with a report on the related works and judgment on the findings which then are acquired and evaluated for environmental impact assessment procedure.

f. The procedures for public hearings held on the territory of the affected Party.

Usually the procedures for public hearings held on the territory of the affected Party are defined and decided by the same affected Party.

QUESTIONS TO AFFECTED PARTY

- 12. Indicate the legal requirements in your country, if any, related to:
 - a. The procedures and deadlines for comments on the EIA documentation to be submitted to the Party of origin;
 - In this case we have to enforce the national law with respect to the specifical regulations related to these issues (amended legislative decree 152/2006, art. 24 "Consultation").
 - b. The procedures for public participation in the review of the EIA documentation domestically, and the authority responsible for the execution of the aforementioned procedures;

See

c. The procedures for the examination of the EIA documentation domestically.

See

Article 5

Consultations

QUESTIONS TO PARTY OF ORIGIN

- 13. Indicate the legal requirements in your country, if any, related to the following provisions:
 - a. The procedures for cooperation with the affected Party related to consultations;

 None.
 - b. The stages, procedures and deadlines for consultations with the affected Party;

See previous

c. The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.

See previous

QUESTIONS TO AFFECTED PARTY

- 14. Indicate the legal requirements in your country, if any, related to the following provisions:
 - a. The procedures for interaction with the Party of origin related to consultations; If necessary the relevant decision is taken on a case by case base by the IMELS.
 - b. The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.

See previous

Article 6

Final decision

QUESTIONS TO PARTY OF ORIGIN

- 15. Indicate the legal requirements in your country, if any, related to the following provisions:
 - a. The definition of "final decision" related to the implementation of the planned activity; the content of decisions; and procedures for their adoption;

In the final decision on EIA reflected the assessment of impacts and comments from the public of the affected Party and of the Party of origin. The outcomes of the EIA procedure are taken into account in all steps of the decision making process. The final decision therefore considers the overall comments and opinions. The final decision is taken by means of a decree of the Minister of the Environment in consultation with the Minister of Cultural Heritage (Ministro per i beni e le attività culturali) and contains the conditions for the construction, operation and decommissioning of the project, as well as those relating to any malfunction. On the other hand the "final decision" to authorize or undertake a proposed activity is taken by means of a decree or a similar act by the competent authority, i.e. a decree ("decreto autorizzativo") of the Minister of Economic Development for large thermal power stations.

- b. 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, para. 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?
 - See previous answer 17.a.
- c. The procedures for informing of the "final decision" domestically and for the affected Party;
 - All this kind of "final decision" are published on the the Official Gazette of the Italian Republic and/or on websites of the other competent authorities. Furthermore the affected Party is informed by means of an official notification of the complete act containing the "final decision".
- d. Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and the public in your country (art. 6, para. 1)?

Yes.

e. The opportunity to review the decision if, before the activity is implemented, additional information becomes available according to article 6, paragraph 3.

Yes, it can be done in accordance with the art. 28, pr. 1.bis ("monitoring") of the amended legislative decree 152/2006.

Article 7

Post-Project Analysis

- 16. Indicate the legal requirements in your country, if any, related to:
 - a. Post-project analysis (art. 7, para. 1);

According to article 7 of the Convention post project analysis is specifically requested by the art. 28, par. 1.bis ("monitoring") of the amended legislative decree 152/2006, that contains a specifical regulation for Post-project analysis.

b. Procedures for informing of the results of post-project analysis.

The same art. 28, par. 2 ("monitoring") of the amended legislative decree 152/2006 states that about the modalities of the monitoring and the related results and any corrective actions eventually taken shall be given adequate and complete information on the websites of the competent authority.

Article 8

Bilateral and multilateral agreements

17. 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.

No any agreement, based on appendix VI has been carried out till now; however agreements on a case by case basis have been carried out.

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

No.

Article 9

Research programmes

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

No.

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

22. 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 on the previous questionnaire.

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

There are no plans in order to ratify the first amendment to the convention; the procedure is still on going at technical level.

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

There are no plans in order to ratify the Protocol on SEA; the related procedure is still on going at technical level.

PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2010–2012

Please report on your country's practical experiences in applying the Convention (not your country's procedures described in part one), whether as Party of origin or affected Party. The focus here is on identifying good practices as well as difficulties Parties have encountered in applying the Convention in practice; and 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 2010–2012

- 25. If your country's national administration has a list of transboundary EIA procedures that were under way during the reporting period, in which your country was Party of origin or affected Party, please list it.
 - 1) Pipeline from Algeria to Italy (called "project Galsi");
 - 2) Pipeline from Albania to Italy (called "project Trans Adriatic Pipeline");
 - 3) New high speed railway Venezia Trieste (Italia); line Ronchi Trieste;
 - Party of origin Italia- affected Party Slovenia
 - 4) Railway line Trieste (Italia) Divaca (Slovenia);
 - Party of origin- affected Partyboth countries
 - 5) Railway line Capodistria-Divaca (Slovenia);
 - Party of origin- affected PartyItalia
 - 6) Railway line Torino (Italia) Lione (Francia);
 - Party of origin both countries- affected Party both countries
 - 7) Final project "explorative burrow of La Maddalena as part of the new rail link Torino Lione;
 - Party of origin both countries- affected Party both countries
- 26. Does your country object to the inclusion of the above list of transboundary EIA procedures in a compilation of such procedures to be made available on the website of the Convention? (Indicate "yes" if you object.)

No

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

The transboundary EIA procedure takes on average 2 years. The consultations transboundary is one of the first parts of the procedure.

Experience in the transboundary environmental impact assessment procedure during the period 2010-2012

28. If your country has had practical experience in the transboundary EIA procedure during the reporting period, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.

During the procedures are not detected significant transboundary environmental impacts.

- 29. 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. 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?
 - There isn't a separate chapter for the transboundary issue. The information about transboundary environmental impacts are included in the EIA documentation
 - b. 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?
 - We send documents translated in English or in the language of the affected country. Usually the works proponent ensure the translation and sent to the affected Party translated also the technical information and documentation required.
 - c. 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? 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 organize public participation domestically on the base of national legislation. Public send comments to the EIA competent Administration.

The affected Party organize the public partecipation in its own country. In the cases above listed comments from the public of the affected Party translated into Italian were sent to the Ministry by the competent Italian Region.

In the application of transboundary EIA we have no complaints from the public about the procedure.

d. 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?

There aren't consultations as affected country.

- e. 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 final decision is communicated to the affected party and its public with the final act of the EIA procedure that is also published on the website of the Ministry of environment.
- f. Has your country carried out post-project analyses and, if so, on what kinds of project?
 - The post-project analyses is performed by monitoring on all kinds of projects.
- g. 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.);

Contact points.

h. 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"?

In some case an element of good practice was to use joint bodies such as the intergovernmental commissions in the cases of the Italia-Francia projects.

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

Focal points.

CO-OPERATION BETWEEN PARTIES IN 2010–2012

30. Does your country have any successful examples of how it has overcome difficulties arising from different legal systems in neighbouring countries? If so please specify.

None.

EXPERIENCE IN USING THE GUIDANCE IN 2010–2012

31. 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.

No.

- a. Guidance on public participation in EIA in a transboundary context (ECE/MP.EIA/7);
- b. Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendix);

c. Guidelines on good practice and on bilateral and multilateral agreements (ECE/MP.EIA/6, annex IV, appendix).

CLARITY OF THE CONVENTION

32. 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?

No.

AWARENESS OF THE CONVENTION

33. 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.

No

34. 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?

No

SUGGESTED IMPROVEMENTS TO THE REPORT

35. Please provide suggestions for how this report may be improved. Simplification of procedures.

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