

TWENTIETH MEETING OF THE BUREAU OF THE MEETING OF THE PARTIES TO THE AARHUS CONVENTION

University of Aarhus, Denmark

13 November 2008

Attendance:

Bureau members: Mr. Jan Dusik (Czech Republic, Chair) supported by Mr. Lukas Pokorny (Czech Republic), Ms. Maud Istasse (Belgium, Vice-Chair), Zaneta Mikosa (Latvia, Vice-Chair), Mr. Gavrosh Zela (Albania), Mr. Ivan Narkevitch (Belarus), Ms. Emmanuelle Swynghedauw (France).

NGO Observer: Mr. John Hontelez (European Environmental Bureau representing European ECO Forum).

Apologies: Ms. Loredana Dall'Ora (Italy).

I. Adoption of agenda

The Bureau agreed to discuss the relation between the Convention and climate change under agenda item VIII (AOB), after which the agenda was adopted.

II. Relevant developments

The secretariat reported on the recent development of draft guidelines on access to information, public participation and access to justice in environmental matters under the auspices of the United Nations Environment Programme (UNEP), including the preparation of a draft decision on the proposed guidelines for adoption by the UNEP Governing Council. The secretariat also reported on its attendance of a UNEP meeting in Nairobi in June 2008 at which the draft guidelines were discussed.

The Bureau discussed the development of the guidelines and expressed its interest in the role they could play with respect to further promotion of the principles of the Aarhus Convention around the world. It recalled the Meeting of the Parties' support through decision II/9 for the development of such guidelines, its interest in applying the experience that had been gained with implementing the Convention in developing similar mechanisms in other regions, and its encouragement to non-ECE States to consider acceding to the Convention.

The Bureau requested the secretariat to notify the Convention's National Focal Points about the coming discussion of the guidelines by the UNEP Governing Council and keep them updated on any developments. The Chair announced that the Czech Republic would make an effort to draw attention to this issue during its upcoming EU presidency.

The secretariat reported on its attendance of the following meetings:

International experiences exchange meeting and capacity building workshop on environmental information disclosure, Hong Kong, China, 6-7 September 2008 (NRDC, University of Hong Kong and Greenpeace)

The secretariat was invited to present experiences gained under the Convention in both the meeting on information-sharing and the capacity-building workshop, in particular with regard to access to justice and the role of the judiciary in the process. It was also invited to share information on the implementation of the Aarhus Convention, in particular in the CEE countries, with regard to practical aspects of setting up a system for handling information requests, dealing with exceptions, handling disputes, etc.

Annual Meeting of the European Network of Environmental Communicators ("Green Spider Network"), Annecy, France, 1-4 October 2008

The secretariat was invited to address on behalf of UNECE the annual meeting of the European Network of Environmental Communicators ("Green Spider Network") in order to promote future development of the Aarhus Convention Communication Strategy. The Green Spider Network (GSN) is an active network of communication and information officers from environment ministries and national environmental agencies in Europe. The secretariat updated the Green Spider Network on the outcomes of the third meeting of the Parties and the next steps in the development of the Convention's communication strategy.

Forum on Future of Democracy, Madrid, Spain, 15-17 October 2008 (Council of Europe)

The secretariat was invited to present on behalf of UNECE on the theme "Promoting e-democracy in support of environmentally sustainable development: the experience under the Aarhus Convention" during a workshop on "International and Regulatory Context". The secretariat's presentation demonstrated applications of ICT in support of implementation of the Aarhus Convention, including the Aarhus Clearinghouse Mechanism.

Global Gathering of the Access Initiative (TAI), Sligo, Ireland, 30-31 October 2008

The secretariat was invited to deliver the opening address at and participate in the Global Gathering of the Access Initiative, a global network promoting access to information, participation and justice in environmental decision-making.

13th International Anti-Corruption Conference, Athens, Greece, 30 October to 2 November 2008 (Transparency International).

The secretariat was invited to present on the Aarhus Convention and the Protocol on Pollutant Release and Transfer Registers (PRTRs) as instruments enhancing the transparency of environmental decision-making during the Conference's opening workshop, "Governing the Climate Change Agenda – Making the Case for Transparency".

The Bureau took note of this information.

III. Follow-up from the third meeting of the Parties (MOP3)

1. Status of ratification

The secretariat reported on the current status of ratification of the Convention, its amendment and the Protocol. As of 11 November 2008, there were 42 Parties to the Convention, 12 Parties to the Protocol on PRTRs and 17 Parties to the amendment on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms (GMOs)¹. The Protocol, having obtained 12 ratifications, 11 by Member States, was 5 short of the number needed for entry into force.

2. Interpretation of article 14

The secretariat reported that there was not much progress with respect to the issue of the interpretation of article 14, since the UN documentation management system (DMS) had not yet approved the format in which the MOP-3 documentation would be published. Therefore Decision III/1 had not yet been forwarded to the Depository.

After discussing this issue, the Bureau agreed that unless the matter was resolved soon within the secretariat, it would mandate the Chair to write a formal letter to the UN secretariat expressing its concern about the delay.

3. PRTRs, including preparation of the first session of the Meeting of the Parties to the PRTR Protocol

The secretariat reported on the preparations for the 6th meeting of the Working Group on PRTRs (24-26 November 2008), including the development of its draft decisions.

The Bureau discussed the possibilities of scheduling the first meeting of the Parties to the Protocol (MOPP-1) in late 2009 or early 2010, as well as the preparations for that meeting, including a draft declaration. The Bureau also discussed the issues of the level and the venue of the meeting. It noted that organizing MoPP-1 in late 2009 could pose difficulties because of the conflict with the UNFCCC process and the Copenhagen meeting scheduled to take place in December 2009. The secretariat added that there was limited availability of meeting facilities in Geneva during the latter part of 2009. The Chair indicated that the Czech Republic was provisionally willing to host MOPP-1 in the Czech Republic in the first half of 2010.

The Bureau noted the preliminary scheduling of the international PRTR coordination group back to back with the OECD meeting on PRTRs on 10 March 2009.

4. GMOs

The Bureau reviewed an advance copy of the report of the international expert meeting on GMOs held in Cologne (May 2008) which had been prepared by the

¹ In this paragraph, the term 'Parties' is used loosely to include 'pending' Parties, i.e. those States and regional economic integration organizations having ratified, accepted, approved or acceded to the instrument in question but for which the instrument is not yet in force.

secretariat and approved by the Chair of the meeting. The secretariat reported that it had been invited by the Cartagena Protocol secretariat to co-organize a workshop in Japan in October 2010, back-to-back with the Cartagena Protocol COP/MOP-5.

The Bureau discussed the feedback from the Cologne meeting, notably the broad support from participants for holding another such event with a focus on practical tools and concrete steps to be taken. It requested the secretariat to keep this in mind when discussing the content of the workshop with the Cartagena secretariat.

5. Electronic information tools and the clearinghouse mechanism

The secretariat reported on preparations for the 7th meeting of the Task Force on Electronic Information Tools, which would be held on 11-12 December 2008. A Forum on Information Clearinghouses would be held on the opening day of the meeting. The Task Force was expected to agree on a procedure for updating the questionnaire on implementation of decision II/3 on electronic information tools and the clearinghouse mechanism, including the recommendations on the more effective use of electronic information tools, which will be circulated to the Parties in mid-2009. The secretariat further reported that it would participate in a meeting on electronic governance organised by UNITAR in Cairo, Egypt (3-4 December 2008).

The Bureau took note of this information.

6. Public participation, including new Expert Group

The secretariat reported on progress with respect to the ad hoc Expert Group on Public Participation (PPEG) to be established in accordance with the mandate agreed at MoP-3. Ireland as lead country had had to delay the start of activities until early 2009, partly due to financial constraints. This among other things had prevented Ireland from sending a representative to participate in the Bureau meeting.

The Bureau noted that the mandate of the PPEG contained two elements, namely the coordination of information-sharing and the provision of advice to the WGP on the terms of reference (ToR) for the proposed Task Force on Public Participation (decision III/9, para. 5 (a) and (b)). Ideally, a draft of the ToR should be available in the three official languages for discussion at WGP-11, meaning that it would need to be submitted for translation by the UN conference services in April 2009. Against this background, the Bureau identified two main options for holding a meeting of the PPEG: March/early April 2009, which would enable the PPEG to prepare the draft ToR that would be circulated to the WGP; or early July 2009, immediately before WGP-11. In both cases, a first draft of the ToR would be prepared by the lead country and/or the Bureau with the assistance of the secretariat. In the former case, this would be discussed and revised as appropriate by the PPEG before being submitted for translation and circulation to the WGP. In the latter case, the first draft would be circulated for consideration by first the PPEG and then the WGP. The comments of the PPEG would then be submitted directly to the WGP.

The Bureau considered that there was no basis in the conclusions of the MoP to limit the membership of the PPEG in any way and therefore agreed that all National Focal

Points and other stakeholders should be invited to nominate experts to participate in the activities of the PPEG once decided upon.

Taking into account the conclusion of the MoP that the Task Force on Public Participation should be established “as soon as possible and at the latest by the next ordinary meeting of the Parties, on the basis of a draft decision to be prepared by the Working Group of the Parties” (MoP-3 report, para. 73), the Bureau considered that the best option would be to establish the Task Force at an extraordinary meeting of the Parties held in conjunction with the first session of the Meeting of the Parties to the Protocol, i.e. during the first half of 2010. Holding the two meetings back-to-back would simplify logistical matters such as the provision of credentials.

The secretariat reported that Norway had provisionally indicated that it would contribute separate funds earmarked for work on public participation and access to justice.

The Bureau recognised that it would be premature to draw any firm conclusions regarding the PPEG activities pending the full engagement of the lead country and mandated the secretariat to discuss the various options with the lead country and to gauge its willingness to host meetings and prepare documentation. Further steps could be agreed upon by e-mail.

7. Access to justice

The secretariat reported on preparations for a workshop for senior members of the judiciary from South Eastern European countries to be held in Tirana, Albania, 17-18 November 2008. In the light of this workshop and general resource constraints, no meeting of the Task Force on Access to Justice was envisaged during 2008. Sweden as lead country was expected to designate a successor to the current Chair of the Task Force, Mr. Haakan Bengtsson, who was due to step down as Chair at the end of 2008 due to changes in his responsibilities.²

The Chair reported on preparations by the Czech Republic for a meeting on access to justice in Brno, Czech Republic, on 16-17 April 2009. European judges and other legal professionals as well as representatives of public administration, the European Commission and NGOs acting in the field of environmental law would be invited to the meeting to discuss the current state of affairs and to consider the importance and future of the proposal of the EC Directive on access to justice in environmental matters.

The representative of Belarus announced that a meeting on access to justice in the form of a workshop would be organised in Belarus, noting that training courses are needed in CEE countries concerning article 9, since there was a lack of experts on article 9 in region. The secretariat remarked that one outcome of the Kiev workshop was the suggestion to support some pilot workshops at the national level, providing a possibility to provide some support. The representative of Latvia remarked, on the basis of the Latvian experience of organising a national workshop on access to justice,

² Sweden subsequently nominated Prof. Jan Darpö as the new Chair.

that good translation was very important for such events. The representative of France reported on a workshop for the judiciary organised by France in May 2008, which had received positive feedback.

The Bureau took note of this information. It requested the secretariat to liaise with the lead country concerning a possible date for the next meeting of the Task Force. A meeting in the spring or early summer of 2009 was considered to be desirable, though there was not considered to be any particular advantage in holding the meeting back-to-back with the Brno meeting as the overlap in participants would not be very large.

8. Public participation in international forums (PPIF)

The secretariat reported that the meeting of the Task Force on PPIF, originally planned for November 2008, had been postponed to 6-7 April 2009³, due to resource constraints. It also reported that France had appointed a new chairperson for the Task Force, Mr. Etienne Ballan, who would meet with the secretariat and finalise the details for the meeting.

The Bureau took note of this information.

9. Reporting requirements, including national reports on implementation

The secretariat recalled the need to expand the format for the preparation of national implementation reports to cover the GMO amendment, subject to approval by the Bureau and the Working Group of the Parties, as required under Decision III/5 on reporting. In order to be submitted in time for WGP-11, the revised draft format would need to be approved by the Bureau at the latest by mid-April 2009. The secretariat, with the assistance of a consultant, would prepare a first draft of the revised format in due time for consideration by the Bureau.

The secretariat also reported on the national implementation reports that had been submitted late in accordance with decision III/5. It had written on behalf of the Compliance Committee to each of the Parties whose reports were outstanding in late September⁴ to convey the Committee's concern at the delay and its intention to review the situation at its twenty-second meeting (17-19 December 2008).

The Bureau took note of this information.

10. Compliance mechanism

The secretariat reported on the activities of the Compliance Committee, including its follow-up of the relevant MoP-3 decisions and its ongoing consideration of communications from the public. The next meeting of the Compliance Committee was scheduled to take place from 17-19 December 2008 in Geneva.

The Bureau took note of this information.

³ These dates remain provisional at the time of drafting the report.

⁴ Croatia, Lithuania, Portugal, Romania and Spain.

11. Capacity building

The secretariat reported on the preparation of the upcoming fifth annual meeting of the capacity building partners, scheduled to take place in Geneva on 27 November 2008. The meeting would focus on exchanging information and identifying gaps, overlaps and possibilities for future collaboration.

The Bureau took note of this information.

12. Financial arrangements

The Bureau held a preliminary exchange of views on how to prepare for the discussion on financial arrangements during the next meeting of the WGP, including on the documentation needed for that discussion. The Bureau discussed the options that were rejected at the third meeting of the Parties and the possibility of finding a compromise, for example through an arrangement that included an opt-out option.

The Bureau agreed that there was a need for a predictable scheme and that this should be based on the UN scale of assessments since there was currently no better alternative to this scale, and decided that it would discuss a text containing a first attempt to create a new solution at its next meeting. It mandated the Chair, with the assistance of the secretariat, to prepare a first draft.

13. Work programme 2006-2008

The secretariat reported on implementation of the Work Programme 2006-2008, including the status of contributions received for 2008.

The Bureau took note of this information and requested the secretariat to provide a detailed financial report for 2008 at its next meeting. That report would form the basis for the annual report to the WGP.

14. Work programme 2009-2011

The Bureau discussed the implications for the work programme for 2009-2011 arising from the current financial situation. It concluded that there was not any reason to deviate from the work programme but noted that it was not yet clear whether there would be sufficient funds to cover the staffing needs identified in the work programme.

15. Updating of the Implementation Guide

The secretariat reported on preparations with respect to the revised implementation guide and put forward a proposal for a procedure for updating the guide. According to the proposed procedure, the secretariat, with the assistance of expert consultants, would prepare a revised draft which, following consultation with the Compliance Committee and revision as necessary, would be circulated to the Parties and put in the public domain for comments. The text would then be further revised taking account of the comments received and submitted for approval by the Bureau in consultation with the Compliance Committee.

The Bureau discussed and agreed upon the proposed procedure.

16. Preparation of a communications strategy

The secretariat reported on options for the establishment of an expert group to assist with the development of a communications strategy, as mentioned in the Work Programme 2009-2011.

The Bureau requested the secretariat to prepare a note outlining a procedure for the development and adoption of a communications strategy, which would be circulated and discussed at the next Bureau meeting.

IV. Preparation of the eleventh meeting of the Working Group of the Parties

The secretariat presented a list of official documents for WGP-11. The Bureau took note of this information and discussed possible dates for the meeting. It agreed to schedule the meeting during the week 6-10 July 2009, with the precise dates depending on whether the meeting would be immediately preceded by a PPEG meeting.

V. Preparation of the fourth meeting of the Parties (MOP-4)

The Bureau agreed to invite a representative of the Republic of Moldova as Host Country for MOP-4 to participate in the meetings of the Bureau at an opportune stage (as judged by the Chair) and discussed the possibility of holding one of its meetings in Moldova in order to explore practical issues and meet relevant actors.

VI. Interlinkages between Aarhus and other processes, including inter alia joint Bureaux meeting between ECE Conventions

The Bureau requested the secretariat to keep the Bureau informed about the planning of the next meeting between the Bureaux of the various environmental ECE Conventions.

VII. Calendar of meetings, including next Bureau meeting

The Bureau discussed a provisional calendar of meetings prepared by the secretariat, including the possibility of planning the next Bureau meeting back to back with a meeting of the PPEG in March 2009 if one were to be held, or at the latest back to back with the next meeting of the Task Force on Public Participation in International Forums which was scheduled for 6-7 April 2009. Given the uncertainty about the timing of the PPEG meeting, it was agreed to fix the date of the meeting through e-mail consultation.

VIII. Any other business

The secretariat reported on its cooperation with the UN Institute for Training and Research (UNITAR) regarding the development of a methodology to assess countries' readiness for implementation of article 6 of the UNFCCC, which incorporates key

elements of Principle 10 of the Rio Declaration in the context of climate change. It also reported on a conference on climate change scheduled to take place in Aarhus on 5-7 March 2009, to which the secretariat had been invited to deliver a keynote speech; and on preparations for a UNECE commission meeting in the spring of 2009, which will include two sessions on climate change. The Bureau took note of this information.