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**Overview of international standards of  
environmental assessment and  
implementation challenges in the countries  
of Eastern Europe, Caucasus and Central  
Asia**

Strengthening environmental assessment systems in  
Kazakhstan in line with the UNECE Convention on  
Environmental Impact Assessment in a Transboundary  
Context and its Protocol on Strategic Environmental  
Assessment

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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)
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# 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

# 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
- relation to pollution control

# Alternatives

- For the activity
  - For example: highways or railroads
- Within the activity
  - Locational (northern or southern bypass)
  - Technological (concrete or asphalt)
  - Mitigation measures (speed limit or noise screen)
- Variant „0”
- Variant „the most ecological”

# Concept of „tiering”

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

# Procedural steps

- Screening
- Stages
  - scoping
  - preparation of assessment documentation and its verification
  - **taking into account the results of assessment in the decision**
  - informing about the decision together with reasons
- Obligatory elements (at various stages)
  - consultation with environmental authorities
  - public participation
- Transboundary consultation (if applicable)

# 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 (private) in EIA vs planning agencies (public authorities) in SEA
  - role of environmental authorities: permitting (EIA) vs consultative (SEA)
- Legal framework



# Environmental assessment documentation

- Different names (report, statement, study)
- Obligatory elements
  - Description of activity
  - Description of environment to be affected
  - Alternatives
  - Description of impact
  - Mitigation measures
  - Gaps in knowledge
  - Non-technical summary

# Environmental assessment in international law - general principles

- General principles of international law
  - Trail Smelter case - arbitration tribunal award of 1941
  - Nagymaros-Gabcikovo case – ICJ verdict of 1997
  - Pulp Mill case - ICJ verdict of 2010
  - Nicaragua vs Costa Rica - ICJ verdict of 2015
- Rio Declaration on Environment and Development
  - Integration principle –Principle 4
  - Environmental Assessment –Principle 17
  - Responsibility for transboundary environmental damage - Principle 2
    - Transboundary procedure (Principles 18 and 19)

# Environmental assessment in international law

- Application
  - mostly agreements concerning use of natural resources
- Convention on Biological Diversity of 1992 – art. 14 and Guidelines adopted by COP 6 in the Hague in 2002
- 2 specific agreements:
  - UNECE Convention on Transboundary EIA (Espoo) 1991
  - UNECE SEA Protocol of 2003
- Role
  - harmonization of national procedures
  - transboundary procedure

# Development of legal framework applicable to UNECE Region

- US NEPA 1969 – impact of projects, plans, programmes etc.
- 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 (impact on biodiversity)
- 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

# Concept of EIA Directive and Espoo Convention

- Based on Western EIA concept
  - designed for market economy
  - assuming well established development control
- Procedural and process oriented
- Obligations put on authorities

# 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 - responsibility of developer
  - Expertiza(s) - responsibility of various agencies