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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

(Second meeting, Almaty, Kazakhstan, 25-27 May 2005)
(Item 5 (e) of the provisional agenda)

DRAFT DECISION II/4

**PROMOTING THE APPLICATION OF THE PRINCIPLES OF THE AARHUS
CONVENTION IN INTERNATIONAL FORUMS**

Submitted by the Bureau
subject to consideration by the Working Group of the Parties at its fifth meeting¹

Recalling principle 10 of the Rio Declaration on Environment and Development, which states, inter alia, that environmental issues are best handled with the participation of all concerned citizens, at the relevant level,

Recalling also article 3, paragraph 7, of the Convention, which 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, and paragraph 31 of the Lucca Declaration, in which Parties,

¹ The text presented here was prepared by the Chairman with the assistance of an informal group consisting of members of the Bureau and other representatives of Parties and Signatories and taking into account written comments submitted by other Parties and Signatories following the procedure agreed by the Working Group of the Parties at its fourth meeting (ECE/MP.PP/2005/2, para. 46).

Signatories and other States and stakeholders recognized the need for guidance on the implementation of this provision of the Convention,

Believing that such guidance would assist Parties in understanding and fulfilling their legal obligations under the Convention and be of value to Signatories and other interested States not Party to the Convention, as well as to international forums, including their secretariats, and non-governmental organizations,

The Meeting of the Parties

1. Adopts the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums as annexed to this decision, and recommends their application by all Parties as a non-legally binding instrument to assist them in implementing their legal obligations under article 3, paragraph 7, of the Convention;

2. Invites Signatories to apply the Guidelines as appropriate;

3. Invites other interested States and regional economic integration organizations to take the concepts reflected in the Guidelines into consideration and to apply them as appropriate;

4. Invites international forums within the scope of these Guidelines, including their secretariats, to take into account the principles of the Convention as reflected in these Guidelines and to consider how they might adapt their own processes to further the application of these Guidelines;

5. Invites non-governmental organizations and other relevant actors to support the application of these Guidelines and to consider how they might adapt their own processes and activities to this end;

6. Resolves to keep the Guidelines under review and to assess the results and challenges of their application, including through consultations with the international forums concerned, their members, bodies and secretariats, with appropriate involvement of the public;

7. Requests the secretariat under the guidance of the Working Group of the Parties to prepare a compendium of good practices in this field before the third meeting of the Parties;

8. Invites Parties, Signatories, other interested States and organizations to provide to the secretariat information relevant for the ongoing review referred to in paragraph 6 and the preparation of the compendium referred to in paragraph 7.

Annex

ALMATY GUIDELINES ON PROMOTING THE APPLICATION OF THE PRINCIPLES OF THE AARHUS CONVENTION IN INTERNATIONAL FORUMS

I. PURPOSE AND SCOPE

1. The primary purpose of these Guidelines is to provide general guidance to Parties on promoting the application of the principles of the Convention in international forums in matters relating to the environment. In order to meet the Convention's objective effectively, Parties should seek to apply these Guidelines to the extent appropriate in the light of reasonable considerations such as the institutional integrity and particular characteristics of each international forum concerned, its procedures and decision-making processes, and the nature and availability of its resources. The level and the extent of application of these Guidelines will depend on the specific rules and composition of each international forum concerned.
2. These Guidelines are intended to provide guidance to Parties in the context of:
 - (a) The development, modification and application of relevant rules and practices applied within international forums (e.g. rules of procedure covering issues such as transparency, accreditation, etc.); and
 - (b) The treatment of relevant substantive issues within those forums.
3. These Guidelines are also intended to serve as a source of inspiration to Signatories and other interested States, as well as to multilateral environmental agreements (MEAs) and other international forums, non-governmental organizations and other members of the public having an interest in promoting the application of the principles of the Convention in international forums.
4. These Guidelines relate to international forums, including:
 - (a) The negotiation and implementation at the international level of MEAs and 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 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;
 - (e) International financial institutions, if their decisions or actions, including projects, relate to the environment or may have a significant effect on the environment;
 - (f) Other permanent organizations as well as ad hoc, time-limited organizations set up for specific purposes whose decisions or actions relate to the environment or may have a significant effect on the environment.

5. These Guidelines relate to all relevant stages of any given international decision-making process in matters relating to the environment taking place within an international forum.

6. These Guidelines are intended, through their application, to positively influence the way in which international access is secured in international forums in which Parties to the Convention participate.

II. DEFINITIONS

7. For the purposes of these Guidelines, “Aarhus Convention” and “the Convention” mean the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

8. For the purposes of these Guidelines, the terms “Party,” “environmental information,” “the public”, and “the public concerned” shall be understood as defined in article 2, paragraphs 1, 3, 4 and 5, of the Convention.²

9. For the purposes of these Guidelines, “international forum” means any international environmental decision-making process, or any international organization when dealing with matters relating to the environment, as illustrated in paragraph 4.

10. For the purposes of these Guidelines, “international access” means public access to international forums in accordance with these Guidelines.

III. GENERAL CONSIDERATIONS

11. Access to information, public participation and access to justice in environmental matters are fundamental elements of good governance at all levels and essential for sustainability.

12. Providing international access opportunities in environmental matters, and establishing and strengthening procedures that enable the taking of these opportunities, generally improves the quality of decision-making and the implementation of decisions.

13. There is a need to adapt and structure international processes and mechanisms in order to ensure meaningful, balanced and equitable international access.

14. When structuring international access, care should be taken to make or keep the processes open, in principle, to the public at large. However, in order to ensure meaningful international access, special attention should be paid to facilitating the involvement of the public concerned.

15. Where members of the public have differentiated capacity, resources, socio-cultural circumstances or economic or political influence, special measures should be taken to ensure a

² For the convenience of the reader, the full text of the relevant definitions will be included as endnotes to the final document.

balanced and equitable process. Processes and mechanisms for international access should be designed to promote transparency, minimize inequality, avoid the exercise of undue economic or political influence, and facilitate the participation of those constituencies that are most directly affected and might not have the means for participation without encouragement and support.

16. International access should be provided without discrimination on the basis of citizenship, nationality or domicile. In the case of a legal person, international access should be provided without discrimination as to where it has its registered seat or an effective centre of its activities.

17. Capacity-building is important to facilitate international access, both for the public concerned, in particular NGOs promoting environmental protection, and, in different ways, for secretariats of international forums. It is particularly important in developing countries and in countries with economies in transition.

18. Enhancing international access may imply investment of resources. Accordingly, resources should be made available in the appropriate form and according to modalities to be agreed upon in each international forum concerned, in order to facilitate meaningful, balanced and equitable participation.

IV. ACCESS TO ENVIRONMENTAL INFORMATION

19. Each Party should encourage international forums to develop and make available to the public a clear and transparent set of policies and procedures on access to the environmental information that they hold in order to make access by the public more consistent and reliable. Such policies and procedures should enhance and facilitate both accessibility and understanding of the relevant information.

20. Subject to paragraph 25, all official documents containing environmental information developed and produced within each international forum should be made available to the public through the Internet, or through other appropriate means, in a timely manner.

21. Providing the necessary technical means for effectively rendering information accessible to the public free of charge using electronic information tools such as clearing houses, interactive databases and registers should be promoted. Where appropriate, live webcasting of events and alternative methods to reach a broader public should be considered.

22. Environmental information should be provided proactively, in a meaningful, accessible form, so that access to information may translate into an increase in knowledge and understanding. The designation of information officers or contact persons in international forums will facilitate the flow of information to the public and should be promoted.

23. Subject to the following paragraphs of this chapter, any member of the public should have access to environmental information held under the auspices or on behalf of any international forum upon request, without having to state an interest.

24. When environmental information is requested by a member of the public, it should be provided as soon as possible following the request, and subject to an appropriate time limit, which should, in principle, not exceed one month from the date of receipt of the request.

25. Requests for environmental information should be permitted to be refused only on the basis of the specific grounds for refusal set out in article 4, paragraphs 3 and 4, of the Convention. These grounds for refusal should be interpreted *mutatis mutandis* and in a restrictive way, taking into account the public interest in disclosure.

26. A refusal of a request, in whole or in part, should be in writing if the request was in writing or the applicant so requests and should state reasons for the refusal and give information on access to any review procedure referred to in paragraph 40.

27. Environmental information should be provided in the form requested if it exists in that form. It should be made available free of charge or, at most, at a reasonable charge. If there is a charge, a schedule of charges should be available to the public.

V. PUBLIC PARTICIPATION IN DECISION-MAKING ON ENVIRONMENTAL MATTERS

28. Public participation generally contributes to the quality of decision-making on environmental matters in international forums by bringing different opinions and expertise to the process and increasing transparency and accountability. The forms of participation might vary according to the nature and phase of the process, and the format of the meeting. Efforts should be made to proactively seek the participation of relevant actors, in a transparent, consultative manner, appropriate to the nature of the forum.

29. Participation of the public concerned in the meetings of international forums in matters relating to the environment should be allowed at all relevant stages of the decision-making process unless there is a reasonable basis to exclude such participation according to transparent and clearly stated standards that are made available in advance.

30. Participation of the public concerned should be as broad as possible. In an international context, relevant stakeholders may include:

- (a) The members of the public who are, or are likely to be, most directly affected;
- (b) Representatives of public-interest organizations, such as environmental citizens' organizations; and
- (c) Representatives of commercial or other interests that might cause, contribute to, be affected by or be in a position to alleviate the problems under discussion.

31. While an international forum, or a process within it, should in principle be open to the participation of the public concerned, the number of members of the public participating may be restricted if this is necessary and unavoidable for practical reasons. Any such restriction should take account of the nature and phase of the decision-making process and the form of participation sought, and should aim at ensuring the quality, efficiency and expediency of the decision-making process. Where they are applied, accreditation or selection procedures should

be based on clear and objective criteria, and the public should be informed accordingly. Such procedures should be transparent, fair, timely, accountable and accessible, and aimed at securing meaningful, balanced and equitable participation, while avoiding excessive formalization. Selection criteria may include field of expertise, representativity in geographic, sectoral, professional and other relevant contexts, and knowledge of the working language. Self-organization and self-selection processes among members of the public concerned sharing common goals could, if appropriate, be encouraged.

32. The international processes which should benefit from public participation, starting at an early stage, include the preparation, formulation and implementation of decisions, rules, plans, programmes, policies and projects, the negotiation and application of conventions and the substantive preparation of events, at the international level.

33. Effective public participation may be ensured through a variety of forms, depending on different factors, such as the type of international forum concerned and the nature and phase of the decision-making process. Such forms may include consultative status, NGO advisory committees, NGO forums and dialogues, participation of NGOs in governmental delegations, webcasting of events and general calls for comments.

34. Subject to the more specific guidance contained in other relevant paragraphs, public participation should include the entitlement to have access to relevant documentation, circulate written statements, speak at meetings and propose items for the agenda, without prejudice to the ability of international forums to prioritize their business.

35. Public participation procedures in international forums should include reasonable time frames for the different phases, allowing sufficient time for informing the public and for the public concerned to prepare and participate effectively during the decision-making process. The timing of the opportunities to participate should be compatible with those pertaining to public access to the relevant documents, in order to facilitate informed public participation. The opportunity to participate in a given international decision-making process should be provided at a stage when options are still open and effective public influence can be exerted.

36. The public concerned should be informed in due time of the opportunities, procedures and criteria for public participation in the decision-making and of the availability of information for the public, such as drafts for comments, final documents, decisions and reports. Such information should be provided through web sites as well as, if possible, directly to members of the public concerned having requested to be so notified or having otherwise been identified as in need of direct communication. To preserve the quality of the decision-making process, transparent and clearly stated standards should be set regarding the provision of comments and the public should be informed accordingly.

37. In decisions, due account should be taken of the outcome of public participation. Transparency with respect to the impact of public participation on final decisions should be promoted, through, inter alia, ensuring the public availability of documents submitted by the public and the records of such positions in the related official documents.

38. Decision-making processes in international forums are enhanced by the participation of an informed, knowledgeable, diversely represented and well-coordinated public. Measures that would contribute to such participation should be recognized as important and be encouraged. Parties, relevant organizations and other donors should accordingly be invited to consider providing support to international secretariats and public-interest organizations, taking account of the needs and priorities identified in paragraphs 17 and 18.

39. Noting that traditional arrangements for providing financial support for travel and subsistence costs to facilitate participation in some international forums can be quite costly and thus constrain the number of people who can participate, efforts should be made to apply innovative, cost-efficient and practical approaches which are consistent with good accounting practices with a view to maximizing participation.

VI. PUBLIC INVOLVEMENT IN REVIEW PROCEDURES IN ENVIRONMENTAL MATTERS

40. Each Party should encourage international forums to develop review procedures accessible to the public to challenge acts or omissions of such forums and their secretariats relating to the application of their rules and standards concerning access to environmental information and public participation in their decision-making processes in matters relating to the environment.

41. Each Party should encourage international forums to develop implementation review mechanisms and procedures. [Where such mechanisms and procedures are established, consideration should be given to whether to allow for appropriate public involvement in them. Public involvement in international implementation review mechanisms and procedures could help to ensure their accountability and contribute to monitoring the implementation of international obligations relating to environmental matters.]

42. The modalities of any public involvement may vary depending on the characteristics of the international forum concerned [but could include the possibility for the public to submit information to implementation review procedures and the possibility for the relevant bodies to organize public hearings at well-defined stages of such procedures. The status of information handled under these procedures should be based on the principle of openness, with confidentiality as a well-defined exception].