

Questionnaire for the report of Kazakhstan on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context in the period 2016–2018

Information on the focal point for the Convention

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Information on the point of contact 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.

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)**

According to the legislation of the Republic of Kazakhstan (Instruction on Conducting Assessment of Environmental Impact) instead of proposed activity mentioned planned economic and other activity (words "proposed" and "planned" are synonyms).

(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:

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

Major changes had not occurred

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 of conducting of public hearings, adopted by the Order of the Minister of Environmental Protection of the Republic of Kazakhstan of 07.05.2007 N 135-p.**

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):

(c) **Regulation (please indicate number/year/name): Instruction on Conducting Assessment of Environmental Impact adopted by the Order of the Minister of Environmental Protection of the Republic of Kazakhstan of 28 June 2007, No. 204-P, as well as Guidelines on Conducting Assessment of Environmental Impact of economic activity, adopted by the Ministry of Environment and Water Resources of the Republic of Kazakhstan of 29.10.2010 N 270**

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

Your comments:

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:

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: **In accordance with the para IX art. 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 authority or authorities entrusted by a Party with decision-making powers regarding a proposed activity.**

In accordance with art. 48 of the Ecological Code of the Republic of Kazakhstan, the state ecological expertise of the category I objects shall be carried out by the authorized body in the scope of environment protection and its territorial divisions, of the categories II, III and IV – by local executive authorities (cities of republican status, capitals).

Consequently, competent authority and territorial authorities responsible for conducting state ecological expertise within their competence, are responsible for carrying out EIA procedure.

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):

Your comments: **Committee of ecological regulation and control of the Ministry of Energy of the Republic of Kazakhstan**

I.9. How does your country, As a Party of origin and as an 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 only one case of carrying out transboundary EIA, the Republic of Kazakhstan and the Republic of Kyrgyzstan ensured public participation in accordance with national legislation.

Article 3 Notification

I.10. As a 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 competent authority together with a proponent of proposed activity define whether the proposed activity falls under the Convention.**

When determining that there is a transboundary impact, the competent authority takes a decision to apply the procedure of notification. The proponent initiates the notification procedure.

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: **No particular format is used for notification letter**

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:

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: **There are no step-by step guidance in the legislation for conducting EIA for projects with transboundary impacts, in particular with regard to the period of notification, receipt of a reply to notification, procedure of conducting state ecological expertise etc.**

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): the public is notified through media and Internet recourses.**

Your comments: **the procedure of public notification is defined in accordance with the Rules of conducting public hearings, approved by Order of the Minister of Environmental Protection of 7 May 2007 N 135-p**

I.15. On what basis is the decision made to participate (or not) in the transboundary EIA procedure as an 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 the 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 the public of the affected Party**

(d) Other (please specify):

Your comments:

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: **There was no such practice. There is no guidelines on conducting transboundary EIA.**

Articles 3.8 and 4.2

Public participation

I.17. How can the public express its opinion on the EIA documentation of the proposed project (art. 5)? Please specify (more than one option may apply):

As a 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 an affected Party

(d) **By sending comments to the competent authority/focal point**

(e) **By taking part in a public hearing**

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

(f) Other (please specify):

Your comments: **In accordance with the Rules of conducting public hearings, public hearing with regard to economic activity of objects of categories I and II are carried out as open meetings with public concerned and for objects of III and IV categories are carried out in a form of a questionnaire.**

I.18. 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: **In accordance with the provision of the Convention.**

I.19. 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 provision of the Convention.**

Article 4

Preparation of the environmental impact assessment documentation

I.20. How do you ensure sufficient quality of the EIA documentation As a Party of origin? Please specify:

(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 Convention.**

I.21. 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 art.41 of the Ecological Code of the Republic of Kazakhstan and Instruction on Conducting Assessment of Environmental Impact.**

I.22. 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): Instruction on Conducting Assessment of Environmental Impact**

(c) **Other (please specify):**

Your comments: **Instruction on Conducting Assessment of Environmental Impact**

Article 5

Consultations on the basis of the environmental impact assessment documentation

I.23. Does your national EIA legislation have any provision on the organization of transboundary consultations 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: **Consultations are conducted in accordance with the requirements of the Convention.**

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:

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 the ecological legislation foreseen a possibility of reconsidering the decision at the initiative of the competent authority.**

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:

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:

In the national legislation the term “the results of conducting a State ecological expertise” is applied. The result of conducting a state ecological expertise constitute the conclusion of the state ecological expertise.

The conclusion may contain one of the following decisions:

Has not been approved

Has been approved

In case a decision “has not been approved” was taken, the proponent of expertise is finalising the documents in accordance with the comments received after the state ecological expertise and present them for reassessment by the state ecological expertise or take no-action alternative.

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: **Such provision were envisaged in the Ecological Code of 2007, but was abolished in 2012. At the moment there is no norm requiring the post-project analysis during EIA in the legislation.**

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: Protocol on Environmental Impact Assessment in a Trans-boundary Context to the Tehran Convention in the Framework Convention for the Protection of the Marine Environment of the Caspian Sea was ratified by the Republic of Kazakhstan (a Presidential Decree of 10.08.2011 N 134 of signatures of the Protocol on Environmental Impact Assessment in a Trans-boundary Context of the Framework Convention for the Protection of the Marine Environment of the Caspian Sea). The text of the Protocol is attached.

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:

(b) Procedural steps required by national legislation

I.32. Please describe how the steps required for a transboundary EIA procedure under your national legislation correlate to domestic EIA in the lead-up to the final decision. If there are differences in the procedures for screening/scoping or for preparation of the environmental impact assessment and consultation, please specify.

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

Your comments: **In the national legislation there is no detailed guidance for conducting EIA for projects with transboundary impacts. The provision of the Convention is applied directly.**

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 2016–2018

Please report on your country's practical experiences in applying the Convention (not your country's procedures described in part one), whether As a 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: **prohibition applies only to information contains a national security matters.**

1. Experience in the transboundary environmental impact assessment procedure during the period 2016–2018

Cases during the period 2016–2018

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 a 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 a Party of origin

Project name	Starting date (date notification sent)	Affected Party/ Parties	Timing of the notification (screening, scoping or preparation of the EIA documentation)	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: **In the period of 2016-2018 no transboundary EIA procedures were carried out in the country.**

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. The Convention does not mention the translation of EIA documentation as an important prerequisite for the participation of potentially affected Parties in a transboundary EIA procedure. Please explain:

(a) How has your country addressed the issue of the translation of EIA documentation?

(b) What difficulties has your country experienced with regard to translation and interpretation, both as a Party of origin and as an affected Party, and what solutions has it found?

(c) Which Party covers the cost of translation of EIA documentation?

(i) As a Party of origin:

(ii) As an affected Party:

(iii) Other, please specify:

(d) What parts of the EIA documentation does your country usually translate?

(i) As a Party of origin:

(ii) As an affected Party:

(e) Please indicate whether and how the issue of translation is addressed in bilateral agreements between your country and other Parties.

(f) As a Party of origin, in which language do you usually provide EIA documentation to the affected Party?

(i) English

(ii) The affected Party's language

(iii) Other (please, specify)

(g) As an affected Party, from which language do you usually translate?

(i) English

(ii) Language of the Party of origin

(iii) Other (please, specify)

(h) Describe any difficulties that your country has encountered during public participation procedures and consultations under article 5, for example with regard to timing, language and the need for additional information.

(i) As a Party of origin:

Experience with public participation
Experience with consultations under article 5

(ii) As an affected Party:

Experience with public participation

Experience with consultations under article 5

- (i) Please describe how the costs of interpretation during the hearings are covered:
- (ii) By the Party of origin:
- (iii) By the affected Party:
- (iv) Shared by both Parties concerned:
- (v) Developer:
- (vi) Other, please specify

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. Please provide examples from your experience during the reporting period (either complete cases or elements such as notification, consultation and public participation) that, in your view, constitute good practice:

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 2016–2018

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 a Party of origin or as an 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 further suggestions (preferably specific drafting proposals) for how this report could be improved.