



**IAIA**

International Association  
for Impact Assessment

The Convention provides a legal framework and effective procedures for inter-State consultations on planned activities to prevent or mitigate significant adverse environmental impacts across borders.

#### **AUTHOR**

Tea Aulavuo

**FASTIPS**

No. 21 | May 2020

## **Convention on Environmental Impact Assessment in a Transboundary Context**

**Issue, underlying concepts and approaches.** Under general international law, all States must undertake an environmental impact assessment of their planned activities that may have a significant impact in a transboundary context. In 1992, as part of the Rio Declaration principles, all the States Members of the United Nations undertook to provide a “prior and timely notification and relevant information to potentially affected States” and to “consult with those States at an early stage and in good faith” on such planned activities.<sup>1</sup>

The United Nations Economic Commission for Europe (ECE) Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) offers an international legal framework regarding the scope and content of the environmental impact assessment procedure between countries.

The Convention was adopted in Espoo, Finland, in 1991. It entered into force in 1997, and, by September 2019, had 45 Parties across the Caucasus, Central Asia, Europe and North America, including the European Union as a regional organization. Originally a regional instrument, the Convention is being opened to all States Members of the United Nations.

In accordance with the precautionary approach and the principle of prevention, the Convention requires that adverse environmental impacts be anticipated and addressed early on in the planning of activities to prevent or mitigate and monitor significant adverse environmental impact. The Convention has substantially contributed to environmental protection, shaped environmental law and fostered international cooperation in assessing the environmental impact of economic and regional development activities. Moreover, the Convention’s obligations on consultation with relevant authorities and public participation have contributed to improving the quality of information, environmental governance and transparency in planning and decision-making and helped to minimize tensions across borders.

The Convention provides for the following main procedural steps:

- (a) The Party of origin (i.e., the contracting Party to the Convention under whose jurisdiction a proposed activity is envisaged to take place) must ensure that affected Parties are notified of any activity listed in appendix I of the Convention that is likely to cause significant adverse transboundary impact.
- (b) The affected Party must acknowledge the notification and indicate whether it wishes to participate in the assessment procedure. If it does wish to participate, the Parties will exchange relevant information not yet provided, including any comments or objections from the public in the affected Party/Parties regarding the proposed activity.
- (c) The Party of origin must prepare environmental impact assessment documentation and submit it for comments to the authorities and the public of the affected Party/Parties.
- (d) Based on the completed documentation, the concerned Parties should consult each other, for example, on alternatives, mitigation measures and monitoring.

<sup>1</sup> Principle 19. Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992, vol. I, Resolutions Adopted by the Conference, resolution 1, annex I (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution 1, annex I, principle 19. Available from <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>.

- (e) The Party of origin must decide on the planned activity considering the environmental impact assessment documentation, the comments received and the outcome of the consultations.
- (f) The final decision is to be provided to the affected Party, with the reasons and considerations on which it was based.
- (g) The concerned Parties should determine whether and to what extent a post-project analysis is to be carried out.

A Protocol on Strategic Environmental Assessment to the Convention was adopted in Kyiv in 2003. In force since 2010, the Protocol is open also to non-ECE countries.

### FURTHER READING

For further information on the Convention, please contact the ECE Secretariat to the Convention, based in Geneva ([eia.conv@un.org](mailto:eia.conv@un.org)) and/or visit the Convention's home page ([www.unece.org/env/eia/eia.html](http://www.unece.org/env/eia/eia.html)). Selected sources of information accessible from the home page include the following:

- (a) Text of the Espoo Convention
- (b) Status of ratification
- (c) Publications, for example:
  - Guidance on the Practical Application of the Espoo Convention
  - Guidance on public participation in transboundary EIA
- (d) Opinions of the Implementation Committee, cases and other material on the review of compliance under the Convention
- (e) National reports and reviews of implementation
- (f) Format for notification under the Convention
- (g) Lists of points of contact regarding notification and of focal points for administrative matters
- (h) Overview of the treaty bodies under the Convention
- (i) Decisions taken by the Meetings of the Parties
- (j) Calendar of meetings and events, including official meetings and capacity-building events

### FIVE IMPORTANT THINGS TO KNOW

1. Since its inception, the Convention has proved its effectiveness in fostering inter-State discussion and cooperation on planned developments; and its Parties have gathered a wealth of good practices and lessons learned on its implementation.
2. The Convention can contribute to the achievement of Sustainable Development Goals as set out in the 2030 Agenda for Sustainable Development.
3. Being a Party to the Convention implies duties but also grants a country the rights to be notified of and consulted regarding other Parties' planned developments that could adversely affect its national territory.
4. National sovereignty in decision-making is retained. The Convention provides for transparency, transboundary consultations and opportunities for jointly addressing concerns regarding planned developments; however, affected Parties have no right of veto.
5. Confidentiality is respected. Parties do not have to share information if to do so would be prejudicial to industrial or commercial secrecy or national security.

### FIVE IMPORTANT THINGS TO DO

1. Consider becoming a Party to the Convention and/or effectively implementing its transboundary procedures.
2. Ensure that national legislation is fully aligned with the Convention by amending existing laws and implementing regulations and/or by developing new ones.
3. Build adequate national implementation capacities—in particular of environmental authorities and environmental impact assessment practitioners—and raise awareness of the Convention and its benefits among decision makers, project developers and the public.
4. Ensure early, timely and effective consultations and public participation—when all options are still open.
5. Establish practical arrangements, bilateral/multilateral agreements and joint bodies, in order to improve cooperation and understanding of different national legislations and assessment practices.

Want to know more?

[www.iaia.org](http://www.iaia.org) > Resources > Publications > FasTips

Do you have a suggestion or a request for a FasTip on a different topic? Contact Maria Partidário ([mpartidario@gmail.com](mailto:mpartidario@gmail.com)), FasTips Series Editor.

FasTips Task Force: Maria Partidário (Chair), Charlotte Bingham, Richard Fuggle, Peter Croal, Jos Arts, and Anita Mosby.