



**Economic and Social
Council**

Distr.
GENERAL

MP.PP/WG.1/2003/6
12 August 2003

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 to the Convention
(First meeting, Geneva, 23-24 October 2003)
(Item 9 of the provisional agenda)

PUBLIC PARTICIPATION IN INTERNATIONAL FORUMS

Prepared by the Bureau

1. Article 3, paragraph 7, of the Aarhus Convention requires each Party to the Convention to “promote the application of the principles of [the] Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment.”
2. Through the Lucca Declaration, the Meeting of the Parties has recommended that the possibility of developing guidelines on the issue addressed by article 3, paragraph 7, should be given consideration. Paragraph 31 of the Declaration (MP.PP/2002/CRP.1) reads:

“We recognize the need for guidance to the Parties on promoting the application of the principles of the Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment and we therefore recommend that consideration be given to the possibility of developing guidelines on this topic for adoption, as appropriate, at a future meeting of the Parties.”

3. The Bureau recommends that the Working Group of the Parties should consider developing guidelines on promoting the application of the principles of the Convention in international environmental decision-making processes. Such guidelines would not introduce any new legal obligation but could provide useful guidance to Parties on how to discharge the obligation which they already have under article 3, paragraph 7. They could also include elements of good practice which Parties may choose to apply in appropriate contexts.

4. In considering how to address this matter, the Working Group may wish to take into account discussions on the subject that have taken place on previous occasions under the auspices of the Convention and the Committee on Environmental Policy. For convenience, these are summarized in the annex. Of particular relevance is the analysis prepared for the Meeting of the Parties and the Committee on Environmental Policy entitled 'Access to information, public participation and access to justice in international forums' and its addendum 'Survey of selected access to information, public participation and access to justice rules and practices in international forums' (MP.PP/2002/18-CEP/2002/13 and Add.1).

5. The Working Group may also wish to take account of other relevant developments. In the framework of the **United Nations Environment Programme** (UNEP), activities are ongoing aimed at enhancing civil society engagement in its work. A strategy paper on the issue was prepared for the 22nd meeting of the Governing Council, February 2003 (UNEP/GC.22/INF/13). The objectives of the strategy are "for UNEP to seek greater collaboration with civil society in the fulfilment of its mandate to respond to global environmental concerns; for civil society to effectively network with other groups, build internal capacity through raising awareness of UNEP's activities at national, regional and international levels." The possibility of amending the relevant provisions of the rules of procedure of the UNEP Governing Council is also being considered.

6. In addition, a study commissioned by the Government of Germany on "Participation of NGOs in international environmental governance" could provide a useful basis for further work, in particular the recommended policy options for the formalization of NGO involvement in international institutions relevant to the environment. These state inter alia that "a further formalization of the rules governing NGO participation in international institutions relevant to the environment should therefore be considered", among other things through "the adoption of general minimum-standard guidelines" for public participation in international environmental governance.

7. In its deliberations, the Bureau recommends that the Working Group should address the following questions:

Scope and format

- What specific guidance is needed for the implementation of article 3, paragraph 7?

- Even though the Lucca Declaration and the Convention address only the Parties, should the guidance also address other States, e.g. Signatories, or other groups of stakeholders, such as NGOs or secretariats of intergovernmental organizations?
- What should be the scope of the guidance, i.e. which international decision-making processes and which international organizations should be covered by the guidance? And should it cover both formal and informal levels?
- In what format should the guidance be developed? Principles and/or provisions?
- What should be the relation to existing standards (e.g. NGO accreditation rules, rules of procedure etc.)?

Content

- Which principles of the Aarhus Convention are applicable to international decision-making processes and organizations? Which provisions of the Convention could be transposed for application in this context, which not? Are provisions other than those included in the Convention needed in the context of guidance on public participation in international decision-making?
- Defining the 'public concerned': is differentiation needed (e.g. between public-interest NGOs and business-interest NGOs)? How should issues of representativity and legitimacy be addressed?

Process

- What process could be used to develop draft guidelines? An open-ended task force or a limited group of experts?
- In view of the envisaged scope, which other States or stakeholders should be invited to participate in the preparatory process and what shape should their possible involvement take?
- Assuming that any such guidelines would be presented for adoption by the Meeting of the Parties, should Signatories or other States, or governing bodies of other multilateral environmental agreements, or other stakeholders, such as NGOs, be invited to take note of, possibly act on, or even endorse them?

Annex

**MAIN STEPS IN THE CONSIDERATION OF PUBLIC PARTICIPATION IN
INTERNATIONAL FORUMS UNDER THE CONVENTION AND BY THE
COMMITTEE ON ENVIRONMENTAL POLICY**

- **Committee on Environmental Policy, seventh session (September 2000):** A round-table discussion on supporting ECE multilateral agreements was held, involving representatives of the Bureaux of the governing bodies of the five ECE environmental conventions. This resulted in a recommendation to establish a joint working group among the conventions' bodies to look at areas of common interest (ECE/CEP/74, paras. 14-15).

- **Joint Bureaux meeting (July 2001):** The first informal meeting of representatives of the Bureaux of the governing bodies of the five ECE environmental conventions and the Committee on Environmental Policy took place, with a focus on public participation in the context of the four other conventions and the Committee. The Meeting considered that the idea of developing guidelines on NGO participation in international forums should be further investigated. A mandate for such guidelines should come from a body such as the Committee and be based on analysis of good practices and experiences (CEP/2001/6).

- **Committee on Environmental Policy, eighth session (September 2001):** The Committee agreed that an analysis of good practices in public participation in international forums should be undertaken and that a task force should review the results of the analysis, which could provide the basis for the development of guidelines on the topic for possible adoption at the Kiev Conference. A decision on further action would be taken by the Committee at its next session, after preparations by its Bureau (ECE/CEP/80, para. 35).

- **Joint Bureaux meeting (July 2002):** At the second informal meeting of representatives of the Bureaux of the governing bodies of the five ECE environmental conventions and the Committee, a draft of the analysis on good practices in public participation in international forums, prepared by a consultant, was presented and discussed. It was agreed that the analysis should be finalized on the basis of the discussion and any additional comments submitted after the meeting by the participants (CEP/2002/8).

- **Meeting of the Committee on Environmental Policy's Bureau (July 2002):** Concerns were expressed by the Bureau over possible obstacles to developing guidelines on public participation in international forums under the auspices of the Committee. The Bureau considered that there might be advantages in developing such guidelines within the framework of the Aarhus Convention, based on article 3, paragraph 7, of the Convention, and requested that this view be conveyed to the preparatory process for the first meeting of the Parties to the Convention.

- **Working Group for the preparation of the first meeting of the Parties (third meeting, July 2002):** The Working Group was informed of the outcome of the discussions within the joint Bureaux meeting and the Committee's Bureau. During discussions of the draft work programme under the Convention, it was proposed to include an item in the work programme on the development of guidelines on public participation in international forums but this was opposed by several delegations so the proposed item was not included. However, it was agreed that the proposed Working Group of the Parties, once established, could consider the issue in depth following further consideration of the matter by the Committee (CEP/WG.5/2002/14, paras. 48 and 60-63).
- **Meeting of the Parties to the Aarhus Convention (October 2002):** The final version of the analysis on public participation in international forums was presented at the meeting (document MP.PP/2002/18-CEP/2002/13 and Add.1). In line with the discussions at the preparatory meeting in July 2002, nothing specific was included in the work programme. However, the Meeting welcomed the work undertaken on the issue, in particular the analysis, and having regard to the relevant paragraph of the Lucca Declaration, agreed that the outcome of the ninth session of the Committee on Environmental Policy should be presented to the Working Group of the Parties for consideration (ECE/MP.PP/2, para. 79).
- **Committee on Environmental Policy, ninth session (November 2002):** The analysis on public participation in international forums was circulated as a meeting document. The Committee took note of the conclusions of the first meeting of the Parties to the Convention, in particular the recommendation in paragraph 31 of the Lucca Declaration. It agreed that further work on such guidelines could best be done within the framework of the Aarhus Convention in a process involving all interested stakeholders, and taking account of other relevant studies such as the 'Participation of NGOs in international environmental governance', undertaken by the German Government. It invited the Working Group of the Parties to keep it informed of progress on an ongoing basis, allowing for the Committee to revisit the issue at a later stage as appropriate (ECE/CEP/86, para. 28).