

**Questionnaire for the report of DENMARK on the implementation of
the Protocol on Strategic Environmental
Assessment in the period 2013–2015**

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Part one

Current legal and administrative framework for the implementation of the Protocol

In this part, please describe the legal, administrative and other measures taken in your country to implement the provisions of the Protocol. This part should describe the framework for your country's implementation, and not experience in the application of the Protocol.

Article 3

General provisions

I.1. Please provide the main legislative, regulatory and other measures you have adopted in your country to implement the Protocol (art. 3, para. 1) (more than one option may apply):

(a) Law on SEA (please indicate number/year/name): Number 1533 of 1. December 2015.

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

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

Regulation number 1778 of 16. December 2015 on affected authorities and of public participation according to law on the sea.

Regulation number 973 of 29. August 2014 on tasks and capacity for the Nature Agency (§ 30).

(d) Administrative rule (please indicate number/year/name): Guidance on SEA number 9964 of 18. June 2006.

(e) Other (please specify):

Circular number 159 of 16. September 1998 from Prime Minister's Office on comments to law proposals and other government proposals and of the making of law- and other proposals.

Collection of examples on SEA 2007.

Your comments: A bill proposing a common law on EIA and SEA is under preparation. When it enters in to force, it will replace Law on SEA number 1533 of 1. December 2015.

Article 4

Field of application concerning plans and programmes

I.2. List the types of plans and programmes that require SEA in your legislation:

Same as the Protocol.

I.3. Explain how you define whether a plan or programme "set the framework for future development consent" (art. 4, para. 2):

When these plans or programs are made or decided by a state, regional og municipal authority or are developed for lawprocedure in the Parliament, or made on administrative

authority basis, and set out the framework for future activities that are likely to have a significant impact on the environment. Activities in annex 3 and 4 to the law on SEA sets out activities as in the Protocols annex that are considered to have a significant impact on the environment.

I.4. Explain how the terms “plans and programmes ... which determine the use of small areas at local level” (art. 4, para. 4) are interpreted in your legislation:

When the plans or programmes determine use of small areas at local level, it has to be determined whether these plans or programmes are likely to have significant impact on the environment. If this is the case, they shall follow the same assessment procedure as other plans and programmes. The criteria for determining the likely significant impact on the environment effects are found in the Law on SEA, annex 2 and follows the principles in annex III of the Protocol. Affected authorities must be consulted before a final decision is made.

I.5. Explain how you identify in your legislation a “minor modification” to a plan or programme (art. 4, para. 4):

If the modification is likely to have a significant impact on the environment it is not considered minor. If it is decided that there is no SEA this has to be published and explained to the public, including guidance on how to redress. This has to be done before the final decision is made.

Article 5 Screening

I.6. How do you determine which other plans and programmes should be subject to a SEA as set out in article 4, paragraphs 3 and 4, in accordance with article 5, paragraph 1? Please specify:

- (a) On a case-by-case basis
- (b) By specifying types of plans and programmes
- (c) By using a combination of (a) and (b)
- (d) Other (please specify):

Your comments:

I.7. Do you provide opportunities for the public concerned to participate in screening and/or scoping of plans and programmes in your legislation (art. 5, para. 3, and art. 6, para. 3)?:

No

Yes (please specify (more than one option may apply)):

- (a) By sending written comments to the competent authority
- (b) By sending written comments to the local municipality
- (c) By providing answers to a questionnaire
- (d) By taking part in a public hearing
- (e) By sending written comments to the consultants/SEA experts or persons preparing the plans and programmes
- (f) Other (please specify):

Your comments:

Article 6 Scoping

I.8. How do you determine what is the relevant information to be included in the environmental report, in accordance with article 7, paragraph 2 (art. 6, para. 1)? By using annex IV, comments from concerned authorities and public, competent authorities own expertise and comments from affected states.

Article 7 Environmental report

I.9. How do you determine “reasonable alternatives” in the context of the environmental report (art. 7, para. 2)? Please specify:

- (a) On a case-by-case basis
- (b) As defined in the national legislation (please specify):
- (c) By using a combination of (a) and (b)
- (d) Other (please specify):

Your comments:

I.10. How do you ensure sufficient quality of the reports? Please specify:

- (a) The competent authority checks the information provided and ensures it includes all information required under annex IV as a minimum before making it available for comments
- (b) By using quality checklists
- (c) There are no specific procedures or mechanisms
- (d) Other (please specify):

Your comments:

Article 8 Public participation

I.11. How do you ensure the “timely public availability” of draft plans and programmes and the environmental report (art. 8, para. 2)? Please specify (more than one option may apply):

- (a) Through public notices
- (b) Through electronic media
- (c) Through other means (please specify):

Your comments:

I.12. How do you identify the public concerned (art. 8, para. 3)? Please specify (more than one option may apply):

- (a) Based on the geographical location of the plans and programmes

(b) Based on the environmental effects (significance, extent, accumulation, etc.) of the plans and programmes

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

(d) By other means (please specify):

Your comments:

I.13. How can the public concerned express its opinion on the draft plans and programmes and the environmental report (art. 8, para. 4)? Please specify (more than one option may apply):

(a) By sending comments to the relevant authority/focal point

(b) By providing answers to a questionnaire

(c) Orally

(d) By taking part in a public hearing

(e) Other (please specify):

Your comments:

I.14. Do you have a definition in your legislation of the term “within a reasonable time frame” (art. 8, para. 4)? Please specify:

(a) No, the time frame is determined by the number of days fixed for each commenting period

(b) No, it is defined case by case

(c) Yes (please provide the definition): at least 8 weeks.

(d) Other (please specify):

Your comments:

Article 9

Consultation with environmental and health authorities

I.15. How are the environmental and health authorities identified (art. 9, para. 1):

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

Your comments: Law on SEA number 1533 of 1. December 2015 and Regulation number 1778 of 16. December 2015 on affected authorities and of public participation according to law on the sea.

I.16. How are the arrangements for informing and consulting the environmental and health authorities determined (art. 9, para. 4):

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

Your comments: Law on SEA number 1533 of 1. December 2015 and Regulation number 1778 of 16. December 2015 on affected authorities and of public participation according to law on the sea.

I.17. How can the environmental and health authorities express their opinion (art. 5, para. 2, art. 6, para. 2, and art. 9, para. 3):

- (a) By sending comments
- (b) By providing answers to a questionnaire
- (c) In a meeting
- (d) By other means (please specify)

Your comments:

Article 10

Transboundary consultations

I.18. As a Party of origin, when do you notify the affected Party (art. 10, para. 1)? Please specify:

- (a) During scoping
- (b) When the draft plan or programme and the environmental report have been prepared
- (c) At other times (please specify):

Your comments: The notification will take place at the same time as the national notification.

I.19. As a Party of origin, what information do you include in the notification (art. 10, para. 2)? Please specify:

- (a) The information required by article 10, paragraph 2

(b) The information required by article 10, paragraph 2, plus additional information (please specify):

Your comments:

I.20. As a Party of origin, does your legislation indicate a reasonable time frame for the transmission of comments from the affected Party (art. 10, para. 2)? Please specify:

(a) No

(b) Yes (please indicate how long): The same timeframe as the national time frame: at least 8 weeks. If there is a public holiday or similar, that would cause the affected party to require more time, this can be given, but as a main rule the time frames nationally and for the affected parties are the same.

Your comments:

I.21. If the affected Party has indicated that it wishes to enter into consultations, how are the detailed arrangements, including the time frame for consultations, agreed (art. 10, paras. 3 and 4)? Please specify:

(a) Following those of the Party of origin

(b) Following those of the affected Party

(c) Other (please specify): The consultations are agreed on a case by case basis between the relevant authorities in both the affected party and the party of origin.

Your comments:

Article 11 Decision

I.22. When a plan or programme is adopted, explain how your country ensures, in accordance with article 11, paragraph 1, that due account is taken of:

(a) The conclusions of the environmental report

(b) Mitigation measures

(c) Comments received in accordance with articles 8 to 10

Your comments: The competent authority takes a)-c) into account in the final decision.

I.23. How and when do you inform your own public and authorities (art. 11, para. 2)? The procedure is the same for the national and the transboundary issues also regarding the timeframe. At the same time, the competent authority shall make the final decision available to the public. Nationally through informing in relevant local, regional and national papers or magazines in the possible affected areas and on the home page of the public authority. The national competent authority informs the relevant authorities in possible affected states who decides the form of publication in its own state. There will often be a cooperation about this between the authorities.

I.24. How do you inform the public and authorities of the affected Party (art. 11, para. 2)? Please specify:

(a) By informing the point of contact

(b) By informing the contact person of the ministry responsible for SEA, who then follows the national procedure and informs his/her own authorities and public

(c) By informing all the authorities involved in the assessment and letting them inform their own public

(d) Other (please specify):

Your comments:

Article 12 Monitoring

I.25. Describe the legal requirements for monitoring the significant environmental, including health, effects of the implementation of the plans and programmes adopted under article 11 (art. 12, paras. 1 and 2): Requirements are the same as those in article 12.

Part two Practical application during the period 2013–2015

In this part, please report on your country's practical experiences in applying the Protocol (and not your country's procedures, which were described in part one). The focus of this section should be on identifying good practices as well as difficulties encountered in applying the Protocol in practice. The goal is to enable Parties to share solutions. Please therefore provide appropriate examples highlighting application of the Protocol in your country and innovative approaches to improve its application.

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

- (a) Yes
(b) No

Your comments:

1. Consideration of health effects

II.2. Does your SEA documentation always include specific information on health effects? Please specify:

- (a) Yes
(b) No, only when potential health effects are identified

2. Domestic and transboundary implementation in the period 2013–2015

II.3. Does your SEA documentation always include specific information on potential transboundary environmental, including health, effects? Please specify:

- (a) Yes
(b) No, only when potential transboundary effects are identified

3. Cases during the period 2013–2015

II.4. Please provide the (approximate) number of transboundary SEA procedures initiated during the period 2013–2015 and list them, grouped by the sectors listed in article 4, paragraph 2: Denmark as an affected party:

Belgian Operational Programme 2014-2020 (European Maritime and Fisheries Fund (EMFF))

South Baltic programme

German Federal Transport Infrastructure plan

Swedish Marine Spatial Planning for the Gulf of Bothnia, The Baltic Sea and the Skagerak/Kattegat

Denmark as part of origin:

Planvorchlag zum Themenplan Windkraftanlagen"

SEA of Vadehavet and Flensbrog Fjord to 2 Danish Natura 2000 plans.

SEA of Water plans.

SEA of waterframework plans.

4. Experience with the strategic impact assessment procedure in 2013–2015

II.5. Has your country experienced substantial difficulties in interpreting particular terms (or particular articles) in the Protocol?:

(a) No

(b) Yes (please indicate which ones):

II.6. How does your country overcome the(se) problem(s), if any, for example by working with other Parties to find solutions? Please provide examples:

II.7. With regard your country's experience with domestic procedures, 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. Please detail:

(a) Has your country carried out monitoring according to article 12 and, if so, for what kinds of plans or programmes (cite good practice cases or good practice elements (e.g., consultation or public participation), if available)? The monitoring is standard procedure.

(b) Would your country like to present a case to be published on the website of the Convention and its Protocol as a "case study fact sheet"?:

(i) No

(ii) Yes (please indicate which ones):

II.8. With regard your country's experience with transboundary procedures, 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. Please detail:

(a) What difficulties has your country experienced in relation to translation and interpretation, and what solutions has your country applied?: The translation is dealt with on a case by case basis. In our neighbour countries Sweden and Norway, there is no need

for translation as we all speak Scandinavian languages which are understandable for each other.

(b) What does your country usually translate as a Party of origin?: If there is transboundary issues there will be a summary of the SEA report in English with focus on the transboundary issues. Depending on the case and the dialogue with and wishes from the possible affected parties there might also be a translation into the affected party's national language.

(c) Has your country carried out transboundary public participation according to article 10, paragraph 4?:

(i) No

(ii) Yes (please indicate how): Yes, if there are transboundary issues there will always be given the possibility to have a consultation according to article 10 para 4. This possibility will typically be included in the notification letter that Denmark sends as Party of origin. If the affected party wants to participate, the details about the meeting will be arranged in dialogue with the affected party (point of contact and relevant authorities in both countries) The experience with Denmark as Party of origin has been positive so far. In one resent case Denmark has received a great number of comments from the public in the affected Party. It also happens that there is no interest from the affected Party (-ies). Denmark has also participated as Affected Party. This has generally been a positive experience, too. There have in at least one case been some difficulties schedualling the consultation meeting, the process of finding a day lasted about half a year. Denmark has not yet experienced complaints about the procedure from the public either as an affected Party nor as a Party of origin.

(d) What has been your country's experience of the effectiveness of public participation?:

(e) Does your country have examples of organizing transboundary SEA procedures for joint cross-border plans and programmes?:

(i) No

(ii) Yes (please describe):

5. Experience regarding guidance in 2013–2015

II.9. Are you aware of any use in your country of the online *Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment* (ECE/MP.EIA/17)?¹:

- (a) No:
- (b) Part of it (Please specify):
- (c) Yes (please describe your experience):

Your comments on how the Guidance might be improved or supplemented:

6. Awareness of the protocol

II.10. Does your country see a need to improve the application of the Protocol in your country?:

- (a) No:
- (b) Yes Please describe how your country intends to improve application of the Protocol: Case by case, the practise will improve and this will be reflected in the national procedures. New themes for SEA will develop and therefore call for adopted procedures.

7. Suggested improvements to the report

II.11. Please provide suggestions for how this report may be improved:

¹ Available from http://www.unece.org/env/eia/pubs/sea_manual.html.