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Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters

Working Group of the Parties

Thirteenth meeting,

Geneva, 9–11 February 2011

Item 3 (a) of the provisional agenda

Substantive issues: public participation in international forums

Report on the Fifth Meeting of the Task Force on Public Participation in International Forums*

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* The present document was submitted late due to human resources constraints in the secretariat.

I. Introduction

1. The fifth meeting of the Task Force on Public Participation in International Forums established by the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), was held in Geneva on 29 June 2010.
2. The meeting was attended by experts designated by the Governments of Armenia; Austria; Belarus; Belgium; Bosnia and Herzegovina; the Czech Republic; Estonia; Finland; France; Georgia; Germany; Hungary; Italy; Kyrgyzstan; Latvia; the Republic of Moldova; Slovakia; Spain; Turkmenistan; Ukraine and Uzbekistan. The European Union (EU) was also represented.
3. The secretariat of the United Nations Framework Convention on Climate Change (UNFCCC), the Organization for Security and Cooperation in Europe (OSCE), the Regional Environmental Center for Central and Eastern Europe and the Regional Environmental Centre Moldova were also represented.
4. The following Aarhus Centres were represented: Aarhus Centre Georgia (Georgia), Information Centre on the Aarhus Convention (Kyrgyzstan), and Resource Aarhus Centre (Tajikistan).
5. The following non-governmental organizations (NGOs) were represented: Global Legislators' Organization for a Balanced Environment (GLOBE) Europe; "Biosophia" Environmental NGO (Armenia); "Environmental Public Advocacy Centre" NGO (Armenia); "Khazer" Ecological and Cultural NGO (Armenia); Oekobuero (Austria); Teta "Khazri" (Azerbaijan); Georgian Environmental and Biological Monitoring Association (Georgia); the Greens Movement of Georgia/Friends of the Earth Georgia (Georgia); Women in Europe for a Common Future (WECF) (Germany); Greenwomen Analytical Environmental Agency (Kazakhstan); Public Fund "Regional Development Centre" (Kyrgyzstan); Chisinau Branch of the Environmental Movement from Moldova (Republic of Moldova); ECO-TIRAS International Environmental Association of River Keepers (Republic of Moldova); NGO "Terra-1530" (Republic of Moldova); Ural Ecological Union (Russian Federation); Earthjustice (Switzerland); Nord-Sud XXI (Switzerland); International Charity Organization "Green Dossier" (Ukraine); Resource & Analysis Center "Society and Environment" (Ukraine); and Friends of the Earth (United Kingdom of Great Britain and Northern Ireland).
6. The academic and business organizations, the Arctic Centre, the University of Lapland (Finland) and EuropaBio (Belgium), also participated.

II. Adoption of the agenda

7. The Task Force adopted its agenda, as set out in the informal document available on the Task Force web page (<http://www.unece.org/env/pp/ppif.htm>).

III. Reporting on article 3, paragraph 7, of the Convention in National Implementation Reports

8. The Task Force commented on draft elements for an appropriate means of reporting on article 3, paragraph 7, of the Convention for discussion by the Task Force, which had been prepared taking into account the comments made by the Task Force at its fourth meeting (Geneva, 6 July 2009). The Task Force agreed to forward the draft elements to the Compliance Committee for comment at its twenty-ninth meeting (21–24 September 2010)

before submitting the proposal to the thirteenth meeting of the Working Group of the Parties for consideration.

IV. Draft publication on outcomes of consultations on the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums

9. The Task Force commented on an outline for the draft publication evaluating the outcomes of the consultation process on the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums (ECE/MP.PP/2005/2/Add.5), undertaken during the last intersessional period, and agreed to revise the publication further in the light of the comments provided at the meeting.

V. Outreach to interested international forums

10. The Task Force discussed a proposal for a workshop with other interested international forums, to be held in early 2011. The Task Force indicated interest in inviting representatives of UNFCCC and the international financial institutions, with a view to their playing key roles in the workshop.

Annex

Chair's summary of workshop on experiences in promoting the application of the principles of the Aarhus Convention in international forums

Held on Tuesday, 29 June 2010, in Geneva

I. Introduction

1. A workshop was held back to back with the fifth meeting of the Task Force on Public Participation in International Forums, during which Parties, NGOs, representatives of interested international forums and other experts were invited to share their experiences of promoting the application of the principles of the Aarhus Convention in international forums. The workshop included a mixture of presentations and open discussion, and was organized around four sessions (see agenda at: <http://www.unece.org/env/pp/ppif.htm>).

2. Experts were invited to make recommendations at the end of each session and the workshop closed with concluding remarks by the Chair.

II. Public participation at the national level before and after meetings of international forums

3. Georgia reported that it had a practice to include NGOs in Government delegations. The Almaty Guidelines had been translated into the Georgian language and disseminated electronically to relevant stakeholders, as well as focal points of environmental conventions and international organizations. The Government was working closely with the Aarhus Centre Georgia regarding future plans for the dissemination of information regarding international forums. The Aarhus Centre website was updated on a daily basis, and included information on all environmental conventions to which Georgia was a party. Future plans for the website included posting information on significant international meetings regarding the environment, as well as the major documents adopted at those meetings. While Georgia did not provide financial support to NGOs, it provided other opportunities for the public to participate, through the dissemination of information, easy access, and the opportunity to participate in international activities. The Government had nominated an NGO representative to the Compliance Committees of both the Aarhus Convention and its Protocol on Pollutant Release and Transfer Registers. As a case study on promoting public participation in international forums (PPIF) at the national level in Georgia, in collaboration with the secretariat of the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention), the Ministry of the Environment designed an awareness campaign around the forty-first meeting of the Standing Committee of the Ramsar Convention, held in Georgia in April 2010. Information had been disseminated several months before the conference to raise public awareness regarding the importance of wetlands. All NGOs expressing interest had been able to attend the conference, and some more active NGOs had participated in the awareness-raising campaign itself. Advertising for the conference appeared on the main TV channels, a special film had been prepared illustrating the importance of wetlands, and lectures and seminars for youth and students on wetlands protection were held, as well as an exhibition of children's drawings. The Government had provided discounts on hotels and free transport in the region to facilitate NGO participation.

4. Armenia reported that it was implementing a project, with the assistance of the German Government, to create a database to identify NGOs to be invited to consultations regarding environmental planning, policy and decision-making. The database would, inter alia, include the main purposes and objectives of NGOs, their areas of work, and details of their donors. The Armenian NGO EPAC already had its own database of NGOs indicating their areas of expertise, which EPAC used when identifying invitation lists for events or other opportunities for input.
5. Bosnia and Herzegovina reported that challenges it faced in promoting PPIF included understaffed ministries, a lack of funding to support civil society participation and low public awareness about international forums. For the future, it was planned to improve the dissemination of information about international forums to the public, including through the establishment of Aarhus Centres in the country, workshops and training. Bosnia and Herzegovina had included two NGO representatives on its delegation to the United Nations Climate Change Conference (Copenhagen, December 2009), as well as youth representatives and members of the media. NGOs had obtained their own external funding to participate. NGOs were also included in the activities proposed in the follow-up to the Conference. The experience had been positive and would be continued in the future. There were two environmental projects relevant to PPIF currently under way in the country: the first was funded through OSCE and implemented in cooperation with the Regional Environmental Center for Central and Eastern Europe; Bosnia and Herzegovina was also cooperating on a regional project on implementing the Aarhus Convention funded by the EU. While the primary goal of those projects was promoting the Aarhus Convention generally, a secondary goal was increasing PPIF's work on the environment.
6. The Republic of Moldova noted that it had experienced many of the same challenges reported by Bosnia and Herzegovina, regarding promoting PPIF. In addition, in recent years, NGO interest in various international forums appeared to have diminished, perhaps due to a lack of financial support. While there was currently no ministry website for NGOs about the activities of international forums, the Government hoped to have such a website in place by the next Meeting of the Parties to the Convention. Government focal points for international forums were free to invite the public to participate; however, there was no mechanism for such officials to share with other officials, their experiences of involving the public. NGOs had been included in national delegations, e.g., at the Copenhagen Climate Change Conference. The Government would welcome NGO feedback on that involvement.
7. Turkmenistan reported that in March 2010 it had hosted an international forum on the rational use of water resources. Scientists, NGOs and civil society had taken part in the forum, as well as international organizations, like the United Nations Environment Programme (UNEP) and the United Nations Educational, Scientific and Cultural Organization (UNESCO). In 2009, Turkmenistan had undertaken a regional project relating to the Aarhus Convention and its application in Central Asia, with a particular focus on trans-border cooperation in environmental decision-making. Outputs from the project included two sets of guidelines, one for representatives of civil society and one for Governments. A current project focused on the role of youth in the sustainable development of the Caspian region. All five Caspian States were involved, and any natural or legal person could take part.
8. "Greenwomen" Analytical Environmental Agency (Kazakhstan) stated that Kazakhstan still lacked clear policies or procedures regarding access to information and PPIF. Officials were generally poorly informed about the Convention, including article 3, paragraph 7, and did not have a clear understanding of what "promoting the principles of the Convention in international forums" meant in practice. Officials were reluctant to consider NGOs as potential allies to support their own work in international forums. There was a need for funding regarding PPIF, not just to cover the travel expenses of NGOs to

attend meetings of international forums, but also to finance small projects to increase the awareness and capacity of NGOs at the national level to participate in international forums. A problem in many post-Soviet countries was that there were limited mechanisms for public participation, and the public was not accustomed to participate and did not understand how their participation might benefit them. Taking the example of chemical safety, NGOs had to spend considerable time trying to locate relevant information in order to monitor the implementation of the various chemicals conventions and to prepare for meetings of international forums regarding chemical safety. The Government did not provide access to all documents, including records of meetings that were relevant to decision-making in the field of chemical safety. The Ministry of Environmental Protection itself frequently did not even know which projects on chemical safety were in place in Kazakhstan. The Government had prepared an Action Plan to implement the Stockholm Convention, but that had not been made public. Kazakhstan's National Chemical Profile had been available on the Internet for a very short period.

9. International Charity Organization "Green Dossier" (Ukraine) remarked that in a young democracy like Ukraine, rapid change in the ministries and funding shortages had meant that NGOs were often the initiators of PPIF, e.g., by providing information to Government agencies, seeking funding for them and trying to persuade officials to take part in international forums. However, despite repeated attempts by Ukrainian NGOs, non-environmental ministries, e.g., the Ministries of Transport and Health and the Ministry of Culture and Tourism, were reluctant to work with the public regarding international forums. Possibilities for PPIF were not mentioned on the official websites of Ukrainian ministries, even regarding the Copenhagen Climate Change Conference, which had had a large Ukrainian NGO delegation, or the Convention on the Protection and Sustainable Development of the Carpathians (2003), regarding which ministry officials and NGOs had worked together for many years.

10. "Environmental Public Advocacy Centre" NGO (Armenia) observed that, as most NGOs were unable, for financial reasons, to attend international meetings themselves, the wide involvement of stakeholders at the preparatory stage enhanced the credibility of those NGOs who were selected to participate at the international level. Wide use of electronic information tools and mass media in the preparatory stage, before meetings of international forums, was important to raise public awareness. Aarhus Centres were also useful for making existing information accessible to their local communities, e.g., through their websites. Governments and NGOs sometimes failed to serve as effective bridges between international forums and the wider public. That might be due to a lack of human and financial resources, as well as to imperfect cooperation. Guidelines for Aarhus Centres to promote the flow of information to the public regarding international forums, would be of value. There was a lack of appropriate criteria or methodology for NGOs to assess the effectiveness of their participation in international forums. The elaboration of assessment criteria for PPIF and applicable methodology would be useful.

Recommendations regarding public participation at the national level before and after meetings of international forums

11. During the presentations and the open discussion that followed, the following recommendations were made by the participants:

(a) Cooperation between Government and NGOs regarding PPIF would be a useful theme for a future seminar;

(b) NGOs can contribute to capacity-building for PPIF at the national level. In building the public's capacity to participate in international forums, a partnership between donors and a network of NGOs, such as the European ECO-Forum, would be useful;

(c) Training sessions for civil servants, coordinators of Aarhus Centres and NGOs on the application of the Almaty Guidelines is needed;

(d) The elaboration of procedural rules regarding enhancing cooperation between public authorities and the public with respect to PPIF would be useful;

(e) Public authorities may wish to create and manage a database of specialized NGOs, experts, mass media and other stakeholders to facilitate efficient and effective public participation. In building the database, public authorities should proactively research and seek out the appropriate stakeholders and should also be willing to include those NGOs and other members of the public that ask to be included. In addition, NGOs may wish themselves to maintain their own database of NGOs so that they can easily identify whom to invite when organizing round tables or other opportunities for input.

III. Internal coordination within and between Government ministries regarding public participation in international forums

12. Oekobuero (Austria) presented its research project assessing Austria's practice regarding PPIF carried out with funding from the Austrian Ministry of Environment from July to December 2009. The project sought to raise awareness of the Almaty Guidelines in Austria and to develop recommendations for the better implementation of the Guidelines in the future. It included interviews with various Austrian focal points in the Ministry of Environment and the Ministry for Foreign Affairs and with Austrian NGOs regarding various international forums. The results of the project had been presented at a stakeholder workshop, which had also developed recommendations for practitioners. The results of the project had been distributed by newsletter and published in an Austrian environmental science journal.

13. General findings of the project included that the level of public participation differed greatly depending on the subject matter of the international forum (e.g., biodiversity versus nuclear) and the officials involved. Approaches to public participation differed between departments in the Ministry of Environment, and even more so between the Ministry of Environment and other ministries (e.g., the Ministry of Foreign Affairs). Personal contact and mutual faith and reliance were essential for PPIF. While most study participants had known of the Aarhus Convention, they had not known of the Almaty Guidelines. Notwithstanding that, most Austrian practices were relatively in line with the Guidelines. Because Austria was an EU country, much of its international negotiations were handled in Brussels, and there were therefore fewer Austrian NGOs working on issues relating to international forums at the national level.

14. With respect to access to information, the project found that there was no formalized procedure for the active distribution of information at the national level, regarding international forums, but that it was functioning in an informal way. Personal contact was often crucial. Access to information was usually provided, except with respect to EU coordination. Access to documents, including drafts and in-session documents, was seen as more difficult to get than access to environmental data.

15. With respect to public participation, NGOs in the study reported that the lack of formalized procedures meant that the quality of public participation varied widely depending on the subject matter and the persons involved. Austrian officials reported that

public participation was seen as enriching, although it was sometimes difficult to find NGOs interested or with the capacity to participate in a particular international forum. Regarding financial support, there were no formal rules; however, travel costs were usually provided for one NGO representative, although Government budget constraints meant that future funding was less certain. NGOs would like a binding instrument on PPIF; however, Austrian civil servants would not.

16. The study found that having NGOs as part of the national delegation to an international forum could enrich the Government's consideration and understanding of the issues under discussion. It also built confidence and trust between NGOs and the Government, and sometimes NGOs might back the Government's position. There was a fear among some civil servants that NGOs included in an international delegation might disclose information they had obtained, which could weaken the Government's negotiating position. NGOs in the study reported that being part of the national delegation was often the easiest way to enter negotiations, and meeting rooms, and to get access to official documents. On the other hand, NGOs reported it could sometimes be a disadvantage not to be able to speak-up separately as an NGO during the process and, in such cases, qualified observer status might be preferable. If NGOs were to be included in national delegations, it was very important that they be included early and were provided with all the relevant documentation, as major decisions were usually taken long before the meetings of the international forums themselves.

Recommendations from the Austrian research project

17. The following recommendations were made during the presentation of the Austrian research project and the open discussion that followed:

(a) International forums differ in their openness to public participation with some being relatively closed to NGOs and the public. If Parties to the Aarhus Convention include NGOs in their national delegations to such forums, this might initiate a change in the culture of these forums, and other countries may start to follow suit;

(b) The flow of information is a two way street. NGOs working on international forums often have good contacts with NGOs in other regions, and are able to share useful information with the Government;

(c) Officials who adopt an open approach to PPIF should share their experiences with officials working in other international forums;

(d) NGOs would like procedures and practices regarding PPIF to be more formalized, so that they do not depend on the will of the particular ministry or even individual official involved. This might be in the form of rules or guidelines at the national level;

(e) With respect to access to information, early proactive distribution of information is required, e.g., through websites, newsletters (either electronic or hardcopy). It is also important to disseminate regular information on intersessional issues, e.g., through civil society briefings. Ministries should post at least basic information about the international forums in which they participate on their websites, with links to the websites of the international forums themselves;

(f) Regarding public participation, NGOs would like early information as to upcoming events and issues to be discussed or decided. They would like Governments to include them in coordination meetings, before and during the meetings of international forums. By way of example, at the Copenhagen Climate Change Conference, Austrian officials met with NGOs every day. In general, NGOs would like to be included in national

delegations for international forums. Financial support for NGOs is an important prerequisite to their participation. Better access to EU coordination meetings is considered key by European NGOs.

IV. Special session: Public participation in the lead up to, during and after the Copenhagen Climate Change Conference

A. Introduction

18. All Parties to the Aarhus Convention are also Parties to the UNFCCC. At the eleventh meeting of the Working Group of the Parties (8–10 July 2009), European ECO-Forum, supported by Norway, requested the Working Group to call on Parties to seek to improve access to the UNFCCC negotiations for NGOs and civil society organizations, and to promote the inclusion of elements of the Aarhus Convention in the substance of the decisions UNFCCC was expected to take at the fifteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC CoP-15; Copenhagen, 7–18 December 2009). It suggested that the Aarhus Convention secretariat, as well as the PPIF Task Force, might offer their assistance and expertise to UNFCCC for that purpose.¹

19. At the twenty-sixth meeting of the Compliance Committee (15–18 December 2009), the Compliance Committee took note of a statement received on 14 December 2009 from some 50 civil society organizations regarding restrictions on civil society participation at UNFCCC CoP-15, then ongoing.²

20. In light of the above, the Chair of the PPIF Task Force had decided to dedicate one session of the workshop as a case study on the implementation of the principles of the Aarhus Convention in the lead up to, during and after UNFCCC CoP-15 in Copenhagen. During the session, workshop participants had identified a number of needs and challenges regarding promoting the principles of the Aarhus Convention in those contexts, as well as formulating recommendations to assist Aarhus Convention national focal points with addressing those needs and challenges. Workshop participants also made a number of recommendations regarding how the involvement of civil society in the UNFCCC processes might be enhanced more generally.

B. Needs and challenges

21. The following needs and challenges regarding access to information and public participation regarding the lead up to the Copenhagen Conference were noted:

(a) A need in some countries in Eastern Europe, the Caucasus and Central Asia, for more mass media and TV broadcasts on climate change in the period before the Conference, in order to increase public awareness about the issues at stake;

¹ Report of the eleventh meeting of the Working Group of the Parties (29 June–2 July 2009), ECE/MP.PP/WG.1/2009/2, para 87.

² Report of the twenty-sixth meeting of the Compliance Committee (15–18 December 2009), paras. 6–7.

(b) The reluctance of Government officials in some countries to engage with NGOs, to share information regarding the climate change negotiations with them and to take into account their input.

22. The following needs and challenges regarding access of accredited NGO observers during the Copenhagen conference were noted by the workshop participants:

(a) The lack of capacity of the CoP-15 organizers to deal with the registration and access of the participants, resulting in accredited observers queuing in the cold for hours/days and being prevented from taking part in the Conference;

(b) Additional restrictions imposed on the access of civil society delegates. For example, the introduction of a secondary badge system during the final days had meant that the vast majority of NGOs had been excluded from the meeting rooms;

(c) The limited information flow to NGOs, e.g., they had not been informed of the additional restrictions in advance, hampering the ability of participants to adapt and to make alternative arrangements, e.g., for side-events and meetings with Government representatives;

(d) The extended police powers, meaning that police could arrest members of civil society on minor grounds;

(e) The cleaning of the venue during a critical evening of the final week, which had resulted in all NGO observers being required to leave, preventing them from continuing dialogue with Government delegates.

23. The following challenges regarding the quality of public participation during the Copenhagen Conference were noted by workshop participants:

(a) The lack of transparency of the negotiating process, with the majority of negotiations taking place in meetings closed to observers, exacerbated by the rapid speed at which the climate change negotiations evolved;

(b) Rules on civil society participation being interpreted in a restrictive way, e.g., the rule against "threatening behaviour" being interpreted to include naming a particular international forum in a protest action, and a lack of clarity regarding the process and possible sanctions that might be imposed for breaching these rules;

(c) A lack of understanding of the value of effective public participation by many Governments and other actors involved in the UNFCCC negotiations;

(d) A lack of a real opportunity for civil society to engage in a direct way in negotiations. Civil society sat at the back of the meeting room (when allowed in). They could only speak at the beginning and at the end of the Conference, and their brief presentations had to be cleared in advance by the secretariat;

(e) While all groups of stakeholders were nominally on the same footing, in practice, strong inequalities existed in terms of capacity, economic resources and political influence among different groups of stakeholders, e.g., women, youth and developing country NGOs reported challenges in that regard.

24. In the follow-up after the Copenhagen conference, workshop participants noted that the Copenhagen conference has to some extent created an atmosphere of distrust between UNFCCC Parties and NGOs and it is thus necessary to rebuild the dialogue. In this regard, the June 2010 invitation for civil society focal points to meet the secretariat in Bonn to discuss future work around public participation was a positive step.

C. General recommendations regarding enhancing public participation in UNFCCC processes

25. Some of the recommendations made by workshop participants regarding how the quality of public participation in UNFCCC processes might be enhanced included:

(a) The respective roles of secretariat, Parties and host country in determining public participation policies should be made explicit. Clear information on the respective responsibilities of the secretariat and the host of each CoP — e.g., the Government of Mexico for CoP-16 — should be made public well in advance of the Conference;

(b) Venues should be chosen that allow for a strong representation of civil society constituencies. Should limitations be required due to space constraints or other issues, there should be prior consultation with civil society sufficiently in advance in order to adapt effectively to any such limitations. In addition, civil society should have opportunities for input into the criteria and procedures for setting the limitations in order to ensure that the diverse needs and resources of observer organizations are taken into account;

(c) If it becomes necessary to impose restrictions on access to the negotiating area for security reasons, these should relate only to access to meeting rooms and not to access to the venue itself. If it becomes necessary to impose restrictions on access to the negotiating area for capacity reasons, these should guarantee a minimum percentage of civil society participation;

(d) Civil society should be entitled to have access to up-to-date draft negotiating texts;

(e) Civil society should have speaking slots just before or during negotiations sessions — not only at the beginning and at the end of a CoP, where they sometimes get skipped due to time constraints;

(f) The default approach for all civil society engagement — from participation in closed sessions, to interventions and access to delegates' "pigeon-holes" — should be full participation and access. Only in exceptional circumstances should Parties decide to limit access;

(g) The UNFCCC Guidelines on Public Participation should be revised with the final guidelines published well before CoP-16. This process should include meaningful participation by civil society. The proposed revisions should be broadly disseminated and comments solicited sufficiently in advance of their implementation to allow the UNFCCC secretariat to revise the guidelines in the light of comments received;

(h) UNFCCC Parties should invite civil society to nominate representatives to participate as part of official Government delegations. Civil society serves as an extremely valuable technical and political resource for Parties, especially in developing countries;

(i) The UNFCCC secretariat should be mandated to use more of its budget to facilitate public participation, and Parties should provide increased financial resources to support these efforts;

(j) Further mechanisms, including for financial support, should be developed to address inequalities in terms of capacity, economic resources and political influence among different groups of stakeholders;

(k) Innovative ways of engaging civil society should be explored, including facilitation of cross-constituency civil society meetings and workshops;

(l) As processes become more formalized, NGOs themselves need to be better organized in order to overcome bureaucratic obstacles, e.g., early deadlines, short timelines and strict registration rules;

(m) The UNFCCC and Aarhus Convention secretariats might exchange more thoroughly regarding their processes and practices in order to better understand the context in which each operates.

D. Recommendations for Aarhus Convention national focal points

26. Workshop participants recommended that Aarhus Convention national focal points liaise with their counterparts at the UNFCCC to ensure that the provisions of article 3, paragraph 7, of the Convention and the Almaty Guidelines were adhered to in UNFCCC processes. Some of the recommendations made by workshop participants regarding ways in which Aarhus Convention national focal points might do this included:

(a) Ensuring that article 3, paragraph 7, of the Convention and the Almaty Guidelines are respected in the course of making arrangements for CoP-16 in Cancun and subsequent CoPs. Such arrangements should avoid a repeat of the difficulties experienced in Copenhagen and should not result in unnecessary and avoidable restrictions on public participation. Parties to the Aarhus Convention should take an active role at the meetings of the UNFCCC in order to ensure that procedures to enhance public participation are respected and improved;

(b) Ensuring that discussions relating to the participation of civil society in the UNFCCC negotiations are held in open session;

(c) Ensuring that the major groups can participate in negotiations;

(d) Promoting the participation by underrepresented groups, such as civil society from developing countries, in CoP-16 and beyond. Some Aarhus Convention Parties have proposed establishing a participation fund to pay the travel and related costs of delegations from developing countries. Other Aarhus Convention Parties might also wish to support such an initiative;

(e) Ensuring that the three pillars of the Aarhus Convention are promoted in any UNFCCC negotiating texts;

(f) Establishing a website for NGOs and the public more generally to share information and experiences regarding the three pillars of the Aarhus Convention in the context of UNFCCC processes;

(g) Providing a contact point during the UNFCCC meetings in order to work with civil society and to promote the implementation of the principles of the Aarhus Convention within the process.

E. Examples of good practice

27. The following examples of good practices in promoting the principles of the Convention in the lead up to, during and after the Copenhagen Conference were presented by workshop participants:

1. Grenelle Environmental Debates, ENVILOGUE and other initiatives

28. The Grenelle Environmental Debates was a new political consultation process launched by France's President in mid-2007. It resulted in unprecedented mobilization by

civil society, with hundreds of proposals; 19 regional meetings with over 16,900 participants; eight Internet forums with 11,000 contributions; six working groups and round tables; and 268 commitments, of which 88 per cent have been implemented. As well as national commitments, the process included commitments regarding three international processes — the climate negotiations, the 2010 Year of Biodiversity and the United Nations Conference on Sustainable Development to be held in 2012, in Rio de Janeiro, Brazil (Rio+20). The Grenelle Committee meets regularly to follow up on the commitments.

29. In 2008, the French Government launched the ENVILOGUE extranet environmental platform with the aim of enhancing civil society involvement in environmental decision-making at the EU and international levels. Other initiatives by the French Government in the lead up to the Copenhagen Conference included meetings with NGOs and selecting a youth delegation of four French students to take part in governmental meetings, EU coordination meetings and preliminary debates. Regarding media, the Government also set up a radio frequency for information regarding the climate change negotiations, and published many articles, photos and videos.

2. NGO representatives on official delegations

30. For a number of years, Italy has included an NGO representative on its climate change delegation. The NGO representative is fully engaged in the preparatory meetings before EU coordination meetings. The representative also arranges NGO meetings on key topics so the Government delegation has the possibility to benefit from that input.

3. Coordination meetings with civil society before and during the conferences

31. The Austrian climate change delegation has a practice of organizing daily meetings with civil society during UNFCCC conferences regarding what happened that day, and what will happen the following day. NGOs working on climate change often have good informal contacts with NGOs in other regions which Governments may not, so NGOs can be a useful source of information for Government, helping to build trust and confidence in the Government working relationship.

4. National conferences before and after Copenhagen

32. In the lead up to the Copenhagen Conference, “Khazer” Ecological and Cultural NGO (Armenia) organized a national ecological forum and other meetings with representatives of different Government departments, public institutions and NGOs, to discuss climate change issues and to contribute to Armenia’s position for dealing with climate change problems. Following the Copenhagen Conference, “Khazer” organized a second national conference to discuss Copenhagen and its outcomes. “Khazer” has also conducted research on the effects of the many new hydroelectric power stations that have been built as a result of “clean energy” policies, including effects on endemic species of fish, and the local people who rely on them for their livelihood. The Armenian Government is now looking into that issue, with the involvement of civil society.

5. “Below 2C” bulletin

33. The Russian NGO, Ural Ecological Union, began publishing the “Below 2C” bulletin before the UNFCCC CoP-14 in Poznan, Poland (December 2008). The Russian-language bulletin has two main functions: to inform the public and mass media about the international climate negotiations and to promote the NGO climate position. The bulletin is presently produced by representatives of a number of Russian NGOs involved in the United Nations climate talks. Due to interest from civil society from other regions, an English version of “Below 2C” was published during the CoP-15 in Copenhagen. In addition to the bulletin, there is now also a “Below 2C” blog: <http://below2c.wordpress.com>. The creators

of “Below 2C” note that Russian-speaking Government delegates have recognized the bulletin’s importance and now engage in dialogue with the NGOs involved.

F. Chair’s closing comments on the special session on UNFCCC CoP-15

34. In concluding the session on the implementation of the principles of the Aarhus Convention in the lead up to, during and after the Copenhagen Conference, the Chair made the following observations:

(a) The UNFCCC secretariat was currently inviting submissions from all its Parties and observer organizations regarding ways to enhance the engagement of observer organizations in its processes (FCCC/SBI/2010/L.21), with a deadline for submissions of 16 August 2010. Making such a submission would provide an immediate opportunity for Parties to the Aarhus Convention to implement their obligations under article 3, paragraph 7. The above summary of the special session of the workshop on the Copenhagen Conference might contain some useful practical recommendations that Parties might wish to include in their submissions;

(b) Parties to the Aarhus Convention could consider appointing one or two members of their national delegation for UNFCCC CoP-16 to act as a focal point for civil society organizations regarding any problems they might encounter with respect to access to information or public participation during the Conference itself;

(c) Aarhus Convention national focal points were invited to report at the next meeting of the PPIF Task Force, to be held in early 2011, on the initiatives they had been able to take at the national and international level to promote the implementation of article 3, paragraph 7, of the Convention and the Almaty Guidelines in the lead up to, during and after UNFCCC CoP-16.

V. Public participation in the processes and substantive outputs of other international forums

A. Public participation in the European Neighbourhood Policy

35. The Ukrainian NGO Resource & Analysis Center “Society and Environment” reported that in 2008–2009 it had undertaken country assessments of the implementation of the environmental dimension of a number of national action plans agreed between the EU and neighbouring countries under the EU European Neighbourhood Policy (ENP). In respect of its assessment of Ukraine’s national Action Plan, the study identified a number of deficiencies with respect to access to information and public participation regarding both the original Action Plan, in place until 2009, and the more recent Association Agenda and Association Agreement which had replaced it. With respect to the original Action Plan, the study found that while the European Commission had undertaken public consultations on the annual implementation reports in 2007 and 2008, the implementation reports themselves and the draft annual measures had not been publicly available and the public had had no opportunity to comment on them. With respect to the newer Association Agenda and Association Agreement, the public had no access to the draft text of the Association Agenda or to the final text at the time of its adoption. While the Association Agenda was now available in both Ukrainian and EU national languages, the public still had no access to the draft Association Agreement currently under negotiation, and no opportunity to participate in the negotiation process. The study considered that the Eastern

Partnership Civil Society Forum provided a good model for a public participation mechanism.

36. With respect to access to information in Ukraine regarding the European Neighbourhood and Partnership Instrument (ENPI) (the framework for planning and delivering EU financial assistance to neighbouring countries), the study found there was limited access to the programming documents and no data was available to show what the financial assistance received was spent on. Key documents were not available in the Ukrainian language. With respect to public participation regarding the ENPI, there were opportunities for the public to participate in the European Commission's mid-term review of the Country Strategy Papers in 2008, and a public consultation process had been held in 2009 regarding the National Indicative Programme 2011–2013. However, there had been no opportunities for participation regarding the annual action programmes or to monitor the programming process. Overall, the study found that there was a need for increased awareness and more dialogue between the EU, Eastern ENP countries and NGOs regarding the ENP and ENPI. Opportunities for public participation should include the adoption, implementation and monitoring of the ENP. There also needed to be greater transparency of ENPI planning, implementation and monitoring.

B. Public participation in transboundary river management

37. ECO-TIRAS (Republic of Moldova) stated that, since 1994, the Dniester River between Ukraine and Republic of Moldova has been regulated by an old-style agreement on boundary waters which did not recognize the right of the public to participate. NGOs had taken a very active role in endeavouring to promote the management of the Dniester River, for example, taking part in intergovernmental working groups and proposing a draft Dniester River Basin Convention at a side event to the fifth "Environment for Europe" Ministerial Conference (Kiev, 2003). Since 1997, NGOs had lobbied for the adoption of a modern river basin agreement that would provide for public participation, although there has been Government reluctance to do so.

38. While certain legal obligations to ensure public participation were now in place, they were not necessarily adhered to in practice. For example, the 2007 Regulation on Participation of Stakeholders in the Institute of Governmental Plenipotentiaries on Border Waters was not adhered to by either the Republic of Moldova or Ukraine, though both Governments did informally permit stakeholders to participate, usually as national delegation members. The 2007 Regulation on Ukraine-Republic of Moldova Waters Boundary Cooperation on the Dniester River obliged the plenipotentiaries to manage a joint website to inform stakeholders on their activities; however, the website was not active in practice.

39. A further example of public participation regarding transboundary river management was the 2010 Prut River Agreement between the Republic of Moldova and Romania. The agreement had been drafted so quickly, however, that neither country adhered to its internal procedures in doing so. There was no public participation and public comments were not taken into account prior to concluding the agreement. NGOs considered that the 2010 agreement was not in accord with the EU Water Framework Directive,³ as it did not provide for the involvement of stakeholders, nor take a river-basin or ecosystem approach.

³ Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy.

40. Recommendations for public participation in transboundary river management included establishing a legal framework for public participation in transboundary contexts. The Almaty Guidelines should be applied to bilateral environmental cooperation, as well as multilateral. The inclusion of legal obligations in national legislation to promote PPIF would help to achieve better participation at the international level; however, even the existence of such legal obligations did not guarantee that such participation would be realized in practice.

C. Public participation under the Protocol on Water and Health, the Environment and Health Process, the Commission on Sustainable Development and the Governing Council of the United Nations Environment Programme

41. WECF (Germany) observed that the text of the 1999 Protocol on Water and Health to the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes was strongly influenced by the Aarhus Convention, with a number of provisions referring directly to its three pillars. The Protocol also linked its implementation, e.g., setting targets for water management, to public participation, although only four countries had started that process so far and gaps were apparent. The Protocol's secretariat endeavoured to involve civil society in decision-making processes under the Protocol (e.g., WECF was involved in drafting the work programme). However, as at the national level, a lack of capacity and financial resources were obstacles to greater involvement. On 15 and 16 June 2010, the UNECE and WECF organized a workshop on access to information and public participation in water and health-related issues in Bucharest for Parties to the Protocol and NGOs. It was intended that a guidance paper on public participation would be developed from the outcomes of the workshop. A proposal had also been made at the workshop to collaborate with the Aarhus Convention on public participation.

42. The Environment and Health Process had been launched in 1989 and, since then, ministerial conferences had been held every five years with many ways for civil society to be involved. For example, there were two seats on the Bureau for civil society (one environmental NGO and one health NGO representative, both elected). However, the 2010 Parma Ministerial Conference on Environment and Health had highlighted a number of challenges regarding public participation. For example, only NGO "partners" could take part in the plenary discussions. That meant that it was easy for longstanding NGO partners to be involved, but NGOs newer to the process had only "observer" status. Also, a new high-level committee including representatives of four Governments had been established to shape the profile of the Environmental and Health process. In order to keep the group small, other stakeholders, such as civil society, were not included, which was a negative development for public participation in the process.

43. The involvement of civil society in the Commission on Sustainable Development (CSD) was managed through the nine major groups of Agenda 21 (women, children and youth, indigenous people, NGOs, local authorities, trade unions, business and industry, scientific and technological community and farmers). Participation rights for civil society included speaking slots, seats on round tables with ministers, the right to comment on the agenda and the right to nominate people from one's major group. Currently, the possibility of having two representatives of the major groups in the CSD bureau was being discussed. A key challenge was the need for each major group to be self-organized. Ideally, that should be democratic, through the election of the key representatives. However, it did not always happen, and issues of representativeness might arise. Within some groups, e.g., business, the one with the greatest financial resources might take the lead. It would thus be useful to establish guidelines for the internal structures of major groups. The major

women's group now had a rotating system in place so that every two years another NGO or group of NGOs would take the lead in accordance with the issues of that CSD cycle. That system encourages dynamism.

44. For the past five years, the UNEP Governing Council had followed the same major groups structure as the CSD. In addition, there were regional representatives. Previously, there had been financial assistance for the organization of the major groups' preparatory meetings, but that was no longer provided. Although the original rules for NGO participation in the Governing Council were very limited, the rules in place now were more positive, with informal practices adding further value. For example, one current informal practice was for three civil society representatives to participate in ministerial round tables. That practice was decided on an annual basis, and thus needed support by Governing Council members to continue.

D. Public participation in Georgian State projects funded by international organizations

45. The Greens Movement of Georgia reported that, in 2009, public discussions had been held regarding the construction of a railway licensed by the Ministry of Environment Protection and Natural Resources of Georgia and funded by the European Bank for Reconstruction and Development (EBRD). Although many of the public's comments had not been followed, the public had still been pleased to have the opportunity to participate in the process. Also in 2009, local NGOs had carried out public awareness-raising regarding the proposed construction of a primary transmission line through the territory of Borjom-Kharagauli National Park. The construction was to be funded by EBRD and Kreditanstalt Für Wiederaufbau (Germany). As a result of the public discussions, alternative solutions had been identified and accepted by the Government. A third case — also from 2009 — involved the construction of a landfill to be funded by EBRD and the Swedish International Development Cooperation Agency. Due to the efforts of local NGOs, international organizations and a petition signed by more than 1,000 local people, construction of the landfill had been stopped. While in each of those cases, public participation had been considered a positive experience, several challenges were identified. The public's awareness of their rights to participate in internationally funded projects was limited and, as a result, the level of public involvement was often so low that it could not influence the outcome of the process. Decision-making was often undertaken without following correct procedures. Although the Georgian Law on Environmental Impact Assessment allowed the public to participate in decision-making, the discussions were usually of a formal character and the public's comments were not necessarily taken into account.

E. Public participation in United Nations human rights bodies

46. Earthjustice (Switzerland) noted that, in June 2010, the Office of the United Nations High Commissioner for Human Rights had organized a panel discussion on the issue of toxic wastes and its impact on human rights, which had proposed that guidelines should be developed in that area. It would be important to integrate the principles of the Aarhus Convention into any such guidelines developed. Second, there was as yet no global declaration regarding the right to water, which it was hoped might be developed in the near future. Such a declaration should incorporate the principles of the Aarhus Convention.

VI. Chair's concluding remarks

47. On the basis of the presentations and discussions at the workshop, the following concluding remarks could be made:

(a) Attitudes and approaches to PPIF differed markedly depending on the international forum concerned, e.g., biodiversity compared to nuclear matters, the latter being less open to public participation;

(b) Access to information and public participation was important in the implementation of the outputs of international forums, as well as in their negotiation;

(c) The question of who should participate was very important: how could public authorities find out which members of the public were interested in participating? How could public authorities best communicate with those members of the public? If the number of public participants had to be limited, e.g. NGO representatives on national delegations, how should participants be selected?;

(d) Political willingness was a key issue: some countries were seen as reluctant to enter into dialogue with civil society when preparing their positions for international forums;

(e) Awareness and capacity: was the public aware of its opportunities to participate in the international forum and did it have the capacity to do so?;

(f) NGOs on national delegations: should NGOs be included on Government delegations? Did the benefits of such inclusion always outweigh not being able to speak freely at the forum?;

(g) NGO speaking rights: at which stages of international meetings should NGOs be given the opportunity to speak and should they be granted proper speaking slots?;

(h) Financial support was necessary to promote PPIF in practice;

(i) Formal rules or informal practices: was it necessary to establish formal rules for PPIF at the national level or were informal practices and personal relationships sufficient?
