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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

#### Working Group of the Parties

##### Thirteenth meeting

Geneva, 9–11 February 2011

Item 3 (d) of the provisional agenda

**Substantive issues: public participation in decision-making**

### Report of the Task Force on Public Participation in Decision-making on its first meeting

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## I. Introduction

1. At its second extraordinary session, the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) agreed to address implementation of the Convention's second pillar by establishing, through decision EMP.II/1 on public participation in decision-making, an intersessional body under the authority of the Working Group of the Parties in the form of a task force on public participation in decision-making (ECE/MP.PP/2010/2/Add.1). The Meeting elected Mr. Philip Kearney (Ireland) to serve as Chair of the Task Force (ECE/MP.PP/2010/2, para. 17). Mr. Kearney had previously chaired the Expert Group on Public Participation on behalf of Ireland.
2. The first meeting of the Task Force on Public Participation in Decision-making was held from 25 to 26 October 2010 in Geneva.
3. The meeting was attended by representatives of eight Parties to the Convention, namely, Armenia, France, Georgia, Hungary, Kyrgyzstan, the Republic of Moldova, Spain, and the European Union, represented by the European Commission.
4. The *Association Nationale des Commissions Locales d'Information des activités nucléaires*<sup>1</sup> (ANCLI, France), the Global Legislators Organisation for a Balanced Environment (GLOBE) Europe, and the Regional Environmental Center for Central and Eastern Europe were also represented.
5. The following non-governmental organizations (NGOs) were represented: the Access Initiative (United States of America) and Earthjustice (Switzerland). The following non-governmental organizations (NGOs) were represented within the framework of the European ECO Forum, Biosophia (Armenia); the Chisinau Branch of the Environmental Movement Moldova (Republic of Moldova); the Ecological Movement BIOM (Kyrgyzstan); the European Environmental Bureau (Belgium); Green Circle (Czech Republic); Green Dossier (Ukraine); the Irish Environmental Network (Ireland); the Sun Valley Association (Romania); and Women in Europe for a Common Future (Germany), .
6. The following academic and business organizations were represented: EuropaBio (Belgium) and Mutadis (France).
7. Mr. Philip Kearney (Ireland), Chairperson of the Task Force, opened the meeting.

## II. Adoption of the agenda

8. The Task Force adopted the agenda for the meeting based on a provisional agenda prepared by the secretariat in consultation with the Chair.

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<sup>1</sup> Also known as the "Aarhus and Nuclear" initiative.

### **III. Sharing of information and experience and capacity-building**

#### **A. Good practices in public participation in decision-making**

9. The Task Force shared experience and information on good practices. Presentations<sup>2</sup> addressed a number of issues, such as the development of a legal structure to ensure public participation in decision-making and experience in organizing public participation, including with regard to identifying the public concerned, taking public comments into account and ensuring transparency and effective communication during the participation process.

10. The Task Force considered a draft template for the collection of case studies in public participation in environmental decision-making and agreed to provide written comments on the draft template electronically to the secretariat by 1 January 2011.

#### **B. Challenges in implementing public participation in decision-making**

11. The Task Force considered challenges to implementation of the public participation provisions of the Convention through various presentations, including on challenges identified by the Expert Group on Public Participation and through the national implementation reports. Participants shared examples of difficulties and obstacles to implementation and discussed additional challenges, such as poverty, which prevent effective public participation in some cases.

#### **C. Innovative forms and tools for public participation**

12. The Task Force considered various presentations concerning innovative forms and tools for public participation, and took note of this information. One presenter was connected through a video-link.

#### **D. Building non-governmental organization capacity and strengthening civil society**

13. The Task Force considered various presentations concerning capacity-building for non-governmental organizations and strengthening civil society, and took note of this information.

### **IV. Workplan for 2011–2014<sup>3</sup>**

#### **A. Prioritization of tasks and identification of needs**

14. The Task Force considered a draft workplan for 2011–2014 and agreed to prioritize tasks and needs, as laid out in the draft document prepared by the secretariat in consultation with the Chair.

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<sup>2</sup> Presentations delivered at the meeting are available at: <http://www.unece.org/env/pp/ppdm.htm>.

<sup>3</sup> Subject to approval of the mandate of the Task Force and the Convention's work programme for 2012–2014 by the Meeting of the Parties at its fourth session (15–17 June 2011).

## **B. Cooperation with the Protocol on Water and Health**

15. The secretariat of the Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes presented a proposal for a joint activity under the auspices of the Task Force. The Task Force agreed to endorse the proposal to have one joint activity in the next intersessional period. It entrusted the secretariat, in consultation with the Chair, to organize the joint activity tentatively scheduled for 2012 in cooperation with the secretariat of the Protocol on Water and Health, subject to approval by the respective Meetings of the Parties to the Aarhus Convention and to the Protocol on Water and Health.

## **C. Cooperation with the *Association Nationale des Commissions Locales d'Information des activités nucléaires***

16. Representatives of ANCLI presented a proposal for a joint activity under the auspices of the Task Force. The Task Force agreed to endorse the proposal to organize one joint activity in the next intersessional period. It entrusted the secretariat, in consultation with the Chair, to organize the joint activity tentatively scheduled for 2011 in cooperation with ANCLI, subject to approval by the Meeting of the Parties to the Convention at its fourth session.

## **D. Cooperation with the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention)**

17. The secretariat of the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the Protocol on Strategic Environmental Assessment (SEA) presented envisaged activities under these instruments that could possibly be carried out in cooperation with the Task Force. The Task Force agreed to endorse the possible organization of one joint activity with the Espoo Convention and/or the SEA Protocol in the next intersessional period. It entrusted the secretariat, in consultation with the Chair, to organize the joint activity tentatively scheduled for 2013 in cooperation with the Espoo Convention secretariat, subject to approval by the Meetings of the Parties to the Aarhus Convention and to the Espoo Convention and/or SEA Protocol, as appropriate.

## **E. Recommendations on public participation**

18. The Task Force considered a preliminary compilation of some recommendations on public participation, prepared on the basis of several materials published on the subject. It requested the secretariat to revise the draft, taking into consideration the comments provided during the meeting, and to distribute it for further comments by 15 December 2010 to national focal points and experts engaged in Aarhus activities.

19. The Task Force requested the secretariat to inform the Task Force about the deadline for providing comments on the revised draft and to make all received comments available on the Task Force's website. It further requested the secretariat to explore the possibility of hiring a consultant to work on the recommendations.

20. The Task Force agreed that a first draft of the recommendations would be expected to be ready for the next meeting of the Task Force, scheduled to take place in late 2011 or early 2012. It further agreed that during 2011 and early 2012 the work on recommendations would focus on issues related to activities I to VI of the draft workplan, and that during

2012 and 2013 the focus would be extended to the remaining activities VII, VIII and IX. It noted that the recommendations should be drafted taking into consideration the ongoing work on the Implementation Guide and the collection of case studies.

#### **F. Elaboration of a draft workplan**

21. The Task Force emphasized the need to cooperate with the Task Force on Access to Justice, to ensure that appropriate synergies were achieved and that the issue of access to justice was properly addressed in the work of the Task Force on Public Participation in Decision-making. The Task Force also acknowledged the need to take into account the work of the Task Forces on Electronic Information Tools and on Public Participation in International Forums, as well as the Convention's communication strategy.

22. The Task Force revised the draft workplan (contained in the annex), taking into account the discussion on previous items, and agreed to submit it to the Working Group of the Parties for consideration, with a view to the eventual submission of the document to the Meeting of the Parties at its fourth session. The draft workplan would also be reflected in the Convention's draft work programme for 2012–2014, which was expected to be adopted by the Meeting of the Parties.

#### **V. Adoption of conclusions and closure of the meeting**

23. The Task Force revised and adopted the major outcomes and decisions presented by the Chair at the meeting and requested the secretariat, in consultation with the Chair, to finalize the report and to incorporate the adopted outcomes and decisions in it.

## Annex

### Draft workplan for the Task Force on Public Participation in Decision-making 2011–2014

| <i>Activity</i>                                       | <i>Objective and expected outcome</i>  | <i>Method of work</i>   | <i>Relevant objectives Strategic Plan 2009-2014</i>      |
|---|--|---|--|
| I.<br>Exchange of information                         | Document and share expertise, experience and good practices and comparative analyses concerning public participation in environmental decision-making and the impact of other sets of instruments of participatory democracy related to sustainable development, including with regard to innovative forms and tools of public participation beyond traditional consultation procedures. | Organization of Task Force meetings and workshops; making use of the clearinghouse mechanism and other types of electronic exchange of information; compiling a compendium of good practices; commissioning and publication of research work and expert studies, including on the evaluation of good practices and innovative modes of participation; development of a database of experts and resources; and establishment of an inventory of public participation procedures, both compulsory and voluntary; taking into consideration the work being undertaken by Governments, international organizations, non-governmental organizations, research institutes and other stakeholders, in order to benefit from this work and avoid duplication. | General: I.1–7, 9, 16;<br>III.1<br>Specific: I.15, III.5 |
| II.<br>Identification of problems with implementation | Identify common difficulties in implementation and the main obstacles to effective public participation at regional, subregional and national levels with respect to improving implementation of the Convention's provisions on public participation in decision-making.   | Considering and analysing information provided through the national implementation reports, the findings of the Compliance Committee, other relevant assessments and the experiences of the public; sharing experiences with difficulties encountered through meetings of the Task Force and workshops included in activity I.  | General: I.1–7, 9, 16;<br>III.1<br>Specific: I.9         |

| <i>Activity</i>  | <i>Objective and expected outcome</i>  | <i>Method of work</i>   | <i>Relevant objectives Strategic Plan 2009-2014</i>                     |
|--|--|---|---|
| III.<br>Recommendations                                      | Prepare draft recommendations on improving implementation of the provisions of the Convention on public participation in decision-making and provide examples from the experience of Parties.  | Using the work undertaken under activities I, II and IV–IX as a basis; taking into account good practices in public participation in environmental decision-making and the implementation guide to the Convention; drawing on other sources of information such as field expertise and scientific research; collecting examples from the experience of Parties.     | General: I.1–7, 9, 16;<br>III.1<br><br>Specific: I.9; III.1, 3, 4, 5, 7 |
| IV.<br>Implementation at different levels of decision-making | Explore ways of achieving implementation of the public participation provisions of the Convention in a manner appropriate to the level of decision-making (national, provincial and local) and in all areas of activity that fall under the scope of the Convention.   | Examine implementation at different levels of decision-making and under the full scope of the Convention, through activities I, II and III.   | General: I.1–7, 9, 16;<br>III.1<br><br>Specific: I.9                    |
| V.<br>Public participation in particular sectors             | Investigate possibilities for focusing in more depth on public participation in decision-making in particular fields of activity that may be governed by a specific regulatory or institutional framework.   | Include a focus on specific sectors in activities I–IV; explore synergies and possibilities for cooperation with the United Nations Economic Commission for Europe (UNECE) Water Convention’s Protocol on Water and Health, the Aarhus and Nuclear initiative, the UNECE Espoo Convention and its Protocol on SEA and/or other bodies and processes as appropriate. | General: I.1–7, 9, 16;<br>III.1<br><br>Specific: I.5, 7, 9              |
| VI.<br>Capacity-building                                     | Examine approaches for developing the capacity of non-governmental organizations and strengthening civil society.<br><br>Identify and contribute to the implementation of capacity-building measures for public authorities and other stakeholders, including the Aarhus Centres, to enhance public participation. | Exchange of good practices in providing appropriate recognition of and support to associations, organizations or groups promoting environmental protection; developing information materials and training activities through activities I, II and III.  | General: I.1–7, 9, 16;<br>III.1<br><br>Specific: I.12, 13, 15;<br>III.5 |

| <i>Activity</i>   | <i>Objective and expected outcome</i>  | <i>Method of work</i>   | <i>Relevant objectives Strategic Plan 2009-2014</i>      |
|---|--|---|--|
| VII.<br>Development<br>Article 6                              | Assess the Convention's provisions on public participation in decisions having a significant impact on the environment, encompassing, inter alia, product-related decision-making; develop recommendations on how these provisions might be further elaborated.  | Assessment of the provisions of article 6 through activities I, II, IV and V; develop recommendations on how these provisions might be elaborated on to encompass product-related decision-making through activity III, as appropriate. | General: I.1-7, 9, 16;<br>III.1<br>Specific: III.3       |
| VIII.<br>Development<br>Articles 7 and 8                      | Assess, keep under review and, as appropriate, make recommendations for further developing the provisions of the Convention relating to public participation in the preparation of plans, programmes and policies relating to the environment, as well as executive regulations and other generally applicable legally binding normative instruments that may have a significant effect on the environment, in order to enhance public participation from an early stage in strategic decision-making processes. | Assessment of the provisions of articles 7 and 8 through activities I, II, IV and V; develop recommendations on how these provisions might be elaborated on through activity III, as appropriate.                                       | General: I.1-7, 9, 16;<br>III.1<br>Specific: III.4       |
| IX.<br>Public participation<br>for sustainable<br>development | Explore possibilities for the development of measures under the Convention to ensure greater opportunities for public participation in policy formulation and implementation contributing to sustainable development, including the use of participatory procedures in the revision and/or development of national strategies for sustainable development.   | Develop recommendations on public participation in the formulation and implementation of policies for sustainable development through activity III.   | General: I.1-7, 9, 16;<br>III.1<br>Specific: I.15; III.7 |

## Tentative timeline for implementation of workplan for 2011–2014

| <i>Activity</i> | <i>2011</i>   | <i>2012</i>   | <i>2013</i>   | <i>2014</i>  |
|-----------------|---|---|---|--|
| I               | Starting collection of good practices   | Continued<br>Creation of online database  | Continued   | Continued beyond 2014  |
| II              | Meeting of the Task Force back to back with a joint workshop with the Aarhus and Nuclear initiative | Meeting of the Task Force back to back with a joint workshop with the Protocol on Water and Health  | Meeting of the Task Force back to back with a joint workshop with the Espoo Convention and/or the Protocol on SEA |  |
| III             | Collection of comments and drafting of recommendations on issues related to activities I to VI      | Finalizing recommendations on issues related to activities I to VI <sup>a</sup><br>Starting work on the development of recommendations on issues related to activities VII–IX | Continuation of development of recommendations on issues related to activities VII–IX                             | Finalizing recommendations on issues related to activities VII–IX <sup>b</sup> |
| IV              | See I, II and III   | See I, II and III   | See I, II and III   | See III  |
| V               | See I, II and III   | See I, II and III   | See I, II and III   | See III  |
| VI              | See I, II and III   | See I, II and III   | See I, II and III   | See III  |
| VII             | See I, II and III   | See I, II and III   | See I, II and III   | See III  |
| VIII            | See I, II and III   | See I, II and III   | See I, II and III   | See III  |
| IX              | See II and III  | See II and III  | See II and III  | See III  |

<sup>a</sup> In the event that the Task Force will not be able to finalize the recommendations on issues related to activities I–VI by 2012, the work on these recommendations will continue.

<sup>b</sup> In the event that the Task Force will not be able to finalize the recommendations on issues related to activities VII–IX by 2014, the work on these recommendations will continue, subject to approval by the Meeting of the Parties at its fifth session.