Public participation under Article 6

Working Group of the Parties
Thematic Session on Public Participation
Geneva, 26 June 2019
Key legal requirements

• Principle of „early public participation”
• Reasonable timeframes
• Decision-making processes
  – Activities in Annex 1
  – Activities under article 6.1 (b)
  – Changes and extensions
• Procedural elements
  – Notification
  – Public access to „all relevant information”
  – Due account taken of the results
Key systemic challenges

- Narrow approach to defining public concerned
  - Only owners
  - Only routine impact
- No reasonable time-frames for all phases
- Article 6.1 (b) not addressed systematically
- Narrow approach to changes and extensions
  - Only "physical" change and life-time extensions
  - Approach to "where appropriate" in art.6.10
- Lack of effective notification
- In some countries
  - Public participation only within EIA procedures
  - Only EIA Report available
  - Developers responsible for public participation
Key positive trends

• Defining public concerned by relation to health and quality of life, liberal approach to „having an interest”
• Public participation in screening and scoping
• Clear minimum time-frames for separate phases
• Elaborated requirements for notifying the public
• Electronic accessibility of all documents
• Mandatory public participation in
  – Pollution permitting (in particular in IPPC permitting)
  – Biodiversity assessment („appropriate assessment” under EU Habitat Directive and Case C-243/15)
  – Industrial accidents permitting (EU Seveso III Directive
Key systemic actions to be taken by Parties to improve the situation

• Revision of the approach to the scope of „public concerned” and means to assure „effective” notification
• Introducing mechanisms to assure reasonable time-frames
• Elaborating a systemic approach to implementing article 6.1 (b)
• Enhancing access to „all relevant information”