



**Economic and Social  
Council**

Distr.  
GENERAL

CEP/2001/6  
13 July 2001

ORIGINAL: ENGLISH

---

**ECONOMIC COMMISSION FOR EUROPE**

**COMMITTEE ON ENVIRONMENTAL POLICY**

**PUBLIC PARTICIPATION IN THE CONTEXT OF UNECE  
ENVIRONMENTAL CONVENTIONS**

**Report on the informal meeting of representatives of the Bureaux of the ECE  
Environmental Conventions and the Committee on Environmental Policy,  
25 June 2001, Geneva**

**Prepared by the Chairperson with the assistance of the secretariat**

Introduction

1. A roundtable discussion on supporting the UNECE multilateral environmental agreements was held within the framework of the seventh session of the Committee on Environmental Policy (CEP). This event was meant to provide a catalyzing forum for the governing bodies of the different conventions to exchange experience on implementation and to consider, jointly with the CEP, measures to increase the instruments' overall effectiveness. It was recognized that this could be achieved, among other things, by increased cooperation and by identifying synergies between the conventions (ECE/CEP/74, paragraphs 14, 15 and annex II).
2. Bearing in mind the conclusions of the roundtable and following some consultations between the secretaries to each of the conventions and the CEP, the Chairman of the Meeting of the Signatories to the Aarhus Convention invited the chairpersons and other representatives of the Bureaux of each of the four other conventions and the CEP to participate in a one-day informal meeting on the relevance of the themes of the Aarhus Convention – access to information, public participation in decision-making and access to justice – in the context of the other conventions.

This document has not been formally edited.  
GE.01-

3. The meeting took place in Geneva on 25 June 2001. It was chaired by Mr Willem Kakebeeke, Netherlands, and was attended by eighteen representatives and the secretariat. Financial support was provided by the governments of Italy and the Netherlands. Two informal background documents had been prepared by the secretariat to stimulate the discussions at the meeting.

4. After welcoming remarks by the Director of the Environment and Human Settlements Division, Mr Kaj Bärlund, the Chairman of the Meeting of Signatories to the Aarhus Convention, Mr Francesco La Camera, and the Chairman of the Committee on Environmental Policy, Mr Hugo von Meijenfeldt, the chairpersons of the four other convention bureaux were invited to give their views on the ways access to information, public participation in decision-making and access to justice are addressed in those instruments and their protocols and in activities under their auspices.

#### The Aarhus themes in the context of the other ECE environmental instruments

5. The presentations made it clear that the three principles (access to information, public participation in decision-making and access to justice) are treated differently in the context of the four conventions, and that there are different levels of activity concerning these matters within the convention bodies.

6. The representatives of the Bureau of the Convention on Long-range Transboundary Air Pollution (CLRTAP) informed the meeting that priority is being given to providing information to the public on the activities undertaken under the Convention and that a communication strategy is being developed. With regard to public participation, NGOs are invited to all meetings under the auspices of the Convention and participate actively, especially in working groups and task forces. CLRTAP and its protocols do not contain any provisions on access to justice. The Chairman of the Executive Body stressed the importance of good cooperation with the Commission of the European Union.

7. The meeting was informed that the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention) is currently developing guidelines on public participation within the context of the Convention. Public participation is considered to be an integral element in environment impact assessment. The preparation of a draft protocol on strategic environmental assessment was recognized as an important area for cooperation between the Espoo and the Aarhus Convention bodies. The Meeting of the Parties is also concerned with the link to the Aarhus Convention and might consider amending the Espoo Convention in this light, inter alia to extend its application in non-transboundary contexts.

8. The Meeting of the Parties to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) has given attention to the issue of public participation in water management. Draft guidelines have been prepared and further work on these will be based on the outcome of a workshop on public participation in water management taking place in the Netherlands in September 2001. The secretariat to the Aarhus Convention has been invited to participate in the workshop with the aim of ensuring compatibility with

the provisions of the Aarhus Convention. The Protocol on Water and Health contains quite detailed rules on access to information, drawing heavily on the provisions in the Aarhus Convention. It requires the Meeting of the Parties to the Protocol to consider the need for further provisions on access to information, public participation and access to judicial and administrative review of decisions.

9. The Convention on the Transboundary Effects of Industrial Accidents (TEIA) contains an article covering the three elements of access to information, public participation and access to justice. However, it was reported that there seems to be a rather low political and public interest in the subjects covered by the Convention, perhaps due to the fact that the Convention has only entered into force quite recently and is not yet fully operational pending the identification of hazardous industrial activities. It was noted that the joint special session between the Meeting of the Parties to the Water Convention and the Conference of the Parties to the TEIA Convention on responsibility and liability was expected to decide to develop a protocol concerning these issues which could also be linked to the Aarhus Convention provisions on access to justice.

10. Public participation was also considered to be relevant to the work carried out by ECE on compliance and enforcement. The implementation process of international environmental agreements at the national level could benefit from linkages between the Aarhus Convention and the ECE work on compliance and enforcement.

11. In the discussion following these presentations, a consensus on the need for an in-depth legal analysis of the links between the Aarhus Convention and the four other UNECE environmental conventions emerged. Such an analysis would help countries to understand the implications of the ratification and entry into force of the Aarhus Convention. It would also identify possible inconsistencies between the instruments.

12. The Secretary to the Aarhus Convention gave a short presentation of some of the elements that might be important for the four other conventions and related protocols when the Aarhus Convention enters into force, probably before the end of 2001. The very broad definitions of 'environmental information', 'public authorities', 'public' and 'public concerned' were mentioned as contributing to the cross-cutting character of the Convention. He noted that the Convention sets international legally binding minimum standards in the fields of access to information, public participation in decision-making and access to justice, and touched upon the general question as to whether new and existing conventions should duplicate certain of these minimum standards (to cover the possibility that parties to such instruments might have chosen not become party to the Aarhus Convention but for a different reason) or whether they should rather rely on the Aarhus Convention.

#### Ideas for follow-up actions

13. Some ideas for possible follow-up actions had been identified in the second informal background paper and these were presented by the Secretary to the Aarhus Convention, attached as annex I to this report. These include proposals of a general nature as well as some of a more specific character related to the pillars of the Aarhus Convention. The ideas contained in Annex I, points 4 to 6 were not discussed by the Meeting.

14. As mentioned above, a majority of the participants supported the need for an in-depth legal analysis of the links between the Aarhus Convention and the other instruments (see annex I, point 1) and it was decided to recommend this to the CEP. It was felt that a matrix demonstrating the links between the Aarhus Convention and the other instruments could be a useful part of such an analysis. It was considered that the CEP would be the most appropriate body to decide on whether to proceed with such an analysis and to develop specific terms of reference. The study would be done by the secretariat or by a consultant commissioned by the secretariat, in consultation with a review group consisting of legal experts designated by the various convention bodies. The issue of funding for the analysis was not discussed.

15. It was not considered useful to investigate the application of the Aarhus Convention principles and/or provisions within the substance of the other ECE environmental instruments as a separate action point (annex I, point 2). This could in any case be pursued by each convention body separately. However, the possibility of applying the Convention's principles and/or provisions within the procedures of the other ECE environmental instruments (annex I, point 3) and the related idea of developing guidelines on NGO participation in international fora were considered to be worthy of further investigation.

16. An outline of how such guidelines might be developed and what their content might be, prepared by the Aarhus Convention Secretariat and contained in Annex II, was presented to the meeting. Such guidelines could take as their starting point article 3, paragraph 7 of the Aarhus Convention and build on the principles of the Convention. They could provide guidance to governments, IGO secretariats, and possibly NGOs on how to maximize the benefits of NGO involvement and could help to answer the need identified by the Secretary-General for flexible but clear guidelines to those UN officials dealing with NGOs.

17. The Meeting generally agreed that the proposal needed some more reflection and that in any case a mandate to proceed would need to come from a body such as the CEP. An analysis of good practices and experiences should provide the basis for developing guidelines. Most participants thought that such guidelines should be limited to the UNECE region, though it was noted that, like paragraph 7 of article 3 itself, they could apply to ECE governments even when they were participating in non-ECE (e.g. global) fora. Several participants thought that the guidelines should not address the issue of how NGOs should organize themselves but should in any case have input from NGOs.

18. It was proposed that, as a first step, the CEP might consider inviting the secretariat to undertake an analysis of good practices in the field of public participation in international fora in the UNECE region. This could then be used as basis for developing guidelines if it were decided to proceed in that direction.

19. It was suggested that it would be useful if the ECE would publish an updated compilation of the ECE environmental conventions and protocols.

Other issues

20. The question of whether a formal joint working group should be established was raised. Some participants were in favour of this whereas others considered it to be unnecessary and that formalizing the process could even be counterproductive. However, one formal meeting to jointly study the results of the analysis mentioned in paragraph 14 seemed feasible. Furthermore, there was general agreement that it was useful for representatives of the various convention bodies and the CEP to continue to meet informally to discuss topics of common interest. Apart from further discussions on the Aarhus themes, the issues of compliance, liability and financing were mentioned as possible candidates.

## Annex I

### POSSIBLE FOLLOW-UP ACTIONS

#### General

1. In-depth legal analysis of implications of the Aarhus Convention in the fields covered by one or more of the other ECE environmental instruments
2. Application of the Aarhus Convention principles and/or provisions within the *substance* of the other ECE environmental instruments
3. Application of the Aarhus Convention principles and/or provisions within the *procedures* of the other ECE environmental instruments

#### Information

4. Development of public communication strategies (general public + target groups):
  - for each instrument separately
  - for ECE environmental instruments collectively

#### Participation

5. Guidelines on public participation:
  - completion of processes with Water and Espoo
  - initiation of similar processes for LRTAP and TEIA

#### Access to Justice

6. Guidelines on access to justice - cf Aarhus Task Force output

## Annex II

### **ECE GUIDELINES ON NGO PARTICIPATION IN INTERNATIONAL FORA**

#### **Scope**

- Aarhus, article 3.7: "Each Party shall promote the application of the principles of this Convention in *international environmental decision-making processes* and within the framework of *international organizations in matters relating to the environment*."
- ECE environmental instruments
- Formal and informal levels
- Principles and/or provisions?
- Guidance to governments, secretariats and NGOs
- Relation to existing standards (e.g. NGO accreditation rules, rules of procedure etc)

#### **Content**

- Which provisions of Aarhus are applicable, which not? Are new provisions needed?
- Defining the 'public concerned': is differentiation needed (e.g. between PINGOs and BINGOs)? Issues of representativity, legitimacy etc

#### **Process**

- Analysis of good practices
- Tripartite task force: governments (Bureaux?), secretariats, NGOs
- Kiev preparatory process
- Adoption or endorsement by Ministers (and NGOs?)