



Section A4.5: SEA of plans & programmes – Transboundary consultations

Resource Manual to Support
Application of the UNECE Protocol on
Strategic Environmental Assessment

- Legal obligations
- Possible practical arrangements



- Article 10 – Transboundary Consultations
 1. Where a **Party of origin considers** that the implementation of a P/P is likely to have significant transboundary environmental, including health, effects or where a **Party likely to be significantly affected so requests**, the Party of origin shall as early as possible before the adoption of the P/P notify the affected Party.
 2. This **notification** shall contain, inter alia:
 - a) The draft P/P and the environmental report including information on its possible transboundary environmental, including health, effects; and
 - b) Information regarding the decision-making procedure, including an indication of a reasonable time schedule for the transmission of comments.
 3. ...
- *inter alia* means ‘among other things’



3. The affected Party shall, within the time specified in the notification, indicate to the Party of origin **whether it wishes to enter into consultations** before the adoption of the P/P and, if it so indicates, the Parties concerned shall enter into consultations concerning the likely transboundary environmental, including health, effects of implementing the P/P and the measures envisaged to prevent, reduce or mitigate adverse effects.
4. Where such consultations take place, the Parties concerned shall **agree on detailed arrangements** to ensure that the **public concerned and the authorities** referred to in article 9, paragraph 1, in the affected Party are informed and given an **opportunity to forward their opinion** on the draft P/P and the environmental report within a reasonable time frame.



A4.5.1 (cont'd) Legal obligations

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- Further provisions in preamble; articles 2.3 & 2.4 (in 'definitions') & 11 ('decision'); annexes III, IV (item 10) & V
- In Directive, see Article 7, plus
 - preamble; Articles 2(b), 8 & 9(1); Annex II (item 2)

Protocol on SEA



A4.5.1 (cont'd) Legal obligations

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- Transboundary consultations when proposed P/P in one country (*Party of origin*) likely to have significant environmental effects on territory of another country (*affected Party*)
- Party of origin has to notify affected Party if
 - it considers implementation of proposed P/P likely to have significant transboundary environmental effects,
 - if so requested by another Party likely to be significantly affected
- So first determine whether P/P likely to have significant transboundary environmental effects
- Notification 'as early as possible before' P/P adoption – Protocol does not specify exactly when



Protocol on SEA



- Notification to include
 - Draft P/P
 - Environmental report, including information on possible transboundary environmental effects
 - Information on decision-making procedure, including information on time schedule for comments



- Consultations follow if indicated by affected Party
- Consultations must address
 - likely transboundary environmental effects of implementing P/P
 - measures envisaged to prevent / reduce / mitigate adverse effects
 - detailed arrangements for informing the public concerned & authorities in affected Party, & for giving them opportunity to forward opinion on:
 - draft P/P
 - environmental report
- Public concerned & environmental & health authorities in affected Party
 - Opinions have to be taken into due account
 - Have to be informed of how



- At latest, transboundary effects identified during preparation of environmental report
- If identified earlier then notification best begun earlier, during scoping
 - may reduce delays in reaching decision-making
 - early notification necessarily informal, as formal notification has to include environmental report
- Reasonable time frames required for transboundary consultations – need to be enough for
 - contact to be made between Parties concerned
 - identification & consultation with the public concerned & authorities in affected Party
 - consideration of resulting comments by authorities in Party of origin
 - practical matters, e.g. translations



- Concerned Parties may agree on detailed arrangements on *ad hoc* basis, but for EIA in a transboundary context (under Espoo Convention), process can be accelerated & simplified with bilateral / multilateral agreements covering
 - contact points
 - a joint body
 - language considerations including translation arrangements
 - assigning costs
 - criteria of effect significance
 - public participation arrangements
 - dispute settlement procedures
- See Espoo Convention's *Guidelines on good practice & bilateral & multilateral agreements & Guidance on public participation in EIA in a transboundary context*
- Might extend existing transboundary EIA agreements

