



# Economic and Social Council

Distr.: General  
2 April 2015

Original: English

---

## Economic Commission for Europe

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

#### Nineteenth meeting

Geneva, 17–19 June 2015

Item 3 (a) of the provisional agenda

**Substantive issues: access to information**

## Report of the Task Force on Access to Information on its third meeting

### *Summary*

The Task Force on Access to Information under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters was established by the Meeting of the Parties to the Convention at its fourth session through decision IV/1 (see ECE/MP.PP/2011/2/Add.1).<sup>1</sup> At the fifth session of the Meeting of the Parties, the Task Force mandate was renewed for a further period through decision V/1 (see ECE/MP.PP/2014/2/Add.1).<sup>2</sup>

The present document contains the report of the third meeting of the Task Force (Geneva, 3–5 December 2014), summarizing the discussions at the meeting and outlining activities undertaken in implementation of its mandate as defined by decisions IV/1 and V/1.

The report is being submitted to the Working Group of the Parties for its consideration.

---

<sup>1</sup> Available from <http://www.unece.org/env/pp/mop4/mop4.doc.html>.

<sup>2</sup> Available from [http://www.unece.org/env/pp/aarhus/mop5\\_docs.html#](http://www.unece.org/env/pp/aarhus/mop5_docs.html#/).

## Contents

	<i>Paragraphs</i>	<i>Page</i>
Introduction .....	1–7	3
I. Opening of the meeting and adoption of the agenda .....	8–9	4
II. Environmental information: minding the gap .....	10–39	4
A. Scope of environmental information .....	11–27	4
B. Quality of environmental information .....	28–34	7
C. Comparability of environmental information .....	35–39	8
III. The application of certain restrictions on access to environmental information .....	40–60	9
A. Confidentiality of commercial and industrial information and information whose disclosure might adversely affect intellectual property rights .....	46–54	10
B. Confidentiality of personal data .....	55–59	12
C. Outcomes of the considerations on the application of certain restrictions on access to environmental information .....	60	13
IV. Access to environmental information on products .....	61–67	13
V. Increasing interoperability and facilitating data sharing at the national level through electronic information tools .....	68–78	15
VI. Activities under other international forums .....	79–87	17
VII. Approval of conclusions and closing of the meeting .....	88	19

## Introduction

1. The third meeting of the Task Force on Access to Information under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was held in Geneva, Switzerland, from 3 to 5 December 2014 under the leadership of the Republic of Moldova.<sup>3</sup> The mandate for the Task Force was established by decision IV/1 of the Meeting of the Parties to the Convention (see ECE/MP.PP/2011/2/Add.1),<sup>4</sup> and renewed by the Meeting of the Parties through decision V/1 (see ECE/MP.PP/2014/2/Add.1).<sup>5</sup>

2. The meeting was attended by experts designated by the Governments of Albania, Armenia, Austria, Belarus, Denmark, France, Georgia, Ireland, Kazakhstan, Kyrgyzstan, Norway, Poland, the Republic of Moldova, Romania, Serbia, Spain, Switzerland, the former Yugoslav Republic of Macedonia, Ukraine and the United Kingdom of Great Britain and Northern Ireland. The European Commission was present on behalf of the European Union (EU). The Secretary-General of the European Ombudsman as well as representatives from the European Environmental Agency (EEA) and the European Investment Bank (EIB) were also present.

3. Representatives of the World Trade Organization (WTO), the Group on Earth Observations (GEO) secretariat, the European regional committee of the United Nations Initiative on Global Geospatial Information Management (UN-GGIM: Europe), the Organization for Economic Cooperation and Development (OECD) and the Office of the United Nations High Commissioner for Human Rights, as well as the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, attended the meeting. Also present were staff from the United Nations Economic Commission for Europe (ECE) Working Group on Environmental Monitoring and Assessment and the Statistical Division.

4. Representatives of the Regional Environmental Centre for Central and Eastern Europe (REC) and the Regional Environmental Centre for the Caucasus (REC Caucasus) also attended the meeting.

5. The following non-governmental organizations (NGOs), many of which coordinated their input within the framework of the European ECO Forum, were represented at the meeting: Article 19; Caucasus Environmental NGO Network; Earthjustice; Environmental Survival; European Environmental Bureau, on behalf of the European ECO Forum; Green Dossier; Journalists for Human Rights; Volgograd Ecopress Information Centre; Quaker United Nations Office, and Zoï Environment Network.

6. Also present at the meeting were participants from a number of organizations representing Aarhus Centres, academia, the private sector, legislators and others.

7. Representatives of the United Kingdom and Slovakia shared their written statements in advance of the meeting.

---

<sup>3</sup> Documents for the Task Force meeting, the list of participants, statements and presentations are available online from [http://www.unece.org/env/pp/aarhus/tfai3.html#/.](http://www.unece.org/env/pp/aarhus/tfai3.html#/)

<sup>4</sup> See <http://www.unece.org/env/pp/mop4/mop4.doc.html>.

<sup>5</sup> Available from [http://www.unece.org/env/pp/aarhus/mop5\\_docs.html#/.](http://www.unece.org/env/pp/aarhus/mop5_docs.html#/)

## I. Opening of the meeting and adoption of the agenda

8. The Task Force Chair, Ms. Valentina Tapis (Republic of Moldova), opened the meeting.

9. The Task Force adopted its agenda for the meeting as set out in document AC/TF.AI-3/Inf.1.

## II. Environmental information: minding the gap

10. The Chair recalled the current mandate of the Task Force as set out in decisions IV/1 and V/1, highlighting those elements that the meeting would focus on. She also drew attention to two recent documents of relevance to the Task Force's work: the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters (see ECE/MP.PP/2014/2/Add.2),<sup>6</sup> which provided good practice recommendations regarding access to environmental information within public participation in decision-making; and the findings of the Aarhus Convention Compliance Committee of a systemic nature on access to environmental information (AC/TF.AI-3/Inf.2).

### A. Scope of environmental information

11. Participants shared good practices, identified gaps and addressed challenges in relation to defining the scope of environmental information and establishing the boundaries between environmental and other types of information.

12. Introducing the topic, a representative of the United Kingdom stressed the importance of a clear understanding of the scope of environmental information in accordance with article 2, paragraph 3, of the Convention, and its boundaries. In the United Kingdom, that was required for the correct and coherent application of its two information regimes, which distinguished between access to information and access to environmental information, as well as for avoiding the risk of the public authorities and review bodies interpreting the definition of environmental information differently. The United Kingdom had therefore developed guidance to assist the public authorities in assessing whether the information being requested would fall within the definition of environmental information.

13. The EU representative addressed the current status of the legal framework at both the EU and member States levels. In the EU there were a number of substantive and procedural guarantees of access to environmental information. Recent developments in that area, powered by the Court of Justice of the European Union (CJEU), concerned the public authorities acting in a legislative capacity both at the EU and member State levels, exceptions to the public right of access and access to information related to emissions into the environment. Some further developments would include the revisions to Regulation 1049/2001<sup>7</sup> and pending cases before the CJEU. The INSPIRE Directive<sup>8</sup> provided for a

---

<sup>6</sup> Available from [http://www.unece.org/env/pp/aarhus/mop5\\_docs.html#/](http://www.unece.org/env/pp/aarhus/mop5_docs.html#/).

<sup>7</sup> Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, 2001 O.J. (L 145), pp. 43–48. Available from <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1427188756388&uri=CELEX:32001R1049>.

<sup>8</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE), 2007, O.J. (L 108), pp. 1–14. Available from <http://eur-lex.europa.eu/legal->

common framework and a common electronic language to share and disseminate environmental information.

14. The representative of Armenia highlighted the cross-sectoral nature of environmental information, providing the details of access to such information in the areas of hydrometeorology, emergency situations, mining and spatial planning in accordance with the sectoral legislation in Armenia. Aarhus Centres played an important major role in facilitating public access to environmental information in various sectors, and business operators and industry also contributed through the voluntary disclosure of environmental information.

15. The representative of the European ECO Forum pointed out that the Aarhus Convention as well as the EU legal framework provided for a minimum standard of access to environmental information; however, that access could and should be broadened, in particular with regard to access to environment-related product information, raw data, statistical data, information related to environmental inspections and spatial and hydrometeorological information. The amount of environmental information online should also be increased, the information infrastructure at the national and local levels should be strengthened, and there needed to be more done to raise awareness, develop capacities and harmonize legal frameworks with regard to access to environmental information.

16. The representative of the ECE Statistical Division explained the framework for the development of environmental statistics and its scope.<sup>9</sup> Environment statistics provided a single set of trusted environmental information that could be used for multiple purposes. That was ensured due to the application of fundamental principles, an international frameworks, statistical quality standards and classifications, as well as the possibility of the integration of environmental statistics with other statistical data. He noted that the confidentiality of primary statistical data was one of the Fundamental Principles of Official Statistics, set out in United Nations resolution 68/261 of 29 January 2014.<sup>10</sup>

### **Legal framework**

17. The recent developments in the legal framework for access to information were presented by several participants at the meeting. Alongside the United Kingdom and the EU, several other Parties, such as Belarus, Norway and Poland, had also adopted special rules regulating access to environmental information. Speakers stressed that a clear understanding of the scope of environmental information was necessary to ensure the correct and coherent application of those rules by various public authorities in granting access to such information and applying the exemptions.

18. Another approach was implemented in Ukraine, where the definition of environmental information was set out in the Law on Information and the procedure for access to environmental information was mainly covered by rules regulating general access to information, set out in the Law on Access to Public Information.

19. In addition, it was noted that in many countries access to a particular type of environmental information was regulated by sectoral legislation (e.g., information relating to environmental impact assessment, spatial planning, emergency prevention, mining, waste management or hydrometeorology).

---

content/EN/TXT/?qid=1427189001874&uri=CELEX:32007L0002.

<sup>9</sup> More information is available from <http://unstats.un.org/unsd/environment/fdes.htm>.

<sup>10</sup> More information is available from <http://unstats.un.org/unsd/dnss/gp/fundprinciples.aspx>.

**Cross-sectoral nature**

20. With regard to the scope and boundaries of environmental information, many participants noted the definition of environmental information in article 2, paragraph 3, of the Convention contained an indicative, non-exhaustive list of elements. In itself, that information was of a cross-sectoral nature without a clear boundary line to demarcate environmental from other types of information (e.g., geospatial, hydrometeorological or mining information).

**Primary statistical data**

21. The Task Force discussed whether the primary statistical data relating to the environment would fall within the scope of environmental information. A concern was raised that in many countries such primary statistical data was not made available to the public. The Task Force learned about the experience in Ukraine, where public access was provided to such primary statistical data in accordance with Law on State Statistics.<sup>11</sup> In other countries, e.g., Armenia, Belarus and Kyrgyzstan, the confidentiality of such data was preserved. It was recalled that the confidentiality of primary statistical data remained one of the Fundamental Principles of Official Statistics; however, it was suggested that the public could have access to such data processed as administrative data. In Georgia, measures had been taken to enhance cooperation between the Ministry of Environment and the national statistical office with regard to environmental statistical data.

**Raw data**

22. The Task Force discussed whether raw data would fall within the scope of the environmental information and the challenges in distinguishing raw data from material in the course of completion. It was also recalled that access to information on the state of the environment according to article 2, paragraph 3 (a), of the Convention was not limited to processed data only, but also included raw data (see AC/TF.AI-3/Inf.2).

**Information on fisheries**

23. A concern was raised that there was not enough information made available on fishery activities, such as on permits issued or catches, although that activity could be considered as affecting the environment in the light of article 2, paragraph 3 (b), of the Convention. While some statistical information on the matter might be accessible, primary statistical data was protected in accordance with the Fundamental Principles of Official Statistics.

**Understanding the scope at the community level**

24. Some participants highlighted the importance of taking measures to raise awareness among local public authorities and communities regarding the application of any special regime for access to environmental information if it differed from that for access to information in general. In the United Kingdom that was done through the Information Commissioner's Office website,<sup>12</sup> where access to environmental information was explained. REC Caucasus also reported on its positive experience in collecting environmental information in Armenia through the involvement of public authorities, scientists, business operators and other stakeholders at the local level.

---

<sup>11</sup> Available from <http://zakon1.rada.gov.ua/laws/show/2614-12> (article 22).

<sup>12</sup> Available from <https://ico.org.uk/>.

### **Increasing visibility through online one-stop access points**

25. A general view was that online one-stop access points (single information portals) might facilitate greater understanding and visibility of the scope of environmental information possessed by public authorities in relation to their functions. The delegation of the United Kingdom reported on the ongoing work in that area with regard to the implementation of the open data government strategy.<sup>13</sup>

### **Importance of the relevant case law**

26. Recognizing the importance of case law in clarifying the scope of environmental information, the Task Force took note of the case-law database maintained under the auspices of the Task Force on Access to Justice and encouraged Parties to further populate it with cases relevant to access to environmental information by using the case summary template.<sup>14</sup>

27. The Task Force took note of the experiences shared by the presenters as well as by representatives of Belarus, Georgia, Kyrgyzstan, Norway, Poland, Ukraine, Aarhus Centre of Ukraine, REC Caucasus, and the International Institute for Law and the Environment. The Task Force agreed to further consider the issue, taking into account the challenges in establishing boundaries between environmental and other types of information.

## **B. Quality of environmental information**

28. Participants discussed measures, tools and techniques that could be used by various stakeholders to ensure and monitor the quality of environmental information derived from various sources, as well as to identify gaps and address challenges with regard to improving the quality of such information.

29. Introducing the topic, the Chair pointed out that the quality of environmental information could rely on various parameters, such as reliability, timeliness, relevance, accuracy, sufficiency, uniqueness, completeness, fairness, comparability and consistency.

30. The representative of Kyrgyzstan shared the recent developments in the country's legal and policy framework. A report on the state of environment for 2006–2011 had been prepared in accordance with the ECE environmental indicators,<sup>15</sup> as well as other reports required under multilateral environmental agreements. Next steps to improve the quality of environmental information in Kyrgyzstan included the further development of the integrated environmental monitoring system, the establishment of a national Aarhus Centre, the establishment of necessary cadastres of natural resources and the revision of the statistical forms, and an increase in the public authorities' capacity to use electronic information tools to collect and disseminate environmental information.

31. The representative of the former Yugoslav Republic of Macedonia reported on a legal, institutional and technical framework established in the country to ensure adequate air quality monitoring information. All the measures taken in the country aimed at establishing a centralized place where accurate and standardized environmental information could be accessed by the public. For example, with regard to air pollution, an air quality

<sup>13</sup> More information is available from <http://data.gov.uk/>.

<sup>14</sup> See <http://www.unece.org/env/pp/tfaj/jurisprudenceplatform.html>.

<sup>15</sup> As set out in the Online Guidelines for the Application of Environmental Indicators (Indicator Guidelines) available in the form of an online database from. Though still add the beginning UNECE or ECE <http://www.unece.org/env/indicators.html>.

portal made information available to the public regarding the current air quality in the country and also provided background information about air pollutants, health effects and legislation.<sup>16</sup> Further steps would be taken to improve the air quality web portal data management and functionality, to introduce additional methods for data analysis and processing and to provide for accreditation of laboratories.

32. The representative of the NGO “Journalists for Human Rights” stressed the importance of involving the public and other stakeholders in providing feedback on the quality of environmental information. There was a need to improve communication between the public authorities, the public and business, especially at the community level. Mass media remained an important source for the public in obtaining the necessary information, and the quality of that information also continued to be a very important issue. The emergence of online media, mobile applications and social media as a means of disseminating environmental information might require the modernization of approaches to ensure and validate the quality of information.

33. The following issues were highlighted during the discussion:

(a) The challenges in verifying the reliability and accuracy of environmental information coming from multiple sources on the same subject;

(b) The importance of validating the quality of environmental information;

(c) The need to continue addressing legal, institutional and technical constraints in the further development of national environmental monitoring systems as an important source of environmental information;

(d) The practicability of targeting an information quality level to the purpose for which it would be used.

34. Following the discussion, the Task Force took note of experiences shared by the presenters and representatives of Armenia, EEA and Green Dossier. The Task Force agreed to consider further whether a generic approach to environmental data quality, data verification and data validation were possible and possible suggestions in that regard.

### **C. Comparability of environmental information**

35. Participants shared experiences, identified gaps in and addressed challenges with regard to enhancing comparability of environmental information.

36. The EEA representative explained the development of the common content of environmental information that it had been agreed to share on the basis of EEA and European Environment Information and Observation Network (EIONET)<sup>17</sup> activities. The activities covered not only EU member States, but also Norway, Turkey and the West Balkans. The speaker also provided details about the functioning of Reportnet,<sup>18</sup> an advanced tool for sharing comparable data by countries, and the progress in using that online tool. So far, EEA maintained 136 indicators related to 13 themes, updating 53 per cent of them every year. Those data were used in preparing the 2015 report on the state of the environment.

37. The representative of Switzerland shared national experience to enhance the comparability of environmental information. The speaker identified core elements necessary for sharing comparable data, and stressed the importance of the comparability

---

<sup>16</sup> Available from <http://airquality.moepp.gov.mk/?lang=en>.

<sup>17</sup> More information is available from <http://www.eionet.europa.eu/>.

<sup>18</sup> <https://www.eionet.europa.eu/reportnet>.

and public openness through the whole process of data management. Initiatives related to open government data and the reuse of public sector information also contributed to improving comparability. In particular, the Swiss Government had decided to make meteorological and geospatial data publicly available as well as to provide open access to governmental data for research purposes.

38. The Task Force took note of the recent developments with regard to the state of environment reports in the EU and Switzerland.

39. The Task Force also took note of the tailor-made recommendations to countries of South-Eastern and Eastern Europe, the Caucasus and Central Asia for the production and sharing of Environmental Indicators (ECE/CEP-CES/GE.1/2014/4) and the progress in their implementation (ECE/CEP-CES/GE.1/2014/8).<sup>19</sup>

### III. The application of certain restrictions on access to environmental information

40. Participants were invited to discuss the application of certain restrictions on access to environmental information in accordance with article 4, paragraphs (4) (d)-(f), of the Convention.

41. The topic was introduced by two keynote speakers, Mr. Ian Harden, Secretary-General of the European Ombudsman, and Mr Veit Koester, former Chair of the Convention's Compliance Committee.

42. Mr. Harden gave an overview of the key areas of the Ombudsman's work relevant to the first pillar of the Aarhus Convention, and briefly presented a number of cases pending before or decided by the European Ombudsman that were relevant to the disclosure of environmental information and the application of exceptions to the right of access.

43. Mr. Koester focused on what information could be covered by the exemptions provided by the Convention, in particular in the light of the relevant Aarhus Convention Compliance Committee findings of a systemic nature<sup>20</sup> and the deliberations of the EU General Court and CJEU.<sup>21</sup> He also highlighted that some international treaties had provisions regarding access to and the confidentiality of certain types of environmental information. Work was currently ongoing on an EU directive on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure. The directive would establish a new legal framework for the protection of trade secrets within the EU.<sup>22</sup>

44. Mr. Baskut Tuncak, Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, highlighted the core principles that guided the design and implementation of laws and practices on access to information, as well as the application of exemptions to such access.

<sup>19</sup> These documents are available on the Task Force meeting webpage.

<sup>20</sup> I.e., with regard to communications ACCC/C/2005/15, ACCC/C/2007/21, ACCC/C/2008/30 and ACCC/C/2010/51. See document AC/TF.AI-3/Inf.2.

<sup>21</sup> See Case C-266/09, *Stichting Natuur en Milieu and Others*, 2010. E.C.R. I-13119; Case C-71/10, *Office of Communications v. Information Commissioner*, 2011 E.C.R. I-07205; and Case T-545/11, *Stichting Greenpeace Nederland and PAN Europe v. Commission*, 2013, O.J. (C 344), p. 54.

<sup>22</sup> For more information, see EU, "Trade Secrets and Confidential Business Information", [http://ec.europa.eu/internal\\_market/iprenforcement/trade\\_secrets/index\\_en.htm](http://ec.europa.eu/internal_market/iprenforcement/trade_secrets/index_en.htm) (accessed on 27 March 2015).

45. In the following discussion, the experience and challenges with regard to the application of certain restrictions on access to environmental information in accordance with the Convention's provisions were also shared by the speakers from Poland, Denmark, WTO, the European ECO Forum, the International Institute for Law and the Environment and the European Chemical Industry Council, as well as representatives from Armenia and Belarus, Green Dossier, Globe Europe and EuropaBio.

#### **A. Confidentiality of commercial and industrial information and information whose disclosure might adversely affect intellectual property rights**

46. The participants discussed current practices, recent policy and legislative developments regarding the application of the exemption with regard to the confidentiality of commercial and industrial data and information protected by intellectual property rights, as provided in article 4, paragraph 4 (d) and (e), of the Convention, as well as the challenges in that area and possible measures to improve the practice.

47. The representative of Poland shared national developments in carrying out the procedure for exempting commercial information from release upon the application of business operators. Public authorities were not only in charge of accepting such applications, but also, in some cases where there was a public request for such information, mediated the information's disclosure. Public authorities carried out a public interest test and exemptions were only granted if the information had commercial value and its disclosure might worsen the competitive position of the applicants. However, it should be noted that the exemption was not applicable for information on emissions when it concerned: (a) the amount and types of dusts or gases discharged to the air and the place of their discharge; (b) the condition, composition and quantity of wastewater discharged to waters or soils and the place of their discharge; (c) the type and quantity of waste generated and the place of generation; (d) the level of noise emitted; and (e) the level of electromagnetic fields emitted.

48. The representative from Denmark detailed the consultation procedure to be carried out in case of an information request relating to commercial or industrial information. The public authorities also carried out a public interest test and could refuse the disclosure of such information if disclosure would lead to significant financial damage for the company. She noted that information on emissions to the surrounding areas had to be disclosed, notwithstanding any effect that might have on a company's financial situation. This would not be applicable though if it regarded intellectual property and such disclosure would lead to significant financial damage of the company. Examples of information to which access was restricted included, information on processes and operational conditions, lists of customers and suppliers and detailed information on budgets. While referring to the changes in access to information regarding industrial installations and establishments in accordance with the Seveso III Directive,<sup>23</sup> the speaker pointed out that access to the detailed information on an installation's construction, the risks involved in the operation of the company and information on the amount of hazardous chemicals used would not be provided.

---

<sup>23</sup> Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC, 2012, O.J. (L 197), pp. 1–37. For more information see, EU, "The Seveso Directive — Prevention, preparedness and response", <http://ec.europa.eu/environment/seveso/> (accessed on 27 March 2015).

49. The representative of the European ECO Forum reiterated its concern about the confidentiality of primary statistical data and suggested establishing a procedure allowing operators to waive the confidentiality of such information. It was important to further develop the procedures regarding business secrets, waiving confidentiality of commercial and industrial information and measures encouraging operators to waive such confidentiality and facilitating the disclosure of information protected by copyright.

50. The representative of the European Chemical Industry Council explained the importance of protecting the confidentiality of commercial and industrial information and expressed concern that requests for commercial and industrial information were often motivated by private interests. The application of the Convention's provisions relating to the disclosure of information on emissions brought legal uncertainty. A clear process should be established to respond to access requests targeting commercial and industrial information, with appropriate procedural safeguards for the data submitter. The legislation should clearly stipulate whether information submitted to public authorities should be treated as confidential or not and under which conditions. The business operators should be systematically consulted on the matter, and routine disclosure of such information should be avoided.

51. The WTO representative detailed how undisclosed information was protected in accordance with article 39 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), which defined undisclosed information and conferred rights. The provisions were also linked to the implementation of article 10 bis of the Paris Convention for the Protection of Industrial Property, on unfair competition, and what might constitute acts contrary to honest commercial practices. The speaker shared the various approaches implemented by the Parties to the TRIPS Agreement regarding the "protection against unfair commercial use" test and other data submitted by operators as required for approving the marketing of pharmaceutical or agricultural chemical products. Copyright did not protect information as such, but only the use of a particular artwork or object and the ability to cite published works was recognized as an obligatory citation right.

#### **Access to information and its protection under international law**

52. The participants noted that access to information, including environmental information, and its protection were addressed in a number of international treaties to which the Parties of the Aarhus Convention were also bound. While access to information had become an internationally recognized human right, commercial and business information was also viewed as requiring adequate protection in the light of other human rights, such as the right to property, including intellectual property. Some multilateral environmental agreements also identified types of information that should be accessible to the public and therefore could not be kept confidential (e.g., the Stockholm Convention on Persistent Organic Pollutants, article 10, and the Minamata Convention on Mercury, article 18).

#### **Public interest test**

53. Participants stressed the importance of the public interest test provided in article 4, paragraph 4, of the Convention, which required taking into account the public interest served by the disclosure of information involving the confidentiality of commercial and industrial information or intellectual property rights in deciding whether to disclose environmental information. The subsequent discussion revealed some key aspects that should be kept in mind in applying the test:

(a) The principle of maximum disclosure of information held by public authorities to ensure the effective implementation of the right to information, and that grounds for refusal should be interpreted in a restrictive way;

(b) Commercial and industrial information to be treated as confidential should be clearly identified as such by the business operators, and any application for an exemption from disclosure should be properly justified;

(c) In the context of the protection of intellectual property rights, the same weight should be given to health and environmental concerns as for patent criteria and the same high value should be assigned to public health concerns as provided in the Doha Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2);<sup>24</sup>

(d) The disclosure test and other information under article 39, paragraph 3, of the TRIPS Agreement, which required taking the protection of the public into account;

(e) The importance of innovations not only for their commercial value, but also for their wider economic impacts, especially for developing economies;

(f) The mediating role of the public authorities when dealing with public requests to provide sensitive commercial and business information.

#### **Disclosure of information on emissions**

54. Different views were expressed regarding the Convention's requirement to disclose information on emissions contained in article 4, paragraph 4 (d), and at the end of paragraph 4, and what might constitute the scope of such information. Although the disclosure of such information constituted an exception to the exception rule, many participants disagreed that such an exception should be interpreted in a restrictive way. The participants also noted several cases pending before the CJEU on the matter.<sup>25</sup>

### **B. Confidentiality of personal data**

55. The representative of the International Institute for Law and the Environment, speaking on the issue of the application of personal data exception in accordance with article 4, paragraph 4 (f), of the Convention, drew attention to a number of international and EU rules and policies concerning personal data protection, as well as relevant case law of the CJEU, the European Court of Human Rights and the Spanish national court. Personal data comprised any information relating to an identified or identifiable natural person, including that person's economic identity. As both access to information and private data protection were recognized as human rights, they had to be balanced against each other. Some key elements to take into account in striking that balance included: (a) the rule that the exemption was to be interpreted in a restrictive way; (b) whether the confidentiality of the data requested was provided for in national law; (c) whether the disclosure would adversely affect the confidentiality of the personal data; (d) whether the public interest served was served by the disclosure of such information; and (e) whether the information requested related to emissions into the environment. A concern had been raised about the public accessibility of personal data relating to an economic activity which was polluting or extracting natural resources and therefore affecting the environment — such data should not be covered by the exception. The application of the exemption should not preclude NGOs from exercising their functions as “public watchdogs”.

---

<sup>24</sup> Available from [https://www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_trips\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.htm)

<sup>25</sup> Case C-673/13 P, *Commission v. Stichting Greenpeace Nederland and PAN Europe*, in progress (appeal in case T-545/11); and Case C-442/14, *Bayer CropScience and Stichting De Bijenstichting*, also in progress.

56. The representative of Albania said that a Commissioner for Personal Data Protection had been established to supervise the legality of activities of personal data processing in the country.

57. Further discussion was focused on whether personal data to be disclosed should be closely linked to activities relating to the environment or not (e.g., whether the name of the public official who had taken the decision to provide a piece of land for building a café should be disclosed).

#### **Importance of building capacities**

58. While the application of the restrictions on access to environmental information continued to be challenging in some countries, participants generally agreed on the importance of raising awareness among and building the capacities of public officials processing information requests on a regular basis. In Belarus, for example, efforts were being made to include the Aarhus Convention in the curricula of the institution responsible for training public officials.

#### **Access to information related to the territories under control of illegal armed groups**

59. Some participants expressed a concern about the challenges in access to environmental and health information related to the territories under control of illegal armed groups, particularly in eastern regions of Ukraine.

### **C. Outcomes of the considerations on the application of certain restrictions on access to environmental information**

60. Following the discussion, the Task Force:

(a) Called on Parties to apply the grounds for refusal of access to environmental information in a restrictive way;

(b) Urged Parties to direct their officials to apply a presumption of maximum disclosure when information on emissions into the environment was requested, which information should be disclosed as appropriate and necessary;

(c) Stressed the importance of further considering the issue, taking into account the challenges highlighted during the discussion.

## **IV. Access to environmental information on products**

61. Turning to progress in access to environmental information on products, as provided in article 5, paragraphs 6 and 8, of the Convention, the Chair recalled that, at its first meeting (Geneva, 7–8 February 2013), the Task Force had encouraged Parties to provide more detailed information on the implementation of those provisions in their 2014 national implementation reports (NIRs). She provided a brief overview of present progress on the basis of her report on access to environment-related product information: implementation outlook (AC/TF.AI-3/Inf.3), which drew on information provided by Parties in their NIRs.

62. A representative of the Nordic Ecolabelling Board explained key attributes of its Type I eco-labels, which were based on International Organization for Standardization (ISO) standard ISO 14024, the functioning of the Nordic Ecolabel and the Global

Ecolabelling Network.<sup>26</sup> Over the years the Nordic Ecolabel, which was used in the five Nordic countries, had gained the trust of consumers due to labelled products of a good quality. Criteria for the Nordic Ecolabel were based on the life cycle approach, recognizing governmental regulations as a minimum standard, scientific methods of evaluation and testing acceptable to all stakeholders and the precautionary principle. As of November 2014, the Nordic Ecolabel had issued 2,250 licences for 250 product groups. The speaker also highlighted the role of the Global Ecolabelling Network as non-profit network of organizations to further improve, promote, and develop Type I eco-labelling.

63. The representative of France provided an update on further developments of the legal framework for eco-labelling in France and a multi-stakeholder platform to support its implementation. A successful project on eco-labelling had been carried out with the participation of 168 companies. France had also been participating in the work carried out by the European Commission and within the 10-year framework of programmes on sustainable consumption and production patterns adopted at the United Nations Conference on Sustainable Development in 2012.

64. The representative of Belarus reported on the development of an eco-labelling system in the country, which would be fully implemented by 2020 as a part of the country's strategy to promote a green and circular economy. The current work was focused on establishing the legal framework, defining criteria for eco-labelling, developing a control system and promoting the system among various stakeholders.

65. It was noted that while in Belarus the development of an eco-labelling system was carried out by the Government, in Ukraine and Armenia similar initiatives were carried out by NGOs. The Nordic Ecolabel was a non-profit organization, and only one quarter of its support came from Governments.

66. The participants also discussed the existing challenge of the "greenwashing" of some products or labels, a situation where green marketing was deceptively used to promote the perception that an organization's products were environmentally friendly. In France measures had been taken against greenwashing; companies marketing their products as environmentally sound had to declare that status in a special register.

67. Following the discussion, the Task Force:

(a) Expressed its appreciation to those Parties that had provided detailed information on the implementation of article 5, paragraphs 6 and 8, of the Convention through their 2014 NIRs, as requested by the Task Force;

(b) Called on Parties to continue the exchange of information on the matter through the next reporting cycle;

(c) Agreed that it would be important to organize in the next intersessional period a workshop on public access to environment-related product information under the auspices of the Task Force, following up on the outcomes of the previous workshop held in Geneva on 7 and 8 February 2013 and building upon key trends identified through the next reporting cycle;

(d) Invited the representatives of other international forums dealing with the topic to provide their input to the next workshop on environment-related product information.

---

<sup>26</sup> See <http://www.globalecolabelling.net/>.

## V. Increasing interoperability and facilitating data sharing at the national level through electronic information tools

68. The Task Force took stock of measures, tools and techniques that could be used to further develop electronic information tools to increase interoperability and facilitate data sharing at the national level.

69. The representative of Romania shared the outcomes of the national project undertaken in the framework of the Shared European and National State of the Environment project developed by EEA and EIONET as part of the stepwise implementation of the Shared Environmental Information System (SEIS). The major outcome had been the development of a national Environmental Information Integrated System, integrating information on a centralized web portal with specific operational applications for issuing permits and monitoring the environment based on a geographic information system (GIS). The websites of the national<sup>27</sup> and local<sup>28</sup> environmental protection agencies had been restructured and integrated following the same structure, with some differences due to the specific activity of each type of authority. The new national system allowed the semi-automatic or automatic data transfer of results to the external portal for monitoring and validating of environmental data and for sharing that information via a resource description framework and its site summary (RDF/RSS5). Interoperability was assured by common elements and data structures that allowed for the various components of the information management system to communicate and exchange data. The common lists of values and services were used throughout the various applications and modules to assure the standardization of data collection for common entities.

70. The representative of Spain described the national strategy and experience in ensuring the interoperability of environmental data as a part of e-Government services. It was a complex task that involved numerous actors. In 2010, a legal framework for e-Government defining the principles and rights, key aspects of information technology and the approach to cooperation of public administrations was established. The national interoperability framework had been adopted by Royal Decree 4/2010, and implementation was ongoing. A system of common infrastructures and services had been put in place. Next, effective cooperation, with the involvement of all public administrations and experts from various fields, had been established through the Committee for e-Government. The alignment with EU interoperability strategies, policies, actions and instruments had contributed to the successful outcomes of those activities.

71. The representative of Austria detailed progress in implementing the national e-Government strategy relevant to sharing environmental information. Digital Austria, the federal coordination and strategy committee for e-Government, and Cooperation Open Government Data Austria, a consortium of federal and local government, as well as industry, academia and science, facilitated further developments in that area. A future e-Government Austria Top Priority Programme would further address transparency, freedom of information, big data and other contemporary issues. A national open government data portal<sup>29</sup> had been launched in 2012 and work on the portal was ongoing. Today, environmental information made up 12 per cent of the total information available through the portal. Another Open Data Portal Austria<sup>30</sup> had also been recently launched for civil society. Other positive developments included the functioning of the Digital City

---

<sup>27</sup> Available from [www.anpm.ro](http://www.anpm.ro)

<sup>28</sup> All information of local environmental protection agencies are structured in the subdomain (<http://apmxx.anpm.ro/>), where xx represents the initials of the county where the agency was located.

<sup>29</sup> Available from <http://data.gv.at/>

<sup>30</sup> Available from <http://www.opendataportal.at/>

Vienna, portal dedicated to drinking water, web-based mapping services and environmental accounting. A new metadata standard had recently been released to support the open government data initiative, where relevance to the INSPIRE Directive was taken into account.

72. The representative of Kazakhstan reported on the functioning of the State environmental information fund, cadastres of natural resources, the portal for environmental law and the information resources of Aarhus Centres. Further developments would include the annual publishing of the state-of-the-environment report, establishing pollutant release and transfer register, the population of the State environmental fund with information from business operators, and improving statistical information.

73. The representative of Serbia updated the Task Force on recent developments in the country's environmental information system, including the eco-register portal, the pollutant release and transfer register, the website of the Ministry of Agriculture and Environmental Protection, the database of the Agency for Radiation Protection and Nuclear Safety and websites of the Aarhus Centres. In addition, a real-time web application for air quality on mobile phones had been made available for many local areas. However, much information still had not been digitalized and further capacity-building was required.

74. The representative of the European Commission presented the outcomes of the workshop on improving online information on the implementation of the Birds<sup>31</sup> and Habitats<sup>32</sup> Directives, held in Brussels on 24 October 2014. Workshop participants explored the interlinkages between those directives, the Aarhus Convention, the INSPIRE Directive and SEIS principles. While the value of online information had generally been recognized, resource constraints remained a challenge. It was also important that the online environmental information should be made available in such manner that it complied with the INSPIRE requirements. It had been concluded that there was a need to develop basic guidance based on best practices and feedback, as well as a checklist to help EU member States better organize their online information, and to improve the dissemination of information in that area.

75. The representative of the Open Geospatial Consortium (OGC) spoke about OGC work with regard to the interoperability of data and open standards. Accessible geospatial data was of crucial importance for public administrations, businesses and citizens. Accessibility could be improved through standardization to ensure that diverse data sources, systems and organizations were able to work together. Key factors influencing that interoperability at present included changes in technology (e.g., the cloud, Earth browser systems, mobile applications, social media and crowdsourcing), information policy, language issues and multi-stakeholder involvement. Notably, the Global Earth Observation System of Systems (GEOSS)<sup>33</sup> Architecture Implementation Pilot had been implemented using the OGC Interoperability Program policy and procedures, and the EnviroGRIDS portal and UNEP Global Risk Data Platform had also been developed using OGC standards.

76. The EIB representative said the Bank had set up a Public Register for environmental documents.<sup>34</sup> That register included three types of documents: environmental and social data sheets; full environmental impact assessments (including non-technical summaries);

---

<sup>31</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, 2010, O.J. (L 20), pp. 7–25.

<sup>32</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, 1992, O.J. (L 206), pp. 7–50.

<sup>33</sup> See <http://www.earthobservations.org/geoss.php>.

<sup>34</sup> Available from <http://www.eib.org/infocentre/register/index.htm>.

and strategic environmental impact assessments, mainly for projects outside of Europe. At the moment, almost 1,000 documents were available from the register.

77. In the subsequent discussion, participants also highlighted:

(a) The contribution of increasing interoperability and data sharing to better knowledge of climate change issues;

(b) The OGC standards as an important component alongside other standards (e.g., ISO 19115, 19119 and 19139) in the implementation of the INSPIRE Directive;

(c) The potential of GIS information for improving knowledge regarding ecosystem services (e.g., REC Caucasus and the GEO secretariat were involved in some projects on ecosystem services);

(d) The importance of sharing knowledge about INSPIRE beyond the EU, as was being done in an EU-sponsored project in Ukraine.

78. Concluding its discussion on the topic, the Task Force:

(a) Underlined the importance of promoting public access to environmental information within e-Government, Open Government Data and other initiatives, and involving the public in supplying and reusing the data;

(b) Requested the secretariat, in consultation with the Chair, to update the questionnaire, as necessary, organize a survey to monitor progress in the implementation of decision II/3 (ECE/MP.PP/2005/2/Add.4),<sup>35</sup> and to report on this task at the fourth meeting of the Task Force in 2015.

## VI. Activities under other international forums

79. In a discussion on relevant activities by other international forums, participants shared information about recent activities of other international forums regarding access to environmental information and explored opportunities for building synergies.

80. The representative of the GEO secretariat said the main objectives of the Group included the improvement and coordination of observing systems, providing easier and more open data access, and fostering the use of and building capacity for the use of Earth observation data. GEOSS implementation required putting in place data-sharing principles and establishing a common infrastructure. Open data policies and practices ensuring broad stakeholder engagement should be further strengthened, reinforcing policy linkages and promoting national, regional and international cooperation.

81. The representative of the Working Group on Environmental Monitoring and Assessment gave an update on the development of SEIS to facilitate regular environmental assessments and reporting in the region. Targets and performance indicators for measuring progress in developing SEIS across the pan-European region (ECE/CEP/2014/8), developed by the Group of Friends of SEIS, had been approved by the ECE Committee on Environmental Policy at its twentieth session (Geneva, 28–31 October 2014). Next steps for the Working Group included defining the priority data flows for the pan-European SEIS, finalizing the reporting forms and reviewing the further development of SEIS.

82. The representative of UN-GGIM: Europe<sup>36</sup> informed the Task Force about the trends in geospatial management that could support sustainable development and the role of the

<sup>35</sup> Available from <http://www.unece.org/env/pp/mop2/mop2.doc.html#/>

<sup>36</sup> See <http://un-ggim-europe.org/>.

UN-GGIM:Europe Executive committee in that area. The current work focused on increasing the interoperability of core geospatial data and enabling integration of core geospatial data with statistical and other data and in cooperation with other stakeholders. The speaker also highlighted the work carried out by the Secretary-General's Independent Expert Advisory Group, which had developed recommendations on how to bring about a data revolution in sustainable development.<sup>37</sup>

83. The OECD representative briefed the Task Force about OECD work to promote the sharing of comparable environmental data. That work had focused on the generation of policy-relevant data, although more recently greater importance had been placed on geospatial data. Other OECD programmes — such as the system for integrated environment economic accounts, work on green indicators in the context of greening the economy and Environmental Performance Reviews — relied on the availability of environmental information. There should be a review of how information about access to information was being provided so as to address possible challenges in that area.

84. The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes noted that his thematic report to the Human Rights Council in September 2015 would focus on access to information in the area of hazardous substances and waste, and would be prepared on the basis of a questionnaire to consolidate inputs from all stakeholders. He would also undertake a mission to Kazakhstan in 2015, where he would bring up the issue of access to information. As part of his mandate he would develop a set of best practices related to human rights and disposal of waste.

85. In the subsequent discussion, the participants called for greater integration of SEIS with INSPIRE and ensuring easy access by public authorities, the public and other stakeholders to high-quality environmental information.

86. The participants suggested to continue sharing information and exploring opportunities for synergies with other relevant international forums regarding public access to information. In that connection, they were briefed about the decision of the Conference of the Parties to the Framework Convention for the Sustainable Development of the Carpathians at its fourth meeting on “Environmental assessment/information system, monitoring and early warning — Article 12 of the Convention” (see UNEP/CC/COP4/DOC10/REV1, decision 4/8).<sup>38</sup> It was also suggested that there should be a greater integration of access-to-information and SEIS issues within the framework of the ECE/WHO Transport, Health and Environment Pan-European Programme (PEP) activities.

87. Following the discussion, the Task Force:

(a) Took note of targets and performance indicators for measuring progress in developing SEIS across the pan-European region as set out in document ECE/CEP/2014/8, and agreed on the importance of establishing national SEIS in accordance with the approved targets and indicators;

(b) Expressed support to the forums represented at the meeting for their efforts to strengthen cooperation and build synergies so as to widen public access to environmental information;

(c) Stressed the critical importance of effective cooperation between national focal points for different forums dealing with access to environmental information and for

---

<sup>37</sup> More information is available from <http://www.undatarevolution.org/>.

<sup>38</sup> Available from <http://www.carpathianconvention.org/eventdetailcop/events/cop4-fourth-meeting-of-the-conference-of-the-parties-to-the-carpathian-convention-copy.html>.

the effective engagement of NGOs, Aarhus Centres and other stakeholders in such cooperation;

- (d) Called upon the national focal points to promote such cooperation.

## **VII. Approval of conclusions and closing of the meeting**

88. The Task Force agreed the meeting's key outcomes as presented by the Chair at the meeting (AC/TF.AI-3/Inf.4) and requested the secretariat, in consultation with the Chair, to finalize the report and to incorporate the agreed outcomes. The Task Force also thanked the United Kingdom and Slovakia for the written statements provided in advance of the meeting. The Chair thanked the speakers, the participants, the secretariat and the interpreters, and closed the meeting.

---