QUESTIONNAIRE FOR THE REPORT OF THE REPUBLIC OF KAZAKHSTAN ON THE IMPLEMENTATION OF THE CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT IN THE PERIOD 2010–2012

Information on the focal point for the Convention

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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).
 - The Law of the Republic of Kazakhstan dated on October 21, 2000, No. 86-II "On accession of the Republic of Kazakhstan to Convention on environmental impact assessment in a trans-boundary context";
 - The Environmental code of the Republic of Kazakhstan, approved;
 - The Law of the Republic of Kazakhstan dated on December 13, 2005, No. 97 "On ratification of the Framework Convention on protection of the marine environment of the Caspian Sea";
 - Instruction on conduct of impact assessment of planned economic and other activity on environment in the development of pre-planned, pre-project and project documentation, approved by the order of the Minister of Environment Protection of the Republic of Kazakhstan dated on July 28, 2007. No. 204-p;
 - The rules of conducting public hearings, approved by order of the Minister of Environment Protection dated on May 7, 2007, No. 135-p (amended by the order No. 88-p dated on 02.04.2012);
 - The rules of access to environmental information relating to the procedure for environmental impact assessment and decision-making on planned economic and other activity, approved by the order of the Minister of Environment Protection, dated on July 25, 2007 No. 238-p;
 - Guidance on the practical application of Convention on environmental impact assessment in a trans-boundary context;
 - Guidance on public participation in environmental impact assessment in a trans-boundary context;
 - Guidance on conducting of environmental impact assessment in a trans-boundary context for Central Asian countries.
- 2. Indicate any further measures to implement the provisions of the Convention that are planned for the near future.

In pursuance of Article 2.2 of EIA Convention is planned to develop and to adopt the Instructions on carrying out the impact assessment of planned economic activity on the environment in a trans-boundary context.

It is planned to make changes in the Rules of conducting public hearings, approved by the order of the Minister of Environment Protection dated on May 7, 2007, No. 135-p. The draft of the revised Rules posted on the website of the Aarhus Center of the Republic of Kazakhstan.

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

Authorities responsible for the different stages of the EIA in a trans-boundary context:

- The Committee of Ecological Regulation and Control of the Ministry of Environment Protection of the Republic of Kazakhstan and its territorial subdivisions.

Authorities responsible for the implementation of the EIA procedure within the country:

- The Committee of Ecological Regulation and Control of the Ministry of Environment Protection of the Republic of Kazakhstan and its territorial departments and local executive bodies:
- Customers (initiators of the activity) of projects of economic objects and other kinds of activities that require conduction of the EIA and state environmental expertise;
- The experts participating in the process of the EIA and state ecological expertise;
- Representatives of NGOs, public, local communities, interested in taking part in the EIA process or planning in the future to take part in the activities of one of the above-mentioned parties.

The activity of the subdivisions of the state environmental expertise is carried out in cooperation with the expert divisions of other departments of the Republic:

- Ministry of Public Health;
- Ministry of Education and Science;
- Ministry of Oil and Gas;
- Ministry of Industries and New Technologies;
- Ministry of Transport and Communications;
- The Agency for land resources management;
- Ministry of Emergency Situations;
- The Agency of Atomic Energy;
- Ministry of Agriculture (Committee for Water Resources, Committee for Forestry and Hunting, Fisheries Committee), etc.
- 4. Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it.

The Committee of Ecological Regulation and Control of the Ministry of Environment Protection is a coordinating authority on the EIA in a trans-boundary context.

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

Special provisions for joint cross-border projects in Republic are not presented. For the countries of Central Asia there are Guidelines for conducting environmental impact assessment in a trans-boundary context.

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.

The national list of activities requiring EIA, fully complies with the List specified in Appendix 1 of the Convention.

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

The national list of activities requiring EIA fully complies with the list specified in Appendix 1 of the Convention and supplemented by other activities, which are included in the Second amendment to the Espoo Convention by decision III/7 of the III-rd Conference of the Parties to the EIA Convention in a trans-boundary context in Cavtat in 2004.

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?

Public participation in the EIA procedure is enshrined in the environmental legislation of the Republic.

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".

No practice.

- 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);
 - No practice. In accordance with art. 43 of the Environmental code of the Republic of Kazakhstan peculiarities of the environmental impact assessment of objects with transboundary effects shall be determined by the international treaties ratified by the Republic of Kazakhstan.
 - 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 no practice on the use of the Format of the notification I/4. Own format is not available and is not used.

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:

No practice.

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

No practice.

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

No practice.

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?

The public shall be notified by an announcement through newspapers, television, and the posters on the streets of the inhabited locality are also used.

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?

The public shall be notified by an announcement through newspapers, television, and the posters on the streets of the inhabited locality are also used.

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.

No practice.

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)?

No practice. In case of a necessity notices, we will seek information on the website of the Convention.

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)?

No practice. In accordance with art. 43 of the Environmental code of the Republic of Kazakhstan peculiarities of the environmental impact assessment of objects with

transboundary effects shall be determined by the international treaties ratified by the Republic of Kazakhstan.

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

No practice.

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

The Ministry of Environment Protection shall notify the local Executive authority about the necessity of holding public hearings in black and white. Organization of works on public participation provides the local Executive authority, in conjunction with the initiative of public organizations of the region and the initiator of the planned activity. The Ministry receives the necessary information about the course of preparation for public hearing through the means of communication, e-mail.

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

20 days before the date of the public hearings the notice gives to the local mass media - television, radio, newspapers, and also can be used the advanced and the other ways of informing the public (press release, stands, posters, etc.) with indication of the subject, time and location.

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);

In accordance with Article 41 of the Ecological code of the RK documentation for the environmental impact assessment includes:

- 1) details of the customer's business and other activities;
- 2) the application (statement) with the substantiation of the necessity of the realization of the planned activities, justification of investments, feasibility study (draft), approved part of the working draft, explanatory note;
- 3) description of the components states of the environment prior to implementation of activity or to the current time;
- 4) description of the draft, including:
 - objectives and quantitative characteristics of the whole draft and requirements to the area of accommodation for the period of stages of construction and operation;
 - the main characteristics of the production processes, including the type and the quantity of used materials and equipment with the indication of the possible effects of the planned activities of the components of the environment and the amount of ingredient composition of emissions into environment, consumption of raw materials and resources withdrawn:
- 5) analysis of the technology used for compliance with the best available technologies and specific technical regulations, and conformity to technical

- regulations and environmental requirements to the technologies, techniques and equipment;
- 6) information about alternative options and an indication of the main reasons for the choice of design options;
- 7) description of possible impacts of activities on the environment, public health and socio-economic conditions;
- 8) unclear impact of planned economic and other activity on the environment;
- 9) the assessment of the environmental risks and the risks to the health of population;
- 10) description of the measures envisaged to prevent, reduce of environmental impact, including proposals for environmental monitoring;
- 11) design norms of emissions into environment and norms of natural resources;
- 12) justification of the program of industrial environmental control;
- 13) ecological-economic assessment of the project, taking into account possible risks and compensation of damages;
- 14) materials on accounting of public opinion, decorated by protocols and containing conclusions on the results of the public discussion of the environmental aspects of proposed activity;
- 15) an indication of any difficulties and lack of information in the assessment of impact on the environment;
- 16) basic conclusions on results of the environmental impact assessment.
- b. The procedures for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (art. 4, para. 1);

Environmental impact assessment is carried out at all stages of design, taking into account:

- 1) the state of the environment at the place of implementation of the proposed activity;
- 2) alternative options for achieving the objectives of the proposed activity, including the rejection of this activity;
- 3) perspectives of socio-economic development of the region;
- 4) other requirements of the current legislation of the Republic of Kazakhstan in the field of environment protection.
- c. The identification of "reasonable alternatives" in accordance with appendix II, paragraph (b);
 - "Reasonable alternatives" are assessing the implications of the planned activities, consideration of other variants of technological, social, planning and economic design solutions.
- d. The procedures and format for providing the EIA documentation domestically;

The completeness of the content of the documentation at each of the stages of the environmental impact assessment is determined by the Instruction on the assessment of the impact on the environment.

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;

No practice.

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;

In accordance with art. 57 of the Ecological code of the RK to all interested citizens and public associations was given the opportunity to express their opinion in the period of conducting the state environmental expertise.

Procedure and terms of study documentation on the EIA and the submission of comments determined by the Instruction on the conduct of impact assessment of planned economic and other activity on environment in the development of preplanned, planned, pre-project and project documentation.

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;

No practice.

h. The procedures for public hearings domestically;

Procedure of public hearings determined by the Rules of conducting public hearings, approved by order of the Minister of the Environment Protection dated on May 7, 2007, No. 135-p;

i. The procedures for public hearings held on the territory of the affected Party. No practice.

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;

Starting with the date of the announcement on the organization of accounting of public opinion on the EIA draft, the customer (developer) ensure the access of the public to the EIA draft, reception and registration of the comments and suggestions.

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;

According to the Environmental code of the Republic of Kazakhstan the public participation is organized by local Executive authorities. Organization of the public participation takes place according to the laws of the country, acting in the role of affected party.

Accounting of public opinion is provided by the participation of the public in the preparation and discussion of EIA materials, and is organized by the customer of the planned economic and other activities.

The two main forms of accounting of public opinion are:

- public hearings. The customer (developer) of the pre-project and project documentation organizes a public hearing of opinions of the public representatives by holding a meeting of public representatives.

For this the customer (developer) in advance provides the information to mass media about the public hearings, the procedure of access of the public to the EIA project, the date, time and location. In public hearings takes part the representatives of the public concerned, the customer and developer, local executive bodies, territorial bodies of the environment protection;

- collection of written proposals and comments by the public, where a direct link is provided by the customer (developer) by informing the public in the mass media about the procedure of public access to the materials of the EIA draft and submission of proposals and comments to registration of public opinion. The customer (developer) organizes the admission and registration of proposals and comments received from the public;
- collection of written proposals and comments by survey questionnaire of population of activities area. For holding of this event the customer (developer) shall inform the public in the mass media about the results and the order of access of the public to materials of EIA the draft, on the terms and conditions of survey questionnaire.
- c. The procedures for the examination of the EIA documentation domestically.

Starting with the date of the announcement on organization of accounting of public opinion on the EIA draft the customer (developer) ensures the access of the public to the EIA draft, reception and registration of the comments and suggestions.

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;
 - Legal requirements in accordance with EIA Convention. Consultations within the country are carried out at all levels, and all concerned bodies and organizations also are taking part. Exchange of information is carried out through meetings and direction of written messages.
 - b. The stages, procedures and deadlines for consultations with the affected Party;

 Consultations should be organized prior to the implementation of the planned project activities. It is better on the second stage the stage of the preliminary EIA.
 - c. The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.
 - Consultations should be organized prior to the implementation of the planned project activities. It is better on the second stage the stage of the preliminary EIA.

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;
 - The need for consultation should be determined in each particular case.
 - b. The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.
 - Consultations should be organized prior to the implementation of the planned project activities. It is better on the second stage the stage of the preliminary EIA.

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;
 - In accordance with the legislation of the Republic of Kazakhstan a positive conclusion of the state ecological expertise is the basis for making decisions on the planned activities.
 - 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?
 - Positive conclusion of state ecological expertise for the customer of the planned activities, as discussed in the pre-planned, planned or pre-project documentation, is the basis for the decision to initiate design (detailed design) of the specific objects and facilities of the planned activity on the most rational option.
 - c. The procedures for informing of the "final decision" domestically and for the affected Party;
 - No practice.
 - 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)?
 - In general, the comments of the public authorities and the general public are considered.
 - e. The opportunity to review the decision if, before the activity is implemented, additional information becomes available according to article 6, paragraph 3.
 - The environmental legislation provides for possibility of decision review.

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);

The need for post-project analysis is determined by the Environmental code. According to the Code - post-project analysis is carried out within a year after the beginning of the implementation of economic and other activities to confirm the safety of the facility for the environment and adjustment of environmental protection measures.

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

No practice.

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.

Agreements concluded on the basis of the Convention on EIA do not exist.

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

No, not created.

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.

In Kazakhstan in the period from 2008 were held the following scientific researches:

- "The research of the ecological status of cross-border regions of Kazakhstan to solve the problems of transboundary nature". The object of the study was the border with the Russian Federation territory;
- "Investigation of ecological condition of the border with China and Kazakhstan's districts of Central Asian countries to solve the problems of transboundary nature". *The aim of the project* development of measures to solve the problems of sustainable nature management of the border areas of Kazakhstan and adjacent territories of China, Kyrgyzstan, Uzbekistan and Turkmenistan and the development of environmental proposals for the

regulation of cross-border environmental management based on the landscape-ecological assessment.

Researches allowed identifying leading natural, anthropogenic, socio-economic and demographic factors that determine the environmental status of the border regions. The establishment and evaluation of the entire system of factors of anthropogenic impact on natural territorial complexes gave the opportunity in the course of the study to evaluate the degree of disturbance of landscapes in the industrial and agricultural impacts, which in the end, along with the peculiarities of the landscape structure of the border area formed the basis of the integrated environmental assessment of the modern state border of the landscape system.

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?

The date is not defined.

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?

The date is not defined.

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

The date is not defined.

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.

No practice.

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.

No practice.

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.)

No.

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 are no examples.

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.

No practice.

- 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?
 - The volume of the content of the documentation on EIA, the completeness of the research, the amount of used materials, the level and detail of environmental scientific-research and design-survey works depend on the stage of the design, as well as the scale and intensity of impact of planned economic and other activity on human health and the environment.
 - 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 have your country applied?

There are no problems related to translation of the document.

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)?

No practice.

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?

No practice.

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;

No practice.

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

Post-project analysis of the environmental impact assessment was carried out on the project of reconstruction of Taraz metallurgical plant, for clarification and adjustment of the data for emissions into environment right after a year of the new production's launching.

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.);

No practice.

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"?

No.

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

Coordination centres.

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.

No examples.

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.

No practice.

- a. Guidance on public participation in EIA in a transboundary context (ECE/MP.EIA/7);
- b. Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendix);
- c. Guidelines on good practice and on bilateral and multilateral agreements (ECE/MP.EIA/6, annex IV, appendix).

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?

No.

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.

The Ministry of Environment Protection annually conducts training courses (training seminars) in the field of environmental protection for representatives of all interested state bodies, bodies of local self-government, non-governmental organizations, and the users of natural resources.

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?

The Environmental code is acting in the Republic of Kazakhstan.

SUGGESTED IMPROVEMENTS TO THE REPORT

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

There are no offers.

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