

INFORMAL TRANSLATION

Questionnaire for the

REPORT OF **TURKMENISTAN** FOR 2003-2005 ON THE IMPLEMENTATION OF THE ESPOO CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

for the period mid-2003 to end of 2005

Information on the Focal Point for the Convention

Name and contact information:

Turkmenistan is not a Party to the Convention.

Information on the Point of Contact for the Convention

Name and contact information (if different from above):

Tashlieva Bakhar.

Information on the person preparing the report

- | | | |
|-------|------------------|--|
| i. | Country | Turkmenistan |
| ii. | Surname | Tashlieva |
| iii. | Forename | Bakhar |
| iv. | Institution | НИЦ МКВП, Ministry for Environmental Protection |
| v. | Postal address | 16, Neutral Turkmenistan Str., 744 000 Ashgabat |
| vi. | E-mail address | sic@online.tm |
| vii. | Telephone number | +(99312) 390 586 |
| viii. | Fax number | +(99312) 398 577 |

Date on which report was completed: 3 January 2006

PART I – CURRENT LEGAL AND ADMINISTRATIVE FRAMEWORK FOR THE IMPLEMENTATION OF THE CONVENTION

Please provide the information requested below in Part I, or revise any information relative to the previous report. Describe the legal, administrative and other measures taken in your country to implement the provisions of the Convention. This part should not be used to describe your experience of applying the Convention, i.e. just the framework for its implementation.

Article 2

General Provisions

DOMESTIC IMPLEMENTATION OF THE CONVENTION

1. *List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (Art. 2.2).*

The general legislative measures are: legal texts, the Law “On State Environmental Expert Review” (1995, page 7), the Law “On Nature Protection”, the President’s Decree No. 2864 of 13 November 1996 “On the Regulation of the Order of Conducting State Environmental Expert Review” and the National Standard 579-2001 “On Environmental Impact Assessment of Planned Economic and Other Activities in Turkmenistan”.

TRANSBOUNDARY EIA PROCEDURE

2. *Describe your national and transboundary EIA procedures and authorities (Art. 2.2):*
 - a. *Describe your EIA procedure and indicate which steps of the EIA procedure include public participation.*

Public participation in EIA procedures takes place through public hearings, declarations and questions from civil society organisations, natural and legal persons and the use of mass media from the early stages of consideration. We take note of the entry into force in 2001 of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters as well as its Parties’ actions to promote public participation.

- b. *Describe how the different steps of the transboundary EIA procedure mentioned in the Convention fit into your national EIA procedure.*

The following information shall be included in the EIA documentation:

- a description of the proposed activity and its purpose;
- a description, where appropriate, of reasonable alternatives (for example, locational or technological) to the proposed activity and also the no-action alternative;
- a description of the environment likely to be significantly affected by the proposed activity and its alternatives;
- a description of the potential environmental impact of the proposed activity and its alternatives and an estimation of its significance;
- a description of mitigation measures to keep adverse environmental impact to a minimum;

- an explicit indication of predictive methods and assumptions as well as the relevant environmental data used;
 - an identification of gaps in knowledge and uncertainties encountered in compiling the required information;
 - where appropriate, an outline for monitoring and management programmes and any plans for post-project analysis;
 - a summarised non-technical analysis of the need for investigation, including a visual presentation (maps, graphs, etc).
- c. *List the different authorities that are named responsible for different steps of the transboundary EIA procedure. Also list the authorities responsible for the domestic EIA procedure, if they are different.*

The Environment Office of the Ministry for Environmental Protection collects information relating to all transboundary EIAs.

- d. *Is there one authority in your country that collects information on all the transboundary EIA cases under the Convention? If so, name it. If not, do you intend to establish such an authority?*

The Ministry for Environmental Protection of Turkmenistan.

3. *Do you have special provisions for joint cross-border projects (e.g. roads, pipelines)?*
No (currently under development).

IDENTIFICATION OF A PROPOSED ACTIVITY REQUIRING EIA UNDER THE CONVENTION

4. *Is your country's list of activities subject to the transboundary EIA procedure equivalent to that in Appendix I to the Convention?*

Yes, it is equivalent.

5. *Please describe:*

- a. *The procedures and, where appropriate, the legislation you would apply to determine that an "activity", or a change to an activity, falls within the scope of Appendix I (Art. 2.3), or that an activity not listed should be treated as if it were (Art. 2.5);*

The procedure is carried out prior to adoption of a decision on authorization or implementation of the proposed activity. If the Parties reach a positive agreement, it applies to the type or types of activities in question.

- b. *How a change to an activity is considered as a "major" change;*

Not a Party to the Convention

- c. *How such an activity, or such a change to an activity, is considered likely to have a "significant" adverse transboundary impact (Art. 2.5, Guidelines in Appendix III); and*

Not a Party to the Convention

- d. *How you would decide whether it is "likely" to have such an impact. (Art. 2.3)*

Not a Party to the Convention

PUBLIC PARTICIPATION

6. *Do you have your own definition of “the public” in your national legislation, compared to Article 1(x)? How do you, together with the affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to your own public as required in Article 2, paragraph 6?*

The “public” is defined as any natural and/or legal person, any organization not having the status of a legal person and any individual subdivision of a legal person. The Party of origin provides, in accordance with the provisions of the Convention, an opportunity to the public to participate in relevant environmental impact procedures regarding proposed activities. It also ensures that the opportunity provided to the public of the affected Party be equivalent to that provided to the public of the Party of origin.

Article 3

Notification

QUESTIONS TO PARTY OF ORIGIN

7. *Describe how you determine when to send the notification to the affected Party, which is to occur “as early as possible and no later than when informing its own public”? At what stage in the EIA procedure do you usually notify the affected Party? (Art. 3.1)*

The Party of origin, for the purposes of ensuring adequate and effective consultations under Article 5, shall notify any Party which it considers may be an affected Party as early as possible and no later than when informing its own public of the proposed activity.

“Environmental Impact Assessment of Planned Economic and Other Activities in Turkmenistan”. The EIA process must begin at an early planning stage of the proposed activity. Following receipt of an application the Ministry for Environmental Protection has one month to consider the document and provide a reasoned response to the applicant/developer.

8. *Describe how you determine the content of the notification? (Art. 3.2)*

The official application must include: a) relevant information on the activity, the facilities planned, the specific character of the activity, its location, the planned period of activity, and the start and end date of construction; b) a short description of the technical and technological specifications of the activity; c) basic information on the environmental impact assessment for the proposed activity, the compulsory purchase of lands, the damage to the environment. If the Ministry requires supplementary information in order to conduct its preliminary examination, it may oblige the developer to provide it. In such cases, the examination period begins on receipt of the new information. The time limit for the developer for producing an EIA should be transmitted to the Ministry for Environmental Protection of Turkmenistan no later than three months prior to the commencement of activities.

9. *Describe the criteria you use to determine the time frame for the response to the notification from the affected Party (Art 3.3, “within the time specified in the notification”)? What is the consequence if an affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?*

The legislation of Turkmenistan does not prohibit the submission of information relating to EIA procedures.

10. Describe when you provide relevant information regarding the EIA procedure and proposed activity and its possible significant adverse transboundary impact as referred to in Article 3, paragraph 5. Already with the notification or later in the procedure?

No (not a Party to the Convention) with the Convention.

11. How do you determine whether you should request information from the affected Party (Art. 3.6)? When do you normally request information from the affected Party? What kind of information do you normally request? How do you determine the time frame for a response from the affected Party to a request for information, which should be “prompt” (Art. 3.6)?

No interest has been shown, but the EIA time frames are set within one month.

12. How do you consult with the authorities of the affected Party on public participation (Art. 3.8)? How do you identify, in cooperation with the affected Party, the “public” in the affected area? How is the public in the affected Party notified (what kinds of media, etc are usually used)? What is normally the content of the public notification? Does the notification to the public of the affected Party have the same content as the notification to your own public? If not, describe why not. At what stage in the EIA procedure do you normally notify the public of the affected Party?

Such practices have not been implemented.

13. Do you make use of contact points for the purposes of notification as decided at the first meeting of Parties (ECE/MP.EIA/2, decision I/3), and listed on the Convention website at http://www.unece.org/env/eia/points_of_contact.htm?

Such practices have not been implemented.

14. Do you provide any information to supplement that required by Article 3, paragraph 2? Do you, furthermore, follow the proposed guidelines in the report of the first meeting of the Parties (ECE /MP/2, decision I/4)? If not, in what format do you normally present the notification?

The meeting of the Parties relates to the Parties of the Convention.

QUESTIONS TO AFFECTED PARTY

15. Describe the process of how you decide whether or not you want to participate in the EIA procedure (Art. 3.3)? Who participates in the decision-making, for example: central authorities, local competent authorities, the public and environmental authorities? Describe the criteria or reasons you use to decide?

The Ministry for Environmental Protection is the legal entity with authority for regulating the implementation of the EIA in Turkmenistan, in full compliance with the Convention.

16. When the Party of origin requests you to provide information relating potentially affected environment: (a) how do you determine what is “reasonably obtainable” information to include in your response; and (b) describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of “promptly” in the context of responding to a request for information? (Art. 3.6)

Such information is submitted without delay, if necessary, via the joint institution, if such a body exists.

Article 4

Preparation of the EIA documentation

QUESTIONS TO PARTY OF ORIGIN

17. *What is the legal requirement for the content of the EIA documentation (Art. 4.1)?*

On the basis of legal requirements for the content of EIA documentation in accordance with National Standard TDC 579 2001.

18. *Describe your country's procedures for determining the content of the EIA documentation (Art. 4.1).*

1. Area of application
 2. Normative references
 3. Definitions
 4. EIA aims and principles
 - 4.1 Procedures governing applications
 - 4.2 Parties obligations
 5. EIA document
 - 5.1 Description of the state of the environment
 - 5.2 Review of the project specifications and proposed activities
 - 5.3 Assessment of potential hazards and their consequences
 - 5.4 Assessment of ecological, social and economic consequences
 - 5.5 Conducting ecological monitoring
 6. Public participation
 - 6.1 Public participation in the EIA procedure
 - 6.2 Access to EIA ecological information
 7. EIA review paper
 8. Conclusions of the state ecological expert inquiry
 - 8.1 Content of conclusions
 - 8.2 Contesting the conclusions
- Appendix A – List of economic or other activities deemed environmentally hazardous.
Appendix B – Model for the content of EIA documents for proposed economic or other activities.

19. *How do you identify “reasonable alternatives” in accordance with Appendix II, alinea (b)?*

Socio-economic and, for example, geographic categories are deemed permissible.

20. *How do you identify “the environment that is likely to be affected by the proposed activity and its alternatives” in accordance to Appendix II, alinea (c), and the definition of “impact” in Article 1(vii)?*

A description, where necessary, of reasonable alternatives (e.g. of a geographical or technological nature) to the planned activity, including the no-action alternative.

The description of the environment shall include:

- existing sources of human impact having a significant effect on the environment;
- the condition of the atmospheric air, water basins, underground water, the topsoil, subsoil and underground, flora and fauna;
- socio-economic aspects of the area: infrastructure, nature and level of employment of the local population, communications, demographics, housing, etc.;
- climate characteristics;
- a description of hydrologic factors;

- a geomorphologic description (land forms, contours and indentations, presence of mountain ranges);
- the geological structure and information relating to geological engineering factors (description of unique and characteristic features, tectonic and seismological activity, mineral resources);
- hydrogeological conditions, underground water resources, nature of stratification, hydrochemical conditions, rates of replenishment and exhaustion, current water use: domestic, industrial and agricultural consumption, corrosiveness for buildings;
- a description of soil and plant life (the character and structure of the soil, forms of erosion, carrying capacity, precipitation and subsidence), information on the presence of parks, woodland and forests and specially protected areas in the area of the proposed impact;
- a description of flora and fauna (details of flower and plant species and their natural cycles, information on rare, endangered, native and surviving species including those listed in Turkmenistan's Red Book (the national register of endangered species), details of animal species and population sizes including those listed in the Red Book, commercial species, animals' gathering places, migration routes and periods for specific animals, information on marine flora and fauna);
- details of places of archaeological, historical and cultural interest, places of religious worship, prayer and remembrance (sacred sites);
- a general description of the local population's living conditions. Provision of housing, standard of living, migration, activity, age structure, socio-demographic make-up of the local population, demographic structure of the active population, a description of the state of health in the past and a forecast of future health levels;
- project specifications to ensure safety and security measures and to minimise the activity's environmental hazards (for the environmental factors listed) in compliance with the environmental standards in force in Turkmenistan.

21. *Do you give the affected Party all of the EIA documentation (Art. 4.2)? If not, which parts of the documentation do you provide?*

Not a Party to the Convention, no such precedent.

22. *How is the transfer and reception of the comments from the affected Party organized? How does the competent authority in your country (as the Party of origin) deal with the comments? (Art. 4.2)*

Not a Party to the Convention, no such precedent.

23. *Describe the procedures and, where appropriate the legislation you would apply to determine the time frame for comments provided for in the words "within a reasonable time before the final decision" (Art. 4.2)? What is the consequence if the affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?*

Not a Party to the Convention, no such precedent.

24. *What material do you provide, together with the affected Party, to the public of the affected Party?*

Not a Party to the Convention, no such precedent.

25. *Do you initiate a public hearing for the affected public, and at what stage, whether in the affected Party, in your country or as a joint hearing? If a public hearing is held in your country, as Party of origin, can the public of the affected Party, public authorities, organizations or other individuals come to your country to participate?*

Not a Party to the Convention; no such precedent. A decision may be taken in accordance with existing procedures regulating authorisation of foreign specialists.

QUESTIONS TO AFFECTED PARTY

26. *Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of the words “within a reasonable time before the final decision”, this being the time frame for comments (Art. 4.2)?*

Not a Party to the Convention, no such precedent.

27. *Who is responsible for the organization of the public participation in the affected Party? Is the public participation normally organized in accordance with your legislation as the affected Party, or with the legislation of the Party of origin, or with ad hoc procedures, or with bilateral or multilateral agreements?*

Not a Party to the Convention.

Article 5

Consultations

QUESTIONS TO PARTY OF ORIGIN

28. *At which step of the EIA procedure does the consultation in accordance with Article 5 generally take place? Describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of “undue delay”, with regard to the timing of entry into consultation? Do you normally set the duration for consultations beforehand? If there seems to be no need for consultation, how do you determine not to carry out consultations?*

Not a Party to the Convention.

29. *On what level do you arrange for consultation: national, regional or local? Who usually participates in the consultation? Describe the responsibilities of the authorities involved. By what means do you usually communicate in consultations, for example by meeting, exchange of written communications?*

Not a Party to the Convention.

QUESTIONS TO AFFECTED PARTY

30. *On what level is the consultation normally held: national, regional or local? Who normally participates in the consultation? By what means do you usually communicate in consultations, for example by meeting or by the exchange of written communications? How do you indicate if there is no need for consultations?*

Not a Party to the Convention.

Article 6

Final decision

QUESTIONS TO PARTY OF ORIGIN

31. *Describe what is regarded as the “final decision” to authorize or undertake a proposed activity (Art. 2.3). Do all projects listed in Appendix I require such a decision?*

Not a Party to the Convention.

32. *How does the EIA procedure (including the outcome) in your country, whether or not transboundary, influence the decision-making process for a proposed activity? (Art. 6.1)*

Not a Party to the Convention.

33. *Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and public in your country (Art. 6.1)?*

Not a Party to the Convention.

34. *How is the obligation to submit the final decision to the affected Party normally fulfilled? Does the final decision contain the reasons and considerations on which the decision is based? (Art. 6.2)*

Not a Party to the Convention.

35. *If additional information comes available according to paragraph 3 before the activity commences, how do you consult with the affected Party? If need be, can the decision be revised? (Art. 6.3)*

Not a Party to the Convention.

Article 7

Post-Project Analysis

36. *How do you determine whether you should request a post-project analysis to be carried out (Art. 7.1)?*

Not a Party to the Convention.

37. *Where, as a result of post-project analysis, it is concluded that there is a significant adverse transboundary impact by the activity, how do you inform the other Party and consult on necessary measures to reduce or eliminate the impact pursuant to Article 7, paragraph 2?*

Not a Party to the Convention.

Article 8

Bilateral and multilateral agreements

38. *Do you have any bilateral or multilateral agreements based on the EIA Convention (Art. 8, Appendix VI)? If so, list them. Briefly describe the nature of these agreements. To what extent are these agreements based on Appendix VI and what issues do they cover? If publicly available, also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.*

Not a Party to the Convention.

39. *Have you established any supplementary points of contact pursuant to bilateral or multilateral agreements?*

Not a Party to the Convention.

Article 9

Research programmes

40. *Are you aware of any specific research in relation to the items mentioned in Article 9 in your country? If so, describe it briefly.*

Not a Party to the Convention.

Ratification of the amendments to the Convention and of the Protocol on SEA

41. If your country has not yet ratified the first amendment to the Convention, does it have plans to ratify this amendment? If so, when?

Not a Party to the Convention.

42. If your country has not yet ratified the second amendment to the Convention, does it have plans to ratify this amendment? If so, when?

Not a Party to the Convention.

43. If your country has not yet ratified the Protocol on SEA, does it have plans to ratify the Protocol? If so, when?

Not a Party to the Convention.

PART II – PRACTICAL APPLICATION DURING THE PERIOD 2003-2005

Please report on your practical experiences of applying the Convention (not your procedures described in Part I), whether as Party of origin or affected Party. The focus here is on identifying the best practice as well as difficulties Parties encountered in applying the Convention in practice to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve application of the Convention.

CASES DURING THE PERIOD 2003-2005

44. *Do you have any practical experience of applying the Convention in this period (yes/no)? If you do not have any such experience, why not?*

Because Turkmenistan is not a Party to the Convention and has no practical experience of its application.

45. *Does your national administration have information on the transboundary EIA procedures that were underway during the period? If so, please list these procedures, clearly identifying for each whether your country was the Party of origin or the affected Party. If you have not provided a list of transboundary EIA procedures in connection with previous reporting, also provide a list of those procedures. If possible, also indicate for each procedure why it was considered necessary to apply the Convention.*

Not a Party to the Convention.

46. *Are there other projects than those mentioned above for which a transboundary EIA procedure should have been applied, but was not? Explain why.*

Not a Party to the Convention.

47. *Provide information on the average durations of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.*

Not a Party to the Convention.

EXPERIENCE OF THE TRANSBOUNDARY EIA PROCEDURE IN 2003-2005

48. *If you have had practical experience, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.*

Not a Party to the Convention.

49. *How have you interpreted in practice the various terms used in the Convention, and what criteria have you used to do this? Key terms include the following: “promptly” (Art. 3.6), “a reasonable time” (Art. 3.2(c), Art. 4.2), “a reasonable time-frame” (Art. 5), and “major change” (Art. 1(v)). If you are experiencing substantial difficulties interpreting particular terms, do you work together with other Parties to find solutions? If not, how do you overcome the problem?*

Not a Party to the Convention.

50. *Share with other Parties your experience of using the Convention. In response to each of the questions below, either provide one or two practical examples or describe your general experience. You might also include examples of 'lessons learned' in order to help others.*

- a. *How in practice have you identified transboundary EIA activities for notification under the Convention, and determined the significance and likelihood of adverse transboundary impact?*

Not a Party to the Convention.

- b. *Indicate whether a separate chapter is provided on transboundary issues in the EIA documentation. How do you determine how much information to include in the EIA documentation?*

Not a Party to the Convention.

- c. *What methodology do you use in impact assessment in the (transboundary) EIA procedure (for example, impact prediction methods and methods to compare alternatives)?*

Not a Party to the Convention.

- d. *Translation is not addressed in the Convention. How have you addressed the question of translation? What do you usually translate? What difficulties have you experienced relating to translation and interpretation, and what solutions have you applied?*

Not a Party to the Convention.

- e. *How have you organized transboundary public participation in practice? As Party of origin, have you organized public participation in affected Parties and, if so, how? What has been your experience of the effectiveness of public participation? Have you experienced difficulties with the participation of your public or the public of another Party? (For example, have there been complaints from the public about the procedure?)*

Not a Party to the Convention.

- f. *Describe any difficulties that you have encountered during consultations, for example over timing, language and the need for additional information.*

Not a Party to the Convention.

- g. *Describe examples of the form, content and language of the final decision, when it is issued and how it is communicated to the affected Party and its public.*

Not a Party to the Convention.

- h. *Have you carried out post-project analyses and, if so, on what kinds of projects?*

Not a Party to the Convention.

- i. *Do you have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your experiences describing, for example, any bilateral agreements, institutional arrangements, and how practical matters are dealt with (contact points, translation, interpretation, transmission of documents, etc.).*

Not a Party to the Convention.

- j. *Name examples of good practice cases, whether complete cases or good practice elements (e.g. notification, consultation or public participation) within cases. Would you like to introduce your case in a form of Convention's fact sheet?*

Not a Party to the Convention.

CO-OPERATION BETWEEN PARTIES IN 2003-2005

51. *Do you have any successful examples of how you have overcome difficulties arising from different legal systems in neighbouring countries?*

Not a Party to the Convention.

EXPERIENCE IN USING THE GUIDANCE IN 2003-2005

52. *Have you used in practice the following guidance, recently adopted by the Meeting of the Parties and available on-line? Describe your experience of using these guidance documents and how they might be improved or supplemented.*

- a. *Guidance on public participation in EIA in a transboundary context;*

Not a Party to the Convention.

- b. *Guidance on subregional cooperation; and*

Not a Party to the Convention.

- c. *Guidelines on good practice and on bilateral and multilateral agreements.*

Not a Party to the Convention.

CLARITY OF THE CONVENTION

53. *Have you had difficulties implementing the procedure defined in the Convention, either as Party of origin or as affected Party? Are there provisions in the Convention that are unclear? Describe the transboundary EIA procedure as applied in practice, where this has varied from that described in Part I or in the Convention. Also describe in general the strengths and weaknesses of your country's implementation of the Convention's transboundary EIA procedure, which you encounter when actually applying the Convention.*

Not a Party to the Convention.

AWARENESS OF THE CONVENTION

54. *Have you undertaken activities to promote awareness of the Convention among your stakeholders (e.g. the public, local authorities, consultants and experts, academics, investors)? If so, describe them.*

Not a Party to the Convention.

55. *Do you see a need to improve the application of the Convention in your country and, if so, how do you intend to do so? What relevant legal or administrative developments are proposed or on-going?*

Not a Party to the Convention.

SUGGESTED IMPROVEMENTS TO THE REPORT

56. *Please provide suggestions for how the report may be improved.*

Not a Party to the Convention.