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# Transboundary EIA and SEA, related challenges, and examples

*Subregional Workshop on the Practical Application of SEA and Transboundary EIA, 26 – 27 October 2020*

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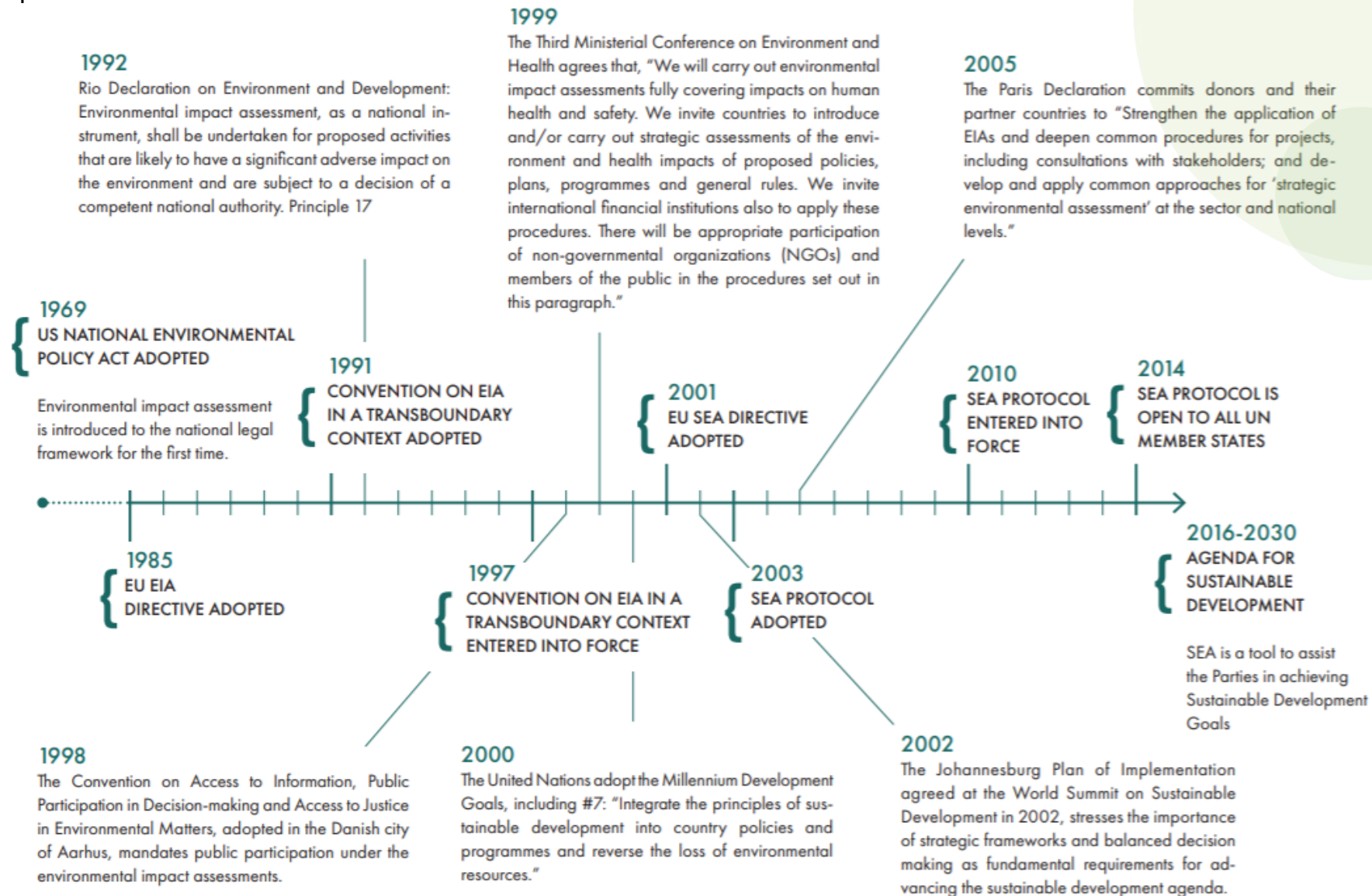




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## The key challenge? Linguistic regime and translation practices

- 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.



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## 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.



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## 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).



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## 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.



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## 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.