

Economic Commission for Europe

Meeting of the Parties to the Convention
on Environmental Impact Assessment
in a Transboundary Context

Meeting of the Parties to the Convention
on Environmental Impact Assessment in
a Transboundary Context serving as the
Meeting of the Parties to the Protocol on
Strategic Environmental Assessment

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Review of the workplan

Summary report on the implementation of technical assistance and capacity-building activities in the period from June 2017 until December 2018

Note by the secretariat

Summary

The present report summarizes the results to date of technical assistance and capacity-building activities in the workplan for the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context and its Protocol on Strategic Environmental Assessment for 2017–2020 for countries in Eastern Europe, the Caucasus and Central Asia. It describes the results of these activities from June 2017 to December 2018.

The Meeting of the Parties to the Convention and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol on Strategic Environmental Assessment are invited to take note of the report, and any updates provided by the secretariat, and, as needed, to comment and complement the information.

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Introduction

1. The present report summarizes the main results of the capacity-building activities facilitated by the secretariat since June 2017 in accordance with the workplan for the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment (Protocol on SEA) for 2017–2020 adopted at the last sessions of the Meetings of the Parties to the Convention and the Protocol (Minsk, 13–16 June 2017).¹
2. Chapter I provides a brief summary of the main achievements of technical assistance during this period provided to Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine, financed mainly by the European Union through the “Greening Economies in the Eastern Neighbourhood” (EaP GREEN) programme (1 January 2013–30 April 2018).
3. Chapter II covers the work to finalize the revision and the update of the Guidelines on Environmental Impact Assessment in a Transboundary Context for Central Asian Countries, financed by Switzerland.
4. Chapter III presents progress in the context of technical advice and support offered to Kazakhstan (2015–2018) to improve its legislation to implement the Convention and Protocol, financed mainly by the European Union with additional contributions from Switzerland and the OSCE office in Astana.
5. Finally, chapter IV details the technical assistance provided to Tajikistan and Uzbekistan with the funding from Germany to promote the Protocol.

I. Technical assistance to countries in Eastern Europe and the Caucasus

A. Background

6. The workplan for the implementation of the Convention and its Protocol for the period 2017–2020 contains many technical assistance and capacity-building activities targeting countries in Eastern Europe and the Caucasus, in particular Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine (see Annex II of the 2017-2020 Workplan). The planning and implementation of these activities is expected to begin as of early 2019 with funding from the European Union’s “EU4Environment” Programme. The activities will follow-up to the extensive support that the secretariat provided to these countries since 2013 under the previous workplans with funding from the European Union’s EaP GREEN programme.² This section provides a brief overview of the outcomes of the EaP Green funded activities in the period from June 2017 to April 2018.³

¹ See ECE/MP.EIA/2007/23/Add.1–ECE/MP.EIA/SEA/7/Add.1, decisions VII/3–III/3.

² ECE/MP.EIA/WG.1/2007/6.

³ More information on activities financed by the programme can be found on the ECE EaP GREEN website: <https://www.unece.org/environmental-policy/greening-the-economy-in-the-pan-european-region/eap-green.html>.

B. Summary of main activities and achievements

7. Two important pieces of primary legislation were adopted during the reporting period: a new Environmental Assessment Code in Georgia, and a new Law on SEA in Ukraine⁴. This significant progress brought the national legislative framework for environmental assessment in both countries into compliance with the Convention and its Protocol and the provisions of respective Association Agreements with the EU. In addition, in the Republic of Moldova, the Law on amending and completing relevant legislative acts to ensure the implementation of the Law on EIA was adopted by the Parliament in September 2017. The adoption of this Law represents an important step towards establishing an EIA practice in the country. In Armenia, the draft revised Law on EIA and Expertise and the draft Governmental Decision on SEA were prepared and submitted to inter-ministerial discussion. In Azerbaijan, the draft Law on EIA (including also provisions on SEA) was submitted to the Parliament in March 2018 and passed the first reading in April 2018.

8. The final SEA reports summarizing the findings and conclusions of the pilot SEA of the National Strategic Development Plan, Road Map and Long-term Investment Plan for the Solid Waste Management Sector in Armenia, and of the pilot SEA of the Green Economy Road Map of Moldova, respectively, were completed during reporting period. In addition, further training was provided on the practical application of SEA in Belarus and Azerbaijan and four national level guidance documents on SEA were finalized – in Armenia, Azerbaijan, Moldova, and Ukraine.

9. The second EaP GREEN sub-regional workshop on SEA and EIA ‘Sharing experience with introducing SEA and EIA in selected countries of Eastern Europe and the Caucasus’ was organized in Ukraine, 31 October - 2 November 2017.⁵ In April 2018, the Manual for Trainers on the Application of the Protocol on SEA⁶ was finalized in English and Russian, providing a comprehensive background document for conducting training on SEA, including relevant theory, practical exercises and case studies, as well as recommendations on the training approaches and methods. Finally, a draft final publication on lessons learned from the EaP GREEN funded assistance is being prepared to support the implementation of 2017-2020 Workplan activities.

II. Revision of the Guidelines on Environmental Impact Assessment in a Transboundary Context for Central Asian Countries

A. Background

10. At its seventh session the Meeting of the Parties to the Convention mandated the secretariat to support the finalization of the update and the revision of the Guidelines on Environmental Impact Assessment in a Transboundary Context for Central Asian Countries.

⁴ In Ukraine, the secretariat to the two treaties supported activities towards the adoption of the new legislation in Ukraine. The drafting of the new legislation was supported by an EU project ‘Approximation of Ukrainian legislation with the EU in the field of plant protection products and plant health and strengthening associated inspection and laboratory services’.

⁵ For more information on the outcomes of the event see: <http://www.unece.org/index.php?id=47049>.

⁶ Available at: <http://www.unece.org/env/cia/publications.html>.

11. The work was carried out by consultants to the secretariat, in close cooperation with Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan, and further to the workplans for the implementation of the Convention and its Protocol on Strategic Environmental Assessment for 2014–2017 and 2017–2020. The activity was implemented with the administrative and substantive support of the Regional Environmental Centre for Central Asia (CAREC) and with financial support from the Swiss Federal Office for the Environment.

12. The objective of the Revised Guidelines is to support the Central Asian countries in the practical implementation of transboundary environmental impact assessment procedures in accordance with the Convention, while also taking account of their subregional and national contexts and national legislation. They may serve as a useful reference for the Central Asian countries for the development of national legislation in accordance with the Convention.

B. Summary of main activities and achievements

13. During the reporting period, the draft Revised Guidelines were considered at two subregional workshops that were held in Kyiv, 2-3 November 2017 and in Tashkent on 4 June 2018. At these workshops the participants considered, among others, the consistency between the Convention and the environmental impact assessment procedures within the present “State ecological expertise” systems in the Central Asian countries. The participants also identified existing challenges related to the application of the transboundary environmental impact assessment procedure at the national and subregional levels, including the absence of the relevant legislative frameworks in most of the countries of the subregion. In addition, they considered actions needed to address these challenges, including legislative reforms and broad awareness-raising campaigns to promote the benefits of transboundary environmental impact assessment at the national and subregional levels. The outcomes of the workshops were reflected in the text of the draft Revised Guidelines.

14. The draft Revised Guidelines were also considered by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment at its seventh meeting (Geneva, 28–30 May 2018). As requested by the Working Group, the secretariat finalized the text of the Revised Guidelines based on the comments received during and after the meeting and forwarded it to the intermediary session of the Meeting of the Parties to the Convention as document ECE/MP.EIA/2019/12 for endorsement through decision IS/3. Specifically, the finalized text more clearly distinguishes between the requirements of the Convention on the one hand and, on the other hand, the recommended good practice that are intended to facilitate the implementation of transboundary environmental impact assessment, in particular, in the specific context of the Central Asian countries.

C. Further activities

15. To facilitate the practical application in the sub-region of transboundary environmental impact assessment procedures in line with the Convention, the Central Asian countries requested that the guidelines be complemented subsequently with some additional documents and activities such as:

- (a) An explanatory note providing further practical details, and where possible existing practice, on implementing specific articles of the Convention, or a detailed model of a bilateral agreement for the implementation of the Espoo Convention;

(b) Specific recommendations on how to align the national legislation of each of the Central Asian countries with the provisions of the Convention, based on relevant reviews of national legislation (such reviews have been already prepared by the ECE consultants in Kazakhstan in March 2018, and will be finalized in Tajikistan and Uzbekistan by February 2019);

(c) Awareness-raising and capacity-building activities to promote the benefits of transboundary environmental impact assessment as a tool for greening economies and to share practical examples of the efficient implementation of the Convention with the decision makers in all Central Asian countries, in particular in the context of China's Belt and Road Initiative.

16. Further to this request, the secretariat has assisted Kazakhstan, Uzbekistan, and Tajikistan in carrying out reviews of their national legislative frameworks with the financial support from Switzerland, OSCE offices in Kazakhstan and Uzbekistan, and the EU project 'Supporting Kazakhstan's Transition to a Green Economy Model'. Subsequently, the recommendations on how to align the national legislation of Kazakhstan and Uzbekistan with the provisions of the Convention were prepared (for more information see Chapters III and VI below).

III. Technical advice to Kazakhstan

A. Background

17. The 2017-2020 workplan foresees the provision of technical advice and support to Kazakhstan with a view to introducing internationally sound institutional and legislative frameworks on EIA and SEA. Efficient implementation of the Convention and its Protocol in the country is seen as a valuable contribution to its on-going green economic reforms.

18. Further to the outcomes of the reviews of the country's national legislation vis-à-vis the Protocol and the Convention carried out in 2016 and 2017 respectively, the Ministry of Energy of Kazakhstan initiated comprehensive reforms of its environmental assessment system.⁷ It requested the ECE secretariat to provide technical support in shaping its environmental framework in line with international legal norms, in particular with the provisions of the Convention and the Protocol.

19. Further to this request, the secretariat's technical support to Kazakhstan has consisted of the following:

(a) The development of a legislative basis for an environmental assessment system that is compliant with the two treaties;

(b) The pilot application of SEA in the Energy sector of Kazakhstan;

(c) Training for the national and local officials on the practical application of EIA and SEA.

20. The above activities were carried out with the support of international consultants to the secretariat and national experts in close cooperation with the Ministry of Energy of Kazakhstan, within the framework of the European Union-funded project "Supporting Kazakhstan's Transition to a Green Economy Model". To fully address all the requests of the Government of Kazakhstan related to the setting up of new EIA and SEA national systems,

⁷ The decision was enshrined in the National Concept for the revision of the Environmental Code of Kazakhstan (№ 460 as of 19 September 2018) under Article 9 on "Environmental Assessment" prepared by the Ministry of Energy.

the secretariat raised additional funds from the Swiss Government and the OSCE Programme Office in Astana.

B. Summary of main activities and achievements

21. As a result of the technical assistance provided between November 2017 and November 2018 Kazakhstan was able to prepare the following draft legal documents:

(a) Draft amendments to the Environmental Code of the Republic of Kazakhstan, including chapters "Strategic Environmental Assessment", "Environmental Impact Assessment" and "Environmental Assessment in a Transboundary Context";

(b) Draft amendments to three by-laws, including on state planning, water management and forestry focused on the introduction of the SEA scheme;

(c) Draft subsidiary legislation, including on the SEA procedure, single SEA register and criteria for screening;

22. Further to consultations with the national stakeholders, including environmental and sectoral authorities and the public, the above draft legislation was submitted to the Ministry of Energy of the Republic of Kazakhstan in late November 2018.

23. To assess the feasibility of the application of SEA in Kazakhstan, between October 2017 and November 2018, the secretariat supported the country in the pilot application of the proposed SEA scheme for the Concept on Fuel and Energy Strategy of Kazakhstan until 2030.

24. The pilot project helped Kazakhstan in:

(a) Determining key environmental aspects related to energy production and consumption patterns;

(b) Identifying main drivers impacting green economy considerations;

(c) Evaluating a wide range of likely environmental, including human health, impacts of the proposed Concept;

(d) Facilitating communication among the key stakeholders (central and sub-national governmental agencies, international initiatives, business sector) related to environmental impacts of the energy sector;

(e) Providing ample opportunities for public participation in the process.

25. The pilot project also assisted the Ministry of Energy in developing four energy mix scenarios, and in evaluating their environmental impacts. In addition, relevant mitigation measures of various energy production options were formulated. Before concluding the project in November 2018, the SEA project team recommended the Ministry of Energy to consider the results of the SEA pilot when finalizing the Concept (expected in early 2019). With a view to designing concrete measures to reduce environmental impacts of its proposed investment projects, Kazakhstan was also recommended to carry out detailed SEAs when developing plans and programmes subsequent to the Energy Concept.

26. Finally, the activities helped strengthening capacities of the environmental and sectoral authorities (including the Ministry of National Economy and the Ministry of Justice of the Republic of Kazakhstan) on SEA and EIA in line with the Convention, the Protocol and the relevant EU legislation. A series of workshops and consultation meetings was organized with officials and the public within the legislative drafting process (15-16 November 2017, 15-16 February 2018, 25-26 April 2018, 5 September 2018) and the pilot

project (8-9 November 2017, 5-6 March 2018, 14 November 2018) in order to allow immediately applying the new knowledge in practice. Besides improving the awareness of the SEA and EIA benefits, the roles of different stakeholders in SEA and transboundary EIA were clarified. Also, the detailed methodology on how to apply the SEA and EIA, including in a transboundary context, in line with the Convention and the Protocol was presented and discussed during the meetings.

C. Further activities

27. In 2019, Kazakhstan plans to carry out intergovernmental consultations on draft amendments to the Environmental Code prepared with the help of secretariat. It preliminary indicated that the following additional support may be needed:

(a) To promote the adoption of the proposed legislative amendments through a series of awareness raising events with participation of relevant decision-makers;

(b) To draft EIA related by-laws (list of activities subject to EIA, rules of public participation, criteria for consultants preparing EIA/SEA reports, instruction on conducting EIA).

28. Partial funding to support drafting of the EIA related by-laws has been under consideration by the OSCE programme office in Astana

IV. Technical advice to Tajikistan and Uzbekistan (2018–2019)

A. Background

29. The workplan for 2017-2020 foresees pre-accession technical legislative advice to countries wishing to join the Protocol and/or the Convention to review national legislation for the implementation of the Protocol and/or the Convention and to draft primary or secondary legislation or propose amendments.

30. In 2018, the Governments of Tajikistan and Uzbekistan requested the secretariat to assist them in reviewing their national legislative frameworks vis-à-vis the Convention and the Protocol and in developing recommendations on how to align the current legislation with the two treaties. The request was further to the countries recognizing the potential of SEA for greening economies, including in the context of the Belt and Road Initiative, and further to the outcomes of the preparation of the Revised Guidelines on Environmental Impact Assessment in a Transboundary Context for Central Asian Countries. The activities in the two countries have been implemented with financial support from Germany (for SEA) and Switzerland (for EIA) from August 2018. The project implementation period for the project extends from August 2018 to February 2019.

B. Summary of main activities and achievements

31. The activities in Tajikistan and Uzbekistan included the following:

(a) Reviewing national regulatory and legislative frameworks for environmental assessment systems and making recommendations to the Governments on how to align the frameworks with the provisions of the Convention and the Protocol;

(b) Organizing two workshops in each country to present the scope and the results of the reviews, to raise awareness of the national decision-makers about the benefits of transboundary EIA as well as SEA and its practical application;

32. The target audience of the activities included high- and middle level officials from environmental, health and sectoral authorities of Tajikistan and Uzbekistan, project developers, SEA specialists, relevant representatives of financial institutions, academia and non-governmental organisations.

33. Initial awareness raising workshops to promote the benefits of transboundary EIA and SEA and discuss the draft reviews of the national legislation vis-s-vis the provisions of the Convention and the Protocol were carried out in Uzbekistan on 26 and 27 August 2018 and in Tajikistan on 22 and 23 November 2018.

34. Based on the outcomes of the draft reviews presented to the Government of Uzbekistan during the initial awareness-raising workshop, the Government expressed its interest in initiating a comprehensive legislative reform with a view to aligning its EIA system with the provisions of the Convention and to introducing an SEA system in line with the Protocol. It requested the secretariat to provide relevant support, which it could to some extent do by readjusting the planned project activities.

35. Subsequently, the activities in Uzbekistan were complemented with additional ones, including:

(a) Organising a national working group meeting on drafting amendments to the Law on Ecological Expertise (Tashkent, 24–25 October 2018);

(b) Developing – in consultation with the State Committee for Ecology and Environmental Protection and representatives of the Parliament – a Concept note on legislative reform of environmental assessment system, including alternatives for various elements of possible EIA and SEA schemes (November 2018);

(c) Preparing by the ECE consultants of a first draft amendments to the Law in line with the proposed concept note for consideration of the Committee (December 2018).

C. Further activities

36. The reviews of legislative framework of Tajikistan and Uzbekistan including recommendations to the Government for aligning it with the Convention and the Protocol will be finalised in February 2019 further to the outcomes of the discussion with the national authorities scheduled to take place in Dushanbe on 18 January 2019 and in Tashkent on 22 January 2018. During the discussions in Uzbekistan, the ECE consultants will provide the Government with clarifications regarding the first draft amendments to the Law on Ecological Expertise.

37. Uzbekistan has requested for further legislative assistance for completing the drafting of the legislative amendments. The secretariat is in the process of exploring the availability of resources for the further support.
