

**Annex to UA “note on noncompliance” received on 19.11.2020
(linked to UA comments to draft decisions VIII/4d and III/4e)**

CABINET OF MINISTERS OF UKRAINE

RESOLUTION

from September 23, 2020 № 877

Kyiv

**On approval of the Procedure for making a decision on conducting a transboundary environmental
impact assessment**

In accordance with the second part of Article 14 of the Law of Ukraine “On Environmental Impact Assessment”, the Cabinet of Ministers of Ukraine resolves to:

Approve the attached Procedure on decision-making on transboundary environmental impact assessment

The Prime Minister of Ukraine

D. Shmygal

Ind. 75

APPROVED BY

Resolution of the Cabinet of Ministers of Ukraine

September 23, 2020 № 877

Procedure

of decision-making on the implementation of transboundary environmental impact assessment

1. This Procedure defines the mechanism for decision-making on the implementation of transboundary environmental impact assessment.

2. In this Procedure, the terms are used in the meaning given in the Law of Ukraine “On Environmental Impact Assessment”.

3. Transboundary environmental impact assessment is carried out by the decision of the Ministry of Ecology on the basis of available information on the planned activities or requests from a foreign state, taking into account the requirements of international treaties of Ukraine. When considering and determining the possible significant negative transboundary impact on the environment, the scale of the planned activity, the place of its implementation, as well as the possible consequences are taken into account.

4. Depending on the location of the planned activity, the transboundary environmental impact assessment shall be carried out:

1) according to the procedure of the state of origin - in relation to the planned activity to be carried out on the territory of Ukraine;

2) according to the procedure of the affected state - in relation to the planned activity to be carried out on the territory of a foreign state.

The State of origin and the State concerned shall agree on the duration of the consultations on the planned activities.

5. The Ministry of Ecology determines the existence of grounds for transboundary environmental impact assessment in accordance with international treaties of Ukraine (including the presence of significant negative transboundary environmental impact) and decides on transboundary environmental impact assessment according to the procedure of the country of origin in the case of:

1) when the business entity in the notification of the planned activity, which is subject to environmental impact assessment, indicates information on the existence of grounds for the implementation of transboundary environmental impact assessment;

2) when at any stage of consideration of the report on environmental impact assessment by the oblast, Kyiv and Sevastopol city state administrations (relevant Subdivision on ecology and natural resources), the executive body of the Autonomous Republic of Crimea on ecology and natural resources (hereinafter - the Authorized territorial body) or the Ministry of Ecology finds that the planned activity may have a significant negative transboundary impact on the environment;

3) receiving a request from a foreign state regarding the need of a transboundary environmental impact assessment of the planned activity.

6. If there is a ground specified in subparagraph 3 of paragraph 5 of this Procedure, the Ministry of Ecology shall submit a decision on transboundary environmental impact assessment to the Interdepartmental Coordinating Council for Implementation of the Convention on Environmental Impact Assessment in Ukraine in the Transboundary Context), established in accordance with the Resolution of the Cabinet of Ministers of Ukraine of April 2, 2008 № 295 “On the Establishment of the Interdepartmental Coordinating Council for the Implementation in Ukraine of the Convention on Environmental Impact Assessment in a Transboundary Context” (Official Gazette of Ukraine, 2008, № 27 , § 843).

The decision approved by the Interdepartmental Council is approved by the Ministry of Ecology.

7. In case of a decision to carry out a transboundary environmental impact assessment of the planned activity, the consideration of which is carried out by the Authorized territorial body, the Ministry of Ecology shall notify the authorized territorial body of such decision within three working days. The Authorized territorial body shall immediately, but not later than three working days from the date of receipt of the notification submit to the Ministry of Environment the available documentation on environmental impact assessment of the planned activity, and the Ministry of Environment shall carry out transboundary environmental impact assessment of the planned activity. informs the business entity.

8. The decision to carry out a transboundary environmental impact assessment under the procedure of the country of origin shall be made by the Ministry of Ecology within three working days from the date of receipt of the environmental impact assessment documentation of the planned activity or from the date when the Ministry of Ecology discovers transboundary environmental impact.

9. If the request of a foreign state on the need to conduct a transboundary environmental impact assessment of the planned activity, for which on the day of receipt of such a request transboundary environmental impact assessment was not carried out, the Ministry of Ecology considers the application and available information on the planned activity.

10. If a foreign state's request for a transboundary environmental impact assessment of a planned activity for which an environmental impact assessment conclusion has already been issued, the decision on a transboundary environmental impact assessment, terms and procedure shall be approved by the Interdepartmental Coordinating Council and approved by the Ministry of Ecology.

11. If there is a ground specified in subparagraph 3 of paragraph 5 of this Procedure, the decision to conduct a transboundary environmental impact assessment under the procedure of the country of origin shall be made within ten working days from the date of receipt of such request of a foreign state.

12. The decision of the Ministry of Ecology to conduct a transboundary environmental impact assessment shall specify the list of foreign states that notify the planned activities.

13. In case of refusal of all affected states to participate in the procedure of transboundary environmental impact assessment or in case of absence of response from the affected states to the notification within the established period, the Ministry of Ecology shall decide to terminate the transboundary environmental impact assessment procedure.

14. The Ministry of Ecology shall notify the business entity within three working days from the date of the decision to conduct a transboundary environmental impact assessment or the decision to terminate the procedure for conducting a transboundary environmental impact assessment. In this case, further consideration of the documentation on environmental impact assessment of the planned activity and issuance of a conclusion on environmental impact assessment shall be carried out by the Ministry of Ecology in accordance with the Law of Ukraine “On Environmental Impact Assessment”, and in the case provided for in paragraph 7 of this Procedure, the documentation on the environmental impact assessment of the planned activity shall not be returned for consideration by the Authorized territorial body.

15. The Ministry of Ecology decides to carry out a transboundary environmental impact assessment under the procedure of the affected state in case of receiving a notification from a foreign state that is the state of origin.

16. The decision to conduct a transboundary environmental impact assessment under the procedure of the affected state and provide a response to the notification indicating the interest (disinterest) in the procedure of transboundary environmental impact assessment is made in accordance with paragraph 3 of this Procedure.

17. The decision to carry out a transboundary environmental impact assessment under the procedure of the affected State shall be made, and the response to the notification shall be provided within the time limits specified in the notification. If such deadlines are not specified in the notification, the said decision shall be taken and the response shall be provided within 30 days from the date of receipt of the notification from the foreign state that is the country of origin.

18. In case of receiving information about possible significant negative transboundary impact on Ukraine's environment by planned activities of other states, the Ministry of Ecology sends a request to a foreign state on the need for transboundary environmental impact assessment and consultations with Ukraine, takes other measures to protect interests of Ukraine.

<https://zakon.rada.gov.ua/laws/show/877-2020-%D0%BF#Text>