
**CONFERENCE OF THE PARTIES
Sixth Meeting
... 2018, Baku, Azerbaijan****Status of the preparatory work for the implementation of the
Moscow, Ashgabat and EIA Protocols**

(Note by the interim Secretariat)

Introduction:

Article 7 (1) of the Tehran Convention requests the Contracting Parties to “take all appropriate measures to prevent, reduce and control pollution of the Caspian Sea from land-based sources”.

In this regard, the Protocol for the Protection of the Caspian Sea against Pollution from Land-based Sources and Activities (“Moscow Protocol”) was adopted and signed at the fourth Meeting of the Conference of the Parties (COP4) in Moscow, Russian Federation, on December 12, 2012.

Article 14 (2) of the Tehran Convention requests the Contracting Parties to “co-operate in the development of protocols in order to undertake the necessary measures for protection, preservation and restoration of marine biological resources”.

In this regard, the Protocol for the Conservation of Biological Diversity (“Ashgabat Protocol”) was adopted and signed at the fifth Meeting of the Conference of the Parties (COP5) in Ashgabat, Turkmenistan, on 30 May 2014.

Article 17 (1) of the Tehran Convention requests the Contracting Parties to “take all appropriate measures to introduce and apply procedures of environmental impact assessment of any planned activity, that are likely to cause significant adverse effect on the marine environment of the Caspian Sea”

In this regard, the Protocol on Environment Impact Assessment in transboundary context was adopted and signed at the Extraordinary Meeting of the Conference of the Parties (ECOP) in Moscow, Russian Federation, on 20 July 2018.

The above-mentioned Protocols are in different stages of ratification. It is expected that all three Protocols will be ratified soon, in particular in light of the instructions of the Heads of States, done at the fifth Caspian Summit, Aktau, Kazakhstan, 12 August to “finalize the internal procedures for the entry -into-force of (the Tehran Convention) adopted protocols.”

Against this background the interim Secretariat initiated preparatory work for their implementation.

Suggested Action:

The Parties may provide guidance on the documents provided to support the implementation of the Moscow, Ashgabat and EIA Protocols.

Moscow Protocol

In collaboration with the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (GPA) and Marine Litter, the interim Secretariat produced a list of priorities and action points to support the implementation of the Moscow Protocol.

Support the implementation of the Protocol for the Protection of the Caspian Sea against Pollution from Land-based Sources and Activities (Moscow Protocol) to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea (Tehran Convention)

Moscow Protocol priorities:

- System and arrangements for the LBS related monitoring and assessment (Art. 13);
- Review and adaptation of national CZM related enabling legislation;
- Regional training workshop and exchange of information on ins and outs of an integrated approach to coastal area development (Art. 10);
- Designation of competent national authorities (Art. 5.1);
- Inventor(y)(ies) of LBS of pollution (point sources; diffuse sources; pollution from other activities) along Annex I categories, and establishment of list of hot spots (Art. 7);
- Training and information exchange workshop(s) on how to address LBS of pollution;
- Development and agreement on common emission limit values as well as on common guidelines and standards relating to the issues identified in Art.6 (Art. 5.6);
- Support of conducted training workshop(s) followed by development of pollution source control plans, costing and timetables (Art. 2.5, Annex V);
- Analysis, case law demonstration and development of guidelines for EIA related to potential environmental impacts, including trans-boundary impacts of land-based projects/activities (Art.11, 12);
- Development and agreement on reporting and compliance procedures (Art. 17, 18).

Action points for implementation of the LBS Protocol:

- Establishment of a coordination mechanism by designating a Competent National Authority (CAN), and of a system of authorization of point source emissions and inspection to assess compliance with authorizations;
- Preparation of inventories and of a list of hot spots of land-based sources of pollution (point sources, diffuse sources, pollution from other activities);
- Drafting of regional and/or national Programme of Action (NPA) based on pollution source control including measures and timetables for their implementation and complementary regional workshops for information exchange;
- Conducting capacity building workshops, especially for pollution assessment along the Caspian coasts and addressing pollution from LBSA;
- Promoting the establishment of national databases on the conditions of the marine environment and coastal areas of the Caspian Sea and on inputs of substances from land-based sources; convene information exchange in the field of data collection;
- Development of common guidelines and standards on an EIA approach as well as on coastal outfalls, separate treatment, quality of sea-water, replacement of products, installations and other processes, and specific requirements concerning the quantities of discharged substances;
- Supporting the development of procedures to ensure compliance and reporting on the implementation of the Protocol.

Ashgabat Protocol:

In collaboration with the Convention on Biological Biodiversity (CBD) and the Commission on the Protection of the Black Sea Against Pollution, a regional workshop to facilitate the description of ecologically or biologically significant marine areas in the Black Sea and Caspian Sea was held in Baku, Azerbaijan, 24-29 April 2017. The primary objective of the workshop was to facilitate the description of ecologically or biologically significant marine areas through the application of scientific criteria, developed and agreed upon under the CBD framework.

The full report of 361 pages can be found at the link below.

<https://www.cbd.int/doc/c/50f9/bd6d/21c043b0408fd80e5d2bbb96/ebsa-ws-2017-01-04-en.pdf>

The summary report of the workshop was welcomed by the Subsidiary Body on Scientific, Technical and Technological Advice to the CBD and further requested the CBD Executive Secretary to include the summary report in the EBSA repository, and to submit it to the United Nations General Assembly and its relevant processes, as well as Parties, other Governments and relevant international organizations.

The summary report of the workshop of 22 pages can be found at the link below.

<https://www.cbd.int/doc/c/c65d/ea29/94cabf22e3a9ff7828e0ece8/sbstta-22-07-add1-en.pdf>

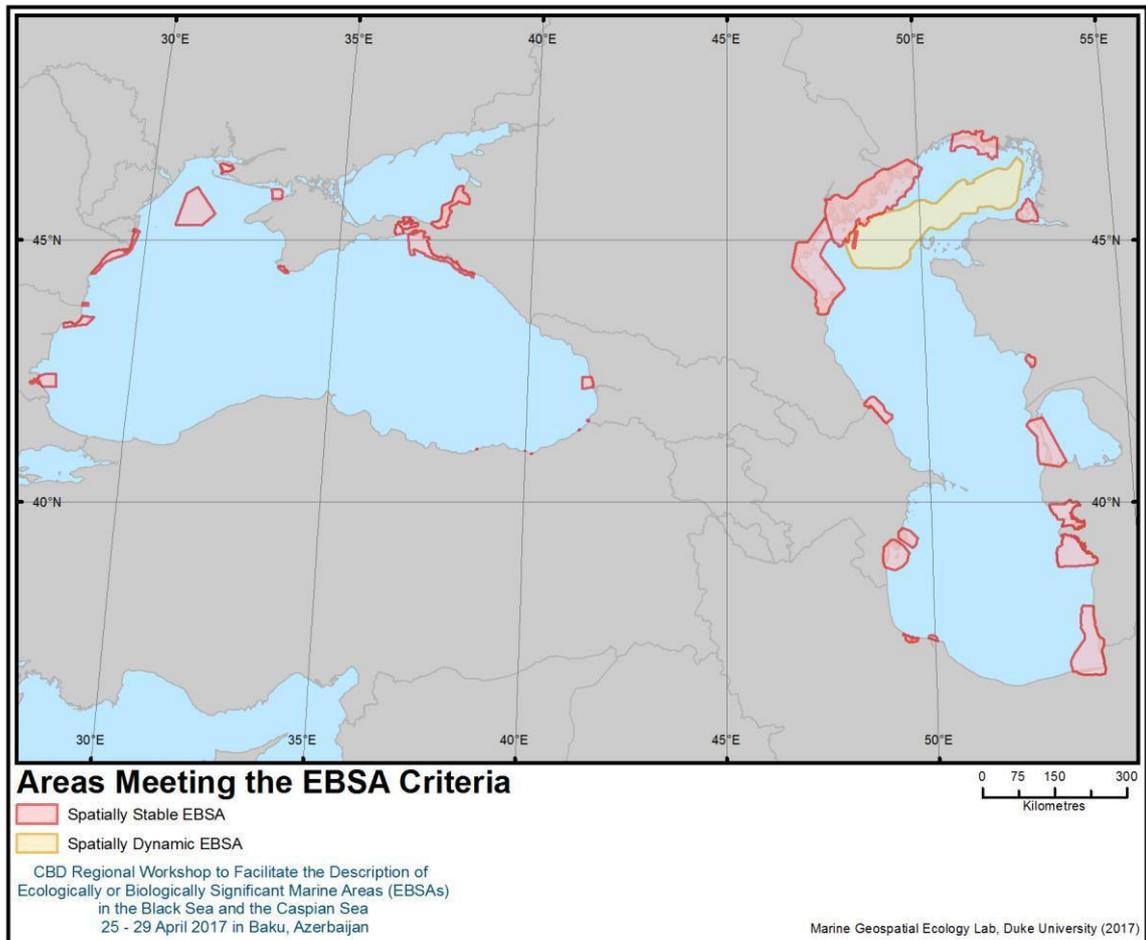
Below is the list of the areas which were identified as ecologically or biologically significant marine areas in the Black Sea and Caspian Sea by the workshop.

**DESCRIPTION OF AREAS MEETING THE EBSA CRITERIA IN THE BLACK SEA AND THE CASPIAN SEA
AS AGREED BY THE WORKSHOP PLENARY**

Area No.	Area Name (See the detailed description of each area in the appendix to this annex)
1	Ropotamo
2	Kaliakra
3	Vama Veche – 2 Mai Marine Reserve
4	Danube Delta Marine Area
5	Zernov’s Phyllophora Field
6	The Small Phyllophora Field
7	Balaklava
8	Yagorlytsky Bay
9	Kuban Delta
10	Taman Bay and the Kerch Strait
11	Northern Part of the Caucasian Black Sea Coast
12	Kolkheti Marine Area
13	Sarpi
14	Artvin-Arhavi
15	Trabzon-Sürmene
16	Trabzon-Arsin
17	Giresun – Tirebolu
18	Pre-estuarine Area of the Ural River
19	Komsomol Bay
20	Caspian Seal Breeding Grounds
21	Kendirli Bay
22	Karabogazgol Strait
23	Turkmenbashi Gulf
24	Turkmen Aylagy
25	Miankaleh-Esenguly
26	Sefidroud Delta
27	Anzali Wetlands Complex
28	Gizilzgach Bay Complex
29	Kura Delta

30	Samur-Yalama
31	Kizlyar Bay
32	Malyi Zhemchyzhnyi (“Small Pearl”) Island
33	Pre-estuarine Area of the Volga River

**MAP OF THE AREAS MEETING EBSA CRITERIA IN THE BLACK SEA AND CASPIAN SEA
AS AGREED BY THE WORKSHOP PLENARY**

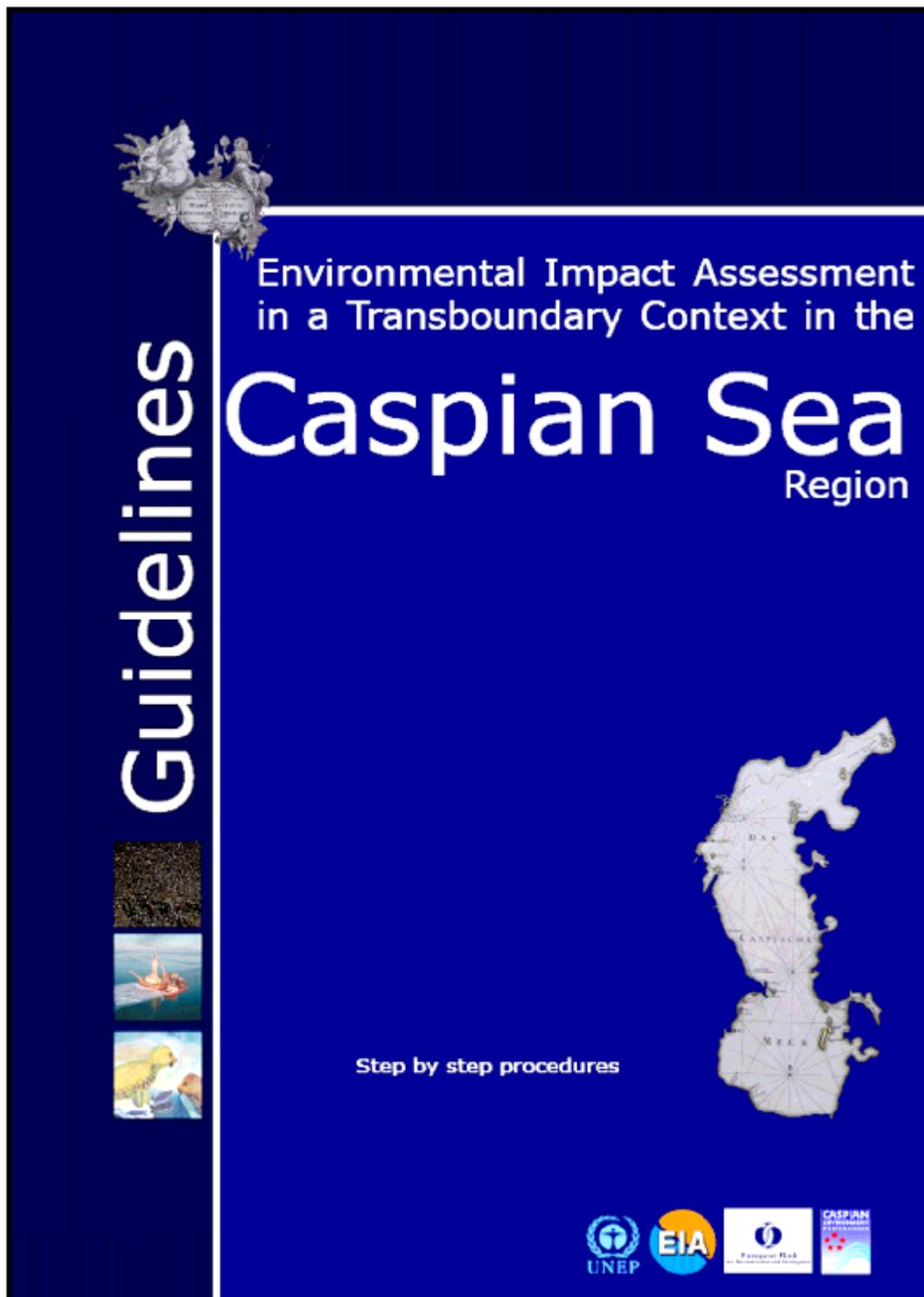


EIA Protocol

In 2004 the Guidelines on Environmental Impact Assessment in a Transboundary Context in the Caspian Sea Region was produced by UN Environment, Espoo Convention, European Bank for Reconstruction and Development and the Caspian Environment Programme. The purpose of the guidelines was to provide operational tools to implement EIA in a transboundary context in the Caspian Sea region. The guidelines were designed to be practical and easy to use. The target users were competent authority of the country of origin and affected countries, and developers in the region.

The development of the guidelines was first recommended at a Regional Environmental Law workshop held in Baku in December 2001. At two meetings in Moscow in November 2002 and Baku in October 2003, participants discussed and reached consensus on the detailed procedures. The meeting in Moscow was supported by the Centre for International Projects and the meetings in Baku were supported by the Caspian Environment Programme.

The Guidelines on Environmental Impact Assessment in a Transboundary Context in the Caspian Sea Region is contained in Annex I.



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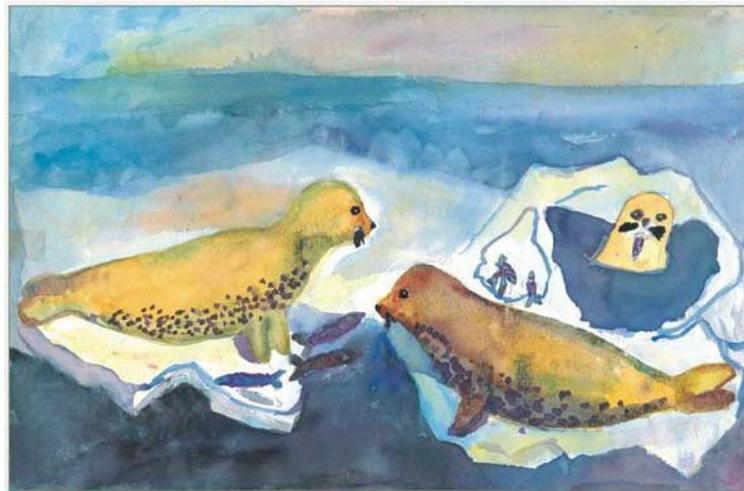
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Guidelines on Environmental Impact Assessment in a Transboundary Context in the Caspian Sea Region

Step by step procedures



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Foreword

The Framework Convention for the Protection of the Marine Environment of the Caspian Sea, the outcome of eight years of hard work, was signed by the five Caspian littoral states (Azerbaijan, Iran, Kazakhstan, Russia and Turkmenistan) early November 2003. As stressed by the UN secretary-General, Mr. Kofi Annan, the signing of the Caspian Framework Convention is a 'significant step forward for the region' and, once ratified, 'this landmark treaty will benefit the health and livelihoods of hundreds of millions of people'.

In the Caspian Sea, a number of activities, for example oil extraction, may adversely affect the environment, natural resources, and people's health across borders. Environmental Impact Assessment in a transboundary context can help to prevent and minimise such adverse transboundary environmental impacts. The assessment process will moreover contribute to the dialogue between countries concerning the establishment of environmental disaster prevention plans in the region, such as oil spill prevention plans.

Environmental Impact Assessment in a transboundary context, requires a fully harmonised procedure in the region. This is the first attempt to establish a harmonised regional procedure for the implementation of the Convention on Environmental Impact Assessment in Transboundary Context

It has not been easy to reach agreement on a set of harmonised procedures for Environmental Impact Assessment in a transboundary context. However, the difficulties arising from differences in national Environmental Impact Assessment procedures and in language were overcome and the guidelines could be successfully developed and agreed upon by consensus.

It is a pleasure for me to commend these guidelines to the attention to the five Caspian littoral states: I am confident that the guidelines will provide the Governments with practical step by step procedures to implement Environmental Impact Assessment in a transboundary context in the Caspian Sea region, and I hope that this will contribute to further regional cooperation and protection of the marine environment of the Caspian Sea.



Frits Schlingemann
Director and Regional Representative
UNEP Regional Office for Europe

Acknowledgements

Practical guidelines for the regional implementation of the requirements of the UNECE Convention on Environment Impact Assessment in a Transboundary Context (the “Espoo” Convention) were developed by the five Caspian littoral states (Azerbaijan, the Islamic Republic of Iran, Kazakhstan, Russia and Turkmenistan), with support from the United Nations Environment Programme (UNEP), the United Nations Economic Commission for Europe (UN/ECE), the European Bank for Reconstruction and Development (EBRD), and the Caspian Environment Programme (CEP). The guidelines aim to provide practical step-by-step procedures for the implementation of EIA in a transboundary context in the Caspian Sea region, based on the Espoo Convention.

The development of the guidelines was first recommended at a Regional Environmental Law workshop held in Baku in December 2001. At two meetings in Moscow in November 2002 and Baku in October 2003, participants discussed and reached consensus on the detailed procedures. The meeting in Moscow was supported by the Centre for International Projects and the meetings in Baku were supported by the Caspian Environment Programme.

Elizabeth Smith (EBRD) and Rie Tsutsumi (UNEP) drafted the guidelines, which were extensively commented by Wiek Schrage (UNECE Espoo Convention Secretariat). The five Caspian littoral states held national consultative meetings involving ministries, NGOs, local authorities (from the Caspian coastal area), and project developers (in particular, oil and gas companies). Comments were also provided by the Caspian Environment Programme Coordination Unit, Economics and Trade Branch (ETB), UNEP Regional Office for Europe (ROE), and Svetlana Golubeva, who completed the Russian translation. A special thanks to Hamid Ghaffarzadeh, Programme Coordinator of the CEP, who organised the publication of the guidelines, and to all who participated in the development process at the meetings in Baku and Moscow, and in the national consultations.

On 4 November 2003, a month after the guidelines were agreed, the Framework Convention for the Protection of the Marine Environment of the Caspian Sea was signed. The importance of communication and the implementation of environmental impact assessments are noted in the Convention.

Definitions

For the purposes of this Guideline

- (i) "Country of origin" means the country under whose jurisdiction a proposed activity is envisaged to take place;
- (ii) "Affected Country" means the country likely to be affected by the transboundary impact of a proposed activity which originates outside its jurisdiction;
- (iii) "Concerned Parties" means the Country of origin and the affected Country(ies), and in some cases, the interested public, of an environmental impact assessment pursuant to the Espoo Convention;
- (iv) "Proposed activity" means any activity or any major change to an activity subject to a decision of a competent authority in accordance with an applicable national procedure;
- (v) "Environmental impact assessment" means a national procedure for evaluating the likely impact of a proposed activity on the environment;
- (vi) "Impact" means any effect caused by a proposed activity on the environment including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors;
- (vii) "Transboundary impact" means any impact, not exclusively of a global nature, within an area under the jurisdiction of a country caused by a proposed activity the physical origin of which is situated wholly or in part within the area under the jurisdiction of another country;
- (viii) "Competent authority" means the national authority or authorities designated by a country to be responsible for performing the tasks covered by Espoo Convention and/or the authority or authorities entrusted by a country with decision-making powers regarding a proposed activity;
- (ix) "The Public" means one or more natural or legal persons.
- (x) "Point of Contact " means the official point of notification in a country under the Espoo Convention.
- (xi) "Focal Point" means a person knowledgeable about the Convention for administrative matters, but should not be confused with the 'Point of Contact' above.

Introduction

1 Background information

The Caspian Sea, surrounded by the five littoral states of Azerbaijan, Islamic Republic of Iran, Republic of Kazakhstan, Russian Federation, and Turkmenistan, is the largest inland body of water on earth. The isolation of the Caspian basin together with its climatic and salinity gradients have created a unique ecological system. The increasing anthropogenic pressure has resulted in the degradation of water quality, the overexploitation and impoverished Caspian Biota.

Recognizing the seriousness of the growing environmental problems of the Caspian Sea region and their impact on the social and economic development, four of the five Caspian littoral states adopted the Almaty Declaration on Cooperation of the Environmental Protection of the Caspian Sea Region (1994). They decided to undertake a coordinated action and called for the assistance of the international community. As a response, a joint United Nations Development Programme (UNDP), World Bank (WB) and United Nations Environment Programme (UNEP) mission to the Caspian region in 1995 confirmed the severity of the environmental problems in the region and recommended the development and implementation of a Caspian Environment Programme (CEP) and Framework Convention for the Protection of the Marine Environment of the Caspian Sea as a long-term strategy for the protection and management of the Caspian environment.

There are a large number of potential projects with possible transboundary impact in the region, including oil extraction projects, and the call for the establishment of a set of harmonised procedure for EIA in a transboundary context has been getting bigger. The absence of the agreed procedure for EIA in a transboundary context is problematic not only for the protection of ecosystem but also for project developers who would like to ensure all legal requirements, including national and international commitments are in compliance.

The Convention on Environmental Impact Assessment in a transboundary context (Espoo convention), signed in 1991, requires Parties to conduct EIA across borders between Parties of the Convention when a planned activity may cause significant adverse transboundary impact. Out of five countries in the Caspian Sea region, two countries (Azerbaijan and Kazakhstan) have ratified and one country (Russian Federation) signed but has not yet ratified the Convention on Environmental Impact Assessment in a transboundary context (Espoo convention)¹. Turkmenistan has not signed nor ratified the

¹ Azerbaijan ratified on 20.3.1999, Kazakhstan ratified 11.01.2001, Russian Federation signed 06.06.1991.

convention, and Iran is not a member state of the UNECE. However, with the recent amendment of the Espoo convention, Iran can become a party². Although not all countries in the region committed themselves to the Espoo convention, the importance of the implementation of the EIA in a transboundary context is highlighted in order to achieve the sustainable use of natural resources and protect unique ecosystem in the Caspian Sea region.

At a workshop on “Implementation and Capacity Building on EIA in a Transboundary Context in Caspian Sea Region”, organised by UNEP in cooperation with the Secretariat of UNECE Convention on Environmental Impact Assessment in a Transboundary Context (Espoo), and the European Bank for Reconstruction and Development (EBRD), and with the support of the Centre for International Projects (CIP), 27 – 29 November 2002, Moscow, the delegation from the Caspian littoral states agreed to create a set of harmonised practical procedural guidance on EIA in a transboundary context, based on the Espoo Convention.

For the effective implementation of EIA in a transboundary context in the Caspian Sea region, it is necessary to establish the agreed procedure between the governments of the region. Espoo Convention provides a general procedural framework, but the practical details of the implementation are left for the Parties to decide. The experts from the five littoral states discussed the detailed procedures for the implementation of the EIA in a transboundary context which takes regional context and national legal framework into account.

Following the workshop, the draft guidance materials were prepared and distributed among the national focal points of the Caspian five littoral states. The national focal points have further reviewed these materials and held national consultations.

In a second meeting, organised by UNEP in cooperation with UNECE and EBRD, and with a support from Caspian Environment Programme Coordination Unit, on 8-9 October 2003 in Baku, the experts from the five littoral states discussed, amended and agreed on the final text of guidelines.

2 Objectives and structure of the guidelines

The purpose of the guidelines is to provide operational tools to implement EIA in a transboundary context in the Caspian Sea region. The guidelines are designed to be practical and easy to use. The target users will be competent authority of the country of origin and affected countries, and developers in the region.

The guidelines show detailed step-by-step procedures that were agreed by the experts from the five littoral states at the two meetings mentioned above.

² Also, it should be noted that Iran is a member of the Kuwaiti Seas Convention and therefore has experience in transboundary cooperation on EIA.

The guidelines specify requirements identified by the Espoo Convention by referring the articles.

The following guidance were prepared:

Guidelines for Country of Origin Guidelines
for Affected Countries Guidelines for
Developers

Guidelines for Country of Origin

1 Applicability

The guidelines can be used by countries who are initiating a proposed project that may have the potential for a transboundary impact, and which will require an Environmental Impact Assessment (EIA). The guidelines include requirements identified under the Espoo Convention and suggestions (good practice) for the effective implementation

2 Identification of project with potential transboundary impacts

When a project first comes to the attention of the national competent authorities, the authorities should 'screen' the project to determine if the characteristics meet the definition of an applicable project under the Espoo Convention. This stage happens early in the project development process, when permitting requirements are first being discussed with the project developer.

Screening (Corresponding Espoo Convention Requirements Article 3.1)³

- a) Is the project type included in the project list in the Espoo Convention Appendix 1?
- b) If the project type is not included in the project list in the Espoo Convention Appendix 1, consult Appendix III 'General criteria to assist in the determination of the environmental significance of activities not listed in Appendix 1' to see if there are other criteria that would apply, or use national lists and/or legislation.
- c) Identify the likely potential for significant transboundary impacts.
- d) Determine if the project has potential for a transboundary impact and require EIA;

Notify project developer of the general requirements (see Guidelines for Developers);

Request information from project developer on proposed approach to public consultation (see Annex 4 Public Consultation).

³ Requirements under the Espoo Convention are indicated in parentheses.

3 Preparing notification

(Corresponding Espoo Convention Requirements Article 3.2)

Notification was identified by the Caspian littoral states as the key step for ensuring the implementation of the requirements under the Espoo Convention. They, therefore, considered that it is important to make it work effectively. It is the responsibility of the country of origin to send the notification during the 'scoping' stage of the EIA process, and to ensure delivery of the documents to the affected countries'. This can typically not be undertaken directly by the project developer without the country of origin competent authority's agreement.

3.1 Notification Letter (template attached in Annex 2)

The notification comprises a brief, non-technical letter, attached to a summary of information on the project. The letter should also include the timing of the EIA review process, description of how disclosure and public consultation are planned, and contact details for the country of origin and the project developer. The competent authorities of the country of origin could ask the project developer to prepare a draft notification letter and attach all the necessary information, and if necessary, translate into languages as indicated in 4.1.

3.2 Summary of information

(Corresponding Espoo Convention Requirements Article 3.2, 3.5)

The information attached to the notification letter should have an adequate technical content, including maps, for the affected country to identify its level of interest in its involvement in the EIA process. The following information should be part of the notification package. [List below is from www.unece.org/env/eia/notification.htm]

- a) Information on the nature of the proposed activity;
 - i) Whether the activity is listed in Appendix 1 to the Convention;
 - ii) Type of activity;
 - iii) Scope of activity (e.g. main activity and any/all peripheral activities requiring assessment);
 - iv) Scale of activity (e.g., size, production capacity, et.);
 - v) Description of the activity (e.g., technology used);
 - vi) Description of the purpose of the activity;
 - vii) Rationale for proposed activity (e.g., socio-economic, physical-geographic basis);
- b) Information on the spatial and temporal boundaries of the proposed activity;
 - i) Location and description of the location (e.g., physical-geographic, socio-economic characteristics);

- ii) Rationale for the location of the proposed activity (e.g., socio-economic, physical-geographic basis)
 - iii) Time-frame for proposed activity (e.g., start and duration of construction and operation);
 - iv) Maps and other pictorial documents connected with the information on the proposed activity
- c) Information on expected environmental impacts and proposed mitigation measures:
- i) Scope of assessment (e.g. consideration of cumulative impacts, alternatives, sustainable development, associated activities, etc.);
 - ii) Expected environmental impacts of the activity (e.g. types, locations, magnitudes);
 - iii) Inputs (e.g. land, water, raw materials, power sources);
 - iv) Outputs (e.g. amounts and types of: emissions into the atmosphere, discharges into the water system, solid waste);
 - v) Available information on the activity's possible significant transboundary environmental impacts (e.g. types, locations, magnitudes);
 - vi) Measures to prevent, eliminate, minimize or compensate for transboundary environmental impacts;
- d) Summary and timing of proposed consultation (country of origin and affected country/ies), including a summary of complaint process/grievance procedure;
- e) Name, address and telephone/fax numbers of contact person e.g. of project proponent (developer);
- f) EIA documentation (e.g. EIA report or Environmental Impact Statement), **if already available.**

3.3 Compensation for review, if applicable

The competent authority of the country of origin will discuss with the competent authority of the affected country whether or not a fee to offset review costs of the documentation is to be paid by the project developer or by any other way within the agreed affected country review period.

4 Notification to affected countries and Caspian Environment Programme

4.1 Language of the notification package

For the purpose of notification, if the affected country or countries include Azerbaijan, Kazakhstan, the Russian Federation, or Turkmenistan, the notification package (Notification letter, summary of

information, as in 3.2 above) should be provided in Russian language. The notification package for Iran should be in English language. The notification for the Caspian Environment Programme should be in both Russian and English languages.⁴

4.2 Recipients

Notification should be sent to the official Point of Contact for Notification (if the affected countries are the Parties of the Espoo Convention) or competent authority. In the event that the official Contact Point is not the competent environmental authority, a second set of the notification package should be sent to the competent environmental authority. Official list of the Point of Contact can be found on the Convention website (<http://www.unece.org/env/eia/contacts.htm>) which is regularly updated.

These should be in hard copy; however, an electronic copy can be sent to the environmental competent authorities to give them advance notice of the submittal. Please find the initial list of notification points below. The Caspian Environment Programme website will contain, also, the most current contact list at: (<http://www.caspianenvironment.org/transboundary.htm>).

At this stage, the country of origin should inform the Coordination Unit of the Caspian Environment Programme. Two complete sets of documents (one each of English and Russian language) and a CD Rom containing the files should be sent to the CEP. The CEP will post the name of the project, a brief description, and contact information for the developer on its website. A specific web-page is being established for this purpose.

Notification Points Contact Details

Status as of October 2003⁵

Country/Institution	Ministry of Foreign Affairs	Environmental Authorities
Azerbaijan	Ministry of Foreign Affairs * 4 Shikhali Kurbanov Str. 370009 Baku Tel: +994 12 92.68.56 Fax: +994 12 98.84.80	Bagirov Guseingulu Seidogly Minister Ministry of environment and natural resources Azerbaijan 370073, Baku, ul. B. Agaeva, 100a. Tel: +994 12 92 59.07 Fax: +994 12 98 23 46 E-mail: rsattarzade@azdata.net

⁴ If there are questions regarding translation, please contact Caspian Environment Programme (CEP) for advice.

⁵ For current status of contact points, please refer to the Caspian Environment Programme website.

Islamic Republic of Iran	International Economic and Specialised Affairs office * Ministry of Foreign Affairs Building West 8 Kuskemesri Avenue Fax: 98 21 6704176 Tel: 98 21 321 2662 E-mail: smaeils@yahoo.com	Davoud Rahbar* Director General Department of Environment No 187 Postal Code: 15875 PO Box: 5181 Tehran, Iran Fax 98 21 826 9918 Tel 98 21 826 7995 E-mail: davrah@yahoo.com
Kazakhstan	Ministry for Foreign Affairs 65, Aiteke Bi Str., 480064 Almaty Tel: +7 3272 63.25.38 or 63.78.45 Fax: +7 3272 50.11.37	Zhambyl Bekzhanov * Department of State Expertize and Licencing Ministry of Environment Pobeda Stz.N31 Astana, 473000 tel: +7 3172 591963, fax: +7 3172 591932., E-mail: abishevaa@mail.kz
Russian Federation	N/A	Mr. Serguey TVERITINOV* Director, Department for International Cooperation in environmental protection Ministry of natural resources of Russian Federation ul. B. Gruzinskaya 4/6 123812 Moscow GSP Tel: +7 095 254-27-33 Fax: +7 095 254.82.83 E-mail: tveritinov@mnr.gov.ru
Turkmenistan	Ministry of Foreign Affairs * 16, Neutral Turkmenistan Str. 744 000 Ashgabat Tel: +993.12 356.688 /392.154 Fax: +993 12 354.515 email: mfatm@online.tm	Ministry of Environmental Use and Protection * 102, Kemine str. 744 000 Ashgabat Tel: +993 12 355.662 or 354.317 Fax: +993 12 511.613 email: makhtum@untuk.org and nfp-tm@online.tm

* Official

Point of Contact for Notification

Caspian Environment Programme	Programme Coordinator: Mr. Hamidreza Ghaffarzadeh UNDP, 185, P.O.Box: 15875-4557 Ghaem Magham Farahani Avenue, Tehran 15868, Islamic Republic of Iran Tel: + 98 21 850 5779 UNDP-operated phones: + 98 21 873 2812-15 UNDP-operated fax: + 98 21 873 8864 e-mail: hghaffarzadeh@caspian.in-baku.com e-mail: hamid.ghaffarzadeh@undp.org
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4.3 Transmission of notification

It is the country of origin's responsibility to ensure that the documents have been received by the affected country or countries⁶.

The notification package should be sent by "registered mail" and "return receipt" requested. This will provide the country of origin with evidence that notification to the appropriate affected parties has been completed and will contain the date of transmission.

4.4 Timing

(Corresponding Espoo Convention Requirements Article 3.2, 3.3)

The country of origin should request a response from the affected country within 30 days. This response only indicates whether or not the affected country wants to participate in the EIA process. It should not be confused with the time necessary to review the EIA itself.

5 Follow-up (good practice) and Response

(Corresponding Espoo Convention Requirements Article 3.3)

The country of origin should contact the point of contact and competent environmental authority in the affected countries, to whom the notification package was submitted, within the two weeks after the receipt of the notification package. The country of origin should enquire if the package was received, if there are any questions, and if sufficient information was obtained for the affected country to make an informed decision about participation in the EIA process.

The country of origin should then remind the affected countries about the necessary timing of the response. The country of origin should request affected countries to submit readily available information on affected environment and related issues that would be helpful for the preparation of the EIA report and consultations.

By the end of the time period, the country of origin should receive responses, particularly from those affected countries who wish to participate in the EIA process.

⁶ It is not sufficient to provide copies of the documents to the CEP for distribution among affected countries, although they may be helpful in facilitating communication. It is not CEP's responsibility to ensure the delivery of the notification.

6 Contacts between competent authorities and public participation

(Corresponding Espoo Convention Requirements Article 3.8, 4.2)

The Country of origin ought to designate for a particular project, a contact point, either within the competent authority or the project developer, and that this person stays in routine contact with the competent authority of affected countries and the Caspian Environment Programme regarding the availability of EIA documents, the proposed consultation process, and other relevant issues.

In particular, it is helpful at this stage to identify the culturally appropriate ways of communication with potentially affected people in the affected countries. For more information, please see Annex 4 on Public Consultation.

7 Transmittal of draft EIA documents to affected countries and CEP

(Corresponding Espoo Convention Requirements 3.8, 4.2)

Draft EIA documents should be provided by registered mail to the affected countries who have requested to participate, as in the notification stage. In addition, information on electronic availability of EIA documentation should be provided. The CEP should always be sent a package of EIA documents. The CEP will post the information on the website <http://www.caspianenvironment.org/transboundary.htm>.

The country of origin can agree with the project developer that the developer directly transmit the draft EIA documents; however, the country of origin should require the developer to submit evidence that this has been undertaken in accordance with the requirements. The country of origin should have previously negotiated any fees to offset the affected country's review of EIA documents.

8 Public Consultation (draft EIA stage)

(Corresponding Espoo Convention Requirements 4.2, 5)

8.1 Process and Meetings

The country of origin should request the affected countries to advise on culturally appropriate consultation processes and identify particularly affected people/concerned people. Consultation can be initiated by the competent authority in the county of origin, the competent authority in the affected countries, the project developer, or by the public in the affected country making representation to their competent authority.

The costs of reasonable and appropriate consultation (printing materials, translation, etc.) should be borne by the project developer. In many circumstances, the developer should begin by hiring a local consultation advisor in the affected country to assist in preparing materials and planning any meetings necessary. See Annex 4 on public consultation.

8.2 Comments

(Corresponding Espoo Convention Requirements Article 3.8, 4.2):

The country of origin should agree with the affected countries and the project developer, the most effective means of collecting and assessing public comments from the affected country, including the language of comments and responses. Comments can be organized in a variety of ways: the comments can be collected by the affected competent authority, or they can be sent directly to the country of origin and the project developer. Whatever mechanism is decided, the mechanism should be transparent and posted on the CEP's website.

8.3 Timing

The country of origin will provide a 60-day time period for public consultation and comments from the affected countries. The timing will be initiated following submittal of draft EIA document to the official Contact Points in the affected countries. The timing for transboundary consultations should take into account the need for translation.

For more information on public consultation under the Espoo Convention, see Annex 4.

When the EIA has been completed the country of origin should contact the competent authorities of the affected countries to make further arrangement to find out whether they would like to have consultations before the final decision will be taken.

9 Final Decision on EIA

(Corresponding Espoo Convention Requirements Article 6)

The country of origin must inform the affected country or countries and the CEP of the final decision on the EIA. The country of origin should summarise the comments received regarding the transboundary issues, and how the comments were taken into account in the final EIA and decision.

The affected countries may wish to obtain information on project implementation and monitoring, and the country of origin should encourage the project developer to consider how information can be provided to all stakeholders, including those in a transboundary context.

The information on the final decision should include a description of any available mechanisms for appeal to administrative or judicial authority for the affected country or its public.

Guidelines for Affected Countries

1 Applicability

The guidelines can be used by countries which have been notified that a country of origin is initiating a proposed project that may have the potential for a transboundary impact, and which will require an environmental impact assessment (EIA). This guidance includes 'requirements' identified under the Espoo Convention, and suggestions (good practice) for the effective implementation

2 Receiving notification of project with potential transboundary impacts

Notification will have been sent to the official Point of Contact/competent authority of affected country(ies). In the event that the official Point of Contact is not the competent environmental authority, a second set of the notification package should be sent to the competent environmental authority. The copy of the notification package will be also sent to the Caspian Environment Programme. The affected country will be told how much time is available, normally 30 days, to decide if they wish to participate in the EIA process. Prior to responding, the affected country should consider informing and discussing the project with the local authorities whose geographic area may be affected by the proposed project. The affected country may also wish to solicit public opinion on whether or not to participate.

As good practice, it would be helpful to have a specific person within the competent environmental authority of affected country who is knowledgeable about all transboundary projects, requirements, and resources, and who can be responsible for arranging the review and preparing the response and ongoing communication. The country of origin may initiate communication with competent authority in the affected country to confirm whether or not the competent authority received the notification package and whether they need more information.

3 Preparing the response

3.1 Affirmative response

(Corresponding Espoo Convention Requirements Article 3.3)

The affected country can choose to participate in the EIA process. The response should be sent by "registered mail" and contain the following information:

a letter of transmittal (see Annex 3 for template),

a summary of readily available information on relevant topics in the affected country (e.g., sensitive ecosystems that might be affected by the proposed project), information on public consultation process in affected country, including contacts of consultation resources, projected costs of meetings, language of documents, amount of technical/non-technical information needed, etc.
comments on proposed timing of the EIA review, information on compensation for review, if applicable.
and a request for the draft EIA, specifying type of information of most interest (e.g., oil spill prevention and response)

3.2 Negative response

The affected country can choose not to participate in the EIA process, and should respond with a letter by registered mail, which indicates that they do not wish to participate. The affected country can, however, request a copy of the draft and final EIA documents or other materials for information.

4 Transmission of Response

(Corresponding Espoo Convention Requirements Article 3.3)

The point of contact/competent authority of the affected country should provide a response to the Point of Contact/competent environment authority of the country of origin, within 30 days. The response should inform that they received the notification and indicate whether they wish to participate in the EIA process. The response letter should be sent by registered mail, and a “return receipt” requested. This will provide the affected countries’ competent authorities with evidence of the requests made and documents and consultation requested.

An electronic copy can be provided as a courtesy to the environmental competent authority; however, this does not count as an official response.

Informal communication is also recommended so the country of origin can proceed with the planning process.

5 Review of draft EIA and Public Consultation

5.1 Review of draft EIA by competent authorities

The draft EIA should be reviewed within 60 days or the request for additional time should be made to the country of origin. In many cases there will be not be much flexibility, as the review period will be in line with their own legal requirements for internal consultation in the country of origin. A request can also be made at this time for future information

during project construction, implementation and monitoring with relation to transboundary impacts.

5.2 Release of draft EIA to public, meetings

The affected country's competent authority should have outlined the appropriate consultation process at the notification stage of the process, including costs (typically borne by the project developer). The draft EIA will be circulated by the project developer or affected country's competent authority, depending on the agreement during notification and discussion. Similarly, meetings may be organised by the developer, the affected country's competent authority, or the competent authority of the country of origin. These processes should be taken within 60 days, if there is no request for additional time from the affected country.

6 Role of competent authorities in transmittal of comments to the country of origin/project developer

(Corresponding Espoo Convention Requirements Article 4.2)

The competent authorities in the affected country should propose the most efficient way of comments being sent to the project developer and the country of origin. This can be achieved by the competent authority of the affected country collecting comments and transmitting them to the project developer and/or the country of origin as determined by the country of origin., The method of collecting comments should be decided at an early stage of the discussions with the competent authority of the country of origin.

7 Receipt of Final Approval of project and communication to consulted public

When the EIA has been completed, the competent authorities of the affected countries are consulted by the country of origin whether they would like to have consultations before the final decision will be taken. Following the finalisation of the EIA, the country of origin should inform to the affected countries that participated in the EIA process regarding the final approval of the project and how comments were taken into account. The affected country's competent authority(ies) should ensure that the comments and how they were taken into account and reflected in the final EIA is made available to the public who participated in the EIA process. The affected countries may wish to obtain information on project implementation and monitoring, and the country of origin should encourage the project developer to consider how information can be provided to all stakeholders, including those in a transboundary context.

Guidelines for Project Developers

1 Applicability

The guidelines are provided to project developers who are planning an environmental impact assessment (EIA) in the Caspian Region and have identified the potential for a transboundary impact associated with their proposed project.

As a project developer, it is prudent to understand the objectives and requirements of the Espoo Convention and to assist the country of origin's competent authority in implementing the requirements. It is also essential that the project developer discuss the requirements with the appropriate competent authorities so that the timing of transboundary notification and response, transmittal of documents, and consultation and their associated budget can be built into the planning process for the project. The text of the Espoo Convention is attached (Annex 1). The guidance on public participation under the Espoo Convention can be found on the UNECE website: www.unece.org/env.

2 Identification of potential transboundary impact

The Espoo Convention's first obligations are during screening of project characteristics, and significant requirements are part of the 'scoping' process, in the project's earliest stages.

The competent authorities of the country of origin will 'screen' the project to determine if the characteristics meet the definition of an applicable project under the Espoo Convention and appropriate national legislation when permitting requirements are first being discussed with the project developer

It will be helpful to provide the competent environmental authorities with the following information at the earliest possible meeting:

- a brief description of the project,
- its potential impacts in normal operating conditions, its potential impacts in a worst case scenario,
- the type of transboundary impacts possible, potential stakeholders affected, and
- draft public consultation and disclosure plan (PCDP)—see Annex 4.

In many circumstances, the project developer would benefit by hiring a local consultation advisor in each affected country to assist in identifying the culturally appropriate consultation process.

3 Preparing notification

The country of origin must notify the potentially affected countries and the Caspian Environment Programme during the 'Scoping' stage of the EIA process. Notification has been identified by the Caspian littoral states as the key step to ensuring the implementation of the requirements under the Espoo Convention, and therefore, that it is important to make it work effectively. It is the country of origin's responsibility to send the notification, and ensure delivery of the documents to the designated Contact Point and/or competent authority in the affected countries. This can typically not be undertaken directly by the project developer without the country of origin competent authority's agreement.

3.1 Notification Letter (template attached in Annex 2)

The notification comprises a brief, non-technical letter, attached to a summary of information on the project. The letter should also include the timing of the EIA review process, description of how disclosure and public consultation process are planned, and contact information for the country of origin's competent authority and the project developer, although it is noted that the point of contact should likely remain as the competent authority until the point when a country wishes to participate. The project developer can prepare a draft notification letter and attach it to the summary of information for the convenience of the country of origin's Espoo Convention Point of Contact/ competent authority, and if necessary, translate into languages indicated in 4.1.

3.2. Summary of information

The information attached to the notification letter should have adequate technical content, including maps, for the affected country to identify its level of interest in being involved in the EIA process. The following information should be part of the notification package. [List below is from www.unece.org/env/eia/notification.htm]

- a) Information on the nature of the proposed activity;
 - i) Whether the activity is listed in Appendix 1 to the Convention;
 - ii) Type of activity;
 - iii) Scope of activity (e.g. main activity and any/all peripheral activities requiring assessment);
 - iv) Scale of activity (e.g., size, production capacity, et.);
 - v) Description of the activity (e.g., technology used);
 - vi) Description of the purpose of the activity;
 - vii) Rationale for proposed activity (e.g., socio-economic, physical-geographic basis);

- b) Information on the spatial and temporal boundaries of the proposed activity;
 - i) Location and description of the location (e.g., physical-geographic, socio-economic characteristics);
 - ii) Rationale for the location of the proposed activity (e.g., socio-economic, physical-geographic basis)
 - iii) Time-frame for proposed activity (e.g., start and duration of construction and operation);
 - iv) Maps and other pictorial documents connected with the information on the proposed activity
- c) Information on expected environmental impacts and proposed mitigation measures:
 - i) Scope of assessment (e.g. consideration of cumulative impacts, alternatives, sustainable development, associated activities, etc.);
 - ii) Expected environmental impacts of the activity (e.g. types, locations, magnitudes);
 - iii) Inputs (e.g. land, water, raw materials, power sources);
 - iv) Outputs (e.g. amounts and types of: emissions into the atmosphere, discharges into the water system, solid waste);
 - v) Available information on the activity's possible significant transboundary environmental impacts (e.g. types, locations, magnitudes);
 - vi) Measures to prevent, eliminate, minimize or compensate for transboundary environmental impacts;
- d) Summary and timing of proposed consultation (country of origin and affected country/ies), including a summary of complaint process/grievance procedure
- e) Name, address and telephone/fax numbers of contact person e.g. of project proponent (developer);
- f) EIA documentation (e.g. EIA report or Environmental Impact Statement), **if already available**.

Please note that in many cases, the above information comprises a 'scoping document' contents list, and the same document can be used for several purposes. Many project developers provide the package of scoping documents for their project, along with a draft of Notification letter to the competent authorities/Point of Contact for each potentially affected country and the Caspian Environment Programme.

3.3 Compensation for review, if applicable

The competent authority country of origin will discuss whether or not a fee is payable by the project developer to the affected country's competent authority to offset review costs of the documentation within the review period.

4 Notification to affected countries and Caspian Environment Programme (CEP)

4.1 Language

For the purpose of notification, if the affected country or countries include Azerbaijan, Kazakhstan, the Russian Federation, or Turkmenistan, documents should be translated into Russian language. Documents for the Islamic Republic of Iran (Iran) and the Caspian Environment Programme should be in both Russian and English languages.

4.2 Recipients

For projects with potential transboundary impacts affecting the Caspian Sea region, two sets of documents should be provided by the country of origin to each potentially affected littoral state: one set of documents should be sent to the official Contact Point nominated by country. In the event that the official Contact Point is not the competent environmental authority, a second set of the notification package should be sent to the competent environmental authority. The Official list of the contact points

can be found on the Convention website (<http://www.unece.org/env/eia/contacts.htm>) which is regularly updated. At this stage, the Caspian Environment Programme should also be notified to post the name of the project, a brief description, and contact information for the developer on its website (www to be filled in by the CEP) Two complete sets of documents (one each of English and Russian language) and a CD Rom containing the files should be sent to the Coordinator of the Caspian Environment Programme at the main office.

These should be in hard copy; however, an electronic copy can be sent to the environmental authorities to give them advance notice of the submittal.

4.3 Transmission of notification

It is the country of origin's competent authority's responsibility to ensure that the documents have been received by the affected country or countries. The notification package should be sent by "registered mail" and "return receipt" requested. This will provide the country of origin's competent authority with evidence that notification to the appropriate affected parties has been completed and will contain a date of transmission.

An electronic copy can be provided as a courtesy to the environmental authority as advance notification for their use in planning purposes; however, this does not count as an official notification.

4.4 Timing

A 30 day time period, normally, is given following notification to affected countries, for their response. The response will indicate whether or not the affected country wants to participate in the EIA process.

5 Follow-up and Response

The country of origin should contact the parties in the affected country or countries, to whom the notification package was submitted, approximately two weeks following receipt of the package. They should enquire if the package was received, if there are any questions, and if sufficient information was obtained to make an informed decision about participation in the EIA process.

The country of origin should then remind the affected country about the timing of the response and what information would be helpful regarding particular sensitivities of the affected environment.

At the end of the time period, the country of origin should receive responses, particularly from those affected countries who wish to participate in the EIA process. The project developer should note that the country of origin's authorities may delegate communication to the project developer.

In addition, the project developer should note that the affected countries may respond with reports on areas of particular sensitivity, vulnerable stakeholders, and other information which should be taken into account, prior to finalising the scope of the EIA.

The remainder of this *Guidelines* assumes that the affected country has requested to participate in the EIA process. It is recommended that the country of origin always transfer the draft EIA documents to Caspian Environment Programme regardless whether or not the affected countries' decision on the participation of the EIA process.

6 Contacts between competent authorities and public participation

It would be a good practice for the project developer to have one point of contact who is knowledgeable about the Espoo Convention and the transboundary issues and can fill the communication role necessary to ensure all requirements are met in a timely manner. This person should stay in routine contact with the affected countries, as agreed with the country of origin's competent authority, and the Caspian Environment Programme regarding the availability of EIA documents, the proposed consultation process, and other relevant issues.

In particular, it is helpful at this stage to identify the culturally appropriate ways of communication with potentially affected people in the affected country. For example, while notification documents are provided to competent authorities in Russian and English languages, public consultation with affected people,

e.g., local fishermen, will likely need to be in local language, and some information, such as EIA summaries or fact sheets may need to be available in Turkmen, Farsi, Azeri, and so forth.

For more information, please see Annex 4 on Public Consultation.

7 Transmittal of draft EIA documents to affected countries and CEP

Draft EIA documents should be provided to the affected countries who have requested to participate by "registered mail", as in the notification stage. In addition, information on electronic availability of EIA documentation should be provided (i.e., publishing of EIAs on websites). The CEP should always be sent a package of EIA documents.

The country of origin can agree with the project developer that the developer transmit the draft EIA documents; however, the country of origin should require the developer to submit evidence that this has been completed in accordance with the requirements.

8 Public Consultation (draft EIA report stage)

8.1 Process and Meetings

The project developer should identify the culturally appropriate ways of consultation in potentially affected countries. In many circumstances, the developer should begin by hiring a local consultation advisor in the affected country to assist in preparing materials and planning any meetings necessary. Typically, the costs of reasonable and appropriate consultation (printing materials, translation, etc.) should be borne by the project developer. See Annex 4 on public consultation.

The Espoo Convention requires that stakeholders in the affected country have an equivalent opportunity to learn about the proposed project and provide comments on the documents, to those in the country of origin. It is therefore essential that the project developer plan carefully and document the consultation process well to be able to use as evidence that the requirements were met.

8.2 Comments

A plan of collecting and assessing comments from public and authorities in affected countries should be discussed with the country of origin's authority, including the language of comments and responses. Comments can be organized in a variety of ways: the comments can be collected by the affected competent authority, or they can be sent directly to the country of origin's competent authority and the project developer. Whatever mechanism is decided, the mechanism should be transparent

and posted on the CEP's website and elaborated in the public consultation and disclosure plan.

8.3 Timing

The country of origin will set a specific time period during which comments can be submitted by affected countries. This timing should typically be consistent with the country of origin's internal requirement for consultation in the EIA process (e.g., 60 days). The timing for transboundary consultation should take into account the potential need for translation. For most countries, a review period of 60 days was acceptable. No responses will typically be considered following end of disclosure period.

9 Summary of Comments, Final Decision on EIA

Following the finalisation of the EIA, the developer should draft a summary of public comments received through the transboundary notification and consultation process and how these comments were taken into account in the final EIA.

This summary should be sent to the affected countries that participated in the EIA process and the CEP. Affected countries may wish to have information on project implementation and monitoring, and the project developer should consider how information can be provided to all stakeholders, including those in a transboundary context.

10 Final Report

Following the finalisation of the EIA, the developer should provide a summary report to the country of origin's competent authority on how the requirements under the Espoo Convention were fulfilled.

Annex 1

Convention on Environmental Impact Assessment in a Transboundary Context done at Espoo (Finland) on 25 February 1991

The Parties to this Convention,
Aware of the interrelationship between economic activities and their environmental consequences, Affirming the need to ensure environmentally sound and sustainable development,
Determined to enhance international co-operation in assessing environmental impact in particular in a transboundary context,
Mindful of the need and importance to develop anticipatory policies and of preventing, mitigating and monitoring significant adverse environmental impact in general and more specifically in a transboundary context,
Recalling the relevant provisions of the Charter of the United Nations, the Declaration of the Stockholm Conference on the Human Environment, the Final Act of the Conference on Security and Co-operation in Europe (CSCE) and the Concluding Documents of the Madrid and Vienna Meetings of Representatives of the Participating States of the CSCE,
Commending the ongoing activities of States to ensure that, through their national legal and administrative provisions and their national policies, environmental impact assessment is carried out,
Conscious of the need to give explicit consideration to environmental factors at an early stage in the decision-making process by applying environmental impact assessment, at all appropriate administrative levels, as a necessary tool to improve the quality of information presented to decision makers so that environmentally sound decisions can be made paying careful

attention to minimizing significant adverse impact, particularly in a transboundary context,
Mindful of the efforts of international organizations to promote the use of environmental impact assessment both at the national and international levels, and taking into account work on environmental impact assessment carried out under the auspices of the United Nations Economic Commission for Europe, in particular results achieved by the Seminar on Environmental Impact Assessment (September 1987, Warsaw, Poland) as well as noting the Goals and Principles on environmental impact assessment adopted by the Governing Council of the United Nations Environment Programme, and the Ministerial Declaration on Sustainable Development (May 1990, Bergen, Norway),
Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of this Convention,
(i) "Parties" means, unless the text otherwise indicates, the Contracting Parties to this Convention;
(ii) "Party of origin" means the Contracting Party or Parties to this Convention under whose jurisdiction a proposed activity is envisaged to take place;
(iii) "Affected Party" means the Contracting Party or Parties to this Convention likely to be affected by the transboundary impact of a proposed activity;
(iv) "Concerned Parties" means the Party of origin and the affected Party of an environmental impact assessment pursuant to this Convention;
(v) "Proposed activity" means any activity or any major change to an activity subject to a decision of a competent authority in accordance with an applicable national procedure;

(vi) "Environmental impact assessment" means a national procedure for evaluating the likely impact of a proposed activity on the environment;

(vii) "Impact" means any effect caused by a proposed activity on the environment including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors;

(viii) "Transboundary impact" means any impact, not exclusively of a global nature, within an area under the jurisdiction of a Party caused by a proposed activity the physical origin of which is situated wholly or in part within the area under the jurisdiction of another Party;

(ix) "Competent authority" means the national authority or authorities designated by a Party as responsible for performing the tasks covered by this Convention and/or the authority or authorities entrusted by a Party with decision-making powers regarding a proposed activity;

(x) "The Public" means one or more natural or legal persons.

Article 2

GENERAL PROVISIONS

1. The Parties shall, either individually or jointly, take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities.

2. Each Party shall take the necessary legal, administrative or other measures to implement the provisions of this Convention, including, with respect to proposed activities listed in [Appendix I](#) that are likely to cause significant adverse transboundary impact, the establishment of an environmental impact assessment procedure that

permits public participation and preparation of the environmental impact assessment documentation described in [Appendix II](#).

3. The Party of origin shall ensure that in accordance with the provisions of this Convention an environmental impact assessment is undertaken prior to a decision to authorize or undertake a proposed activity listed in [Appendix I](#) that is likely to cause a significant adverse transboundary impact.

4. The Party of origin shall, consistent with the provisions of this Convention, ensure that affected Parties are notified of a proposed activity listed in [Appendix I](#) that is likely to cause a significant adverse transboundary impact.

5. Concerned Parties shall, at the initiative of any such Party, enter into discussions on whether one or more proposed activities not listed in [Appendix I](#) is or are likely to cause a significant adverse transboundary impact and thus should be treated as if it or they were so listed. Where those Parties so agree, the activity or activities shall be thus treated. General guidance for identifying criteria to determine significant adverse impact is set forth in [Appendix III](#).

6. The Party of origin shall provide, in accordance with the provisions of this Convention, an opportunity to the public in the areas likely to be affected to participate in relevant environmental impact assessment procedures regarding proposed activities and shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin.

7. Environmental impact assessments as required by this Convention shall, as a minimum requirement, be undertaken at the project level of the proposed activity. To the extent appropriate, the Parties shall endeavour to apply the principles of environmental impact assessment to policies, plans and programmes.

8. The provisions of this Convention shall not affect the right of Parties to implement national laws, regulations,

administrative provisions or accepted legal practices protecting information the supply of which would be prejudicial to industrial and commercial secrecy or national security.

9. The provisions of this Convention shall not affect the right of particular Parties to implement, by bilateral or multilateral agreement where appropriate, more stringent measures than those of this Convention.

10. The provisions of this Convention shall not prejudice any obligations of the Parties under international law with regard to activities having or likely to have a transboundary impact.

Article 3

NOTIFICATION

1. For a proposed activity listed in [Appendix I](#) that is likely to cause a significant adverse transboundary impact, the Party of origin shall, for the purposes of ensuring adequate and effective consultations under [Article 5](#), notify any Party which it considers may be an affected Party as early as possible and no later than when informing its own public about that proposed activity.

2. This notification shall contain, inter alia:

(a) Information on the proposed activity, including any available information on its possible transboundary impact;

(b) The nature of the possible decision; and

(c) An indication of a reasonable time within which a response under paragraph 3 of this Article is required, taking into account the nature of the proposed activity;

and may include the information set out in paragraph 5 of this Article.

3. The affected Party shall respond to the Party of origin within the time specified in the notification, acknowledging receipt of the notification, and shall indicate whether it intends to participate in the environmental impact assessment procedure.

4. If the affected Party indicates that it does not intend to participate in the environmental impact assessment procedure, or if it does not respond within the time specified in the notification, the provisions in paragraphs 5, 6, 7 and 8 of this Article and in [Articles 4 to 7](#) will not apply. In such circumstances the right of a Party of origin to determine whether to carry out an environmental impact assessment on the basis of its national law and practice is not prejudiced.

5. Upon receipt of a response from the affected Party indicating its desire to participate in the environmental impact assessment procedure, the Party of origin shall, if it has not already done so, provide to the affected Party:

(a) Relevant information regarding the environmental impact assessment procedure, including an indication of the time schedule for transmittal of comments; and

(b) Relevant information on the proposed activity and its possible significant adverse transboundary impact.

6. An affected Party shall, at the request of the Party of origin, provide the latter with reasonably obtainable information relating to the potentially affected environment under the jurisdiction of the affected Party, where such information is necessary for the preparation of the environmental impact assessment documentation. The information shall be furnished promptly and, as appropriate, through a joint body where one exists.

7. When a Party considers that it would be affected by a significant adverse transboundary impact of a proposed activity listed in [Appendix I](#), and when no notification has taken place in accordance with paragraph 1 of this Article, the concerned Parties shall, at the request of the affected Party, exchange sufficient information for the purposes of holding discussions on whether there is likely to be a significant adverse transboundary impact. If those Parties agree that there is likely to be a significant adverse transboundary

impact, the provisions of this Convention shall apply accordingly. If those Parties cannot agree whether there is likely to be a significant adverse transboundary impact, any such Party may submit that question to an inquiry commission in accordance with the provisions of [Appendix IV](#) to advise on the likelihood of significant adverse transboundary impact, unless they agree on another method of settling this question.

8. The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be provided with possibilities for making comments or objections on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin.

Article 4

PREPARATION OF THE ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTATION

1. The environmental impact assessment documentation to be submitted to the competent authority of the Party of origin shall contain, as a minimum, the information described in [Appendix II](#).

2. The Party of origin shall furnish the affected Party, as appropriate through a joint body where one exists, with the environmental impact assessment documentation. The concerned Parties shall arrange for distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity.

Article 5

CONSULTATIONS ON THE BASIS OF THE ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTATION

The Party of origin shall, after completion of the environmental impact assessment documentation, without undue delay enter into consultations with the affected Party concerning, inter alia, the potential transboundary impact of the proposed activity and measures to reduce or eliminate its impact. Consultations may relate to:

- (a) Possible alternatives to the proposed activity, including the no-action alternative and possible measures to mitigate significant adverse transboundary impact and to monitor the effects of such measures at the expense of the Party of origin;
- (b) Other forms of possible mutual assistance in reducing any significant adverse transboundary impact of the proposed activity; and
- (c) Any other appropriate matters relating to the proposed activity.

The Parties shall agree, at the commencement of such consultations, on a reasonable time-frame for the duration of the consultation period. Any such consultations may be conducted through an appropriate joint body, where one exists.

Article 6

FINAL DECISION

1. The Parties shall ensure that, in the final decision on the proposed activity, due account is taken of the outcome of the environmental impact assessment, including the environmental impact assessment documentation, as well as the comments thereon received pursuant to [Article 3](#), paragraph 8 and [Article 4](#), paragraph 2, and the outcome of the consultations as referred to in [Article 5](#).

2. The Party of origin shall provide to the affected Party the final decision on

the proposed activity along with the reasons and considerations on which it was based.

3. If additional information on the significant transboundary impact of a proposed activity, which was not available at the time a decision was made with respect to that activity and which could have materially affected the decision, becomes available to a concerned Party before work on that activity commences, that Party shall immediately inform the other concerned Party or Parties. If one of the concerned Parties so requests, consultations shall be held as to whether the decision needs to be revised.

Article 7

POST-PROJECT ANALYSIS

1. The concerned Parties, at the request of any such Party, shall determine whether, and if so to what extent, a post-project analysis shall be carried out, taking into account the likely significant adverse transboundary impact of the activity for which an environmental impact assessment has been undertaken pursuant to this Convention. Any post-project analysis undertaken shall include, in particular, the surveillance of the activity and the determination of any adverse transboundary impact. Such surveillance and determination may be undertaken with a view to achieving the objectives listed in [Appendix V](#).

2. When, as a result of post-project analysis, the Party of origin or the affected Party has reasonable grounds for concluding that there is a significant adverse transboundary impact or factors have been discovered which may result in such an impact, it shall immediately inform the other Party. The concerned Parties shall then consult on necessary measures to reduce or eliminate the impact.

Article 8

BILATERAL AND MULTILATERAL CO-OPERATION

The Parties may continue existing or enter into new bilateral or multilateral agreements or other arrangements in order to implement their obligations under this Convention. Such agreements or other arrangements may be based on the elements listed in [Appendix VI](#).

Article 9

RESEARCH PROGRAMMES

The Parties shall give special consideration to the setting up, or intensification of, specific research programmes aimed at:

- (a) Improving existing qualitative and quantitative methods for assessing the impacts of proposed activities;
- (b) Achieving a better understanding of cause-effect relationships and their role in integrated environmental management;
- (c) Analysing and monitoring the efficient implementation of decisions on proposed activities with the intention of minimizing or preventing impacts;
- (d) Developing methods to stimulate creative approaches in the search for environmentally sound alternatives to proposed activities, production and consumption patterns;
- (e) Developing methodologies for the application of the principles of environmental impact assessment at the macro-economic level.

The results of the programmes listed above shall be exchanged by the Parties.

Article 10

STATUS OF THE APPENDICES

The Appendices attached to this Convention form an integral part of the Convention.

Article 11

MEETING OF PARTIES

1. The Parties shall meet, so far as possible, in connection with the annual sessions of the Senior Advisers to ECE Governments on Environmental and Water Problems. The first meeting of the Parties shall be convened not later than one year after the date of the entry into force of this Convention. Thereafter, meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party, provided that, within six months of the request being communicated to them by the secretariat, it is supported by at least one third of the Parties.
2. The Parties shall keep under continuous review the implementation of this Convention, and, with this purpose in mind, shall:
 - (a) Review the policies and methodological approaches to environmental impact assessment by the Parties with a view to further improving environmental impact assessment procedures in a transboundary context;
 - (b) Exchange information regarding experience gained in concluding and implementing bilateral and multilateral agreements or other arrangements regarding the use of environmental impact assessment in a transboundary context to which one or more of the Parties are party;
 - (c) Seek, where appropriate, the services of competent international bodies and scientific committees in methodological and technical aspects pertinent to the achievement of the purposes of this Convention;
 - (d) At their first meeting, consider and by consensus adopt rules of procedure for their meetings;
 - (e) Consider and, where necessary, adopt proposals for amendments to this Convention;
 - (f) Consider and undertake any additional action that may be required

for the achievement of the purposes of this Convention.

Article 12

RIGHT TO VOTE

1. Each Party to this Convention shall have one vote.
2. Except as provided for in paragraph 1 of this Article, regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 13

SECRETARIAT

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions:

- (a) The convening and preparing of meetings of the Parties;
- (b) The transmission of reports and other information received in accordance with the provisions of this Convention to the Parties; and
- (c) The performance of other functions as may be provided for in this Convention or as may be determined by the Parties.

Article 14

AMENDMENTS TO THE CONVENTION

1. Any Party may propose amendments to this Convention.
2. Proposed amendments shall be submitted in writing to the secretariat, which shall communicate them to all Parties. The proposed amendments shall be discussed at the next meeting of the Parties, provided these proposals have been circulated by the

secretariat to the Parties at least ninety days in advance.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.

4. Amendments to this Convention adopted in accordance with paragraph 3 of this Article shall be submitted by the Depositary to all Parties for ratification, approval or acceptance. They shall enter into force for Parties having ratified, approved or accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three fourths of these Parties. Thereafter they shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.

5. For the purpose of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

6. The voting procedure set forth in paragraph 3 of this Article is not intended to constitute a precedent for future agreements negotiated within the Economic Commission for Europe.

Article 15

SETTLEMENT OF DISPUTES

1. If a dispute arises between two or more Parties about the interpretation or application of this Convention, they shall seek a solution by negotiation or by any other method of dispute settlement acceptable to the parties to the dispute.

2. When signing, ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party may declare in writing to the

Depositary that for a dispute not resolved in accordance with paragraph 1 of this Article, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice;

(b) Arbitration in accordance with the procedure set out in

[Appendix VII](#).

3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 of this Article, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

Article 16

SIGNATURE

This Convention shall be open for signature at Espoo (Finland) from 25 February to 1 March 1991 and thereafter at United Nations Headquarters in New York until 2 September 1991 by States members of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe pursuant to paragraph 8 of the Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence in respect of matters governed by this Convention, including the competence to enter into treaties in respect of these matters.

Article 17

RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. This Convention shall be subject to ratification, acceptance or approval by

signatory States and regional economic integration organizations.

2. This Convention shall be open for accession as from 3 September 1991 by the States and organizations referred to in [Article 16](#).

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations, who shall perform the functions of Depositary.

4. Any organization referred to in [Article 16](#) which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under this Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under this Convention concurrently.

5. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in [Article 16](#) shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Depositary of any relevant modification to the extent of their competence.

Article 18

ENTRY INTO FORCE

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.

2. For the purposes of paragraph 1 of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of such an organization.

3. For each State or organization referred to in [Article 16](#) which ratifies,

accepts or approves this Convention or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

Article 19

WITHDRAWAL

At any time after four years from the date on which this Convention has come into force with respect to a Party, that Party may withdraw from this Convention by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depositary. Any such withdrawal shall not affect the application of [Articles 3 to 6](#) of this Convention to a proposed activity in respect of which a notification has been made pursuant to [Article 3](#), paragraph 1, or a request has been made pursuant to [Article 3](#), paragraph 7, before such withdrawal took effect.

Article 20

AUTHENTIC TEXTS

The original of this Convention, of which the English, French and Russian texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Espoo (Finland), this twenty-fifth day of February one thousand nine hundred and ninety-one.

APPENDIX I

LIST OF ACTIVITIES

1. Crude oil refineries (excluding undertakings manufacturing only)

lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.

2. Thermal power stations and other combustion installations with a heat output of 300 megawatts or more and nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed

1 kilowatt continuous thermal load).

3. Installations solely designed for the production or enrichment of nuclear fuels, for the reprocessing of irradiated nuclear fuels or for the storage, disposal and processing of radioactive waste.

4. Major installations for the initial smelting of cast-iron and steel and for the production of non-ferrous metals.

5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20,000 tonnes finished product; for friction material, with an annual production of more than 50 tonnes finished product; and for other asbestos utilization of more than 200 tonnes per year.

6. Integrated chemical installations.

7. Construction of motorways, express roads */ and lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more.

8. Large-diameter oil and gas pipelines.

9. Trading ports and also inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes.

10. Waste-disposal installations for the incineration, chemical treatment or landfill of toxic and dangerous wastes.

11. Large dams and reservoirs.

12. Groundwater abstraction activities in cases where the annual volume of water to be abstracted amounts to 10 million cubic metres or more.

13. Pulp and paper manufacturing of 200 air-dried metric tonnes or more per day.

14. Major mining, on-site extraction and processing of metal ores or coal.

15. Offshore hydrocarbon production.

16. Major storage facilities for petroleum, petrochemical and chemical products.

17. Deforestation of large areas.

*/ For the purposes of this Convention:

- "Motorway" means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

(a) Is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other by a dividing strip not intended for traffic or, exceptionally, by other means;

(b) Does not cross at level with any road, railway or tramway track, or footpath; and

(c) Is specially sign-posted as a motorway.

- "Express road" means a road reserved for motor traffic accessible only from interchanges or controlled junctions and on which, in particular, stopping and parking are prohibited on the running carriageway(s).

APPENDIX II

CONTENT OF THE ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTATION

Information to be included in the environmental impact assessment documentation shall, as a minimum, contain, in accordance with [Article 4](#):

(a) A description of the proposed activity and its purpose;

(b) A description, where appropriate, of reasonable alternatives (for example, locational or technological) to the proposed activity and also the no-action alternative;

(c) A description of the environment likely to be significantly affected by the proposed activity and its alternatives;

- (d) A description of the potential environmental impact of the proposed activity and its alternatives and an estimation of its significance;
- (e) A description of mitigation measures to keep adverse environmental impact to a minimum;
- (f) An explicit indication of predictive methods and underlying assumptions as well as the relevant environmental data used;
- (g) An identification of gaps in knowledge and uncertainties encountered in compiling the required information;
- (h) Where appropriate, an outline for monitoring and management programmes and any plans for post-project analysis; and
- (i) A non-technical summary including a visual presentation as appropriate (maps, graphs, etc.).

APPENDIX III

GENERAL CRITERIA TO ASSIST IN THE DETERMINATION OF THE ENVIRONMENTAL SIGNIFICANCE OF ACTIVITIES NOT LISTED IN APPENDIX I

1. In considering proposed activities to which [Article 2](#), paragraph 5, applies, the concerned Parties may consider whether the activity is likely to have a significant adverse transboundary impact in particular by virtue of one or more of the following criteria:
 - (a) Size: proposed activities which are large for the type of the activity;
 - (b) Location: proposed activities which are located in or close to an area of special environmental sensitivity or importance (such as wetlands designated under the Ramsar Convention, national parks, nature reserves, sites of special scientific interest, or sites of archaeological, cultural or historical importance); also, proposed activities in locations where the characteristics of proposed development would be likely to have significant effects on the population;
 - (c) Effects: proposed activities with particularly complex and potentially

adverse effects, including those giving rise to serious effects on humans or on valued species or organisms, those which threaten the existing or potential use of an affected area and those causing additional loading which cannot be sustained by the carrying capacity of the environment.

2. The concerned Parties shall consider for this purpose proposed activities which are located close to an international frontier as well as more remote proposed activities which could give rise to significant transboundary effects far removed from the site of development.

APPENDIX IV

INQUIRY PROCEDURE

1. The requesting Party or Parties shall notify the secretariat that it or they submit(s) the question of whether a proposed activity listed in [Appendix I](#) is likely to have a significant adverse transboundary impact to an inquiry commission established in accordance with the provisions of this Appendix. This notification shall state the subject-matter of the inquiry. The secretariat shall notify immediately all Parties to this Convention of this submission.

2. The inquiry commission shall consist of three members. Both the requesting party and the other party to the inquiry procedure shall appoint a scientific or technical expert, and the two experts so appointed shall designate by common agreement the third expert, who shall be the president of the inquiry commission. The latter shall not be a national of one of the parties to the inquiry procedure, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the matter in any other capacity.

3. If the president of the inquiry commission has not been designated within two months of the appointment of the second expert, the Executive Secretary of the Economic

Commission for Europe shall, at the request of either party, designate the president within a further two-month period.

4. If one of the parties to the inquiry procedure does not appoint an expert within one month of its receipt of the notification by the secretariat, the other party may inform the Executive

Secretary of the Economic Commission for Europe, who shall designate the president of the inquiry commission within a further two-month period. Upon designation, the president of the inquiry commission shall request the party which has not appointed an expert to do so within one month. After such a period, the president shall inform the Executive

Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period.

5. The inquiry commission shall adopt its own rules of procedure.

6. The inquiry commission may take all appropriate measures in order to carry out its functions.

7. The parties to the inquiry procedure shall facilitate the work of the inquiry commission and, in particular, using all means at their disposal, shall:

(a) Provide it with all relevant documents, facilities and information; and

(b) Enable it, where necessary, to call witnesses or experts and receive their evidence.

8. The parties and the experts shall protect the confidentiality of any information they receive in confidence during the work of the inquiry commission.

9. If one of the parties to the inquiry procedure does not appear before the inquiry commission or fails to present its case, the other party may request the inquiry commission to continue the proceedings and to complete its work. Absence of a party or failure of a party to present its case shall not constitute a bar to the continuation and completion of the work of the inquiry commission.

10. Unless the inquiry commission determines otherwise because of the particular circumstances of the matter, the expenses of the inquiry

commission, including the remuneration of its members, shall be borne by the parties to the inquiry procedure in equal shares. The inquiry commission shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

11. Any Party having an interest of a factual nature in the subject-matter of the inquiry procedure, and which may be affected by an opinion in the matter, may intervene in the proceedings with the consent of the inquiry commission.

12. The decisions of the inquiry commission on matters of procedure shall be taken by majority vote of its members. The final opinion of the inquiry commission shall reflect the view of the majority of its members and shall include any dissenting view.

13. The inquiry commission shall present its final opinion within two months of the date on which it was established unless it finds it necessary to extend this time limit for a period which should not exceed two months.

14. The final opinion of the inquiry commission shall be based on accepted scientific principles. The final opinion shall be transmitted by the inquiry commission to the parties to the inquiry procedure and to the secretariat.

APPENDIX V

POST-PROJECT ANALYSIS

Objectives include:

(a) Monitoring compliance with the conditions as set out in the authorization or approval of the activity and the effectiveness of mitigation measures;

(b) Review of an impact for proper management and in order to cope with uncertainties;

(c) Verification of past predictions in order to transfer experience to future activities of the same type.

APPENDIX VI

ELEMENTS FOR BILATERAL AND MULTILATERAL CO-OPERATION

1. Concerned Parties may set up, where appropriate, institutional arrangements or enlarge the mandate of existing institutional arrangements within the framework of bilateral and multilateral agreements in order to give full effect to this Convention.

2. Bilateral and multilateral agreements or other arrangements may include:

(a) Any additional requirements for the implementation of this Convention, taking into account the specific conditions of the subregion concerned;

(b) Institutional, administrative and other arrangements, to be made on a reciprocal and equivalent basis;

(c) Harmonization of their policies and measures for the protection of the environment in order to attain the greatest possible similarity in standards and methods related to the implementation of environmental impact assessment;

(d) Developing, improving, and/or harmonizing methods for the identification, measurement, prediction and assessment of impacts, and for post-project analysis;

(e) Developing and/or improving methods and programmes for the collection, analysis, storage and timely dissemination of comparable data regarding environmental quality in order to provide input into environmental impact assessment;

(f) The establishment of threshold levels and more specified criteria for defining the significance of transboundary impacts related to the location, nature or size of proposed activities, for which environmental impact assessment in accordance with the provisions of this Convention shall be applied; and the establishment of critical loads of transboundary pollution;

(g) Undertaking, where appropriate, joint environmental impact assessment, development of joint monitoring

programmes, intercalibration of monitoring devices and harmonization of methodologies with a view to rendering the data and information obtained compatible.

APPENDIX VII

ARBITRATION

1. The claimant Party or Parties shall notify the secretariat that the Parties have agreed to submit the dispute to arbitration pursuant to

[Article 15](#), paragraph 2, of this Convention. The notification shall state the subject-matter of arbitration and include, in particular, the Articles of this Convention, the interpretation or application of which are at issue. The secretariat shall forward the information received to all Parties to this Convention.

2. The arbitral tribunal shall consist of three members. Both the claimant Party or Parties and the other Party or Parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the president of the arbitral tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

3. If the president of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Executive Secretary of the Economic Commission for Europe shall, at the request of either party to the dispute, designate the president within a further two-month period.

4. If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may inform the Executive Secretary of the Economic Commission for Europe, who shall designate the president of the arbitral tribunal within a further two-month

period. Upon designation, the president of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such a period, the president shall inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period.

5. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention.

6. Any arbitral tribunal constituted under the provisions set out herein shall draw up its own rules of procedure.

7. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.

8. The tribunal may take all appropriate measures in order to establish the facts.

9. The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

(a) Provide it with all relevant documents, facilities and information; and

(b) Enable it, where necessary, to call witnesses or experts and receive their evidence.

10. The parties and the arbitrators shall protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

11. The arbitral tribunal may, at the request of one of the parties, recommend interim measures of protection.

12. If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to render its final decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before rendering its final

decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

13. The arbitral tribunal may hear and determine counter-claims arising directly out of the subject-matter of the dispute.

14. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

15. Any Party to this Convention having an interest of a legal nature in the subject-matter of the dispute, and which may be affected by a decision in the case, may intervene in the proceedings with the consent of the tribunal.

16. The arbitral tribunal shall render its award within five months of the date on which it is established unless it finds it necessary to extend the time limit for a period which should not exceed five months.

17. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon all parties to the dispute. The award will be transmitted by the arbitral tribunal to the parties to the dispute and to the secretariat. The secretariat will forward the information received to all Parties to this Convention.

18. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.

Country of origin

Name

Address

Tel & Fax

Email address

Date

Affected County

Point of Contact

Name

Address

Tel & Fax

Email address

Dear xxxx,

Re: Notification of Environmental Impact Assessment

This letter is to inform you that the _____(Country of origin) has identified a potential project in the Caspian coast that Project Developer _____ is considering. The project involves a port development, including a load facility for oil. Project Developer _____ has indicated that there is a potential for transboundary environmental impact from this project, including the unlikely event of a major accident involving a tanker loading at the facility.

In accordance with the law in the country of origin, the project will undergo an Environmental Impact Assessment (EIA) and is now at the Scoping stage. Although our country has not ratified the UNECE Convention on EIA in a Transboundary Context, we are notifying you in the interest of good international cooperation for protecting the Caspian Sea environment and in line with the discussions researched with the five littoral states, UNECE, UNEP, EBRD and the Caspian Environment Programme. Please find attached project description, project maps, and preliminary information on anticipated environment impacts. We would like to know if your country would like to participate in the EIA process, and would encourage you to make us aware of any particularly sensitive environmental or social issues that might be affected in the _____ region that should be taken into account. We would appreciate it if you could let us know the contact details of the person in charge. We would also like to know if you would like information provided to the local public, and to have a contact point for the local environmental authorities.

We will need a response from you whether or not you would like to participate in the EIA process within 30 calendar days upon receipt of this letter.

With best regards,

Country of Origin

Competent Environment Authority

copy to:

Competent environmental authority (if the point of contact for the notification is Ministry of Foreign Affairs)

Summary of information on proposed project and contact details

(a) Information on the nature of the proposed activity	
Type of activity proposed	
Is the proposed activity listed in Appendix I to the Convention?	Yes No
Scope of proposed activity (e.g. main activity and any/all peripheral activities requiring assessment)	
Scale of proposed activity (e.g. size, production capacity, etc.)	
Description of proposed activity (e.g. technology used)	
Description of purpose of proposed activity	
Rationale for proposed activity (e.g. socio-economic, physical geographic basis)	
Additional information/comments	
(b) Information on the spatial and temporal boundaries of the proposed activity	
Location	
Description of the location (e.g. physical-geographic, socio-economic characteristics)	
Rationale for location of proposed activity (e.g. socio-economic, physical-geographic basis)	
Time-frame for proposed activity (e.g. start and duration of construction and operation)	
Maps and other pictorial documents connected with the information on the proposed activity	
Additional information/comments	
(c) Information on expected environmental impacts and proposed mitigation measures	
Scope of assessment (e.g. consideration of: cumulative impacts, evaluation of alternatives, sustainable development issues, impact of peripheral activities, etc.)	
Expected environmental impacts of proposed activity (e.g. types, locations, magnitudes)	
Inputs (e.g. land, water, raw material, power sources, etc.)	
Outputs (e.g. amounts and types of: emissions into the atmosphere, discharges into the water system, solid waste)	
Transboundary impacts (e.g. types, locations, magnitudes)	
Proposed mitigation measures (e.g. if known, mitigation measures to prevent, eliminate, minimize, compensate for environmental effects)	
Additional information/comments	
(d) Summary and timing of proposed consultation including a summary of complaint process/grievance procedure	
(e) Proponent/developer (contact details) –	
Name, address, telephone and fax numbers	

(f) EIA documentation and procedure	
Is the EIA documentation (e.g. EIA report or EIS) included in the notification?	Yes No Partial
Time schedule	
Contact details (country of origin)	
Authority responsible for coordinating activities relating to the EIA (refer to decision I/3, appendix)	
- Name, address, telephone and fax numbers	

Annex 3
Response letter

Affected Country
Name
Address
Tel & Fax
Email address

Date

Country of Origin
Name
Address

Dear xxxx,

Re: Response to your notification letter of Environmental Impact Assessment dated _____

Thank you for your notification letter dated _____. We would like to participate in your EIA procedure. We would like to draw your particular attention to two sensitive wetlands in the region that the oil spill could impact, and one tourist area.

We designate _____ (at the competent Environment Authority) for the future routine contact with your competent environment authority and developer for the public consultation and revision of the draft EIA report. We will attach summary information as well as contact information for local authorities, consultation specialists, local fishery organizations, and NGOs.

With best regards,

Affected country

Competent Environment Authority

copy to:

Country of Origin, competent Environment Authority (if the point of contact for the notification is Ministry of Foreign Affairs)

Caspian Environment Programme

1. INFORMATION ON THE POTENTIALLY AFFECTED ENVIRONMENT	
(i) Information relating to the potentially affected environment	
Environmentally sensitive areas	
Protected areas Archaeologically sensitive areas	
Additional information/comments	
(ii) Information on activities within the potentially affected region	
Activities which may influence the transboundary environmental effects caused by the proposed activity	
Additional information/comments	
(iii) Points of contact	
Points of contact where above information may be obtained	
Names, addresses, telephone and fax numbers	
2. RESPONSE TO REQUEST FOR A PROPOSAL FOR PUBLIC PARTICIPATION	
(i) Language(s)	
Language(s) of the EIA documentation	
(ii) Responsible Parties	
Party responsible for public notification and/or distribution of EIA documentation	
If different than above, Party responsible for conducting the public participation process and for receiving comments from the public	
(iii) Distribution of EIA documentation	
Public locations where EIA documentation should be sent (e.g. libraries) including the number of copies required at each location	
Authorities (i.e. governmental, scientific, etc.) to which the EIA documentation should be sent, including the number of copies for each authority	
(iv) Additional information regarding proposal for public participation	
Additional information/comments/suggestions	

1 Guidance

“Guidance on Public Participation in Environmental Impact Assessment in a transboundary context” (Espoo Convention Secretariat in 2004) The Aarhus Convention: An implementation guide (UNECE/REC/DANCEE 2000)
<http://www.unece.org/env/pp/acig.htm> (in English and Russian)

2 Public Consultation and Disclosure Plan (PCDP)

A Public Consultation and Disclosure Plan (PCDP) is a widely used tool, developed by international financial organisations. The purpose of the plan is to ensure adequate and timely information be provided to a wide range of stakeholders who may be affected by a proposed project and to provide sufficient opportunities for them to voice their opinions and concerns. It is essentially the identification of stakeholders—people who could be affected by or are interested in the proposed project—and the definition of a programme of consultation, disclosure of information, and methods of handling of comments and concerns.

The PCDP is typically prepared by the project developer and should achieve six main objectives: (i) describe applicable legal requirements for consultation and disclosure, including those of international conventions; (ii) identify key stakeholder groups who may be affected by the project, paying particular attention to vulnerable groups; (iii) provide a strategy and timetable for sharing information and consulting with each of these groups during various phases of the project; (iv) describe the project developer’s resources and responsibilities for implementing the PCDP activities including contact information for the sponsor; (v) detail reporting/documentation of consultation and disclosure activities; and (vi) provide a comment and grievance/complaint mechanism. The draft PCDP can be sent with other notification materials for comment.

In many circumstances, the project developer would benefit from hiring a local consultation advisor in each affected country to assist in identifying the culturally appropriate consultation process. (Detailed guidance notes for PCDPs can be found at World Bank Group’s website: www.ifc.org.)

3 Useful information for public consultation in Russia and Kazakhstan

The contacts of the local authorities, NGOs, and interest groups in the Caspian Sea area - in Russian and Kazakhstan - can be found at Caspian Environment Programme Website
(<http://www.caspianenvironment.org/transboundaryEIA>)

Annex 5 About Caspian Environment Programme

The Caspian Environment Programme is an internationally supported regional umbrella programme born out of and reflecting a desire for regional cooperation to safeguard and rehabilitate the threatened environment of the Caspian Sea. CEP is a partnership between the five littoral countries namely Azerbaijan, Iran, Kazakhstan, Russia and Turkmenistan on one hand and the International Partners namely the EU/Tacis, UNDP, UNEP, World Bank on the other hand. The private sector and a host of other international organizations also participate in the CEP activities.

The ultimate goals of CEP include a) development and strengthening of regional environmental dialogue and cooperation b) support towards formulation and endorsement of a Caspian Framework Convention and pertinent protocols, c) study, analysis and assistance to address transboundary environmental issues and concerns and d) support to resource mobilization initiatives inter alia through identification and early preparation of investment projects which meet CEP criteria of high priority actions.

The CEP institutional arrangements includes a Steering Committee (SC) comprising of representatives of the littoral countries and of International partners; National Caspian Structures (NSCs) and National Focal Points (NFPs) in each of the five countries, a number of Caspian Regional Thematic Centers (CRTCs) and /or Thematic Advisory Groups (TAGs) around the Sea and finally a Programme Coordination Unit (PCU) which was established in Baku in 1998 and is now being transferred to Tehran.

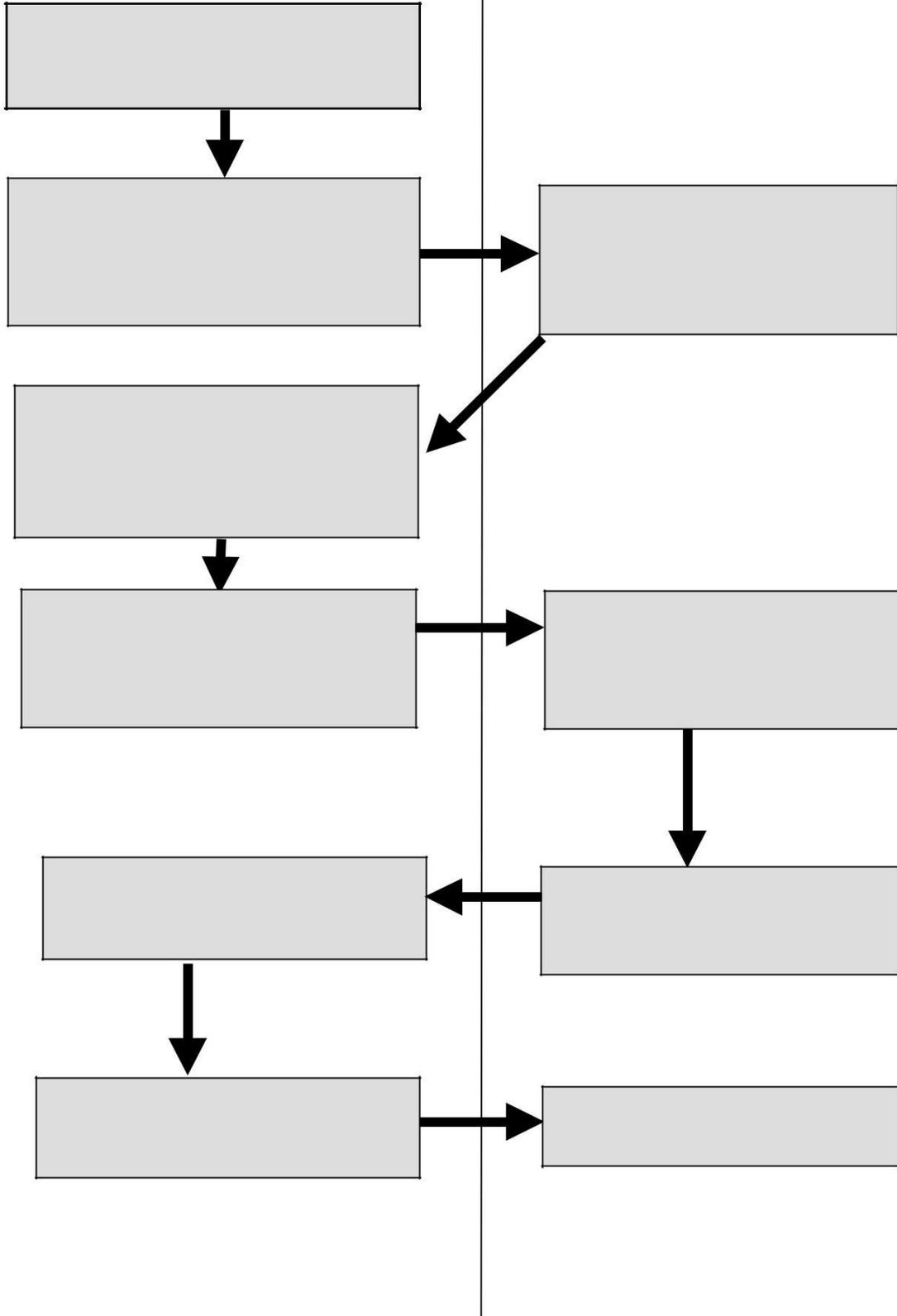
Contact details of the CEP including that of PCU and NSCs and CRTCs are provided on the CEP website (www.caspianenvironment.org).

Espoo Process



Country of Origin

Affected Country



Step 1 Identification

Identification of project with potential transboundary impacts

Step 2 Notification

Preparing notification package; Transmitting notification to potentially affected countries. Contact affected countries and confirm receipt, answer questions.

Step 3 Receipt of response

If negative, or no response received: no further action.

If positive response, continue.

Agreement on any costs of review.

Step 4 Draft EIA Preparation and Disclosure

Draft EIA submitted for comment to affected countries.

Step 5 Decision

Final EIA decision, taking comments into account.

Step 5 Notification of Decision

Notification of decision to affected countries.

Receipt of notification

Preparation of response, including any available relevant information. Identification of contact point.

Response time: 30 days

Receipt of draft EIA, release to locally affected public.

Consultation, such as public meetings, collection of comments.

Transmittal of comments to contact point in Country of Origin

Response time: 60 days

Receipt of notification of decision.