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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 to the Convention

Sixth meeting
Geneva, 5-7 April 2006

REPORT OF THE SIXTH MEETING

Addendum

**WORK PLAN, INCLUDING PLAN OF CONSULTATION ON THE GUIDELINES ON
PROMOTING THE APPLICATION OF THE PRINCIPLES OF THE AARHUS
CONVENTION IN INTERNATIONAL FORUMS**

As adopted by the Working Group on the basis of a draft prepared by
the Task Force on Public Participation in International Forums

I. Background

1. Article 3, paragraph 7, of the Aarhus Convention requires each Party 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. In decision II/4 of the Meeting of the Parties, the Parties adopted the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums (the Guidelines). Pursuant to paragraph 9 of the Guidelines, “international forum” means any multilateral international environmental decision-making process, or any international organization when dealing with matters relating to the environment.

2. Through paragraph 5 of decision II/4, the Meeting of the Parties established a Task Force to enter into consultations regarding the Guidelines with relevant international forums. Through

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paragraph 6 of decision II/4, the Meeting requested the Task Force, with the assistance of the secretariat, to submit to the sixth meeting of the Working Group of the Parties a proposed plan of consultation, including a list of the international forums to be consulted, the modalities of consultation and a time schedule, having regard to the internal procedures of these forums. It also requested the Task Force to carry out the consultation process as decided by the Working Group, report on its progress to each meeting of the Working Group and prepare a report on the outcome of the consultations for consideration by the Working Group. The plan of consultation, including objectives, modalities, time schedule and criteria for selection of international forums, is set out herein. The list of international forums to be consulted is contained in ECE/MP.PP/WG.1/2006/2/Add.2.

3. Other paragraphs of decision II/4 also have relevance to the work of the Task Force and should be taken into account when appropriate. Paragraph 7 invites Parties, Signatories, other interested States, non-governmental organizations, interested international forums and other relevant actors to submit to the secretariat comments relating to their experience regarding the application of the Guidelines for consideration by the Task Force. Paragraph 8 requests the Working Group of the Parties, based on its consideration of the outcome of the consultations and experiences regarding the Guidelines (and arguably, by implication, on any advice of the Task Force) to review the Guidelines and make recommendations as appropriate for consideration by the Parties at their third ordinary meeting. Paragraph 3, which invites relevant international forums, including their secretariats, to take into account the principles of the Convention as reflected in the Guidelines and to consider how their own processes might further the application of the Guidelines, may be seen as having contextual relevance to the work of the Task Force.

OBJECTIVES OF THE WORK OF THE TASK FORCE

4. In accordance with decision II/4, the objectives of the Task Force's work are:
- (a) To consult with a selection of international forums, including in writing, to obtain their views on the Guidelines;
 - (b) To inform relevant international forums about the Guidelines and the consultation process and to invite their participation if they wish to do so;
 - (c) To gather and consider information on the experiences of international forums, including their members and relevant stakeholders, regarding the matters addressed by the Guidelines and the particular characteristics of each forum;
 - (d) To enter into dialogue with, and to facilitate the exchange of experiences between, selected international forums on questions of access to information, public participation in decision-making and access to justice in environmental matters and, where requested, to provide support to forums interested in carrying out further work in this area;
 - (e) Through pursuing the objectives in (a)–(d) above, to provide further guidance to Parties, where needed, on applying article 3, paragraph 7, of the Convention and the Guidelines in international forums, and to advise the Working Group of the Parties, based on consideration of

the outcome of the consultations and experiences regarding the application of the Guidelines, in its task of reviewing the Guidelines and making recommendations, as appropriate, for consideration by the Parties at their next ordinary meeting.

CRITERIA FOR SELECTION OF INTERNATIONAL FORUMS TO BE CONSULTED

5. According to paragraph 4 of the Guidelines, the following international forums are within the scope of the Task Force's mandate for consultation:

- (a) The negotiation and implementation at the international level of multilateral environmental agreements, including decisions and actions taken under their auspices;
- (b) The negotiation and implementation at the international level of other relevant agreements, if decisions or actions undertaken at that level pursuant to such agreements relate to the environment or may have a significant effect on the environment;
- (c) Intergovernmental conferences focusing on the environment or having a strong environmental component, and their respective preparatory and follow-up processes at the international level;
- (d) International environmental and development policy forums; and
- (e) Decision-making processes within the framework of other international organizations in matters relating to the environment.

6. Given the large number of forums encompassed by this definition, it is not feasible for the Task Force to undertake detailed consultation with every relevant forum in the timeframe of the consultation process. The Task Force is therefore expected to use various criteria as a starting point for the selection of a number of forums with which to enter into consultation. Such criteria, which inevitably involve a degree of subjectivity in certain cases, may include:

- (i) The number of members in a forum

A considerable proportion of international forums within the scope of the Guidelines have a very small number of member States. A forum may be prioritized for consultation on the basis of the size of its membership, so that a forum containing a larger number of participating States might be considered higher priority than a forum involving just two or three countries.

- (ii) The presence of Aarhus Convention Parties in the forum

A forum may be made up exclusively or largely of Aarhus Parties, or it may include some Aarhus Parties or none at all. Furthermore, one or more Aarhus Parties may play a leading role in a particular forum. In general, the greater the participation of Aarhus Parties in a forum, the higher priority that forum should be given for consultation. The level of participation of Aarhus Convention Parties in a forum should be assessed not only on the basis of the number of members, but also on the intensity of their involvement – for instance,

through playing leading roles in the forum's bodies, or through a high level of financial contribution. There are two rationales for this criterion. First, a forum in which Aarhus Parties play a significant role may be more likely to embrace the Guidelines and the consultation process. Second, forums in which Aarhus Parties participate are those that are most relevant to the implementation of article 3, paragraph 7. Notwithstanding this general approach, there may be international forums in which no Aarhus Convention Party participates, such as the governing bodies of other regions' regional economic commissions, which are nevertheless interested in learning more about the Guidelines and with which consultation may be undertaken.

(iii) Proportion of the forum's decisions or actions that affect the environment

The consultation process may be more fruitful if, as a general rule, greater emphasis was placed on consulting with forums for which a sizeable proportion of decisions have environmental impacts. For instance, if a large proportion of the total decisions made by a particular forum impact the environment, that forum would generally be considered higher priority than one in which decisions affecting the environment are only a small minority. However, this criterion should be subject to the fourth criterion below.

(iv) Potential environmental significance of the forum's decisions or actions

Whether or not it is regarded as an "environmental forum", a forum's decisions or actions may have significant environmental consequences. These may register at the global, regional or local level and may have greater or lesser impact within the relevant level. Notwithstanding the general rule in the last criterion, even if only some of a forum's decisions or actions have environmental implications, these effects may be considerable. The objectives of the Guidelines and the consultation process might be best achieved by also giving priority for consultation to some forums whose decisions or actions have the potential to most significantly affect the environment at the global or regional level.

(v) Expressed civil society need

Civil society may itself place a higher or lower priority on having greater participation in a particular forum. It perhaps goes without saying that any initiative to promote public participation in international forums should give higher priority to those forums in which the public most strongly identifies a need for greater participation.

7. The above criteria will be applied in a flexible and integrated manner and subject to each forum's willingness to engage in the consultation process. The consultation process is entirely voluntary. If a forum does decide to be involved, its level of interest and commitment will be fundamental to the success of the process. Ultimately, for any progress to be made, the momentum must come from actors within the forum itself, rather than from external forces.

8. With the exception of the fifth criterion, for which further civil society input must be sought, the criteria listed above have been used to compile a list of international forums for consultation, contained in ECE/MP.PP/WG.1/2006/2/Add.2. The criteria have been used to give each of the selected forums one of three levels of priority for consultation. The forums

considered as highest priority for consultation are hereafter called the “key international forums”; those forums at the second level of priority for consultation are referred to as “other important international forums”; and those forums at the third level of priority are referred to as “other relevant forums”. A forum’s position in this hierarchy should, however, be considered flexible, as each forum’s willingness to actually be involved in the process will not be known until the consultation process begins.

MODALITIES OF CONSULTATION

9. To best achieve the objectives stated above, the consultation process will be based on a range of modalities of consultation.

- (a) These modalities will include written consultations, namely:
 - (i) Dissemination of a “consultation package”, including the Guidelines and a questionnaire, to selected international forums;
 - (ii) Dissemination of the Guidelines without the questionnaire to other relevant international forums.
- (b) They may involve various types of consultations through direct dialogue:
 - (i) Personalized consultation with the secretariats of key international forums;
 - (ii) Presentations at sessions of key international forums’ governing bodies or subsidiary bodies;
 - (iii) Presentations at meetings of the Task Force by representatives of key international forums.
- (c) It is also proposed to hold a workshop for representatives of key international forums, including their stakeholders.

These are discussed in more detail in paragraphs 14–27 below.

10. Since it would be impractical to make the direct dialogues in (b) above strictly contingent upon completion of the written consultations in (a), the Task Force will use a flexible approach. In the first months of the consultation process, emphasis will be on the written modalities. The more direct modalities of consultation may, however, start in a flexible way without waiting for the written consultation to begin; they will become more central once the responses to the written consultation have been received.

11. Certain of the modalities of consultation may also be applied to a forum’s member governments, and non-member governments where relevant, and to other stakeholders, such as academic experts and relevant NGOs. The modalities are discussed in more detail below.

12. Internal consultation between each Party's officials dealing with the Aarhus Convention and its officials involved in other international forums in matters relating to the environment is an essential element of the consultation process. Parties should consult internally at the start of the consultation process and on an ongoing basis throughout. Such internal consultation is necessary for several reasons: (a) to ensure consistency, it is important that at the time when contact is made with other international forums about the Guidelines, the officials of Aarhus Parties active in those forums be themselves well informed about the Guidelines; (b) officials in other forums may be able to contribute valuable knowledge to the consultation process of those forums' practices and particular characteristics; and (c) the informed involvement of such officials in the consultation process may help to increase support in those other forums for participating in the consultation process and more generally for applying the Guidelines.

13. Efforts will be made to ensure that the consultation process is as transparent as possible. A designated portal will be established on the Aarhus Convention website. This will provide information on the consultation process, including objectives, timescale, modalities, criteria for selection of forums for consultation and a list of the forums to be so consulted. Documents relevant to the consultation process will be accessible through the website, and a contact address for sending comments on the consultation process will be provided.

I. Provision of a "consultation package", including the Guidelines and a questionnaire, to selected international forums

14. A "consultation package" will be sent to the selected international forums (including the key international forums). The individual elements of the consultation package, including the list of forums, will be agreed with members of the Working Group of the Parties before dispatch. The package will contain a hard copy of the Guidelines, a written questionnaire and a covering letter. The purpose of the package will be to inform the selected forums about the Guidelines and to invite their views on the Guidelines. It will also invite them to share their experiences on particular aspects of access to information, public participation in decision-making and access to justice in environmental matters.

15. The covering letter will provide background on the Aarhus Convention, the Guidelines and the consultation process, including its objectives, its timescale, the format for questionnaire responses, and the publication of the results of the consultation process. The letter will invite the forum's secretariat or its NGO/civil liaison officer to inform members of its governing bodies and other stakeholders about the existence of the Guidelines and the consultation process. It will also refer forums to the Aarhus website on the consultation process and note the possibility for forums to make comments on the consultation process itself, should they wish to do so.

16. The questionnaire will be organized around a number of broad, open-ended questions designed to allow representatives of the forums, including their stakeholders, to share such of their experience as they consider relevant. Such questions will seek brief information on the following:

(a) Any formalized rules or procedures the forum has concerning access to information, public participation in decision-making, and access to justice in environmental matters;

- (b) Any non-formalized practices the forum has concerning access to information, public participation in decision-making and access to justice in environmental matters;
- (c) Any current or future work plans of the forum that may affect the extent of or modalities for access to information, public participation in decision-making and access to justice in environmental matters;
- (d) Any challenges the forum has encountered in promoting access to information, public participation in decision-making and access to justice in environmental matters, such as the low involvement of civil society; and
- (e) Any comments the forum wishes to make on the Guidelines in view of its own processes, activities and particular characteristics.

17. Questions (d) and (e) above, which are of a more evaluative nature, are the main focus of the consultation process. Questions (a), (b) and (c) are of a more factual nature and reflect the interest of Aarhus Parties in learning of other forums' innovations and experiences, and the priority they place on carrying out the consultation process in a spirit of exchange and dialogue.

18. The covering letter will note that each forum is at liberty to decide which of its organs is best placed to respond to the various questions. It will also note that the forum may find the Guidelines a useful reference when preparing its responses to the questionnaire.

19. Written responses received by the secretariat will be collected and made available to Task Force members for their consideration. They will also be made publicly available on the Aarhus website. This will provide a publicly accessible Internet resource on current practice regarding access to information, public participation in decision-making and access to justice in environmental matters in a selection of international forums as well as those forums' views on the Guidelines. This information will be analysed and a summary prepared which will form part of the Task Force's report to the Working Group of the Parties on the progress in the consultation process and will inform consideration of the next steps.

II. Dissemination of Guidelines without questionnaire to other relevant international forums

20. In addition to the forums selected to receive the "consultation package", a hard copy of the Guidelines and covering letter will be sent to other relevant international forums. The covering letter will in this case provide a brief introduction to the Aarhus Convention, the Guidelines and the consultation process, including its objectives and timescale. The letter will invite the forum's secretariat or its NGO/civil liaison officer to inform members of its governing bodies and other stakeholders about the existence of the Guidelines. Although such forums will not be sent the written questionnaire, the letter will refer to the availability of the questionnaire on the Aarhus website and will invite forums to complete the questionnaire should they wish to do so. The letter will close by asking whether the forum is interested in being further involved in the consultation process.

III. Personalized consultation with secretariats of key international forums

21. The Aarhus secretariat should contact the secretariats of the key international forums to ask whether they are interested in participating in a personalized consultation regarding the Guidelines. Where the response is positive, a representative of the secretariat or the Task Force may telephone or, if feasible, and subject to budgetary constraints, meet with the forum's secretariat, including its NGO/civil society liaison officer if it has one.

22. In light of the special emphasis to be given to UNECE environmental treaties pursuant to paragraph 1 of decision II/4, and the fact that the same organization provides the secretariat for each of them, priority should be given to approaching them.

23. The personalized consultations will help to further the objectives identified above, by gathering information on key forums' existing experience and particular characteristics and by entering into dialogue with each forum on the Guidelines and questions of access to information, public participation in decision-making and access to justice in environmental matters. The consultations will also be used to explore whether key forums are interested in being involved in the other modalities of consultation discussed below.

IV. Presentations at sessions of key international forums' governing or subsidiary bodies

24. If, as a result of the personalized consultation or otherwise, a forum expresses interest in having a representative of the Aarhus Convention make a presentation to a session of the forum's governing body or a subsidiary body, arrangements may be made, subject to budgetary considerations, for an officer of the Meeting of the Parties, the Task Force or the secretariat to attend. Such a presentation would support the objectives identified above by providing the forum's governing or subsidiary body with a better understanding of the Guidelines and the issues they address and by promoting dialogue with the forum on questions of access to information, public participation in decision-making and access to justice in environmental matters.

V. Presentations at Task Force meetings by representatives of key international forums, including their stakeholders

25. Similarly, representatives of key international forums and their stakeholders may be invited to make presentations to the Task Force regarding their experiences with access to information, public participation in decision-making and access to justice in environmental matters and regarding their views on the practical applicability of the Guidelines to the forum's processes or activities. These presentations would take place at the second and/or third meetings of the Task Force. This modality would support the objectives identified above, by providing information on each forum's existing experience and particular characteristics and by promoting dialogue on the Guidelines.

VI. Workshop with key international forums and their stakeholders

26. The consultation process is proposed to be reinforced by an international workshop with a number of key international forums and their stakeholders. Subject to the availability of resources, a diverse range of forums may be invited to participate, in order to allow maximum scope for cross-pollination of ideas and experiences. Each participating forum would be invited to send members of its secretariat, including its NGO/civil society liaison officer if it has one, and interested members of its governing body or relevant subsidiary bodies. In addition, academic experts, NGO representatives and other stakeholders involved in the participating forums would be invited to attend.

27. As well as providing information on the participating forums' existing experience and particular characteristics to assist Parties in applying article 3, paragraph 7, of the Convention, the workshop would facilitate the exchange of experience between participating forums and promote dialogue with each forum and its stakeholders on questions of access to information, public participation in decision-making and access to justice in environmental matters.

OUTCOME OF THE CONSULTATION PROCESS

28. All consultation steps will be carried out in a transparent and understandable manner. They will be reported in writing and made available to the Working Group of the Parties. At the end of the consultation process, a thematic report will be presented to the Working Group of the Parties analysing the procedural aspects of the consultation process and presenting relevant information obtained through the different modalities of consultation discussed above. The report will also contain a synthesis of responses submitted by international forums in response to the written questionnaire sent in the consultation package. This report will distinguish between responses to the written consultations and the information gathered from more flexible forms of dialogue. On the basis of this report, the Working Group will prepare recommendations on this topic for consideration by the Meeting of the Parties at its third session.

PROVISIONAL TIME SCHEDULE

29. A provisional time schedule for the consultation process is set out below, including other relevant dates from the Aarhus Convention calendar. On the basis of this time schedule, the consultation process will begin in May – June 2006, following the approval of the plan of consultation by the Working Group of the Parties. Consultations will be brought to a close in July 2007 in order to allow the Task Force sufficient time to report to the meetings of the Working Group of the Parties in early 2008. This would give the Task Force 14 months between May 2006 and July 2007 to undertake the consultation process.

24–25 November 2005	1 st Meeting of the PPIF Task Force Proposed plan of consultation drawn up
5–7 April 2006	6 th Meeting of the Working Group of the Parties Proposed plan of consultation, including the elements of the consultation package, to be approved
May/June 2006	Consultation period begins Preparation of website and mailing for written consultation Consultations through direct dialogue begin Written consultations mailed
Early September 2006	Responses to written consultation due
Autumn 2006	2nd Meeting of the PPIF Task Force
April/May 2007 Winter/Spring 2007	7 th Meeting of the Working Group of the Parties International Workshop
July 2007	Consultation period ends
Autumn 2007	3 rd Meeting of the PPIF Task Force Preparation of report to Working Group of the Parties, including analysis of outcomes of consultation process
Autumn 2007	Meeting of the Bureau
Winter 2008	Meeting of the Working Group of the Parties Preparation of recommendations for consideration by the Meeting of the Parties
May/June 2008	3 rd Meeting of the Parties