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Decision II/7 (of the second Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol)

FORMAT FOR NOTIFICATION UNDER ARTICLE 10 OF THE ECE PROTOCOL ON STRATEGIC ENVIRONMENTAL ASSESSMENT

I. BACKGROUND

1. At its first session, the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context serving as the Meeting of the Parties to the Protocol on Strategic Environmental Assessment invited the Working Group on Environmental Impact Assessment and Strategic Environmental assessment to prepare a revised format for notification according to article 10 of the Protocol, to be presented at the second session of the Meeting of the Parties to the Protocol (ECE/MP.EIA/SEA/2, decision I/2, para. 2).

2. At its first meeting, on 24-26 April 2012, the Working Group approved the below draft format for notification, which had been prepared by the secretariat, with the support of an editorial group. It also approved the below description of the legal requirements for notification and transboundary consultations as set out in article 10 of the Protocol, and of the general principles regarding the level of information needed for notification. The Working Group on EIA and SEA agreed to forward the draft format for notification for adoption by the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context serving as the Meeting of the Parties to the Protocol on Strategic Environmental Assessment MOP at its second session, in June 2014. The secretariat was invited to post the format on the website and Parties were invited to use it for their notifications in the interim.

II. LEGAL REQUIREMENTS FOR TRANSBOUNDARY CONSULTATIONS

3. Article 10 of the Protocol sets out the requirements for transboundary consultations. It defines whether notification is needed (para. 1), what it should contain (para. 2), the procedure for entering into consultations (para. 3) and necessary arrangements for consultations (para. 4).

4. According to paragraph 1 of the Protocol, notification is required when the implementation of a plan or programme is likely to have significant transboundary environmental effects. The Party of origin shall notify when it considers that that plan or programme is likely to have significant transboundary effects, but also the Party likely to be significantly affected can request to be notified. The notification shall be as early as possible before the adoption of the plan or programme.

5. Paragraph 2 defines what the notification shall contain. The notification shall include, inter alia, the draft plan or programme and the environmental report, including information on its possible environmental, including health, effects; and information regarding the decision-making procedure, including an indi
cation of a reasonable time schedule for the transmission of comments. But this is not an exhaustive list; it may also be advisable to submit other relevant information, such as public information materials, possible background documents or a request for information on the environment of the potentially affected area.

6. Paragraph 3 requires the affected Party to indicate whether it wishes to enter into consultations with the Party of origin. If the affected Party so wishes, the Parties shall enter into consultations concerning the likely transboundary environmental effects and measures envisaged to prevent, reduce or mitigate adverse effects.

7. Paragraph 4 specifies the obligation to agree on detailed arrangements to ensure that the authorities and the public concerned of the affected Party are informed and given an opportunity to forward their opinion on the draft plan or programme and the environmental report.

8. Bearing in mind that the notification shall, according to paragraph 1, take place as early as possible, a Party of origin could consider notifying an affected Party already during the procedure specified in article 6 (scoping) for the determination of the relevant information to be included in the environmental report. If notification already takes place during this scoping phase, the documents required under paragraph 2 (a) of article 10 should be submitted as soon as they have been completed.

III. LEVEL OF INFORMATION REQUIRED

9. The specific information necessary for the notification may vary between plans and programmes as well as depending on the scope, extent and foreseen effects of the plan or programme in question. Thus article 10 of the Protocol sets only a general framework for defining the necessary information.

10. As the notification is to be prepared by the designated authority
in the country where the plan or programme is prepared, this authority has to define in detail what information is to be included in the notification form in or der to fulfil the requirements of article 10, paragraph 2. This may be done on a case-by-case basis or defined in legislation or guidance. Parties might also agree bilaterally always to provide some standard information for certain types of plan and programme. Regardless of the approach chosen, the Party of origin should ensure, when deciding on what information is necessary, that it will be sufficient at least for:
(a) The affected Party to make a decision on its participation in the transboundary consultations procedure;
(b) The public and authorities in the potentially affected Party to participate in the procedure and tO provide comments;
(c) The affected Party to understand the information needed from it to assist in the assessment of transboundary environmental, including health, effects.

III. SAMPLE FORMAT FOR NOTIFICATION

11. Notification can be made in the form of a letter, table or combination of these two. This document provides below an example of a table form for notification. It covers the main information requirements of a notification, but does not aim to be exhaustive and thus should be modified to suit a specific plan or programme. The form may also serve as a checklist for preparing a notification in a letter form. If used alone, the table will nonetheless likely need to be accompanied by a cover note identifying the addressee and the purpose of the communication.

12. The authorities preparing the notification may also wish to review the format for notification for the Convention (ECE/MP.EIA/2, annex IV, decision I/4) for additional information on notification.

NOTIFICATION TO AN AFFECTED PARTY OF A PROPOSED PLAN OR PROGRAMME UNDER ARTICLE 10 OF THE PROTOCOL ON STRATEGIC ENVIRONMENTAL ASSESSMENT

Description of information to be included	*Information*
General information on the plan or programme	
Name of the plan or programme	
Type and sector of plan or programme (e.g., local land-use plan, national energy strategy)	
Territorial coverage (e.g., regional, national)	
Main content and purpose of the plan or programme (e.g., framework setting for projects, determination of use of land) and its links with other plans or programme	
Whether the plan or programme is binding	Binding
	Not binding
Submitted documents	
Draft plan or programme	Enclosed
	Not enclosed (in which case, date by it will be transmitted)
Environmental report	Enclosed

	Not enclosed (in which case, date by it will be transmitted)
Other documents (with description)	
Languages into which documents are or will be translated	
Description of the decision-making procedure and of the strategic environmental assessment (SEA) procedure in the Party of origin	
Description of the phases of the planning procedure	
Legal basis for the planning procedure (quoting the regulation or other legal basis)	
Present phase of the planning procedure and of the SEA procedure	
Time schedule of the foreseen continuation of the planning procedure and of the SEA procedure	
Process and timing of the possible adoption of the plan or programme	
Information on the public participation process in the Party of origin	
Opportunities for the public to participate:	
• Start and end dates for the public to provide comments on the environmental report and draft plan or programme	
• How the public is informed of the public participation process	
• Whether a public hearing is organized and, if so, when	Yes (in which case, the date of the hearing)
	No
• How the public is informed of the adoption of the plan or programme and how the information specified in article 11, paragraph 2, is made available	
Expected time schedule for transmittal of comments and questions by the public of the affected Party on the draft plan or programme and on the full environmental report	
Affected Parties	
List of Parties to which notification has been sent	
Point of contact for the transboundary procedure	
Authority responsible for coordinating activities relating to the transboundary SEA procedure: name, address, e-mail, telephone and fax numbers	
Deadlines for response to the notification	
Deadline for responding to indicate whether the affected Party wishes to participate	
Deadline for transmission of comments on the draft plan or programme and the full environmental report by authorities of the affected Party (if different from above)	
Means of communication	
Means by which letters from the Party of origin are sent (e.g., e-mail, fax, post, via embassy)	
Means by which affected Parties are asked to send their letters	