



Environmental Impact Assessment in a Transboundary Context: Pilot Project in Central Asia **PROJECT REPORT**





Table of Contents

BACKGROUND	4
PROJECT OVERVIEW	5
SUMMARY OF PROJECT ACTIVITIES	5
THE PILOT PROJECT	6
UPDATING NATIONAL LEGISLATION	7
UPDATING THE 2005 GUIDELINES	8
PROJECT ACHIEVEMENTS	10
RECOMMENDATIONS	11

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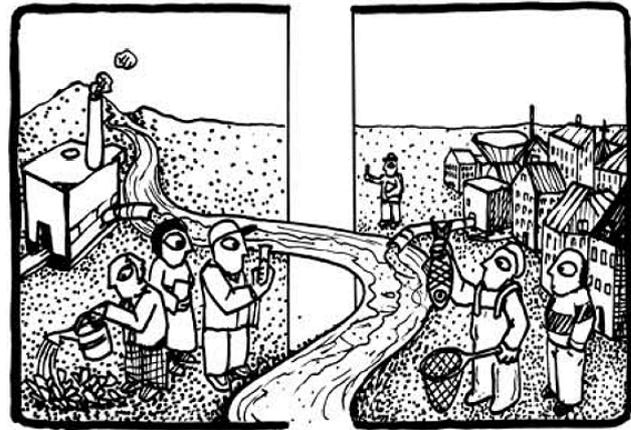
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FOREWORD

The United Nations Economic Commission for Europe (UNECE) Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) was signed in 1991. This Convention obliges its Parties to conduct an environmental impact assessment (EIA) of any planned activities if these activities can have a significant transboundary impact on the environment. Kazakhstan as well as Kyrgyzstan are Parties to the Espoo Convention. See www.unece.org/env/eia for more information.

Since the entry into force of the Espoo Convention, the application of transboundary EIAs in the Organization of Security and Co-operation in Europe (OSCE)/UNECE region has proven to be very useful. Due to the procedure's transboundary approach, an EIA analyses many components, including political, economic, social, legal and procedural. Furthermore, the transboundary approach of conducting an EIA minimizes misunderstandings among stakeholders, increases collaboration between countries and local entities, and ensures a well-informed and active public. Overall, this leads to minimizing any possible tensions among the affected Parties.

In the framework of the preparatory process for the World Summit on Sustainable Development (Johannesburg, South Africa, 2002), the countries of Central Asia initiated a subregional initiative on sustainable development. This initiative was reflected in the Summit's final documents and was later updated in the final decision of the Fifth Ministerial Conference



“Environment for Europe” (Kyiv, May 2003). Among their goals for the subregion, the Central Asian countries sought to join the Espoo Convention and to coordinate their respective EIA procedures.

A large part of this Environment and Security Initiative (ENVSEC) project was implemented by the State Agency on Environmental Protection and Forestry of the Kyrgyz Republic. The Office of the Coordinator of OSCE Economic and Environmental Activities and the OSCE field presences in Kazakhstan and Kyrgyzstan managed the project together with the UNECE.

The nature of the project ensured close collaboration between State institutions, international organisations and non-governmental organisations (NGOs) in both countries.

The project partners include the State Agency on Environmental Protection and Forestry of the Kyrgyz Republic (State Agency), the Ministry of Environmental Protection (MEP) of the Republic of Kazakhstan, the NGO Independent Environmental Expertise in Kyrgyzstan and the Andash Mining Company.

Financial support was provided by the Government of Norway to OSCE through the ENVSEC Initiative.

BACKGROUND

This project was part of the work programme of the ENVSEC Initiative¹, a partnership among organisations which aims to make international assistance more effective, to avoid project duplication and to collaborate more effectively with relevant partners in line with the Paris Declaration.

ENVSEC was conceived to support countries in their efforts to manage the environment as well as security risks. This international partnership recognizes that the best path to addressing environmental and security concerns is through international dialogue and neighbourly cooperation. It therefore assists Governments in identifying common solutions and developing joint projects for achieving them.

The work of the Initiative is based on close collaboration with the appointed ENVSEC National Focal Points, usually one in the Ministry of Foreign Affairs and another in the Ministry of Environment.

ENVSEC work in Central Asia began in 2002 with the identification of geographical hot spots and major linkages between environmental and security issues. Since then, ENVSEC partners have undertaken detailed participatory assessments of environment and security in the subregion. While the order of priority varies between areas, key environmental issues threatening human security in the region are the growing demand for water coupled with increased pollution, changes in hydrological regimes as well as industrial and agricultural practices. At the same time, the countries need to adapt to environmental changes, increase environmental cooperation and ensure the cleaner development of production.

The EIA of facilities and activities at an early stage of planning, including of their cross-border impacts, is a well-recognized procedure in modern environmental policy and an important prerequisite for sound neighbourly relations between countries.

The Espoo Convention stipulates that its Parties shall assess the environmental impact of certain activities at an early stage of planning. It also obligates States to notify and consult each other on all major projects under consideration that are likely to have significant adverse environmental impacts across borders.

NGOs and the public play a key role in the implementation of the Espoo Convention. Their involvement contributes to:

- Improved relations between people and countries, and prevention of transboundary environmental conflicts;
- Development of civil society and democracy;
- Promotion of the timely disclosure of relevant information to participants in the environmental decision-making process;
- Making people aware and able to participate in decision making, thus understanding and respecting final decisions on projects;
- Providing an insight into environmental protection and long-term environmental problems.

Kyrgyzstan and Kazakhstan are Parties to the Espoo Convention and are now improving their application of its provisions. Tajikistan and Uzbekistan are preparing to ratify the Convention.

Proper application of the Convention is important for improving environmental cooperation in Central Asia. For example, in the water sector it is essential that plans for new works, e.g. production facilities or water infrastructure projects with a possible impact on ecosystems, be communicated to and discussed with neighbouring countries.

As a first step in the work on the Convention in Central Asia, the Regional Environmental Centre for Central Asia (CAREC) in Almaty implemented a regional project with funding from the Swiss Government and the support of the UNECE secretariat. The abovementioned project included a training seminar organised by the Kyrgyz Ministry of Environment and Emergency Situations and co-funded by the OSCE Centre in Bishkek. That regional project established a set of Guidelines for Central Asian countries to implement the Espoo Convention. These Guidelines, finalized in 2005, were an important basis for the project's implementation.

¹ For more information on the ENVSEC Initiative, see www.envsec.org.

PROJECT OVERVIEW

The project's overall objectives were to improve dialogue and cooperation and to involve stakeholders and the public in the development and assessment of major projects in Central Asia that have a potential cross-border impact on the environment. The Espoo Convention was the main instrument used to achieve these objectives.

The immediate objective of the pilot project was to demonstrate an effective implementation of the Convention in Kazakhstan and Kyrgyzstan through conducting a full EIA procedure in a transboundary context on a specific planned project in Kyrgyzstan, with the involvement of Kazakh authorities and the public. In this particular case, the object was a new copper and gold mining operation proposed by a mining company seeking a licence in Kyrgyzstan. The proposed mine was situated very close to the Kazakh border. Natural carriers such as water could be affected by pollution and carry it downstream.



On the basis of the experience from the pilot project, national implementation mechanisms were developed and human capacities increased, inter alia, through training sessions in both Kazakhstan and Kyrgyzstan.

In summary, the project sought to provide assistance to Central Asian countries in the implementation of the Espoo Convention through:

- Improving cooperation and establishing dialogue, and involving stakeholders and the public in the planning and execution of projects with possible

transboundary impacts on environment in Central Asia;

- Demonstrating the effective application of the Convention in Kazakhstan and Kyrgyzstan, and testing the Guidelines on conducting an environmental impact assessment in a transboundary context for the countries of Central Asia.



SUMMARY OF PROJECT ACTIVITIES

Project implementation was divided into five phases. During the early stages, the Andash Mining Company initiated an EIA in the transboundary context as a pilot project. The company had applied for a mining license in an area close to the Kazakh border (see map). The pilot project demonstrated the practical application for EIA procedures in a transboundary context. Subsequently, working groups reviewed Kyrgyz national legislation. Based on the experience of the pilot project, two main legal acts – instructions on the conduction of EIA and on the expertise of project materials – were amended to clarify procedures and include the participation of the public. Building on the experience of the pilot project, the later phases of the project concentrated on updating the 2005 Guidelines for conducting an EIA in a transboundary context in Central Asia.

THE PILOT PROJECT

The pilot project included the practical application of the procedures of the Espoo Convention, on a specific object.

A seminar on the practical application of the Convention in Kyrgyzstan and Kazakhstan took place in Bishkek on 26–27 January 2006, with the participation of international experts and the Espoo Convention secretariat.

Participants decided to use, as an example, the planned development of the Andash copper and gold deposits. The deposits are located in Kyrgyzstan, 2.5 km from the border of Kazakhstan.

The Andash Mining Company was planning to develop the Andash deposit in immediate proximity to the Karakol River, a tributary to the Talas.

The competent bodies for conducting an EIA in the affected States are the State Agency of the Kyrgyz Republic and the Ministry of Environmental Protection of Kazakhstan.



The national legislation in terms of the procedure for the implementation of a transboundary EIA was further elaborated on during this activity. The updated procedure now includes the following stages: notification, confirmation of participation in the procedure, public participation, preparation of technical documentation, and distribution of documentation and consultations. The pilot project thus ensured a hands-on approach in terms of development of national legislation and functioned as a basis for its updating.



Particular attention was devoted to participation of the public in Kazakhstan. Public hearings, which took place on March 20th, 2007 in Taraz, were organised with the assistance of the OSCE Center in Astana, the Ministry of Environmental Protection in Kazakhstan, the Department of Natural Resources and Regulation of Nature Use in the Zhambyl region, the NGO “EcoForum” PK, and the Kazakh ecological NGO “Akbulak”. The main purpose was to ensure that the local population were aware of the planned activities related to the Kyrgyz gold mining deposit “Andash” and its possible impact on the territory of Kazakhstan. More than 120 people participated in the hearings. Public hearings in Kyrgyzstan were organised by the Andash Mining Company with the company covering part of the costs in accordance with the Espoo Convention provisions. The immediate result of the public hearings was that the concerns of the community could be acknowledged and addressed by the Andash Mining Company. This will contribute to increasing the public acceptance of the mining project and the project’s long-term sustainability.



Apart from the organisation of the public hearing, EcoForum undertook a number of preparatory activities, which helped in informing local civil society and members of the Parliament on the content of the EIA of the Andash mine, in advance, while also establishing an efficient network among non-governmental organisations, mass media and the Parliament of Kazakhstan to allow further discussions on environmental issues in a transboundary and a national context.

All information on the planned facility, the texts of the Convention and the Guidelines for the Central Asian countries, the normative legal acts on EIA and the State ecological expertise of Kazakhstan and Kyrgyzstan were

published on the ecological network Environment and Sustainable Development in Central Asia and Russia (CARnet) website www.caresd.net as well as on the website of the State Agency www.nature.kg.

Information-sharing between Kazakhstan and Kyrgyzstan improved considerably during the project’s implementation. This was largely due to the informal contacts made and the possibility of using Russian as a common language.

UPDATING NATIONAL LEGISLATION

During this part of the project, a detailed (article by article) analysis of the normative legal acts that regulate the conduct of an EIA took place in Kyrgyzstan. A list of normative legal acts requiring amendments was also developed.

To promote effective implementation of the Espoo Convention, two main legal documents, from 1997, were reviewed and updated:

1. Instruction on the procedure of conducting an EIA in Kyrgyzstan;
2. Instruction on the procedure of conducting an environmental impact assessment regarding its documentation in different stages of the project in Kyrgyzstan.

Provisions from the 2005 Guidelines on the procedure of conducting the transboundary EIA were further developed and included in the **Instruction on the procedure of conducting transboundary Environmental Impact Assessment (EIA) in the Kyrgyz Republic**. Note that the Instruction was renamed to include the transboundary elements of an EIA.

The Instruction contains articles regarding:

- Environmental impact assessment for objects that have transboundary impact;
- Step-by-step recommendations for participants of an EIA procedure, including for transboundary EIA;

- A procedure for informing and participation of the public, including a provision on public participation the in the transboundary EIA;
- Definition of the terminology to be used.

The **Instruction on the procedure of conducting an environmental impact assessment regarding its documentation in different stages of the project in the Kyrgyz Republic** was updated to include:

- Submission of documentation related to the transboundary impact assessment of the planned activity;
- An extension in time, if necessary, for the consideration and preparation of comments on the EIA documentation of facilities with a transboundary impact;
- An update of terminology to be used.



Revised versions of the two Instructions were published on the website of the State Agency www.nature.kg and were distributed to the participants of the round tables, national legal experts, and experts in the sphere of conducting EIAs by e-mail, regular postal service, fax and courier.

All submitted comments and proposals were considered and analysed. Based on these suggestions, the finalized versions of the Instructions were presented at the concluding round tables.

In Kazakhstan, the national workshop on the EIA implementation procedures was conducted on 15 of May, 2008. In order to disseminate information on the project, the Ministry of Environmental Protection of Kazakhstan undertook a national workshop on how to implement

a transboundary EIA taking into account international standards and requirements in Kazakhstan. Around thirty experts, mainly officials from the central and regional bodies of the Ministry of Environmental Protection of Kazakhstan, participated together with a representative of the State Agency of Kyrgyzstan as well as the OSCE Centre in Astana and the UNECE. During the workshop, the procedures of the Espoo Convention were presented together with the results from the pilot project.

The participants suggested that capacity building and awareness raising exercises on EIA procedures should continue in the regions of Kazakhstan. The participants also recommended that several methodological documents on EIA, such as the Guidance on Practical Implementation of the Espoo Convention and the 2005 Guidelines, should be included among the standard regulatory documents of the Ministry of Environmental Protection of Kazakhstan.

UPDATING THE 2005 GUIDELINES

In 2005, Guidelines for implementing the Espoo Convention were developed by experts from Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan (see www.unece.org/env/eia) through a regional project carried out by CAREC in Almaty with the participation of the UNECE secretariat. This project included a training seminar arranged by the Kyrgyz Ministry of Environment and Emergency Situations and co-funded by the OSCE Bishkek Centre. These 2005 Guidelines were tested and updated during the project's implementation.

The 2005 Guidelines outline procedural mechanisms for practical applications of the Convention in the countries of Central Asia. They include an overview of the situation in each of the countries as well as recommendations for step-by-step procedures for the country of the origin, the affected Party and the initiator of activity.

The preparation of the updated version of the Guidelines was conducted by national experts from Kazakhstan and Kyrgyzstan. They are informative and will be useful for the competent bodies as well as the initiators of transboundary EIA procedures.

A working meeting on procedures for transboundary EIA implementation was held in Bishkek on 26–27 November 2007. The meeting discussed the ongoing implementation of the Espoo Convention. Representatives of the State Agency and the Ministry of Environmental Protection presented information on implementing the Convention’s provisions with regard to the development planned for the Andash copper and gold deposits.



Several round tables on the substantive aspects of the prepared documents were attended by State authorities, the Andash Mining Company, NGOs and international organizations. A new version of the Guidelines was prepared based on these round tables.

An analysis and evaluation of the procedure of transboundary EIA outlined in the 2005 Guidelines was carried out, highlighting the following issues: (a) identification of procedures that are complex and cause difficulties; (b) how to overcome these difficulties; and (c) whether it was necessary to amend the 2005 Guidelines.

Moreover, at 10 working meetings Kazakh and Kyrgyz experts analysed the 2005 Guidelines in detail and worked on an updated version. All meetings were organized by the State Agency in cooperation with the Kazakh authorities.

The updated Guidelines contain a more detailed step-by-step procedure for fulfilling the provisions of the Convention. The Guidelines emphasize issues requiring clarification, with the aim of improving the Convention’s application.

Furthermore, the new Guidelines give a detailed description of the role of all actors taking part in an EIA procedure.

The most important modification to the Guidelines was the detailed procedures for promoting public participation. This element had not been included in the 2005 version of the Guidelines.

To inform all stakeholders, the updated Guidelines have been made available on the State Agency website. They were also distributed to experts of the State bodies in the field of environmental protection in Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.



In the concluding phase of the project, a regional seminar on “Practical Experience of Application of the UNECE Convention on Environmental Impact Assessment in a Transboundary Context in Kyrgyzstan and Kazakhstan” was held in Bishkek on 25–27 March 2009. Representatives of the Jogorku Kenesh (Parliament), the relevant ministries and departments, the Andash Mining Company and State authorities in the field of environmental protection of Kyrgyzstan, Kazakhstan, Tajikistan as well as Uzbekistan participated in the seminar and discussions. Representatives of international organizations and NGOs from Kazakhstan and Kyrgyzstan participated.

The seminar presented the project’s results, including from the pilot project. Representatives of the State



Agency and the Ministry of Environmental Protection presented their views on the implementation of Convention's provisions regarding the activity planned for the Andash copper and gold deposits'. They also discussed the updated draft version of the Guidelines on conducting EIA in transboundary context for Central Asia. As a result of the discussions, a resolution was adopted by the participants of the seminar.

The resolution requested the Director of the State Agency to present the pilot project's results and submit the updated version of the Guidelines for approval to the Inter-State Commission for Sustainable Development of Central Asia (ICSD) at its meeting in

May 2009. The project and its results were discussed and the Guidelines will be presented for approval to the environment ministers of the Central Asian States at the next ICSD meeting, to take place in the fall of 2009.

For the countries of the region that do not have practical experience on implementation of a transboundary EIA, the practical approach of the seminar and the hands-on experience of the pilot project were very useful and led to detailed discussions and a better understanding of procedures that need to be in place or updated.

PROJECT ACHIEVEMENTS

The project achieved the following goals:

- The procedure for conducting a transboundary EIA was tested and further developed;
- National procedures for the practical application of the Convention were developed in Kyrgyzstan and Kazakhstan ;
- Project participants increased their capacity and skills with respect to procedures in the application of a transboundary EIA, as well as regarding other dimensions of the Espoo Convention;
- An updated version of the Guidelines for Conducting Transboundary EIA in the Central Asian countries was prepared and discussed.

One of the most important results of the project was the experience of successful cooperation and interaction between the authorities of Kazakhstan and Kyrgyzstan in conducting a transboundary EIA.

Furthermore, the project demonstrated that the Espoo Convention is an important instrument in terms of promoting cooperation among its Parties through the joint discussion of problems, the establishment of contacts, and finding ways to pre-empt and resolve possibly conflicting views between neighbouring countries.

It is also worth noting that the collaboration between OSCE, its field presences and the Espoo Convention secretariat ensured appropriate technical, political and practical project implementation.

RECOMMENDATIONS

The following recommendations, noted during project implementation, may be useful for improving the implementation process and facilitating the procedure of conducting an EIA:

- is essential to notify a neighbouring Party. In the case that an activity is planned that may not have significant transboundary impacts, it is nevertheless necessary to give an opportunity to the neighbouring State to make a decision on the applicability of EIA requirements. This will prevent a situation in which a neighbouring State requests information regarding a planned activity when a decision has long since been made.
- When preparing an answer to a notification, it is necessary to involve the public and other stakeholders. Local authorities and the public are better informed about local conditions. This will make it possible to obtain additional information, to consider the opinion of all stakeholders, to create mutual understanding and to avoid conflicts in the future.
- Ministries of Foreign Affairs should be involved in the procedure of transboundary EIA, because negotiations are conducted at the inter-State level.
- Each stage in conducting a transboundary EIA should be carefully prepared and considered from the beginning up to its finalization (e.g. the distribution of responsibilities, development of a uniform approach, etc.). It is also important to keep the door open for informal negotiations during the whole procedure. It is desirable to include in these negotiations the competent bodies, the activity's initiator, NGO representatives, etc.
- It is necessary to improve the process of assessment, involving all the components, such as water resources, air, fauna and socio-economic conditions of residents.
- Parties should strive to establish good communications. It is necessary to pay special attention to holding consultations on the content of EIA documentation. Other priority areas are financial issues relating to the consideration and preparation of comments on EIA documentation, their organisation, activities related to conducting public hearings and activities that engage the public of the affected Party.
- On certain issues, it is advisable to sign separate agreements.
- Further work is needed to produce harmonised guidelines for the Central Asian region as a whole. To do this, consultations with stakeholders in all five countries are needed.
- The updated version of the Guidelines should be finalised and presented at the next ICSD meeting for the approval of all Central Asian States.
- The incorporation of the updated Guidelines into national law should be considered, making them mandatory for application at the national level when conducting an EIA assessment in a transboundary context.
- The ratification of the Espoo Convention by all the Central Asian states will significantly facilitate conducting EIA procedures in a transboundary context and ensure its uniform application.

For further information, please visit the following websites:

www.osce.org/eea

www.nature.kg

www.caresd.net

www.unece.org/env/eia



“The implementation of the Espoo Convention is important for improving environmental cooperation in the Central Asia region and it can be applied to many different transboundary activities”

**said Ambassador Tesoriere
of the OSCE Centre in Bishkek.**



“Experiences with the implementation of the pilot project by Kazakhstan and Kyrgyzstan have shown that the Espoo Convention can be applied through close cooperation with positive results”

**said Wiek Schrage,
Secretary to the Convention.**

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