

INFORMAL TRANSLATION

Questionnaire for the

REPORT OF ARMENIA FOR 2003-2005 ON THE IMPLEMENTATION OF THE ESPOO CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

for the period mid-2003 to end of 2005

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PART I – CURRENT LEGAL AND ADMINISTRATIVE FRAMEWORK FOR THE IMPLEMENTATION OF THE CONVENTION

Please provide the information requested below in Part I, or revise any information relative to the previous report. Describe the legal, administrative and other measures taken in your country to implement the provisions of the Convention. This part should not be used to describe your experience of applying the Convention, i.e. just the framework for its implementation.

Article 2

General Provisions

DOMESTIC IMPLEMENTATION OF THE CONVENTION

1. *List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (Art. 2.2).*

The Convention has not been applied in practice in the Republic of Armenia as there have been no proposed activities subject to transboundary EIAs.

There is no specific law in Armenia relating to EIAs in general, or transboundary EIAs in particular. A new law on environmental expert review, containing an article on the EIA and SEA processes is currently under discussion.

TRANSBOUNDARY EIA PROCEDURE

2. *Describe your national and transboundary EIA procedures and authorities (Art. 2.2):*
 - a. *Describe your EIA procedure and indicate which steps of the EIA procedure include public participation.*

There is no national legislation directly regulating the process of environmental impact assessment (EIA) and strategic environmental assessment (SEA) in Armenia. These are however indirectly and partially regulated by the Law of the Republic of Armenia “On environmental impact expert review” (hereinafter referred to as the Law), adopted by the National Assembly of the Republic of Armenia on 20.11.1995. The Law also regulates public participation in the process of environmental impact assessment.

The Law provides for 3 stages of public hearings.

The first stage takes place during the expert review of the announcement of the proposed activity, which can be seen as the stage of expert review prior to EIA documentation. The second stage of public hearings entails an expert review of project documentation for the proposed activity, which can be seen as the expert review of an EIA report.

The third stage of public hearings involves the organisation of public discussions on the findings of an outside (invited) expert, public opinion, the views of local and central government bodies, which must be taken into consideration by the authorities when drafting the expert review decision.

The Law provides for a period of 30 days for each stage.

There are some differences in the public hearings relating to proposed activity projects and to strategic documentation (project specifications, programmes, objectives and general plans, etc.)

With regard to the holding of public hearings on strategic documentation the project developer must officially publish, with the approval of the relevant authority, the project information and an assessment of its impact on the environment, no less than 30 days prior to the date of the public hearing. The developer must arrange a public hearing on the project and take the public's opinion into consideration.

The government of Armenia has not yet drafted the corresponding administrative provisions. Accordingly, an official framework for the holding of public hearings is not yet in place. Furthermore, the Law does not explain how public opinion should be taken into consideration.

- b. *Describe how the different steps of the transboundary EIA procedure mentioned in the Convention fit into your national EIA procedure.*

The national procedure for environmental expert review comprises the stages of notifying public stakeholders, public hearings, submitting required documentation and the obligatory expert review decision.

- c. *List the different authorities that are named responsible for different steps of the transboundary EIA procedure. Also list the authorities responsible for the domestic EIA procedure, if they are different.*

The authority responsible for implementing the Convention in Armenia is the Ministry for Nature Conservation of the Republic of Armenia. Within the Ministry, the State Agency for Environmental Expert Review bears responsibility for EIA procedures.

- d. *Is there one authority in your country that collects information on all the transboundary EIA cases under the Convention? If so, name it. If not, do you intend to establish such an authority?*

The authority responsible for implementing the Convention in Armenia is the Ministry for Nature Conservation of the Republic of Armenia. Within the Ministry, the State Agency for Environmental Expert Review bears responsibility for EIA procedures.

3. *Do you have special provisions for joint cross-border projects (e.g. roads, pipelines)?*

No.

IDENTIFICATION OF A PROPOSED ACTIVITY REQUIRING EIA UNDER THE CONVENTION

4. *Is your country's list of activities subject to the transboundary EIA procedure equivalent to that in Appendix I to the Convention?*

Yes.

5. *Please describe:*

- a. *The procedures and, where appropriate, the legislation you would apply to determine that an "activity", or a change to an activity, falls within the scope of Appendix I (Art. 2.3), or that an activity not listed should be treated as if it were (Art. 2.5);*

The Law of the Republic of Armenia "On environmental impact expert review" was adopted in 1995. It covers the main principles of EIAs, including those having regard to the views of affected communities, public hearings and also the need for an expert review of a project's environmental impact. Article 4 contains a list of activities subject to expert review. National legislation does not provide for procedures.

We would apply (and this is already reflected in the new draft law on environmental expert review) methods endorsed by the World Bank and the European Communities, adapting them to local conditions.

- b. *How a change to an activity is considered as a “major” change;*

At the moment no such procedures exist. We believe that in order to develop such procedures it is necessary to establish environmental impact assessment criteria for proposed activities.

- c. *How such an activity, or such a change to an activity, is considered likely to have a “significant” adverse transboundary impact (Art. 2.5, Guidelines in Appendix III); and*

At the current time in Armenia, no scientific methods and criteria for assessing the level and scale of impact have been established. – In Armenia there is no specific legislation regulating the framework and procedure for EIAs in general or transboundary EIAs in particular. Furthermore, there are no scientific methods and criteria to assess the level and scale of impact.

- d. *How you would decide whether it is “likely” to have such an impact. (Art. 2.3)*

On the basis of the expert review decision.

PUBLIC PARTICIPATION

6. *Do you have your own definition of “the public” in your national legislation, compared to Article 1(x)? How do you, together with the affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to your own public as required in Article 2, paragraph 6?*

The term “the public” is defined in law. There is no practical experience in the context of Article 2.6.

Article 3

Notification

QUESTIONS TO PARTY OF ORIGIN

7. *Describe how you determine when to send the notification to the affected Party, which is to occur “as early as possible and no later than when informing its own public”? At what stage in the EIA procedure do you usually notify the affected Party? (Art. 3.1)*

No practical experience.

8. *Describe how you determine the content of the notification? (Art. 3.2)*

No practical experience.

9. *Describe the criteria you use to determine the time frame for the response to the notification from the affected Party (Art 3.3, “within the time specified in the notification”)? What is the consequence if an affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?*

No practical experience.

10. *Describe when you provide relevant information regarding the EIA procedure and proposed activity and its possible significant adverse transboundary impact as referred to in Article 3, paragraph 5. Already with the notification or later in the procedure?*

No practical experience.

11. *How do you determine whether you should request information from the affected Party (Art. 3.6)? When do you normally request information from the affected Party? What kind of information do you normally request? How do you determine the time frame for a response from the affected Party to a request for information, which should be “prompt” (Art. 3.6)?*

No practical experience.

12. *How do you consult with the authorities of the affected Party on public participation (Art. 3.8)? How do you identify, in cooperation with the affected Party, the “public” in the affected area? How is the public in the affected Party notified (what kinds of media, etc are usually used)? What is normally the content of the public notification? Does the notification to the public of the affected Party have the same content as the notification to your own public? If not, describe why not. At what stage in the EIA procedure do you normally notify the public of the affected Party?*

No practical experience.

The Law of the Republic of Armenia “On environmental impact expert review” contains the term “community exposed to impact” which is understood to mean the inhabitants of a region or community exposed to the potential environmental impact of a proposed activity.

13. *Do you make use of contact points for the purposes of notification as decided at the first meeting of Parties (ECE/MP.EIA/2, decision I/3), and listed on the Convention website at http://www.unece.org/env/eia/points_of_contact.htm?*

No practical experience. In the event of such a case occurring, the contact addresses available on the web site will be used.

14. *Do you provide any information to supplement that required by Article 3, paragraph 2? Do you, furthermore, follow the proposed guidelines in the report of the first meeting of the Parties (ECE /MP/2, decision I/4)? If not, in what format do you normally present the notification?*

No practical experience.

QUESTIONS TO AFFECTED PARTY

15. *Describe the process of how you decide whether or not you want to participate in the EIA procedure (Art. 3.3)? Who participates in the decision-making, for example: central authorities, local competent authorities, the public and environmental authorities? Describe the criteria or reasons you use to decide?*

No practical experience.

16. *When the Party of origin requests you to provide information relating potentially affected environment: (a) how do you determine what is “reasonably obtainable” information to include in your response; and (b) describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of “promptly” in the context of responding to a request for information? (Art. 3.6)*

No practical experience.

Article 4

Preparation of the EIA documentation

QUESTIONS TO PARTY OF ORIGIN

17. *What is the legal requirement for the content of the EIA documentation (Art. 4.1)?*

The legislation of Armenia does not directly define the content of EIA documentation. See also the reply to question 18.

18. *Describe your country's procedures for determining the content of the EIA documentation (Art. 4.1).*

The legislation of Armenia does not directly define the specifications and content of EIA documentation. However the Law of the Republic of Armenia "On environmental impact expert review" partially and indirectly provides for the content of EIA documentation. The project developer, in accordance with the Law and in observance of the regulatory framework, submits documentation on the proposed activity to the authorities. This can be seen as an EIA report.

The government of Armenia sets the requirements for the content and volume of documentation based on proposals from the relevant authority. However, as of yet, the government of Armenia has not drafted the administrative provisions to regulate this matter.

The specifications for EIA (SEA) documentation relating to strategic documentation (project specifications, programmes, objectives and general plans, etc.) are somewhat different. In drafting the project specifications the project developer must conduct research of appropriate scope into the environmental impact, in accordance with legislation in Armenia. The scope of the research has not yet been defined, either.

In practice, the requirements for documentation relating to EIA reports are determined on the basis of the provisions of the Law and also the "Convention on Environmental Impact Assessment in a Transboundary Context".

19. *How do you identify "reasonable alternatives" in accordance with Appendix II, alinea (b)?*

Reasonable alternatives are understood as meaning other viable plans that differ from the original scheme but achieve the objectives of the proposed activity. Such alternatives reflect the requirements of the region and the type of activity and are based on a review of economically viable possibilities from the perspectives of engineering, technology, landscape, social affairs, etc.

20. *How do you identify "the environment that is likely to be affected by the proposed activity and its alternatives" in accordance to Appendix II, alinea (c), and the definition of "impact" in Article 1(vii)?*

We understand "the environment" as formulated in Article 1 (vii) of the Espoo Convention.

21. *Do you give the affected Party all of the EIA documentation (Art. 4.2)? If not, which parts of the documentation do you provide?*

No practical experience.

22. *How is the transfer and reception of the comments from the affected Party organized? How does the competent authority in your country (as the Party of origin) deal with the comments? (Art. 4.2)*

No practical experience.

23. *Describe the procedures and, where appropriate the legislation you would apply to determine the time frame for comments provided for in the words "within a reasonable time"*

before the final decision” (Art. 4.2)? What is the consequence if the affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?

No practical experience. The corresponding procedures have not yet been established in our country. Nevertheless, “reasonable time” can vary greatly in accordance with the type of proposed activity and other factors, and should be established in the course of bilateral or multilateral consultations/negotiations.

24. *What material do you provide, together with the affected Party, to the public of the affected Party?*

No practical experience.

25. *Do you initiate a public hearing for the affected public, and at what stage, whether in the affected Party, in your country or as a joint hearing? If a public hearing is held in your country, as Party of origin, can the public of the affected Party, public authorities, organizations or other individuals come to your country to participate?*

No practical experience.

QUESTIONS TO AFFECTED PARTY

26. *Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of the words “within a reasonable time before the final decision”, this being the time frame for comments (Art. 4.2)?*

“Reasonable time” can vary greatly in accordance with the type of proposed activity and other factors, and should be established in the course of bilateral or multilateral consultations/negotiations.

27. *Who is responsible for the organization of the public participation in the affected Party? Is the public participation normally organized in accordance with your legislation as the affected Party, or with the legislation of the Party of origin, or with ad hoc procedures, or with bilateral or multilateral agreements?*

In principle we believe that equal opportunities should be afforded to the public of both Parties. However, the specific character of participation should be set forth in the national legislation of each Party.

Article 5

Consultations

QUESTIONS TO PARTY OF ORIGIN

28. *At which step of the EIA procedure does the consultation in accordance with Article 5 generally take place? Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of “undue delay”, with regard to the timing of entry into consultation? Do you normally set the duration for consultations beforehand? If there seems to be no need for consultation, how do you determine not to carry out consultations?*

No practical experience.

29. *On what level do you arrange for consultation: national, regional or local? Who usually participates in the consultation? Describe the responsibilities of the authorities involved. By what means do you usually communicate in consultations, for example by meeting, exchange of written communications?*

No practical experience.

QUESTIONS TO AFFECTED PARTY

30. *On what level is the consultation normally held: national, regional or local? Who normally participates in the consultation? By what means do you usually communicate in consultations, for example by meeting or by the exchange of written communications? How do you indicate if there is no need for consultations?*

No practical experience.

Article 6

Final decision

QUESTIONS TO PARTY OF ORIGIN

31. *Describe what is regarded as the “final decision” to authorize or undertake a proposed activity (Art. 2.3). Do all projects listed in Appendix I require such a decision?*

No practical experience.

32. *How does the EIA procedure (including the outcome) in your country, whether or not transboundary, influence the decision-making process for a proposed activity? (Art. 6.1)*

As mentioned above, the Law indirectly provides for expert review of environmental impact assessments of EIA reports. During the stage of expert review of EIA documentation or other documentation, the competent authority (Ministry for Nature Conservation of the Republic of Armenia) has the right, in keeping with legislation of the Republic of Armenia, to demand that the developer take additional environmental measures and to issue a negative decision in the case of a significant negative impact on the environment. It should also be noted that the Law “forbids the implementation of any proposed activity subject to environmental impact expert review that has not received a positive expert review decision”. In the case of expert review of strategic documentation the “project ratifying body” cannot approve the project without an affirmative decision from the competent authority.

33. *Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and public in your country (Art. 6.1)?*

No practical experience.

34. *How is the obligation to submit the final decision to the affected Party normally fulfilled? Does the final decision contain the reasons and considerations on which the decision is based? (Art. 6.2)*

At the current time no such legislative or administrative measures exist.

35. *If additional information comes available according to paragraph 3 before the activity commences, how do you consult with the affected Party? If need be, can the decision be revised? (Art. 6.3)*

No practical experience.

Article 7

Post-Project Analysis

36. *How do you determine whether you should request a post-project analysis to be carried out (Art. 7.1)?*

No such statutory instruments exist at the present time. There is no practical experience.

37. *Where, as a result of post-project analysis, it is concluded that there is a significant adverse transboundary impact by the activity, how do you inform the other Party and consult on necessary measures to reduce or eliminate the impact pursuant to Article 7, paragraph 2?*

No practical experience.

Article 8

Bilateral and multilateral agreements

38. *Do you have any bilateral or multilateral agreements based on the EIA Convention (Art. 8, Appendix VI)? If so, list them. Briefly describe the nature of these agreements. To what extent are these agreements based on Appendix VI and what issues do they cover? If publicly available, also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.*

No practical experience due to the fact that there have been no proposed activities with potential transboundary impact in Armenia.

39. *Have you established any supplementary points of contact pursuant to bilateral or multilateral agreements?*

The Bureau for International Cooperation at the Ministry for Nature Conservation of the Republic of Armenia is responsible for coordinating activities within the framework of bilateral agreements.

Article 9

Research programmes

40. *Are you aware of any specific research in relation to the items mentioned in Article 9 in your country? If so, describe it briefly.*

Unfortunately, no such research is being conducted in our country at the moment.

Ratification of the amendments to the Convention and of the Protocol on SEA

41. *If your country has not yet ratified the first amendment to the Convention, does it have plans to ratify this amendment? If so, when?*

The ratification process for the first amendment is planned for before the next meeting of the Parties to the Convention.

42. *If your country has not yet ratified the second amendment to the Convention, does it have plans to ratify this amendment? If so, when?*

This matter will be looked into further.

43. *If your country has not yet ratified the Protocol on SEA, does it have plans to ratify the Protocol? If so, when?*

The Protocol on SEA is currently at the ratification stage.

PART II – PRACTICAL APPLICATION DURING THE PERIOD 2003-2005

Please report on your practical experiences of applying the Convention (not your procedures described in Part I), whether as Party of origin or affected Party. The focus here is on identifying the best practice as well as difficulties Parties encountered in applying the Convention in practice to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve application of the Convention.

CASES DURING THE PERIOD 2003-2005

44. *Do you have any practical experience of applying the Convention in this period (yes/no)? If you do not have any such experience, why not?*

No, due to the fact that there have been no proposed activities with potential transboundary impact.

45. *Does your national administration have information on the transboundary EIA procedures that were underway during the period? If so, please list these procedures, clearly identifying for each whether your country was the Party of origin or the affected Party. If you have not provided a list of transboundary EIA procedures in connection with previous reporting, also provide a list of those procedures. If possible, also indicate for each procedure why it was considered necessary to apply the Convention.*

No practical experience.

46. *Are there other projects than those mentioned above for which a transboundary EIA procedure should have been applied, but was not? Explain why.*

No.

47. *Provide information on the average durations of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.*

No practical experience.

EXPERIENCE OF THE TRANSBOUNDARY EIA PROCEDURE IN 2003-2005

48. *If you have had practical experience, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.*

No practical experience.

49. *How have you interpreted in practice the various terms used in the Convention, and what criteria have you used to do this? Key terms include the following: “promptly” (Art. 3.6), “a reasonable time” (Art. 3.2(c), Art. 4.2), “a reasonable time-frame” (Art. 5), and “major change” (Art. 1(v)). If you are experiencing substantial difficulties interpreting particular terms, do you work together with other Parties to find solutions? If not, how do you overcome the problem?*

No practical experience. See also 26.

50. *Share with other Parties your experience of using the Convention. In response to each of the questions below, either provide one or two practical examples or describe your general experience. You might also include examples of 'lessons learned' in order to help others.*

- a. *How in practice have you identified transboundary EIA activities for notification under the Convention, and determined the significance and likelihood of adverse transboundary impact?*

No practical experience.

- b. *Indicate whether a separate chapter is provided on transboundary issues in the EIA documentation. How do you determine how much information to include in the EIA documentation?*

No.

- c. *What methodology do you use in impact assessment in the (transboundary) EIA procedure (for example, impact prediction methods and methods to compare alternatives)?*

Applied analysis, comparative methods for alternatives, forecasting methods.

- d. *Translation is not addressed in the Convention. How have you addressed the question of translation? What do you usually translate? What difficulties have you experienced relating to translation and interpretation, and what solutions have you applied?*

No practical experience.

- e. *How have you organized transboundary public participation in practice? As Party of origin, have you organized public participation in affected Parties and, if so, how? What has been your experience of the effectiveness of public participation? Have you experienced difficulties with the participation of your public or the public of another Party? (For example, have there been complaints from the public about the procedure?)*

No practical experience.

- f. *Describe any difficulties that you have encountered during consultations, for example over timing, language and the need for additional information.*

No practical experience.

- g. *Describe examples of the form, content and language of the final decision, when it is issued and how it is communicated to the affected Party and its public.*

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- h. *Have you carried out post-project analyses and, if so, on what kinds of projects?*

No practical experience.

- i. *Do you have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your experiences describing, for example, any bilateral agreements, institutional arrangements, and how practical matters are dealt with (contact points, translation, interpretation, transmission of documents, etc.).*

No practical experience.

- j. *Name examples of good practice cases, whether complete cases or good practice elements (e.g. notification, consultation or public participation) within cases. Would you like to introduce your case in a form of Convention's fact sheet?*

No practical experience.

CO-OPERATION BETWEEN PARTIES IN 2003-2005

51. *Do you have any successful examples of how you have overcome difficulties arising from different legal systems in neighbouring countries?*

No practical experience.

EXPERIENCE IN USING THE GUIDANCE IN 2003-2005

52. *Have you used in practice the following guidance, recently adopted by the Meeting of the Parties and available on-line? Describe your experience of using these guidance documents and how they might be improved or supplemented.*

- a. *Guidance on public participation in EIA in a transboundary context;*

In Armenia there have been no examples of implementation of proposed activities with transboundary impact for which we could have applied the Guidance in practice. However, in the new draft legislation on environmental expert review we used the Guidance, namely section 2.1, relating to the establishment of national EIA procedures for public participation.

- b. *Guidance on subregional cooperation; and*

A subregional seminar for the Caucasus region is being planned in Armenia. To this end, we have used the guidance of the working document in question to determine the topic of the seminar, namely "National Legal Systems".

- c. *Guidelines on good practice and on bilateral and multilateral agreements.*

We referred to the content of the Guidance's fourth chapter on "Transposition into National Legislation" in drafting the new law "On environmental expert review", which includes provisions regulating transboundary matters.

CLARITY OF THE CONVENTION

53. *Have you had difficulties implementing the procedure defined in the Convention, either as Party of origin or as affected Party? Are there provisions in the Convention that are unclear? Describe the transboundary EIA procedure as applied in practice, where this has varied from that described in Part I or in the Convention. Also describe in general the strengths and weaknesses of your country's implementation of the Convention's transboundary EIA procedure, which you encounter when actually applying the Convention.*

No practical experience.

AWARENESS OF THE CONVENTION

54. *Have you undertaken activities to promote awareness of the Convention among your stakeholders (e.g. the public, local authorities, consultants and experts, academics, investors)? If so, describe them.*

The dissemination of information on the Convention is mandatory at many seminars in Armenia (where many different social groups are represented), in particular those relating to SEA of strategic documents. These efforts have been accompanied by a number of projects

organised by Armenian NGOs to raise public awareness of the Convention. A project proposal “On increasing public stakeholder awareness and participation in applying the Convention” has been submitted to the OSCE Armenia office, which has given its provisional agreement to support related seminars in industrial zones near to international frontiers.

55. *Do you see a need to improve the application of the Convention in your country and, if so, how do you intend to do so? What relevant legal or administrative developments are proposed or on-going?*

The Republic of Armenia has not yet encountered an instance of a project review for a proposed activity with a potential transboundary impact. We nevertheless recognise that the legal framework necessary for the application of the Convention in Armenia is not fully developed and have therefore produced a draft law on environmental expert review. With the support of the Convention Secretariat we are planning a regional seminar on the legal aspects of implementing the Convention. We expect significant support from the Convention Secretariat in or efforts to improve the application of the Convention.

SUGGESTED IMPROVEMENTS TO THE REPORT

56. *Please provide suggestions for how the report may be improved.*

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