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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

#### Fifteenth meeting

Geneva, 3–5 September 2012

## Report of the fifteenth meeting of the Working Group of the Parties

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## **I. Introduction**

1. The fifteenth meeting of the Working Group of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was held from 3 to 5 September 2012 at the Palais des Nations in Geneva, Switzerland.

### **A. Attendance**

2. The meeting was attended by delegations from the following Parties to the Convention: Albania, Armenia, Austria, Belarus, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, France, Germany, Hungary, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Netherlands, Norway, Poland, Republic of Moldova, Romania, Serbia, Slovakia, Spain, Sweden, Tajikistan, Turkmenistan, Ukraine, United Kingdom of Great Britain and Northern Ireland and the European Union.

3. Delegates from Uzbekistan and Turkey were also present. A delegation from Chile participated by video link.

4. Also present were representatives of the United Nations Environment Programme (UNEP), the United Nations Division for Sustainable Development and the Economic Commission for Latin America and the Caribbean (ECLAC), who participated by video link. The meeting was also attended by representatives of the European Environment Agency and the Nuclear Energy Agency of the Organization for Economic Cooperation and Development and the following international financial institutions (IFIs): the World Bank Inspection Panel, the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD) (the latter by weblink). Representatives of regional environmental centres, Aarhus Centres and business and academic organizations were also present. Furthermore, representatives of international, regional and national environmental non-governmental organizations (NGOs) participated in the meeting, many of whom coordinated their input within the framework of the European ECO Forum.<sup>1</sup>

### **B. Opening of the meeting and organizational matters**

5. The Chair of the Working Group opened the meeting and invited delegations to observe a minute of silence to honour Svitlana Kravchenko, the Vice-Chair and distinguished member of the Convention's Compliance Committee, who had passed away in February 2012.

6. The Working Group adopted the agenda as set out in document ECE/MP.PP/WG.1/2012/1.

7. The Chair informed the Working Group that, with a view to ensuring equal opportunities for English-, French- and Russian-speaking delegations, the meeting would result in a list of decisions that would be projected on a screen and presented by the Chair verbally, thereby allowing for interpretation. The list of decisions would be distributed to participants by e-mail after the meeting and would be incorporated in the report. That approach was in accordance with a United Nations policy on greening the United Nations.

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<sup>1</sup> A list of participants and documents for the meeting are available online from <http://www.unece.org/acwgp15.html>.

## **II. Status of ratification of the Convention and the Protocol on Pollutant Release and Transfer Registers**

8. The secretariat reported on the status of ratification of the Convention, the amendment to the Convention on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms (GMO amendment) and the Protocol on Pollutant Release and Transfer Registers (Protocol on PRTRs). There were 46 Parties to the Convention, 29 Parties to the Protocol on PRTRs and 27 Parties to the GMO amendment. Since the fourth session of the Meeting of the Parties in June/July 2011, Iceland had ratified the Convention on 20 October 2011; Serbia had ratified the Protocol on 23 November 2011; and Ireland had ratified the Convention, the GMO amendment and the Protocol on 20 June 2012.

9. The Working Group took note of the report by the secretariat and welcomed the above ratifications. It also took note of information on recent or anticipated relevant developments provided by delegations.

## **III. Substantive issues**

### **A. Access to information**

10. The Working Group considered the section of the report on the implementation of the work programmes for 2009–2011 and 2012–2014 concerning access to information, including electronic information tools, the clearinghouse mechanism and PRTR.net (ECE/MP.PP/WG.1/2012/3, sect. I.A).

11. The Working Group took note of the nomination of Mr. Rodion Bajureanu by the Republic of Moldova as the Chair of the Task Force on Access to Information and that the first meeting of the Task Force was scheduled to take place in Geneva on 7 and 8 February 2013.

12. The Working Group received additional relevant information from delegations, including with regard to the implementation of the Protocol on PRTRs in countries of South-Eastern Europe through a project supported by the Regional Environmental Centre for Central and Eastern Europe (REC-CEE).

13. The Working Group encouraged Parties to take measures towards full implementation of activities under objective I.7 of the Strategic Plan 2009–2014 (ECE/MP.PP/2008/2/Add.16)<sup>2</sup> and decisions of the Meeting of the Parties related to electronic information tools and the clearinghouse mechanism, including establishment of systems to collect environment-related health information and promoting the accessibility of environmental information held by the private sector.

### **B. Public participation in decision-making**

14. The Working Group next reviewed the chapter of the report on the implementation of the work programmes concerning public participation in decision-making (ECE/MP.PP/WG.1/2012/3, sect. I.B). It also took note of the report by the Chair of the

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<sup>2</sup> Available from [http://www.unece.org/fileadmin/DAM/env/pp/mop3/ODS/ece\\_mp\\_pp\\_2008\\_2\\_add\\_16\\_e\\_StPI.pdf](http://www.unece.org/fileadmin/DAM/env/pp/mop3/ODS/ece_mp_pp_2008_2_add_16_e_StPI.pdf).

Task Force on Public Participation in Decision-making on the outcomes of the second meeting of the Task Force (Geneva, 6–8 June 2012) (ECE/MP.PP/WG.1/2012/4), organized in cooperation with the Meeting of the Parties to the Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, the Ministry of Environment and Forests of Romania and the NGO, Women in Europe for a Common Future. The Task Force had discussed the introduction of innovative tools for effective public participation in environmental decision-making and had agreed to further examine public participation in product-related decision-making. A special session devoted to article 6 of the Convention had examined, *inter alia*, effective public participation in decision-making on emerging activities/technologies (e.g., hydraulic fracturing for shale gas, intensive dairy farming and nanotechnology). It had been observed that further activities and technologies having significant environmental effects would inevitably emerge over time and attention should be given to how the Convention might most efficiently and effectively address public participation in decision-making on such activities. Concern had been expressed that, while article 6, paragraph 1, of the Convention addressed public participation with respect to the decision that permitted an activity, many other decisions, e.g., siting decisions and decisions on the choice of technology, were not themselves currently subject to public participation and might effectively be determined by the time public participation on the permitting decision took place. Likewise, decisions that were taken subsequent to the permitting decision might in practice not be subjected to public participation, yet might have a significant environmental effect, for example, pollution permits. It had also been observed that more focus was needed on how article 6, paragraph 1 (b), was being implemented in practice.

15. The Working Group took note of the information provided by the Chair of the Task Force on the progress achieved in developing recommendations on public participation in decision-making on environmental matters, and on the collection of some 30 case studies on the subject. It also took note of the upcoming third meeting of the Task Force being organized in cooperation with the Bureau under the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) (Geneva, 29–30 October 2012) and the fourth meeting of the Task Force (Luxembourg, 12–13 March 2013), which would be organized jointly with the Association Nationale des Comités et Commissions Locales d'Information and the European Commission, as well as related information provided by delegations.

### **C. Access to justice**

16. The Working Group then considered the section of the report on the implementation of the work programmes concerning access to justice (ECE/MP.PP/WG.1/2012/3, sect I.C.). In that connection, it took note of the report by the Chair of the Task Force on Access to Justice on the fifth meeting of the Task Force (ECE/MP.PP/WG.1/2012/5), which had been held in Geneva on 13 and 14 June 2012. The Task Force had agreed to carry out an analytical study on standing in selected countries in Eastern Europe, the Caucasus and Central Asia and to explore the possibility of launching a comprehensive study on the implementation of the third pillar of the Convention in South-Eastern Europe with a focus on cost, remedies and standing.

17. The Working Group also took note of the report by the Chair of the Task Force on the subregional Central Asian meeting, “Implementing the Aarhus Convention today: Paving the way to a better environment and governance tomorrow” (AC/WGP-15/Inf.1), which had been held in Almaty on 22 and 23 May 2012. The workshop, organized by the United Nations Economic Commission for Europe (ECE) and the Organization for Security and Cooperation in Europe (OSCE) with the support of the Government of Kazakhstan, had been attended by more than 50 high-level representatives of the judiciary, and

representatives of Governments, Aarhus Centers and NGOs from five Central Asian countries and Mongolia.

18. The Working Group took note of the relevant information provided by delegations and also of the next meeting of the Task Force scheduled to take place on 17 and 18 June 2013 in Geneva.

19. The Working Group called on Parties to engage in a dialogue at the national level with all relevant stakeholders to address the issue on effective access to justice and to facilitate the implementation of objectives I.10, I.11 and III.6 of the Strategic Plan 2009-2014.

#### **D. Genetically modified organisms**

20. The Working Group then reviewed the chapter of the report on the implementation of the work programmes concerning genetically modified organisms (GMOs) (ECE/MP.PP/WG.1/2012/3, sect. I.D.). It expressed its concern that although objective II.3 of the Strategic Plan 2009–2014 envisaged that the GMO amendment would be approved by a sufficient number of Parties to enter into force by 2009, the objective had yet to be achieved.

21. The Working Group took note of the information provided by the Chair on the responses received from the following Parties whose ratification of the GMO amendment would count towards its entry into force: Albania, Armenia, Azerbaijan, Belarus, France, Georgia, Kazakhstan, Kyrgyzstan, Malta, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan and Ukraine. Only France and Ukraine had indicated that they had initiated a procedure to ratify the amendment. Other Parties had reported that the ratification procedure had not been initiated yet, had identified a number of challenges to ratification in their respective countries and had requested expert assistance in preparing legislation and to build capacity of officials and other key stakeholders. No responses had been provided by Albania,<sup>3</sup> Malta, the former Yugoslav Republic of Macedonia and Turkmenistan.

22. The Working Group took note of relevant information provided by the delegations and encouraged the above-mentioned Parties, whose ratification of the GMO amendment would count towards its entry into force, to make progress in the ratification process and invited them to report at the next meeting of the Working Group on the progress achieved.

23. The Working Group requested the secretariat to follow up on the responses received from Parties, including with regard to their capacity-building needs, and to ensure that the amended text of the Convention was formally published in all the six official languages of the United Nations once it entered into force.

24. The Working Group requested the secretariat to ensure that information on the status of ratifications of the GMO amendment was presented on the Convention's website in a way that differentiated between ratifications that counted towards the entry into force of the amendment and those that did not.

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<sup>3</sup> Albania has since provided its response.

## IV. Procedures and mechanisms

### A. Compliance mechanism

25. The Working Group considered the section of the report on the implementation of the work programmes concerning the compliance mechanism (ECE/MP.PP/WG.1/2012/3, sect. II.A). In that regard, it took note of the report by the secretariat on the outcomes of the Compliance Committee's thirty-third to thirty-seventh meetings (ECE/MP.PP/C.1/2011/6; ECE/MP.PP/C.1/2011/8; ECE/MP.PP/C.1/2011/10; ECE/MP.PP/C.1/2012/2; and ECE/MP.PP/C.1/2012/5). Since the fourth session of the Meeting of the Parties, the Compliance Committee had held four meetings,<sup>4</sup> during which it had discussed the content of nine communications and adopted five sets of findings of non-compliance by individual Parties with their obligations under the Convention. During the same period, the Compliance Committee had received 13 new communications, of which 2 had been dealt with under the summary procedure and 1 had been deemed not admissible. The secretariat also informed the Working Group that the Committee had decided to dedicate more time and attention to follow-up of the nine decisions of the Meeting of the Parties on compliance by individual Parties.

26. The secretariat reported on the appointment of Ms. Dana Zhandayeva as a new member of the Compliance Committee to serve the remainder of Ms. Kravtchenko's term. The secretariat explained that Ms. Zhandayeva would be eligible for renomination and re-election for another full term until the seventh session of the Meeting of the Parties.

27. The European ECO Forum reported on a number of matters regarding compliance with the provisions of the Aarhus Convention, including the worsening situation in Georgia, in particular with regard to access to information and access to justice, and the issue of costs in court cases in the United Kingdom, where the proposed caps were too high and the differentiation between individuals and organizations was unjustifiable.

28. The Working Group expressed its concern with regard to allegations of non-compliance with article 3, paragraph 8, of the Convention reported by the European ECO Forum and Globe Europe. The reports had highlighted the undermining of the respect for the rights of the civic environmental movement in the ECE region, including the arrest of anti-nuclear activists in Belarus who had been trying to hand over a petition on a new nuclear power station to the Embassy of the Russian Federation on 18 July 2012.

29. The Working Group also heard serious allegations regarding the killing of Mr. Honcharenko, Head of the Ukrainian NGO, "For the rights of citizens to environmental safety". The allegations linked his murder with his civic environmental activities, as he had been killed four days after he had made a public statement on the allegedly illegal transfer of 183 tons of scrap metal, likely contaminated with the highly toxic chemical hexachlorobenzene. NGOs reported a lack of information and transparency with respect to the official investigation carried out by the competent authorities in the country, both in relation to the killing of Mr. Honcharenko and the allegedly illegal transfer of contaminated scrap metal.

30. In response to the allegations, representatives of the Ministry of Ecology and Natural Resources of Ukraine informed delegates that an official investigation was under way and that a working group had been established to examine how similar incidents could be avoided in the future. The conclusions were expected on 10 September 2012.

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<sup>4</sup> See <http://www.unece.org/env/pp/ccmeetings.html>.

31. The Working Group took note of other information provided by delegations, including plans of the European ECO Forum to distribute for comment a discussion paper prepared by NGOs addressing the strengths and weaknesses of the compliance mechanism.

## **B. National implementation reports**

32. The Working Group took note of the secretariat's update on the status of submission of national implementation reports since the fourth session of the Meeting of the Parties and urged the former Yugoslav Republic of Macedonia, the only Party that had not yet submitted its national implementation report, to do so without further delay.

33. The Working Group also took note of a planned training on an online reporting tool for the preparation of the following cycle of national implementation reports, which would be carried out during the next meeting of the Working Group of the Parties in June 2013.

## **C. Implementation Guide**

34. The Working Group took note of the information provided by the secretariat regarding the progress made with respect to preparing the second edition of the publication, *The Aarhus Convention: An Implementation Guide*.

## **D. Capacity-building and awareness-raising**

35. The Working Group then turned to the section of the report on the implementation of the work programmes (ECE/MP.PP/WG.1/2012/3, sect. II.B), regarding capacity-building activities. In that connection, it took note of the report by the secretariat on the outcomes of the seventh Aarhus Convention capacity-building coordination meeting (AC-WGP-15/Inf.2), which had been held in Geneva on 15 June 2012. At the meeting, partner organizations had exchanged information on past and ongoing activities with regard to access to justice, access to information and promoting national pollutant release and transfer registers (PRTRs) and public participation at the national level and in international forums, as well as with regard to GMOs. They had also discussed future plans in relation to strengthening national capacities to implement the Aarhus Convention and the Protocol on PRTRs and possible cooperation on the various activities at the national, subregional and regional levels.

36. At the seventh capacity-building coordination meeting partner organizations had agreed:

- (a) *With regard to access to justice:*
  - (i) To involve public interest lawyers in their relevant capacity-building activities;
  - (ii) To cooperate on a possible comprehensive study on standing, remedies and costs in the South-Eastern European countries in 2013, as appropriate;
- (b) *With regard to access to information:*
  - (i) To strengthen, subject to the availability of the resources, assistance to Parties in improving access to environment-related health information and in establishing national nodes in accordance with decision II/3 of the Meeting of the Parties;

(ii) To explore ways to cooperate in the organization of workshops dedicated to the exchange of information and best practices in promoting the accessibility of environmental information held by the private sector, as well as trainings on the online reporting system at the national level;

(iii) To provide, through the work of the Task Force on Access to Information, more specific guidance regarding the types of environmental information to be made available on websites of Aarhus Centres, as provided in decision II/3.

(c) *With regard to public participation in decision-making:* to include in relevant capacity-building projects a component on a model for effective public hearings and a component on trainings for governmental officials in how to arrange for public participation during the preparation of plans, programmes, policies or legal acts relating to the environment;

(d) *With regard to public participation in decisions on the deliberate release into the environment and the placing on the market of GMOs:*

(i) To promote the relevant provisions of the Aarhus Convention, the GMO amendment and the Lucca Guidelines on access to information, public participation and access to justice with respect to genetically modified organisms (MP.PP/2003/3–KIEV.CONF/2003/INF/7) within the ongoing and new capacity-building projects;

(ii) To explore possible cooperation under the Environment and Security Initiative in order to raise awareness and build capacities in that area;

(e) *With regard to public participation in international forums:*

(i) To assist Governments in involving the public in order to provide the public's input to the Government's position at international forums;

(ii) To support the application of the Almaty Guidelines on promoting the application of the principles of the Aarhus Convention in the international forums (Almaty Guidelines) in which the partner organizations were involved;

(f) *With regard to the Protocol on PRTRs:* to consider the possibilities for cooperation on the subregional workshop for the South-Eastern European countries.

37. The Working Group took note of other relevant information, including on a project on the implementation of the Convention in the Republic of Moldova being carried out by the Regional Environmental Centre for the Republic of Moldova and supported by the Netherlands. The project focused on capacity-building for local authorities and included a number of workshops involving local authorities, NGOs and other interested parties.

38. The Working Group was informed that a national profile for implementation of the Convention had been developed in Tajikistan, and that various laws on environmental information, monitoring, protection of the environment and education had been adopted. As of September 2012, the Government of Tajikistan had been receiving assistance from OSCE in developing guidelines for a new action plan for the implementation of the Convention.

39. The Working Group of the Parties further took note of a report by the secretariat on a survey on the implementation of the Communication Strategy for the Convention<sup>5</sup> sent to

<sup>5</sup> The Communications Strategy (ECE/MP.PP/2011/2/Add.2) is available from <http://www.unece.org/env/pp/mop4/mop4.doc.html>.

<sup>6</sup> See <http://www.unece.org/fileadmin/DAM/env/pp/wgp/WGP-15/Presentations/UNFCCC.pdf>.

national focal points, Aarhus Centres, regional environmental centres and NGOs. The survey sought to evaluate whether current communication activities were perceived as relevant and successful or not, and to identify areas where there was need for improvement. The deadline for responses was 1 October 2012.

## **V. Accession to the Convention by States from outside the United Nations Economic Commission for Europe region**

40. The Working Group considered the chapter of the report on the implementation of the work programmes concerning awareness-raising and promotion of the Convention and the Protocol on PRTRs (ECE/MP.PP/WG.1/2012/3, sect. III.A).

41. The Working Group took note of the letter sent at the Bureau's request by the ECE Executive Secretary to the other United Nations Regional Commissions on the outcomes of the fourth session of the Meeting of the Parties and, in particular, decision IV/5 on accession to the Convention by non-ECE member States.

42. The Chair reported on the mission to Mongolia (Ulan Bator, 25–26 April 2012), which had been organized at the invitation of the Government of Mongolia following its expression of interest in acceding to the Convention. In addition to bilateral meetings, including the meeting with the President of Mongolia, some 100 participants had been invited to multi-stakeholder consultations, which had also involved the Head of the Office of the President, the Minister of Foreign Affairs and Trade, the Minister of Nature Environment and Tourism, officers from ministries responsible for mining and urban development, the Head of the Human Rights Commission of Mongolia, advisers to the President, parliamentarians, civil society (including from rural areas throughout the country), the private sector, independent experts and international organizations. The consultations had provided opportunities to exchange views and information on emerging environmental and social-economic issues and concerns, such as environmental impact assessment in the mining sector, access to information related to permits and licences and access to justice and international dispute settlement. They had featured open debates on matters related to access to information, public participation in decision-making and access to justice in environmental matters, with a view to their role in mitigating health and environmental risks generated by the exploitation of Mongolia's natural resources.

43. The Chair noted that the information and guidance provided during the mission had been well received by Government officials, NGOs and local inhabitants from rural areas and that Parties' experiences had helped to clarify many issues related to the practical application of the Convention. The meetings had benefitted from the valuable input of representatives from Italy, Kazakhstan, Norway and Poland, as well as from representatives of the United Nations Development Programme (UNDP) and the EBRD offices in Mongolia. The Chair thanked the secretariat for organizing the mission, acknowledged and appreciated the enthusiasm of the Mongolian NGOs and invited Parties to offer their support to Mongolia, including through bilateral assistance, in its efforts to ratify the Convention.

44. The secretariat informed the Working Group of recent correspondence with the Ministry of Nature, Environment and Tourism of Mongolia and the UNDP office in Ulan Bator. An official translation of the Aarhus Convention into the national language, and a draft of other related documents, including a concept note for ratification, had been finalized by the Ministry and shared with other ministries for comments. However, due to the recent parliamentary elections in June 2012, the process of parliamentary approval of the ratification had been delayed.

45. The Working Group welcomed the progress made by Mongolia towards ratification of the Aarhus Convention and took note of the information provided by the Chair on the mission to Mongolia. European ECO Forum expressed interest in recommending an appropriate NGO representative to participate in a similar mission in the future.

46. The secretariat invited NGOs to get in touch with their counterparts in Mongolia, and reported that the NGO Coalition in Mongolia was looking forward to receiving support.

47. Representatives from ECLAC and from the Ministry of Foreign Affairs and the Ministry of Environment of Chile made a presentation via video link on the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development, which aimed to promote access rights based on regional consensus and with the participation of civil society. The delegates from Chile informed the Working Group that the first intergovernmental meeting would be held in Santiago, Chile, on 6 and 7 November 2012 to discuss the establishment of a working group and agree on a road map for implementation of Principle 10 in the region. It was hoped that signatories and other countries from the region would be joining the meeting and the secretariat and Parties were invited to share their experience and offer their support. The Working Group welcomed the Declaration submitted by Chile, and also endorsed by nine other Governments from Latin America, and offered its support to the development of a possible regional legal instrument.

48. Professor Noriko Okubo presented the Green Access Project, developed by Osaka University and funded by the Government of Japan, which sought to identify appropriate models of public participation for protecting the environment and creating a sustainable society in Japan. Current weaknesses in protecting environmental rights in Japan centred on issues of access to justice and in particular lack of standing for NGOs. Meeting participants were invited to attend an international conference on the subject to be held on 30 March 2013 in Awajishima, Japan.

49. The Working Group welcomed the project, along with other relevant initiatives taken by Parties or stakeholders to promote the Convention beyond the ECE region, including a project proposal on sharing experiences on implementing Principle 10 between regions developed by REC-CEE in partnership with the European Environmental Bureau.

## **VI. Thematic session on promotion of the principles of the Convention in international forums**

### **A. Opening of the thematic session**

50. A thematic session on promoting the principles of the Aarhus Convention in international forums, led by France, was attended by more than 100 delegates from Governments, non-governmental and international organizations, IFIs, academia, business and industry. In that connection, the Working Group considered the chapter of the report on the implementation of the work programmes concerning promotion of the Almaty Guidelines and other interlinkages with relevant international bodies and processes (ECE/MP.PP/WG.1/2012/3, sect. III.B).

51. The secretariat presented a written statement by the United Nations Framework Convention on Climate Change (UNFCCC) secretariat, which provided information on UNFCCC Parties' discussions on new channels for observer organizations to provide

formal inputs to the high-level segment of the Conference of the Parties and the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol.<sup>6</sup>

52. The European ECO Forum noted that the capacity of the UNFCCC Liaison Office had been reduced, which would add further challenges for civil society. It noted that a report on that issue was expected in May 2013. It remarked that there had been a lot of rhetorical support from Governments on the role of civil society; however, at the same time as rules were being adopted to improve public participation and the transparency of formal sessions, negotiations were increasingly moving to informal meetings during regular sessions to which civil society did not have access. Moreover, some substantive issues had been moved from the intergovernmental negotiations to standing bodies (e.g., on technology, adaptation and finance), but there was a lack of transparency and participation in those standing bodies: observers had been relegated to an overflow room; there had been no webcasting; there had been difficulties with civil society selection processes; and there had been proposals that observers could only have the floor at the invitation of the Chairs and if no Party objected. The European ECO Forum stated that it was important to correct those trends before the practices were set in stone. The Aarhus Parties needed to be vocal on those points and not use public participation as a negotiating token.

53. The Working Group:

(a) Welcomed the continued engagement of the UNFCCC secretariat in the Parties' work in this area, as demonstrated by the written statement by the UNFCCC secretariat to delegates at the Working Group of the Parties;

(b) Expressed concern at the potential implications for civil society engagement within UNFCCC processes in the light of the ECO Forum report of an increased use of informal negotiating formats and a significant decrease in staff working on observer engagement within the UNFCCC secretariat.

## **B. Public participation before, at and after Rio+20**

54. A representative of the United Nations Division for Sustainable Development briefed the Working Group on the upcoming process to set up the high-level political forum on sustainable development to be established in accordance with the outcome document of the United Nations Conference on Sustainable Development (Rio+20 Conference), *The Future We Want*.<sup>7</sup> With respect to opportunities for Aarhus Parties and stakeholders to promote the principles of the Convention in the design of the forum, the General Assembly would conduct intersessional consultations on the modalities of the forum, which was expected to hold its first session before the next session of the General Assembly in 2013. There would definitely be opportunities for engagement of civil society in the process.

55. A representative of France described how in the lead-up to the Rio+20 Conference France had created a special Rio+20 Committee, co-chaired by the Ministry of Foreign Affairs and the Ministry of Environment, to consult other ministries and civil society in the preparation of France's positions during the Rio+20 negotiations. The Committee had provided an opportunity for officials and civil society to exchange analyses and views, including on the zero draft of the outcome document. A website had also been established through which civil society could submit their views and be kept informed of the progress in the negotiations.

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<sup>6</sup> See <http://www.unece.org/fileadmin/DAM/env/pp/wgp/WGP-15/Presentations/UNFCCC.pdf>.

<sup>7</sup> A/RES/66/288, annex, para. 84.

56. The representative of the European ECO Forum noted that, while *The Future We Want* stated in its opening line that it had been agreed with the full participation of civil society that was not really the case. Barriers to public participation at the Rio+20 Conference included closed meetings and poor information about meeting schedules, a confusing secondary badge system, limited intervention opportunities, civil society dialogues covering a limited number of issues and no official access to the draft negotiating text. The European ECO Forum thanked the European Union (EU), and Denmark which had held the Presidency of the EU during the negotiations, as well as Switzerland, for their efforts to promote public participation in the outcome document text. However, while the final wording of the outcome resembled Aarhus language, there were some significant differences — e.g., it referred to stakeholders rather than the public and thus gave business parity with the public — and it lacked ambition. The text left the door open for a possible global convention on Principle 10 in the future. While fully supporting the prospect of new regional conventions, e.g. in Latin America, the European ECO Forum saw value in the universal reach of a global instrument. It recommended that Aarhus Parties, the secretariat and the Bureau use the text of the Rio+20 outcome document to support their work to promote participation at the international level as — in contrast to the Almaty Guidelines — the outcome document applied globally. It also recommended that the secretariat and the Bureau consider how they could support UNEP in fulfilling its mandate and that they open a channel of communication with UNEP on that issue. Furthermore, Aarhus Parties should work to promote public participation in the establishment of the high-level political forum and the secretariat should consider outreach in that regard.

57. Following the presentations, the floor was opened for discussion. Belgium informed the Working Group that it had held meetings twice yearly to inform unions, NGOs and business on the EU Presidency programme and on specific international environmental issues such as climate change, biodiversity and the Rio+20 process. Twenty NGOs had been selected to participate in the preparations for the Rio+20 Conference and in the Belgian delegation at the Conference itself. They had also received regular information on the EU coordination meetings.

58. The representative of Denmark reported on Denmark's coordination of the Presidency of the EU. In the lead up to the Rio+20 Conference the Danish Ministry of Foreign Affairs had held meetings with other ministries and NGOs to collect information and opinions on the negotiations. A focal point for business and industry and a focal point liaising with environmental NGOs had been based in the Ministry of Environment in the lead-up to the Conference. NGOs had been part of the official Danish delegation at the preparatory meetings in New York and had attended most of the delegation meetings during the Conference itself. Following the Rio+20 Conference, the Danish Minister of Environment had held a meeting with the coalition of environmental NGOs presenting viewpoints on the outcome of the Conference and discussing how NGOs could be involved in the implementation of its outcomes.

59. The delegation of Italy emphasized the importance of ensuring public participation at the national level in the preparatory work for major events. Italy had established a national committee focusing mostly on green economy, bringing together competent ministries, other public officials and NGOs, through which it had collected practices on green economy for publication and input into the Rio+20 negotiations. The Rio outcomes had been presented at a special conference organized after Rio+20, which had been attended by participants from different constituencies.

60. The representative of Kazakhstan reported that over 20 Kazakh NGOs had been involved in producing the proposal for the Astana Green Bridge Initiative to build cooperation between Asia, Europe and the Pacific on green economy. In October 2012 the

Prime Minister would hold a consultation with NGOs regarding the promotion of a green economy in the country.

61. The delegation of Kyrgyzstan said that the Deputy Prime Minister and the Minister of Economy had welcomed proposals from accredited NGOs with respect to the negotiations at Rio+20, and that they had also taken part in the official delegation.

62. The Latvian delegation reported that an Environmental Consultative Council had been established including representatives of ministries, intergovernmental bodies and stakeholders. Children had also been engaged in the preparation of Latvia's official position, as had the local branch of REC-CEE. An NGO representative had been included in Latvia's official delegation and public involvement had continued following the Rio+20 Conference.

63. The representative of the European Environmental Bureau said that due account was not being taken of the outcomes of public participation regarding international forums, as there was often a difference between the public's input and what the Governments ultimately adopted.

64. A representative of the NGO Justice and Environment reported on its proposal to broaden public participation not only in decision-making but also in terms of access to justice before international institutions, e.g., by replicating the Aarhus Convention's compliance procedure in other forums.

65. The Working Group:

(a) Took note of information provided by the Parties on public participation before, at and after the Rio+20 Conference, as well as the information provided by the United Nations Division on Sustainable Development on possible avenues for Parties and stakeholders to promote the principles of the Convention in the processes to be put in place to implement the outcomes of Rio+20;

(b) Took note of the efforts made by several Parties to establish a dedicated committee, and to include civil society representatives in official delegations;

(c) Acknowledged the efforts made by some Parties to defend a baseline text on the subject matter in the outcome document of the Conference;

(d) Committed to take concrete actions to actively promote the principles of the Aarhus Convention in the new high-level forum, the upgrading of UNEP and other initiatives to be put in place as a result of the Rio+20 Conference, and to report to the Working Group at its next meeting on the progress achieved;

(e) Took note of the concern expressed by the European ECO Forum regarding civil society reports of various challenges to public participation experienced during the Rio+20 Conference and its concern that the final outcome document of the Rio+20 Conference lacked ambition;

(f) Took note that efforts made in procedures for public participation in the Conference had not guaranteed that public views were fully taken into account.

### **C. Measures taken at the national level to systematically promote public participation in international forums**

66. The delegation of Norway informed the Working Group that a consultative body had been established under the Ministry of Environment to bring together Ministry officials and representatives of other ministries, as well as representatives of civil society, trade unions, NGOs, research institutes and the business sector. The aim of the consultative body was to

provide a forum through which those representatives could provide their input on international environmental issues and share information regarding international processes where civil society was not officially represented. NGOs had been included in the Norwegian delegation to the Rio+20 Conference and had held a permanent post in the Government's delegation for climate change negotiations. The Ministry of Environment provided funding to most of Norway's larger environmental NGOs to support their involvement in international processes.

67. The representative of Ukraine reported that NGOs had been included in its official delegation to the Rio+20 Conference, and that it had hosted a side event to support the preparation of an international environmental constitution and a world environmental organization. At the national level, a Coordinating Council on the Development of Civil Society had been established under the President of the Ukraine. NGOs were given extensive possibilities to participate in international events and information about international forums was disseminated through Government websites, annual round tables in which civil society could participate, e-mail and the mass media. The Ministry of Ecology and Natural Resources was considering the possibility of joining the REC-CEE and creating a Ukraine branch. It reported that the international "Green Mind" conference would be held in the country in November 2012 to address environmental innovation, technology and investment and would be attended by representatives of NGOs, government, academic and research institutions and the private sector from various countries. The Minister of Ecology and Natural Resources of Ukraine had also commenced an initiative to expand the range of civil society involvement in international forums, including a proposal to hold meetings with civil society on a quarterly basis. Information on that initiative would be posted on the Ministry's website and a call centre would be created in the Ministry of Ecology to exchange information with the public, including with respect to international forums.

68. The representative of the European ECO Forum stressed the importance of public participation in international forums, as acknowledged in the Almaty Guidelines. ECE efforts to organize a session on public participation in international environmental governance at the Rio+20 Conference were appreciated. After the disbandment of the Task Force on Public Participation in International Forums it was of great importance that sufficient time, focus and resources were allocated during meetings of the Working Group of the Parties to oversee the work in that area. There should be a performance review to determine whether the Working Group had been able to fulfil that mandate and whether the Task Force should be revived. Parties should ask the secretariat to provide further advisory assistance to interested international bodies to continue to promote the Aarhus principles in other international forums, e.g., within the context of the Espoo Convention, climate and biodiversity negotiations and international financial processes, and the EU should apply the Aarhus principles to its policies. It was vital that the public, particularly in countries of Eastern Europe, the Caucasus and Central Asia, had effective channels for direct input into international environmental processes that were separate from input at the national level.

69. The representative of the European ECO Forum also noted a wide range in the quality of reporting on article 3, paragraph 7, of the Aarhus Convention (on the promotion of Aarhus principles in international decision-making on the environment and in international forums) in the national implementation reports, with some countries still not reporting at all. While there had been some progress in promoting public participation in environmental bodies, little or no progress had been demonstrated in other forums which had big implications for the environment (e.g., trade, finance, energy, etc.). In that regard, the report of the sixth meeting of the Working Group had included a list of international forums dealing with matters relating to the environment. While that list was indicative rather than exhaustive, the Working Group should call upon Parties to apply article 3, paragraph 7, in the full range of forums covered in that list, and to agree to undertake more

systematic and comprehensive reporting on the steps taken to promote the principles of the Convention in all bodies and forums that were covered by article 3, paragraph 7.

70. Following the presentations, the floor was opened for discussion and comments. The delegation of the Czech Republic informed the Working Group that NGOs had participated in its national delegations to international forums. In 2007, the Ministry of Environment had drafted a regulation on the incorporation of NGOs in official delegations outlining the rights and obligations of NGOs and of the Ministry. However, due to budgetary constraints that regulation had not been broadly implemented.

71. The representative of Bulgaria said that democratically elected NGO representatives had participated in its national delegations to EU working groups within the Council of Ministers and that several working groups, including on the environment, had been established.

72. The representative of Kyrgyzstan reported on civil society's participation in the platform for dialogue in Central Asia and in the International Fund for Saving the Aral Sea.

73. The delegation of Uzbekistan noted that NGOs had been involved in Uzbekistan's preparations for the Rio+20 Conference. It requested that the questionnaire circulated by the secretariat be translated into Russian and that it also be sent to countries from other regions that were interested in ratifying the Convention.

74. The Chair of the Task Force on Public Participation invited delegates to consider alternative decision-making methods (e.g., multi-optional) as current single option decision-making methods limited the quality of decision-making by restricting the number of alternatives to be considered. There was also a need to explore what other forms of public participation might enhance decision-making at all levels.

75. The representative of the European ECO Forum highlighted the high cost of attending international forums and the ongoing barriers with respect to access to information. It was also observed that in order for the public to be motivated to engage in dialogue regarding international forums it needed to better understand the benefits of such engagement.

76. The Working Group:

(a) Took note of information provided and welcomed the measures taken by Parties at the national level to systematically promote the principles of the Convention in international forums;

(b) Invited each Party to provide written answers to the questionnaire circulated by the secretariat on 25 August 2012, and requested the secretariat to post those answers on the Convention website, to favour the exchange of national experiences among Parties;

(c) Committed to each developing and implementing a national action plan to systematically promote the principles of the Convention in all international forums dealing with matters relating to the environment, including those under the competencies of other ministries and not just the most high profile "purely environmental" ones, and to report on the progress achieved to the next meeting of the Working Group;

(d) Requested the secretariat, in consultation with the Chair of the thematic session on the promotion of the principles of the Convention in international forums, to develop a checklist of the measures to be borne in mind in the development of the above action plan.

## **D. Public participation in projects funded by international financial institutions**

77. The secretariat of the World Bank Inspection Panel noted that many of the complaints received by its Inspection Panel concerned inadequate consultation and public disclosure. The Bank's environmental and social safeguard policies prohibited it from financing any activity that would contravene a country's obligations under international treaties, such as the Aarhus Convention. With regard to concrete steps that Aarhus Parties might take to promote the principles of the Convention in IFI-funded projects, the World Bank recommended that they: (a) protect and strengthen the role of IFI accountability mechanisms; (b) ensure the promotion and application of IFI policies on access to information, public participation and access to justice; and (c) consider the preparation of specific guidance for IFIs to support member countries in meeting their obligations under the Convention and the Almaty Guidelines.

78. A representative of the EIB Complaints Mechanism noted that, as an EU institution, EIB was required to directly comply with the obligations of the Aarhus Convention. Several complaints before its Complaints Mechanism had raised issues regarding EIB compliance with the Aarhus Convention's provisions on either access to information or public participation, including projects in countries not Party to the Convention. EIB faced a number of challenges in its efforts to be transparent and to promote public participation in its projects. With respect to access to information, there was a lack of clarity with regard to the definition of "environmental information" and the "public interest", which had caused problems in EIB co-financed projects when the other financing institution or bilateral donor, including some Aarhus Parties, had objected to the release of the information requested by the public. With respect to access to justice, in addition to its Complaints Mechanism, as an EU institution, EIB was subject to several accountability mechanisms which other IFIs were not subject to, for example, the EU Ombudsman and the Court of Justice of the European Union.

79. A representative of EBRD reported on the efforts of IFIs to harmonize their policies (e.g., environmental, social and compliance). The differences in the mandates and geographical scope of IFIs presented constraints to harmonization, though the general principles were largely consistent among those institutions. Most IFIs undertook a benchmarking exercise as part of policy revision to see where they stood in relation to other IFIs. With regard to language and translation, EBRD required that information provided to local people be meaningful, and environmental and social impact assessments were thus disclosed in full in the official local language. Some other IFIs only required non-technical summaries to be available in the local language rather than the full assessment, or that assessments be made available only in their offices, not in areas local to the project. Some NGOs had additionally expressed concern that some other IFIs' environmental and social impact assessments were not always available in English. With respect to restrictions on the disclosure of information, some of the exemptions in the EBRD information disclosure policy were due to its principal mandate of private sector financing, including some exemptions imposed by law (e.g., stock market restrictions on releasing information that could cause market distortions). Another restriction included proprietary information belonging to third parties which was provided to EBRD for the purposes of due diligence or monitoring only. However, EBRD had the right to override those restrictions and disclose information if there were a risk of imminent harm to public health or safety or to the environment.

80. Central and Eastern European Bankwatch (CEE Bankwatch) observed that IFI board members representing Aarhus Parties had a limited knowledge of the Aarhus Convention and their obligation under article 3, paragraph 7, to promote the principles of the

Convention in IFI processes. Most disclosure of environmental information (except from environmental impact assessments) was on a passive basis, and information on IFI webpages was frequently outdated. Access to environmental conditions stipulated in IFI documentation was a major problem, and for the first time EIB had recently disclosed the environmental conditionality for one project. There were also emerging challenges to applying the Aarhus principles. The economic situation was being used to justify the reduction of the current standards of IFIs and there was a trend to increasingly fund through intermediaries, which restricted the application of IFI policies to projects. Moreover, there was limited awareness among the public of their rights to have access to information and to participate in IFI projects, and also regarding the existence of the IFI compliance mechanisms. While it was positive that all IFIs had now established compliance mechanisms, the procedures were very lengthy, thereby restricting access to justice. EBRD would review its environmental and social policy and compliance mechanism in 2013. Aarhus focal points should contact their national representatives in the various IFIs to inform them of their obligations to promote the principles of the Aarhus Convention in IFI policies and processes. It might also be useful for the Aarhus secretariat to organize a meeting with IFI boards of directors in order to raise awareness of the Aarhus Convention and how to better implement its provisions. Major improvements were needed in all IFIs with respect to: (a) releasing environmental requirements included in project contracts; (b) regular disclosure of environmental information (e.g., monitoring reports); and (c) ensuring that compliance mechanisms provided a response in a timely manner.

81. The Working Group:

(a) Took note of the information provided by IFIs and civil society on challenges to promoting the principles of the Aarhus Convention in IFI-funded projects;

(b) Urged Parties, when sitting on governing bodies of the IFIs, to promote principles of the Convention and strengthen independent accountability mechanisms;

(c) Committed to identifying possible concrete actions that Parties might take, individually or collectively with other Governments, to promote the principles of the Aarhus Convention in the processes, policies and projects of the IFIs taking part in the session, namely the World Bank, EBRD and EIB;

(d) Requested the secretariat, under decision IV/3 of the Meeting of the Parties to the Convention, to continue outreach and collaboration with IFIs in order to assist them in upgrading and harmonizing their standards and policies regarding access to information and public participation.

## **VII. Implementation of work programmes for 2009–2011 and 2012–2014**

82. The Working Group took note of the report on the implementation of the work programmes for 2009–2011 and 2012–2014 and of the information provided by delegations in relation to the Convention's implementation in the region, as set out in sections III–VI above.

## **VIII. Financial matters**

83. The Working Group considered the annex to the report on the implementation of the work programmes for 2009–2011 and 2012–2014, which provided an overview of contributions to the Convention, as well as expenditures. The secretariat informed the Working Group that one fixed-term staff member, funded from donor contributions, had

been recruited to, among others, service the Task Force on Public Participation in Decision-making and provide support to the work on the GMO amendment, the promotion of the Convention and the Compliance Committee. The recruitment process for a second fixed-term post, to be funded from donor contributions, to support the work on the Protocol on PRTRs and electronic information tools was at its final stage and was expected to be concluded by the end of October 2012. A third post, supporting capacity-building activities, access to justice and the compliance mechanism, was expected to be filled by the end of the year. In addition, one P-2 post funded by the regular budget had become vacant and recruitment of a new staff member was expected by the end of November 2012.

84. The Working Group was informed about contributions and pledges received between 12 June 2012 and 31 August 2012 as follows: (a) Armenia had contributed \$300 for activities under the Aarhus Convention in 2012; (b) Belarus had contributed \$300 for activities under the Aarhus Convention in 2012; (c) Belgium (Brussels Capital Region) had contributed €45 for activities under the Aarhus Convention in 2012; (d) Belgium (Walloon Region) had contributed €3,465 for activities under the Aarhus Convention and €5,200 for activities under the Protocol on PRTRs in 2012; (e) Hungary had contributed \$5,000 for activities under the Aarhus Convention in 2012 and \$500 for activities under the Protocol in 2011; and (f) the EU had pledged €100,000 for activities under the Aarhus Convention in 2012. Delegations from the following countries had announced additional pledges for 2012 and 2013 as follows: (a) the United Kingdom had announced a pledge of £30,000 to support activities under the Aarhus Convention and the Protocol on PRTRs in 2013 and also clarified that the £30,000 contributed for 2012 was intended to support both the Convention and the Protocol; and (b) the Czech Republic announced its pledge of \$10,000 for the Protocol and \$15,000 for the Aarhus Convention in 2013.<sup>8</sup>

85. The Working Group took note of the information on the human and financial resource situation of the secretariat and the information that had been shared by delegations on expected contributions for 2012 and 2013.

86. The Working Group expressed its concern with regard to the shortage of contributions and the low number of pledges, also recalling decision IV/7 on financial arrangements adopted by the Meeting of the Parties at its fourth session (Chisinau, 29 June–1 July 2011). That decision stipulated that contributions for a given calendar year should be made by the end of the preceding year, so as to secure staff costs for the smooth functioning of the secretariat, as a priority, and the timely and effective implementation of the programme of work. It was noted that the low number of pledges could ultimately lead to a disturbing situation whereby the Convention's reserves would be depleted.

## **IX. Preparations for the fifth ordinary session of the Meeting of the Parties**

### **A. Future strategic plan**

87. The Working Group approved, as amended at the meeting, the proposal of the Bureau on the preparation of the Strategic Plan 2015–2020 (ECE/MP.PP/WG.1/2012/6/CRP.1) and took note of the information provided by the secretariat on the plans for preparation of the report on the status of implementation of the current Strategic Plan. Upon the request of the Bureau, a template regarding the status of

<sup>8</sup> Subsequently, Italy informed the secretariat that its entire contribution of €100,000 in 2012 was intended to support activities under the Aarhus Convention.

implementation of the strategic plan would be distributed to all focal points and stakeholders in spring 2013.

## **B. Evaluation of the current functioning and implementation of the Convention**

88. The Working Group approved, as amended at the meeting, the proposal of the Bureau on preparation of an in-depth evaluation of the current functioning and implementation of the Convention (ECE/MP.PP/WG.1/2012/7/CRP.2) and requested the secretariat to ensure that the in-depth evaluation was carried out in a coordinated way with the assessment of the current interim scheme of contributions (see below).

## **C. Assessment of the current interim scheme of contributions**

89. The Working Group approved, as amended at the meeting, the proposal of the Bureau on the preparation of an assessment of the current interim scheme of contributions (ECE/MP.PP/WG.1/2012/8/CRP.3) and requested the secretariat to ensure that the assessment was carried out in a coordinated way with the in-depth evaluation (see above).

## **D. Hosting of the fifth session of the Meeting of the Parties**

90. The Working Group called on Parties to inform the secretariat by mid-February 2013 about their interest in hosting the fifth ordinary session of the Meeting of the Parties, also taking into consideration that the session would be organized back to back with the second session of the Meeting of the Parties to the Protocol on PRTRs, and mandated the secretariat to liaise with potentially interested Parties on the matter.

91. The Working Group agreed to provisionally fix the last week of June 2014 as the date for the next session of the Meeting of the Parties, and mandated the Bureau to take the decision on the hosting issue prior to the next meeting of the Working Group, as appropriate, and to report to the next meeting of the Working Group accordingly.

92. The Working Group took note of the proposal by the EU, as a fall-back position, to organize the next session of the Meeting of the Parties in Geneva and requested the secretariat to proceed with the booking of rooms for the session in Palais des Nations in order to secure the required facilities.

## **X. Other business**

93. The Working Group noted that its next meeting would take place from 19 to 21 June 2013 in Geneva, back to back with the meeting of the Task Force on Access to Justice (17–18 June 2013).

94. The Working Group took note of the information provided by the European Environment Agency on the establishment of a regular process of environmental assessment and of the gradual development of the shared environmental information system across the pan-European region as an outcome of the Astana “Environment for Europe” Ministerial Conference in 2011.

## **XI. Adoption of outcomes**

95. The Working Group adopted the major outcomes and decisions presented by the Chair at the meeting and requested the secretariat, in consultation with the Chair, to finalize the report of the meeting and incorporate those adopted outcomes and decisions.

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