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ECONOMIC COMMISSION FOR EUROPE

Meeting of the Parties to the Convention  
on Environmental Impact Assessment  
in a Transboundary Context

Ad hoc Working Group  
on the Protocol on Strategic Environmental Assessment  
(First meeting, 14-16 May 2001)  
(Item 3 of the provisional agenda)

**DRAFT ELEMENTS FOR  
A PROTOCOL ON STRATEGIC ENVIRONMENTAL ASSESSMENT**

Note by the secretariat \*/

The Parties to this Protocol,

*Mindful* of the importance of developing policies to prevent, mitigate and monitor significant adverse environmental effects, and of promoting public participation and the exchange of information,

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\*/ The Working Group is expected to prepare a draft protocol on strategic environmental assessment in accordance with decision II/9 adopted at the second meeting of the Parties. These draft elements have been prepared with a view to assisting the Working Group.

*Recognizing* that the application of the principles of environmental impact assessment to strategic decision-making will further strengthen the systematic analysis of the environmental effects of proposed policies, plans, programmes and legislation,

*Committing* themselves to promoting sustainable development in all sectors of society and therefore basing themselves on the conclusions of the United Nations Conference on Environment and Development (Rio de Janeiro, Brazil, 1992), in particular the Rio Declaration on Environment and Development and Agenda 21, as well as on the outcome of the third Ministerial Conference on Environment and Health (London, 1999),

*Acknowledging* the benefits to the health and well-being of future generations that follow from the conclusions of an environmental analysis of strategic decisions,

*Commending* the studies undertaken by the United Nations Economic Commission for Europe to strengthen the application of strategic environmental assessment at national and international levels,

*Recognizing* that improved public participation in strategic decisions enhances the quality and implementation of decisions, contributes to public awareness of environmental issues, gives the public the opportunity to express its concerns and enables public authorities to take due account of such concerns,

*Bearing in mind* the relevant provisions of the Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo, Finland, on 25 February 1991, and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, done at Aarhus, Denmark, on 25 June 1998, and other regional conventions,

*Conscious* that the adoption of this Protocol will have contributed to the further strengthening of the "Environment for Europe" process and to the results of the Fifth Ministerial Conference in Kiev, Ukraine in May 2003,

*Have agreed* as follows:

## **Article 1**

### **OBJECTIVE**

In order to promote at all appropriate levels, nationally, regionally and locally as well as in transboundary and international contexts, the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being and the highest level of protection of the environment and environment-related health, each Party shall establish environmental protection and health objectives in accordance with relevant international

agreements and shall ensure that these objectives form an integral part of strategic decision-making, with public participation, by establishing a strategic environmental assessment mechanism in accordance with the provisions of this Protocol.

## *Article 2*

### **DEFINITIONS**

For the purpose of this Protocol,

1. “Party” means, unless the text indicates otherwise, a Contracting Party to this Protocol;
2. “Party of origin” means a Contracting Party or Parties to this Protocol within whose jurisdiction a proposed strategic decision is envisaged to be taken;
3. “Affected Party” means a Contracting Party or Parties to this Protocol likely to be affected by the transboundary impact of a proposed strategic decision;
4. “Convention” means the Convention on Environmental Impact Assessment in a Transboundary Context;
5. “Meeting of the Parties” means the Meeting of the Parties to the Convention;
6. “Sessions of the Parties” means sessions of the Parties to the Protocol;
7. “Strategic environmental assessment” means a process to evaluate the likely effect of a proposed plan, programme, policy, regulation or legislation on the environment and related health;
8. "Public authority" means:
  - (a) Government at national, regional and local level;
  - (b) Natural or legal persons having public responsibilities or functions, or providing public services in the key sectors referred to in article 5;
  - (c) The institutions of any regional economic integration organization referred to in article 22 that is a Party to this Protocol.

This definition includes authorities that are preparing or taking a strategic decision as well as environmental and health authorities but does not include bodies or institutions acting in a judicial or legislative capacity;

9. “Effect” means the change in the environment directly or indirectly resulting from the proposed strategic decision and the resulting changes in human health, safety and well-being, including changes in:

(a) Elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) Conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the changes in the environment;

10. “The public” means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups;

11. “The public concerned” means one or more natural or legal persons, and their associations, organizations or groups, affected or likely to be affected by or having an interest in the strategic decision.

### **Article 3**

#### **GENERAL PROVISIONS**

1. Each Party shall take the necessary legislative, regulatory and other measures to implement the provisions of this Protocol within a clear, transparent framework.

2. Each Party shall endeavour to ensure that decision-making authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in strategic decision-making and in seeking access to justice in matters covered by this Protocol.

3. Each Party shall provide for appropriate recognition of and support to associations, organizations or groups promoting environmental and health protection in the context of strategic environmental assessment.

4. The provisions of this Protocol shall not affect the right of a Party to maintain or introduce more stringent measures in relation to issues covered by this Protocol.

5. Each Party shall promote the principles and, to the extent possible, the provisions of this Protocol in international decision-making processes having environmental implications and within the framework of international organizations.

6. Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Protocol shall not be penalized, persecuted or harassed in any way for their involvement.

7. Within the scope of the relevant provisions of this Protocol, the public shall have access to information, have the possibility to participate in strategic decision-making and have access to justice in relation to strategic decisions without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.

8. Each Party shall to the extent possible apply the provisions of this Protocol to existing plans, programmes, policies, regulations and legislation.

#### **Article 4**

### **PUBLIC PARTICIPATION PROVISIONS**

1. Each Party shall take the necessary legislative, regulatory and other measures to establish and maintain a clear, transparent and consistent framework to ensure timely and effective public participation in procedures for making strategic decisions for which strategic environmental assessment is required under this Protocol, including the strategic environmental assessment procedure itself. The public shall be allowed to participate throughout the procedure in a manner and to the extent appropriate to the type of strategic decision and the procedural stage of the decision-making.

2. The public participation procedures shall include reasonable time frames for the different phases, allowing sufficient time for informing the public and for the public to prepare and participate effectively during the decision-making procedure.

3. Each Party shall provide for early public participation, when all options are open and effective public participation can take place.

4. Each Party shall identify the public concerned in accordance with article 2, paragraph 11, and the environmental and health authorities for the purposes of this Protocol.

5. Each Party shall ensure that the public concerned shall be informed early in the decision-making procedure referred to in paragraph 1 on a plan, programme, policy, regulation or legislation, and in an adequate, timely and effective manner, inter alia, of:

- (a) The nature of possible strategic decisions or the draft strategic decision;
- (b) The public authority responsible for making the strategic decision;
- (c) The envisaged procedure including:
  - (i) The commencement of the procedure;
  - (ii) The opportunities for the public to participate;

- (iii) The time and venue of any envisaged public hearing;
  - (iv) An indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public;
  - (v) An indication of the relevant public authority to which comments or questions can be submitted and of the time schedule for the transmittal of comments or questions; and
  - (vi) An indication of what environmental information relevant to the proposed activity is available; and
- (d) Whether the plan, programme policy, regulation or legislation is subject to a national or transboundary assessment procedure.

6. Each Party shall require the competent public authorities to give the public concerned access for examination, free of charge and as soon as it becomes available, to all information relevant to the strategic decision-making procedure referred to in this article that is available at the time of the public participation procedure.

## **Article 5**

### **AREA OF APPLICATION**

The provisions of this Protocol shall apply at national, regional, local, transboundary and international levels, to strategic decisions at plan, programme, policy, regulatory and legislative level in key sectors with significant effects such as transport, energy, agriculture, water management, fisheries, forestry, waste management, tourism, industry (including extraction of mineral resources), military training grounds, telecommunications, spatial planning or land use, trade, nature conservation and modern biotechnology.

## **Article 6**

### **SCREENING**

1. Each Party shall determine whether a strategic decision is likely to have significant effects and, thus, be subject to articles 7 to 15 of this Protocol.
2. This decision can be undertaken either on a case-by-case basis or by specifying types of strategic decisions which have significant effects or by combining both approaches taking into account relevant criteria set out in annex I.

3. The decision to subject to or to exempt from strategic environmental assessment a strategic decision or a particular type of strategic decision shall take into account comments by the public and by environmental and health authorities.

4. The decision to subject to or to exempt from strategic environmental assessment a strategic decision or a particular type of strategic decision, together with the reasons and the considerations on which it is based and how the comments pursuant to paragraph 3 have been taken into account, shall be published and made publicly available.

### **Article 7**

#### **NOTIFICATION**

1. When, pursuant to article 6, a strategic decision is deemed to be subject to strategic environmental assessment, each Party shall ensure that a competent authority shall prepare a notification document describing the steps and timetable for the drawing-up of the strategic decision in question and the practical arrangements taken to implement the requirements of this Protocol, including public participation arrangements.

2. The notification document shall be provided to environmental authorities and health authorities and to the public concerned in a timely manner in order to allow for effective participation in the strategic environmental assessment. The notification document shall also be made publicly accessible.

### **Article 8**

#### **SCOPING**

1. Each Party shall arrange for a competent authority to determine the information to be included in the strategic environmental assessment documentation depending on the level and detail of the strategic decision and taking into account the elements included in annex II.

2. Each competent authority shall, when determining the information to be included in the strategic environmental assessment documentation referred to in paragraph 1 of this article, ensure that environmental and health authorities take part in the preparation of strategic environmental assessment documentation and decisions on the scope of the strategic environmental assessment.

3. Each Party shall ensure that the public is able to provide comments on the scope of strategic environmental assessment before any decision is made on its scope. The decision on the scope shall reflect how these comments have been taken into account.

## **Article 9**

### **STRATEGIC ENVIRONMENTAL ASSESSMENT DOCUMENTATION**

For strategic decisions subject to strategic environmental assessment in accordance with article 6, the Parties shall assemble, document and make available to the public, health and environmental authorities, and to an affected Party, strategic environmental assessment documentation containing as a minimum the information specified in annex II. This information shall be in such detail as may be required taking into account the level of detail of the proposed strategic decision, its stage in the decision-making process, the interests of the public and the information needs of the decision-making body. The content of the strategic environmental assessment documentation in individual cases shall be determined in accordance with article 8.

## **Article 10**

### **CONSULTATION**

1. The draft strategic decision and the strategic environmental assessment documentation prepared in accordance with article 9 shall be made available to the authorities referred to in paragraph 3 of the present article and the public concerned.
2. The authorities referred to in paragraph 3 and the public concerned referred to in paragraph 4 shall be able to express their opinion on the draft strategic decision and the accompanying strategic environmental assessment documentation before the adoption of the strategic decision or its submission to the legislative procedure.
3. Each Party shall designate the authorities to be consulted which, by reason of their specific environmental or health responsibilities, are likely to be concerned by the environmental and health effects of implementing the strategic decision.
4. Each Party shall identify the public concerned as defined in article 2, paragraph 11, for the purposes of paragraph 2 above, including relevant non-governmental organizations.
5. Each Party shall determine and make publicly available the detailed arrangements for informing and consulting the environmental and health authorities and the public concerned referred to in paragraph 1 above.

## **Article 11**

### **QUALITY CONTROL OF STRATEGIC ENVIRONMENTAL ASSESSMENT DOCUMENTATION**

Each Party shall make the necessary arrangements to ensure that the quality of the

strategic environmental assessment documentation as referred to in article 9 is appropriate for the decision, taking into account the comments on the quality of the documentation by environmental and health authorities and by the public.

### **Article 12**

#### **DECISION**

1. Each Party shall ensure that strategic decisions are guided by and take due account of the conclusions of the strategic assessment documentation, that in the strategic decision reference is made to measures to prevent or mitigate the effects identified in the strategic environmental assessment documentation and that due account is taken of the comments received in accordance with article 10.
2. Each Party shall ensure that the strategic decision is made publicly available together with the reasons and considerations on which it is based and how the comments by the public have been taken into account.

### **Article 13**

#### **ACCESS TO JUSTICE**

1. Each Party shall ensure that members of the public concerned have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of the preparation and content of any strategic environmental assessment documentation prepared in accordance with article 9.
2. In addition and without prejudice to the review procedure referred to in paragraph 1 above, each Party shall, within the framework of its national legislation, ensure that members of the public with a sufficient interest have access to independent and impartial administrative and judicial procedures to challenge the substantial and procedural legality of the strategic decision referred to in article 12.

### **Article 14**

#### **MONITORING**

1. Each Party shall make the necessary arrangements so that the strategic decisions referred to in article 12 are monitored with the aim of identifying negative effects of the strategic decision as well as the effectiveness of the measures taken to prevent or mitigate its negative effects.

2. The results of the monitoring undertaken in accordance with paragraph 1 shall be made publicly available.
3. When, as a result of the monitoring, a Party has reasonable grounds for concluding that the strategic decision has negative effects, it shall take all necessary measures to reduce or eliminate these effects.
4. Each Party shall prepare, at least on a biennial basis, a monitoring report to review the negative effects of strategic decisions for which a strategic environmental assessment has been prepared. The monitoring report shall be made publicly accessible.

### **Article 15**

#### **STRATEGIC DECISIONS WITH TRANSBOUNDARY EFFECTS**

1. Where a Party of origin considers that the implementation of a proposed decision referred to in article 5 is likely to have a significant transboundary effect or where a Party likely to be significantly affected so requests, the Party of origin shall, before the decision's adoption or finalization, notify the affected Party.
2. The notification shall contain, inter alia,
  - (a) Information on the proposed strategic decision, including information on its possible transboundary effects; and
  - (b) Information regarding the decision-making procedure, including an indication of the time schedule for the transmittal of comments.
3. The Party of origin shall provide, in accordance with the provisions of this Protocol, an opportunity to the environmental and health authorities and the public concerned of the affected Party to participate in relevant decision-making procedures regarding strategic decisions with transboundary effects and shall ensure that the opportunity provided to the environmental and health authorities and the public concerned of the affected Party is equivalent to that provided to the environmental and health authorities and the public concerned of the Party of origin.
4. Pursuant to article 12, each Party shall ensure that strategic decisions with transboundary effects are guided by and take due account of the conclusions of the strategic environmental assessment documentation and the comments received pursuant to paragraph 3 above.
5. Each Party shall ensure that the environmental and health authorities and members of the public concerned of the affected Party have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive

and procedure legality of a strategic decision with transboundary effects, in particular in relation to internationally established objectives of sustainability and of environmental and health protection.

## **Article 16**

### **SESSIONS OF THE PARTIES IN THE CONTEXT OF THE MEETING OF THE PARTIES**

1. The Parties shall meet in the context of the Meeting of the Parties to the Convention. The Parties shall meet for the first time not later than one year after the entry into force of this Protocol. Thereafter, ordinary sessions shall be held in the context of the Meeting of the Parties at regular intervals to be determined by the Parties. The Parties shall hold an extraordinary session if they so decide in the course of an ordinary meeting of the Parties or at the written request of any Party, provided that, within six months of it being communicated to all Parties by the secretariat, the said request is supported by at least one third of the Parties.

2. At their sessions in the context of the Meeting of the Parties, the Parties shall keep under continuous review the implementation of this Protocol, and, with this purpose in mind, shall:

(a) Review the policies for and legal and methodological approaches to strategic environmental assessment in order to further strengthen the implementation of this Protocol;

(b) Evaluate progress in implementing this Protocol on the basis of information provided by the Parties in accordance with guidelines established by the Meeting of the Parties;

(c) Be kept informed on progress made in the implementation of the Convention;

(d) Exchange information with the Meeting of the Parties to the Convention and consider the possibilities for joint action with it;

(e) Seek, where appropriate, cooperation with relevant bodies of the Economic Commission for Europe, in particular the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, and with other competent international bodies;

(f) Establish a programme of work, including projects to be carried out jointly under this Protocol and the Convention, and set up such subsidiary bodies as they deem necessary, in particular a body needed to implement this programme of work;

(g) Consider and adopt guidelines and recommendations which promote the implementation of the provisions of this Protocol;

(h) At the first session, consider and by consensus adopt rules of procedure for their sessions. These rules of procedure shall contain provision to promote harmonious cooperation with the Meeting of the Parties to the Convention;

(i) Consider and adopt proposals for amendments to this Protocol;

(j) Consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol.

(k) At their first session, consider establishing financial arrangements on a consensus basis.

### **Article 17**

#### **RIGHT TO VOTE**

1. Except as provided for in paragraph 2 below, each Party to this Protocol shall have one vote.

2. 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 Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

### **Article 18**

#### **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 to the Parties of reports and other information received in accordance with the provision of this Protocol; and
- (c) Such other functions as may be determined by the Parties on the basis of available resources.

### **Article 19**

#### **ANNEXES**

The annexes to this Protocol shall constitute an integral part thereof.

## **Article 20**

### **AMENDMENTS TO THE PROTOCOL**

1. Any Party may propose amendments to this Protocol.
2. The text of any proposed amendment to this Protocol shall be submitted in writing to the secretariat, which shall communicate it to all Parties at least ninety days before the session of the Parties at which it is proposed for adoption.
3. The Parties shall make every effort to reach agreement on any proposed amendment to this Protocol 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 session.
4. Amendments to this Protocol adopted in accordance with paragraph 3 above shall be communicated by the Depositary to all Parties for ratification, approval or acceptance. Amendments to this Protocol 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 the Party deposits its instrument of ratification approval or acceptance of the amendments.
5. Any Party that is unable to approve an amendment to an annex to this Protocol shall so notify the Depositary in writing within twelve months from the date of the communication of the adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendments to such an annex shall become effective for that Party.
6. On the expiry of twelve months from the date of its communication by the Depositary as provided for in paragraph 4 above an amendment to an annex shall become effective for those Parties which have not submitted a notification to the Depositary in accordance with the provisions of paragraph 5 above, provided that not more than one third of the Parties have submitted such a notification.
7. For the purposes of this article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

## **Article 21**

### **SETTLEMENT OF DISPUTES**

1. If a dispute arises between two or more Parties about the interpretation or application of this Protocol, they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute.
2. When signing, ratifying, accepting, approving or acceding to this Protocol, 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 above, 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 annex III.
3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 above, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

## **Article 22**

### **SIGNATURE**

This Protocol shall be open for signature at Kiev (Ukraine) on ....., and thereafter at United Nations Headquarters in New York until ....., by States members of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe pursuant to paragraphs 8 and 11 of 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 other member States have transferred competence over matters governed by this Protocol including the competence to enter into treaties in respect of these matters.

## **Article 23**

### **DEPOSITARY**

The Secretary-General of the United Nations shall act as the Depositary of this Protocol.

## **Article 24**

### **RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION**

1. This Protocol shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organizations.
2. This Protocol shall be open for accession as from ..... by the States and regional economic integration organizations referred to in article 22.
3. Any other State, not referred to in paragraph 2 above, that is a member of the United Nations may accede to the Protocol upon approval by the Parties to the Protocol.
4. Any organization referred to in article 22 which becomes a Party to this Protocol without any of its member States being a Party shall be bound by all the obligations under this Protocol. If one or more of such an organization's member States is a Party to this Protocol, the organizations and its member States shall decide on their respective responsibilities for the performance of their obligations under this Protocol. In such cases, the organizations and the member States shall not be entitled to exercise rights under this Protocol concurrently.
5. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in article 22 shall declare the extent of their competence with respect to the matters governed by this Protocol. These organizations shall also inform the Depositary of any substantial modification to the extent of their competence.

## **Article 25**

### **ENTRY INTO FORCE**

1. This Protocol 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 above, any instrument deposited by a regional economic integration organizations shall not be counted as additional to those deposited by States members of such an organizations.
3. For each State or organizations referred to in article 22 which ratifies, accepts and approves this Protocol or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Protocol shall enter into force on the ninetieth day after the date of deposit by such States or organizations of its instrument of ratification, acceptance, approval or accession.

**Article 26**

**WITHDRAWAL**

At any time after three years from the date on which this Protocol has come into force with respect to a Party, that Party may withdraw from the Protocol 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.

**Article 27**

**AUTHENTIC TEXTS**

The original of this Protocol, 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 Protocol.

Done at Kiev (Ukraine), this .....day of (May, two thousand and three).

Annex I

GENERAL CRITERIA TO ASSIST IN THE DETERMINATION OF  
"SIGNIFICANT EFFECTS" AS REFERRED TO IN ARTICLE 5

Significance thresholds:

- Nature of the objectives of the strategic decision (e.g. relating to environment, health, sustainable development);
- Types (i.e. sector, defining developing consent) and scale (i.e. national or local) of strategic activity,
- Extent of the geographical area covered by the strategic decision;
- Nature and scale of the effect (irreversible, transboundary, etc.);
- Duration, magnitude and probability of the effect;
- The degree to which the strategic decision will affect protected areas (national and international);
- The degree to which the strategic decision will affect species protected by national legislation or international agreements;
- The degree to which the strategic decision sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources;
- The degree to which the strategic decision influences other strategic decisions including those in a hierarchy;
- The relevance of the strategic decision for the integration of environmental and health considerations in a comprehensive system of promoting sustainable development;
- Environmental and health problems relevant to the strategic decision;
- The degree to which the strategic decision will further strengthen the application of environmental and health objectives in other economic sectors;
- The degree to which the strategic decision is likely to be a matter of significant public concern.

Annex II

INFORMATION REFERRED TO IN ARTICLE 9

The information in the strategic environmental assessment documentation shall:

- (a) Contain information on the content and the main objectives of the strategic decision drafted and its link with other documents;
- (b) Identify, analyse and assess the current state of the environment and environment-related health and the likely evolution of this state should the provisions of the document drafted not be implemented;
- (c) Identify, analyse and assess the state of the environment and environment-related health in areas likely to be significantly affected;
- (d) Identify, analyse and assess the existing environmental and environment-related health problems which are relevant to the document drafted;
- (e) Identify, analyse and assess the environmental protection and environment-related health objectives and those of the sustainable development strategy established at international, national, regional and local levels which are relevant to the document drafted and the ways in which these objectives and other environmental considerations have been taken into account during the preparation of the document;
- (f) Identify, analyse and assess the likely significant effects on the environment and environment-related health including cumulative and indirect effects,
- (g) Identify, analyse and assess measures to prevent, reduce or offset any adverse effects on the environment which may result from the implementation of the strategic decisions;
- (h) Present options or relevant alternatives to those contained in the proposed strategic decision, along with a justification for their choice and a description of the methods applied for the assessment resulting in this choice, including an indication of difficulties encountered as a result of inadequate techniques or gaps in current knowledge;
- (i) Contain information on the methods applied while preparing the strategic environmental assessment documentation;
- (j) Contain information on the methods envisaged for monitoring the implementation of the document drafted;

- (k) Contain information on any likely transboundary effect on the environment;
- (l) Contain a summary in non-technical language.

Annex III

ARBITRATION

1. In the event of a dispute being submitted for arbitration pursuant to article 21, paragraph 2, of this Protocol, a party or parties shall notify the secretariat of the subject matter of arbitration and indicate, in particular, the article of this Protocol whose interpretation or application is at issue. The secretariat shall forward the information received to all Parties to this Protocol.
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 so 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. If it fails to do so within that period, the president shall so 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 the provisions of this Protocol.
6. Any arbitral tribunal constituted under the provisions set out in this annex 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 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;
  - (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 that 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.
13. The arbitral tribunal may hear and determine counterclaims 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 settlement thereof to the parties.
15. Any Party to this Protocol which has 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 Protocol.
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 seized thereof, to another tribunal constituted for this purpose in the same manner as the first.