



THE REGIONAL ENVIRONMENTAL CENTER  
*for Central and Eastern Europe*

United Nations Development Programme



**Regional overview prepared for the  
“Capacity Building Needs Assessment for the UNECE SEA  
Protocol”**

**UNDP/REC**

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NOTE: this is the first outline of the regional report to be produced by the end of the Stage 4 of the regional project ‘SEA – Promotion and Capacity Building’. This draft could be further developed based on instruction of UNDP and from UNDP/REC project inputs. This advanced draft constitutes an output of the project, which can be of wider international interest. If the project gets expended, there should be a budget for the completion of the initial overview and production of the web based version under the UNDP/REC and UNECE.

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**Content**

Introduction .....3  
 Identification of plans and programs that fall under the scope of the SEA Protocol .....4  
 Overview of current environmental assessment provisions related to SEA.....5  
     Screening .....6  
     Scoping .....6  
     Review requirements by other relevant authorities.....7  
     Public consultations .....7  
     Transboundary consultations .....7  
     Mechanisms for taking into account SEA report and comments of the public.....7  
 Advantages and disadvantages of the current system in relation to introduction of the SEA Protocol requirements .....7  
 Future Development Opportunities .....8  
 Priority issues for the effective implementation of the UNECE SEA Protocol .....9  
     Priority actions for capacity development .....9  
     Needs for assistance in capacity development.....9  
     Key players of the reforms.....10  
 Main conclusions .....10  
 Overview to the second phase of the project.....11

**Annexes**

1. ToR for the country needs assessment review
2. Priority issues in selected EECCA countries with respect to implementation of the UNECE SEA Protocol requirements
3. Overview of the current environmental assessment systems related to SEA in selected EECCA countries.

## Introduction

One year has passed since the UNECE SEA Protocol to the Espoo Convention has been presented to the Kiev “Environment for Europe” conference and has been signed by a number of countries, including 4 EECCA countries: Armenia, Georgia, Moldova and Ukraine. Though to this date none of the signatory countries has yet ratified the SEA Protocol, they have been working towards introduction of the SEA Protocol requirements to their national legal frameworks. In addition, European Union countries in parallel have been adapting their legislation to SEA Directive (2001/42/EC) that came into force on 21<sup>st</sup> of July 2004. Four EECCA signatories to the SEA Protocol have started the preparations for adoption of the Protocol.

The project *SEA – Promotion and Capacity Building* supported by UNDP aims to assist the signatories of the Protocol in EECCA region, as well as Belarus, in their efforts to adopt the requirements and eventually ratify the UNECE SEA Protocol.

Armenia and Georgia are at the same time the target countries of the joint UNDP, UNEP and OSCE initiative on *Environment and Security (ENVSEC)*. SEA implementation will reduce environmental risk and foster co-operation and sustainable resource management at both national and regional level, by improving the decision-making process in development planning in those countries. This project contributes to the achievement of mainly the following ENVSEC goals: capacity building in governmental and non-governmental sector by improving access to information and involving public participation in decision making; training on policy planning and policy integration, and on integrated assessment methodologies; capacity building and institutional development by identifying the gaps in institutional structures addressing environmental assessment; integrating environmental issues and concerns into other sectoral policies and programmes; fostering inter-institutional cooperation; and promoting policy integration through including the environmental assessment into national programmes, and promoting sustainable management and transboundary environmental cooperation.

During the first stage of the project, the national reviews assessing the status of preparation for the SEA Protocol implementation in the 5 selected countries (Belarus, Armenia, Georgia, Moldova and Ukraine) have been commissioned. Full studies will be available as annexes to this report. In addition, UNDP initiated presentation of the main findings of the reviews during a side event at the 3<sup>rd</sup> meeting of the parties to the UNECE Espoo Convention that took place in Cavtat, Croatia on June 2, 2004.<sup>1</sup> Official country representatives - EIA national focal points - have presented official positions on the needs, challenges and implementation plans related to the Protocol requirements’ implementation.

Overview of the regional needs assessment has been developed by the SEA experts of the Regional Environmental Centre for Central and Easter Europe (REC) who provides international expertise to this project. This paper presents the main findings from the national needs assessment reviews. The paper will therefore follow the structure of the ToR provided to the national experts before conducting the needs assessment reviews (see the Annex 1).

Prior to characterizing the situation in the region<sup>2</sup> related to SEA, it is worth mentioning, that though countries of the EECCA region have emerged from a very uniform background with very strict planning rules and regulations, 13 years of independence have enabled the countries to develop their own particular characteristics. At this stage the countries already demonstrate a range of planning and development directions. The regional overview (the report of the first stage of the project) aimed at recapping the development status of the countries. More detailed information on national aspects of the legislation

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<sup>1</sup> More information on the side event are available at the [www.unece.org](http://www.unece.org)

<sup>2</sup> Term “region” refers in this report to the target countries of the project: Armenia, Georgia, Moldova, Ukraine and Belarus.

regulating environmental assessment and SEA introduction are available in the Overviews of the national SEA system (Annex III).

## Identification of plans and programs that fall under the scope of the SEA Protocol

Though many national or sub-national documents in the countries are titled as *plans* and *programmes* those terms do not seem to have clear definitions. The terms *plan* and *programme* are explicitly used only in the Georgian environmental assessment related legislation. Legislation of Ukraine refers to the *state specific programmes* as to the complex of interrelated tasks and actions for addressing the state development problems related to different economy or territorial units. In legislation of other countries those terms are overarched by other higher-level terms. For example in Armenia, a term *concept* is used to refer to plans, programmes (including the regional and city planning) and complex documents that regulate the use of natural resources. In Belarus the term *forecast of the socio-economic development* is used for “a system of scientifically grounded views of the directions, criteria, principles, objectives, and priorities for the socio-economic development of the Republic of Belarus within the specified period, including the list of key forecasted indicator values, targets, and activities for their achievement.” (Law on State Forecasting 1998).

Programmes and plans are being developed by national or sub-national/local authorities, depending on their territorial character. National development plans and programmes set framework for those at the regional (sub-national) and local level. A very illustrative example of planning process has been provided for Ukraine, which largely represents planning traditions in the region and can be used as an illustration for the planning processes in EECCA region.

### Box 1: Planning process in Ukraine

The planning process in Ukraine is represented by the development of a number of strategic documents directed to achievement a particular aim, a package of tasks, development of a certain territory and/or sector of economy. Strategic documents in Ukraine are prepared on the national and regional level and can be divided into several categories.

On the national level, the first category includes *national programmes*, which should be elaborated over certain periods and mainly directed to the general development of particular branch (environmental, economical, and social). Range of these programs is approved by the corresponding laws of Ukraine. The second category is the *state or complex programmes*, which are developed by *ad hoc* instructions and approved by the Cabinet of Ministers of Ukraine or the President of Ukraine. The third category includes *plans and orders*. They are directed to achievement of a certain aim and to solve a particular problem. The plans and orders are adopted by the corresponding Ministry, the Cabinet of Ministers of Ukraine or the President of Ukraine.

Regional planning process is based on the above state-scale programmes and includes the development of regional (based on the administrative units, mainly such as ‘*oblast*’ and ‘*rayon*’) territorial development plans.

New trends in plan and programme development in EECCA region was introduced by the international organizations. They started to operate in the region since 1990s and provide guidance and support to the countries in the development of national plans and programmes. For example, the World Bank guides and sets the framework of the Poverty Reduction Strategy Papers (PRSPs) developed in Armenia, Georgia and Moldova. Those documents may fall under the SEA Protocol, though so far no environmental assessments have been done to PRSPs. However, in the near future financial institutions may require environmental

assessment of the activities they plan or support in the region applying the internal institutional SEA requirements.<sup>3</sup>

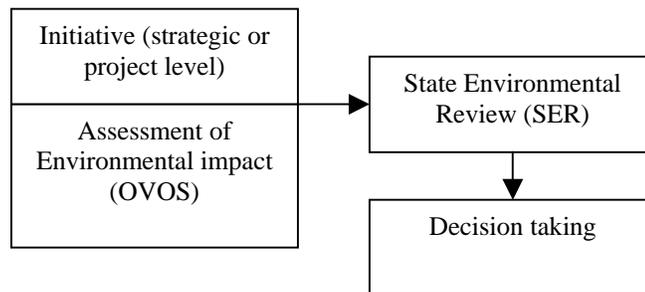
A number of plans and programmes that are developed in the countries of the region fall under the SEA Protocol. In some countries e.g. in Ukraine it can be as high as 100 documents per year, though in average some 10 documents per country may fall under the SEA Protocol and may require SEA. However, due to different reasons, including the inefficiency of laws, the most part of the developed strategic documents is not presented to the environmental review, which is a functioning substitute of the SEA in the region.

The national needs assessments have revealed that countries have or are preparing a number of plans almost in all sectors listed in the Protocol. Most of the sectors, especially in Ukraine and Belarus, had extensive planning activities largely untouched by environmental assessment. Beside the sectors listed in the Protocol, countries prepare national health plans and programmes and international economic cooperation programmes that might also have a significant impact on the environment, even in a transboundary context.

**Overview of current environmental assessment provisions related to SEA**

Environmental assessment in EECCA region, including SEA is closely linked with the environmental permitting procedure - system of state environmental expert review (SER), accompanied, at the project level, with environmental impact assessment (so-called OVOS). This process in a very simplified way is illustrated in the Figure 1 below.

Figure 1: “SER-based” EA system: sub-systems and links to decision-making



SER and OVOS usually regulated by the corresponding laws, mainly Law on Environmental Permits and Law on State Environmental Expertise. In majority of the EECCA countries’, legislation terms of plans or programmes are not separated from projects, and require the same type of provisions. Law on environmental permitting distinguishes a few activity categories. First category of activities as a rule requires environmental permitting prior to adoption or approval by legislative and executive authorities. In some countries as many as 4 categories of activities can be found (Georgia), as well as overlapping between different permitting procedures, which are very confusing for local developers and authorities.

<sup>3</sup> Since the World Bank is currently introducing SEA into its land operations and the EBRD envisages carrying out SEA in its new environmental policy and procedures, the borrowing countries may ask IFIs to carry out SEAs of PRSPs and other related programming documents. If such SEA is done, it should be carried out through combined procedure following the framework SEA requirements of the respected IFIs, UNECE SEA Protocol and any other applicable legislation in respective countries.

In Moldova the law requires a mandatory application of OVOS for strategic documents of the national economy development. In Georgia the law on the State Environmental Review (SER) specifies that “infrastructure plans, projects and programmes” falling under I category activities have to undergo permitting procedure. In Belarus concepts, sectoral and socio-development programs, as well as physical planning documents are subject to environmental examination and undergo SER procedure regularly.

Due to the different nature of the documents that have been assigned to SER, strategic documents have never or in a very few cases underwent SER. The requirement to get environmental permit for strategic documents (mostly regional and local plans and programmes, and territorial development plans) is mostly satisfied by preparation of a chapter on environmental protection, which may or may not consider environmental implications of the planned activities. The chapter or the assessment should cover description of impacts on a prescribed list of environmental objects, though in some countries this assessment is limited to compliance to the building codes and measures that are firmly stated by laws or regulations.

Uniform application of the assessment requirements for strategic and project level documentation and forcing application of environmental permitting on strategic documents remain in legislation of many countries in the region. This negatively influences development and introduction of the procedures that would enable environmental assessment of the strategic documents.

### ***Screening***

Due to the absence of the clear screening procedures and criteria (there are only some elements present in current legislation), from a number of strategic activities that are submitted annually for environmental review in the target countries, only activities of the clear economic development purpose were subject to assessment procedure and SER. As a rule, it is up to the developer of the strategic initiative to decide, if the document requires authorization from the environmental authority or not. In the absence of the clear instructions, how to do environmental assessment of the strategic documents, most of them are being adopted by the authorities without assessment.

In Belarus the projects are screened twice. There is a list of projects that are subject to EIA as well as much wider list of projects that are subject to SER. Many activities and entities, which do not require EIA are subject to SER or to an official approval from the environmental authority. Additionally, the SER Guidelines contains a list of activities, which do not require environmental examination. On the other hand, this list even includes economic activities and entities that do not have a significant impact on the environment.

### ***Scoping***

National reviews revealed that in total about 100 proposed strategic initiatives are submitted for an assessment in the target countries annually. However, documents are submitted to an authorized body omitting the notification stage. Despite some scoping requirements in legislation it is very much limited to the prescribed content of an EIA report. Very clearly prescribed content of those reports, its categories are not always easily applicable in case of assessment of plans and programmes. Therefore at the end, the instructions are not being followed.

According to the legislation, developer must notify the authority about the intention to carry out an activity in a given format. However, further action of the authority, in terms of taking into account comments of stakeholders, or modification and further elaboration of the notification document is not specified in national legislation. Those notification formats are mostly aimed at the planned economic developments.

The overwhelming majority of EIA/ SER/ SEA developers are mostly guided by the building codes and rules and other applicable permitting documents operational since the former Soviet Union times. Those guidance and rules cannot be applicable to plans and programmes and therefore cannot serve as guidance in the process. In most countries of the EECCA region, the requirements referring to strategic assessment are not being implemented, since clear procedures on how to practically perform assessment of strategic documents do not exist. There are some exceptions, e.g. in Georgia, as of infrastructure plans that are closer in nature to project documentation or programmes of socio-economic development in Moldova.

### ***Review requirements by other relevant authorities***

According to the national procedures the developer submits a summary of the environmental impact assessment (summary of the report) to the relevant ministries, state departments and local government agencies (identified by the law and having responsibilities within the permitting system). Those authorities submit their comments to the developer within established deadlines and send a copy of them to the central environmental institution (Ministry), which forwards it to the developer. The developer modifies the OVOS report and sends the summary of its final version summary for the state environmental review back to the central environmental institution (Ministry).

### ***Public consultations***

In Armenia and Moldova the local governments or authorized bodies are responsible for organizing public environmental evaluations and public discussions. In Belarus public consultations are to be organized by the developer itself. There is a practice in OVOS to distribute the comments to all participants who took part in the consultations, to the developer and authorized bodies, however there are no clear requirements and provisions for taking those opinions into account. Frequently, decision of SER is not publicized, it is passed to the developer and sent to relevant authorities without making it public.

### ***Transboundary consultations***

National laws of the countries have references to the implementation of the requirements for transboundary consultations, though the procedures are not specified (initiation, notification, transfer of information, etc.). Therefore there is no practical experience in this area. National legislation very often refers to the UNECE EIA Convention and its requirements, though those requirements are not followed in practice at all.

### ***Mechanisms for taking into account SEA report and comments of the public***

Current legislation sets procedures and timing for public comments on the draft project/programme documents and on the OVOS/EIA reports. Consultations with the public and other relevant stakeholders are required in all countries. Comments and recommendations from consultations with the public as well as other relevant stakeholders are to be submitted to SER, though there is no regulation or guidance how should these comments be taken into account and how the authority should give the feedback to the public (Armenia).

## **Advantages and disadvantages of the current system in relation to introduction of the SEA Protocol requirements**

The existing OVOS/SER system has some advantages of the development of the SEA systems in the countries. The strengths of the current system are:

- Existing elements of SEA in the national environmental laws (Law on Nature Protection, laws and regulations on environmental reviews, permitting, etc.) covered by the process of state environmental reviews (SER) and environmental impact assessment (OVOS)

- Well developed and functioning OVOS/EIA procedures and existing methodologies with baseline requirements and threshold values
- Requirements to do possibility and feasibility analysis of the activity
- Requirements to develop alternatives
- Requirements to do impact assessment of activity on human health, components of environment, historical and cultural monuments
- Requirements to ensure sustainable use of natural resources

Weaknesses of current systems hindering fast and efficient development of the SEA systems and procedures are:

- Absence of clear terminology distinguishing project and strategic level documentation in national legislation
- Absence of evaluation mechanism accommodating strategic level of thinking and planning
- Lack of procedures for screening and impact assessment, enabling the activity to be classified by degree of impact to the human health and environment and selection of adequate content and methodology for assessment (scoping)
- Absence of methodological approaches and tools for assessing the strategic type of documents (programmes, plans, policies and legal documents), thus reduced ability of countries to apply SEA without prior preparation
- Lack of environmental objectives and criteria to set the standard and threshold for environmental assessment of strategic documents
- Lack or insufficiency of guidelines for environmental assessment and prognosis of state of environment
- Absence of clear provisions for consultations with relevant authorities as well as the public, including the provisions for responding to the comments received
- No practical experience with transboundary consultations
- Low level of communication among the relevant stakeholders

## **Future Development Opportunities**

Countries perceive the beginning of the introduction of the SEA processes through development and enacting of the national normative-legal regulations/laws aimed at regulating the entire process. Setting definitions for plans and programmes or for strategic documents subject to SEA is seen as another priority

The countries have a capacity for SEA through their research and qualified staff in the ministries and affiliated institutions, design and research institutes, educational institutions, NGOs, etc.. Many local NGOs have already been exposed to SEA and SEA like activities and can participate in the development and design of local regulations and testing the systems in local conditions or developing national and adoption of international guidance on the processes.

In this regard, the most efficient solution can be developing comprehensive legal reforms. Improving the Law on Environmental Expertise should be agreed with other environmental laws. At the same time preparation of new by-laws on EIA and especially for SEA is required, with clear definition of procedures and implementation stages (as recommended by the SEA Protocol), developing methodologies for impact forecast, environmental and economic assessment, environmental monitoring, etc.

The institutional structures also need to be improved, e.g. National Environmental Assessment Centres may be established with the role to introduce, supervise and develop EIA and SEA processes, training of certified specialists for environmental assessment, conducting and discussions of the EIA and SEA documents, etc.

## Priority issues for the effective implementation of the UNECE SEA Protocol

### *Priority actions for capacity development*

Initial survey of the capacity development for the implementation of the UNECE SEA Protocol identified capacity development activities that in details are presented in the Annex II table. Summary of the survey is presented in the table below:

Table 1. Priority activities for capacity development in the selected EECCA countries

Country/Priority	Priority 1	Priority 2	Priority 3	Priority 4
<b>Armenia</b>	SEA guidelines	Pilot project	Legal reform	National EIA/SEA Centre
<b>Belarus</b>	Pilot project	SEA guidelines	Training materials and training	Legal reform
<b>Georgia</b>	Pilot project	Legal reform	SEA guidelines	Training materials
<b>Moldova</b>	Training	SEA guidelines	Pilot project	
<b>Ukraine</b>	Pilot project	Training materials and training	SEA guidelines	Promotional materials

### *Needs for assistance in capacity development*

All countries taking part in the project are at the initial phase of implementing the UNECE SEA Protocol requirements. National governments (some with international donor support) are formulating and introducing viable SEA systems into the national legislation. The experts who prepared the national reviews noted that attention must be paid to all procedures and stages of SEA application.

The needs for the SEA Protocol capacity building identified in the country reviews and have been confirmed by the representatives of the governments, NGOs, and academia during the national kick-off workshops that took place during September – October, 2004 and are summarized below:

- *Development of clear SEA related terminology*; Clear definition of terms “*plan, programme and policy*” is crucial for further SEA system development.
- *Development of the legal framework for SEA* by either developing new laws or by amending the existing ones; For example, Armenia is currently developing a new Law on Environmental Review trying to accommodate, to the extent possible, requirements of the SEA Protocol. All the countries have expressed the opinion that there is no need for radical reconstruction of the current legal system. They rather recommend improvement of the current OVOS/SER system in a way it can be applicable for assessment of the strategic documents. Countries expressed a need to harmonize legislation among Caucasus countries and with the EU legislation. Assistance in legal reforms was the most urgent need expressed by Armenia, Georgia and Belarus.
- *Development of SEA national guidance, methodologies and training materials* for different SEA process stages. The guidelines are needed for screening, scoping, evaluation methods, assessment of cumulative impact, terms of reference for SEA preparation, monitoring, consultation and public participation, etc. Representatives of Moldova have decided to select the development of the national SEA training resource manual as the capacity development activity in the following stage of the project.
- *Training* in forms of seminars and workshops structured around individual SEA related issues/topics and prepared in a way to reach different stakeholders: representatives of government and public authorities at different level, experts, trainers, NGO representatives, journalists, students, as well as broad public. Armenian representatives have expressed a need for training on SEA approaches (in terms of different types of SEA integration into the planning process) and Regional overview prepared for the “Capacity Building Needs Assessment for the UNECE SEA Protocol”

methodologies to be applied (including practical examples). “Polluters” have to be trained on needs, benefits and practical provisions for carrying out SEA.

- *Demonstration of SEA application in practice by implementing SEA pilot projects*; 4 out of 5 project target countries have decided to implement pilot SEA within the regional UNDP/REC project.
- *Development of procedural schemes for different types of strategic documents* by presenting examples and lessons learned from other countries;
- *Creation of EIA/SEA national centres* (Armenia and Georgia) responsible of conducting seminars, trainings, developing educational and methodological documents, advertising campaigns, full training of specialists for the environmental assessment, licensing, networking, etc. Those centres could also serve as the national EIA/SEA quality control bodies.
- *Development of accreditation system* for certifying the experts eligible to perform SEA;

### ***Key players of the reforms***

National reviews identified the key players of the reforms in the target countries. Those in the first place are the national ministries having responsibility over the environmental issues (ecology, environmental protection, nature protection and natural resources). A number of NGOs, planning institutes and educational institutions have been already exposed to SEA (especially in Ukraine and Caucasus region) by conducting SEAs, getting involved in SEA campaigns, awareness raising on SEA, and developing training materials.

Environmental impact assessment experts are being trained in a number of high education institutions in the region. There is a great potential to introduce and to develop awareness and prepare capacity for implementation of the SEA requirements for the national systems.

### **Main conclusions**

Countries have difficulty to integrate the SEA Protocol requirements into the existing national environment assessment systems due to associating the SEA process with the project level environmental assessment largely based on baseline requirements and threshold values. There is lack of experience on evaluation of strategic planning documents, since those documents have not been subject to environmental assessment or to wide range stakeholder consultations so far. Tradition of assessment of strategic documents based on other strategic level guidelines (e.g. national environmental strategies, national and international sustainability initiatives, etc.) that sets objectives and indicators for future environmental and sustainability development has not yet been acquired.

Existing rigid mechanism of soviet time assessment, is relevant to the project level environmental assessment and permit issuing procedures (including small scale zoning and land use plans to a certain degree), though the system is tripping and failing where strategic decisions are to be analyzed, because project level planning tools being applied to strategic planning. Project scale thresholds, limit values and assessment tools cannot be used to assess strategic documentation environmental impacts. Strategic planning requires assessment using strategic assessment tools. Absence of such tools applicable to the programmes, strategic and legal documents, makes existing system inactive.

Work on further development of norms and regulations in the OVOS and environmental review process is ongoing. Awareness of the experts and decision makers is increasing on the need for guidelines and guidance on the environmental assessment of strategic documentation. In relation to this the tendency,

trend is emerging to work on amendment of the construction and building codes and other SER regulations to be applicable to the strategic documents (e.g. Ukraine). This might not be the direction to consider for countries.

Rudiments of the SEA procedure that exist in the current national legislation of the countries or rather requirements for assessment of the strategic documentation ask for an ex-post assessment of the strategic initiatives that in itself is an inactive procedure in relation to the development of the planning process and the document itself. Practice shows that suggestions and comments as well as proposals for new alternatives and improvements produced during the ex-post evaluations are most often rejected by the planners or decision makers and do not fulfil the basic notion of the SEA that is to improve the decision in terms of environmental impacts.

Consultations with health authorities in the existing assessment system are anticipated in relation to sanitary requirements only and programs linked to health protection (epidemiological protection, drinking water, sewage processing and disposal, sanitary cleaning of solid and construction wastes). Developing traditions and practices of involvement of health authorities into environmental assessment of strategic initiatives requires more efforts.

## **Overview to the second phase of the project**

Second stage of the project is devoted to the implementation of the capacity development activity selected by all five target countries. This phase has started with the national workshops (organized in September – October 2004) serving as training and planning exercises for the selected activities to be implemented. Workshops were organized for relevant stakeholders (representatives of as many as possible stakeholder institutions), and lasted for 2.5 – 3 days.

Based on the country review results and follow-up discussion with the representatives of the ministries responsible for SEA Protocol implementation the following capacity development activities will be implemented in the countries:

- Armenia: SEA pilot project on the *Yerevan City Master Plan*
- Georgia: Adaptation of the international SEA Protocol Training Manual for Georgia
- Moldova: Adaptation of the international SEA Protocol Training Manual for Moldova
- Belarus: SEA pilot project on the *National Tourism Development Programme (2006-2010)*
- Ukraine: Adaptation of the international SEA Protocol Training Manual for Ukraine

Second stage of the project will last from December 2004 to August 2005. The work will be mainly done by the national experts with the support and guidance provided by the international team largely based on the REC expertise and the REC network of experts.

The second phase will be followed by second national evaluating workshop that might be substituted by participation of the key national experts and stakeholders in the SEA conference in Prague 2005. The results of the pilot activities may be presented during the conference. The recommendations for further capacity building in the countries, based also on the pilot projects experience, may be summarized in the form of outline for national capacity development strategies for the SEA (Protocol) Implementation.

## ANNEX 1

**Capacity building needs assessment for the UNECE SEA Protocol  
UNDP/REC**

**TERMS OF REFERENCE FOR COUNTRY REVIEWS**

Prepared by Jiri Dusik and Ausra Jurkeviciute

**I. Identification of plans and programs that fall under the scope of the SEA Protocol**

I.1. Are terms “plans and programmes” set in the national legislation, and if yes, please provide the official definitions.

I.2. Please identify (with assistance of the table below) those national and sub-regional (e.g. raion or oblast) plans and programs in the country which will fall under the scope of the SEA Protocol

Sectors	List all strategic documents (irrespectively whether they are called plans, programs, policies, strategies,...) in each given sector which are “ <u>prepared or adopted by public authorities at all levels of government on a basis of legislative, regulatory or administrative provisions</u> ” ( <i>simplified definition of plans and programs adapted from Art 2.5 of the SEA Protocol</i> )	Briefly describe their main features (e.g. number or plans during last 5 years and current and planned changes in the legislation)
Agriculture		
Forestry		
Fisheries		
Energy		
Industry		
Mining		
Transport		
Regional development		
Water management		
Telecommunications		
Tourism		
Town and country planning or land use		
Other national or sub-regional documents (e.g. national strategies for Sustainable Development or PRSP)		

## II. Analysis of current environmental assessment provisions

*4 pages maximum*

II.1. Describe current environmental assessment procedure for strategic decisions according to the existing provisions (under OVOS or SER systems) in the country and compare it with the existing practice:

- screening mechanism and the extent of application during the past 5 (or 2-3?) years (how many documents have been reviewed prior to forwarding them to the SER/SEA procedure and how many of them had undergone the SER/SEA)
- contents of the SEA report (legal requirements + how is specific scope of environmental assessment determined + possible methodological guidance or standards for elaboration of SEA reports)
- review requirements (which types of authorities have the opportunity to comment on the environmental report, are there any additional requirements for review through the system of the state ecological review)
- description of public participation provisions (description of legal requirements and any references to methodological guidance for public participation in SEA which has been produced in the country)
- mechanisms for accounts of SEA report and of public comments in the plan or programme making process,

II.2. Describe any possible future changes in this legal framework (if any)

II.3. Analyse major strength and weaknesses of the current system and opportunities for future development/improvement.

## III. Analysis of the priority issues for the effective implementation of the UNECE SEA Protocol

This analysis must reflect the opinion of the senior officials responsible for the practical implementation of the SEA Protocol in each given country

How to effectively:	Please mark as: 2 – top priority 1 – important 0 – not relevant	Which are the specific issue where assistance would be helpful
- undertake SEA in plan and program-making process in accordance with definition of SEA in Art. 2.6 (e.g. how to link SEA to the decision-making process, etc.)		
- undertake SEA screening in accordance with Art. 4 and 5 (e.g. how to combine mandatory and exclusions lists and when to apply case-by-case examinations, etc.)		
- organize SEA scoping in accordance with Art. 6 (e.g. when to undertake scoping, how to select suitable methods for consultations with public and authorities, how to write terms of reference for SEA, etc.)		
- elaborate environmental baseline studies in SEA (in accordance with Annex IV – items 2,3 and 4)		
- use environmental objectives in SEA (in accordance with Annex IV – item 5)		
- analyze the likely significant environmental, including health,		

How to effectively:	Please mark as: 2 – top priority 1 – important 0 – not relevant	Which are the specific issue where assistance would be helpful
effects (in accordance with Annex IV – item 6)		
- compare alternatives of the plan or programme (in accordance with Annex IV – item 8)		
- prepare post-SEA monitoring plans to meet requirement of the Art. 12 and Annex IV – item 9		
- analyze transboundary effects (in accordance with Annex IV – item 10)		
- organize public review of the SEA report in accordance with Art. 8 (e.g. how to identify public concerned; how to inform public and collect feedback, how to review public comments, etc.)		
- organize consultations with environmental and health authorities in accordance with Art. 9 (e.g. how to identify concerned authorities, how to effectively consult them during SEA, etc.)		
- undertake transboundary consultations in accordance with Art. 10 (e.g. when to notify, what level of document should be exchanges, how to organise effective transboundary consultations)		
- explain costs and benefits of SEA to decision-makers		
- apply SEA to policies and legislation in accordance with Art. 13		
- draft the law and/or regulations to implement the SEA Protocol		

#### **IV. Key players in SEA reforms**

IV. 1. Identify key institutions responsible for SEA process (coordinates, and names of key officials).

IV. 2. Identify key stakeholders and networks promoting the SEA/EIA reforms in the country (NGOs, EIA centres, professional newsletters and journals, etc.) and how these players cooperate in these reforms and how this cooperation may be strengthened.

IV. 3. What SEA/EIA courses (at universities, training programs for public administration, etc.) exist or are planned in the country?

#### **V. Past, ongoing and planned initiatives to build SEA capacity in the country:**

(Maximum 2 pages)

V.1. Describe the key planned activities that the government wants to implement in order to ratify and implement the protocol (pilot studies, new law, regulation, etc.)

V.2. Describe all past, ongoing donor assistance programmes in the field of SEA in the country.

V.3. Describe any NGO, consultancy or academic programmes

**VI. Recommendations for the most effective focus of the UNDP/REC project**

Please determine and prioritize which types of interventions/activities may most effectively build the capacity for implementation of the UNECE SEA protocol, including the development of SEA pilot projects in selected countries. When suggesting focus of the project you may consider the following types of capacity building activities:

- pilot projects: supporting an SEA of a specific plan or programme (if this is a priority, indicate for which type of programming process this assistance would be provided),
- assistance with legal reforms (drafting new laws or regulations to implement the SEA protocol),
- development of national guidelines (specifying the SEA approach, the methods which can be applied, etc.),
- development of training material and training of trainers,
- promotional campaign (brochures, leaflets, website creation, etc.) to explain SEA to key policy, decision makers and administrators,
- etc.

**VII. Analysis of the level of consultations with the environmental and health authorities and with the public during the planning and SEA process**

Please, indicate (insert “X”) in which planning/programming stage and the SEA stage the consultations are legally required and in which stages that are really applied in practice.

Public participation in the current environmental assessment provisions (OVOS or SER)					
SF planning + programming steps	SEA process steps	Consultations with en. and health authorities		Public access to info and public participation	
		<i>Legally required</i>	<i>Applied in practice</i>	<i>Legally required</i>	<i>Applied in practice</i>
<i>Problem analysis</i>	<i>scoping</i>				
<i>Vision/objectives development</i>	<i>screening</i>				
.....	<i>Environmental objectives setting</i>				
.....	.....				

## ANNEX II

**Priority issues in selected EECCA countries with respect to implementation of the UNECE SEA Protocol requirements.**

The highest priorities are marked in bold.

The following scale has been applied: 2 – top priority, 1- important, and 0 – not relevant.

<b>Priority issues/country</b>	<b>Armenia</b>	<b>Georgia</b>	<b>Moldova</b>	<b>Ukraine</b>	<b>Belarus</b>
- undertake SEA in plan and program-making process in accordance with definition of SEA in Art. 2.6 (e.g. how to link SEA to the decision-making process, etc.)	<b>2 - Clarify the term "plan, project" for local conditions</b>	1 - NO specific criteria, law, institutional scheme for decision making by various state authorities	1	<b>2 - The environmental impact assessment and assessment of impact on public health are separated in Ukrainian system – the problem of assessments integration</b>	1
- undertake SEA screening in accordance with Art. 4 and 5 (e.g. how to combine mandatory and exclusions lists and when to apply case-by-case examinations, etc.)	<b>2 - Best practice from other countries on identification of SEA stages</b>	<b>2 - The most effective procedure scheme and differentiated approach to different project types are required</b>	1	<b>2 - Development of national list</b>	1
- organize SEA scoping in accordance with Art. 6 (e.g. when to undertake scoping, how to select suitable methods for consultations with public and authorities, how to write terms of reference for SEA, etc.)	<b>2 - Best practice of the countries applying the SEA procedure</b>	1 - System is not flexible enough. Methodological approaches require revision.	1 - Assistance needed in organizing workshops on SEA screening and evaluation methods, on writing terms of reference.	1 - Absent. These demands correspond actually to the existing in Ukraine.	1
- elaborate environmental baseline studies in SEA (in accordance with Annex IV – items 2,3 and 4)	1 - Best practice of other countries on content of environmental report	1 - The methodologies need to be improved and institutional principles to be established	1	<b>2 - The methodology of development of the complex scenarios.</b>	1
- use environmental objectives in SEA (in accordance with Annex IV – item 5)	1 - setting up local priorities	1 - Special focus on nature conservation, creation of protected territories and preservation of natural resources	1	1 - absent	2
- analyze the likely significant environmental, including health, effects (in accordance with Annex IV – item 6)	1 - conduct appropriate studies	<b>2 - Development of criteria and methodologies for forecast of environmental consequences</b>	1 - No study of negative “dose – reaction” environmental effect on human health was made in the Republic of Moldova.	2 - Absent, apart from the mentioned above integration of assessments related to the public health.	2

<b>Priority issues/country</b>	<b>Armenia</b>	<b>Georgia</b>	<b>Moldova</b>	<b>Ukraine</b>	<b>Belarus</b>
- compare alternatives of the plan or programme (in accordance with Annex IV – item 8)	1 - stipulate with a legal act	1 - The existing procedures shall be revised and practically applied	1	1 - Absent. These demands correspond to actually existing in Ukraine.	1
- prepare post-SEA monitoring plans to meet requirement of the Art. 12 and Annex IV – item 9	1 - stipulate with a legal act	0	0	1 p- Absent. These demands correspond to actually existing in Ukraine.	1
<b>- analyze transboundary effects (in accordance with Annex IV – item 10)</b>	<b>2 - stipulate with a legal act</b>	1 - Development of the approaches (including legal) for joint assessment	1	<b>2 - Methodological aspects of the analysis of the transboundary effects.</b>	1
<b>- organize public review of the SEA report in accordance with Art. 8 (e.g. how to identify public concerned; how to inform public and collect feedback, how to review public comments, etc.)</b>	<b>2 - stipulate with a legal act</b>	1 - Revision of the procedures	1	<b>2 - Methodological aspects: how to determine a concerned public, how to inform public and collect the comments, how to analyze the results of public discussion and so on.</b>	1
<b>- organize consultations with environmental and health authorities in accordance with Art. 9 (e.g. how to identify concerned authorities, how to effectively consult them during SEA, etc.)</b>	1 - stipulate with a legal act	1 - revision of the procedures	1	<b>2 -The environmental impact assessment and assessment of impact on public health are separated in Ukrainian system – problem of assessments integration.</b>	2
- undertake transboundary consultations in accordance with Art. 10 (e.g. when to notify, what level of document should be exchanges, how to organise effective transboundary consultations)	<b>2 - stipulate with a legal act</b>	1 - Development of the approaches (including legal) for mutual cooperation and joint activities	1	1 - Coordination of transboundary consultations.	1
- explain costs and benefits of SEA to decision-makers	0 - Awareness raising in the sector	2 - The motivation and justification based on the analyses of specific cases shall be prepared	1	<b>2 - Availability of handouts, publications, bulletins and so on.</b>	1
<b>- apply SEA to policies and legislation in accordance with Art. 13</b>	<b>2 - Clarify the term “plan, program ”, considering strategies and legal regulations</b>	1 - Review and analyses of this type of information	1	<b>2 - Methodological support.</b>	1
<b>- draft the law and/or regulations to implement the SEA Protocol</b>	<b>2 - Application of international practice</b>	<b>2 - First of all the law enforcement mechanisms shall be created and then the draft law developed</b>	2	<b>2 - To provide the international review of the new regulative document.</b>	1

## ANNEX III

**Overview of the current national environmental assessment systems related to SEA in selected EECCA countries**

As of November 2004

(Yellow parts in the table will be completed after getting additional information)

<b>Issues</b>	<b>Armenia</b>	<b>Belarus</b>	<b>Georgia</b>	<b>Moldova</b>	<b>Ukraine</b>
General Env. Protection laws	The Principles of Legislation "On Nature Protection" (1991)	Law on Env. Protection (1992, 2002)	Law on Env. Protection (1996)	Law on the Protection of the Env. (1993)	Law on Env. protection
EA related laws	Law on env. impact assessment (1995)	Law on State Environmental Expert Review - SEER (1993, 2000)	- Law on environmental permits (includes also licenses/permits on use of min. resources, water intake and discharge, air emissions and waste) (1996); - Law on State environmental expertise (1996); - Laws on Standard acts (ref. to SEA through pre-assessment of national strategic documents)	- Law on environmental evaluation and environmental impact assessment (1996, 2003); - Regulation on the general public's participation in decision making process regarding issues of env. protection (2000)	- Law on state ecological review (includes legislation too!) - Law on Public appeals; - Law on Information;
Spatial planning related laws	???	Law on the Basic of Architecture and Urban Construction (1993, 2000)	???	Regulation on public consultations in the process of development and approval of town-planning and country development documents	???
EA related instructions/guidelines/regulations	Building codes, rules and guiding documents operational since Soviet union times	On Procedure for Env. Impact Assessment of Economic and other activities in RB (EIA guidelines)	- on Assessment of env. impacts - on Rules for performing SER - on Application for receiving env. permit and	- Gov. resolution on the procedure for legal assessment and state registration of departmental regulations (1997);	- state construction norms on the design: DBN A.2.2-1-95 - instruction on performance

Issues	Armenia	Belarus	Georgia	Moldova	Ukraine
		(2001) - On the Procedure for SEER (2001)	its registration - the Sanitary Code (2003)	- Rules of development of department regulations (1998); - On Gov. regulations and regulations of other central and local gov. bodies (2003)	of SER - regulation <sup>4</sup> on composition and contents of the documentation of the EIA and nature resources of planned activity; - instruction on carrying out the state env. review
Amendments to the EA laws under development	New EIA law in drafting stage	- New EIA guidelines - normative instrument on public hearings on EIA outcomes; - amendment to Admin. code that will enable stopping illegal construction	- draft law on EIA; - draft law on revisions and addendums to the law on env. permits; - draft law on licensing environmental activity	No concrete plans yet.	- draft amendment of the state construction norms (DBN); - draft new Env. code
EA responsible authority	Ministry of Nature Protection	Ministry of Natural resources and Env. Protection	Ministry of Environment	Ministry of Ecology and Natural Resources	Ministry for Env. Protection (or corresponding authorities on lower level)
Actors in Spatial planning	- Ministry of Urban planning - Institute of Urban Planning	- Ministry of Construction and Architecture - Scientific and Research Institute of Urban Planning - on reg. and local level specialized local admin. on architecture and physical planning	???	???	???
SEA practice	14 strategic documents underwent SER in the past	No EA requirement or practice for strategic decisions, though regular practice	No EA of strategic documents in practice, though based on legislation they	SEA of plans, programmes and strategies were not conducted, only direct commenting by MoE and other	Very restricted, limited, though some practice initiated by NGOs of

<sup>4</sup> Full name: Regulation on composition and contents of the documentation of the assessment of env. impacts and nature resources of planned activity on the different stages of construction, enlargement, reconstruction and technical retrofitting of the new objects, functioning of industrial and other objects”

Issues	Armenia	Belarus	Georgia	Moldova	Ukraine
		of EA review of physical planning documentation	should be the subject of the environmental permitting	ministries and dept.	public consultations on strategic documents
Financing	EIA – proponent SER – state???, PP - state	EIA – proponent SEER – state PEER – proponent	EIA – proponent SER – state	EIA – proponent SER – state	EIA – proponent SER - state
Implementation	EIS by developer or external (invited) expert	EIA – Engineering or scientific and research institute SEER – Ministry of the Env.	EIA – tendered or directly hired consulting company (cat. I) SER – independent experts	EIS by proponent hiring an authorized agency	???
Certification /licensing of EIA	None	The Law makes a reference to engineering or scientific and research institutes. This requirement further is not specified	None	An authorized agency. What are authorization requirements???	???
Screening requirement	Based on threshold values of the projects (given in the law) and concepts as defined by Art. 1 and 15	One list with projects and references to thresholds. It is an annex to EIA guidelines	MoE does the screening based on 4 lists of activity categories. Annex to the Law on E. permits	???	???
Scoping requirement	- consultations with public and relevant auth., required, but never applied; scope shall in developed in the new law; framework of the scope is given in Art. 4 of the Law; - most documentation includes Env. chapter	Content of the EIS	Established by the Law in the assessment criteria	EIS is specified in the legislation	???
Consultations with other authorities	Authorized body is required to collect opinions of relevant authorities (affected municipalities, concerned bodies)	Lack of procedures and mechanisms	- Ministry of Health issues hygienic certificates for the activities listed in the Sanitary Code; - in the Law on Standard Acts	Contractor has to circulate the EIS with certain ministries (including MoH), departments and local gov. agencies, consultation of Min. of Ministry of	Consultations on health authorities solved during sanitary-hygienic review

Issues	Armenia	Belarus	Georgia	Moldova	Ukraine
			approval of other relevant authorities including health is required	Finance and Ministry of Economy is mandatory	
Public consultations	- informing public during scoping stage by authorized body; - public hearings organized by community authorities during preparation of EIS and SER; - developer has to make all documents public	PEER has never been done, public hearings have been conducted, how much was taken into account, it is not clear, since SEER is not publicly available, public hearings on EIA	PEER is envisioned, public consultations possible during EIA and public hearings should be conducted during SER. Developer is not obliged to inform public. It is responsibility of the MoE through published announcement.	Local gov. have to organize public env. evaluation and public disc. SER informs public on its decision	- public consultations during EIA by proponent but financing issues is not clear; - public consultations during SER to be organized by authorities that carry out SER;
Transboundary consultations	No procedures yet	Signed, but not ratified	Did not sign/ratified	No procedure, only ref. to the Convention	???