

**Questionnaire for the report of [MALTA] on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context in the period 2013–2015**

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## Part one

### Current legal and administrative framework for the implementation of the Convention

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

Please do not reproduce the text of the legislation itself but summarize and explicitly refer to the relevant provisions transposing the Convention text (e.g., EIA Law of the Republic of ..., art. 5, para. 3, of Government Resolution No. ..., para. ... item...)

#### Article 1

##### Definitions

I.1. Is the definition of impact for the purpose of the Convention the same in your legislation as in article 1?

- (a) Yes
- (b) Yes, with some differences (please provide details): Vide comments below please.
- (c) No (please provide the definition):
- (d) There are no definitions of impact in the legislation

Your comments: The EIA Regulations, 2007 (Subsidiary Legislation 504.79) of Malta provide a definition of the term "effects" which include direct and indirect effects, ecological effects, aesthetic, historical and cultural effects, socio-economic effects, effects resulting from actions (including both beneficial and detrimental effects) and secondary, cumulative, short, medium and long term, permanent, temporary, positive and negative effects.

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

- (a) Yes
- (b) Yes, with some differences (please provide details):
- (c) No (please provide the definition):
- (d) There are no definitions of transboundary impact in the legislation

Your comments: Although the EIA Regulations, 2007 (Subsidiary Legislation 504.79) do not provide a definition of transboundary impacts, Part V of the same Regulations deals about the procedure to be adopted for likely to have a transboundary impact.

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

A definition of a 'major change' is not provided in the national legislation, however given that the proposed activity relates to development, the term "development" under the EIA Regulations, 2007

(Subsidiary Legislation 504.79) has the same meaning assigned to under Article 37 of Act 10 of 2010 the Environment and Development Planning Act.

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

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

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

(c) By other means (please specify):

Your comments: The EIA Regulations, 2007 (Subsidiary Legislation 504.79) provides a definition of the public concerned which is the public affected or likely to be affected by, or that having an interest in the environmental decision-making procedures. It includes non-governmental organisations promoting environmental protection.

## Article 2 General provisions

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

(a) Law on EIA:

(b) EIA provisions are transposed into another law(s) (please specify):

(c) Regulation (please indicate number/year/name):

The Environmental Impact Assessment Regulations, 2007 (Subsidiary Legislation 504.79).

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

(e) Other (please specify):

Your comments:

I.6. Please describe any differences between the list of activities in your national legislation and appendix I to the Convention, if any:

(a) There is no difference, all activities are transposed in the national legislation as is

(b) It differs slightly  (please specify):

The activities listed under Appendix I of the Convention are transposed under Schedule IA Category I of the EIA Regulations, 2007 (Subsidiary Legislation 504.79), however some of the thresholds differ from those listed in Appendix I of the Convention. Category I of Schedule IA includes activities with different thresholds. Activities include construction, airports, ports (and yacht marina facilities), tunnels, inland waterways, waste disposal facilities, urban development projects, tourism development, resource extractions, development on the coast, livestock farms, aquaculture, agriculture, energy industry and industrial development.

Your comments:

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

- (a) There are different authorities at national, regional, local levels
- (b) They are different for domestic and transboundary procedures
- (c) Please name the responsible authority/authorities:

The Malta Environment and Planning Authority

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

Your comments:

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

- (a) No
- (b) Yes  (please specify): The Malta Environment and Planning Authority

Your comments:

I.9. How does your country, as Party of origin and as affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to the Party of origin's public, as required in article 2, paragraph 6 (please explain):

Regulation 34, Part V of the EIA Regulations, 2007 (Subsidiary Legislation 504.79) on transboundary effects details the procedures to be followed when a project is likely to have transboundary impacts. Regulation 34 specifies the required information that needs to be made available to the public and on consultation between the two Parties. In the said EIA Regulations, the 'affected Party' is referred to as the 'affected State'.

The Party of origin informs the affected State about the proposed activity any likely transboundary effects, the EIA procedure and the nature of the decisions which may be taken. The party of origin is to give the affected State a reasonable time to indicate whether it wishes to participate in the EIA procedure. The affected States shall devise for information about the activity to be made available, within a reasonable time to the relevant authorities and the public in the affected State. Such time frames for consultation are to be agreed by both Parties. Also, the Party of origin is to provide the affected State with the final decision of the proposed activity along with the reasons and considerations including information about the public participation process.

### Article 3 Notification

I.10. As Party of origin, when do you notify the affected Party (art. 3, para. 1)? Please specify:

- (a) During scoping
- (b) When the EIA report has been prepared and the domestic procedure started
- (c) After finishing the domestic procedure
- (d) At other times (please specify):

Your comments: As soon as Malta is aware that an activity is likely to have significant effects on the environment of another State, Malta is to inform the affected Party.

I.11. Please define the format of notification:

- (a) It is the format as decided by the first meeting of the Parties in its decision I/4 (ECE/MP.EIA/2, annex IV, appendix)
- (b) The country has its own format  (please attach a copy)
- (c) No official format used

Your comments: The notification would include the following information (no specific format on this has been determined to date, given that Malta has very limited experience with respect to transboundary EIA procedures):

- i. a description of the project, together with any available information on its possible transboundary impacts;
- ii. relevant information regarding the EIA procedure; and
- iii. information on the nature of the decisions which may be taken.

I.12. As a Party of origin, what information do you include in the notification (art. 3, para. 2)? Please specify (more than one options may apply):

- (a) The information required by article 3, paragraph 2
- (b) The information required by article 3, paragraph 5
- (c) Additional information (please specify):

Your comments: It should be noted that to date, Malta has had no experience as Party of origin on projects that may have transboundary impacts and which would therefore need to be subject to consultations associated with such transboundary effects.

I.13. As a Party of origin, does your national legislation contain any provision on receiving a response to the notification from the affected Party in a reasonable time frame (art. 3, para. 3, “within the time specified in the notification”)? Please specify:

- (a) National legislation does not cover the time frame
- (b) Yes, it is indicated in the national legislation  (please indicate the time frame):
- (c) It is determined and agreed with each affected Party case by case in the beginning of the transboundary consultations  (please indicate the average length in weeks): No average length in weeks is provided in the national EIA legislation.

Your comments: The national EIA legislation provides that Malta would give the affected the State a reasonable time in which to indicate whether it wishes to participate in the EIA procedure. If the affected Party would express its intention to participate, it would agree on a reasonable timeframe for the duration of the consultation period (Regulations 34(2) and 34 (3) of the EIA Regulations refer).

It should be noted that to date, Malta has had no experience as Party of origin on projects that may have transboundary impacts and which would therefore need to be subject to consultations associated with such transboundary effects.

Please specify the consequence if a notified affected Party does not comply with the time frame, and the possibility of extending a deadline: The consequences of such are not laid down in the national EIA legislation.

I.14. How do you inform the public and authorities of the affected Party (art. 3, para 8)? Please specify:

(a) By informing the point of contact to the Convention listed on the Convention website<sup>1</sup>

(b) Other (please specify): There may also be the possibility to inform the affected Party through diplomatic channels.

Your comments: It should be noted that to date, Malta has had no experience as Party of origin on projects that may have transboundary impacts and which would therefore need to be subject to consultations associated with such transboundary effects.

I.15. On what basis is the decision made to participate (or not) in the transboundary EIA procedure as affected Party (art. 3, para. 3)? Please specify:

(a) Notified ministry/authority of the affected Party responsible for EIA decides on its own based on the documentation provided by Party of origin

(b) Based on the opinions of the competent authorities of the affected Party

(c) Based on the opinions of the competent authorities and that of public of the affected Party

(d) Other (please specify):

Your comments: It should be noted that to date, Malta has had limited experience as an affected Party.

I.16. If the affected Party has indicated that it intends to participate in the EIA procedure, how are the details for such participation agreed, including the time frame for consultations and the deadline for commenting (art. 5)? Please specify:

(a) Following the rules and procedures of the Party of origin

(b) Following the rules and procedures of the affected Party

(c) Other (please specify):

Your comments: In such cases, the procedures laid down in the national EIA legislation will come into force, Regulation 34 of Subsidiary Legislation 504.79 makes reference to an agreed reasonable time frame for the duration of the consultation period between the two Parties

## **Article 4 Preparation of the environmental impact assessment documentation**

I.17. How do you ensure sufficient quality of the EIA documentation as Party of origin? Please specify:

(a) The competent authority checks the information provided and ensures it includes all information required under appendix II as a minimum before making it available for comments

(b) By using quality checklists

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<sup>1</sup> List available from [http://www.unece.org/env/eia/points\\_of\\_contact.htm](http://www.unece.org/env/eia/points_of_contact.htm).

(c) There are no specific procedures or mechanisms

(d) Other (please specify):

Your comments: Although there are no specific mechanisms, quality control of the EIA documentation is ensured against the terms of reference which the competent authority on EIA issues to the developer during the scoping stage. The contents of the terms of reference also reflect the information provided under Appendix II of the Convention.

The requirements detailed in Regulations 13 to 18 of the national EIA legislation are also applicable for projects that may have transboundary effects. These provisions include the procedures to be followed in the preparation of an EIA.

It should be noted that to date, Malta has had no experience as Party of origin that may have transboundary impacts and which would therefore need to be subject to consultations associated with such transboundary effects.

I.18. How do you determine the relevant information to be included in the EIA documentation in accordance with article 4, paragraph 1? Please specify (more than one option may apply):

- (a) By using appendix II
- (b) By using the comments received from the authorities concerned during the scoping phase, if applicable
- (c) By using the comments from members of the public during the scoping phase, if applicable
- (d) As determined by the proponent based on its own expertise
- (e) By using other means (please specify): In addition to the above, relevant information to be included in the EIA is also based on the request for the developer to submit a description of the proposal (Regulation 5) and the drafting of terms of reference (Regulation 10) detailing the information required to be covered in the EIA documentation. Such procedures are also applicable in the case of projects that may have transboundary effects.

I.19. How do you determine “reasonable alternatives” in accordance with appendix II, paragraph (b)?

- (a) On a case-by-case basis
- (b) As defined in the national legislation (please specify):
- (c) Other (please specify):

Your comments: There is no definition in the EIA Regulations for ‘reasonable alternatives’, however alternatives usually refer to alternative uses, technologies and suitable alternative locations and sites for the proposed development as well as alternatives arrangement of land uses on the proposed site. This also includes the zero option. The study of alternatives is a standard requirement for all activities undergoing an EIA.

## **Article 5**

### **Consultations on the basis of the environmental impact assessment documentation**

#### **(a) Public participation**

I.20. How can the public concerned express its opinion on the EIA documentation of the proposed project (art. 5)? Please specify (more than one option may apply):

*As Party of origin*

- (a) By sending comments to the competent authority/focal point
- (b) By taking part in a public hearing
- (c) Other (please specify):

*As affected Party*

- (d) By sending comments to the competent authority/focal point
- (e) By taking part in a public hearing

(f) Other (please specify):

Your comments: It should be noted that to date, Malta has had no experience as Party of origin that may have transboundary impacts and which would therefore need to be subject to consultations associated with such transboundary effects, whereas Malta has limited experience as affected Party.

I.21. Please indicate whether your national EIA legislation requires the organization of a public hearing on the territory of the affected Party in cases where your country is the country of origin:

- (a) Yes
- (b) No

Your comments: The national legislation does not provide a requirement for a public hearing to be undertaken on the territory of the affected Party, however Regulation 34 (4) of Subsidiary Legislation 504.79 make references to an agreed reasonable time frame for the duration of the consultation period between the two Parties, during which the affected Party may provide information to its Authority and public.

I.22. Please indicate whether your national EIA legislation requires the organization of public hearings in cases where your country is the affected Party:

- (a) Yes  yes
- (b) No

Your comments: Regulation 34 (10) of the Subsidiary Legislation 504.79 states that Malta, as affected Party, shall provide information to its public on the activity proposed by the affecting Party, agreeing with it on a timeframe in order to carry out its domestic consultations.

**(b) Consultations**

I.23. Does your national EIA legislation have any provision on the organization of transboundary consultations (expert, joint bodies, etc.) between the authorities of the concerned Parties? Please specify:

- (a) Yes, it is obligatory
- (b) No, it does not have any provision on that
- (c) It is optional  (please specify):

Your comments:

**Article 6  
Final decision**

I.24. Please indicate all points below that are covered in a final decision related to the implementation of the planned activity (art. 6, para. 1):

- (a) Conclusions of the EIA documentation
- (b) Comments received in accordance with article 3, paragraph 8, and article 4, paragraph 2
- (c) Outcome of the consultations as referred to in article 5
- (d) Outcomes of the transboundary consultations
- (e) Comments received from the affected Party
- (f) Mitigation measures
- (g) Other (please specify):

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

(a) Yes

(b) No

Your comments:

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

(a) No

(b) Yes  (please specify):

Your comments:

I.27. Do all activities listed in appendix I (items 1-22) require a final decision to authorize or undertake such an activity?:

(a) Yes

(b) No  (please specify those that do not):

Your comments:

I.28. For each type of activity listed in appendix I that does require a final decision, please indicate the legal requirements in your country that identify what is regarded as the “final decision” to authorize or undertake such an activity (art. 6 in conjunction with art. 2, para. 3), and the term used in the national legislation to indicate the final decision in the original language: Regulation 44 (3) and (4) provide information on the final decision. The decision-making body is to give due regard to the conclusions reached in the EIA, when reaching a decision. Whether the decision-making body accepts or otherwise the conclusions reached in the said EIA, reasons for such decision/s need to be provided.

The competent authority is to:

- inform the public of the decision, by publishing a notice in a newspaper, or other reasonable means;
- make available for public inspection, at all reasonable hours and free of charge, a statement containing the content of the decision and any conditions attached; a statement containing the reasons and considerations on which the decision is based, including information about the public participation process; and a description, where necessary, of the main measures to avoid, reduce and if possible offset the major adverse effects of the development.

The term used in the national legislation is ‘decision’.

Your comments:

## **Article 7**

### **Post-project analysis**

I.29. Is there any provision regarding post-project analysis in your national EIA legislation (art. 7, para. 1)?:

(a) No

(b) Yes  (please specify the main steps to be taken and how the results of it are communicated): Under Regulation 18 of the national legislation, the consultants of the EIA documentation are required to devise a scheme of monitoring the environmental impacts of the development.

Your comments:

## Article 8 Bilateral and multilateral cooperation

### (a) Agreements

I.30. Does your country have any bilateral or multilateral agreements based on the Convention (art. 8, appendix VI)?:

(a) No

(b) Yes  Please specify with which countries:

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

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

(a) Specific conditions of the subregion concerned

(b) Institutional, administrative and other arrangements

(c) Harmonization of the Parties' policies and measures

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

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

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

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

(h) Other, please specify:

Your comments: N/A

### (b) Procedural steps required by the national legislation

I.32. Please describe the steps required in your national legislation for a transboundary EIA procedure:

(a) When EIA in a transboundary context is part of a domestic EIA procedure:

#### STEPS IN THE EIA PROCESS (when an EIA is required)

1. Submission of proposal.
2. Screening: Project Description Statement (PDS) is submitted to the competent authority to decide whether an EIA is required.

3. Malta informs affected State that an activity in Malta is likely to have significant transboundary effects on the environment. Relevant information is provided to the affected State. Malta gives the affected State a reasonable time in which the affected State indicates whether it wishes to participate in the EIA procedure. Malta is to send information gathered regarding the proposed development.
4. Consultations between Malta and the affected State on the potential transboundary effects of the activity and the measures envisaged to reduce or eliminate such effects. The two States shall agree on a reasonable time frame for the duration of the consultation period. The affected State may arrange for consultation within its territory within the timeframe established by Malta and the affected State.
5. Scoping: consultation with agencies of government, the public and the public concerned on the issues they wish to see included in the EIA terms of reference. May involve a public meeting.
6. Competent authority sets EIA terms of reference.
7. EIA Report preparation (according to the EIA terms of reference) by independent consultants.
8. EIA review by the competent authority, agencies of government, the public and the affected State.
9. Competent authority certifies EIA.
10. Consultation with the public concerned on the certified EIA.
11. Public meeting for Category I projects.
12. Any revisions/comments required following meeting with the public.
13. Malta is to provide to the affected State the final decision on the proposed activity with reasons and considerations including information about the public participation process and any conditions attached to the said decision. A description, where necessary, of the main measures to avoid reduce and if possible offset the major adverse effects.
14. Affected State is to be informed by Malta following monitoring of a development with potential transboundary impacts, if significant adverse transboundary impacts or factors may result. The affected State is to be informed immediately and enter into consultations on the necessary measures to reduce or eliminate such impact.

(b) When EIA in a transboundary context is a separate procedure (please provide of how this procedure links to the domestic procedure and whether the steps are different):

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

Your comments:

I.33. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?:

- (a) No
- (b) Yes  (please specify):
  - (i) Special provisions:
  - (ii) Informal arrangements:

Your comments:

I.34. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for nuclear power plants (NPPs)?:

- (a) No
- (b) Yes  (please specify):
  - (i) Special provisions:
  - (ii) Informal arrangements:

Your comments:

## Part two

### Practical application during the period 2013–2015

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. The goal is to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve its application.

II.1. Does your country object to the information on transboundary EIA procedures that you provide in this section being compiled and made available on the website of the Convention? Please specify (indicate "yes" if you object):

- (a) Yes
- (b) No

Your comments: Given that Malta has no experience as Party of Origin and limited experience as affected Party (kindly refer to Tables II.2a and II.2b), questions II.3 to II.12 have not been answered.

#### 1. Experience in the transboundary environmental impact assessment procedure during the period 2013–2015

##### Cases during the period 2013–2015

II.2. If your country's national administration has a record of transboundary EIA procedures that were under way during the reporting period, in which your country was Party of origin or affected Party, please list them in the tables II.2 (a) and II.2 (b) below (adding additional rows as needed).

Table II.2 (a)

##### Transboundary EIA procedures: As Party of origin

	Name of case	Starting date (date notification sent)	Length of the main steps in months			Final decision (date of issuing, if information is available)
			Submission of the environmental report	Transboundary consultations (expert), if any	Public participation, including public hearing, if any	
1.	N/A	N/A	N/A	N/A	N/A	N/A
2.						
3.						
4.						
...						

Your comments: N/A

Table II.2 (a)

**Transboundary EIA procedures: As affected Party**

Name of case	Starting date (date notification sent)	Length of the main steps in months			Final decision (date of issuing, if information is available)
		Submission of the environmental report	Transboundary consultations (expert), if any	Public participation, including public hearing, if any	
1. Construction of new nuclear power plant blocks Paks NPP II in Hungary *	12 February 2013	2 April 2015	N/A	N/A	N/A
2.					
3.					
4.					
...					

Your comments: *\* Despite, Malta's intention in 2013 to participate in the transboundary consultation process for the said project, Malta subsequently informed Hungary on 9 June 2015 that as Party to the Espoo Convention, there is no need for Malta to be consulted further on the said proposal. Malta received correspondence (dated 14 July 2015) from the Hungarian Party that the transboundary EIA procedure according to the Espoo Convention with Malta concerning the said project is closed.*

Please share with other Parties your country's experience of using the Convention in practice. In response to each of the questions below, either provide one or two practical examples or describe your country's general experience. You might also include examples of lessons learned in order to help others.

II.3. Translation is not addressed in the Convention. How has your country addressed the question of translation? What difficulties has your country as Party of origin and affected Party experienced relating to translation and interpretation, and what solutions has your country applied? (Please specify, among others, the parts and type of the documentation translated, language, costs, etc.):

- (a) As Party of origin:
- (b) As affected Party: **Communication for case outlined in II.2a above was provided in English.**

II.4. Describe any difficulties that your country has encountered during transboundary public participation (expert consultation, public hearing, etc.), including on issues of timing, language and the need for additional information: **N/A**

II.5. Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects or that of an NPP?:

- (a) Yes
- (b) No

II.6. If you answered yes to question II.5, please provide information on your country's experiences describing, for example, means of cooperation (e.g., contact points, joint bodies, bilateral agreements, special and common provisions, etc.), institutional arrangements, and how practical matters are dealt with (e.g., translation, interpretation, transmission of documents, etc.):

- (a) For joint cross-border projects:
- (b) For NPPs:

II.7. Name examples of good practice cases, whether complete cases or good practice elements (e.g., notification, consultation or public participation) within cases: N/A

II.8. Would your country like to introduce a case in the form of a Convention "case study fact sheet"?

- (a) No
- (b) Yes  (please indicate which cases):

II.9. Has your country carried out post-project analyses in the period 2013–2015:

- (a) No
- (b) Yes  (please indicate which projects, along with the challenges in implementation and any lessons learned):

## 2. Experience in using the guidance in 2013–2015

II.10. Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online?:

(a) Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context (ECE/MP.EIA/7):

- No
- Yes  (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

(b) Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendix):

- No
- Yes  (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

(c) Guidance on the Practical Application of the Espoo Convention (ECE/MP.EIA/8):

- No
- Yes  (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

### 3. Clarity of the Convention

II.11. Has your country had difficulties implementing the procedures defined in the Convention, either as Party of origin or as affected Party, because of a lack of clarity of the provisions?:

No

Yes  (please indicate which provisions and how they are unclear):

### 4. Suggested improvements to the report

II.12 Please provide suggestions for how this report may be improved. [N/A](#)