

Questionnaire for the report of the Kyrgyz Republic 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: *June 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): *Impact is an activity on a particular object causing or able to cause quantitative or qualitative changes in it (Law of the Kyrgyz Republic (hereafter-LKR) On Environmental Expertise, article 1, para 1).*

d) There are no definitions of impact in the legislation

Your comments: *In Draft LKR On Environmental Expertise the definition of impact coincides with that in article 1 of the Convention with respect to their meaning.*

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: *The definition is given in Regulations on the Environmental Impact Assessment in the Kyrgyz Republic approved by the Government of the Kyrgyz Republic No. 60 of 13 February 2015 (hereinafter referred to as Regulations on the EIA Procedure) and coincides with that in article 1 of the Convention with respect to their meaning.*

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

There has been elaborated the Draft LKR On Environmental Expertise which defines general provisions, principles, procedure for the organization and conduct of environmental impact assessment (EIA/SEA), transboundary EIA

procedure, public participation in the environmental impact assessment, as well as requirements for composition and content of EIA/SEA documentation.

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: *Paragraphs 13-24 of the Regulations on the EIA Procedure govern public participation in the EIA procedure.*

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):

Laws of the Kyrgyz Republic: On Environmental Protection of 16 June 1999. (articles 1 and 17); General Technical Regulations on Environmental Security in the Kyrgyz Republic No. 151 of 8 May 2009 (articles 6 and 7); On Environmental Expertise No. 54 of 16 June 1999 (articles 1, 9 and 10); On Air Protection No. 51 of 12 June 1999 (article 22); On Electricity No. 8 of 28 January 1997 (article 29); On the accession of the Kyrgyz Republic to the UN ECE Convention on Environmental Impact Assessment in a Transboundary Context No. 6 of 12 January 2001.

c) Regulation (please indicate number/year/name): *Regulations on the EIA Procedure approved by Directive of the Government of the Kyrgyz Republic No. 60 of 13 February 2016.*

- d) Administrative (please indicate number/year/name):
- e) Other (please specify):

Your comments: *Draft LKR On Environmental Expertise has been elaborated with the aim to implement the provisions of the Convention (article 2 para. 2).*

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): *The list does not include paragraphs 9, 15, 17 of appendix I to the Convention:*

- There are no inland waterways and ports for inland navigation allowing for the passage of vessels larger than 1 350 metric tons;

- There is no access to the sea;

- Forests have a protective value. All kinds of final fellings are forbidden in them.

Your comments: National list has been set taking into account the level of development, natural conditions and resources of the country.

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: *State Agency on Environment Protection and Forestry under the Kyrgyz Republic (hereinafter – SAEPF)*.
- d) There is no single authority responsible for the entire EIA procedure

Your comments: *Ministry of Foreign Affairs of the Kyrgyz Republic (hereinafter – MFA) coordinates the implementation of international agreements by the state authorities and administration of the Kyrgyz Republic.*

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): *State Agency on Environment Protection and Forestry under the Government of the Kyrgyz Republic (SAEPF)*.

Your comments: *Information is stored in the form of reports on the transboundary EIA procedure.*

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):

Public of both Parties are provided with the equivalent opportunities to participate in the EIA procedures through the same extent of access to EIA documentation and the same possibility to present their comments on the planned activity.

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: *The national legislation does not contain legal provisions to perform a notification procedure. The notification procedure is conducted in accordance with the Guidelines on EIA in a Transboundary Context for Central Asian Countries (hereinafter – the Guidelines for CA Countries).*

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: *The format of notification given in the Guidelines for CA Countries is used. A copy is attached.*

I.12 As a Party of origin, what information do you include in the notification (art. 3, para. 2)? Please specify (more than one option 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: *Brief non-technical summary of the planned activity is provided.*

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: *The Guidelines for CA Countries contain a single deadline for receiving a response from the affected Party. The content of the notification states that the response must be submitted within 30 calendar days from the date of the receipt of this notification.*

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

If the affected Party does not answer within a specified time frame, the Party of origin carries out further activities in accordance with article 3 paragraph 4 of the Convention. Where necessary, a reasonable extension of time frame is possible upon agreement by the Parties.

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):

Your comments: *The notification is sent through the MFA of the Kyrgyz Republic to the competent authority of the affected Party. The competent authority of the affected Party informs its own public.*

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 the Guidelines for the CA Countries a decision on participation/non-participation in a transboundary EIA procedure is taken by a competent authority of the affected Party after consultations with local authorities.*

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): *In accordance with the Guidelines for the CA Countries.*

Your comments: *In accordance with the Guidelines for the CA Countries the EIA documentation is sent to the competent authority of the affected Party for consideration and public consultations. The competent authority of the affected Party summarizes the comments received and forwards them to the competent authority of the Party of origin. The maximum term for sending the comments on the EIA documentation does not exceed one and a half months. Where necessary, a reasonable extension of time frame is possible upon agreement by the Parties.*

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:

¹List 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: *In accordance with the Laws of the Kyrgyz Republic On Environmental Protection and On Environmental Expertise state ecological expertise is compulsory for all project documentation for the activities that can have an adverse impact on the environment.*

EIA documentation is an obligatory part of the project documentation. During the state environmental expertise evaluation of the completeness of the EIA documentation, its sufficiency and validity is carried out. The examination is conducted by the expert commission specially formed by order of the head of the competent environmental authority. The expert commission forms an expert opinion on the EIA documentation. If the documentation fully complies with the requirements of the environmental legislation, it is approved, otherwise it is returned for revision. If necessary, additional studies required for decision-making are suggested.

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: *In accordance with the Guidelines for the CA Countries the content of the EIA documentation should correspond to appendix II to the Convention.*

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): *Annex 8 to the Regulations on the EIA Procedure*

c) Other (please specify):

Your comments: *“Reasonable alternatives” is a description of alternative solutions, including the no-action alternative. The options should be evaluated from all points of view including environmental, economic, social, etc.*

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: *Public participation is governed by the Regulations on the EIA Procedure.*

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: *Cooperation with the public authorities of the affected Party on public participation is carried out through consultations. Public hearings in the territory of the affected Party are conducted in accordance with the domestic legislation of the affected Party. The costs associated with the organization and conduct of public hearings are at proponent's expense.*

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: *In accordance with the Regulations on the EIA Procedure public is involved in the consultations held under the EIA at all stages of its implementation, including the transboundary EIA procedure.*

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: *In accordance with article 7 of LKR On Environmental Expertise an authorized state body in the field of environmental protection shall cooperate in the*

prescribed manner with the expert bodies of other countries to hold consultations and joint environmental impact assessments.

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):

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: *All comments are reviewed by the expert committee. If they are substantiated, they are taken into consideration and sent to the proponent to make changes to documentation or to carry out an additional research.*

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 Regulations on the EIA procedure when planning of activities that have a possible significant adverse transboundary impact, the EIA procedure is carried out according to the provisions of the Convention.*

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: *In accordance with the LKR On Environmental Expertise the EIA is a mandatory part of all types and stages of elaboration of project documentation.*

For each activity listed in appendix I it is binding to receive the conclusion of the state environmental expertise.

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:

In accordance with article 13 of LKR On Environmental Expertise positive conclusion of the state environmental expertise is one of the mandatory conditions for project implementation.

Your comments: *There is no term "final decision" in the domestic legislation, however, in practice, the decision on the implementation of the subject of expertise is considered to be the final decision.*

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: *In accordance with paragraph 33 of the Regulations on the EIA Procedure post-project analysis is carried out after the enterprise reaches design production capacity, but not later than in one year after the start of the activity.*

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:

If publicly available, please also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.

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: *There are no agreements under the Convention.*

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: In accordance with paragraphs 27, 28 and 34 of the Regulations on the 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): *The national legislation does not contain provisions relating to the case when the EIA in a transboundary context is a separate procedure.*

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

Your comments: *In accordance with the Regulations on the EIA procedure in the planning of activities that may have a possible significant adverse transboundary impact the EIA procedure is carried out in accordance with the provisions of the Convention. The Regulations do not contain a transboundary EIA procedure.*

The Draft LKR On Environmental Assessment regulates the transboundary EIA procedure.

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: *The Guidelines for CA Countries determine the general order of the transboundary EIA procedure.*

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: *There are the Guidelines for CA countries, which determine the general order of the transboundary EIA procedure.*

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: *There are no practical examples.*

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

Your comments: *There are no practical examples.*

Transboundary EIA procedures: As affected Party

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

Your comments: *There are no practical examples.*

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:
- b) As affected Party:

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 specify):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance: *There are no suggestions.*

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

- No
- Yes (please specify):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance: *There are no suggestions.*

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

- No
- Yes (please specify):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance: *There are no suggestions.*

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.

There are no suggestions.
