

Convention on EIA in a Transboundary Context

Workshop on transboundary projects

– Geneva, 27 April 2005 –

This short paper does not constitute a thorough and encompassing account of all aspects related to transboundary projects. Rather, it shall provide an initial input for the workshop. The paper shall be revised based on the outcome and the conclusions drawn at the workshop. Although a transboundary project can span more than two countries, this short paper concentrates on the most common case of two involved Parties.

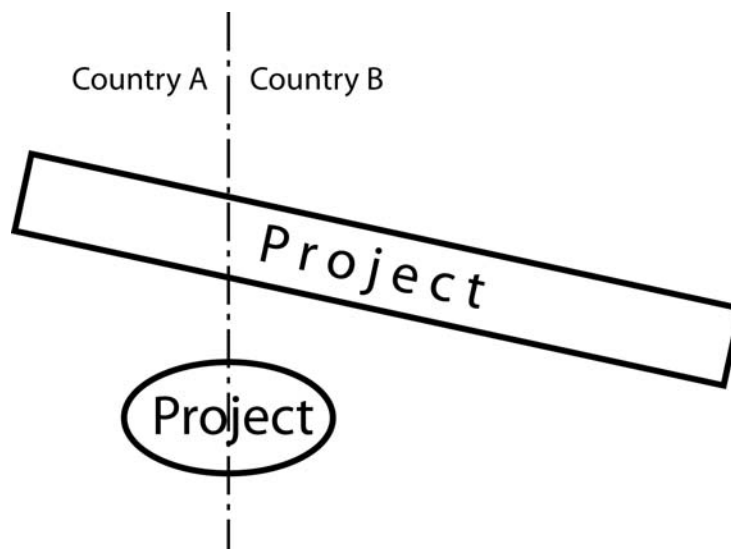
Focus and goal of the workshop

The Meeting of the Parties, held in Cavtat in June 2004, decided that a series of workshops should be held in conjunction with meetings of the Working Group on EIA. The workshops should focus on practical matters related to the implementation of the Convention. The first workshop centres on transboundary projects, i.e. projects that span across national borders.

This first workshop seeks to provide a means to exchange views and experiences regarding transboundary projects. It does so through presentations by country representatives on their own experiences, as well as through the ensuing discussions.

Transboundary projects

Transboundary projects form a special case of projects with transboundary impacts. They span across borders, implying in most cases that decisions on the project are taken on both sides of the border, i.e. there is more than one Party of origin, and Parties of origin are at the same time also affected Parties, as the project component in country A may likely have potential transboundary impacts in country B.



Dealing with transboundary projects

The “Guidance on the Practical Application of the Espoo Convention” provides thorough advice on the implementation of the Espoo Convention. This advice is equally valid for transboundary projects (in addition, see also chapter 3.3 on joint EIA in the guidance). Information that is equally important can also be found in the “Guidance on Public Participation in EIA in a Transboundary Context” and the “Guidance on Subregional Cooperation” (<http://www.unece.org/env/eia/cavtat.htm>).

The focus below is thus on the particularities of transboundary projects. The account is based on the assumption that a transboundary project cannot be realized unless there is rigorous coordination among the project proponents, the developers and the authorities on both sides of the border.

1. Coordination of Consent Procedures

The coordination of consent procedures in countries A and B, while outside the scope of the Espoo Convention, is most crucial to the success of transboundary projects. This requires an early contact between the decision-making authorities on both sides of the border.

2. Notification

Two primary options exist:

- Both Parties notify each other:

The reasoning being, that either part of the project implies potential transboundary impacts on the other side of the border.

- Neither of the two Parties notify each other:

This implies that the decision-making procedures in both countries, including the EIA, and the elaboration of the EIA documentation are thoroughly coordinated across the border.

In particular cases, only one Party may notify (e.g. due to a time lag in the approval procedures).

3. EIA Documentation

Four approaches may be proposed here (there are of course other options which will certainly be put forward in the course of the workshop):

- 1) For projects of a limited geographical scope, located on the border (e.g. a bridge across a border or a hydropower plant on a river forming the border between two countries):

A common or joint EIA document is elaborated for the entire project, with possible adjustments in the scope of the EIA document in line with the legal requirements in either country (as an example, country A may require a separate chapter on the impact of the project on the climate (CO₂), whereas country B may not have such a requirement).

If translation is necessary, this would be done for the entirety of the EIA-document, with the possible exception of particular chapters referred to above.

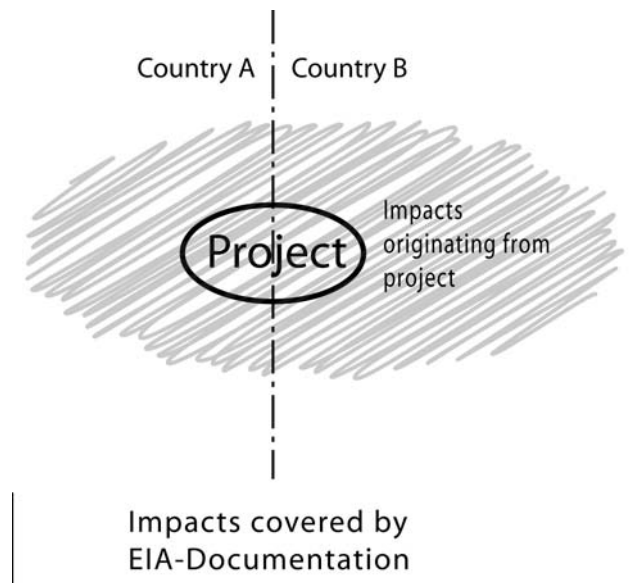


Figure 1 :
One EIA document, addressing all the impacts of the project

II) For projects of an extended geographical scope, spanning the border and reaching well beyond it (e.g. a freeway or a gas pipeline):

[A] (Same approach as for projects of a limited geographical scope.)

A common EIA document is elaborated for the entire project, with possible adjustments in the scope of the EIA-document in line with the legal requirements in either country.

To make the pursuit of this approach possible, the status of project elaboration in the two countries needs to be the same or at least very similar.

This approach facilitates a full consideration of environmental impacts across the border, covering the whole geographical area concerned. It may also encourage the consideration of alternatives involving both sides of the border.

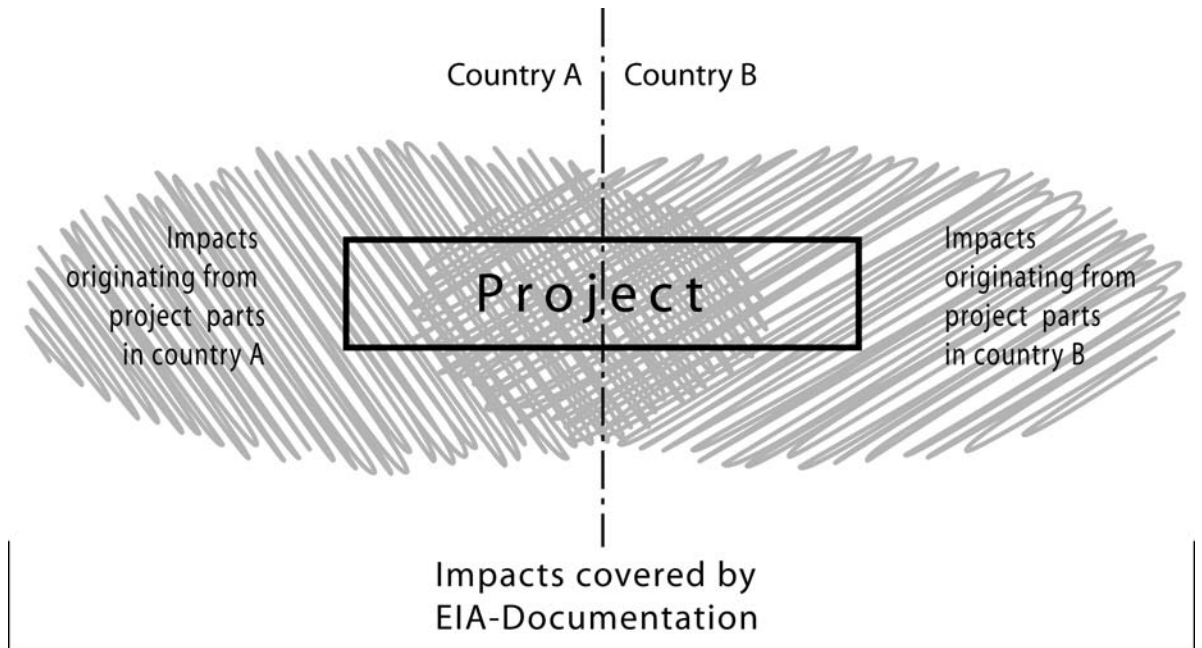


Figure II.A :

One EIA document, addressing all the impacts of the project

- [B] For each country a separate EIA document is elaborated which covers all impacts of the project in that country – irrespective of which side of the border the part of the project is located that causes the impacts.

This approach requires that the decision-making authorities in countries A and B regard the project components in both countries as forming one common project – they may thus also abstain from notifying each other.

This approach also requires a very thorough coordination of the drafting of the EIA documentation. Ideally, the authors of the EIA documentation form a group that works together across borders and have access to all the sites and all the necessary information on both sides of the border.

Tied to this approach is the risk that the EIA documentation for country A only features impacts caused by project components in country A.

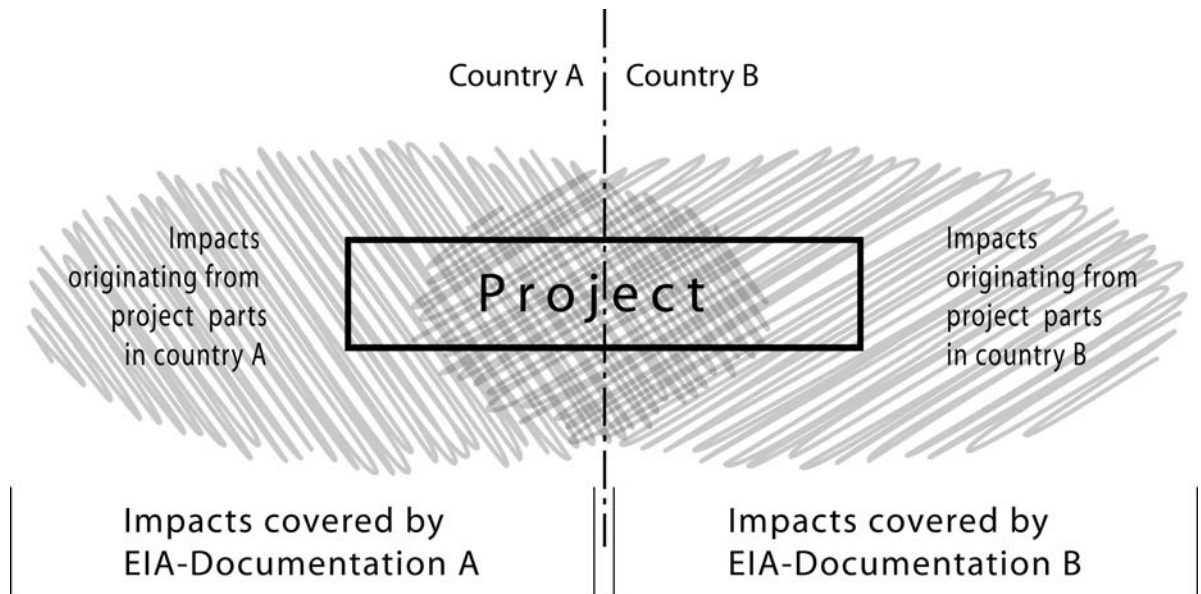


Figure II.B :

Two EIA documents, each addressing the impacts of the whole project on either country A or B

- [C] Separate EIA documents are elaborated on each side of the border: The EIA document for country A covers all impacts of the project component located in country A on countries A and B. The decision-making authorities in countries A and B deal with the project components in their own countries independently – a mutual notification is necessary.

This approach allows for a greater independence in the decision-making procedures and in the drafting of the EIA documentation in countries A and B. It is well suited for cases where the project component on one side is reaching maturity before the project component on the other side does so – but coordination across borders is highly advisable also for this case.

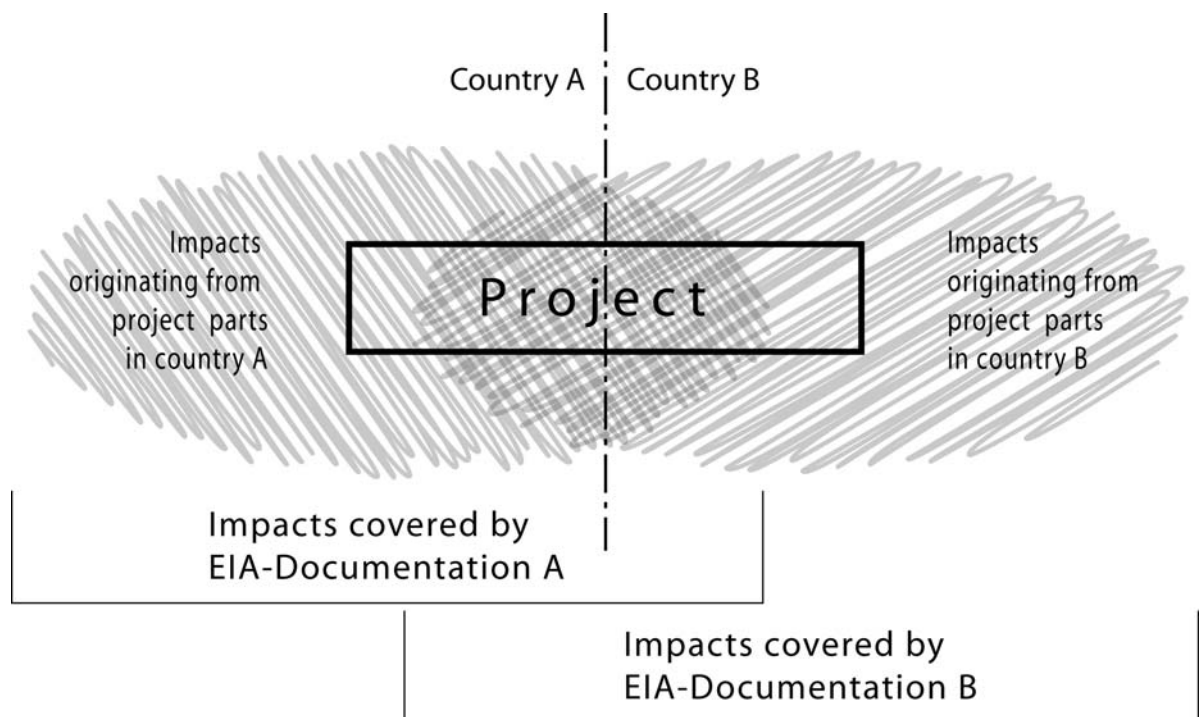


Figure II.C :

Two EIA documents, each addressing the impacts of the project component in one country on both countries

4. Participation of Public and Authorities / Language

The EIA document must be written in the language used by the public and the authorities that are to be consulted.

Where a translation is necessary, documents provided to the public and authorities on the other side of the border should be translated in line with the advice given in the “Guidance on the Practical Application of the Espoo Convention” (chapter 2.6.4 “Translation of documents”).

Examples / Country presentations

(short summaries provided by speakers)