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Meeting of the Parties to the
Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters

REPORT OF THE SECOND MEETING OF THE PARTIES

Addendum

DECISION II/4

**PROMOTING THE APPLICATION OF THE PRINCIPLES OF THE AARHUS
CONVENTION IN INTERNATIONAL FORUMS**

adopted at the second meeting of the Parties
held in Almaty, Kazakhstan, on 25-27 May 2005

Recalling principle 10 of the Rio Declaration on Environment and Development, which states, inter alia, that environmental issues are best handled with the participation of all concerned citizens, at the relevant level,

Recalling also article 3, paragraph 7, of the Convention, which requires each Party to promote the application of the principles of the Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment, and paragraph 31 of the Lucca Declaration, in which Parties, Signatories and other States and stakeholders recognized the need for guidance on the implementation of this provision of the Convention,

Further recalling the work undertaken by a group of experts and by the Working Group of the Parties on the subject of public participation in international forums, including the preparation of draft guidelines,

Believing that such guidelines would assist Parties in fulfilling their obligations under the Convention and may be of value to Signatories and other interested States not party to the Convention, as well as to international forums, including their secretariats, and non-governmental organizations,

Underlining the importance of wide consultation regarding the application of such guidelines,

The Meeting of the Parties

1. Adopts the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums as annexed to this decision, recommends their application by all Parties on the understanding that the Guidelines will be reviewed and, if appropriate, amended by the Parties at their third ordinary meeting, in accordance with the procedures set out in this decision, and recognizes that Parties may take a phased approach to the application of the Guidelines, with special emphasis being given to UNECE environmental treaties;
2. Invites Signatories and other interested States to take the concepts reflected in the Guidelines into consideration and to apply them as appropriate;
3. Invites international forums within the scope of these Guidelines, including their secretariats, to take into account the principles of the Convention as reflected in these Guidelines and to consider how their own processes might further the application of these Guidelines;
4. Invites non-governmental organizations and other relevant actors to support the application of these Guidelines and to consider how their own processes and activities might further that application;
5. Establishes a task force to enter into consultations regarding the Guidelines with the relevant international forums within the scope of these Guidelines;
6. Requests the task force, with the assistance of the secretariat, to:
 - (a) Submit to the next meeting of the Working Group of the Parties a proposed plan of consultation, including a list of the international forums to be consulted, the modalities of the consultation and a time schedule, having regard to the internal procedures of these forums;
 - (b) Carry out the consultation process as decided by the Working Group and report on its progress to each meeting of the Working Group; and
 - (c) Prepare a report on the outcome of the consultations for consideration by the Working Group;

7. Invites Parties, Signatories, other interested States, non-governmental organizations, interested international forums and other relevant actors to submit to the secretariat comments relating to their experience regarding the application of the Guidelines for consideration by the task force;

8. Requests the Working Group of the Parties, based on its consideration of the outcome of the consultations and experiences regarding the application of the Guidelines, to review the Guidelines and make recommendations, as appropriate, for consideration by the Parties at their third ordinary meeting.

9. Welcomes the offer of France to lead the Task Force.

Annex

**ALMATY GUIDELINES ON PROMOTING THE APPLICATION OF THE
PRINCIPLES OF THE AARHUS CONVENTION IN INTERNATIONAL FORUMS**

I. PURPOSE AND SCOPE

1. The primary purpose of these Guidelines is to provide general guidance to Parties on promoting the application of the principles of the Convention in international forums in matters relating to the environment. In order to meet the Convention's objective effectively, Parties should seek to apply these Guidelines to the extent appropriate in the light of reasonable considerations such as the institutional integrity and particular characteristics of each international forum concerned, its procedures and decision-making processes, and the nature and availability of its resources. The level and the extent of application of these Guidelines will depend on the specific rules and composition of each international forum concerned.
2. These Guidelines are intended to provide guidance to Parties in the context of:
 - (a) The development, modification and application of relevant rules and practices applied within international forums (e.g. rules of procedure covering issues such as transparency, accreditation, etc.); and
 - (b) The treatment of relevant substantive issues within those forums.
3. These Guidelines may also serve as a source of inspiration to Signatories and other interested States, as well as to multilateral environmental agreements (MEAs) and other international forums, non-governmental organizations and other members of the public having an interest in promoting the application of the principles of the Convention in international forums.
4. These Guidelines relate to international forums, including:
 - (a) The negotiation and implementation at the international level of MEAs, including decisions and actions taken under their auspices;
 - (b) The negotiation and implementation at the international level of other relevant agreements, if decisions or actions undertaken at that level pursuant to such agreements relate to the environment or may have a significant effect on the environment;
 - (c) Intergovernmental conferences focusing on the environment or having a strong environmental component, and their respective preparatory and follow-up processes at the international level;
 - (d) International environmental and development policy forums; and
 - (e) Decision-making processes within the framework of other international organizations in matters relating to the environment.

5. These Guidelines relate to all international stages of any relevant decision-making process in matters relating to the environment.

6. These Guidelines are intended, through their application, to positively influence the way in which international access is secured in international forums in which Parties to the Convention participate.

II. DEFINITIONS

7. For the purposes of these Guidelines, ‘Aarhus Convention’ and ‘the Convention’ mean the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

8. For the purposes of these Guidelines, the terms ‘Party’, ‘environmental information’, ‘the public’ and ‘the public concerned’ shall be understood *mutatis mutandis* as defined in article 2, paragraphs 1, 3, 4 and 5, of the Convention.¹

9. For the purposes of these Guidelines, ‘international forum’ means any multilateral international environmental decision-making process, or any multilateral international organization when dealing with matters relating to the environment, as illustrated in paragraph 4. This does not include any regional economic integration organization or forums exclusively comprising all member States of a regional economic integration organization.

10. For the purposes of these Guidelines, ‘international access’ means public access to international forums in accordance with these Guidelines.

III. GENERAL CONSIDERATIONS

11. Access to information, public participation and access to justice in environmental matters are fundamental elements of good governance at all levels and essential for sustainability.

12. Providing international access opportunities in environmental matters, and establishing and strengthening procedures that enable the taking of these opportunities, generally improves the quality of decision-making and the implementation of decisions.

13. There may be a need to adapt and structure international processes and mechanisms in order to ensure meaningful and equitable international access.

14. In any structuring of international access, care should be taken to make or keep the processes open, in principle, to the public at large.

15. Where members of the public have differentiated capacity, resources, socio-cultural circumstances or economic or political influence, special measures should be taken to ensure a balanced and equitable process. Processes and mechanisms for international access should be designed to promote transparency, minimize inequality, avoid the exercise of undue economic or

political influence, and facilitate the participation of those constituencies that are most directly affected and might not have the means for participation without encouragement and support.

16. International access should be provided without discrimination on the basis of citizenship, nationality or domicile. In the case of a legal person, international access should be provided without discrimination as to where it has its registered seat or an effective centre of its activities.

17. Capacity-building may be important to facilitate international access for the public concerned, in particular NGOs promoting environmental protection, and especially in developing countries and in countries with economies in transition.

18. Enhancing international access may imply investment of resources. If necessary, resources should, in relevant cases, be made available in the appropriate form and according to modalities to be agreed upon in each international forum concerned, in order to facilitate meaningful and equitable international access.

IV. ACCESS TO ENVIRONMENTAL INFORMATION

19. Each Party should encourage international forums to develop and make available to the public a clear and transparent set of policies and procedures on access to the environmental information that they hold in order to make access by the public more consistent and reliable. Such policies and procedures should enhance and facilitate both accessibility and understanding of the relevant information.

20. Environmental information contained in all official documents developed and produced within each international forum should be made available to the public through the Internet, or through other appropriate means, in a timely manner, subject to the relevant rules of each individual forum and with due regard for paragraph 25.

21. The availability of appropriate technical means for effectively rendering information accessible to the public free of charge using electronic information tools such as clearing houses, interactive databases and registers should be promoted. Where appropriate, live webcasting of events and alternative methods to reach a broader public should be considered.

22. Environmental information should be provided proactively, in a meaningful, accessible form, including, as appropriate, in the official languages of the concerned international forum, so that access to information may translate into an increase in knowledge and understanding. The designation of information officers or contact persons in international forums will facilitate the flow of information to the public and should be promoted.

23. Subject to the following paragraphs of this chapter, any member of the public should have access to environmental information developed and held in any international forum upon request, without having to state an interest.

24. When environmental information is requested by a member of the public, it should be provided as soon as possible following the request, and subject to an appropriate time limit, recalling that the time limit under the Convention is one month.

25. Requests for environmental information should be permitted to be refused only on the basis of specific grounds for refusal, taking into account the relevant provisions of the Convention, including the requirement that grounds for refusal should be interpreted in a restrictive way, taking into account the public interest in disclosure.
26. A refusal of a request, in whole or in part, should be in writing if the request was in writing or the applicant so requests and should state reasons for the refusal and give information on access to any review procedure referred to in paragraph 40.
27. Environmental information should be provided in the form requested if it exists in that form. The availability of information free of charge or, at most, at a reasonable charge should be promoted. If there is a charge, a schedule of charges should be available to the public.

V. PUBLIC PARTICIPATION IN DECISION-MAKING ON ENVIRONMENTAL MATTERS

28. Public participation generally contributes to the quality of decision-making on environmental matters in international forums by bringing different opinions and expertise to the process and increasing transparency and accountability. The forms of participation might vary according to the nature and phase of the process, and the format of the meeting. Efforts should be made to proactively seek the participation of relevant actors, in a transparent, consultative manner, appropriate to the nature of the forum.
29. Participation of the public concerned in the meetings of international forums, including their subsidiary bodies and other groups established by the forums to contribute to the decision-making, in matters relating to the environment should be allowed at all relevant stages of the decision-making process, unless there is a reasonable basis to exclude such participation according to transparent and clearly stated standards that are made available, if possible, in advance.
30. Participation of the public concerned should be as broad as possible. In an international context, relevant stakeholders may include:
- (a) The members of the public who are, or are likely to be, most directly affected;
 - (b) Representatives of public-interest organizations, such as environmental citizens' organizations; and
 - (c) Representatives of other interests that might cause, contribute to, be affected by or be in a position to alleviate the problems under discussion.
31. While an international forum, or a process within it, should in principle be open to the participation of the public, the number of members of the public concerned participating in the meetings may be restricted if this is necessary and unavoidable for practical reasons. Any such restriction should take account of the nature and phase of the decision-making process and the form of participation sought, and should aim at ensuring the quality, efficiency and expediency

of the decision-making process. Where they are applied, accreditation or selection procedures should be based on clear and objective criteria, and the public should be informed accordingly. Such procedures should be transparent, fair, timely, accountable and accessible, and aimed at securing meaningful and equitable participation, while avoiding excessive formalization. Selection criteria may include field of expertise, representation in geographic, sectoral, professional and other relevant contexts, and knowledge of the working language, having due regard for paragraphs 17 and 18.

32. The international processes should benefit from public participation from an early stage, including, at the international level, the negotiation and application of conventions; the preparation, formulation and implementation of decisions; and substantive preparation of events.

33. Effective participation of the public concerned may be ensured through a variety of forms, depending on different factors, such as the type of international forum concerned and the nature and phase of the decision-making process. Such forms could include, at meetings in international forums, observer status, advisory committees open to relevant stakeholders, forums and dialogues open to members of the public and webcasting of events, as well as general calls for comments.

34. Subject to the more specific guidance contained in other relevant paragraphs, the participation of the public concerned should include, at meetings in international forums, the entitlement to have access to all documents relevant to the decision-making process produced for the meetings, to circulate written statements and to speak at meetings, without prejudice to the ability of international forums to prioritize their business and apply their rules of procedure.

35. Public participation procedures in international forums should include reasonable time frames for the different stages, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively during the decision-making process. The timing of the opportunities to participate should be compatible with those pertaining to public access to the relevant documents, in order to facilitate informed public participation. The opportunity to participate in a given international decision-making process should be provided at a stage when options are still open and effective public influence can be exerted.

36. The public should be informed in due time of the opportunities, procedures and criteria for public participation in the decision-making and of the availability of information for the public, such as drafts for comments, final documents, decisions and reports. Such information should be provided through web sites as well as, if feasible, directly to members of the public concerned having requested to be so notified or having otherwise been identified as in need of direct communication. To preserve the quality of the decision-making process, transparent and clearly stated standards should be set regarding the provision of comments and the public should be informed accordingly.

37. In decisions, due account should be taken of the outcome of public participation. Transparency with respect to the impact of public participation on final decisions should be promoted, through, inter alia, facilitating the public availability of documents submitted by the public.

38. Decision-making processes in international forums are enhanced by the participation of an informed, knowledgeable public, representing diverse constituencies. Measures that would contribute to such participation should be recognized as important and be encouraged. Parties should consider engaging, and relevant organizations and other donors should be invited to engage, in appropriate capacity building activities, taking account of the needs and priorities identified in paragraphs 17 and 18.

39. Noting that traditional arrangements for providing financial support for travel and subsistence costs to facilitate participation in some international forums can be quite costly and thus constrain the number of people who can participate, efforts should be made to apply innovative, cost-efficient and practical approaches which are consistent with good accounting practices with a view to maximizing participation.

VI. REVIEW PROCEDURES IN ENVIRONMENTAL MATTERS

40. Each Party should encourage the consideration in international forums of measures to facilitate public access to review procedures relating to any application of the rules and standards of each forum regarding access to information and public participation within the scope of these guidelines.

Notes

¹ The relevant definitions from article 2 of the Convention are as follows:

“For the purposes of this Convention,

1. ‘Party’ means, unless the text otherwise indicates, a Contracting Party to this Convention;
2. [...]
3. ‘Environmental information’ means any information in written, visual, aural, electronic or any other material form on:
 - (a) The state of 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) Factors, such as substances, energy, noise and radiation, and activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programmes, affecting or likely to affect the elements of the environment within the scope of subparagraph (a) above, and cost-benefit and other economic analyses and assumptions used in environmental decision-making;
 - (c) The state of human health and safety, conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the state of the elements of the environment or, through these elements, by the factors, activities or measures referred to in subparagraph (b) above;
4. ‘The public’ means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups;
5. ‘The public concerned’ means the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest.”
