

**REPORT OF ON THE IMPLEMENTATION OF
THE CONVENTION ON ENVIRONMENTAL IMPACT
ASSESSMENT IN A TRANSBOUNDARY CONTEXT**

in the period 2010–2012

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PART ONE – CURRENT LEGAL AND ADMINISTRATIVE FRAMEWORK FOR THE IMPLEMENTATION OF THE CONVENTION

In this part, please provide the information requested, or revise any information relative to the previous report. Describe the legal, administrative and other measures taken in your country to implement the provisions of the Convention. This part should describe the framework for your country's implementation, and not experience in the application of the Convention.

Article 2

General Provisions

1. *List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2).*

Prepared Draft Law on EIA include the articles related to Transboundary EIA and SEA documents. At the same time Draft Law identifies international agreements prior to national legislation. As national legislation, Draft Law includes three branches - EIA process, SEA process and State Ecological Expertise. Draft Law was included to the Agenda's Workplan list of the Parliament that is expected to discuss during spring session in 2013.

2. *Indicate any further measures to implement the provisions of the Convention that are planned for the near future.*

It is discussed and expected to adopt sublegal acts by Cabinet of Ministries regarding to EIA implementation mechanisms on Espoo Convention. Especially it will be considered the list of activities which reflected in Appendix I and at the same time the European Countries' practices and guidelines on Transboundary EIA process on this regard. All these sublegal acts will based on the New Law on EIA that is expected to be adopted in 2013.

3. *List the different authorities that are named responsible for the implementation of the EIA procedure in the transboundary context and domestically.*

Responsible for Transboundary EIA procedure is Ministry of Ecology and Natural Resources of the Republic of Azerbaijan and its Department of State ecological Expertise . Also Ministry of Foreign Affaires of Azerbaijan Republic acts as point of contact under Espoo Convention.

4. *Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it.*

Ministry of Ecology and Natural Resources.

5. *Does your country have special provisions for transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?*

Law on "Environmental Protection" (1999) that currently has legal force in the country doesn't reflect special provisions on this regard.

IDENTIFICATION OF A PROPOSED ACTIVITY REQUIRING ENVIRONMENTAL IMPACT ASSESSMENT UNDER THE CONVENTION

6. *Is appendix I to the Convention transposed fully into your country's national legislation? Please describe any differences between the national list and appendix I to the Convention.*

There is not a direct list for transboundary EIA in national legislation. According to the guideline of "EIA Process" (1996, April) the content of EIA is identified by competent authority. In practice, we apply EIA process based on the list of Appendix I domestically.

7. *Does your country's legislation already cover fully the revised appendix I in the second amendment (ECE/MP.EIA/6, decision III/7)?*

No, it doesn't

PUBLIC PARTICIPATION

8. *How does your country, together with the affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to your country's public as required in article 2, paragraph 6?*

There is not such an experience.

Article 3

Notification

QUESTIONS TO PARTY OF ORIGIN

9. *Describe how your country determines when to send the notification to the affected Party, which is to occur "as early as possible as and no later than when informing its own public".*

There is not such an experience. If significant transboundary environmental impacts are found out, of course, notification has to be sent in compliance with Espoo Convention as set out in Article 3.1

10. *Indicate whether and how the following provisions are reflected in your national legislation:*

- a. *The stage in the EIA procedure when your country usually notifies the affected Party (art. 3.1);*

There is not such an experience.

- b. *The format for notification. Please indicate whether this is the format as decided by the first meeting of the Parties in its decision I/4 (ECE /MP.EIA/2, annex IV, appendix). If not, does your country use a format of its own (in which case, please attach a copy of it)?*

There is not such an experience.

- c. *The time frame for the response to the notification from the affected Party (cf. art. 3, para. 3, "within the time specified in the notification"), the consequence if an affected Party does not comply with the time frame, and the possibility of extending a deadline;*

There is not such an experience.

- d. The request for information from the affected Party (art. 3 para. 6), necessary for the preparation of the EIA documentation;*

There is not such an experience.

- e. How your country cooperates with the authorities of the affected Party on public participation (art. 3, para. 8);*

There is not such an experience.

- f. When and how the public in the affected Party is notified (what kinds of media, etc., are usually used). What is normally the content of the public notification?*

There is not such an experience.

- g. When and how the public in the Party of origin is notified (what kinds of media, etc. are usually used). What is normally the content of the public notification?*

There is not such an experience.

- h. Whether the notification to the public of the affected Party has the same content as the notification to your country's public. If not, describe why not.*

There is not such an experience.

- 11. Does your country make use of contact points for the purposes of notification, as decided at the first meeting of Parties (ECE/MP.EIA/2, annex III, decision I/3), and as listed on the Convention website (http://www.unece.org/env/eia/points_of_contact.htm)?*

In case of applying Transboundary EIA process we will make use of that list that is shown on the website.

QUESTIONS TO AFFECTED PARTY

- 12. Indicate whether and how the following provisions are reflected in your national legislation:*

- a. How your country decides whether or not to participate in the EIA procedure (art. 3, para. 3)?*

Although National Law on Environmental Protection doesn't reflect it exactly, Espoo Convention has legal force in the country if there is a notification by Party of Origin. In case of any significant transboundary environmental Impacts by Party of Origin, it has to send notification, if it doesn't send, we require the implementation of Espoo Convention's provisions. If notification was given by Party of Origin, firstly, the competent authority at our country indicates the intent of participation. In practice, in 2010 as an Affected Party we accepted notification via Espoo Convention Secretariat about EIA on new Metsamor NPP in Armenia. Azerbaijan confirmed the intent of participation on Transboundary EIA process. The Party of Origin (in this case- Armenia) refused to apply transboundary EIA process under Espoo Convention. On this regard there is non-compliance by Party of Origin under the Espoo Convention.

- b. The request from the Party of origin for information (art. 3, para. 6), necessary for the preparation of the EIA documentation;*

There are no such provisions in national legislation.

c. *How your country cooperates with the authorities of the Party of origin on public participation (art. 3, para. 8);*

There is not such an experience.

d. When and how the public is notified (e.g., what kinds of media, etc., are usually used).

Provisions are not reflected exactly in national legislation. In case of application Espoo Convention's provision will be applied.

Article 4

Preparation of the environmental impact assessment documentation

QUESTIONS TO PARTY OF ORIGIN

13. *Indicate the legal requirements in your country, if any, related to:*

a. *The content of the EIA documentation (art. 4, para. 1; appendix II);*

Provisions are not reflected exactly in national legislation. In Azerbaijan guideline about "EIA process" (p.3.2.2) includes the whole information of EIA content as in Appendix II.

b. *The procedures for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (art. 4, para. 1);*

Provision is not reflected exactly in current national legislation. In case of application Espoo Convention's Appendix II will be applied. At the same time New Draft Law on EIA includes EIA process and its content.

c. *The identification of "reasonable alternatives" in accordance with appendix II, paragraph (b);*

Provision is not reflected exactly in national legislation. But during the EIA process assessment of alternatives also no-action alternative have to be assessed.

d. *The procedures and format for providing the EIA documentation domestically;*

Domestically appropriate authority (in this case Ministry of Ecology and Natural Resources) and public are provided by prepared EIA document by customer for state ecological and public expertise in accordance with article of the Law on "Environmental Protection" (Item VIII, article 51-58) and rules of "EIA process" Guideline (p.4). Public participation is undertaken during the EIA process. While expertise the document we involve the experts from scientific centres and also NGOs which represent the public. The discussions are held in Aarhus Centre by Ministry of Ecology and Natural Resources and also might be held by customer.

e. *The procedures and format for providing the EIA documentation to the affected Party. If there is a difference between the procedures and format domestically and for the affected Party, please explain;*

There is not such an experience. But in case of application, the Article 2.6 of Espoo Convention has to be applied.

- f. *The procedures for the examination of, and the deadlines for comments on, the EIA documentation domestically, and how the comments submitted domestically are addressed;*

Based on the Law on “Environmental Protection” and rules of “EIA process” Guideline (p.2.7) EIA document are revised during 3 months for ecological expertise, as a result of expertise the competent authority gives ecological conclusion at the state level. During this period expert group are organised for examination the EIA document by Ministry of Ecology and Natural Resources. Expert group consist from specialists on different environmental branches. After awareness of public about the project, it is very important to submit comments by writing. Also during the consultations they can do it orally. The comments that are done orally have to register officially and have to be take into account. Without Public Participation State Ecological Expertise doesn’t give positive conclusion.

- g. *The procedures for the examination of, and the deadlines for comments on, the EIA documentation from the affected Party, and how the comments submitted by the affected Party are addressed;*

There is not such an experience.

- h. *The procedures for public hearings domestically;*

The Ministry of Ecology and Natural Resources (MENR) and Customer organise the public participation. First awareness can be done via media, internet and etc. or consultations provided by customer (p.4), then by MENR. Public submit their Comments by writing of one person or group of people, NGOs that represent public interests.

- i. *The procedures for public hearings held on the territory of the affected Party.*

There is not such an experience.

QUESTIONS TO AFFECTED PARTY

14. *Indicate the legal requirements in your country, if any, related to:*

- a. *The procedures and deadlines for comments on the EIA documentation to be submitted to the Party of origin;*

It is not reflected exactly in national legislation.

- b. *The procedures for public participation in the review of the EIA documentation domestically, and the authority responsible for the execution of the aforementioned procedures;*

There is not such an experience. In case of application, The Ecology and Natural Resources of Azerbaijan will be responsible for holding the EIA procedure.

- c. *The procedures for the examination of the EIA documentation domestically.*

There is not such an experience.

Article 5

Consultations

QUESTIONS TO PARTY OF ORIGIN

15. *Indicate the legal requirements in your country, if any, related to the following provisions:*

a. *The procedures for cooperation with the affected Party related to consultations;*

There is not such an experience.

b. *The stages, procedures and deadlines for consultations with the affected Party;*

There is not such an experience.

c. *The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.*

There is not such an experience under Espoo convention.

QUESTIONS TO AFFECTED PARTY

16. *Indicate the legal requirements in your country, if any, related to the following provisions:*

a. *The procedures for interaction with the Party of origin related to consultations;*

There is not such an experience.

b. *The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.*

There is not such an experience.

Article 6

Final decision

QUESTIONS TO PARTY OF ORIGIN

17. *Indicate the legal requirements in your country, if any, related to the following provisions:*

a. *The definition of "final decision" related to the implementation of the planned activity; the content of decisions; and procedures for their adoption;*

Definition of "Final decision" has not been reflected in current national legislation exactly. The conclusion of State ecological expertise (SEE) which permits to realize the project has obligatory character. Conclusion is given after the EIA procedures and considers the terms related to environmental protection measures and mitigation of impacts. Decisions might be made by legal authorities to start all realization procedures on proposed activities and EIA documentation and conclusion is a part of these procedures. At the same time without the ecological conclusion, proposed activity cannot be done.

b. *For each type of activity listed in appendix I, identify what is regarded as the "final decision" to authorize or undertake a proposed activity (art. 6 in conjunction with art.*

2, para. 3); also provide the term used in the national legislation in the original language. Do all projects listed in appendix I require such a decision?

According to the current Law on “Environmental Protection” reflects all proposed activities as the objects of State Ecological Expertise which have environmental impacts. It is forbidden to act without positive ecological conclusion. (Item VIII. Article 51, p.3)

- c. *The procedures for informing of the "final decision" domestically and for the affected Party;*

There is not such an experience.

- d. *Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and the public in your country (art. 6, para. 1)?*

There is not such an experience. The comments of the authorities and the public are taken into consideration and it has to be reflected in ecological conclusion.

- e. *The opportunity to review the decision if, before the activity is implemented, additional information becomes available according to article 6, paragraph 3.*

There is not such an experience.

Article 7

Post-Project Analysis

18. *Indicate the legal requirements in your country, if any, related to:*

- a. *Post-project analysis (art. 7, para. 1);*

There is not such an experience.

- b. *Procedures for informing of the results of post-project analysis.*

There is not such an experience.

Article 8

Bilateral and multilateral agreements

19. *Does your country have any bilateral or multilateral agreements based on the Convention (art. 8, appendix VI)? If so, list them. Briefly describe the nature of these agreements. To what extent are these agreements based on appendix VI and what issues do they cover? If publicly available, also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.*

Azerbaijan has not any bilateral or multilateral agreements under the Espoo Convention. However Azerbaijan signed Framework Convention for the Protection of the Marine Environment of the Caspian Sea with Caspian countries (2003, on November 4). Protocol Concerning Regional Preparedness, Response and Co-operation in Combating Oil Pollution Incidents to the Framework Convention on the Protection of the Marine Environment of the Caspian Sea adopted in Aktau, in 12th August 2011. It considers to

cooperate on protection, preservation, restoration and rational use of marine living resources, also to assess environmental impacts, monitoring, research and development programs, dissemination and exchange information and etc. Due to the Convention, each Contracting Party shall take all appropriate measures to apply procedures of environmental impact assessment of any planned activity, that are likely to cause significant adverse effect on the marine environment of the Caspian Sea.

20. *Has your country established any supplementary points of contact pursuant to bilateral or multilateral agreements?*

There is not such an experience.

Article 9

Research programmes

21. *Are you aware of any specific research in relation to the items mentioned in article 9 in your country? If so, describe it briefly.*

There is not such an experience.

Ratification of the amendments to the Convention and of the Protocol on Strategic Environmental Assessment

22. *If your country has not yet ratified the first amendment to the Convention, does it have plans to ratify this amendment? If so, when?*

Currently it is impossible to say exact response for this.

23. *If your country has not yet ratified the second amendment to the Convention, does it have plans to ratify this amendment? If so, when?*

Currently it is impossible to say exact response for this.

24. *If your country has not yet ratified the Protocol on SEA, does it have plans to ratify the Protocol? If so, when?*

Currently it is under discussion. But it is impossible to say exact time.

PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2010–2012

Please report on your country's practical experiences in applying the Convention (not your country's procedures described in part one), whether as Party of origin or affected Party. The focus here is on identifying good practices as well as difficulties Parties have encountered in applying the Convention in practice; and the goal is to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve its application.

CASES DURING THE PERIOD 2010–2012

25. *If your country's national administration has a list of transboundary EIA procedures that were under way during the reporting period, in which your country was Party of origin or affected Party, please list it.*

Currently due to the construction of New Metsamor NPP, Azerbaijan is an Affected Party under Espoo Convention. During this period there were no such projects that required Transboundary EIA Procedure under this Convention.

26. *Does your country object to the inclusion of the above list of transboundary EIA procedures in a compilation of such procedures to be made available on the website of the Convention? (Indicate "yes" if you object.)*

There is not such an experience.

27. *Provide information and explanations on the average duration of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.*

There is not such an experience.

EXPERIENCE IN THE TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE DURING THE PERIOD 2006–2009

28. *If your country has had practical experience in the transboundary EIA procedure during the reporting period, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.*

There is not such an experience.

29. *Please share with other Parties your country's experience of using the Convention in practice. In response to each of the questions below, either provide one or two practical examples or describe your country's general experience. You might also include examples of lessons learned in order to help others:*

- a. *Indicate whether a separate chapter is provided on transboundary issues in the EIA documentation. How does your country determine how much information to include in the EIA documentation?*

There is not such an experience in practice.

- b. *Translation is not addressed in the Convention. How has your country addressed the question of translation? What does your country usually translate? What difficulties has your country experienced relating to translation and interpretation, and what solutions has your country applied?*

There is not such an experience.

- c. *How has your country organized transboundary public participation in practice? As Party of origin, has your country organized public participation in affected Parties and, if so, how? Has your country experienced difficulties with the participation of its public or the public of another Party (e.g., have there been complaints from the public about the procedure)?*

There is not such an experience.

- d. *Describe any difficulties that your country has encountered during consultations, for example over timing, language and the need for additional information. As an affected Party, have consultations under article 5 supported the prevention, reduction or control of possible significant transboundary environmental impacts?*

There is not such an experience.

- e. *Describe examples of the form, content and language of the final decision, when it is issued and how it is communicated to the affected Party and its public;*

There is not such an experience.

- f. *Has your country carried out post-project analyses and, if so, on what kinds of project?*

There is not such an experience under Espoo Convention. It was held post-project analyses, done monitoring programmes on all big projects that were carried out in Azerbaijan including oil and gas projects. Such documents have to be submitted to the Ministry of Ecology and Natural Resources.

- g. *Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your country's experiences describing, for example, means of cooperation (e.g., contact points, joint bodies, bilateral agreements), institutional arrangements, and how practical matters are dealt with (e.g., translation, interpretation, transmission of documents, etc.);*

There is not such an experience.

- h. *Name examples of good practice cases, whether complete cases or good practice elements (e.g., notification, consultation or public participation) within cases. Would your country like to introduce a case in the form of a Convention's "case study fact sheet"?*

There is not such an experience.

- i. *Identify the most common means of applying the Convention (e.g., through focal points, joint bodies, multilateral agreements).*

There is not such an experience.

CO-OPERATION BETWEEN PARTIES IN 2010–2012

30. *Does your country have any successful examples of how it has overcome difficulties arising from different legal systems in neighbouring countries? If so please specify.*

There is not such an experience.

EXPERIENCE IN USING THE GUIDANCE IN 2010–2012

31. *Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online? Describe your country's experience with using these guidance documents and how they might be improved or supplemented.*

a. *Guidance on public participation in EIA in a transboundary context (ECE/MP.EIA/7);*

No, it didn't

b. *Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendix);*

No, it didn't

c. *Guidelines on good practice and on bilateral and multilateral agreements (ECE/MP.EIA/6, annex IV, appendix).*

No, it didn't

CLARITY OF THE CONVENTION

32. *Has your country had difficulties implementing the procedure defined in the Convention, either as Party of origin or as affected Party? Are there provisions in the Convention that are unclear?*

There is not such an experience on implementation the procedure.

AWARENESS OF THE CONVENTION

33. *Has your country undertaken activities to promote awareness of the Convention among stakeholders (e.g., the public, local authorities, consultants and experts, academics, investors)? If so, describe them.*

2010 February and June UNDP undertook workshops and trainings on awareness civil servants and public about Strategically Ecological Assessment. Also during this period it is realized workshop by assistance of Espoo Convention Secretariat in Salyan city of Azerbaijan where experts were invited from Central Asian Countries and Georgia. Espoo Convention OSCE organised the meeting on the base of Implementation of Espoo Convention in national EIA legislation with experts, international consultant, NGOs, national authorities in September, 2013.

34. *Does your country see a need to improve the application of the Convention in your country and, if so, how does it intend to do so?*

There is need to improve the national legislation for implementation Espoo Convention. Adoption of New Draft Law on EIA will facilitate the implementation of the Convention.

SUGGESTED IMPROVEMENTS TO THE REPORT

35. *Please provide suggestions for how this report may be improved.*

For identifying the difficulties on implementation Espoo Convention in their countries and the problems under the Espoo Convention, it is necessary to ask the problematic situations which occur with the implementation of the Convention regarding each country individually.

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