

**Guidelines**  
on Environmental Impact Assessment  
in a Transboundary Context for Central Asian  
Countries

**(prepared by the CA experts)**

## CONTENTS

### **Acknowledgements**

- 1. Introduction**
- 2. Objectives, tasks and structure of the Guidelines**
- 3. Terms and Definitions**
- 4. Review of national legislation and practice of EIA in Central Asia**
  - a) Republic of Kazakhstan
  - b) The Kyrgyz Republic
  - c) Republic of Tajikistan
  - d) Turkmenistan
  - e) Republic of Uzbekistan
- 5. Recommendations for the Party of Origin (PO)**
  - a) The notification
  - b) Sending of the notification
  - c) Timing of review of the Notification
  - d) Timing for review of the documentation EIA
  - e) Transmitting information
  - f) Final decision
- 6. Recommendations for Affected Party (AP)**
  - a) Preparing response to the notification
  - b) Procedures of public participation
  - c) Transmitting comments
  - d) Final decision
- 7. Recommendations for Initiator of Projects (IP)**
  - a) Identification of transboundary character of the planned activities
  - b) Preparation the draft of the Notification
  - c) Expenses for consideration and public participation
  - d) Documentation on EIA
  - e) Procedures of EIA-SEIA
  - f) Brief statement EIA and/or SEIA
  - g) Transmitting documentation of EIA
  - h) Pubic consultations
  - i) Preparation final documents on EIA
- 8. Extraordinary matters**
  - a) Policy, plans and programmes
  - b) Post-project analysis.
  - c) Basic procedures on transboundary EIA, if countries are not party of Convention.
- 9. List of annexes**
- 10. Annexes**

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The guidelines aim at provision of practical step-by-step procedures for the implementation of EIA in a transboundary context in the Central Asia region, based on the Espoo Convention.

The draft of Guidelines has been discussed and approved at the sub-regional workshop on 5-7 October 2004, Lake Issyk-Kul (Kyrgyzstan) with participation of governments, NGOs, international organizations and countries-donors representatives. The draft was discussed at the national workshops in CA and finalized based upon provided comments and proposals, which were after submitted to countries, approved and recommended for practical use.

The meeting in Issyk-Kul Lake took place with a support form the Swiss Agency for the Environment, Forests and Landscape and the OSCE Centre in Bishkek. The Central Asian states held national consultative meetings involving ministries, NGOs, and project developers (projects initiators). Comments were also provided by the Secretariat of Convention.

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## **1. Introduction**

The UN Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention), signed in 1991, requires the Parties to conduct EIA across the borders between the Parties of the Convention when a planned activity may cause significant adverse transboundary impact.

The Convention came into force in 1997. From Central Asian (CA) countries only Kazakhstan, Kyrgyzstan and Tajikistan are the members of the Convention. But due to a number of reasons the CA countries both the parties of the Espoo Convention and non-members face difficulties of practical implementation of the Espoo Convention pillars. Environmental impact assessment in a transboundary context envisages the coordination of procedures implementation among all stakeholders.

It needs to be noted that the countries of CA in frameworks of the preparatory process to the World Summit on Sustainable Development held in Johannesburg, 2002 have initiated a sub-regional initiative on sustainable development, which was included into the final documents, and has been continued and developed in the final decisions of the 5-th Pan-European Conference of Ministers on Environment Protection within the framework of the process “Environment for Europe” held in Kiev in May 2003. With a purpose to strengthen the sub-regional cooperation, implementation of the above-mentioned initiative and, also, the decisions of III Meeting of Espoo Convention Parties held in Cavtat, Croatia, June 2004, development of the Guidelines has been undertaken.

The Kyrgyz Government has initiated the development of the Guidelines, which was prepared by the representative experts of the CA countries in cooperation with the CA Regional Environmental Centre, the Secretariat of Convention on Environmental Impact Assessment in a Transboundary Context and UNECE with the financial support of Swiss Government. The OSCE also has provided support in organizing of subregional workshop in Kyrgyzstan in October 2004.

Its practical application becomes a significant step in regional cooperation on issues of the environmental protection and sustainable development. The EIA in a transboundary context can help to prevent and/or minimize negative influence and will be the contribution to development of dialogue between the countries of Central Asia. In this regard, the present Guidelines can serve as the reliable tool for the countries of region at carrying out of concrete procedures of EIA in view of regional and national features, and also requirements of national legislations in this area.

The draft of Guidelines has been discussed at the sub-regional seminar on 5-7 October 2004, Lake Issyk-Kul (Kyrgyzstan) with participation of NGOs, international organisations and donor-countries. It has been completed while taking into account the comments and proposals and has been discussed at the national workshops in the CA countries where was approved and recommended for practical use.

## **2. Objectives, tasks and structure of the Guidelines**

The objective of the present Guidelines is to create the procedure mechanisms for practical application of the Convention on environmental impact assessment in a transboundary context in CA. Recommendations contain the detailed step-by-step procedures in accordance with the provisions determined by the Espoo Convention.

The present document has the following nature of recommendations.

The Guidelines are intended for persons, who make decisions, for initiators of economic and other activities responsible for environmental impact assessment, for the contractor organisations, which carry out the environmental assessment, for the competent authorities in the field of EIA in a transboundary context and public organisations, participating in the environmental impact assessment of the planned economic or other activity.

The legal basis of the given Guidelines is the national environment protection legislation, and also the international agreements, where the Central Asian countries are the parties of an Agreement. It consists of four sufficiently independent but interrelated parts: reviews of the national legislation and practice in the field of IEA, recommendations for the country (party) of origin (PO), recommendations for affected country (party - AP), recommendations for the Initiators of Project (IP), and also annexes, which supplement and elucidate the content of provisions given in the Guidelines.

## **3. Terms and definitions**

For the purposes of this Guidelines use the following terms and definitions:

- (1) "Party of origin" means the Contracting Party or Parties to this Convention under whose jurisdiction a proposed activity is envisaged to take place;
- (2) "Affected Party" means the Contracting Party or Parties to this Convention likely to be affected by the transboundary impact of a proposed activity;
- (3) "Concerned Parties" means the Party of origin and the affected Party of an environmental impact assessment pursuant to this Convention;
- (4) "Impact" means any effect caused by a proposed activity on the environment including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors;
- (5) "Environmental impact assessment" means a national procedure for evaluating the likely impact of a proposed activity on the environment;
- (6) "Transboundary impact" means any impact, not exclusively of a global nature, within an area under the jurisdiction of a Party caused by a proposed activity the physical origin of which is situated wholly or in part within the area under the jurisdiction of another Party;
- (7) "Initiator of Project" (IP) - natural or legal persons, responsible for preparation documentation of planned activities in accordance with national legislation;
- (8) "Competent authority" means the national authority or authorities designated by a Party as responsible for performing the tasks covered by this Convention and/or the authority or authorities entrusted by a Party with decision-making powers regarding a proposed activity;

(9) "The Public" means one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organizations or groups;

(10) "Public participation" – complex measures, conducted in the framework of EIA, directed to inform the public about planned activities, determination of all aspects of this activities' possible impact on the environment with a purpose of getting full information and taking into account EIA.

#### **4. Review of National Legislation and Practice of EIA in CA countries.**

According to the legislation of the CA countries, the international agreements recognized by them, are priority in relation to the national legislation. From 5 countries of region 3 have joined to the Convention: Kazakhstan (2000), Kyrgyzstan (2001) and Tajikistan (2004). Besides, the majority of the countries are party of the Aarhus Convention in which there are concrete references to the Espoo Convention, and also conventions on biodiversity, on POPs and others, where the certain requirements on EIA are showed and performance of EIA is recommended.

The environmental legislation of Central Asian countries provided the main provisions regulating the requirements of national procedures of EIA, including the provisions concerning participation of the civil society in the decision-making process. The basic law regulated the basic requirements to planned and current economic activities, rights and duties of the public in decision-making process in all countries of region the is the Law of environmental expertise.

The environmental legislation presents not only this basic law. Such laws as nature protection, protected areas, flora and fauna, atmospheric air, waste and others regulate relations in various fields of the environment.

In the separate countries, for example in Turkmenistan, special state standards are authorized according to environmental impact of planned economic and other activities, which on the structure, are similar to principles and procedures of Convention.

Elements of the account and prevention transboundary impact were pawned in separate interstate agreements earlier. On the objects having for the parties of agreements indisputable transboundary influence, in a number of agreements it was provided the actions adequate to the requirement of some provisions of Convention.

The legislation of the CA countries allows implementing some aspects of EIA process. At the same time, it is necessary to note, that almost in all countries of the region there is no concrete mechanism of carrying out EIA in a transboundary context, covering all its aspects and answering to the international requirements, in particular, requirements of Convention. Procedure of submitting the information on planned activity not only to the public, but also to the state bodies is not fulfilled at the legal level.

Proceeding from this, it is possible to draw a conclusion, that the existing legislative base is insufficient for the resolution of interstate environmental problems, among which are participation of the public, consideration of alternatives, an estimation of making decisions by comparison, the review, definition of influences on an environment of an estimation of risk, its mitigation and monitoring. Not enough attention is given to regional estimations of a condition of environment, including transboundary EIA, to a policy, plans and the programs having transboundary influences on the environment.

It is necessary to note, that the economy of the CA countries has received the certain pulse in development last years, and the urgency of consideration of transboundary issues on the environment in the future will play more and more appreciable role.

## **a) The Republic of Kazakhstan**

The Republic of Kazakhstan has joined to the Convention in October 21, 2000, and has become a party to the Convention in April 11, 2001. The EIA implementation procedures at national level are clearly defined in legislation of the Republic of Kazakhstan. At the same time there are no implementation procedures of EIA in a transboundary context, which would combine both the international requirements and national specifics.

In accordance with the laws “On environment protection” and “On ecological expertise”, the environmental expertise in the Republic of Kazakhstan is presented by two forms – the state ecological expertise and public ecological expertise. The projects without positive decision of the state ecological expertise should not be approved, and the project financing is prohibited.

These laws contain the articles on environmental impact assessment (EIA). In Law “On environment protection”, article 46, the definition of EIA objectives is given: environmental impact assessment is carried out with a purpose to identify the environmental and other consequences of the accepted options of administrative and economic decisions, and to develop the recommendations for environment improvement, prevention of destruction, degradation, damage and exhaustion of natural environmental systems and resources.

The EIA procedure is established by the legislation on environmental expertise. The law "On the environmental expertise" regulates the social relations in the field of environmental expertise with a purpose to prevent the negative influence of administrative, economic and other activity on environment, life and health of the Kazakhstan population.

The article 16 of this law indicates that the customer for the planned economic activity and the owner of the enterprise or central and local executive bodies for the acting objects provide the EIA procedure. EIA is an obligatory and integral part of the pre-project and project documentation, and is being carried out at all stages of designing in the view of:

- environment state at location of the planned activity implementation;
- alternative options for achievement of the planned activity purposes, including rejection of this activity;
- perspectives of socio-economic development of the region;
- other requirements of the current legislation of the Republic of Kazakhstan in the field of environment protection.

The state environmental expertise in the Republic of Kazakhstan has started functioning in the system of the State Committee on Hydro-Meteorology since 1984, and its modern form has been organised in a structure of the State Committee on Environment Protection of the Kazakh SSR in 1988.

Now the republican normative documents on an environmental impact assessment and the state ecological expertise are developed and are acting: "Rules for environmental impact assessment of the planned activity within preparation of the state, branch and regional programmes on development of economy branches and of schemes for productive forces location", "Instruction on realisation of the state ecological expertise of the pre-project and project materials", "Instruction on realisation of an environmental impact assessment of the planned economic and other activity within the development of pre-planned, pre-project and project documentation", "Rules of the state registration of public ecological expertise procedures carried out by local executive bodies, in which territory the proposed activity is planned to be implemented"; Guidelines for the state authorities: "Public participation in decision-making on environmental problems" written after realisation of the project "Assistance to Kazakhstan in implementation of the Aarhus Convention", 2002. The temporary instruction about the order of

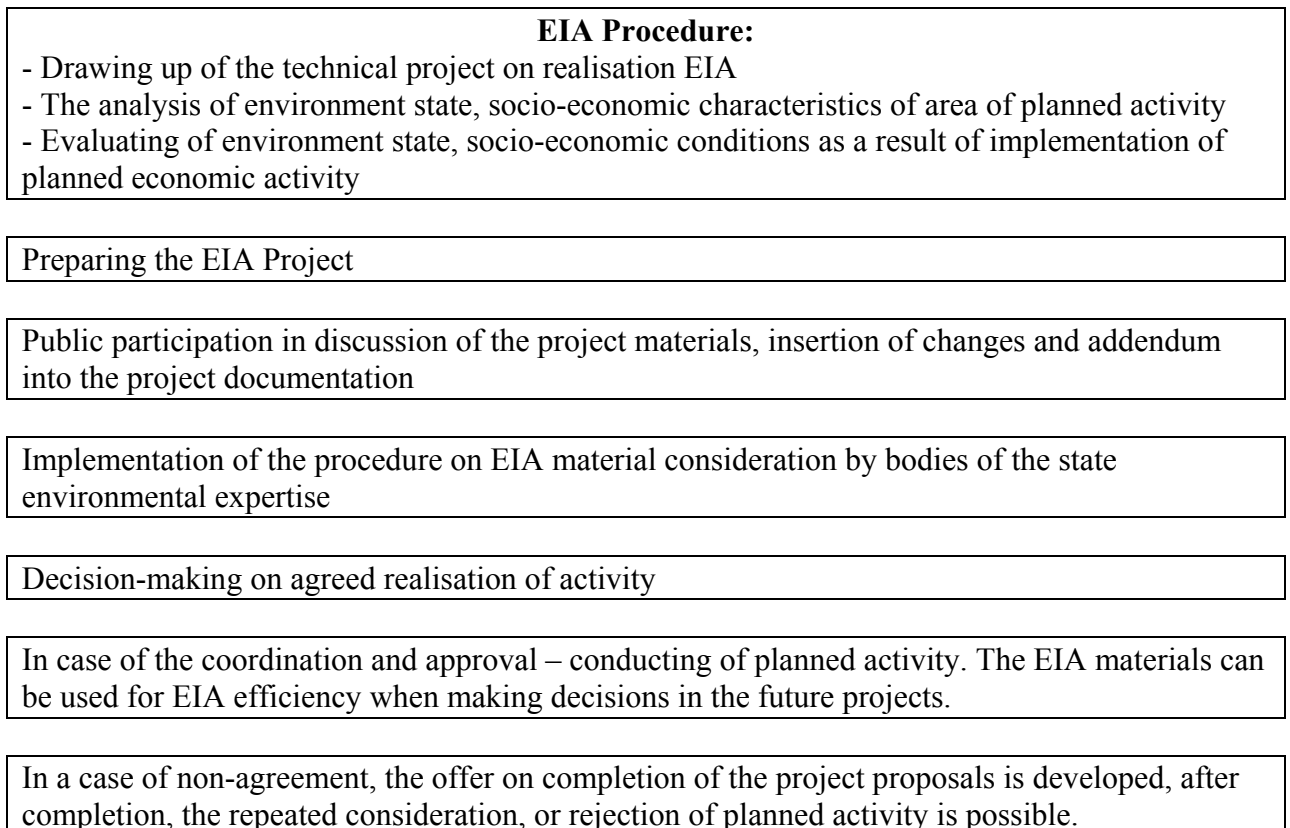
environmental audit realisation (impact assessment on an environment and the population health - EIA and H) for the enterprises existing in the Republic of Kazakhstan, and also the methodical recommendations for their conducting are developed (Recommendation for conducting of an impact assessment of planned economic activity on bio-resources (soils, flora and fauna), Methodical recommendations on environmental impact assessment of new engineering, technologies, materials and substances, "Guidelines for the customers of pre-project and project documentation on organisation of study and registration of public opinion within conducting of environmental impact assessment of planned economic activity".

The following bodies participate in the EIA procedure and in the state environmental expertise in the Republic of Kazakhstan:

- Representatives of the central executive body of the Republic of Kazakhstan in sphere of environment protection (Ministry for environment protection of the Republic of Kazakhstan) and its territorial divisions, directly participating in development and acceptance of the normative legal and methodical documents in EIA area and in the state environmental expertise.
- Officials, participating in the decision-making process in the field of EIA.
- Customers of projects (initiators of activity), economic objects and other kinds of activity requiring EIA conducting and realisation of state environmental expertise.
- The experts participating in EIA process and in the state environmental examination.
- The representatives of NGOs, public, and local population interested in participation in EIA process or intended to take part in activity of one of the above-mentioned parties (for example, students) in the future.

The activity of divisions of the state environmental expertise is carried out in interaction with expert divisions of other Republic departments - Ministry for public health services, Ministry for education and science, Ministry for energy and mineral resources, Committees of the Ministry for agriculture - on water, fish, wood resources and others.

#### **General Scheme of EIA Procedure:**





## **b) The Kyrgyz Republic**

Kyrgyz Republic became a Party of the Espoo Convention in 2001. However, elements of registration and prevention of transboundary impact were introduced into individual intergovernmental agreements even earlier. According to the objects having for participants of agreements indisputable transboundary impact, some agreements stipulated as follows:

- conducting programme of environmental expertise with participants concerned and forecasting labour force development, investment and other projects, which implementation may affect interests of two or more contracting parties;
- application of common approaches, criteria, methods and procedures of environmental impact assessment and control, and anthropogenic impact on environment, ensuring comparable data on environmental status within international scale;
- application of agreed methods during impact assessment of economic or other activity on environment;
- application of common methodological requirements under procedure of environmental expertise;
- and others;

After ratification of the Espoo Convention, elements of the Convention is gradually being introduced into national legislation. Principal provisions regulating EIA requirements were foreseen in the Kyrgyz national environmental legislation, including provisions related to the issues of international relations and participation of public sector in making decisions.

One of main environmental laws in area of environmental assessment is the Law of KR “On Environmental Expertise”. The Law provides participation in international environmental expertise, issues of activity on transboundary territories are examined, issues of participation of international experts are solved, cooperation with public community, their participation in making decision and reporting. Questions of international norms on this issue are priority issues related to the national legislation and implementation of the ratified Conventions are guaranteed.

Environmental legislation is presented not only by these principal laws but and resource laws, regulating their protection and rational nature management as well. These laws are as follows: “On Water”, “On Natural Resources”, “Land Code”, “Forest Code”, “Code on Administrative Responsibility”, “On Especially Protected Natural Territories”, “On Protection of Flora and Fauna”, “On Protection of Atmosphere Air”, “On Waste of Production and Use”, and, etc.

As a mechanism of implementation of the provisions of laws, appropriate instructions were developed and valid, determining the procedure of implementation of EIA, and conducting the state environmental expertise, registered by the Ministry of Justice of KR. This is the instruction on procedure of conducting the state environmental expertise, the Instruction on procedure of environmental audit, procedure of participation of public community in making economical decisions, and, etc.

New draft of the Law on Environment protection was developed and approved. This Law is the law of direct effect and it regulates main requirements on EIA, SEE, participation of public community in making decisions and implementation of international obligations. The provisions concerned issues of environmental expertise were introduced into main laws regulating nature management.

In the Kyrgyz Republic the executing agency on implementation of requirements of Convention is the Ministry of Ecology and Emergency Situations of Kyrgyz Republic. Within framework of ME&ES KR, state environmental expertise is carried out by the department of

ecology and environmental expertise of the Central Body of the Ministry and territorial departments on environment protection. Strong division of authorities on implementation of SEE between central body and territorial departments on environment was determined by the order of the Minister E&ES KR. State environmental expertise is carried out by the staff experts and Expert Commissions out of not on the permanent staff experts according to the existing Register of the experts.

Specialists of the project organisations having a license and certificates of a right to carry out EIA, issued by the state Commission on architecture and construction under the Government of KR, are eligible to be authors of EIA. Specialists of ME&ES KR are included into the commission on issue of certificates.

At present, main legislation act in area of environmental assessment in Kyrgyzstan is the Law “On Environmental Expertise” adopted in 1999. Concept of environmental impact assessment (EIA), as a process of identification, analysis, assessment and consideration in the project decisions of supposed impact of planning activity and environmental changes caused by them (impact), were determined in this law.

Concept of environmental expertise, as a process of identification the level of environmental risk and a danger of planning decisions, which implementation directly or indirectly makes impact on environment and natural resources. The Law determined main requirements for conducting environmental expertise, objects (documentation) to be subject to expertise, regulated legal relationship in this area. In accordance with the legislation there are two types of environmental expertise – state and public.

State environmental expertise is conducted by especially authorised in area of environmental expertise state bodies (the Ministry of Ecology and Emergency Situations, and territorial departments on environment protection). Depending on scale and character of planning activity, expertise is carried out at the republican or oblast level. Conducting of state environmental expertise of the objects, being subject to it, is compulsory.

In 1997, by the resolution of the Board of Ministry of Environment protection of Kyrgyz Republic the Instruction on procedure of state environmental expertise of pre-project, project and other materials and documentation in Kyrgyz Republic was approved. The instruction was registered by the Ministry of Justice of KR.

The objects of environmental expertise are feasibility studies and projects of construction, reconstruction, liquidation and temporary closing-down of objects, projects of reclaiming, other types of pre-project and project documentation, which implementation is able to make impact on the environment.

Documentation, the object of expertise, is analysed by experts or expert commission. The result of state environmental expertise is a decision, which can be positive or negative, and the positive decision is one of the compulsory terms and permission for implementation of planning activity.

The most important thing here is that documentation, being subject to the state environmental expertise, must include materials, done by the customer, impact assessment of planning activity on environment or EIA. Quality, objectivity, completeness and validity of materials of EIA play important role under preparation by an expert a decision of state environmental expertise of project documentation.

Customer (initiator) is supposed to inform about own documentation public community, NGO, any concerned persons and organisations in any convenient, for people, form (meetings, receptions, round tables, mass media). Proposals and observations of public community on

documentation should be registered, reviewed, proved and acceptable are taken into consideration. Discussion materials of EIA and EIAs with public community are attached to the documentation presented for state environmental expertise.

### **c) The Republic of Tajikistan**

Tajikistan by the Decree of the President of state from 17.02.04, № 1287 has joined to the Espoo Convention.

In the Law of Republic Tajikistan «On nature protection» stipulates environmental expertise. Environmental expertise in detail is presented in the Law of Republic Tajikistan «On Environmental expertise». Ecological conditions for realization of planned activity also are regulated in other laws of the country: «On protection of atmospheric air », «On protection and use of fauna», «On protection and use of flora », «On waste products of manufacture and consumption », Forest, Water and Land codes, etc. normative-legal acts.

The term «environmental expertise» in the Tajik legislation means official definition of conformity of planned and carried out economic and-or other activity to ecological requirements, and also definitions of an admissibility of realization of object of ecological examination with a view of the prevention of possible adverse influences on surrounding natural environment and connected with them social, economic and others consequences.

The official authorized body of the State environmental expertise is the State committee on environment protection and a forestry of Republic Tajikistan. For the organization and carrying out of the State environmental expertise in system of the State committee on environment protection and a forestry of Republic Tajikistan are responsible the service of the State environment expertise and its regional Groups on normatives and expertise.

The legislation of the country provides participation of the public during environmental expertise though after connection of republic to Orhus convention completion and entering of respective alterations and additions in the basic ecological laws is required.

Also in Laws of Republic Tadjikistan « On nature protection» and «On environmental expertise» there is no definition «transboundary influence » and in the contents of these laws regulating norms are not stipulated at such influences.

Tajikistan has signed a number of bi- and multilateral agreements which provide application of separate provisions of the Convention of Espoo. However corresponding practice of the decision transboundary issues according to the Convention in republic is not present.

The legislation of Republic Tajikistan determines the following principles of carrying out of the State environmental expertise:

- rights of all people on an environment favorable for their health and conditions for living;
- necessities of preservation of ecological equilibrium, a genofund and a variety of wildlife for interests of the present and the future of generations;
- presumptions of potential ecological danger of planned objects of environmental expertise;
- observance of the international legal obligations of Republic Tadjikistan;
- independence, objectivity, scientific validity, public participation, publicity;
- a complex estimation of influence on an environment and its consequence.

The state environment expertise is carried out by a commission of experts formed by the State committee on environment protection and a forestry of Republic Tajikistan.

The commission of experts includes non-staff experts and in the cases established by normative documents of authorized state body in the field of environmental expertise its regular employees can be included.

The expert of the state environmental expertise cannot be the customer or the developer of the project, their representatives, representatives of the ministries, departments, the organizations

to which field of activity the object the examinations consisting in labour or other contractual relations with the customer or the developer of the project concerns, providing material compensation.

The documentation represented for the State ecological examination, should contain a substantiation of ecological safety of planned or carried out activity. Projects on development of ecologically dangerous kinds of economic activities in structure of the unit of the Estimation of influence on an environment should contain an estimation of ecological risk and “The Statement for ecological consequences ” which represents the document on guarantees of performance of measures on maintenance of ecological safety of this activity for all predicted period of its existence, including liquidation.

To the documentation copies also are applied:

- Documents of local state bodies and authority about conditions of using natural resources and sanctions to conducting economic activities;
- The conclusions of departmental expertise of the project;
- Results of discussion of an estimation of influence of economic activities on an environment with the public in a cover zone of the project;
- The information on technical decisions in design materials, questions of creation of laboratory base and means provided by the project for realization of control functions behind a condition of ecology in a zone of influence of economic activities of object.

If necessary on demand of a commission of experts the customer is obliged to present the additional information by a planned kind of activity.

The instruction on EIA Authorized by the Ministry of environment protection of Republic Tajikistan (nowadays the State committee on environment protection and a forestry of Republic Tajikistan) from 2000 is the base document for definition of an estimation of influence of planned activity and establishes procedures for carrying out of EIA. In the Instruction the basic aspects EIA insufficiently covered in existing acts of Republic Tadjikistan are considered. The existing Instruction does not enable to the full for the decision interstate transboundary environmental issues, work with donors, participations of the public, consideration of alternatives, an estimation of accepted decisions by comparison, the review, definition of influences to environment, of an estimation of risk and its mitigation, monitoring and check. Not enough attention is given to regional estimations of a condition of environment, including a policy, plans and programs and social and economic aspects of influence to environment.

According to the specified Instruction, the documentation on EIA should contain:

1. Materials in which expected direct or indirect influence of planned objects and kinds of activity is established, described and estimated on:

a) climatic conditions, atmospheric air, superficial, earth and underground waters, ground, bowels, the landscapes, especially protected natural territories, vegetative and fauna, functionality and stability ecosystem, the population;

b) natural resources;

c) cultural and historical monuments;

d) quality of environment in city and rural settlements;

e.) a social and economic situation.

2. An estimation of offered alternative decisions and a substantiation of the best decision.

3. Offered actions or conditions which should exclude or soften expected negative influence, or actions and conditions which would strengthen positive influence on an environment of planned objects and kinds of activity.

4. An estimation of consequences in case planned objects and kinds of activity not will are realized.

Influence of objects and kinds of activity should be evaluated for the period of their development, realization and functioning, and also on a case of liquidation or the termination of their functioning, including the period after their liquidation or the termination of functioning. At

prognosis to an estimation of expected influence of objects and kinds of activity all possible characteristics of the territory influenced as in a normal operating mode objects and realization of kinds of activity should be taken into account, and in case of probable failures.

On the basis of the developed documentation on EIA the customer makes out the Statement for influence on an environment in which all materials are systematized and analysed, calculations and the researches executed during development of the documentation on EIA.

Term of carrying out of expertise makes the law is determined no more than 45 days from the date of representation of the complete set of materials.

During carrying out of the State environmental expertise it is allocated three stages: preparatory, the basic and final.

During a preparatory stage regular experts of system of the State committee on environment protection and a forestry of Republic Tajikistan check conformity of structure of the submitted documentation to the established requirements and the commission of experts (group) on the basic directions of examination is formed.

During expert work individual expert judgements and the conclusions of expert groups on the directions of examination formulated earlier prepare. If new problems or directions of consideration a commission of experts have come to light (group, the expert) can put before the body, appointed the State environmental expertise, a question on prolongation of terms of its carrying out, in addition attraction of experts on again lifted questions.

In case of an establishment during examination of potentially dangerous influences which not taken into account and have been not appreciated by developers of the documentation, the project can be returned on development without an estimation experts of a degree of danger of this influence and his consequences.

During the final stage of work of a commission of experts the project of the summary conclusion under all considered documentation which it is discussed at its session as rules, with representatives of the customer, the design organization of the developer and the public is prepared. The summary conclusions subscribe all members of a commission of experts and cannot be changed without their consent.

#### **d) Turkmenistan**

Main legislation basis for carrying out impact assessment in Turkmenistan are legal acts regulating conducting environmental expertise, including :

- The Law of Turkmenistan “On State environmental expertise” (1995, article 7),
- The Law of Turkmenistan «On environmental protection» (articles13-15, 16),
- The resolution of the President of Turkmenistan No.2864 of 13 November 1996 «Regulations on carrying out State environmental expertise”.

These documents and also other normative and legal acts adopted for the development of laws and regulations are directed to formation and strengthening of legislation on environmental protection, health and living standards of population of Turkmenistan.

The scale of general requirements, principles, terms and responsibilities for violations of legislation on State environmental expertise and etc. are given in details and identified in articles of the Turkmenistan Law “On State environmental expertise”.

In accordance with the requirements of the 16<sup>th</sup> article of The Law of Turkmenistan “On environmental protection” design, placement, construction, reconstruction, re-equipment of enterprises and other objects and also their putting into operation, maintenance and liquidation must be carried out with obligatory fulfilment of requirements of environmental safety. Every project or intention must be accompanied with proper document on EIA carried out by applicant/designer of economic and other activities. These materials must include analysis,

general conclusion and distribution of information about possible impact of planning activity on environment in the region of object placement, and also necessary environmental protection measures in accordance with requirements of international environmental law.

State Standards of Turkmenistan “Environmental impact assessment of designed (planned) economic and other activities in Turkmenistan» 579 – 2001 has been adopted for development and realization of legislation basis. Among sections (parts) are list of norm, legal and subordinated acts, defined EIA goal and principles, content of EIA, resulting document (Conclusions) of the State environmental expertise, list of environmental dangerous types of economic activities which obligatory EIA development is required, conditions for community participation in EIA in accordance with the Aarhus Convention on access to information in the process of making decision and access to justice on issues concerning environment.

The structure of approved State Standard TDS- 579-2001 is close to the Espoo Convention but activity scale is slightly shortened and limited, basically at internal state level. However, approaches, procedures, stages are similar.

The following stage can be identified in the process of EIA carrying out:

- application submission (Notice) about planned type of activity, justification of selected technology, project solution of minimum negative impact on environment,

- preparation of EIA document with research programme for reliable and qualified description of consequences of implementation of proposed project on economic activity. Information must include justification of necessity to develop of presented activity, place and technology alternatives, all elements of environment affected by economic activity, description of all types of impacts, estimation of impacts, preventive measures, mitigating negative impact and forecasting of extent of changes of all components of environment, review of project and action plan innovations, resource-economy technologies, non- or low-waste production, characteristics of all treatment plants, methods and resources for waste treatment and/or utilization, estimation of environmental, social and economic consequences and also accident risk and consequences.

- participation of community in EIA discussion. Public hearings concerning planned economic activity and its environment impact are conducted in accordance with requirements of Aarhus Convention (1998) and National Standard on EIA. Access to ecological information about EIA is realized within the framework of National legislation but can be limited or refused based on some reasons.

- preparation of review, including decision of State environmental expertise, can be done by bodies of the Ministry of Environmental Protection without or with assistance of independent experts. Planned economic activity is not permissible without positive decision of State environmental expertise. When obtaining final decision of State environmental expertise, the Ministry of Environment Protection is governed by the Provision 8, article 2 of international Espoo Convention, National Laws, Regulations and Administrative Provisions.

Decision given by the Ministry of Environmental Protection of Turkmenistan, can include a number of recommendations for observance of requirements on environmental protection, identification of vulnerability of specific natural component need to be protected during the presented particular type of activity. Decision must include decision on acceptance or rejection of applicant's proposal.

## **e) The Republic of Uzbekistan**

Legislative base on environment protection and rational nature resources use in the Republic of Uzbekistan is developing with regard to coordination of environmental legislation and legal norms that regulate different interests of economic activity. At the same time special

attention in environmental legislation development is paid to development and supply of environment impact basic principles implementation.

Fundamental legislative act in process of national environmental legislation system development and enhancement is law of Republic of Uzbekistan “On nature protection” adopted in 1992. The law regulates a legal, organizational and economic basis for environment protection. Balanced and harmonious relations between mankind and nature, environment systems conservation, and guarantees for Republic citizens’ rights for favorable environment are the main priorities of the law.

In the following period, the legislation, which develop and concretize regulations of issues and assets of the law “On nature protection”: “Specially protected natural areas” (1993), “Atmospheric air protection” (1996), “Plant life protection and use” (1997), “Water and water use” (2003), “Radiation security” (2000), “Wastes” (2002) has been elaborated and adopted.

Republic of Uzbekistan law “On environmental expertise” was put in force with an objective to define basis for regulation of relations in the field of environmental expertise and harmonization of legal regulations with requirements. Activity on preparation of documents package for Uzbekistan to join Environmental Impact Assessment in transboundary context worked out in Espoo (Finland) has been accomplished.

Environmental Impact Assessment of planned projects is being implemented in Uzbekistan since 1993. EIA procedure was drawn up as normative regulative documents in 1996. In 2000, law on “Environmental Expertise” was adopted and put in force. In 2001, Ministry Cabinet of Republic of Uzbekistan adopted “Regulations on state Environmental Expertise in Republic of Uzbekistan”. In laws on “Nature protection” and “Environmental Expertise” the main guiding principles while development of documents on proving activity with regard to environmental condition in the Republic are reflected.

International practice on environmental satellite procedure while projection had been adopted as a basis for Environmental Assessment normative and legislative activity. Environmental Impact Assessment is considered to be its tool, and it gives complex assessment of negative consequences of planned activity and proves efficiency of environment protection activity.

Law on “Environmental Expertise” defines concept of “environmental assessment”, sets up interaction with international environmental organizations and at the same time foresees priority of international norms in case if the international agreement of Republic of Uzbekistan had set up rules that are different from those foreseen by Republic of Uzbekistan legislation on environmental assessment.

The law on “Environmental Expertise” defines: environmental assessment objectives; environmental assessment types (state and public environmental assessment, and environmental audit); basic principles of environmental assessment; legality, objectivity, proof, necessity for consideration of environmental security, presumption of potential environmental danger of any economic or another activity laid down; complex assessment of economic or another activity impact to environment and public health.

Article 11 of this law includes the list of objects for state environmental assessment; projects of state programmes, concepts, schemes for arrangements and development of industrial forces, economic and social spheres directions; pre-project and project documents that regulate economic and another activity related with nature resources use; documentation on development of new types of technique, materials, substances, production; functioning enterprises and other objects that make a negative impact on environmental condition and public health; materials for complex research of areas with an objective to render them the status of specially protected

areas, zones of environmental emergency situation and environmental disaster; all types of town-planning documents; objects with special legislative regime.

According to the law (article 15) for environmental assessment conduction the customer (economic activity initiator) presents: on projective objects – materials on environmental impact assessment (EIA), including draft of environmental impact Statement (EIS), application on environmental consequences (AEC), environmental impact statement (EIS) that is implemented in case if by results of EIS project assessment there is a necessity for additional researches implementation, local investigation, development of proved environmental activity. On functioning object customer presents: projects of environmental norms (MPE, MPD) EIS, when fact of object negative impact to environment and public health was defined.

Law on “Environmental Expertise” foresees implementation of environmental assessment, and its outcomes are of recommendation nature. According to decision of economic or another activity owner environmental audit is foreseen – independent environmental assessment of functioning enterprises and other objects that make negative impact to environmental condition.

The State Committee on Environment Protection of Republic of Uzbekistan is a special plenipotentiary structure in the field of state environmental assessment. In accordance with “Regulations on State Environmental Expertise of the Republic of Uzbekistan” the following organizations of the State Committee for Nature Protection are the State environmental expertise authorities: Central Administrative Board on State environmental expertise (Glavgosexpertiza); State environmental expertise of the State Committee for Nature Protection of the Republic of Karakalpakstan; State environmental expertise committees of regions and Tashkent city for Nature Protection. State environment assessment authorities of the State Committee for Nature Protection are the uniform system of state environment assessment, methodological guidance of which is presided by the Central Administrative Board. The staff experts carry out state environmental expertise.

Authors of EIA documents, which are environmental guideline for object expertise, could be specialists of project organizations, companies, dealing with EIA documents elaboration. And they are not required special licenses and certificates for the right on EIA documents preparation.

Regulations on State Environmental Expertise specifies the List of kinds of activity, which are subject to state environmental expertise. In the List the objects are divided into four categories according to the rate of environmental impact: I – types of activity with high level impact risk, II – types of activity with medium level risk, III - types of activity with low level risk, IV - types of activity with local impact.

According to the “Regulations” Glavgosekoekspertiza carries out state environmental expertise of the objects on I<sup>st</sup> and II<sup>d</sup> categories of types of activity. State Environmental Expertise of the Republic of Karakalpakstan, regions and Tashkent city, carry out environmental expertise of the objects on III<sup>d</sup> and IV<sup>th</sup> categories of types of activity.

For the State environmental expertise customer should submit EIA documentation on projected objects, consisting of the following stages:

- Statement of Environmental Impact Assessment (SEIA) project, elaborated on the design stage of the planned or predictable activity – before the object financing starting. EIS project contains analysis of environmental conditions before the planned activity running; description of main and subsidiary technology in respect to environmental impact and nature recourses use; expected emissions, waste and their environmental impact, waste recycling and neutralization; analysis of planned activity alternatives; analysis of emergency situations (with probability estimation and prevention of negative consequences script); impact type



and character description; analysis of main objects of impact; impact estimation and forecast of environment change and environmental consequences as a result of activity running of the object of expertise; proposals on actions, reducing environmental impact up to acceptable level;

- SEIA is submitted before approval of technical-economic object by the state environmental expertise. SEIA contains: estimation of environmental problems of area, chosen for the object construction according to the results of geological engineering survey and programme research within the framework of the project; detailed characteristic of environmental impact; analysis of the results of public hearings and if necessary, correction of concerned activity impact on social settings; estimation of environmental impact of concerned object with reference to certain area;
- SEIA is submitted before acceptance of the object for the operation. It contains: correction of project decisions, analysis of adopted actions on the results of State committee for Nature Protection authorities considerations of EIS project, EIS, and also proposals, submitted at public hearings, environmental standards, regulating the activity of the expertise object; the main conclusions on probability of carrying out of economic activity. This document includes monitoring and environmental management for the period of the object operation.

For the projected objects of category IV on environmental assessment the documents of SEIA project are submitted. By the results of consideration of SEIA documents, the State Committee for Nature Protection authorities on state environmental expertise issue the Conclusion of state environmental expertise, consisting necessary information about expertise object, used technology, organization of work, and provided environment protection actions, possible negative consequences, connected with object activity and conclusions about admissibility or inadmissibility of expertise object implementation.

The Conclusion is issued on the official Letterhead, signed by the Deputy Chairman of the State Committee for Nature Protection or Chairman of appropriate Committee for Nature Protection. In case of not approval of EIA, the recommendations about requirement the revision of submitted documents are made.

There are substantially formed legal and normative base on EIA procedures and accordingly well-qualified personnel in the Republic of Uzbekistan for carrying out environmental impact assessment both in the national level and transboundary context. Joining to the Convention on Environmental Impact Assessment in a transboundary context along with other Central Asian States is a priority goal and undoubtedly, will have an effect on environment enhancement in Central Asia.

## **5. Recommendations for the Party of Origin (PO)**

Current recommendations were developed for countries being initiators of a project, capable to make potential transboundary environmental impact, for which procedure of environmental impact assessment is required.

The Competent authority at planning activity together with the initiator of project (IP) it is determined, whether planned activity falls under action of the convention. At definition of presence transboundary influences the Competent authority makes a decision about performance of procedure of the Notification. The initiator of project starts performance of procedure of the Notification.

### **a) the notification**

Notification represents a short letter of non-technical character, containing the following:  
Information about planning activity, including information about possible transboundary impact;

Information about opportunity of possible solution and other dates in accordance with paragraph 5, article 3 Convention;

Indication of period of time when receiving a response is desirable;

Address where a response is sent.

(see the example in Annex № 2)

Notification (a letter-notification and short information) are presented in Russian language since this language is common language for Central Asian Countries and is an official language of Convention.

Notification should to be sent to the address of official Point of communication. In case, if this communication body is not authorized, environmental body, second copy of Notification with attachments should to be sent to the Authorised environmental body of Affected country. An official list of points of communication has to be installed on regularly renovated site of the Espoo Convention (<http://www.unece.org/env/eia/contacts.htm>),

Notification is sent as a hard copy, an electronic copy can be sent to the Authorised environmental body in advance, in order to inform it about forthcoming sending of Notification.

### **b) sending of the notification**

Notification should to be sent no later than would be informed the public of own country about planned activities. Notification should to be sent by a registered letter “with notification”. This gives PO guarantees that Notification is delivered to AP indeed and data of receiving.

### **c) timing of review of the Notification**

(corresponds to the requirements of the Articles 3.2 and 3.3 of Espoo Convention)

PO should wait for a response from AP during a period of time indicated in Notification, as a rule, possible during one month. This period of time does not determine timing for review of materials themselves on environmental impact assessment. PO clears up questions of adequacy of information for making of a valid decision on involvement in a procedure of environmental impact assessment.

### **d) timing for review of documentation EIA**

PO proposes certain reasonable timing, depending on complexity of a project, for review of materials EIA, conducting consultations with public community and receiving comments

from AP. Timing of consultations are determined taking into consideration submission of draft documentation on environmental impact assessment to the official Points of communication of Affected countries and should be no more than one and half month.

**e) transmitting information**

Documentation on environmental impact assessment should to be sent by IP to the Competent Authority and/or environmental authority of AP for consideration and preparation comments.

**f) final decision**

(corresponds to the requirements of Article 6 of Espoo Convention)

PO informs AP about final decision on impact assessment. PO summarizes received comments on transboundary aspects; informs AP how aspects were taken into consideration under preparation of final Materials on environmental impact assessment and making decision.

In case of AP expresses a desire in receiving of information on project implementation and monitoring, PO has to make a decision how information can be presented to countries concerned, including transboundary context.

## **6. Recommendations for Affected Parties (AP)**

Presented Recommendations have been developed for countries received Notifications that PO is development of activity with possible transboundary impact, which needs carrying out environmental impact assessment.

**a) preparing response to the notification**

(corresponding Espoo Convention Requirements Article 3.3)

The Competent Authority of AP ensures sending response to the Competent Authority of PO within the period identified in the Notification. During this period AP should make decision on taking or not taking part in the process of environmental impact assessment. AP should consider and discuss Notification with local authorities located on the territory covered by possible transboundary impact of proposed activity.

Preparation response to the Notification and further organization of work is carried out by the Competent environmental authority of AP. AP can initiate coordination with Competent Authorities of PO for clearing some issues and obtaining additional information.

If AP decides to participate in the process of environmental impact assessment, it sends reply to PO. The response is sent by “registered mail” and includes: summary of the most assessable information about AP (for example, about vulnerable ecosystems which can be affected as a result of realization of proposed activity).

If AP decides not to participate in the process of environmental impact assessment, in this case it should be sent an adequate response by “registered mail” and inform about refusal of participation in the process of environmental impact assessment. In this case, or if AP does not reply to notification, PO carries out further activities in accordance with paragraph 4, Article 3 of the Convention.

It is recommended to exchange information among countries in such way that the PO can regulate process of planning of proposed activity.

**b) procedures of public participation**

Submitting documentation of EIA to the public and procedures of public participation is recommended to implement in accordance with Guidance on Public Participation in

Environmental Impact Assessment in a Transboundary Context adopted at the third Meeting of the Parties of the Convention (Cavtat, June 2004) (see annex 3) and national legislation.

Documentation on EIA and/or Statement on EIA is considered within the reasonable timeframe (usually, no more than one and half month). If it there is a need, the timeframe will be prolonged based on agreement between Parties.

**c) transmitting comments**

The Competent Authority of AP summarized comments and send it to Competent Authority of PO and IP for consideration and making decision.

**d) final decision**

After completion of environmental impact assessment, Competent authority of PO informs AP about final approval of the project and about all obtained comments, which were taken into consideration. Competent authorities of AP should be ensured that comments and registration of comments will be accessible for community taking part in the process of environmental impact assessment. AP can also ask for information about project implementation.

## **7. Recommendations for the Initiators of projects (IP) with transboundary impact**

**a) identification of transboundary nature of the planned activities**

Identification of planning project activity with transboundary impact valid for the Convention Espoo is conducted by IP and confirmed by Competent Authority of PO. For this purpose IP:

- a) determines whether this activity is in the list of Annex I to Espoo Convention.
- b) If this activity is not in the list of Annex I to the Espoo Convention, then Annex III “General criteria, helping to determine environmental importance of types of activity not included in Annex I for assessment by other criteria, or the requirements of national legislation are applied.

For identification transboundary impact can use “Methodological aspects of environmental and socio-economic impact assessment” (see annex 4).

IP has to know the objectives and requirements of the Espoo Convention and promote Competent Authority PO in fulfilment of these requirements. It is necessary that IP will discuss with relevant authorities the requirements of project content, possible transboundary impact of planning activity, issues of financing and delivery of documentation, and conducting consultations.

Information to be reasonably presented in early stage to the relevant Competent Authority of PO is as follows:

- short description of a project (summary),
- possible impact of a project under ordinary activity;
- possible impact of a project under emergency situation;
- type of possible transboundary impact;
- potentially involved parties;
- a draft of plan of public consultations and distribution of information (see annex 3).

In order to get additional support, IP can attract a local Consultant in each of AP and to help in organisation of consultations.

## **b) preparation the draft of the Notification**

IP prepares a draft of Notification in accordance with the prescribed procedure and sends it to the Competent Authority of PO. Having reviewed a draft of Notification prepared by IP, the Competent Authority of PO notifies potential AP about initial phase of the procedure of environmental impact assessment (“scoping”). (see a form of notification in annex 2)

## **c) expenses for consideration and public participation**

IP has to foresee necessary costs for procedure EIA in PO and AP in estimation costs of project planning. It is recommended to use the Guide on Practical Application of the Espoo Convention and the Guide on Public Participation in Environmental Impact Assessment in a Transboundary Context (see annexes 5,3)

## **d) documentation on EIA**

The documentation on EIA should include the following:

- description of natural peculiarities of territory where an object of planning activity is to be located on the basis of existing information about natural and resource potential, economic use of the territory, including social, demography, medical and biological peculiarities;
- assessment of existing anthropogenic burden on environment and capability of components of environment and renewable natural resources to natural restoration in the area of proposed location of an object of planning activity (taking into consideration approved future plans and programme development of this territory);
- identification and assessment of supposed impact of an object of planning activity on environment (direct, indirect, short-term, long-term and continual impact):
- identification of measures on prevention or minimising of environmental impact (description of basic production and technologies)
- assessment of residual impact on environment and its consequences;
- compulsory consideration of main alternatives of an object of planning activity by options of location, technological, constructional and other decisions, including refusal of planning activity, taking into consideration expected social, economic and environmental consequences
- public community involvement in the EIA procedure;
- development of measures on establishment of the system of environmental monitoring;
- development of a plan of post-project analysis.

Final materials (a report) on EIA of an object of planning activity has to contain basis of a version of implementation of planning activity chosen by the Customer, guaranteeing favourable environmental situation in a proposed location.

## **e) procedure of EIA-EIAS**

Documentation on EIA is developed in accordance with requirements of national legislation of EIA, taking into account requirements of statements of Espoo Convention and present Regulation. The contents of the EIA documentation should correspond to addition II Convention. In each separate case the object of environmental assessment in transboundary context must be the environmental component, which based on preliminary estimation will be impacted.

#### **f) brief statement on environmental impact assessment (SEIA)**

Basic findings of carried out environmental impact assessment of planning activity are presented in this document.

SEIA is formed on the basis of carried out EIA and includes the following parts:

- basic findings of the research carried out under the process of EIA and conclusions;
- significant impact on environment and its consequence on population health and living conditions, including impact on neighbouring territories;
- obligations and guarantees of the project developer on providing of environmental safety for all period of enterprise activity.

SEIA is given to IP to all stakeholders, authorities, bodies of management and control, community. EIAS is considered as IP report on carried out EIA and presented IP as both together with other materials on EIA and separately for all stakeholders.

#### **g) transmitting documentation on EIA**

(according to the requirements of Articles 3.8, 4.2 of Convention)

The documentation on EIA is sent by IP to Competent authority and/or environmental authority of AP for consideration and comments.

#### **h) consultations with public**

(according to the requirements of Articles 4.2 and 5 Convention)

IP can to ask from Competent Authorities of PO and AP for recommendations on selection of the most socially suitable process of conducting consultations with public and on identification of impacted and/or interested group of public. Consultations are organised by IP or by the public itself of AP, which appealed to its Competent authority. (see annex 3)

#### **i) preparation final documents on EIA**

After completion of the process of environmental impact assessment, IP prepares report where includes all comments and remarks obtained from public in the process of consultation. IP should indicate how these comments were taken into account in the documents on environmental impact assessment.

After completion of the process of environmental impact assessment, IP should present to the PO Competent authority the final document on environmental impact assessment for decision making.

### **8. Extraordinary matters**

#### **a) Policy, plans and programmes (according to the article 2.7 Convention)**

In accordance with the Convention, parties should make an effort to use the Convention also regarding policy, plans and programmes. If evaluation of policy, plans and programmes is included into bilateral and multilateral agreements, then it is important to come to mutual agreement on what types of policy, plans and programmes should be assessed by transboundary EIA.

**b) Post-project analysis and monitoring (according to article 7)**

In accordance with the Convention, on the request of one Party, Parties should decide on conducting post-project analysis. It should include, as a minimum, an activity itself and its possible negative transboundary impact. In case of results of post-project analysis will be unexpected, PO should inform AP and conduct consultation on necessary measures.

Post-project analysis may be included in final decision as part of monitoring of the activity. It can also be included into general plan from the beginning of the process of carrying out of transboundary EIA. As a rule, post-project analysis is based on monitoring of activity and its impact. Parties can also jointly conduct monitoring covering territories of all affected Parties. Parties are recommended to exchange any results obtained during monitoring. Requirements for post-project analysis can be included into agreements on transboundary EIA. (see Annex 7)

**c) Basic procedures on transboundary EIA, if countries are not the Parties of Convention**

In this case it is proposed to carry out the interactions on transboundary EIA on a basis of bilateral Agreements using the mechanism of step-by-step procedures of the Guidelines and the Guidance on sub regional cooperation.

## **9. List of Annexes:**

**1. Text of Espoo Convention**

**2. Template of Notification Letter**

**3. Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context**

**4. Methodological aspects of environmental and socio-economic impact assessment**

**5. Guidance on the Practical Application of the Espoo Convention**

**6. Template of environmental impact assessment statement (SEIA)**

**7. Exemplary activity for procedure of post-project analysis**

**8. Guidance on subregional cooperation**

**9. Conclusions of the Sub-regional Workshop**