

COUNCIL**Council****REPORT ON THE IMPLEMENTATION OF THE OECD
RECOMMENDATION ON THE ASSESSMENT OF PROJECTS, PLANS AND
PROGRAMMES WITH SIGNIFICANT IMPACT ON THE ENVIRONMENT****(Note by the Secretary-General)****JT03544362**

1. This document presents, in its Annex, a Report by the Environment Policy Committee (EPOC) on the implementation of the OECD Recommendation on the Assessment of Projects, Plans and Programmes with Significant Impact on the Environment [[OECD/LEGAL/0172](#)] (hereafter, the Recommendation), including on the implementation of its substantive provisions, its dissemination and continued relevance. The Report also includes conclusions on whether the Recommendation requires revision or whether further actions to support its dissemination and implementation are necessary.
2. EPOC approved the Report and its transmission to Council to be noted and declassified by written procedure on 30 April 2024. Once declassified, it will be included on the [online Compendium of OECD legal instruments](#).

Background

3. The Recommendation was adopted by the Council on 8 May 1979 [C(79)116 and C/M(79)11] to encourage Members and non-Members having adhered to it (hereafter the Adherents) to use environmental assessment for individual projects (facilities and infrastructure). It was revised by the Council on 14 November 2019 [[C\(2019\)135](#) and [C/M\(2019\)15](#)] on the proposal of EPOC to integrate environmental assessment of plans and programmes in line with the practice and to strengthen the provisions on the application of the prevention principle to environmental assessment. Accordingly, the Recommendation was renamed the Recommendation on the Assessment of Projects, Plans and Programmes with Significant Impact on the Environment.
4. Since its adoption, the Recommendation has become one of the fundamental pillars of the set of OECD legal instruments in the area of the environment. Environmental impact assessment (EIA) is a cornerstone of environmental policies – a process of systematic analysis and evaluation of environmental impacts of a proposed activity, consultation with affected parties and development of measures to mitigate the identified negative impacts in implementing the activity. EIA-related provisions are found in other OECD legal instruments, including those related to coastal zone management, energy, transport and tourism.
5. The Recommendation provides for environmental assessment as part of the planning, development and decision-making process for projects, plans and programmes and emphasises the need for consideration of reasonable alternatives, stakeholder engagement and public participation, as well as follow-up on measures derived from the assessment. It also recommends environmental assessment in a transboundary context. The Recommendation is open to non-Member adherence. Adherents to the Recommendation include all OECD Members and Bulgaria (which adhered to it in 2021).
6. The Recommendation instructs EPOC to “monitor the implementation of this Recommendation and report thereon to the Council no later than five years following its adoption and at least every ten years thereafter”. No prior implementation reporting has been done for this Recommendation. This Report was developed to provide an assessment of key activities undertaken to disseminate and implement the Recommendation, as well as of its continued relevance.

Methodology

7. The main tool to collect information on the implementation, dissemination and continued relevance of the Recommendation was OECD [Environmental Performance Reviews](#) (EPRs). It was used to avoid duplication of work and facilitate information collection. Each EPR contains a section on environmental assessment that evaluates the reviewed country’s performance in the assessment of environmental impacts of projects, plans and programmes. As environmental assessment practices do not change rapidly in individual countries, EPRs of Adherents conducted since 2010 have been used to prepare this Report. The EPR analysis was complemented by literature research on environmental assessment

legislation and practices among the Adherents, including European Union (EU) [Member State reports](#) to the European Commission. In addition, the information for Bulgaria was drawn from the country's submissions as part of its accession review process.

Process

8. As the Working Party on Environmental Performance (WPEP) oversees EPRs which have been the main source of information for this Report, the WPEP discussed the Report at its meeting on 23-25 January 2024 [[ENV/EPOC/WPEP/A\(2024\)1/REV1](#), item 2] and provided written comments. On 4 March 2024, the WPEP agreed, through written procedure, to transmit the Report, revised to reflect comments received [[ENV/EPOC/WPEP\(2024\)5/REV1](#)], to EPOC for approval. EPOC approved the Report by written procedure on 30 April 2024. Once noted and declassified by Council, a link to the approved Report will be included on the [online Compendium of OECD legal instruments](#).

Summary

Implementation

9. Overall, most Adherents implement the Recommendation's provisions. However, some Adherents have important implementation gaps, particularly with respect to sectoral coverage of environmental assessment of projects, plans and programmes, consideration of alternatives, and public participation. Adherents face considerable implementation challenges in implementing environmental assessment of plans and programmes. These challenges need to be addressed through improvements in the national regulatory frameworks and implementation practices, particularly at the local level. Additional efforts are desirable to promote better implementation of this legal instrument, including through consistent EPR recommendations.

Dissemination

10. The dissemination activities by both the Secretariat and the Adherents have so far been inadequate. This is partly because environmental assessment is a 50-year-old concept that most Adherents see as a basic element of their regulatory frameworks. The linkages between EPRs and OECD standards in the area of the environment remain tenuous. Better integration of the Recommendation's provisions in EPRs is one of the primary ways to improve dissemination.

Continued relevance

11. The Recommendation continues to be relevant, particularly in areas where implementation gaps persist. These, for most Adherents, include the implementation of environmental assessment of plans and programmes and, for some Adherents, the coverage, consideration of alternatives and public participation as part of the EIA framework. No further revisions are necessary at this time.

12. Accordingly, the EPOC will continue to support Adherents to implement the Recommendation and it is proposed to report back to the Council on the implementation, dissemination and continued relevance of the Recommendation in 10 years. The rationale for a longer reporting period is that the evolution of regulatory provisions and implementation practices on environmental assessment is slow. An earlier report to Council would be prepared if changes in the field warrant it.

Proposed action

13. In light of the above, the Secretary-General invites the Council to adopt the following draft conclusions:

THE COUNCIL

- a) noted document [C\(2024\)93](#), in particular the Report set out in its Annex, and agreed to its declassification;
- b) encouraged Adherents to the Recommendation to:
 - (i) disseminate and continue to implement the Recommendation;
 - (ii) address the challenges identified in the conclusions of the Report;
- c) invited the Environment Policy Committee, through the Working Party on Environmental Performance to:
 - (i) support Adherents in addressing the main challenges set out in the conclusions of the Report, including through Environmental Performance Reviews;
 - (ii) report back to Council on the implementation, dissemination and continued relevance of the Recommendation in ten years or earlier, if developments in the field warrant it.

Annex. Report on the implementation of the OECD Recommendation on the Assessment of Projects, Plans and Programmes with Significant Impact on the Environment

1. Background

1. The Recommendation on the Assessment of Projects with Significant Impact on the Environment [[OECD/LEGAL/0172](#)] (hereafter the Recommendation) was adopted by the OECD Council on 8 May 1979 [C(79)116 and C/M(79)11] to encourage Members and non-Members having adhered to it (hereafter the Adherents) to use environmental assessment for individual projects (facilities and infrastructure). Since the adoption of the Recommendation, the use of environmental assessment has expanded globally and increasingly encompasses public plans and programmes along with development projects.

2. The Recommendation was revised by the Council on 14 November 2019 [[C\(2019\)135](#) and [C/M\(2019\)15](#)] on the proposal of the Environment Policy Committee (EPOC) to integrate environmental assessment of plans and programmes in line with the practice and to strengthen the provisions on the application of the prevention principle to environmental assessment. Accordingly, the Recommendation was then renamed the Recommendation on the Assessment of Projects, Plans and Programmes with Significant Impact on the Environment.

3. Since its adoption, the Recommendation has become one of the fundamental pillars of the set of OECD legal instrument in the area of environment. Environmental impact assessment (EIA) is a cornerstone of environmental policies – a process of systematic analysis and evaluation of environmental impacts of a proposed project, consultation with affected parties and development of measures to mitigate the identified negative impacts in implementing the project. EIA-related provisions are found in other OECD legal instruments, including those related to coastal zone management, energy, transport and tourism.¹

4. The Recommendation provides for environmental assessment as part of the planning, development and decision-making process for projects, plans and programmes and emphasises the need for consideration of reasonable alternatives, stakeholder's engagement and public participation, as well as follow-up on measures derived from the assessment. It also recommends environmental assessment in a transboundary context. The Recommendation is open to non-Member adherence. Adherents to the Recommendation include all OECD Members and Bulgaria, which adhered to it in 2021.

¹ Recommendation on Integrated Coastal Zone Management [[OECD/LEGAL/0268](#)], Recommendation on the Reduction of Environmental Impacts from Energy Use in the Household and Commercial Sectors [[OECD/LEGAL/0157](#)], Recommendation on Assessment and Decision-Making for Integrated Transport and Environment Policy [[OECD/LEGAL/0325](#)], Recommendation on Environment and Tourism [[OECD/LEGAL/0171](#)].

2. Methodology

5. The main tool used to collect information on the implementation, dissemination and continued relevance of the Recommendation was [Environmental Performance Reviews](#) (EPRs). This has helped to avoid duplication of work and facilitate information collection given the lack of resources for producing this Report. Each EPR contains a section on environmental assessment that evaluates the reviewed country's performance in the assessment of environmental impacts of projects, plans and programmes. As environmental assessment practices do not change rapidly in individual countries, EPRs of Adherents conducted since 2010 have been used to prepare this Report. The EPR analysis was complemented by literature research on environmental assessment legislation and practices among the Adherents, including European Union (EU) [Member State reports](#) to the European Commission. In addition, the information for Bulgaria was drawn from the country's submissions as part of its accession review process.

3. Implementation

6. This section assesses the implementation of each of the eight policy recommendations set out in the Recommendation.

3.1. Use of environmental assessment

I. RECOMMENDS that Adherents:

1. Use environmental assessment as part of the planning, development and decision-making process for projects, plans and programmes having potentially significant impact on the environment.
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7. EIA of projects is the only environmental policy tool that is required by most countries around the world and whose results are regularly publicly acknowledged and available. EIA aims at predicting and preventing harm to the environment from development projects, and informing decision making as to whether a specific activity should go ahead, and if so, how to minimise its environmental impact. Since EIA was first used more than 50 years ago, all Adherents have integrated EIA into their legal frameworks and gained substantial implementation experience.

8. Environmental assessment of plans, programmes or policies by the government is usually referred to as strategic environmental assessment (SEA). SEA appeared as a policy instrument about 15 years after EIA to cover higher-level decision making and try to anticipate developments instead of reacting to them.

9. SEA is formally required by only about 40 countries worldwide ([UN Environment, 2018](#)), including 32 Adherents. However, there is a global trend of broader application of SEA. There is a growing recognition by stakeholders that some shortcomings of EIA, such as the lack of consideration of cumulative effects caused by several projects, can be addressed more effectively at a strategic level prior to project-level developments. Since physical development projects often occur as a result of strategic planning decisions, there is a link between SEA of a plan and EIAs of projects that stem from this plan's implementation.

10. The term SEA is not used consistently across Adherents. In some Adherents, plans and programmes are also subjected to EIA. For example, programmatic environmental assessment at the federal level in the United States is quite similar to SEA. In some Adherents, such as New Zealand, there are no formal SEA requirements, but there is an assessment of environmental aspects in the planning process, alongside economic and social considerations. However, some Adherents (such as Colombia, Israel, Japan and Mexico) do not have provisions for environmental assessment of plans and programmes at all. Switzerland has SEA requirements only in very few cantons and none at the federal level.

11. In most Adherents, basic legal requirements related to EIA or SEA processes are included in framework environmental laws. More detailed procedural requirements are usually laid out in specific laws on environmental assessment or in executive implementing regulations. In addition, sectoral laws sometimes include references to EIA in the context of sector-specific permitting or licensing provisions. Some Adherents (e.g. Denmark, Finland, Greece) have adopted separate SEA laws or regulations, whereas others have integrated legal provisions for SEA into EIA or broader environmental legislation.

12. Following the adoption of the Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (hereafter the “EU EIA Directive”), amended in 2011 and 2014, and the Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (hereafter the “EU SEA Directive”), all EU Member States of the have transposed them into national legislation. The United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention, 1998) is also relevant to environmental assessment with regard to access to relevant information and public participation in the process.

13. **In conclusion**, all Adherents conduct environmental assessment of certain categories of projects. Most, but not all Adherents have regulatory provisions to assess environmental impacts of plans and programmes.

3.2. *Environmental assessment scope and procedure*

I. RECOMMENDS that Adherents:

2. Establish clear scope and procedures for assessment of the environmental impacts and for determination of relevant mitigation measures as inputs to the planning and decision-making process in order to restore and enhance environmental quality.
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Environmental assessment of projects

14. EIA does not target compliance with a specific environmental standard but seeks to ensure that all relevant information to predict the project’s environmental impact is considered in the decision making. EIA is usually conducted by the project proponent (using government-licensed or registered consultants or agencies) and validated by the environmental authority.

15. In many Adherents, EIA approval, whether an integral part of an environmental permitting process or the result of an independent EIA process, is governed by environmental agencies and departments. In some Adherents, there is no government approval of the EIA report prepared by the developer: in Iceland, for example, the National Planning Authority makes a decision on the developer’s scoping proposal for an environmental impact study but issues only an opinion on the study itself.

16. Many Adherents follow the same key steps of the assessment process for both EIA and SEA: screening, scoping and impact analysis, consultation on the Report, review and decision making. Screening is the most heavily litigated aspect of the EIA system. Screening is the preliminary assessment of a development proposal to determine whether an EIA is required, and if so, what type of EIA scrutiny (a full or a simplified assessment) should be applied. Screening narrows the application of EIA to projects likely to have a significant environmental impact, with the definition of the latter varying across Adherents. A different threshold may be applied to sensitive areas, including protected or vulnerable ecosystems. Screening is usually done based on information provided by the project proponent. In Canada, for example, government agencies in charge of EIA assess the importance of potential environmental effects based on considerations such as frequency and duration of the effect, location and magnitude, timing, risk to human health and the environment, irreversibility and potential for cumulative effects.

17. Since EIA takes time and resources, screening provides an incentive for the proponent to redesign the project plans to reduce the potential environmental impact to avoid a full EIA. However, there is a significant risk of splitting a project into a number of separate ones that individually may not require an EIA (or at least a full one), but may have significant impacts when considered as a whole. Consideration of cumulative impacts is helpful in preventing project splitting. It is used effectively by several Adherents, such as Austria, Germany and Canada. However, in many Adherents cumulative impacts are rarely considered fully even where this is required, as in the EU. Japan takes a different approach to the problem of project splitting, requiring developers of projects slightly below the EIA threshold to refer to the environment ministry for a decision on whether to undertake an EIA.

18. Two key approaches determine whether to require a full EIA: case-by-case assessment based on defined criteria and the use of activity lists with or without size/capacity thresholds. Activity lists remove the burden of case-by-case analysis on the screening authority and minimise ambiguity and possibility of corruption, but increase the risk of project splitting. As a result, many Adherents, notably those that are EU Member States, take a hybrid approach by making a full EIA mandatory for certain activities (often above a defined threshold) and subjecting projects below the threshold to criteria-based screening. The threshold is usually tied to the activity's production capacity, but can be based on other criteria: for example, in Korea it is the site surface area of an industrial installation. In some states of the United States, the threshold for mandating an EIA for a public project is the size of its budget (e.g. USD 100 million).

19. Some Adherents go beyond the traditional EIA scope to deepen the environmental assessment. For instance, operators applying for a bespoke environmental permit in England (United Kingdom) must conduct a site-specific risk assessment if their activity exceeds certain thresholds of environmental impact. Unlike EIA, this risk assessment includes identification of risk sources, pathways and receptors, as well as actions to control these risks.

20. On the other hand, several Adherents exclude important polluting activities from the EIA coverage. In Colombia, EIA is not required for pulp and paper manufacturing, food processing, non-ferrous metallurgy, or textile industry, which are all significant sources of environmental impact. In Japan, EIA is mostly focused on infrastructure, power plants and waste facilities and does not cover environmentally damaging mining or aquaculture. Simplification of environmental permitting and licensing requirements as a way to reduce the administrative burden on businesses sometimes also leads to fewer activities required to undergo EIA, as is the case with the recent licensing reform in Portugal.

21. Sometimes Adherents come up with exemptions from EIA on the grounds of strategic value of the proposed project. For example, in Hungary a special procedure called environmental performance evaluation may replace an EIA at the discretion of the competent authority. In addition, low quality of EIA studies is a concern in several Adherents (e.g. Greece).

22. In decentralised environmental governance systems, there is a risk of activities regulated only at the subnational level being excluded from EIA requirements. To avoid this, several Adherents complement the federal EIA system with subnational requirements. In Canada, a federal environmental assessment may be required because of potentially adverse effects on areas of federal jurisdiction or that may result from a federal decision about the project. Some projects may also require a provincial/territorial environmental assessment according to respective legislation. In this case, environmental assessments may be coordinated so that a single environmental assessment meets the legal requirements in both jurisdictions. A responsible authority can also delegate any part of an environmental assessment that it is required to conduct to the other responsible authority. In Australia, the federal government can also delegate EIA (with or without approval) to its states and territories through bilateral agreements. In the United States, on the other hand, there are notable gaps in EIA coverage due to the absence of comprehensive EIA requirements in many states ([UN Environment, 2018](#)).

Environmental assessment of plans and programmes

23. SEA is the most important legal tool for promoting environmental mainstreaming in sectoral and cross-sectoral policies. SEAs are generally initiated by the author institution of the plan or programme and are only rarely overseen by another body, such as a central environmental authority. The EU SEA Directive requires that SEA be carried out during the preparation of a plan or programme and before its adoption or submission to the legislature. In most cases, SEAs are initiated only once the first version of the plan, programme or policy has been drafted, i.e. once strategic decisions have already been made. SEA then concentrates on the impact of these decisions, including alternatives and cumulative impacts.

24. The approaches to determine whether an SEA needs to be undertaken are similar to those for EIA. There is usually a list of plans, programmes or policies for which SEAs are mandatory and criteria to determine the need on a case-by-case basis for those that are not on the mandatory list.

25. In Adherents outside the EU, where SEA is governed by the EU SEA Directive, there is great variability in the scope of SEA in terms of activity sectors and types of plans and programmes covered. In Australia, federal SEA is undertaken for large-scale plans related to land use, such as housing and infrastructure development, plans related to resource management and policies that concern the industry sector. In Chile, SEA is conducted for all territorial development plans, coastal zone plans and selected regulatory policies, but there is no list of sectoral policies subject to SEA. In Korea, sectoral development plans and programmes and many local spatial plans are not covered by SEA.

26. The SEA coverage may vary even within one Adherent. In England and Wales (United Kingdom), SEA is integrated into the broader sustainability assessment, which is a legal prerequisite for adoption of local spatial plans. This tool is employed primarily in land-use planning and local environment-related plans. However, SEA is rarely used for non-environmental plans and programmes such as regional economic strategies. Meanwhile in Scotland (United Kingdom), SEA covers some of the highest-level strategies, plans, programmes and policies, including legislation.

27. Spatial planning is indeed an important area of SEA application. In Belgium, regional regulations mandate submission of draft land-use plans, zoning plans and other normative spatial planning decisions for SEA screening. The Flemish region has separate SEA procedures for spatial implementation plans and other plans and programmes. However, the capacity of local authorities to implement SEA for their spatial plans is often limited, making the assessment superficial. For example, in Finland, SEA of local plans is often reduced to general statements about the environmental impact that are part of broader justification documents. Some Adherents also face challenges with analytical capacity for SEA at the national level.

28. **In conclusion**, most Adherents have an adequate and clear scope and procedures for assessment of projects as well as plans and programmes. However, there are notable exceptions of Adherents excluding individual environmentally significant projects or whole highly polluting economic sectors from EIA. SEA application is also uneven, with respect to both sectoral development programmes and spatial plans. Some Adherents face SEA implementation capacity issues, particularly at the local level.

3.3. Consideration of alternatives

I. RECOMMENDS that Adherents:

3. Incorporate analysis of reasonable alternatives in the assessment of environmental impacts of projects, plans and programmes with a view to arriving at an informed decision that includes best environmental considerations.
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29. Consideration of alternatives as part of EIA is usually mandated by national laws. The 2014 revision of the EU EIA Directive requires project proponents to describe the reasonable alternatives studies by the developer and main reasons for selecting the one proposed. In Denmark, the EIA report must include

a list of most important alternatives considered by the developer. In the Netherlands, the EIA report must show whether alternatives would achieve the project goals in a more sustainable way.

30. However, in practice, consideration of alternatives is often perfunctory, and non-compliance is widely tolerated ([UN Environment, 2018](#)). In many Adherents (e.g. the Czech Republic), the legislation does not define “reasonable alternatives”. In others (such as Colombia), alternatives are limited to project location and do not cover project design, technology, size or scale. In practical terms, the only alternative considered in most cases is not carrying out the project (the so-called zero alternative).

31. Many Adherents require consideration of alternatives during environmental assessment of plans and programmes. For example, Denmark’s SEA law requires the authority preparing the plan or programme to issue a statement on how the plan or programme has been selected among the alternatives. However, many planners have difficulty generating reasonable alternatives in SEA, particularly for higher-level plans. As a result, consideration of alternatives is often limited even where environmental assessment systems are well developed, such as in Ireland. This is partly because policy-level alternatives can no longer be considered at the stage where SEA is conducted, and partly due to insufficient guidance on how to assess alternative scenarios as part of SEA.

32. **In conclusion**, although consideration of alternatives is normally required as part of environmental assessment of projects, plans and programmes, its practical implementation by Adherents raises questions. This is particularly the case in SEA. Adherents are expected to ensure more rigorous implementation of this policy recommendation by competent authorities and furnish better guidance to project and programme proponents on what types of alternatives should be evaluated and how to do this.

3.4. Consultation of public authorities

I. RECOMMENDS that Adherents:

4. Include practical and appropriate measures for consulting public authorities having functions and responsibilities relevant to the environmental impacts of projects, plans and programmes.
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33. This policy recommendation is most widely implemented across Adherents. Many national laws include requirements for consultation with specific government entities (statutory stakeholders). For example, the EU EIA Directive makes it mandatory for EU Member States to ensure consultation with authorities likely to be concerned by the project due to their environmental responsibilities or territorial competencies.

34. Involvement of different public authorities aims at broadening the information base of environmental assessment and is expected to contribute to more coherent decision making. The effectiveness and procedural efficiency of such consultation depends on the state of horizontal and vertical institutional co-ordination on environmental matters, as well as on environmental data sharing across the government. There is space for improvement on both of these aspects in many Adherents. Sometimes consultations take a long time and focus on compliance with sectoral regulations rather than on projected environmental impacts, as agencies are reluctant to share information with each other.

35. **In conclusion**, Adherents have established procedures for consulting public authorities across the government as part of environmental assessment of projects, plans and programmes, but the effectiveness and efficiency of the consultation may need improvement.

3.5. Public information and participation

I. RECOMMENDS that Adherents:

5. Implement, where appropriate, practical measures for informing the public and for participation by those who may be affected at suitable stages of decision-making on projects, plans and programmes.

36. It is widely recognised that public information and participation are key to accurate and effective environmental assessment. However, there is no common understanding of public information and participation in EIA practice. Most Adherents have enacted some kind of legal requirement for public information and participation in EIAs. However, in Israel the EIA report is published only at the end of the process, after the environment ministry's opinion, which prevents public participation. Elsewhere, the required participation is usually linked to the degree of EIA scrutiny: in many Adherents (e.g. Australia) public participation is only required as part of a full EIA as opposed to a less detailed report.

37. Many EIA laws require public participation only at the assessment or review stage, i.e. when the EIA report has already been developed and prior to its submission to the competent authority for a final decision. In most Adherents, there is no consultation at the screening stage, where it could be most effective. However, there is an increasing trend to publicly disclose the screening decision, stating the reasons for requiring an EIA or not, and provide an opportunity to appeal against it. In British Columbia (Canada), the environmental assessment process includes two public comment periods: on the draft application and on the accepted one.

38. In some Adherents, the project proponent is responsible for ensuring public participation under the oversight of the competent government agency, in others the government is in charge of consulting the public. The mechanisms for public information and participation include making the Report publicly available, publishing a non-technical summary of the report and providing an opportunity to submit comments, presenting and discussing the report in face-to-face public hearings, and/or establishing a consultative committee of different stakeholders, including representatives of non-governmental organisations (NGOs) and the public. The 2014 revision of the EU EIA Directive introduced a minimum 30-day period for public consultation.

39. The definition of who is included in the public to be consulted or engaged in the EIA process is an essential factor of public participation. In many Adherents, participation is restricted to people directly affected by the project. For example, in Denmark the public is defined as one or more natural or legal persons directly or indirectly affected or likely to be affected by the plan, programme or project, as well as environmental associations of at least 100 members. In the Slovak Republic, natural persons must prove their interest in the activity to fall under the definition of "public concerned". In Korea, only residents of the area surrounding the project location or those of a potentially affected area of "high ecological value" are eligible to participate in the EIA process, but not the public at large or NGOs. Slovenia has the same restriction of public participation to residents of the area affected by the project. In Hungary, restricted public participation (with a shorter comment period) has been introduced for large infrastructure and transport projects, or those considered by the government as of significant public interest.

40. Several Adherents have legal provisions for involving NGOs. NGOs may be required to be registered for a certain period and fulfil certain conditions with regard to the geographic area of operation and activity purpose. In Austria, many NGOs are formally accredited to take part in EIA procedures.

41. A key factor is to what extent the public consultation process ensures that the feedback provided is reflected in the final report. Measures are increasingly included in national legislation to require a summary of public comments with a justification of how they have been considered. For example, in the Czech Republic the competent authority must consider all comments and provide justification for any that

are not accepted. This is a good practice, not always followed by other Adherents. In Korea, on the other hand, there is no obligation to consider comments from the public.

42. The capacity of the public to get involved represents a significant challenge. It is linked to awareness about the project itself and the environmental assessment process, the availability of resources to promote public engagement and existence of a culture of participation. This is a common challenge in Adherents from East Europe (e.g. in Latvia, Lithuania). In Canada, responsible authorities are required to establish a Participant Funding Program to facilitate participation of the public in environmental assessment. The programme supports public engagement and Indigenous consultation during an assessment (project-specific, regional or strategic) by providing funding to individuals, non-profit organisations and Indigenous communities at key stages of the assessment process. Also in Canada, the British Columbia Environmental Assessment Office holds community information sessions to make project information more readily accessible to a broad, non-technical audience. Some Adherents, such as Ireland, have created EIA web portals as central points for notifying the public. However, in many Adherents even non-technical summaries of EIA reports tend to be voluminous, and written in complex and overly technical language, impairing communication with the public.

43. There are significant differences in the procedures and extent of public participation between EIA and SEA. Public participation is not part of initial strategic planning and is usually reduced to comments on the SEA report. The EU SEA Directive makes it mandatory for the draft plan or programme and the draft SEA report to be made available to competent authorities and the public. However, in Spain, for example, public consultations typically occur right before the final SEA Environmental Report is issued, which is fairly late in the process.

44. **In conclusion**, most Adherents recognise public information and participation as an integral part of the environmental assessment process. However, some Adherents restrict EIA participation to residents of the project area or people that can demonstrate being affected by the project. There is not always accountability before the public on the outcomes of the consultation process. Public participation in the SEA process often occurs late and does not have major influence on the plan or programme.

3.6. Implementation of impact mitigation measures

I. RECOMMENDS that Adherents:

6. Ensure that there are means of putting into effect measures derived from the environmental assessment of projects, plans and programmes.
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45. As a tool designed to assess a planned activity prior to its commencement, EIA approval in many Adherents is a legal pre-condition for the decision on whether to issue a permit for it, and under what conditions. Norway and Sweden go even further by integrating EIA into the ordinary procedure for land-use planning and applications for licences and permits. EIA in Flanders (Belgium) is also integrated with the environmental permitting procedure, which in turn integrates building, allotment and environmental permits. This way EIA not only assesses whether the project would have a significant impact on the environment, but can also influence the project's design and operation so as to avoid, minimise and offset negative environmental impacts.

46. Review and decision making as part of the EIA process should not only identify impacts on the environment, but also whether the project proponent has the capacity to implement mitigation measures and avoid adverse impacts. Follow-up measures are a key requirement that should link environmental assessment with effective implementation.

47. Many Adherents implement this good practice. In Canada, an environmental assessment decision statement issued at the end of the process sets conditions with respect to mitigation measures and a follow-

up programme that the project proponent must comply with. The Impact Assessment Agency of Canada enforces these conditions in collaboration with provincial and territorial environmental assessment authorities. In Lithuania, the link between EIA and permitting was recently strengthened when EIA-determined mitigation measures were required to have concrete timeframes. This made it easier to translate them into permit conditions.

48. However, most national EIA systems have a clear focus on the pre-decision phase with the perception that the EIA report is the final product rather than a commitment to mitigation actions. Some EIA systems (e.g. in Costa Rica, Israel, Japan) do not include any legal requirements on follow-up measures and are not linked to permitting, creating an implementation gap. One of the reasons for this focus is the tendency of regulators to prioritise project approval as an economic development item.

49. In Finland, where EIA and permitting are not linked directly, information gathered in the EIA process must be considered in issuing a building, land extraction, water or environmental permit. However, assessment results are not binding for permit decisions. EIA is meant to guide the project planning stage towards more environmentally sustainable alternatives, whereas permit decisions focus on the operational stage.

50. SEAs often recommend mitigation measures in plans and programmes. However, SEA results are rarely followed up on during the implementation phase of the plan or programme. There are usually no provisions in case mitigation measures set out in the SEA report prove to be ineffective. In addition, several Adherents (e.g. France) provide exemptions from EIA for projects that are covered by a programme that has undergone SEA to avoid duplication and reduce the administrative burden on both project proponents and the government. However, the exemption from EIA severs the link with permitting, as it is difficult to translate SEA conclusions into specific permit requirements for operators.

51. **In conclusion**, most but not all Adherents translate environmental impact mitigation measures identified in project-level EIA into enforceable conditions of environmental permits. However, it appears that Adherents find it challenging to follow up on mitigation measures recommended in the assessment of a plan or programme.

3.7. *Monitoring of impacts*

I. RECOMMENDS that Adherents:

7. Implement appropriate practical measures for monitoring the effects on the environment of projects, plans and programmes that have been subject to environmental assessment.
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52. Monitoring includes collection of data to compare real environmental impacts of projects, plans and programmes with the ex-ante assessment. At the project level, especially with a strong link between EIA and permitting, the main instrument is self-monitoring that operators are required to conduct as part of their permit conditions. However, some impacts are rarely monitored due to the lack of available data. This is notably the case of impacts on biodiversity.

53. With regard to SEA, it is difficult to attribute environmental changes to a single strategic planning document. For Adherents that are EU Member States, the EU SEA Directive provides for the use of “existing monitoring arrangements” to perform such monitoring. In Denmark, arrangements to monitor the significant environmental effects of the plan or programme are a mandatory part of SEA. Canada is another example of good practice: it has public reporting requirements for SEAs at the federal level through Departmental Performance Reports. However, most Adherents either seldom monitor environmental effects of plans and programmes, and if they do, respective monitoring results and evaluations are not available to the public.

54. **In conclusion**, post-assessment monitoring of environmental impacts of projects is more widely practised among Adherents than that of plans and programmes. Both data availability and tracing the impacts to planning documents represent implementation challenges in this area.

3.8. *Environmental assessment of transboundary impacts*

I. RECOMMENDS that Adherents:

8. Institute, as appropriate, environmental assessment procedures for projects, plans and programmes that might have significant transboundary impacts.

55. In the framework of the UNECE, the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention, 1991) requires Parties to establish an EIA process for activities likely to cause a significant impact across national borders. The Protocol on Strategic Environmental Assessment to this Convention (Kyiv Protocol, 2003) requires SEA for certain plans, programmes and policies with transboundary effects.

56. Most Adherents that are EU Member States are Parties to the Espoo Convention and its Kyiv Protocol and therefore implement this policy recommendation. However, there are some differences between the Parties to the Espoo Convention and its Kyiv Protocol in the definitions of “impact” and “transboundary impact”. Adherents that are countries of origin generally inform the public and authorities of the affected country of a project, plan or programme with potentially significant impacts via the point of contact to the Convention. Some (e.g. Italy and Switzerland) use additional approaches, including contacting the competent authority (where known), city or regional authorities. Some Adherents that are Parties to the Espoo Convention publish such notifications on the Internet (e.g. the Netherlands).

57. Most Adherents have established legislative provisions for transboundary consultations between authorities of the two countries concerned. However, several Adherents (Denmark, Italy, the Netherlands, Sweden, Switzerland and the United Kingdom) do not have such provisions ([UNECE, 2021](#)). There are sometimes difficulties in public participation across the border related to different procedural arrangements in the two countries, timing constraints and the need to translate documents and comments.

58. At the same time, several Adherents, including Japan and Türkiye, do not have a legal requirement to consider transboundary environmental impacts.

59. **In conclusion**, most but not all Adherents have legal and operational provisions for transboundary assessment of environmental impacts.

4. Dissemination

60. In the Recommendation, the Council invited the Secretary-General to disseminate the Recommendation. In addition, Adherents are invited to disseminate the Recommendation at all levels of government.

61. The Secretariat did not engage in dedicated efforts to disseminate the Recommendation since its revision in 2019. This is due to the lack of resources and the fact that there is currently no work on environmental assessment under EPOC besides EPRs. EPRs themselves do not always make reference to the Recommendation and do not consider consistently all of its provisions in the performance assessment of each reviewed country.

62. The Secretariat is unaware of any specific activities by Adherents to disseminate the Recommendation. However, there is evidence that recent Adherents had studied the Recommendation (sometimes translating it to the national language) as part of their accession process to the OECD.

5. Summary and conclusions

Implementation

63. All Adherents have a legislative framework for EIA and conduct environmental assessment of certain categories of projects. Most, but not all Adherents have regulatory provisions to assess environmental impacts of plans and programmes in a process usually referred to as SEA.

64. Most Adherents have an adequate and clear scope and procedures for assessment of projects as well as plans and programmes. However, there are notable exceptions of Adherents excluding individual environmentally significant projects or whole highly polluting economic sectors from EIA. SEA application is also uneven, with respect to both sectoral development programmes and spatial plans. Some Adherents face SEA implementation capacity issues, particularly at the local level.

65. Although consideration of alternatives is normally required as part of environmental assessment of projects, plans and programmes, its practical implementation by Adherents raises questions. This is particularly the case in SEA. Adherents are expected to ensure more rigorous implementation of this policy recommendation by competent authorities and provide better guidance to project and programme proponents on what types of alternatives should be evaluated and how to do this.

66. Adherents have established procedures for consulting public authorities across the government as part of environmental assessment of projects, plans and programmes, but the effectiveness and efficiency of the consultation may need improvement.

67. Most Adherents recognise public information and participation as an integral part of the environmental assessment process. However, some Adherents restrict EIA participation to residents of the project area or people that can demonstrate being affected by the project. There is not always accountability before the public on the outcomes of the consultation process. Public participation in the SEA process often occurs late and does not have major influence on the plan or programme.

68. Most but not all Adherents translate environmental impact mitigation measures identified in project-level EIA into enforceable conditions of environmental permits. However, it appears that Adherents find it challenging to follow up on mitigation measures recommended in the assessment of a plan or programme.

69. Post-assessment monitoring of environmental impacts of projects is more widely implemented among Adherents than that of plans and programmes. Both data availability and tracing the impacts to planning documents represent implementation challenges in this area.

70. Finally, most but not all Adherents have legal and operational provisions for transboundary assessment of environmental impacts.

71. Overall, most Adherents implement the Recommendation's provisions. However, some Adherents have important implementation gaps, particularly with respect to sectoral coverage of environmental assessment of projects, plans and programmes, consideration of alternatives, and public participation. These gaps need to be closed through improvements in the national regulatory frameworks and implementation practices, particularly at the local level. Additional efforts are desirable to promote better implementation of this legal instrument, including through consistent EPR recommendations.

Dissemination

72. The dissemination activities by both the Secretariat and the Adherents have so far been inadequate. Additional efforts are desirable to better disseminate the Recommendation. Better integration of the Recommendation's provisions in EPRs is an easy, no-cost way to improve its dissemination.

Continued relevance

73. The Recommendation continues to be relevant, particularly in areas where implementation gaps persist. These, for most Adherents, include the implementation of environmental assessment of plans and programmes and, for some Adherents, the coverage, consideration of alternatives and public participation as part of the EIA framework. No further revisions are necessary at this time.

Next steps

74. It is therefore proposed that EPOC continue to support Adherents in addressing the main challenges set out in the conclusions of the Report, including through Environmental Performance Reviews. It is also proposed that EPOC report to Council on implementation, dissemination and continued relevance in ten years, given the slow evolution of regulatory provisions and implementation practices on environmental assessment. An earlier reporting would be prepared if changes in the field would warrant it.