
Questionnaire for the report of [KAZAKHSTAN] on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context in the period 2013–2015

Information on the focal point for the Convention

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11. Date on which report was completed: 31 of March, 2016

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.

Please do not reproduce the text of the legislation itself but summarize and explicitly refer to the relevant provisions transposing the Convention text (e.g., EIA Law of the Republic of ..., art. 5, para. 3, of Government Resolution No. ..., para. ... item...)

Article 1

Definitions

I.1. Is the definition of impact for the purpose of the Convention the same in your legislation as in article 1?

- (a) Yes
- (b) Yes, with some differences (please provide details):
- (c) No (please provide the definition):
- (d) There are no definitions of impact in the legislation

Your comments:

I.2. Is the definition of transboundary impact for the purpose of the Convention the same in your legislation as in article 1? Please specify each below.

- (a) Yes
- (b) Yes, with some differences (please provide details):
- (c) No (please provide the definition):
- (d) There are no definitions of transboundary impact in the legislation

Your comments: In accordance with Article 43 of the Environmental Code of the Republic of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan. Thus, on the basis of the reference rules, the definition of cross-border effects within the meaning corresponds to the definition given in article 1 of the Convention.

I.3. Please specify how major change is defined in your national legislation:

April 8, 2016 signed by the changes in the Environmental Code, in particular, added a new Article 57-2 "Holding public hearings." At the legislative level is fixed for mandatory public hearings on projects economic activities which may have an impact on the environment of neighboring states or for which you want to use in common with the neighboring states of natural objects, or which affect the interests of neighboring countries.

I.4. How do you identify the public concerned? Please specify (more than one option may apply):

-
- (a) Based on the geographical location of the proposed project
 - (b) By making the information available to all members of the public and letting them identify themselves as the public concerned
 - (c) By other means (please specify):

Your comments: In accordance with the rules for public hearings, approved by order of Ministry of Environmental Protection of 7 May 2007 № 135-p, the public concerned - the public, whose interests are affected or likely to be affected by the decision-making process on issues related to the environment or having an interest in this process .

Article 2

General provisions

I.5. Provide legislative, regulatory, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2):

- (a) Law on EIA:
- (b) EIA provisions are transposed into another law(s) (please specify): X
- (c) Regulation (please indicate number/year/name): X
- (d) Administrative (please indicate number/year/name):
- (e) Other (please specify):

Your comments: In accordance with Article 43 of the Environmental Code of the Republic of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

In accordance with paragraph 44 of the Instructions for conducting impact assessment of planned economic and other activity on the environment when developing pre-planned, pre-project and project documentation, approved by order of the Republic of Kazakhstan of the Ministry of Environmental Protection of June 28, 2007 № 204-p, For objects with transboundary impact features conducting environmental impact assessment are defined by international treaties and conventions ratified by the Republic of Kazakhstan.

I.6. Please describe any differences between the list of activities in your national legislation and appendix I to the Convention, if any:

- (a) There is no difference, all activities are transposed in the national legislation as is
- (b) It differs slightly (please specify):

Your comments: In accordance with Article 43 of the Environmental Code of the Republic of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

I.7. Identify the competent authority/authorities responsible for carrying out the EIA procedure in your country (please specify):

- (a) There are different authorities at national, regional, local levels
- (b) They are different for domestic and transboundary procedures

(c) Please name the responsible authority/authorities:

(d) There is no single authority responsible for the entire EIA procedure:

Your comments: As previously mentioned, in accordance with Article 43 of the Environmental Code of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

Thus, in accordance with paragraph IX) of Article 1 of the Convention, "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 body or bodies to which a Party holds decision-making powers regarding a proposed activity.

According to Art. 48 of the Environmental Code state ecological examination carried out by the authorized body in the field of environmental protection and local executive bodies within their competence. At the same time the state ecological examination of objects I category held by the authorized body in the field of environmental protection, II, III and IV categories - local executive bodies of oblasts (city of republican status, capital).

However, in accordance with Chapter 5 of the Guide to conduct the impact assessment on the environment in a transboundary context for Central Asian countries (hereinafter - Administration) in the planning of the competent authorities, together with the proponent determined whether the proposed activity is subject to the action of the convention. In determining whether transboundary impacts The competent authority shall decide on the implementation of the notification procedure. The proponent proceeds to the notification procedure.

In accordance with Chapter 3 of the "proponent" (customer, a developer, an investor, an applicant) - a legal or natural person responsible for the preparation of documentation for the planned activities in accordance with the regulatory requirements for this type of activity.

Thus, for the implementation of the state environmental review of the EIA procedure, the authorized body responsible for the protection of the environment and local executive bodies conducting SER, within its competence.

I.8. Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it:

(a) No

(b) Yes (please specify): Ministry of Energy of the Republic of Kazakhstan

Your comments: For the implementation of the state environmental review of the EIA procedure, the authorized body responsible for the protection of the environment and local executive bodies conducting SER, within its competence.

I.9. How does your country, as Party of origin and as affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to the Party of origin's public, as required in article 2, paragraph 6 (please explain): In accordance with Article 43 of the Environmental Code of the Republic of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

Article 3 Notification

I.10. As Party of origin, when do you notify the affected Party (art. 3, para. 1)? Please specify:

- (a) During scoping
- (b) When the EIA report has been prepared and the domestic procedure started
- (c) After finishing the domestic procedure
- (d) At other times (please specify):

Your comments: In accordance with Article 43 of the Environmental Code of the Republic of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

I.11. Please define the format of notification:

- (a) It is the format as decided by the first meeting of the Parties in its decision I/4 (ECE/MP.EIA/2, annex IV, appendix)
- (b) The country has its own format (please attach a copy)
- (c) No official format used

Your comments: In accordance with Article 43 of the Environmental Code of the Republic of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

I.12. As a Party of origin, what information do you include in the notification (art. 3, para. 2)? Please specify (more than one options may apply):

- (a) The information required by article 3, paragraph 2
- (b) The information required by article 3, paragraph 5
- (c) Additional information (please specify):

Your comments: In accordance with Article 43 of the Environmental Code of the Republic of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

I.13. As a Party of origin, does your national legislation contain any provision on receiving a response to the notification from the affected Party in a reasonable time frame (art. 3, para. 3, “within the time specified in the notification”)? Please specify:

- (a) National legislation does not cover the time frame
- (b) Yes, it is indicated in the national legislation (please indicate the time frame):
- (c) It is determined and agreed with each affected Party case by case in the beginning of the transboundary consultations (please indicate the average length in weeks):

Your comments: In accordance with Article 43 of the Environmental Code of the Republic of Kazakhstan, especially of the environmental impact assessment of objects with

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

Thus, under Article 3 of the Convention, if the affected party does not respond within the time specified in the notice, the provisions of Articles 3-7 of the Convention shall not apply.

Please specify the consequence if a notified affected Party does not comply with the time frame, and the possibility of extending a deadline:

I.14. How do you inform the public and authorities of the affected Party (art. 3, para 8)? Please specify:

(a) By informing the point of contact to the Convention listed on the Convention website¹

(b) Other (please specify): X

Your comments: In accordance with the rules for public hearings, approved by order of the MEP RK dated May 7, 2007 № 135-p, the public is notified through the Internet and media resources and other methods.

I.15. On what basis is the decision made to participate (or not) in the transboundary EIA procedure as affected Party (art. 3, para. 3)? Please specify:

(a) Notified ministry/authority of the affected Party responsible for EIA decides on its own based on the documentation provided by Party of origin

(b) Based on the opinions of the competent authorities of the affected Party

(c) Based on the opinions of the competent authorities and that of public of the affected Party

(d) Other (please specify):

Your comments: In accordance with Article 43 of the Environmental Code of the Republic of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

Thus, in accordance with Article 3 of the Convention, the decision to participate will be accepted on the basis of documentation provided by the Party of origin and in Appendix I to the Convention.

I.16. If the affected Party has indicated that it intends to participate in the EIA procedure, how are the details for such participation agreed, including the time frame for consultations and the deadline for commenting (art. 5)? Please specify:

(a) Following the rules and procedures of the Party of origin

(b) Following the rules and procedures of the affected Party

(c) Other (please specify):

Your comments: In accordance with the provisions of the Convention. According to Art. 43 of the Environmental Code of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

Article 4 Preparation of the environmental impact assessment documentation

I.17. How do you ensure sufficient quality of the EIA documentation as Party of origin? Please specify:

¹ List available from http://www.unece.org/env/eia/points_of_contact.htm.

(a) The competent authority checks the information provided and ensures it includes all information required under appendix II as a minimum before making it available for comments

(b) By using quality checklists

(c) There are no specific procedures or mechanisms

(d) Other (please specify):

Your comments: General provisions of the EIA in the preparation and adoption of decisions on the conduct of the planned economic and other activities at all stages of the organization identified Environmental Code (Chapter 6) and the Regulations on assessment of the impact of planned economic and other activity on the environment when developing pre-planned, pre-project and project documentation, approved by order of Ministry of Environmental Protection of June 28, 2007 № 204-p.

I.18. How do you determine the relevant information to be included in the EIA documentation in accordance with article 4, paragraph 1? Please specify (more than one option may apply):

- (a) By using appendix II
- (b) By using the comments received from the authorities concerned during the scoping phase, if applicable
- (c) By using the comments from members of the public during the scoping phase, if applicable
- (d) As determined by the proponent based on its own expertise
- (e) By using other means (please specify):

Your comments: General provisions of the EIA in the preparation and adoption of decisions on the conduct of the planned economic and other activities at all stages of the organization identified Environmental Code (Chapter 6) and the Regulations on assessment of the impact of planned economic and other activity on the environment when developing pre-planned, pre-project and project documentation, approved by order of Ministry of Environmental Protection of June 28, 2007 № 204-p.

I.19. How do you determine "reasonable alternatives" in accordance with appendix II, paragraph (b)?

- (a) On a case-by-case basis
- (b) As defined in the national legislation (please specify): X
- (c) Other (please specify):

Your comments: in accordance with the Instruction for the assessment of planned economic and other activity on the environment when developing pre-planned, pre-project and project documentation, approved by order of Ministry of Environmental Protection of June 28, 2007 № 204-p.

Thus, according to the Instruction, the EIA is carried out on the basis of certain principles, including alternative - impact assessment is based on the mandatory consideration of alternative design solutions, including the option of design solutions, including the option of rejecting the proposed activity ("zero" option).

Article 5

Consultations on the basis of the environmental impact assessment documentation

(a) Public participation

I.20. How can the public concerned express its opinion on the EIA documentation of the proposed project (art. 5)? Please specify (more than one option may apply):

As Party of origin

- (a) By sending comments to the competent authority/focal point
- (b) By taking part in a public hearing
- (c) Other (please specify):

As affected Party

- (d) By sending comments to the competent authority/focal point
- (e) By taking part in a public hearing
- (f) Other (please specify):

Your comments:

I.21. Please indicate whether your national EIA legislation requires the organization of a public hearing on the territory of the affected Party in cases where your country is the country of origin:

- (a) Yes
- (b) No

Your comments: requirements of the organization of public hearings nationwide. The procedure of public hearings are defined rules for public hearings, approved by order of Ministry of Environmental Protection of 7 May 2007 № 135-p, the public concerned - the public, whose interests are affected or likely to be affected by the decision-making process on issues related to the environment, or having an interest in this process.

I.22. Please indicate whether your national EIA legislation requires the organization of public hearings in cases where your country is the affected Party:

- (a) Yes
- (b) No

Your comments: requirements of the organization of public hearings nationwide. The procedure of public hearings are defined rules for public hearings, approved by order of Ministry of Environmental Protection of 7 May 2007 № 135-p, the public concerned - the public, whose interests are affected or likely to be affected by the decision-making process on issues related to the environment, or having an interest in this process.

(b) Consultations

I.23. Does your national EIA legislation have any provision on the organization of transboundary consultations (expert, joint bodies, etc.) between the authorities of the concerned Parties? Please specify:

- (a) Yes, it is obligatory
- (b) No, it does not have any provision on that
- (c) It is optional (please specify):

Your comments:

**Article 6
Final decision**

I.24. Please indicate all points below that are covered in a final decision related to the implementation of the planned activity (art. 6, para. 1):

- (a) Conclusions of the EIA documentation
- (b) Comments received in accordance with article 3, paragraph 8, and article 4, paragraph 2
- (c) Outcome of the consultations as referred to in article 5
- (d) Outcomes of the transboundary consultations
- (e) Comments received from the affected Party
- (f) Mitigation measures
- (g) Other (please specify): environmental risk assessment and public health risks, the results of consideration of the interested state bodies, the conclusion of public

ecological examination (if conducted), public opinion on account of materials, designed protocols and containing the conclusions of the public discussion of the environmental aspects of the proposed activity and others.

I.25. 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):

- (a) Yes
- (b) No

Your comments:

I.26. Is there any regulation in the national legislation of your country that ensures the implementation of the provisions of article 6, paragraph 3?:

- (a) No
- (b) Yes (please specify):

Your comments: In accordance with the provisions of the Convention. According to Art. 43 of the Environmental Code of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

I.27. Do all activities listed in appendix I (items 1-22) require a final decision to authorize or undertake such an activity?:

- (a) Yes
- (b) No (please specify those that do not):

Your comments: According to Article 43 of the Environmental Code of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

I.28. For each type of activity listed in appendix I that does require a final decision, please indicate the legal requirements in your country that identify what is regarded as the “final decision” to authorize or undertake such an activity (art. 6 in conjunction with art. 2, para. 3), and the term used in the national legislation to indicate the final decision in the original language:

Your comments: According to Article 43 of the Environmental Code of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

Article 7

Post-project analysis

I.29. Is there any provision regarding post-project analysis in your national EIA legislation (art. 7, para. 1)?:

- (a) No
- (b) Yes (please specify the main steps to be taken and how the results of it are communicated):

Your comments: What rate acted in the Environmental Code of Kazakhstan edition of 2007. The implementation of the Concept of improvement of the permit system in the Republic of Kazakhstan for 2009-2011, approved by the Government of the Republic of

Kazakhstan dated November 27, 2008 № 1100 aimed at improving and simplifying the current legislation in the area of licenses and permits, reducing the administrative burden for businesses by reducing the types of licenses and permits amended the RK Environmental Code.

Thus, a significant change in terms of environmental impact assessment: cut stage environmental impact assessment from five to three, where he was eliminated Stage 5. Post-project analysis, carried out one year after the launch of economic and other activities to confirm the safety of the object environment and adjustment of environmental measures.

Article 8

Bilateral and multilateral cooperation

(a) Agreements

I.30. Does your country have any bilateral or multilateral agreements based on the Convention (art. 8, appendix VI)?:

- (a) No
- (b) Yes Please specify with which countries: Russian Federation

Enclosed in Russian text of the Agreement between the Government of the Republic of Kazakhstan and the Russian Federation on joint use and protection of transboundary water bodies.

I.31. What issues do these bilateral agreements cover (appendix VI)? (more than one option may apply):

- (a) Specific conditions of the subregion concerned
- (b) Institutional, administrative and other arrangements
- (c) Harmonization of the Parties' policies and measures
- (d) Developing, improving, and/or harmonizing methods for the identification, measurement, prediction and assessment of impacts, and for post-project analysis
- (e) Developing and/or improving methods and programmes for the collection, analysis, storage and timely dissemination of comparable data regarding environmental quality in order to provide input into the EIA
- (f) Establishment of threshold levels and more specified criteria for defining the significance of transboundary impacts related to the location, nature or size of proposed activities
- (g) Undertaking joint EIA, development of joint monitoring programmes, intercalibration of monitoring devices and harmonization of methodologies
- (h) Other, please specify:

Your comments: In accordance with Article 6 of the Agreement between the Government of the Republic of Kazakhstan and the Russian Federation on joint use and protection of transboundary water bodies:

"Party, which plans to carry out any activities capable of causing transboundary effects, prior to the implementation of such measures shall notify the other Party and shall inform the Joint Commission referred to in Article 12 of this Agreement.

When necessary, the Parties individually or jointly assess the impact of planned activities on the environment.

If necessary, the Joint Commission shall be consulted on the planned activities. During the consultations, the Parties shall refrain from carrying out these activities, unless otherwise agreed. "

(b) Procedural steps required by the national legislation

I.32. Please describe the steps required in your national legislation for a transboundary EIA procedure:

(a) When EIA in a transboundary context is part of a domestic EIA procedure:

(b) When EIA in a transboundary context is a separate procedure (please provide of how this procedure links to the domestic procedure and whether the steps are different):

Alternatively, this question can be answered or supported by providing a schematic flowchart showing these steps.

Your comments: According to Art. 43 of the Environmental Code of Kazakhstan, especially of the environmental impact assessment of objects with transboundary effects are determined by the international treaties ratified by the Republic of Kazakhstan.

I.33. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?:

(a) No

(b) Yes (please specify):

(i) Special provisions:

(ii) Informal arrangements:

Your comments:

I.34. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for nuclear power plants (NPPs)?:

(a) No

(b) Yes (please specify):

(i) Special provisions:

(ii) Informal arrangements:

Your comments:

Part two

Practical application during the period 2013–2015

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. 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.

II.1. Does your country object to the information on transboundary EIA procedures that you provide in this section being compiled and made available on the website of the Convention? Please specify (indicate "yes" if you object):

(a) Yes

(b) No

Your comments:

1. Experience in the transboundary environmental impact assessment procedure during the period 2013–2015

Cases during the period 2013–2015

II.2. If your country's national administration has a record 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 them in the tables II.2 (a) and II.2 (b) below (adding additional rows as needed).

Table II.2 (a)

Transboundary EIA procedures: As Party of origin

Name of case	Starting date (date notification sent)	Length of the main steps in months		Final decision (date of issuing, if information is available)
		Submission of the environmental report	Transboundary consultations (expert), if any Public participation, including public hearing, if any	
1.				
2.				
3.				
4.				
...				

Your comments: not considered

Table II.2 (a)

Transboundary EIA procedures: As affected Party

Name of case	Starting date (date notification sent)	Length of the main steps in months			Final decision (date of issuing, if information is available)
		Submission of the environmental report	Transboundary consultations (expert), if any	Public participation, including public hearing, if any	
1.					
2.					
3.					
4.					
...					

Your comments: not considered

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.

II.3. Translation is not addressed in the Convention. How has your country addressed the question of translation? What difficulties has your country as Party of origin and affected Party experienced relating to translation and interpretation, and what solutions has your country applied? (Please specify, among others, the parts and type of the documentation translated, language, costs, etc.):

- (a) As Party of origin: difficulties do not arise
- (b) As affected Party: difficulties do not arise

II.4. Describe any difficulties that your country has encountered during transboundary public participation (expert consultation, public hearing, etc.), including on issues of timing, language and the need for additional information:

II.5. Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects or that of an NPP?:

- (a) Yes
- (b) No

II.6. If you answered yes to question II.5, please provide information on your country's experiences describing, for example, means of cooperation (e.g., contact points, joint bodies, bilateral agreements, special and common provisions, etc.), institutional arrangements, and how practical matters are dealt with (e.g., translation, interpretation, transmission of documents, etc.):

- (a) For joint cross-border projects:
- (b) For NPPs:

II.7. Name examples of good practice cases, whether complete cases or good practice elements (e.g., notification, consultation or public participation) within cases:

II.8. Would your country like to introduce a case in the form of a Convention “case study fact sheet”?

- (a) No
- (b) Yes (please indicate which cases):

II.9. Has your country carried out post-project analyses in the period 2013–2015:

- (a) No
- (b) Yes (please indicate which projects, along with the challenges in implementation and any lessons learned):

2. Experience in using the guidance in 2013–2015

II.10. Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online?:

(a) Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context (ECE/MP.EIA/7):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

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

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

(c) Guidance on the Practical Application of the Espoo Convention (ECE/MP.EIA/8):

- No
- Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

3. Clarity of the Convention

II.11. Has your country had difficulties implementing the procedures defined in the Convention, either as Party of origin or as affected Party, because of a lack of clarity of the provisions?:

- No
- Yes (please indicate which provisions and how they are unclear):

4. Suggested improvements to the report

II.12 Please provide suggestions for how this report may be improved.