

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

Twelfth meeting
Geneva, 30 June–2 July 2010
Agenda item 5 (a)

NOTE REGARDING ACCESSION BY NON-ECE STATES

Prepared by the secretariat

The present note was prepared to complement the informal input document on accession to the Convention by non-ECE States that was considered by the extraordinary session of the Meeting of the Parties to the Aarhus Convention, scheduled for 19 April 2010 and subsequently suspended until 30 June 2010. The note is intended to facilitate the discussion by the Working Group at its twelfth meeting on the subject matter.

Introduction

1. Article 19, paragraph 3, of the Convention provides the possibility for States from outside the UNECE region to become Parties to the Convention: "Any other State, not referred to in paragraph 2 above, that is a Member of the United Nations may accede to the Convention upon approval by the Meeting of the Parties." Over the years, the Parties to the Convention have expressed their support for accession to the Convention by States from outside the UNECE region in various declarations (Lucca, Almaty, Riga), through decision II/9 and in the Strategic Plan 2009-2014, which includes the goal that non-ECE States accede to the Convention, that Parties actively encourage such accession and that by 2011 the Convention will have non-ECE Parties.
2. At its extraordinary session in April 2010, the Meeting of the Parties provisionally agreed to mandate the Working Group of the Parties to consider the procedure for decision-making concerning accession to the Convention by non-UNECE States, and to propose a decision regarding the process of accession to the Convention for adoption at the fourth session of the Meeting of the Parties.
3. Through Decision II/9, the Parties already determined that the 'approval of the Meeting of the Parties' should not be interpreted as implying a substantive review of that State's

national legal system and administrative practices. It is therefore implied that the Working Group is expected to focus its discussion on procedural issues.

Issues for discussion

4. The Parties have several options regarding accession to the Convention by non-ECE States:

(a) an amendment to the Convention¹, deleting the words "upon approval by the Meeting of the Parties" from article 19, paragraph 3;

(b), if (a) is accepted, then guidance will be needed on the practical aspects of a step-by-step *interim* procedure for such accession, until the amendment will enter into force; and

(c), if (a) is rejected, then guidance will be needed on the practical aspects of a step-by-step procedure for accession by non-ECE States.

5. In the case of options (b) and (c) mentioned above, the practical aspects of a step-by-step procedure may include the following elements:

- *format of communication* by a non-ECE country to express an interest in accession and the level of the government concerned (e.g. a formal letter from the Minister for the Environment);
- *timing* (e.g. the point in the process at which the approval should be sought and obtained, consideration of the upcoming session of the Meeting of the Parties); and
- *form of the approval* (a decision by the Meeting of the Parties, or formal letters from the Parties to the Secretariat in the intersessional period).

6. Formal steps of a possible procedure for approval of accession by the Meeting of the Parties could include the following:

- a. A non-ECE State starts its internal procedure to prepare its accession to the Convention;
- b. The State concerned notifies the secretariat of this development through a letter from the head of a competent authority (e.g. the Minister of Environment);

¹ The option of an amendment to open the Convention to accession by all UN Member States was followed under the Espoo Convention, the amendment has not yet entered into force.

- c. The secretariat and the State concerned start regular communication on the progress with regard to the State's internal decision-making process towards accession;
 - d. The secretariat keeps the Bureau, the Working Group and the Meeting of the Parties informed of the developments;
 - e. Once the concerned State's internal decision-making process has been completed, the State submits a formal request through the secretariat to the Meeting of the Parties for approval, in the form of a letter from the competent authority (e.g. the Ministry of Environment or the Ministry of Foreign Affairs) to the UNECE Executive Secretary;
 - f. The Meeting of the Parties reviews the request at its next session and decides on the approval; or, alternatively, decides on the approval during the intersessional period through formal communication between the Parties and the secretariat, e.g. through the permanent missions to the UN in Geneva;
 - g. When the approval is granted, the secretariat notifies the State concerned and the UN Treaties Office.
 - h. The State deposits its instrument of ratification at the UN Treaties Office in New York.
7. The procedure may also involve various informal communications (e.g. e-mail; phone calls) between the secretariat and the State concerned. This can be reported to the Bureau and the Working Group regularly.
