

Presentation on public participation and Principle 10 at Rio + 20 (speaking notes)

Gita Parihar, Head of Legal, Friends of the Earth England, Wales & Northern Ireland, 4.9.12

Discussion of the substance of Principle 10 language in the outcome document and the role of the Aarhus bodies and Aarhus parties in taking that forward. My comments will focus on that, though will begin with some comments on the level of participation.

The first line of the Rio document says the outcome was agreed with the full participation of civil society.

Was this really the case? I would say not. Examples of poor participation were the many closed meetings, a confusing secondary badge system and poor information about which meetings were taking place. The civil society dialogues only covered a limited number of issues and the discussions at the people's summit were not acknowledged. There were also very limited intervention opportunities, and it was not possible for NGOs to have official access draft text.

End verdict: Much room for improvement, particularly bearing in mind the language in the in the Rio text itself about improving participation.

Role of Aarhus parties: Should thank the EU and Switzerland and Denmark in particular here. The language on participation was a red line for the EU, that may well have been because of its obligations under the Aarhus Convention.

Difficulties with referring to the Rio principles directly in the text, different countries were opposed to that for different reasons. You will see in text language that refers to things that sound like the Rio principles/Aarhus rights but are not. Also, unlike Aarhus, reference to stakeholders rather than the public, so gives business parity with the public, when Aarhus focuses on improving the position of the public because business already has so much influence.

Won't repeat what Etienne Ballan has said - though as highlighted by him the two key paras are para 85 and 88 and I'll refer to these later. Also worth highlighting:

In section C, "Engaging major stakeholders", Paras 43, 44 and 45 contain helpful language underscoring that the principle 10 rights are essential to the promotion of sustainable development and that SD requires the meaningful engagement and active participation of a whole range of stakeholders. Para 43 says "We underscore that broad public participation and access to information and judicial and administrative proceedings are essential to the promotion of sustainable development...In this regard we agree to work closely

with Major groups and other stakeholders and encourage their active participation, as appropriate, in processes that contribute to decision making, planning and implementation of policies and programmes for sustainable development at all levels." In paragraph 44 countries "recognize that improved participation of civil society depends upon, inter alia, strengthening access to information, building civil society capacity as well as an enabling environment".

I and a number of others were very interested in the idea of a global Principle 10 convention. Reasons: Rio, global process, appropriate opportunity to push this. Fully support Latin American regional convention, but only covers one area of the globe (as with Aarhus). What if you are from a region that doesn't have one? Global convention covers gap, can literally take a global view, can id' shared probs and best practices from across regions, can also develop standards for cross-regional participation issues across global regions and develop standard setting/best practice in areas such as how to consult the most vulnerable. Not intended to weaken existing protections under regional conventions, would be a floor not ceiling. Works with human rights conventions.

Difficult to get this in current political climate, but language in text leaves door open for this.

UNEP: Very interesting. Not the global convention language we had hoped for but certainly requires UNEP to take steps- "explore mechanisms". Function strongly allied to Aarhus Conventions work on PPIF. Could fulfil through regional conventions and international standards at international level and regional conventions, or a global convention. As Jeremy Wates said earlier we would want to see a legally binding outcome here.

Some suggestions/ recommendations for what Rio +20 means for Aarhus Secretariat and parties in the context of PPIF:

1. Aarhus parties/bodies (Secretariat, Bureau) review Rio outcome text, because that applies to all parties, not just Aarhus parties, and use that to support lobbying for improved participation at the international level/with other bodies. Avoids situation see in eg. UNFCCC where you have to rely on Almaty guidelines and those aren't so helpful to persuade other parties.
2. Aarhus Secretariat and other Aarhus bodies eg Bureau to consider very carefully what it should be doing to support UNEP and any high level political body in fulfilling its mandate. Through outreach, comments on how a legal process might work. I recommend opening up a channel of communication there to reach out to UNEP on this issue.

Also to do the same in re the high level political forum, parties should lobby to ensure that function of enhancing public participation is taken on, not just a possibility. Aarhus Secretariat should consider outreach.