



Transboundary EIA and SEA, related challenges, and examples

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1992

Rio Declaration on Environment and Development: Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority. Principle 17

EU4Environment

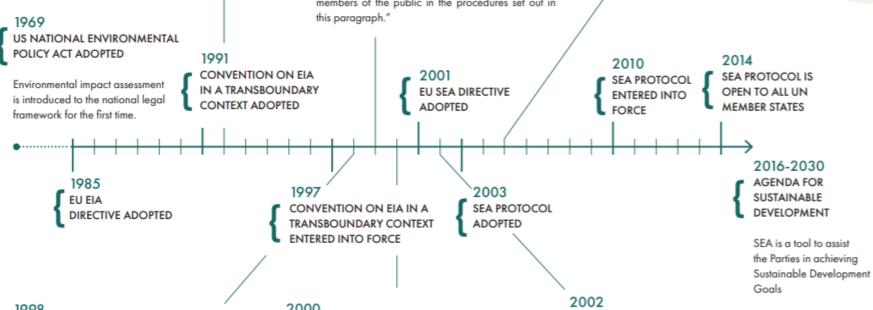
Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova, Ukraine

1999

The Third Ministerial Conference on Environment and Health agrees that, "We will carry out environmental impact assessments fully covering impacts on human health and safety. We invite countries to introduce and/or carry out strategic assessments of the environment and health impacts of proposed policies, plans, programmes and general rules. We invite international financial institutions also to apply these procedures. There will be appropriate participation of non-governmental organizations (NGOs) and members of the public in the procedures set out in

2005

The Paris Declaration commits donors and their partner countries to "Strengthen the application of EIAs and deepen common procedures for projects, including consultations with stakeholders; and develop and apply common approaches for 'strategic environmental assessment' at the sector and national levels."



1998

The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, adopted in the Danish city of Aarhus, mandates public participation under the environmental impact assessments.

2000

The United Nations adopt the Millennium Development Goals, including #7: "Integrate the principles of sustainable development into country policies and programmes and reverse the loss of environmental resources."

The Johannesburg Plan of Implementation agreed at the World Summit on Sustainable Development in 2002, stresses the importance of strategic frameworks and balanced decision making as fundamental requirements for advancing the sustainable development agenda.





The key challenge? Linguistic regime and translation practices

- Criticism that the Convention & Protocol do not specify a language/ translation regime.
- Problems with:
 - Quality of translation: difficult to QC; barrier to actor involvement.
 - Not enough material translated.
 - Need to translate into additional language(s).
 - Receipt of consultation responses in foreign language.
 - Delays/barriers to participation and additional costs caused by a lack of/poor translation.

""a permanent source of trouble and discussions" Germany, SEA Protocol, Second Review, 2013-2015.





Transboundary EIA – Reported challenges Interpreting the Convention

- Difficulties in identifying which decision constitutes the 'final decision', because multiple decisions may be involved in permitting and licensing systems.
- Difficulties in determining whether or not an activity, and in particular a modification to an existing activity, fell under the provisions of the Espoo Convention.
- A lack of clarity over time frames for carrying out public participation and consultation.
- A lack of clarity over whether transboundary environmental impacts should be considered under the Party of origin's or the affected Party's legislation.





Transboundary EIA – Reported challenges National differences outside of the Convention's provisions

Differences between the procedural and methodological practices in the Party of origin and affected Party

- Legal status of consultation responses can differ under the domestic legislation
 of the concerned Parties, which may lead to differing expectations about the
 way that responses should be handled (Poland).
- Pronounced differences in national expectations (e.g. for the types of methods and level of detail that are appropriate), limit values, etc. (Denmark).





Transboundary SEA – Reported challenges

- Different interpretations of legal provisions (e.g. "set the framework for future development consent" in article 4 (2)) and difficulties interpreting specific terms (e.g. "small areas at local level" and "minor modifications").
- Considerable differences regarding opportunities provided to the public concerned to participate in screening and scoping.
- Challenges in relation to considering health impacts and consultation with health bodies.





Transboundary EIA & SEA Potential Solutions

- Use of bi- or multi-lateral agreements specifying language regime and translation responsibilities.
- Guidance (new and updated guidance (e.g. on monitoring, on language & translation), case studies, SEA examples, etc.
- Early contact to establish a sound basis for cooperation.
- Raise awareness about the Protocol.