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## **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**

##### **Sixteenth meeting**

Geneva, 19–21 June 2013

Item 3 (b) of the provisional agenda

**Substantive issues: public participation in decision-making**

#### **Note by the Chair of the Task Force on Public Participation in Decision-making on possible future directions for the work<sup>1</sup>**

This note was initially prepared by the Chair of the Task Force on Public Participation in Decision-making to facilitate preparation of the draft elements of the future work programme by the Bureau at its 30<sup>th</sup> meeting (Geneva, 26 February 2013). The note expects to assist the Working Group of the Parties in its deliberations on the future work in the area on public participation in decision-making.

#### **The added value of a Task Force on Public Participation in Decision-making for 2015-2017**

The findings of the Compliance Committee, the 2011 cycle of national implementation reports and the work carried out under the auspices of the Task Force to date, have each shown that many challenges remain to the full implementation of the second pillar of the Convention - across the region. The Task Force plays a vital role in bringing together experts from governments, civil society and other stakeholders to exchange experiences regarding these challenges and to explore possible good practices to address them. The meetings of the Task Force serve an important function as an on-going platform dedicated to open and collaborative dialogue between interested governments, civil society and other stakeholders from different parts of the UNECE region on how to most practically address the challenges faced with implementing the second pillar.

#### **Substantive scope of the work of the Task Force**

The Workplan for the Task Force 2011-2014 envisaged the following nine activities:

- I. Exchange of information
- II. Identification of problems with implementation
- III. Recommendations
- IV. Implementation at different levels of decision-making
- V. Public participation in particular sectors
- VI. Capacity-building
- VII. Development of article 6
- VIII. Development of articles 7 and 8
- IX. Public participation for sustainable development

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<sup>1</sup> This document was not formally edited.

## **Proposed activities for the inter-sessional period 2015-2017**

In the light of the envisaged completion of the Task Force's work on the Recommendations on Public Participation in Decision-making, it is proposed to revisit the above activities to ensure a focus on those most necessary to the further implementation of the second pillar of the Convention. To this end, the following activities are proposed:

### **I. Identification of key challenges to the implementation of the second pillar**

The Task Force should continue to exchange experiences regarding the main obstacles to effective public participation in all types of decision-making (including at national, provincial and local level) within the scope of articles 6, 7 and 8 of the Convention. This should include barriers to participation for the "ordinary" member of the public, including the need to educate members of the public about their rights under the Convention itself.

### **II. Exchange of good practices to address key challenges to implementation of the second pillar**

The Task Force should continue to be a vehicle through which experts can come together to exchange good practices for addressing the main obstacles to effective public participation in decision-making within the scope of articles 6, 7 and 8 of the Convention. The Task Force may, amongst other things, wish to consider the different types of "decisions" and "decision-making" covered by the Convention, including the implications for public participation of different decision-making methods. Through this exchange, it is hoped to build the capacity of both public authorities and other stakeholders, including the Aarhus Centres, to enhance public participation. The identification of innovative practices that facilitate more effective public participation without entailing additional significant financial or human resources on the part of public authorities will be particularly encouraged. The Task Force would also provide a forum to discuss approaches for developing the capacity of civil society, including non-governmental organizations, the general public and marginalized groups.

To enable the wider dissemination of the good practices collected, the Task Force should also continue to oversee the maintenance of the online compendium of case studies in public participation in decision-making.

### **III. Recommendations**

An important outcome of the work of the Task Force in 2011-2014 will be the Recommendations on Public Participation in Decision-making, which are expected to serve as a practical tool for furthering implementation of the second pillar of the Convention. It is proposed that in the lead up to each Task Force meeting, the secretariat will disseminate a written survey among Parties and stakeholders inviting them to share their experiences regarding the implementation of the Recommendations in their respective countries. An item reviewing the results of the survey would be included as a regular agenda item in each Task Force meeting. It is understood that a similar approach including a written survey was used in the past with respect to monitoring the implementation of the Convention's Recommendations on Electronic Information Tools and worked well.

### **IV. A focus on public participation in decision-making in key sectors**

Three of the four meetings of the Task Force held to date have been organized as joint events focusing on a particular type of decision-making or sector. The second meeting (Geneva, 6-8 June 2012) was held partly as a joint event with the Protocol on Water and Health and the third meeting (Geneva, 29-30 October 2012) was held as a joint event on strategic decision-making with the Protocol on SEA. The upcoming fourth meeting (Luxembourg, 12-13 March 2013), will be held as a joint event on decision-making in the nuclear domain, organized with the Directorate-General Energy of the European Commission and the *Association Nationales des Comités et Commissions Locales d'Information* (ANCCLI). This sectoral approach has proven beneficial in a number of respects. First, bringing together civil society and officials working in one sector enables a closer examination of the specific challenges faced in that sector as well as the most relevant good practices to address those challenges. In this way, more concrete progress can often be made than when discussing public participation in decision-making in general. Second, the joint events result in cost-efficient synergies, as the organizational costs are shared among partners and sectoral experts are able to benefit immediately from the vast experience in carrying out effective public participation accumulated under the Aarhus Convention. Finally, by bringing together Aarhus experts and sectoral experts not necessarily familiar with the Convention, the joint events help to promote awareness of the Convention far beyond its usual audience.

In the light of the above, in the inter-sessional period 2015-2017, while taking care to allow sufficient time to address the implementation of articles 6, 7 and 8 generally (see activities I-III above), it is proposed to continue the sectoral approach with respect to selected topics considered to be of particular high-priority at present. Such topics may include, for example, product-related decision-making; decision-making for sustainable development; climate-change related decision-making; emerging technologies (e.g. nanotechnology), the nuclear domain; energy-related planning and policy-making, the extractive sector; decision-making on chemicals; food and agriculture. Following past practice, these special focus sessions may make up part of the agenda of a particular Task Force meeting, or in some cases, it may be considered of sufficient importance to dedicate an entire meeting to that issue. Following previous experience, relevant partner organisations will be invited, as appropriate, to co-organize or at least to participate in these special focus sessions.

#### **V. Capacity-building and training**

Partner organizations engaged in capacity-building at the national and sub-regional level can play a very important role in furthering the implementation of the Convention. For example, partner organizations have previously organized national and sub-regional trainings on access to justice and the Convention more generally. Partner organizations are invited to consider developing a training programme for public officials involved in the day-to-day task of carrying out public participation procedures covered by articles 6, 7 and 8 of the Convention. Such trainings should also be open to relevant stakeholders including the general public. Partner organizations may find the reports of Task Force meetings to date, the background materials presented at Task Force meetings (including power-point presentations), the case studies on public participation in decision-making collected to date, as well as findings of the Compliance Committee and the Convention's national implementation reports, together provide rich sources of experience to draw from in designing such trainings. Given the deeper penetration that may be possible through carrying out such trainings within the context of a particular country's national framework and in its national language, national-level trainings are particularly encouraged, though sub-regional trainings could also make an important contribution.

#### **VI. Research on public participation**

Reports of Task Force meetings to date, the background materials prepared for its meetings including power-point presentations, and the ongoing collection of case studies contain a wealth of information regarding innovative good practices, and the chief ongoing barriers for effective public participation. Researchers focusing on participatory processes and environmental decision-making are invited to use the resources gathered under the auspices of the Task Force in their research, and also to share the results of their research with the Task Force.

#### **VII. Development of Article 6**

While this item was included in the Task Force's workplan 2011-2014, the workload of the Task Force in this intersessional period has meant that it has been possible to have only limited discussion of this issue in meetings of the Task Force to date. A special session on this issue was held during the second meeting of the Task Force (Geneva, 6-8 June 2012), which identified a number of issues in this area as meriting further attention.<sup>2</sup> It is thus proposed to continue this item unchanged into the next intersessional period, namely: "Assess the Convention's provisions on public participation in decisions having a significant impact on the environment, encompassing, inter alia, product-related decision-making; develop recommendations on how these provisions might be further elaborated".

#### **VIII. Development of Articles 7 and 8**

While this item was included in the Task Force's workplan 2011-2014, the workload of the Task Force in this intersessional period has meant that it has been possible to have only very limited discussion of this issue in meetings of the Task Force to date. It is thus proposed to continue this item unchanged into the next intersessional period, namely: "Assess, keep under review and, as appropriate, make recommendations for further developing the provisions of the Convention relating to public participation in the preparation of plans, programmes and policies relating to the environment, as well as executive regulations and other generally applicable legally binding normative instruments that may have a significant effect on the environment, in order to enhance public participation from an early stage in strategic decision-making processes."

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<sup>2</sup> See paras. 46-58 of the report of the second meeting of the Task Force on Public Participation in Decision-making, available at <http://www.unece.org/fileadmin/DAM/env/pp/wgp/WGP-15/ece.mp.pp.wg.1.2012.4.eng.pdf>