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## **THE ROLE OF THE PUBLIC IN THE ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT**

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Geographical location of Kazakhstan between the Siberian taiga and Central Asian deserts, the greatest inland water body of the continent - the Caspian Sea and the highest mountain systems of the Tian-Shan resulted in excessive diversity of natural conditions and landscapes, is located on the territory of 2.7 million km<sup>2</sup> and has a considerable length of borders

Land border of the Republic of Kazakhstan makes about 12 thousand km, of which on the border with the Russian Federation accounts for 6.7 thousand km, with China - 1.7 thousand km, with Kyrgyzstan - 1.1 thousand km, with Uzbekistan - 2.1 thousand km, and with Turkmenistan - 0,4 thousand km.

The nature of the land border is diverse. Most of the passes are on the plains of the steppes (in the North), semi-deserts and deserts in the West, on Russia; in the South with Turkmenistan and Republic of Uzbekistan). The Eastern and South-Eastern borders of timed to coincide with the watershed ridges of Altai (Russia and China), Tarbagatai, Dzungarian Alatau and Eastern Tian-Shan (China), the Northern and Western Tian-Shan Mountains - with the Republic of Kyrgyzstan and, to a small area, the Republic of Uzbekistan [1].

Some parts of the border with Russia coincide with river arteries - the Malyi Uzen in the West; the segments of the Ural River, its tributary the Ilek River, the upper reaches of the Tobol River in the North. In the South of the Shu and Talas Rivers with the Kyrgyz Republic, the Syr Darya River and the Aral Sea in Uzbekistan [1].

Parts of border with China are crossing an intermountain depression of Irtysh-Zaysan, Balkhash-Alakol and Ili, drained by trans-boundary watercourses of Irtysh and Ili Rivers [2].

Within the water spaces Kazakhstan borders with the Republic of Uzbekistan - 230 km on the Aral Sea, with the Russian Federation, the Republic of Azerbaijan and Turkmenistan on the Caspian Sea.

The peculiarities of the geographical and economic-political situation of the Republic determined the high level of their sensitivity to the cross-border aspects of the environmental

impact of various types of economic activities carried out on the territory of the Republic and surrounding countries.

The inclusion of Kazakhstan in the international environmental cooperation is an integral element of a modern policy of the Republic in the field of environment protection. Environmental code provides for the priority of the international legal norms [3]. Among them of great importance for our country and the other Central Asian republics and the countries of the Commonwealth of Independent States has the Convention on environmental impact assessment in a trans-boundary context [4].

At the modern stage of the development of the partnership between the countries of the environmental impact assessment is used for an integrated approach to the protection and sustainable use of the environment of trans-boundary territories. It requires joint integrated assessment of trans-boundary impact of the planned and alternative activities for selection of the most effective projects, with the least damage from their economic activities.

The provisions of the Convention on the environmental impact assessment, the law sets out the broad obligations of States that have ratified this international agreement, the notification and consultation with each other on projects that could cause significant adverse impacts on the environment [4].

The main problems of Kazakhstan are: - pollution and use of resources of trans-boundary watercourses and international lakes; - trans-boundary air pollution; - radioactive cross-border environmental pollution; - pollution of the environment as a result of space launches; - the threat of cross-border bacteriological pollution; - cross-border migration of wild animals; - cross-border movement of genetically modified organisms; - epizootic with the consequences for the environment; - illegal cross-border activities; - unintentional actions with cross-border effects [2].

This requires the development of cooperation with neighbouring countries decisions on the use of the natural potential of cross-border ecosystems, which are determined by international treaties ratified by the Republic of Kazakhstan, including environmental Convention on environmental impact assessment in a trans-boundary context.

Being a party to the Convention, Kazakhstan has certain obligations and commitments to prevent and mitigate significant adverse trans-boundary environmental impact from proposed activities on the cross-border territories; the adoption of legislative, administrative and other measures, security and control for their implementation. Among the issues of EIA in a trans-boundary context, include: the indication of the purpose; a statement of the situation; a description of the alternatives of the planned activity implementation or refusal; description of possible types of impacts of and rationale for their importance to the components of the environment of the proposed activity and its alternatives and an estimation of their magnitude; a description of the environmental measures, directed on minimization of the impact; identification of forecasting methods; provision of reliable information; summary of the monitoring programmes and management; plans for post-project analysis; the summary is not of a technical nature; determination of procedures of the process of impact assessment, including the planning of co-operation with public organizations; participation in the impact assessment of affected parties in case of need; the exercise of political action for the implementation of activities.

Body supervising the activities on EIA in a trans-boundary context is the competent authority in the field of environment protection. He is appointed by a Party and is responsible for performing the tasks covered by the Conventions on the adoption of decisions relating to the proposed activity. The competent authority shall be designated, depending on the nature of the issue, the state (national), regional or local level [4].

Preparation of documentation on the environmental impact assessment (EIA) provides for the procedure, creating the opportunity for public participation bordering countries; the assessment before making a decision and the notification of the affected Parties to authorize or undertake a proposed activity; which may have a significant adverse trans-boundary impact [4].

For this it is necessary to conduct consultations; to provide the public with the opportunity to participate in the relevant procedures for assessing the impact of planned activities on the environment. This contributes to the creation of a favorable climate on the trans-boundary territories in the implementation of economic activities, because the public is provided timely information about the environment from competent sources.

Due to differences in the legislation of the countries of a regular exchange between neighbouring countries, comprehensive information on the impact on the environment, clear rules of procedures, permanently working group on the trans-boundary assessments in order to develop joint solutions in the framework of bilateral or multilateral agreements/activities.

Convention on environmental impact assessment in a trans-boundary context is of great importance for our Republic due to the great length of the border territories, as it allows early on, the proposed activity to predict possible impacts in the implementation of large projects.

The legal basis of the legislation in the field of environmental protection and use of natural resources in our Republic is the Constitution, which enshrines the right of citizens to a healthy life and health. Issues of public relations in the field of environmental protection and use of natural resources, including EIA, are regulated by the Environmental, Land, Forest, Water, Subsoil use codes, environmental laws, regulations, and instructions: - The law "On protection, reproduction and use of animal world"; - the Law "On specially protected natural territories"; - the Law "On radiation safety of population"; - the Law "On the sanitary - epidemiological welfare of population"; - Rules of licensing and qualified requirements made to the activity in the field of environment protection; - the Rules of conducting the state ecological expertise; - instructions for conducting impact assessment of planned economic and other activity on environment in the development of pre-planned, planned, pre-project and project documentation; - the Rules of conducting public hearings; - the Rules of exercising control over the activities of officials of local Executive bodies in the field of environmental expertise; - the Rules of impact assessment of planned activity on the environment in the development of state branch and regional programs of development of branches of economy, schemes of placing of productive forces; - the Rules of state registration of the public environmental expert review, carried out by local Executive bodies on the territory of which is planned activities; - Sanitary-epidemiological requirements to the design of production facilities; - the Rules of access to environmental information relating to the procedure for environmental impact assessment and decision-making on planned economic and other activities; - the Information-reference manual on organization and holding of public hearings on environmental matters; - A guide to assessing the impact on the environment for the CIS member States; - Allocation of objects of category I that are subject to state ecological expertise, and for the issuing of permits for emissions in the environment between the authorized body in the field of environmental protection and its territorial subdivisions of [5].

The procedure for conducting the EIA procedure includes several stages: 1. Preliminary assessment of impact on the environment, the accompanying justification of investment (feasibility studies for the projects); 2. Impact assessment for the purpose of full and comprehensive analysis of the possible effects of the project or further implementation of economic and other activities, justification of alternatives, and development of the plan (programme) of the environmental protection management; 3. Section "Environmental Protection" as part of the project, containing technical solutions for the prevention of adverse impacts on the environment.

Any economic activity can be implemented only after reception of the positive conclusion of the state ecological expertise. The possible impact on the environment and health of the population are determined during the procedure of impact assessment of planned economic activity on the environment. Results of the stages of the EIA consistently in the obligatory order are presented to the customer the public for their views taken into account. Forecast, environmental risk assessment - this is the main task of the EIA. The basic

Foundation of the examination is environmental regulation and ecological requirements for economic and other activities.

In a particularly challenging projects of the conclusion of the ecological expertise are considered at the meetings of Expert Councils of the Ministry of Environment Protection and its territorial subdivisions. The activities of the subdivisions of the state ecological expertise of the Ministry of Environment Protection are carried out in collaboration with other departments and agencies of the Republic in accordance with their competence.

In accordance with the Environmental code of the ecological expertise in the Republic of Kazakhstan is presented in two forms - the state ecological expertise and public ecological expertise, which has recommendatory character, and is taken into account when making decisions of local Executive bodies, financial institutions and the customer of the planned activities. Conclusion of public ecological examination shall be sent to the local Executive bodies, which performed the registration statement on its implementation; to the body carrying out the state ecological examination of the given object; the customer of the planned activities; decision-makers, related to the implementation of the object; in mass media [3].

In general, the provisions set forth in the Environmental code, allow for public access to decision-making in the EIA process of the economic activity (public hearings) and the conclusions of a public environmental expertise, which corresponds to the accepted obligations of Kazakhstan in the framework of the implementation of the environmental conventions: EIA in a trans-boundary context [4]; Public access to environmental information, decision-making and justice [6].

Kazakhstan is conducted the big work on development of the international cooperation in the field of EIA in a trans-boundary context. In the framework of the implementation of the Framework Convention for the protection of the marine environment of the Caspian Sea, the Republic of Azerbaijan, Islamic Republic of Iran, Republic of Kazakhstan, the Russian Federation, Turkmenistan initiated the development of a draft Protocol of EIA in a trans-boundary context. The objective of the Protocol is to conduct effective EIA procedures in a trans-boundary context of the proposed activity, which may have a significant trans-boundary impact on the marine environment and land, to prevent, reduce pollution and to ensure control of implemented activities on biodiversity conservation and rational use of natural resources and the protection of the health of the population in the region [8].

The Parties of the Convention (5 countries) are considering the possibility of application of EIA in a trans-boundary context in the early stage of decision-making on the planned activities in the Caspian region, as an important element of regional cooperation and the plan to the signing of the Protocol of the EIA in a trans-boundary context at the fourth Conference of the Parties [8].

In addition, work is being done on the development of the Agreement between the Government of the Republic of Kazakhstan and the Government of the Russian Federation on preservation of the ecosystem of the trans-boundary Ural River. The draft Agreement has been developed and agreed with the interested state bodies of the Republic of Kazakhstan [5].

At the IX Forum of interregional cooperation of Kazakhstan and Russia with the participation of the presidents of the countries was signed an Agreement on the prevention and suppression of fires in border areas and on protection and reproduction of the Volga-Ural grouping of saigas.

Promising to tackle cross-border issues are also Agreements between the States of the Commonwealth of Independent States; Agreement between the Government of the Republic of Kazakhstan and the Government of the Kyrgyz Republic on cooperation in the field of environment protection; the Agreement between the Government of the Republic of Kazakhstan and the Government of the Russian Federation on cooperation in the field of environment protection; Agreement between the Ministry of Environment Protection of the RK and the Ministry of Water Resources of People's Republic of China on the reciprocal exchange of hydrological and hydro chemical information boundary gauging stations of main trans-

boundary rivers; Agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China on cooperation in the field of environment protection.

In the framework of the implementation of the Convention EIA in a trans-boundary context, the projects being implemented in Almaty and Jambyl oblasts, included in the National industrialization map for 2010 - 2014, may be the subject of an EIA in a trans-boundary context: Diversification and expansion of Ferroalloy production and its resource base to increase the capacity up to 300 thousand tones of Ferroalloys per year; Construction of a plant for production of mineral fertilizers; the Ski resort of world level in the city of Almaty; Reconstruction of the international transit corridor "Western Europe - Western China".

The need for trans-boundary EIA on the project may arise due to the possible impacts on the environment of Kyrgyzstan, which is a party to the Convention EIA in a trans-boundary context.

As a positive example of the solution of border problems let us consider the procedure of application of the Convention EIA in a trans-boundary context, which were held with the planned development of copper-gold Andash Deposit in the Kyrgyz Republic, affecting the interests of the Republic of Kazakhstan. The initiator of the activity was "Andash Mining Company". The competent authorities are the State Agency on environment protection and forestry under the Government of the Kyrgyz Republic (State Agency of the KR) and the MEP of the RK.

In accordance with the procedures of the EIA the Kyrgyz side was presented detailed materials on the location of the object, the scope of work, technologies, characteristic of ecological situation in the area of development and consequences of the impact of economic activities on the territory of Kazakhstan. The development of the Deposit was planned by the open way, the performance of the career is 2 million tons of ore per year, and the ore processing was provided by the flotation method.

The decision on whether the proposed activity to the activity able to have the possible trans-boundary impact was made on the basis of the fact that the Deposit is located near the state border with the Republic of Kazakhstan (2.5 km); in the immediate vicinity of Karakol River, which is the beginning a trans-boundary watercourse of Talas River. On the basis of the decision to Kazakhstani side there was sent a notification sent to the Ministry of Environment Protection of the RK, which has been prepared in the format given in the Manual on EIA in a trans-boundary context for Central Asian countries. In established according to the procedures date the reply of Kazakhstani side was received on the consent to participate in the procedure of trans-boundary EIA and to the provision of the EIA documentation in the MEP of the RK and Zhambyl regional territorial Department for Environmental Protection for the review and preparation of comments by Talas territorial Department of Environmental Protection. EIA documentation was also transmitted to the Heads of Public organizations of the Kyrgyz Republic (Independent ecological expertise) and the Republic of Kazakhstan (NGO "EcoForum") for distribution to the public.

The Kyrgyz side has provided simultaneously with the notification of information on the integrated assessment and significance of trans-boundary impacts during implementation of the project on atmospheric air, surface and underground water, soil and land resources, flora and fauna, historical and cultural monuments, noise levels, the alternatives of the project and the basic variant of the project.

Due to the location of the objects of open mine workings close to the border of Kazakhstan, with a preliminary assessment, it was determined the probability of cross-border impact on the atmospheric air.

The presence of mountain passes, which hinder the transfer of polluting substances, a favorable wind rose, a significant watering of the mining complex of nature protection measures, determined not a high degree of cross-border impact of the mine on the atmosphere of our Republic.

Comments and proposals of the MEP of the RK were considered and taken into account in the preparation of the EIA draft of the proposed activity on the development of copper-gold Andash Deposit. The consultations were conducted at the national and local levels. In consultation took part the Republican and local environmental authorities and local authorities, NGOs of the two countries and representatives of “Andash Mining Company”. In this case, were agreed the plan for the organization of hearings, including the place and date, the order of conducting, programme, and presentations.

The EIA materials are available in section “Cross-border cooperation” on the website of the Carnet. Residents of Kepure-Bazar’s village (Kyrgyzstan) were informed about the plans for the development of copper-gold Andash Deposit. On the initiative of the villagers and some NGOs with the support of the international organization “Milenkontakt” held public ecological expertise. Conclusion of public ecological examination submitted to the State Agency, oblast administration and the Government of the Kyrgyz Republic, presented at the meetings, round tables, in the mass media (30 articles). In Talas oblast newspaper was published announcement about the place of finding of the EIA documentation. Information of the EIA for the development of copper-gold Andash Deposit presented at the sub regional seminar “Strengthening the capacity of Central Asian countries in the EIA process” [9].

After making the proposals of the Kazakhstani side, including the recommendations of the public, EIA documentation is presented in the State Agency of the Kyrgyz Republic on state ecological expertise with the advice of public examination. Next on the stage of realization of the project of the State Agency of the Kyrgyz Republic has undertaken consultation with the Kazakhstani side. According to the results of the discussions have been accepted a decision about possibility of and procedure for conducting post-project analysis and monitoring of the facility.

Thus, the Republic of Kazakhstan and the Kyrgyz Republic in the framework of the pilot project on Feasibility study “Industrial development of Andash Deposit”. Assessment of the impact of the development of Andash Deposit’s copper-gold on the environment worked out the procedure of consideration of cross-border projects and conducting of public hearings.

In addition, the activities carried out in the framework of the discussion of the provisions of the Convention (participation in the international, sub regional and national seminars) gave a positive effect on international cooperation to address trans-boundary environmental problems with the neighbouring States and elaboration of joint preventive measures.

In the future this experience will be useful for the solution of ecological problems in the implementation of economic activities on the vast frontier territories of the Russian Federation and the Republic of Kazakhstan, as the Convention EIA in a trans-boundary context, signed by Russia, which currently carries out procedures for its ratification.

In this respect, a particular importance of workshops, training courses on environmental issues, including topics on the implementation of the commitments of Kazakhstan in the framework of international agreements, including those of the Convention on environmental impact assessment in a trans-boundary context. These courses are held in the framework of the implementation of the Convention on access to information, public participation in decision-making and access to justice in environmental matters on the basis of RSE “IAC EP” of the MEP of the RK for representatives of business, government and non-governmental organizations.

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