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# Concept of SEA, UNECE SEA Protocol and other international standards

*Development of national SEA system in Tajikistan*

INITIAL WORKSHOP

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- Member of the Permanent Court of Arbitrage in the Hague (2001-2016)
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- Member of the State Environmental Council in Poland (since 2014)
- Member of National EIA/SEA Commission in Poland (1992-2006)
- Drafter of EIA/SEA legislation in Poland
- Legal consultant for drafting EIA/SEA legislation in Balkan, Eastern Europe, Caucasus and Central Asia countries

# Content

- Origins and concept of Strategic Environmental Assessment
- Development of international/EU legal framework
- Scope of application
- Key procedural steps

# Origins and development of environmental assessment

- US National Environmental Policy Act of 1969
  - covers: plans, programs, policies, legislative proposals, concrete projects
  - key role of discussing alternatives
  - concept of tiering
- Currently in all developed environmental national frameworks
- International and supra-national (EU) framework in Europe
  - Harmonization of national procedures
  - Transboundary procedure

# Concept of environmental assessment

- Preventive tool related to planned activities which may have significant impact on the environment
- Scope
  - Environmental impact assessment (EIA):
    - individual projects
  - Strategic environmental assessment (SEA):
    - plans and programs
    - *policies*
    - *Legislation*
  - Habitat/biodiversity assessment
    - EIA and SEA limited to impact on habitat

# Concept of SEA

- Internationally recognised tool for integrating environmental and health concerns into strategic planning and decision-making.

## Promotes

- sustainable development
- transition to a green economy
- accountability of planning and decision-making
- transparency

# Role of environmental assessment

- collection of information
- consideration of alternatives
- integration of environmental concerns with economic, social etc concerns
- avoidance of irreversible effects
- procedural tool
  - advisory vs decisive role
  - specific situation in case of significant adverse effect on integrity of Natura 2000 site

# Concept of „tiering”

- Transport policy (SEA)
  - highways or railroads
- National highway program (SEA)
  - locational alternatives (general routes)
- Regional/local land use plan (SEA)
  - locational alternatives (precise routing)
- Sections of highway (EIA)
  - technological and mitigation alternatives



# SEA and EIA

- Procedural similarities
- Scope of assessment
  - Physical impact in EIA vs achievement of environmental objectives in SEA
  - Larger scale and less precise data
- Role in the procedure: developers in EIA vs planning agencies in SEA (see General Guidance..)
- Applies to
  - Public authorities
  - Developers (both private and publicly owned)

# Development of legal framework applicable to UNECE Region

- EU EIA Directive 1985 – impact of projects
- UNECE Espoo Convention 1991 – transboundary impact of projects
- (Global) Convention on Biological Diversity 1992 – art. 14 and Guidelines adopted by COP 6 in the Hague in 2002
- EU Habitat Directive 1992 – impact of plans, programs and projects on protected habitats (Natura 2000 sites)
- UNECE Aarhus Convention 1998 – access to information, public participation in decision-making and access to justice in environmental matters
- EU SEA Directive 2001 – impact of plans and programs
- UNECE Kiev SEA Protocol 2003 - transboundary impact of plans and programs

# SEA Protocol

- Adopted in 2003 in Kiev to cover strategic decisions (plans, programs and policies)
- Content
  - mostly about national framework
  - transboundary procedure in Article 10
- Status
  - Parties - 26 (including EU)
  - in force since July 2010

# Concept of OVOS/expertiza

- Traditions of OVOS/expertiza systems in Eastern Europe, the Caucasus and Central Asia
  - Designed for centrally planned economy
  - Substance oriented
- Two separate legal regimes
  - OVOS
    - only for projects
    - responsibility of developer
  - Expertiza(s) - responsibility of various agencies

# SEA and traditional OVOS/expertiza system: key issues

- What is SEA
- Who is responsible for SEA
- Role of SEA Report
- Scoping
- Who must take „due account” of the results of SEA
- SEA and expertiza

# Definition of SEA in SEA Protocol

- “Strategic environmental assessment” means
- the evaluation of the likely environmental, including health, effects,
- which comprises
  - the determination of the scope of an environmental report and its preparation,
  - the carrying out of public participation and consultations, and
  - the taking into account of the environmental report and the results of the public participation and consultations in a plan or programme.

# Definition of SEA in Belarus

## Expertiza Law of 2016

- Стратегическая экологическая оценка — определение при разработке проектов государственных, региональных и отраслевых стратегий, программ (далее — программы), градостроительных проектов возможных воздействий на окружающую среду (в том числе трансграничных) и изменений окружающей среды, которые могут наступить при реализации программ, градостроительных проектов с учетом внесения в них изменений и (или)

# Definition of SEA in the Code of Environmental Assessment in Georgia

- Strategic Environmental Assessment (SEA) – a procedure to examine, on the basis of appropriate studies and research, a potential impact of strategic documents envisaged by this Code, on the environmental and human health. SEA process includes scoping, preparation of a strategic environmental assessment report, carrying out of public participation and consultations and making a reasoned conclusion from examination of their results, taking them and any other information into account during adoption/approval of strategic documents.



# Definition of SEA Report

- Defined in SEA Directive but not defined in SEA Protocol
- Relation to definition of SEA
- Concept of SEA
- Relation to
  - Public participation
  - Transboundary procedure (Case under IC Espoo Lithuania vs Belarus)

# Definition of SEA Report in SEA Directive

- 'environmental report' shall mean the part of the plan or programme documentation containing the information required in Article 5 and Annex I;

# Definition of SEA Report in Belarus Expertiza Law of 2016

- 12. Экологический доклад по стратегической экологической оценке — документ, содержащий сведения о результатах проведенной стратегической экологической оценки, необходимых мероприятиях по уменьшению и (или) предотвращению возможных воздействий на окружающую среду (в том числе трансграничных) и об изменениях окружающей среды, которые могут наступить при реализации программ

# Definition of SEA Report in the Code of Environmental Assessment in Georgia

- Strategic environmental assessment report (SEA Report) – a document prepared by the planning authority and/or the consultant during the strategic environmental assessment process containing the information required by this Code.

# SEA Directive - procedure

- Screening –art. 3.5-7
- Scoping – art.5.4
- Environmental report – art.5 and Annex III
- Consultation with environmental authorities – art.6
- Public participation – art. 6
- Transboundary procedure (if applicable) – art.7
- Decision-making and informing thereof– art. 8 and 9
- Monitoring – art. 10

# Number of SEA procedures yearly

- Full SEA procedures
  - about 1500 yearly in Finland
  - about 400-500 yearly in UK and France
  - about 270 yearly in Austria
- Screening procedures
  - in Salzburg region (Austria) - about 300 yearly!

# EU guidance and reports

- <http://ec.europa.eu/environment/eia/sea-support.htm>
- **REPORT FROM THE COMMISSION**
- **On the application and effectiveness of the Directive on Strategic Environmental Assessment (Directive 2001/42/EC)**

Brussels, 14.9.2009 COM(2009) 469 final