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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

Extraordinary session

Geneva, 19 and 22 April and 30 June 2010

Report of the second extraordinary session of the Meeting of the Parties

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Introduction

1. The second extraordinary session of the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters was held on 19 and 22 April 2010 and on 30 June 2010 at the Palais des Nations in Geneva. As initially an insufficient number of Parties were represented at the session to achieve a quorum, it was agreed to suspend the session and reconvene on 30 June 2010.¹

2. The April segment of the session was attended by delegations from the following Parties to the Convention: Armenia, Austria, Belarus, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, Norway, Poland, Republic of Moldova, Romania, Spain, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland and European Union (EU). Representatives of two Signatories, Ireland and Switzerland, also participated.

3. At the resumed session, the following Parties were represented: Armenia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Hungary, Ireland, Italy, Kyrgyzstan, Latvia, Netherlands, Norway, Poland, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, Turkmenistan, United Kingdom of Great Britain and Northern Ireland and EU. One Signatory, Ireland, and one other United Nations Economic Commission for Europe (UNECE) member State, Uzbekistan, were also represented.

4. Representatives of the United Nations Environment Programme (UNEP), the United Nations Institute for Training and Research (UNITAR) and the United Nations Industrial Development Organization (UNIDO) also attended.

5. Representatives of regional environmental centres, Aarhus Centres and business, professional, research and academic organizations also attended. In addition, representatives of international, regional and national environmental organizations participated in the session, many of which coordinated their input within the framework of the European ECO-Forum.²

6. A number of delegates who had been unable to travel to Geneva participated in the session by audio conference.

I. Organization of the session

7. The session was chaired by Mr. Jan Dusik, the Chair of the Meeting of the Parties, on 19 and 22 April 2010 and by Ms. Zaneta Mikosa, Vice-Chair of the Meeting of the Parties, on 30 June 2010. The Chair of the Meeting of the Parties formally opened the session on 19 April 2010, welcoming the participants and recalling the request made by

¹ Due to a disruption of air traffic in Europe caused by the eruption of an Icelandic volcano, many delegations were unable to travel to Geneva to attend the extraordinary session. As a result, no quorum was reached and so no formal decisions could be taken. The delegations present nevertheless discussed all the agenda items and reached provisional agreement, after which the session was suspended until 30 June 2010. Decisions were thus taken ad referendum, subject to approval at the resumed session.

² All participants are included in the final list of participants that is available online at: <http://www.unece.org/env/pp/emop2010.htm>.

Norway on 18 December 2009 to convene an extraordinary session of the Meeting of the Parties to the Convention, back to back with the first session of the Meeting of the Parties to the Protocol on Pollutant Release and Transfer Registers (PRTRs) (Geneva, 20–22 April 2010).

8. The delegations present agreed to discuss all the agenda items and to attempt to reach provisional agreement on issues where possible. It was furthermore agreed to suspend the session at close of business on 19 April 2010 and to reconvene on 22 April 2010, allowing more time to establish a quorum and also for further consultations on certain items.

9. The session resumed on Thursday, 22 April 2010, at which point it was established that there was still not a quorum (see section III below). The Meeting was therefore initially not able to formally adopt the decisions referred to in the following sections of this report. The decisions were thus taken ad referendum and were subsequently approved at the resumed session of the Meeting on 30 June 2010.

II. Adoption of the agenda

10. The Chair presented the provisional agenda for adoption by the Meeting (ECE/MP.PP/2010/1) and proposed that the issue of credentials be included on the agenda as item 1bis and the translation of the national implementation reports as item 5bis. He also proposed that the late release of the official meeting documentation in the three official languages be discussed under item 5 of the provisional agenda. Spain, on behalf of the EU and its member States, expressed regret that a number of documents and draft decisions had been proposed relatively late, which could jeopardize the transparency of the process. The agenda was provisionally adopted with the proposed additions, and was subsequently confirmed during the resumed session on 30 June 2010.

III. Credentials

11. Following the resumption of the session on 22 April 2010, the Chair reported that the following Parties had presented credentials that were in order: Armenia, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Greece, Latvia, Norway, Spain, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland and EU. It was thus established that the requirement in the rules of procedure that a majority of the Parties had to be present for any decision to be taken had not been fulfilled.

12. Following the resumption of the session on 30 June 2010, the Chair reported that the following Parties had presented credentials that were in order: Armenia, Austria, Belgium, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Italy, Latvia, the Netherlands, Norway, Poland, Republic of Moldova, Romania, Slovakia, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland and EU. It was thus established that the requirement in the rules of procedure that a majority of the Parties had to be present for any decision to be taken had been fulfilled.

IV. Establishment of a task force on public participation in decision-making

13. The Meeting of the Parties decided at its third session (Riga, 11–13 June 2008) to address the implementation of the provisions of the Convention on public participation by

establishing the Ad Hoc Expert Group on Public Participation. Through decision III/9 on the work programme for 2009–2011 (ECE/MP.PP/2008/2/Add.17), the Expert Group was mandated to coordinate information-sharing on public participation in decision-making and to advise the Working Group of the Parties on the terms of reference for a task force on public participation.

14. At its eleventh meeting (Geneva, 8–10 July 2009), taking into account the advice of the Expert Group, the Working Group of the Parties had prepared a draft decision on public participation in decision-making, including draft terms of reference for a task force on the topic, and agreed to forward it for consideration and possible adoption by the Meeting of the Parties (ECE/MP.PP/WG.1/2009/2, para. 33).

15. The Chair presented the draft decision on public participation in decision-making prepared by the Working Group of the Parties (ECE/MP.PP/2010/L.1). He proposed on behalf of the Bureau to include a new paragraph welcoming the offer of Ireland to lead the Task Force. He invited Spain, on behalf of the EU and its member States, to present a proposal on how to deal with the outstanding issues in the text, which had been circulated to the Parties beforehand.

16. Following discussion, the Meeting of the Parties agreed to revise the draft text as per the proposals from Spain, on behalf of the EU and its member States, and from the Bureau, and adopted the decision by consensus. The adopted decision is included in the addendum to this report (ECE/MP.PP/2010/2/Add.1).

17. The Chair invited Ireland to designate a candidate to serve as the Chair of the Task Force on Public Participation in Decision-making, pointing out that this would facilitate the preparation of its first meeting. Ireland informed the Meeting that it had designated Mr. Philip Kearney, who had chaired the Expert Group on Public Participation, to serve as Chair of the Task Force. Mr. Kearney was elected by consensus.

V. Accession to the Convention by non-member States of the United Nations Economic Commission for Europe

18. The Chair recalled that article 19, paragraph 3, of the Convention provided the possibility for States from outside the UNECE region to become Parties to the Convention “upon approval by the Meeting of the Parties”. Over the years, the Parties to the Convention had expressed their support for accession to the Convention by States from outside the UNECE region in various declarations (Lucca, Almaty, Riga), through decision II/9 (ECE/MP.PP/2005/2/Add.13) and in the Strategic Plan for 2009–2014 (ECE/MP.PP/2008/2/Add.16), which included the goal that non-UNECE States would accede to the Convention, that Parties would actively encourage such accession and that by 2011 the Convention would have non-UNECE Parties.

19. The secretariat presented an informal note on the issue and reported that several non-UNECE States had expressed an interest in acceding to the Convention, inter alia, in the context of the negotiations on the UNEP Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters. It suggested that in order to achieve the goal of having non-UNECE Parties to the Convention by 2011, the issue of accession by non-member States would need to be addressed prior to the fourth session of the Meeting of the Parties, scheduled to take place in June 2011. It stressed the need for clarity on what constituted a sufficient expression of interest in acceding to the Convention by a State from outside the UNECE region and on the criteria that should be taken into account by the Meeting when approving accession by such a State, recalling that, according to decision II/9, the approval of the Meeting should not be interpreted as implying a substantive review of a State’s

national legal system and administrative practices. With regard to expressions of interest from specific countries, it reported that it had received a copy of a letter from the Minister for Environment and Nature Protection of Cameroon that had been circulated to the Parties beforehand, concerning accession to the Convention by that country.

20. Following discussion, the Meeting of the Parties mandated the Working Group of the Parties to consider the procedure for decision-making concerning expressions of interest in accession to the Convention by non-UNECE States and on that basis to propose, if appropriate, a decision regarding the process of accession to the Convention for adoption at the fourth session of the Meeting of the Parties. In that connection, the Meeting of the Parties welcomed the interest in accession to the Convention as expressed by the Minister for Environment and Nature Protection of Cameroon.

VI. Establishment of an official mandate for the Compliance Committee's documentation

21. The secretariat reported that, since the beginning of 2009, the Division of Conference Management (DCM) of the United Nations Office at Geneva (UNOG) had ceased processing the meeting reports and findings of the Compliance Committee. Initially, the problem had arisen in connection with the issue of length limits; owing to an increase in the number of cases brought to the Committee, its reports and findings had been expected to regularly exceed applicable length limits for official documents. A waiver would therefore need to be requested following every meeting of the Committee. In order to avoid this, the secretariat had consulted with DCM to find a solution but had not been able to reach an agreement. Subsequently, DCM had questioned whether there was any mandate to produce any of the Committee's documentation as official documentation. In addition to the problems with the Compliance Committee documentation, it was highlighted that DCM also did not start processing the documentation for the extraordinary session of the Meeting of the Parties and the first session of the Meeting of the Parties to the Protocol on PRTRs until around nine weeks after it had been submitted, with the result that French and Russian translations had only been available a few days before the meetings.

22. The secretariat presented an informal note on the issue and elaborated on the efforts that had been made to resolve the problem, involving high-level discussions between the UNECE Executive Secretary and the Director-General of UNOG.

23. France and Belgium, supported by Switzerland and Luxembourg, emphasized the need to continue the application of the principle of multilingualism to the Convention and expressed their regret at the lack of available French translations for the extraordinary session of the Meeting of the Parties and the first session of the Meeting of the Parties to the Protocol on PRTRs.

24. The Meeting of the Parties expressed its serious concern about the fact that official meeting documents were not made available to delegations in all official UNECE languages in due time before the meeting and requested the UNECE Executive Secretary, in cooperation with other relevant United Nations services, to take appropriate measures to avoid such delays in the future.

25. The Meeting requested the secretariat to continue to produce the agendas, meeting reports and findings of the Compliance Committee as official documents so that they would be available in the three official languages of UNECE, without recourse to additional extrabudgetary resources.

26. Mindful of the capacity constraints faced by United Nations conference services and of the consequent need to limit the volume of official documentation produced under the

Convention, the Meeting instructed the Committee to undertake every effort to keep its documents as short as possible, restricting its findings to the essential facts, argumentation and conclusions.

27. However, the Meeting recognized that the Committee's findings provide valuable guidance on the interpretation of the Convention. It furthermore recognized that the combined length of the findings adopted at future meetings of the Committee were likely to regularly exceed the applicable length limits, leading to a frequent need for waiver requests to be submitted, which in turn would entail a significant administrative burden and delays in the release of the documents. It therefore requested the UNECE Executive Secretary to seek a solution with DCM whereby, should it prove necessary for the Committee to exceed applicable length limits in producing its reports and findings, either the length limit could be applied separately to each set of findings or a general waiver could be granted for the findings of the Committee, on the understanding that every effort would be made to minimize the length of findings to the extent possible.

VII. Translation of national implementation reports

28. The Chair, on behalf of the Bureau, drew attention to the fact that the reporting mechanism under the Convention currently required that the national implementation reports be made available in the three official UNECE languages. This had caused considerable problems to the secretariat and the issue was due to be reviewed by the Working Group of the Parties at its twelfth meeting. However, the Working Group would not have the authority to waive the requirement for the reports to be available in all three official languages, at least for the forthcoming reporting cycle, even if it considered this to be the most appropriate solution, since this requirement had been imposed by the Meeting of the Parties and could only be lifted by the Meeting. Emphasizing that the substantive discussion on the various options should take place in the Working Group, the Chair proposed that the Meeting give a mandate to the Working Group to consider the full range of possibilities for addressing the issue of translation of the national implementation reports, including the option of not producing them for the fourth ordinary session of the Meeting of the Parties as official documents in the three official languages.

29. The Meeting of the Parties decided that the range of options being considered by the Working Group of the Parties pursuant to the request of the Meeting at its third session in decision III/5, paragraphs 20 and 21, (ECE/MP.PP/2008/2/Add.7) might include the option of discontinuing the practice of producing the national implementation reports in the three official languages, and that if that option was the preferred option of the Working Group, it should be implemented with immediate effect.

VIII. Adoption of the report and closure of the session

30. The report of the meeting was adopted ad referendum on 22 April 2010, subject to final adoption at a resumed session when there would be a quorum. The report was then adopted at the resumed session, before the Chair formally closed the session on 30 June 2010.