

Questionnaire for the preparation of Good practice recommendations on the application of the Espoo Convention to nuclear energy-related activities

Please complete by 11 January 2016

In 2014, at its sixth session, the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) requested the development of good practice recommendations on the application of the Convention to nuclear energy-related activities (see decisions VI/7 and VI/3-II/3) for adoption at its next session in 2017. The activity is undertaken by external consultants (The Environment Agency Austria), in line with terms of reference agreed by the Working Group on EIA and SEA in May 2015, under supervision of an editorial group and with support from the secretariat.

The objective of the present questionnaire is to identify existing good practice on environmental impact assessment (EIA) to nuclear energy-related activities using a step-by-step approach in line with the EIA procedure described in the Convention. Ultimately the aim is to facilitate the exchange of information and thus assist countries in the consistent practical application of the Convention to nuclear energy-related activities.

Please complete and return the questionnaire(s) by e-mail to the consultant to the secretariat: Ms. Andrea Prutsch (Andrea.Prutsch@umweltbundesamt.at), with a copy to the secretariat (eia.conv@unece.org) **no later than by 11 January 2016**. The outcomes of the questionnaire survey will inform the preparation of the good practice recommendations. The rate of response and preliminary outcomes of the survey will be presented to the Bureau at its meeting 19–20 January 2016. A draft document drawing on the survey will be submitted for consideration by the Working Group on EIA and SEA at its meeting in 11–15 April 2016.

When providing information on your country's experience in the application of the Convention to nuclear energy related activities, please indicate in each case whether your country was a Party of origin or affected Party.

The survey targets mainly Parties to the Convention, but also non-Parties, and other national stakeholders (such as NGOs) that have experience in the implementation of the Convention to nuclear energy-related activities. If you represent an international organization you are invited to respond in accordance to your relevant activities and experience with the implementation of the transboundary EIA procedures of the Convention by Governments.

Information on the focal point for the Convention

1. Name and contact information:

Information on the point of contact regarding notification under the Convention

2. Name and contact information (if different from above):

Information on the person responsible for providing the responses:

3. Country:
4. Surname:
5. Forename:
6. Institution/Organisation:
7. Postal address:
8. E-mail address:
9. Telephone number:
10. Fax number:
11. Date on which report was completed:

Please indicate whether your country has been involved in transboundary environmental impact assessment procedures in relation to nuclear energy-related activities as

(a) Party of origin

(b) affected Party

Please list above the transboundary environmental impact assessment procedures in which your country has been involved as a Party of origin and/or affected Party:

Questions on the application of the Espoo Convention to nuclear energy-related activities

Relevant definition

Appendix I (paras. 2 and 3) of the Espoo Convention lists among the activities that are subject to the provisions of the Convention: “nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load)” and “installations solely designed for the production or enrichment of nuclear fuels, for the reprocessing of irradiated nuclear fuels or for the storage, disposal and processing of radioactive waste”. These items have been revised in the second amendment of the Convention adopted in decision III/7: “2. (b) Nuclear power stations and other nuclear reactors, including the dismantling or decommissioning of such power stations or reactors¹ (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load); and 3. (a) Installations for the reprocessing of irradiated nuclear fuel; (b) Installations designed:

- For the production or enrichment of nuclear fuel;
- For the processing of irradiated nuclear fuel or high-level radioactive waste;
- For the final disposal of irradiated nuclear fuel;
- Solely for the final disposal of radioactive waste; or
- Solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site“.

According to the Convention, “proposed activity” means any activity or any major change to an activity subject to a decision of a competent authority in accordance with an applicable national procedure (art. 1, para. (v)).

A. Screening

The purpose of the screening under the Convention is to determine whether a proposed activity or a major change to an activity listed in appendix I to the Convention, is likely to cause a significant adverse transboundary impact. That is, screening will have to determine whether nuclear activities, as well as major changes to existing ones, subject to a decision of a competent authority, (such as upgrades or extensions), fall under the scope of the Convention. In addition, if the proposed activity is not listed in appendix I but both the Party of origin and the potential affected Party(ies) agree that it is likely to cause a significant transboundary impact, the activity will also fall under the Convention.

1. Does your country’s legislation already cover fully the items 2 (b) and 3 related to nuclear energy-related activities of revised appendix I in the second amendment (ECE/MP.EIA/6, decision III/7)?

¹ For the purposes of this Convention, nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.

Please describe differences, if any, between the national legislation as well as practice and appendix I to the Convention, as amended.

2. What is your country's experience in applying national EIA legislation and nuclear legislation to nuclear energy-related activities? Please provide examples of prior experience, if any, that demonstrate good practice and/or describe possible challenges or inconsistencies in the national legislation that may have affected the practical application of the Convention.

Please share your country's experiences as a Party of origin. As affected Party, you may also wish to provide your experience regarding the practice of a Party of origin for activities that have involved your country.

As a Party of origin:

As affected Party:

3. To apply the Convention, does your country consider the construction and operation of a planned nuclear installation as a single nuclear energy-related activity to be assessed (i.e. covering full life cycle extending from the choice of materials to the decommissioning, and including both front- and back ends, such as mining and waste disposal)? Or is the Convention applied separately to the different stages of the process as individual activities; construction, operation, decommissioning, etc.)? Please provide information and specific examples (good practice and/or challenges and lessons learned).

Please share your country's experiences as a Party of origin. As affected Party, you may also wish to provide your experience regarding the practice of a Party of origin for activities that have involved your country.

As a Party of origin:

As affected Party:

4. As a Party of origin, when determining whether a proposed nuclear energy-related activity listed in appendix I is likely to cause a significant adverse transboundary impact (art. 3, para. 1), do you also take into account the likelihood of adverse transboundary impact from accidents beyond the design base?

(a) Yes

(b) No

Please explain the rationale and provide, if available, examples based on national legislation and prior practice on the approach your country follows regarding vulnerability of the activity (exposure and resilience) to accidents and/or disasters, the risk of such accidents/disasters and the implications for the likelihood of

significant adverse effects on the environment and the consideration, if any, of these factors in applying the Convention.

Please share your country's experiences as a Party of origin. As affected Party, you may also wish to provide your experience regarding the practice of a Party of origin for activities that have involved your country.

As a Party of origin:

As affected Party:

5. Based on your country's experience as a Party of origin, please indicate whether you have "screened out" proposed nuclear energy-related activities i.e. not considered them subject to the Convention.

Please explain which activities were screened out and why.

6. Based on your national legislation and practice as a Party of origin, please provide information and specific examples (good practice and lessons learned), if any, on how you define a major change, in other words what are the criteria and considerations taken into account (1) to identify a major change to nuclear energy-related activities listed in appendix I to the Convention and (2) to assess the likelihood of that major change to cause a significant adverse transboundary impact, e.g. in terms of

- (a) Increase in production levels at a nuclear power plant (NPP9);
- (b) Increase in the production or storage of radioactive waste from a facility (not only NPP);
- (c) Extension of the lifetime of a facility;
- (d) Decommissioning of a facility;
- (e) Closure of a long- or medium-term repository for radioactive waste;
- (f) Other (please specify).

7. Please indicate whether according to your national legislation and/or practice, the licences for nuclear activities are issued for a limited time? Please specify.

8. Do you have a standardised procedure in place for determining whether a proposed nuclear energy-related activity is subject to the Convention? How does your country keep record of the reasons that led to that screening decision? Is the screening decision made public? Please provide examples.

Please share your country's experiences as a Party of origin. As affected Party, you may also wish to provide your experience regarding the practice of a Party of origin for activities that have involved your country.

As a Party of origin:

As affected Party:

9. In addition to the information already provided above, as relevant, please describe any other good practices related to screening that your country may have based on its experience as a Party of origin or an affected Party in a transboundary EIA of nuclear energy-related activity or activities.

B. Notification

Notification requires the determination of the potentially affected Parties to be notified under the Convention. For a proposed nuclear energy-related activity listed in Appendix I that is likely to cause a significant adverse transboundary impact, the Party of origin shall, for the purposes of ensuring adequate and effective consultations under Article 5, notify any Party which it considers may be an affected Party as early as possible and no later than when informing its own public about that proposed activity.

As a Party of origin:

10. Which of the following criteria do you apply to determine the potentially affected Parties [All criteria that apply can be ticked]:
- (a) Neighbouring Parties only
 - (b) Parties potentially affected during the normal operation of a planned installation
 - (c) Parties potentially affected in case of a design base accident
 - (d) Parties potentially affected in case of an accident beyond the design base
 - (e) Other (please specify):
11. According to your national legislation and/or practice, what constitutes early notification of the potentially affected Parties under the Convention (i.e. "as early as possible and no later than when informing its own public about that proposed activity"), i.e. when does your country usually notify? In addition to notifying the

Parties your country considers potentially affected, does your country (informally) also inform other Parties about its planned nuclear energy-related activities?

Please provide examples of prior experience, if any that demonstrate good practice and/or challenges and lessons learned.

12. According to your national legislation and practice, what are the minimum information requirements regarding notification of the proposed activity (e.g. type of reactor, thermal and electric output, supplier, etc.) and the accompanying information (e.g. general information about the EIA system of the Party of origin, its permitting system and the decision-making procedure) in terms of new as well as existing facilities?

Please provide examples of prior experience, if any, that demonstrate good practice and/or challenges and lessons learned.

13. Has any other Party considered that it would be affected by a significant adverse transboundary impact of a proposed nuclear energy-related activity listed in appendix I, for which your country did not notify it? Has that Government requested the exchange of information and if yes what were the outcomes of that exchange (art. 3, para. 7)? Has your country refused the participation of a Party in a transboundary EIA procedure? If yes, what were the reasons?

14. Under national legislation and practice, how does your country ensure that opportunities for public participation provided to the public of the potentially affected Party/ies are equivalent to those provided to your public? Please consider, inter alia, the following aspects in your response: In which language do you send the notification including the documentation? How much time do you give to the affected Parties to respond whether they wish to participate in the EIA procedure or not?

Please provide examples of prior experience, if any, that demonstrate good practice and/or challenges and lessons learned.

As affected Party:

15. Has your Government ever considered that your country would be affected by a significant adverse transboundary impact of a nuclear energy-proposed activity listed in appendix I to the Convention, for which no notification was received? If yes, for which activities?

In such cases has your Government requested the exchange of information with the Party of origin and if yes, please explain the reasons and what were the outcomes of that exchange (art. 3, para. 7)? Please provide a list of nuclear energy-related activities in which you have requested participation as a potentially affected Party and explain the rationale.

16. Has the public in your country ever considered itself potentially affected by a proposed nuclear energy-related activity in the territory of another Party (Party of origin), in the following cases:

(a) Your country has not been notified and the public requested participation in the transboundary EIA procedure regarding the proposed activity.

Please provide examples, if any, that demonstrate good practice and/or challenges and lessons learned in addressing the concerns and requests of your own public in such a situation.

(b) Your country was notified by the Party of origin, but decided not to participate in the transboundary EIA. Please provide examples, if any, that demonstrate good practice and/or challenges and lessons learned in addressing the concerns and requests of your own public in such a situation.

17. From the affected Party's point of view, please describe what constitutes a good notification procedure? Please provide examples based on your country's experience, if any.

C. Environmental impact assessment documentation

The environmental impact assessment documentation to be submitted to the competent authority of the Party of origin shall contain, as a minimum, the information described in Appendix II. The Party of origin shall furnish the affected Party, as appropriate through a joint body where one exists, with the environmental impact assessment documentation. The concerned Parties shall arrange for distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity.

18. Based on your country's experience as Party of origin and/or as affected Party in the application of the Convention to nuclear energy-related activities, please indicate what are the key issues that, should be included in the EIA documentation.

Please describe your country's experience and provide examples that would demonstrate good practice and/or lessons learned, while specifying whether this is from a perspective of a Party of origin or as an affected Party regarding in particular, the following aspects:

- (a) The determination of the level of details of the EIA documentation regarding the information required in appendix II in order to allow for good understanding of its content, and thus meaningful commenting from and consultations with competent authorities and the public;

-
- (b) The description of the potential significant transboundary impacts of major accidents and/or, where appropriate and to what extent, disasters relevant to the proposed activity, on the basis of appendix II, item (d), of the Convention could go beyond design-based accidents;

 - (c) The description of the potential transboundary impacts stemming from external events (e.g. flooding, earthquakes) - also taking into account the influence of climate change- ; from other factors such as shortage of cooling water; as well as from security events (e.g. terrorist attacks) – without jeopardizing the appropriate implementation of the regulations about the security of information;

 - (d) The description of measures to address major accidents and/or disasters relevant to the proposed activity (as described above), on the basis of appendix II, item (e), of the Convention; the description of emergency preparedness arrangements; as well as related monitoring programmes;

 - (e) The alternatives in addition to the no-action alternative, e.g. alternative locations, technologies, alternative means of energy production or of balancing demand and supply;

 - (f) The issue of the possible cumulative impacts of multiple installations, and the need to include their associated cumulative risk in the EIA documentation;

 - (g) The relationship between environment and safety and how both environment and safety concerns can be considered in a comprehensive and consistent manner in the EIA documentation. As a Party of origin, please indicate, if relevant, which national experts and authorities your country consults in order to incorporate the consideration of the safety aspects in the EIA documentation;

 - (h) The proper dissemination of the EIA documentation to the affected Party's population (as a Party of origin) (e.g. accessibility on the internet);

19. Please provide your country's experience as a Party of origin or as affected Party regarding the preparation and dissemination of a non-technical summary of the highly technical and very large EIA documentation, specifying its contents, level of detail and language.

20. Based on your legislation and practice, please describe the timing of the preparation of the EIA documentation as part of the transboundary EIA procedure within the national decision-making procedure regarding the planned nuclear energy-related activities. Please explain in particular, whether as the Party of origin or affected Party you have experienced that the level of detail or the accuracy of the information of the EIA documentation available was sufficient.

Please provide examples of prior experience, if any, that demonstrate good practice and/or challenges and lessons learned.

As a Party of origin:

As affected Party:

21. Please indicate from the affected Party's point of view what are the specific issues that should be addressed in the EIA documentation regarding nuclear energy related activities?

D. Public participation

Under the Convention, the public of the affected Party has the right to make comments on and to express objections to proposed activities (art. 3, para. 8 and art. 4, para. 2). The Parties concerned need to ensure that opportunities provided to the public of the affected Party are equivalent to those of the Party of origin (art. 2, para. 6). Nuclear activities often attract a high level of public interest.

22. With reference to the national legislation and practice regarding public participation in the transboundary EIA procedure, please provide examples of prior experience as a Party of origin and/or as an affected Party in relation to nuclear energy-related activities, if any, that demonstrate good practice and/or challenges and lessons learned in respect of the:

(a) Stage of involvement of the public in the procedure – please also specify whether the public is involved in different stages of the transboundary EIA procedure or only in one stage;

As a Party of origin:

As affected Party:

- (b) Ways and means of public participation and the information provided (e.g. how invited, deadlines, oral v. written possibilities to provide views or objections);

As a Party of origin:

As affected Party:

- (c) Timing and duration;

As a Party of origin:

As affected Party:

- (d) Translation (e.g. which languages; which documents or parts of documents, quality assurance, cost aspects);

As a Party of origin:

As affected Party:

- (e) Documentation of the outcomes (e.g. reports/minutes of the public hearings) of the procedures (available also after the procedure has been finished);

As a Party of origin:

As affected Party:

- (f) According to your prior experience, what have been the most common issues of concern and high interest for the public (and the authorities)?

As a Party of origin:

As affected Party:

23. Under national legislation and/or practice, what are the respective roles and responsibilities of the competent authorities both in the Party of origin and the affected Party and the developer in the public participation procedure?

Please provide examples from your experience in the application of the Convention to the nuclear energy-related activities that demonstrate good practice and/or challenges and lessons learned.

24. As a Party of origin, have you offered to contribute in the organization/cost sharing of a public participation (e.g. public hearing) in the territory of an affected Party, or done so if requested, or have you proposed to invite the public of an affected Party for the purposes of public participation to your own territory?

Please describe your experiences, if any, with concrete examples that demonstrate good practice and/or challenges and lessons learned.

25. As an affected Party, has a Party of origin participated in the organization/cost sharing of a public participation (e.g. public hearing) in your territory or has it invited your public to take part in a public participation organised in its own territory? (At its own initiative or when demanded?).

Please describe your experiences, if any, with concrete examples that demonstrate good practice and/or challenges and lessons learned.

26. Please describe what are the elements of a good public participation process under the Convention (which notably should allow that the opportunity provided to the public of the affected Party to participate in the transboundary EIA procedure is equivalent to that provided to the public of the Party of origin).

27. According to your experience, as a Party of origin or affected Party, please provide examples on how you have determined “a reasonable time before the final decision is taken on the proposed activity” for the authorities and the public of the affected Party in the areas likely to be affected to submit comments (art. 4, para. 2).

E. Consultations on the basis of the environmental impact assessment documentation

The Party of origin shall, after completion of the environmental impact assessment documentation, without undue delay enter into consultations with the affected Party concerning, inter alia, the potential transboundary impact of the proposed activity and measures to reduce or eliminate its impact.

28. As a Party of origin and/or as affected Party, please provide examples of prior experience with consultations between the authorities involved in a transboundary EIA procedure regarding nuclear-energy related activity, if any, that demonstrate good practice and/or challenges and lessons learned with respect to consultations on nuclear energy-related activities, in respect of the

(a) Ways of and means for consultations (e.g. written forms, meetings);

As a Party of origin:

As affected Party:

(b) Timing and duration of the consultations;

As a Party of origin:

As affected Party:

(c) Participants of the consultations; which authorities and bodies from the affected Party and the Party of origin participate and whether the developer takes part;

As a Party of origin:

As affected Party:

(d) Material of the consultations (e.g. EIA documentation and further requested information from the Party of origin); including information regarding safety and security measures (taking into account article 2, paragraph 8 of the Convention);

As a Party of origin:

As affected Party:

(e) Organizational issues (e.g. agenda and minutes/report of the consultations, translation and interpretation, including financial issues arising therefrom);

As a Party of origin:

As affected Party:

- (f) Information provided to the affected Parties regarding the outcomes of the consultations and their use (Publication of the results from bilateral consultations by the Party of origin and the affected Party);

As a Party of origin:

As affected Party:

- (g) Ways of forwarding the outcome to the final decision-making procedure according to article 6 of the Convention;

As a Party of origin:

As affected Party:

- (h) Potential role of the International Atomic Energy Agency's (IAEA) Site and External Events Design (SEED) Review Service in ensuring that the best available option is selected for the nuclear-energy development;

As a Party of origin:

As affected Party:

- (i) Please indicate what constitutes the elements of a good consultation process?

F. Examination of the information gathered and final decision

The Party of origin shall provide to the affected Party the final decision on the proposed activity along with the reasons and considerations on which it was based.

29. Under your national legislation and/or practice, is the outcome of an EIA procedure with regard to the national subsequent licensing procedure
- (a) binding (implies an instruction on the right to appeal) or
- (b) not binding

Please check the relevant box and provide examples, if any, of good practice and/or lessons learned and challenges arising from existing legislation and practice.

30. Under your national legislation and/or practice the development consent (or the final decision on the proposed activity Art. 6 Espoo of the Convention):

(a) corresponds to the license related to the nuclear activity or

(b) is complemented by another act which is the final license

In providing your response, please also explain how the outcomes of the transboundary EIA procedure of a nuclear energy-related activity are taken into account in your country.

31. With regard to taking into account all information gathered for the final decision, please provide information on your national legislation and/or practice possibly supported by specific examples regarding the application of the Convention to nuclear energy-related activities that demonstrate good practice and/or challenges and lessons learned on the below listed aspects.

Please share your country's experiences as a Party of origin.

As affected Party, you may also wish to provide your experience regarding the practice of a Party of origin for activities that have involved your country.

(a) Transparency, clarity and publication (how and when) of the final decision. Please specify which decision under national legislation is the final decision under article 6 of the Convention;

As a Party of origin:

As affected Party:

(b) Consideration of comments received from public participation and through consultation of the authorities (both from the Party of origin and potentially affected countries), including impact of strong criticism and negative comments on the proposed activity (e.g. its features, technology used, approach, etc.);

As a Party of origin:

As affected Party:

(c) Review procedure before a court of law or another independent body established by law (who is Party; citizens and/or NGOs of the affected Party or/and the Party of origin);

As a Party of origin:

As affected Party:

G. Post-project analysis

The concerned Parties, at the request of any such Party, shall determine whether, and if so to what extent, a post-project analysis shall be carried out, taking into account the likely significant adverse transboundary impact of the activity for which an environmental impact assessment has been undertaken pursuant to this Convention. Post-project analysis undertaken shall include, in particular, the surveillance of the activity and the determination of any adverse transboundary impact. Such surveillance and determination may be undertaken with a view to achieving the objectives listed in Appendix V.

32. Does your national legislation provide for post-project analysis for nuclear energy-related activities? If yes, please provide information on how this is determined, whether environmental monitoring is included as well as specific examples (good practice and lessons learned), if any, on the post-project analysis process carried out for a nuclear energy-related activity, following the requirements of appendix V to the Convention.

33. Does your national legislation and/or practice provide for procedures to monitor the environment in relation to nuclear energy-related activities, whether within or outside any post-project analysis?

Please describe your country's experiences, if any, with concrete examples that demonstrate good practice and/or challenges and lessons learned. Please also describe the consequences of the monitoring results – in other words, do the monitoring results affect project implementation and, if yes, how?

34. As a Party of origin, does your country make environmental radiation monitoring programmes available to the affected Party?

35. Given the long life span of a nuclear energy-related activity (e.g. a nuclear power plant is operating for at least 40 years before it is decommissioned), do you have any experience as a Party of origin or affected Party where new risks, industrial accidents concerns or emergency preparedness and action plans had to be considered (operational phase, decommissioning) in the post-project analysis relating to a nuclear energy-related activity?

Please describe your experience with specific examples (good practice and lessons learned) on the process.

-
36. As a Party of origin or affected Party, please provide information on the national legislation and/or practice regarding public consultation in post-project analysis. What are the lessons learned and experience gained, if any?

Please give possible examples where previous experiences influenced subsequent transboundary EIA procedures of related activities.

Bilateral agreements for the implementation of the Convention

37. Based on your experience as a Party of origin or as an affected Party, please provide good practice examples or lessons learned, if any, regarding the application of bilateral agreements to nuclear energy- related activities, e.g. in terms of procedures, language and translation issues, the documentation provided to the public, deadlines, cost-sharing, etc.