

**Task Force on Public Participation in International Forums
(First Meeting, Geneva, 24-25 November 2005)**

PRELIMINARY DRAFT PLAN OF CONSULTATION

Prepared by the Chairman with the assistance of a consultant

BACKGROUND

1. Article 3(7) of the Aarhus Convention requires each Party to promote the application of the principles of the Convention in international environmental decision-making process and within the framework of international organizations in matters relating to the environment. In Decision II/4 of the Meeting of the Parties, the Parties adopted the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums (the Guidelines). Pursuant to paragraph 9 of the Guidelines, 'international forum' means any multilateral international environmental decision-making process, or any international organization when dealing with matters relating to the environment. Paragraph 5 of Decision II/4 establishes a Task Force to enter into consultations regarding the Guidelines with relevant international forums.
2. Paragraph 6 of Decision II/4 requests the Task Force, with the assistance of the secretariat, to submit to the sixth meeting of the Working Group of the Parties a proposed plan of consultation, including a list of the international forums to be consulted, the modalities of consultation and a time schedule, having regard to the internal procedures of these forums. Some possible elements for the proposed plan of consultation, including potential objectives, modalities, time schedule and criteria for selection of international forums are set out herein. A possible list of international forums to consult is annexed.

OBJECTIVES OF THE PROPOSED PLAN OF CONSULTATION

3. In accordance with Decision II/4, possible objectives for the Task Force's proposed plan of consultation could include:
 - (a) To widely inform relevant international forums about the Guidelines and the consultation process;
 - (b) To gather information on selected international forums' existing experiences regarding access to information, public participation in decision-making and access to justice in environmental matters, and the particular characteristics of each forum, in order to support Parties in their implementation of Article 3(7) of the Convention, and to assist the Working Group of the Parties in reviewing the Guidelines prior to the third Meeting of the Parties (Decision II/4, paragraph 8);
 - (c) To facilitate the exchange of experiences between selected international forums on access to information, public participation in decision-making and access to justice in environmental matters;
 - (d) To enter into dialogue with selected international forums on questions of access to information, public participation in decision-making and access to justice in environmental matters and, where requested, to provide support to those forums interested to carry out further work in this area.

CRITERIA FOR SELECTION OF INTERNATIONAL FORUMS TO BE CONSULTED

4. According to paragraph 4 of Decision II/4, the following international forums are within the scope of the Task Force's mandate for consultation:

- (a) The negotiation and implementation at the international level of MEAs, including decisions and actions taken under their auspices;
- (b) The negotiation and implementation at the international level of other relevant agreements, if decisions or actions undertaken at that level pursuant to such agreements relate to the environment or may have a significant effect on the environment;
- (c) Intergovernmental conferences focusing on the environment or having a strong environmental component, and their respective preparatory and follow-up processes at the international level;
- (d) International environmental and development policy forums; and
- (e) Decision-making processes within the framework of other international organizations in matters relating to the environment.

5. Given the large number of forums encompassed by this definition, it is not feasible for the Task Force to undertake detailed consultation with every relevant forum in the timeframe of the consultation process. A solution could be for the Task Force to use various criteria to select a number of these forums with which to enter into consultation. Such criteria could include:

(i) Breadth of forum

A considerable proportion of international forums within the scope of the Guidelines have a very small number of member States. A forum could be prioritised for consultation on the basis of the size of its membership so that a forum containing a larger number of participating States might be considered higher priority than a forum involving just two or three countries.

(ii) Participation of Aarhus Convention Parties in the forum

A forum may be made up exclusively of Aarhus Parties, largely of Parties, of some Parties or of no Aarhus Parties at all. Furthermore, one or more Aarhus Parties may play a leading role in a particular forum. In general, the greater the participation of Aarhus Parties in a forum, the higher priority that forum could be given for consultation. There are two rationales for this criterion. First, a forum in which Aarhus Parties play a significant role may be more likely to embrace the Guidelines and the consultation process. Secondly, forums in which Aarhus Parties participate are those that are most relevant to the implementation of Article 3(7). Notwithstanding this general approach, there may be international forums in which no Aarhus Convention Party participates, such as the governing bodies of other regions' regional economic commissions, which are nevertheless interested to learn more about the Guidelines and with whom consultation could be undertaken.

(iii) Proportion of forum's decisions and actions that affect the environment

Some forums deal exclusively with environmental issues. Other forums were created to address non-environmental issues, yet a number of their decisions or actions have environmental effects. For some of these forums, only a small proportion of their decisions and actions impact the environment. For others, many of their decisions and actions have environmental implications. The consultation process may be more fruitful if, as a general rule, greater emphasis was placed on

consulting with forums for which a sizeable number of decisions have environmental impacts. However this criterion should be subject to the fourth criterion below.

(iv) Potential environmental significance of forum's decisions and actions

The environmental effects of a forum's decisions or actions may register at the global, regional, or local level and may have greater or lesser impact within the relevant level. Notwithstanding the general rule in the last criterion, even if only some of a forum's decisions and actions have environmental implications, the effects of these decisions may be considerable. The objectives of the Guidelines and the consultation process might be best achieved by prioritising for consultation those forums whose decisions or actions have the potential to most significantly affect the environment at the global or regional level.

(v) Expressed civil society need

Civil society may itself place a higher or lower priority on having greater participation in a particular forum. It perhaps goes without saying that any initiative to promote public participation in international forums should give higher priority to those forums in which the public most strongly identifies a need for greater participation.

6. The above criteria could be applied in a flexible and integrated manner and subject to each forum's willingness to engage in the consultation process. The consultation process is entirely voluntary. If a forum does decide to be involved, its level of interest and commitment will be fundamental to the success of the process. Ultimately, for any progress to be made, the momentum must come from actors within the forum itself, rather than from external forces.

7. With the exception of the fifth criterion, for which civil society input must be sought, the criteria listed above have been used to compose a possible list of international forums for consultation, attached as Annex I to this paper. The forums included in the list are hereafter referred to as the "selected international forums". The criteria have also been used to give each of the selected forums one of two levels of priority for consultation. The forums considered as highest priority for consultation are hereafter described as "key international forums". A forum's place in these levels should, however, be considered flexible as each forum's willingness to actually be involved in the process will not be known until the consultation process begins.

MODALITIES OF CONSULTATION

8. To best achieve the objectives proposed above, a range of modalities of consultation could be employed. These modalities could include:

- (i) Written dissemination of the Guidelines to a wide range of relevant international forums;
- (ii) Circulation of written questionnaires to selected international forums;
- (iii) Personalised consultation with the secretariats of key international forums;
- (iv) Presentations at sessions of key international forums' governing bodies or subsidiary bodies;
- (v) Presentations at meetings of the Task Force by representatives of key international forums;
- (vi) A workshop for key international forums and other interested parties.

9. Certain of the modalities of consultation could also be applied to a forum's member governments, and non-member governments where relevant, and to other stakeholders, such as academic experts and relevant NGOs. The modalities are each discussed in more detail below.

I. Written dissemination of the Guidelines to a wide range of international forums

10. Following the approval by the Working Group of the Parties of the Task Force's proposed plan of consultation, the Aarhus Convention secretariat could send a hard copy of the Guidelines to a wide range of relevant international forums, together with a covering letter providing a brief introduction to the Aarhus Convention, the Guidelines, the Task Force and its mandate. This would meet the first objective identified above, by widely informing international forums about the Guidelines and the consultation process. The letter and Guidelines could be addressed to each forum's secretariat or its NGO/civil society liaison officer, if it has one, and could close by asking whether the forum would be interested to be further involved in the consultation process.

II. Circulation of written questionnaires to selected international forums and interested parties

11. Following dissemination of the Guidelines, the secretariat could circulate a written questionnaire to the selected international forums, and where relevant other parties interested in that forum, inviting them to share their experiences on particular aspects of public participation. In furtherance of the second objective identified above, the questionnaire could elicit information on the selected international forums' existing experience and particular characteristics that would assist Parties in their implementation of Article 3(7) of the Convention.

12. The questionnaire could be organised around broad questions designed to allow the forum and interested parties to share such of their experience as they consider relevant. Such questions could include:

- (a) Whether the forum has any formalised rules or procedures regarding access to information, public participation in decision-making, and access to justice in environmental matters;
- (b) Whether the forum has any non-formalised practices regarding access to information, public participation in decision-making, and access to justice in environmental matters;
- (c) Whether the forum's current or future work plans contain projects which may affect the extent of or modalities for access to information, public participation in decision-making, and access to justice in environmental matters;
- (d) Whether the forum has encountered any challenges in promoting access to information, public participation in decision-making and access to justice in environmental matters; and
- (e) Whether the forum has any comments on the Guidelines and/or their applicability to its processes or activities in the context of the forum's particular characteristics.

13. In addition, the questionnaire could incorporate more specific questions drawn from the provisions of the Guidelines. Sample questions could include:

- (a) Whether environmental information contained in all official documents is made available to the public through the internet, or other appropriate means, in a timely manner;¹
- (b) Whether, at meetings of the forum, the public are entitled to have access to all documents relevant to the decision-making process, to circulate written statements and to speak;²

¹ Almaty Guidelines, paragraph 20.

- (c) Whether, the forum provides financial support for travel and subsistence costs to facilitate participation.³

14. Responses received by the secretariat could in due course be presented through the Aarhus Clearing House website. This would provide a publicly accessible internet resource on current practice regarding access to information, public participation in decision-making and access to justice in environmental matters in a selection of international forums.

III. Personalised consultation with secretariats of key international forums

15. The Aarhus secretariat could contact the secretariats of the key international forums to ask whether they would be interested to participate in a personalised consultation regarding the Guidelines. Where the response is positive, a representative of the secretariat or the Task Force could consider meeting with the forum's secretariat, including its NGO/civil society liaison officer if it has one. Alternatively, the personalised consultation could be conducted by telephone.

16. In light of the special emphasis to be given to UNECE environmental treaties pursuant to paragraph 1 of Decision II/4, and the fact that the same organization provides the secretariat for each of them, priority should be given to approaching them first.

17. The personalised consultations could help to further the second and fourth objectives identified above, by gathering information on key forums' existing experience and particular characteristics, and entering into dialogue with each forum on questions of access to information, public participation in decision-making and access to justice in environmental matters. The consultations could also be used to explore whether key forums would be interested in being involved in the other modalities of consultation discussed below.

IV Presentations at sessions of key international forums' governing or subsidiary bodies

18. If, as a result of the personalised consultation or otherwise, a forum expresses interest in having a representative of the Aarhus Convention make a presentation to a session of the forum's governing body or a subsidiary body, arrangements could be made for an officer of the MOP, Task Force or secretariat to attend. Such a presentation could support the first and fourth objectives identified above, by providing the forum's governing or subsidiary body with a better understanding of the Guidelines and the issues they address, and by promoting dialogue with the forum on questions of access to information, public participation in decision-making and access to justice in environmental matters.

V Presentations at Task Force meetings by key international forums and interested parties

19. Similarly, representatives of key international forums and interested parties could be invited to make their own presentations to the Task Force regarding their experiences with access to information, public participation in decision-making and access to justice in environmental matters. These presentations could take place at the second and third meetings of the Task Force. This modality could support the second and fourth objectives identified above, by providing information on each forum's existing experience and particular characteristics and promoting further dialogue with the forum on these matters.

² Almaty Guidelines, paragraph 34.

³ Almaty Guidelines, paragraph 39.

VI. Workshop with key international forums and interested parties

20. The consultation process could culminate in an international workshop with a number of key international forums and interested parties. Subject to the availability of resources, a diverse range of forums could be invited to participate, to allow maximum scope for cross-pollination of ideas and experiences. Each forum could be invited to send members of its secretariat including its NGO/civil society liaison officer if it has one, and interested members of its governing body or relevant subsidiary bodies. In addition, academic experts and NGOs involved in the participating forums could be invited to attend.

21. The workshop could further the second, third and fourth objectives identified above. As well as providing information on the participating forums' existing experience and particular characteristics to assist Parties in their implementation of Article 3(7), the workshop would facilitate the exchange of experience between participating forums, and promote dialogue with each forum and its stakeholders on questions of access to information, public participation in decision-making and access to justice in environmental matters.

PROVISIONAL TIME SCHEDULE

22. A provisional time schedule for the consultation process is set out below, including other relevant dates from the Aarhus Convention calendar. On the basis of this time schedule, the consultation process could commence in April 2006, following the approval of the proposed plan of consultation by the Working Group of the Parties. Consultations could be brought to a close in July 2007, in order to allow the Task Force sufficient time to report to the meetings of the Bureau and the Working Group of the Parties in late 2007 and early 2008 respectively. This would give the Task Force fifteen months between April 2006 and July 2007 to undertake the consultation process.

24-25 November 2005	1 st Meeting of the PPIF Task Force Proposed plan of consultation to be drawn up
5-7 April 2006	6 th Meeting of the Working Group of the Parties: Proposed plan of consultation to be approved
April 2006	Consultation period begins
Autumn 2006	2 nd Meeting of the PPIF Task Force
Winter/Spring 2007	International Workshop
July 2007	Consultation period ends
Autumn 2007	3 rd Meeting of the PPIF Task Force
Autumn 2007	Meeting of the Bureau
Winter 2008	Meeting of the Working Group of the Parties
May/June 2008	3 rd Meeting of the Parties