



**Economic and Social
Council**

Distr.
GENERAL

ECE/MP.PP/WG.1/2005/2
25 February 2005

Original: ENGLISH

ECONOMIC COMMISSION FOR EUROPE

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

Working Group of the Parties to the Convention

REPORT OF THE FOURTH MEETING

1. The fourth meeting of the Working Group of the Parties to the Convention was held in Geneva on 1-4 February 2005.
2. The meeting was attended by representatives from the Governments of Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, the former Yugoslav Republic of Macedonia, Netherlands, Norway, Portugal, Republic of Moldova, Romania, Russian Federation, Serbia and Montenegro, Slovenia, Spain, Sweden, Tajikistan, Turkey, Ukraine, United Kingdom, United States of America and Uzbekistan. The Commission of the European Communities was also represented.
3. Representatives from the United Nations Environment Programme (UNEP), UNEP/GRID-Arendal and the United Nations Institute for Training and Research (UNITAR) attended the meeting.
4. The Council of Europe was represented.
5. The Regional Environmental Center for Central and Eastern Europe (REC), the Regional Environmental Centre for Central Asia and the Regional Environmental Centre for Moldova (REC-Moldova) were also represented.

GE.05-31273

6. The following non-governmental organizations were present: Center for International Environmental Law, CropLife International, Earthjustice, European ECO Forum, GLOBE Europe and Institute for Plant Biotechnology for Developing Countries (IPBO).

7. Mr. Marc Pallemmaerts (Belgium), Chairman of the Working Group, opened the meeting.

I. ADOPTION OF THE AGENDA

8. The Working Group adopted the agenda for the meeting as set out in document ECE/MP.PP/WG.1/2005/1.

II. STATUS OF RATIFICATION OF THE CONVENTION AND THE PROTOCOL ON POLLUTANT RELEASE AND TRANSFER REGISTERS

9. The secretariat drew the attention of delegations to an informal paper that it had prepared giving an overview of the current status of ratification of the Convention and the Protocol on Pollutant Release and Transfer Registers (PRTRs). Since the previous meeting, Austria, Spain and the Netherlands had deposited their instruments of ratification. This would bring the number of Parties to at least 33 by the time of the second meeting of the Parties.¹ The representative of the United Kingdom informed the Working Group that it intended to deposit its instrument of ratification in time for it to be a Party at the second ordinary meeting of the Parties. No countries had ratified the Protocol on PRTRs.

III. PREPARATION FOR THE SECOND ORDINARY MEETING OF THE PARTIES

A. Organizational matters

10. Mr. Bulat Bekniyazov, Director of the Department on Strategic Planning and Analysis of the Ministry of Environmental Protection of Kazakhstan, informed the Working Group about the national preparatory process for the organization of the second meeting of the Parties. The Chairman thanked the Government of Kazakhstan for its efforts in relation to these preparations.

11. The secretariat informed the Working Group that invitations to the meeting of the Parties had been sent to UNECE Ministers of Environment and heads of the major relevant international organizations in December 2004. It also drew the attention of delegates to the Convention's web site, where information on the participation and registration procedure was available and urged delegations from Parties to start the necessary arrangements in order to obtain credentials in due time in accordance with rule 16 of the rules of procedure.

¹ This total including "pending" Parties, i.e. those States, which had deposited their instruments of ratification, acceptance, approval or accession with the Depositary but for which the 90 days required for the Convention to enter into force for them, had not elapsed.

12. The secretariat also informed the Working Group that, subject to the availability of funds, it aimed to provide financial support to delegates from eligible countries according to the following formula: in the case of Parties, support would be provided in accordance with the criteria established by the Committee on Environmental Policy (ECE/CEP/124, annex IV) for up to three persons if the Party was represented by a minister, and for up to two persons if the Party was not represented by a minister; for non-Parties, the number of persons that could receive financial support would be two if the country was represented by a minister, and otherwise one. A decision on the level of support to be provided to NGO participants would be taken later on, once the extent of funds available for this purpose from other sources was more fully known.

13. The Chairman informed the Working Group that, following its request, the host country had kindly agreed to handle the organization of side events. To this end, the secretariat in consultation with the host country was requested to develop a procedure for the registration of side events and to inform national focal points and other stakeholders accordingly.

14. The Working Group agreed to hold its fifth meeting in Almaty, Kazakhstan, on 22 (afternoon) and 23 May 2005.

15. European ECO-Forum reported on its plans to organize a preparatory meeting in parallel with that meeting, starting on 22 May 2005. It would also organize a coordination meeting for the NGO representatives from Eastern Europe, the Caucasus and Central Asia (EECCA) in the middle of March.

B. Draft agenda, list of documentation and high-level segment

16. The Chairman introduced the draft provisional agenda of the second meeting of the Parties (ECE/MP.PP/WG.1/2005/3), which had been prepared by the Bureau with the assistance of the secretariat, taking into consideration comments provided by the Working Group at its third meeting. On behalf of the Bureau, he suggested a number of amendments. These included the introduction of an item on credentials, merging of the items on reporting on intersessional activities (item 4) and the implementation of the work programme for 2003-2005 (item 7 (a)), and re-designing the format of the high-level segment in order to increase the time available for Ministers to debate. As for the composition of panels, it was suggested to increase to two the number of panellists from EECCA for the first panel, and to indicate that this panel would be moderated by one of the participating Ministers. It was proposed that panellists representing governments would only be drawn from among the delegations of Parties. The Working Group approved these amendments and requested the secretariat to revise the provisional agenda accordingly. The Bureau was asked to work further on the arrangements for the panel discussions.

17. The secretariat informed the Working Group that it intended to prepare for the Meeting of the Parties a report on global and regional developments related to principle 10 of the Rio Declaration on Environment and Development, having determined that the existing documentation on the topic was insufficient for the purpose.

18. The secretariat drew the attention of delegations to the document on organizational issues (ECE/MP.PP/WG.1/2005/3/Add.1).

IV. ALMATY DECLARATION

19. The Chairman presented the draft Almaty declaration (ECE/MP.PP/WG.1/2005/4), which had been prepared by the Bureau with the assistance of the secretariat. Delegations provided general comments on its structure and scope during a plenary discussion and also submitted comments in writing through the secretariat. Most were in favour of arranging the text by sections with appropriate headings (e.g. (a) opening part; (b) facts, achievements and obstacles/evaluation of progress; (c) future developments and directions/setting priorities for coming years). It was also suggested to group all the references to the PRTR Protocol together in a separate section. Concerning the content, it was suggested to focus on implementation and compliance, with reference to the work programme, and to make a link to concrete priorities; to strengthen the invitation to non-Parties to accede to the Convention; and to make more reference to the work of international organizations and NGOs.

20. In the light of these comments, the Chairman prepared and circulated a new draft, which the Working Group agreed to forward to the Meeting of the Parties, subject to further consideration by the Working Group at its fifth meeting.

V. POLLUTANT RELEASE AND TRANSFER REGISTERS

21. The secretariat reported that work had proceeded on the preparation of a draft guidance document to support the implementation of the Protocol on Pollutant Release and Transfer Registers. A contractor had been selected to draft the document and the draft had been prepared and would be translated and circulated in time for consideration by the Working Group on PRTRs at its second meeting, scheduled for 13-15 April 2005. In addition to the guidance document, two other documents, one on options for a compliance mechanism for the Protocol and the other on options for rules of procedure for the sessions of its Meeting of the Parties, would be prepared for that meeting. The secretariat also informed the Working Group that, with input from its Economic Analysis Division, UNECE was updating the study on PRTR costs and benefits (CEP/WG.5/AC.2/2002/4) taking into account the experience gained with PRTR systems and the final text of the Protocol, the interim results of which would be made available at the meeting of the Parties.

22. The Working Group took note of the progress report of the secretariat and expressed its appreciation for the efforts being made.

VI. GENETICALLY MODIFIED ORGANISMS

23. The Working Group considered the four proposed options for an amendment to the Convention contained in the report of the fourth meeting of the Working Group on GMOs (MP.PP/AC.2/2004/4, annexes I to IV). An informal drafting group proposed further changes, subsequently approved by the plenary, whereby all brackets were removed from options 1 and 3 and some further progress was made on options 2 and 4. The removal of the brackets from options 1 and 3 did not however reflect that there was consensus on these options.

24. There was no agreement on whether an amendment to the Convention should cover contained use of GMOs. However, it was agreed that, for example, field trials did not fall within the definition of contained use but fell within that of deliberate release. The Working Group agreed to change the definitions in paragraphs 7, 10 and 11 of annex I bis to option 2 using the wording of article 3 of the Cartagena Protocol in order to reflect the scope of contained use in more precise terms.

25. The Working Group agreed to forward the draft decision on GMOs (ECE/MP.PP/2005/4) for consideration and possible adoption by the Meeting of the Parties, annexing the four options for an amendment as discussed and amended.

26. Pursuant to its general mandate to prepare proposals for amendments to the Convention as laid down in paragraph 2 (c) of decision I/14, the Working Group requested the secretariat to communicate to all Parties all of these options as proposed amendments to the Convention within the applicable deadline, in accordance with article 14, paragraph 2, of the Convention. The Chairman confirmed that, in addition to the four options, referred to above, the possibility of the Meeting of the Parties not pursuing any legally binding option remained on the table. The secretariat reminded the Working Group of the relevant procedures for any individual Party or Parties to propose amendments.

27. The Parties from EECCA stressed that there was no appropriate international legal instrument that covered mechanisms of public access to information and public participation in decision-making on GMO issues. They called upon Parties to clarify their positions in relation to the above-mentioned options in order to reach a consensus at the second meeting of the Parties.

28. The secretariat reported on the progress in preparing the review of the implementation of the Guidelines on Access to Information, Public Participation in Decision-making and Access to Justice with respect to Genetically Modified Organisms. As agreed at the fourth meeting of the Working Group on Genetically Modified Organisms (18-20 October 2004), the secretariat had developed and circulated a questionnaire asking delegations to comment on their experience with the Guidelines. Ten responses had been received, six of which had come from European Union member States. A preliminary analysis indicated that countries in general had had little practical experience in the implementation of the Guidelines, although non-EU countries reported that they had used them in drafting their national biosafety legislation. Those EU member States that had responded reported that the Guidelines were not specifically implemented or promoted, and for the most part had not been translated into national languages. They considered that the existing EU and national legislation and regulatory frameworks were sufficient and saw the Guidelines as an important instrument only for those countries that still did not have relevant legislation in place.

VII. ACCESS TO JUSTICE

29. The Working Group discussed the draft decision on access to justice, including the paper on alternative options for chapter 5 (ECE/MP.PP/WG.1/2005/5/Add.1 and ECE/MP.PP/WG.1/2005/6). Various amendments were agreed upon and it was decided to

transmit the draft decision, as amended, to the Meeting of the Parties for consideration and possible adoption.

30. The Working Group could not, for the time being, reach agreement on whether future work should be carried out in the context of a task force or a working group. Some of the countries preferred the latter option, in particular pointing out that this would enable experts from countries with economies in transition to benefit from the availability of interpretation. Other delegations believed that, considering the practical focus of the envisaged work, a task force comprising experts would be more appropriate. Both options were included in the text in square brackets, this issue being the only one remaining to be resolved. The delegation of Belgium informed the Working Group that it would not be in a position to continue to act as lead country for further work on access to justice. The Chairman invited those countries which had taken an active interest in this work to consider whether they might be able to take on the role of a lead country. He also pointed out that the issue of interpretation could be resolved if a potential lead country was willing to host meetings and provide interpretation. The Working Group requested the secretariat to further explore avenues of ensuring interpretation at meetings of task forces.

VIII. ELECTRONIC INFORMATION TOOLS AND THE CLEARING-HOUSE MECHANISM

31. The secretariat reported on the clearing-house mechanism, which had been launched in July 2004. Since its launch, more than 8,000 visitors had visited the central web portal of the clearing house and more than 500,000 web pages had been viewed on the site. The secretariat had held a strategy meeting on the clearing-house mechanism on 2 December 2004 which had identified priorities for further development of the clearing house, including a survey of user needs, identification of national content managers in member States that have not yet designated their clearing-house focal points, and a programme of training workshops for these focal points.

32. The Chairman presented a number of amendments to the draft decision on electronic information tools and the clearing-house mechanism (ECE/MP.PP/WG.1/2005/7) that had been proposed by the Chair of the Task Force on electronic information tools. He also introduced an additional preambular paragraph and an additional operative paragraph on the clearing house that had been prepared by the secretariat at the request of the Bureau and invited delegates to comment on these amendments and additions. The delegation of the Netherlands, speaking on behalf of the European Union member States, welcomed the suggested changes, with the exception of the amendment to paragraph 18 dealing with monitoring implementation of the recommendations contained in the annex to the draft decision, which it felt was outside the scope of the mandate of the Task Force and of the Convention. It was agreed to delete this paragraph from the draft decision.

33. The Working Group approved the draft decision as amended and agreed to forward it for consideration and possible adoption by the Meeting of the Parties.

IX. COMPLIANCE MECHANISM

34. The secretariat reported on the activities of the Compliance Committee. There were at the moment 11 communications from the public and one submission by a Party regarding compliance by another Party. At its sixth meeting (15-17 December 2004, MP.PP/C.1/2004/8), the Committee had discussed the subject matter of the first five communications.

35. The secretariat informed the Working Group about the process envisaged for the preparation of the Committee's report to the Meeting of the Parties, in accordance with paragraph 35 of the annex to decision I/7. The Committee would focus on this report at its seventh meeting, to be held on 16-18 February 2005. The report would include the Committee's findings, conclusions and/or recommendations to the Meeting of the Parties, if any, and was also expected to address some general matters.

36. In order for the Meeting of the Parties to be in a position to act on any recommendations or proposals that might be put forward by the Compliance Committee, the Bureau would prepare, in consultation with the secretariat and the Chairman of the Compliance Committee, a draft decision on compliance for possible adoption by the Meeting of the Parties. The draft decision would be prepared taking into account the Committee's report, the national implementation reports and the synthesis report. The draft decision would be put forward for discussion at the fifth meeting of the Working Group of the Parties.

37. The secretariat also drew to the attention of delegates that four of the Committee's members were due to stand down at the upcoming meeting of the Parties. The incoming members should be nominated in accordance with the procedures set out in paragraph 5 of the annex to decision I/7, within the formal deadline, which in the present case was 1 March 2005. However, the outgoing members were not barred from standing for re-election for the next term.

38. Many delegations expressed their strong support for the Committee's work. A question was raised concerning equitable geographical distribution as a criterion when electing its new members.

X. REPORTING REQUIREMENTS

39. The secretariat reported on the status of national implementation reports and the preparation of the synthesis report. During the first reporting cycle, 20 reports from Parties had been received, with an additional 9 reports expected to be finalized and sent to the secretariat in due course. No Signatories or other States had thus far reported on measures that they had taken to apply the Convention, as provided for under paragraph 6 of decision I/8. Comments on the procedure followed for the preparation of national implementation reports and other supplementary information were sent by non-governmental organizations in Armenia and Kyrgyzstan.

40. The Working Group took note of progress in this area and invited all Parties and other States that intended to submit their national reports to do so as soon as possible. It decided that, on the

basis of experience gained in the first reporting cycle, no changes in the reporting mechanism should be proposed for consideration by the Parties at their second meeting.

XI. PUBLIC PARTICIPATION IN INTERNATIONAL FORUMS

41. The Chairman of the Ad Hoc Expert Group on Public Participation in International Forums, Mr. Attila Tanzi (Italy), presented the draft guidelines on public participation in international forums prepared by the Expert Group (ECE/MP.PP/WG.1/2005/8/Add.1). The Expert Group had met in June and November 2004. A drafting group had met once in between these meetings. The meetings had been attended by experts from governments, intergovernmental organizations (incl. secretariats of multilateral environmental agreements), regional organizations, NGOs and academia.

42. The Expert Group had reached agreement on key issues in relation to the scope, format and content of the guidelines (ECE/MP.PP/WG.1/2005/8). Three paragraphs of the draft could not be fully discussed due to a shortage of time and had been included under the authority of the Chairman.

43. The secretariat presented an explanatory note on a possible approach that might be used for the future implementation of guidelines (ECE/MP.PP/WG.1/2005/8/Add.2).

44. The Working Group took note of the presentation and expressed its appreciation of the significant progress made. Many delegations considered that the provisions should be flexible, so as to vary the extent of their application in different types of international forums. A concern was expressed that insufficient time had been available for consultations with interested actors and for intergovernmental negotiations on the text to take place. In addition, several delegations had not been in a position to propose amendments.

45. The Working Group proceeded to discuss the draft guidelines and made various amendments, without prejudice to the ability of delegations to submit further views at a later stage. Following the proposal made by the Expert Group, it was agreed that it might make sense to include the preamble and operative paragraphs of the text in a draft decision, to which the guidelines would be annexed. Due to the limited time available for preparation of a paper on examples of good practices in public participation in international forums, it was decided to include in the draft decision a paragraph asking the secretariat to prepare a compendium of good practices for the third meeting of the Parties.

46. There was not sufficient time to review the whole text. However, in order to make further progress, it was agreed to convene an informal meeting of “friends of the Chair” on 28 February and 1 March 2005, back to back with a meeting of the Bureau for further consideration of the draft guidelines. Interested delegations were invited to submit their comments in writing by 22 February 2005. The draft guidelines as further revised at that meeting would be submitted to the Parties at their second meeting, subject to further consideration by the Working Group at its fifth meeting.

47. Several delegations questioned the proposed approach and in particular the nature of the new document. They raised concerns about the proposed timetable for the process, indicating the need to consult with the Parties, Bureau and secretariats of the international forums covered by the draft guidelines before reaching a decision on their adoption. As a result, an alternative decision might need to be prepared in the event that the draft was not so adopted. Several other delegations supported the approach proposed by the Chairman. They felt that at this stage the timetable and process were adequate and did not feel the need to prepare an alternative draft decision.

XII. PUBLIC PARTICIPATION IN STRATEGIC DECISION-MAKING

48. The secretariat reported on the consultations that it had held with the secretariat of the Espoo Convention concerning the proposed workshop on public participation in strategic decision-making. The workshop would take place in 2006, organized jointly with the relevant bodies of the Espoo Convention and its Protocol on Strategic Environmental Assessment. A list of participants, programme and sources of funding should be agreed upon after a political agreement to hold such a workshop had been reached at the second meeting of the Parties.

49. The Working Group took note of this information and agreed that further work in this area would be undertaken once the work programme for 2006-2008 had been adopted by the Meeting of the Parties.

XIII. OVERVIEW OF CONTRIBUTIONS AND EXPENDITURES IN 2003 AND 2004

50. The secretariat presented a financial report on the funds received and the expenditures incurred in the implementation of the work programme during 2003 and 2004 (ECE/MP.PP/WG.1/2005/9), prepared at the request of Working Group. An updated list of contributions received for 2003 and 2004 was provided as an informal document. Whereas the expenditure and income over the two-year period taken as a whole were well matched, the projected costs for 2004 had been substantially higher than those incurred in 2003, mostly due to the cost of recruitment of additional extrabudgetary staff in order to deal with the increase activity in some substantive areas, in particular with respect to the Convention's compliance mechanism. The fall in the value of the US dollar against the European currencies had also contributed to a steady increase in costs during 2004, in particular with respect to staff salaries and travel of experts to Geneva. It was concluded that the same level of expenditure could not be maintained beyond 2005 without a significant increase in contributions.

51. The Working Group was invited to consider the implications of this report and to provide new information on the financial contributions towards the implementation of the work programme in 2005. It was felt that, in order to ensure stable and predictable sources of funding for the future implementation of the work programme, all States in a position to do so should consider making a contribution. The following information was given by delegations regarding their intentions to contribute, in addition to the information already provided in the report of the previous meeting of the Working Group (MP.PP/WG.1/2004/9, para. 77):

Country or delegation	Shares (1 share = US\$ 20,000)
Belgium	No specific information at this stage, but intention to contribute with 1, possibly 2, shares for 2005.
Denmark	2 shares just contributed, 1 for 2005 and 1 for 2006, ¼ of which was earmarked for activities under the Protocol on PRTRs and the rest for the compliance mechanism.
Finland	½ share for the year 2005.
France	3 shares for the year 2005.
Germany	3 shares for the year 2005.
Italy	General intention to contribute, no specific information about the level of contribution at this stage.
Kazakhstan	General intention to contribute.
Kyrgyzstan	General intention to make a contribution for 2005.
Latvia	A small contribution already provided; intention to contribute with additional funds in the second half of 2005.
Netherlands	Policy with regard to contributions currently under review, but a general intention to contribute.
Norway	1 share for the year 2005.
Slovenia	General intention to make a contribution for 2005.
Sweden	General intention to make a contribution for 2005.
Tajikistan	General intention to make a contribution for 2005.
Ukraine	General intention to make a contribution for 2005, subject to budgetary approval.
United Kingdom	Expects to maintain the 2004 level of contribution for 2005 (US\$53,500).
Uzbekistan	Intention to make a symbolic contribution, subject to budgetary approval.
European Commission	Expects to maintain the 2004 level of contributions for 2005 (€100,000).

52. The Working Group took note of these intentions and decided to leave further consideration of this issue to the Meeting of the Parties. The secretariat would update the report with the exact status of contributions received and expenditures incurred in the implementation of the work programme in 2003 and 2004.

XIV. WORK PROGRAMME FOR 2006-2008 AND LONG-TERM STRATEGIC PLANNING

53. The secretariat presented the draft work programme for 2006-2008 (ECE/MP.PP/WG.1/2005/10), which had been revised to include financial information on the envisaged costs of its implementation. It provided additional details on costs and personnel associated with the various areas of activity in response to questions raised by delegations.

54. The Working Group agreed to review this information and continue its discussion at its next meeting. It requested the secretariat to revise the document, taking into account the points raised during the discussion, in particular to provide additional details on the staff time associated with each area of work.

55. The Chairman presented a draft decision on long-term strategic planning, prepared by the Bureau in consultation with the secretariat (ECE/MP.PP/WG.1/2005/11). The decision set out a procedure, involving broad consultation, for preparing a strategic plan for consideration and possible adoption at the third ordinary meeting of the Parties. It was agreed to forward it to the Meeting of the Parties and to discuss its content further at the next meeting of the Working Group.

XV. ACCESSION BY NON-MEMBER STATES OF UNECE TO THE CONVENTION

56. The Chairman introduced a draft decision encouraging accession of non-UNECE member States to the Convention, prepared by the Bureau. The Working Group was invited to comment as appropriate.

57. In the subsequent discussion, a number of amendments were proposed. In particular, the Working Group felt it important to leave the reference to the work on possible development of global guidelines on principle 10 in square brackets, pending the outcome of the forthcoming session of the UNEP Governing Council. It was agreed to forward the draft decision as amended for consideration and possible adoption by the Meeting of the Parties.

XVI. ADOPTION OF REPORT AND CLOSURE OF MEETING

58. The Working Group adopted its report based on a draft and entrusted the Chairman and the secretariat with finalizing the text on the understanding that the French- and Russian-speaking delegates would reserve their positions until the report was available in French and Russian as well. On behalf of the Chairman, Ms. Mona Aarhus (Norway) thanked the delegations for their contributions and the secretariat for its efficient assistance and closed the meeting.