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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 4 (c) of the provisional agenda

Procedures and mechanisms: reporting requirements

Draft decision on reporting requirements

Prepared by the Bureau with the assistance of the secretariat

Summary

This document contains a proposed draft decision on reporting requirements prepared by the Bureau of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) with the assistance of the Convention secretariat with a view to facilitating discussion on this topic by the Working Group of the Parties at its thirteenth meeting. The document is submitted to the Working Group in view of its mandate to “make such proposals and recommendations to the Meeting of the Parties as it considers necessary for the achievement of the purposes of the Convention” (ECE/MP.PP/2/Add.15, para. 2 (d)), and further to a decision by the Bureau of the Meeting of the Parties, taken at its twenty-sixth meeting (9 November 2010), on the need to strengthen and improve reporting by Parties, and the availability of those reports, with a view to optimizing implementation of the Convention.

The Working Group may wish to consider the present draft decision with a view of submitting it for consideration and adoption by the Meeting of the Parties at its fourth session, which will be held in Chisinau from 15 to 17 June 2011.

The Meeting of the Parties,

Recalling its decisions I/8, II/10 and III/5 on reporting requirements,

Recalling also the mandate of the Compliance Committee set out in paragraph 13 (c) of the annex to decision I/7 on review of compliance,

Having considered the reports submitted by Parties and the synthesis report prepared by the secretariat pursuant to paragraphs 1 to 5 of decision I/8 (ECE/MP.PP/2011/IR series and ECE/MP.PP/2011/...),

Having also considered the report of the Compliance Committee and its addenda (ECE/MP.PP/2011/... and Adds.1-...),

Considering that the reporting procedure as set out in decisions I/8, II/10 and III/5 should continue to apply for the next reporting cycle, subject only to the changes set out in paragraph 12 below,

1. *Notes with appreciation* the implementation reports submitted by [more than three quarters] of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters pursuant to paragraphs 1 to 4 of decision I/8;

2. *Welcomes* the synthesis report prepared by the secretariat pursuant to paragraph 5 of decision I/8;

3. [*Also welcomes* the reports submitted by non-governmental organizations pursuant to paragraph 7 of decision I/8;]

4. *Considers* that these reports provide a valuable overview of the status of implementation of the Convention, as well as significant trends and challenges, which will help to guide future activities;

Timely submission of reports

5. [*Notes with concern* that many Parties that submitted reports did not do so within the deadline indicated in decision II/10;]

6. *Reiterates its encouragement* of Parties to start the preparation of national implementation reports in future reporting cycles sufficiently in advance of, and at the latest five months before, the deadline for submission of the reports to the secretariat set out in decision II/10, with a view to ensuring meaningful public consultation on the reports at the national level;

Failure to submit reports

7. *Notes with regret* that ... and ..., all of which were Parties to the Convention at the time of the deadline for submission of the implementation reports, failed to submit reports;

8. *Calls upon* each of those Parties to submit its national implementation report to the secretariat by 30 September 2011, for subsequent consideration, inter alia, by the Compliance Committee;

Public consultation

9. [*Welcomes* the fact that most Parties prepared their reports through a process involving consultations with various governmental agencies as well as civil society;]

10. *Encourages* Parties to ensure transparency and public consultation during the process of the preparation and submission of the reports;

Length of reports

11. *Recalls* its request to Parties to prepare their reports within a length limit of 13,000 words, including the section headings drawn from the reporting format, and to allocate a proportionate level of detail to each item;

Reporting format

12. *Endorses* the revised reporting format as set out in the annex to this decision, so as to incorporate reporting on the implementation of articles 3.7 and 6bis, and requests Parties to use the revised format in future reporting cycles;

Guidance on reporting requirements

13. *Invites* Parties, in subsequent reporting cycles, to continue following the guidance on reporting requirements prepared by the Compliance Committee (ECE/MP.PP/WG.1/2007/L.4);

14. *Requests* the secretariat to circulate to all Parties and relevant stakeholders a formal reminder of the reporting requirements, including guidance on the preparation of the reports, at least one year in advance of the next meeting of the Parties;

Translation of the reports

15. *Decides* to discontinue processing the reports as official documents in the three official languages of the UNECE, and *requests* the secretariat to make the reports available in the languages in which they are submitted and to make the synthesis report available in the three UNECE official languages;

16. *Encourages* Parties to provide translations of the reports in the other two UNECE languages at the latest one month after the original submission deadline;

17. *Requests* the secretariat to make any unofficial translations of the reports available online.

Annex

Format for the Aarhus Convention implementation report

The following report is submitted on behalf of _____
[name of the Party or the Signatory] in accordance with decision I/8
and II/10

Name of officer responsible for submitting:
the national report:

Signature:

Date:

Implementation report

Please provide the following details on the origin of this report

Party:

National Focal Point:

Full name of the institution:

Name and title of officer:

Postal address:

Telephone:

Fax:

E-mail:

Contact officer for national report (if different):

Full name of the institution:

Name and title of officer:

Postal address:

Telephone:

Fax:

E-mail:

I. Process by which the report has been prepared

Provide a brief summary of the process by which this report has been prepared, including information on the type of public authorities that were consulted or contributed to its preparation, how the public was consulted and how the outcome of the public consultation

was taken into account, as well as on the material that was used as a basis for preparing the report.

Answer:

II. Particular circumstances relevant for understanding the report

Report any particular circumstances that are relevant for understanding the report, e.g., whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

Answer:

III. Legislative, regulatory and other measures implementing the general provisions in article 3, paragraphs 2, 3, 4, 7 and 8

List legislative, regulatory and other measures that implement the general provisions in article 3, paragraphs 2, 3, 4, 7 and 8, of the Convention.

Explain how these paragraphs have been implemented. In particular, describe:

- (a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;
- (b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;
- (c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection;
- (d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally; including:
 - (i) Measures taken to coordinate within and between ministries to inform officials involved in other relevant international forums about article 3, paragraph 7, and the Almaty Guidelines, indicating whether the coordination measures are ongoing;
 - (ii) Measures taken to provide access to information at the national level regarding international forums, including the stages at which access to information was provided;
 - (iii) Measures taken to promote and enable public participation at the national level with respect to international forums (e.g., inviting non-governmental organization (NGO) members to participate in the Party's delegation in international environmental negotiations, or involving NGOs in forming the Party's official

<p>position for such negotiations), including the stages at which access to information was provided;</p> <p>(iv) Measures taken to promote the principles of the Convention in the procedures of other international forums;</p> <p>(v) Measures taken to promote the principles of the Convention in the work programmes, projects, decisions and other substantive outputs of other international forums;</p> <p>(e) With respect to paragraph 8, measures taken to ensure that persons exercising their rights under the Convention are not penalized, persecuted or harassed</p>
<p><i>Answer:</i></p>

IV. Obstacles encountered in the implementation of article 3

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 3 listed above.*

<p><i>Answer:</i></p>

V. Further information on the practical application of the general provisions of article 3

*Provide further information on the **practical application of the general provisions of article 3**.*

<p><i>Answer:</i></p>

VI. Website addresses relevant to the implementation of article 3

Give relevant website addresses, if available:

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VII. Legislative, regulatory and other measures implementing the provisions on access to environmental information in article 4

List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.

Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person may have access to information without having to state an interest;
 - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;
 - (iii) The information is supplied in the form requested;
- (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;
- (c) With respect to **paragraphs 3 and 4**, measures taken to:
 - (i) Provide for exemptions from requests;
 - (ii) Ensure that the public interest test at the end of paragraph 4 is applied;
- (d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;
- (e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;
- (f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;
- (g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

Answer:

VIII. Obstacles encountered in the implementation of article 4

Describe any obstacles encountered in the implementation of any of the paragraphs of article 4.

Answer:

IX. Further information on the practical application of the provisions of article 4

Provide further information on the practical application of the provisions on access to information in article 4, e.g., are there any statistics available on the number of requests made, the number of refusals and the reasons for such refusals?

Answer:

X. Website addresses relevant to the implementation of article 4

Give relevant website addresses, if available:

XI. Legislative, regulatory and other measures implementing the provisions on the collection and dissemination of environmental information in article 5

List legislative, regulatory and other measures that implement the provisions on the collection and dissemination of environmental information in article 5.

Explain how each paragraph of article 5 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Public authorities possess and update environmental information;
 - (ii) There is an adequate flow of information to public authorities;
 - (iii) In emergencies, appropriate information is disseminated immediately and without delay;
- (b) With respect to **paragraph 2**, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;
- (c) With respect to **paragraph 3**, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;
- (d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;
- (e) Measures taken to disseminate the information referred to in **paragraph 5**;

(f) With respect to **paragraph 6**, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;

(g) Measures taken to publish and provide information as required in **paragraph 7**;

(h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;

(i) With respect to **paragraph 9**, measures taken to establish a nationwide system of pollution inventories or registers.

Answer:

XII. Obstacles encountered in the implementation of article 5

Describe any obstacles encountered in the implementation of any of the paragraphs of article 5.

Answer:

XIII. Further information on the practical application of the provisions of article 5

Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g., are there any statistics available on the information published?

Answer:

XIV. Website addresses relevant to the implementation of article 5

Give relevant website addresses, if available:

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
 - (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;
- (b) Measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;
- (c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;
- (d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;
- (e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;
- (f) With respect to **paragraph 6**, measures taken to ensure that:
 - (i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;
 - (ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;
- (g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;
- (h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;
- (i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;
- (j) With respect to paragraph 10, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied, making the necessary changes, and where appropriate;

(k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Answer:

XVI. Obstacles encountered in the implementation of article 6

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6.*

Answer:

XVII. Further information on the practical application of the provisions of article 6

*Provide further information on the **practical application of the provisions on public participation in decisions on specific activities in article 6**, e.g., are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.*

Answer:

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment, pursuant to article 7. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

Explain what opportunities are provided for public participation in the preparation of policies relating to the environment, pursuant to article 7.

Answer:

XXI. Obstacles encountered in the implementation of article 7

*Describe any **obstacles encountered** in the implementation of article 7.*

Answer:

XXII. Further information on the practical application of the provisions of article 7

*Provide further information on the **practical application of the provisions on public participation in decisions on specific activities in article 7.***

Answer:

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment, pursuant to article 8. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

XXV. Obstacles encountered in the implementation of article 8

*Describe any **obstacles encountered** in the implementation of article 8.*

Answer:

XXVI. Further information on the practical application of the provisions of article 8

*Provide further information on the **practical application of the provisions on public participation in the field covered by article 8.***

Answer:

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

XXVIII. Legislative, regulatory and other measures implementing the provisions on access to justice in article 9

List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.

Explain how each paragraph of article 9 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;
 - (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;
 - (iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;
- (b) Measures taken to ensure that within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6;
- (c) With respect to **paragraph 3**, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment;
- (d) With respect to **paragraph 4**, measures taken to ensure that:
 - (i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;
 - (ii) Such procedures otherwise meet the requirements of this paragraph;
- (e) With respect to paragraph 5, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

Answer:

XXIX. Obstacles encountered in the implementation of article 9

Describe any obstacles encountered in the implementation of any of the paragraphs of article 9.

Answer:

XXX. Further information on the practical application of the provisions of article 9

Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g. are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?

Answer:

XXXI. Website addresses relevant to the implementation of article 9

Give relevant website addresses, if available:

Articles 10-22 are not for national implementation.

XXXII. General comments on the Convention's objective

If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

Answer:

XXXIII. Legislative, regulatory and other measures implementing the provisions on genetically modified organisms pursuant to article 6 bis and Annex I bis

Concerning legislative, regulatory and other measures that implement the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, describe:

- (a) With respect to **paragraph 1** of article 6 bis and:
 - (i) **Paragraph 1** of annex I bis, arrangements in the Party's regulatory framework to ensure effective information and public participation for decisions subject to the provisions of article 6 bis;
 - (ii) **Paragraph 2** of annex I bis, any exceptions provided for in the Party's regulatory framework to the public participation procedure laid down in annex I bis and the criteria for any such exception;
 - (iii) **Paragraph 3** of annex I bis, measures taken to make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorization for the deliberate release or placing on the market, as well as the assessment report where available;
 - (iv) **Paragraph 4** of annex I bis, measures taken to ensure that in no case the information listed in that paragraph is considered as confidential;
 - (v) Paragraph 5 of annex I bis, measures taken to ensure the transparency of decision-making procedures and to provide access to the relevant procedural information to the public including, for example:
 - a. The nature of possible decisions;
 - b. The public authority responsible for making the decision;
 - c. Public participation arrangements laid down pursuant to paragraph 1 of annex I bis;
 - d. An indication of the public authority from which relevant information can be obtained;
 - e. An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments;
 - (vi) **Paragraph 6** of annex I bis, measures taken to ensure that the arrangements introduced to implement paragraph 1 of annex I bis allow the public to submit, in any appropriate manner, any comments, information, analyses or opinions that it considers relevant to the proposed deliberate release or placing on the market;
 - (vii) **Paragraph 7** of annex I bis, measures taken to ensure that due account is taken of the outcome of public participation procedures organized pursuant to paragraph 1 of annex I bis;
 - (viii) **Paragraph 8** of annex I bis, measures taken to ensure that the texts of decisions subject to the provisions on annex I bis taken by a public authority are made publicly available along with the reasons and the considerations upon which they are based;
- (b) With respect to **paragraph 2** of article 6 bis, how the requirements made in accordance with the provisions of annex I bis are complementary to and mutually supportive of the Party's national biosafety framework and consistent with the objectives of the Cartagena Protocol on Biosafety to the Convention on Biodiversity.

Answer:

XXXIV. Obstacles encountered in the implementation of article 6 bis and annex I bis

Describe any obstacles encountered in the implementation of any of the paragraphs of article 6 bis and annex I bis.

Answer:

XXXV. Further information on the practical application of the provisions of article 6 bis and annex I bis

Provide further information on the practical application of the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, e.g., are there any statistics or other information available on public participation in such decisions or on decisions considered under paragraph 2 of annex I bis to be exceptions to the public participation procedures in that annex?

Answer:

XXXVI. Website addresses relevant to the implementation of article 6 bis

Give relevant website addresses, if available, including website addresses for registers of decisions and releases related to genetically modified organisms:

Answer: