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ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS

Working Group of the Parties

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Item 5 of the provisional agenda
Public participation in international forums

**SYNTHESIS OF RESPONSES RECEIVED FROM INTERNATIONAL FORUMS TO
THE WRITTEN QUESTIONNAIRE IN THE CONSULTATION PROCESS ON
THE ALMATY GUIDELINES**

Addendum

COMMENTS ON THE ALMATY GUIDELINES

Prepared by the Task Force on Public Participation in International Forums
with the assistance of the secretariat

Background

1. The purpose of this addendum is to synthesize the international forums' responses to the written questionnaire in respect of the following question:

Please provide any comments on the Guidelines, in view of your forum's own processes, activities and particular characteristics.

2. The addendum is in two sections. The first section reports the international forums' general comments on the Guidelines, including the Guidelines' usefulness, applicability and whether the forums' practices generally accord with them. This section also includes comments on institutional realities, stakeholders, investment of resources, access to information, public participation in decision-making and access to justice. The second section contains comments made by forums on specific provisions of the Guidelines. These comments are set out in table format for ease of reference.

General comments

Usefulness

3. The CBD secretariat observes that, although broadly speaking the requirements of the Almaty Guidelines are already expressed in its own provisions and practices, the Guidelines nevertheless provide a useful tool for the practical implementation of the principles of the Aarhus Convention in international processes such as the CBD. The secretariat considers that the Guidelines should be of use to Parties to the CBD in fulfilling their obligations of public participation and access to information in the specific context of the CBD's own prescriptions. The Guidelines will also be useful in the further development of the CBD's programmes relating to communication, education and public awareness. The secretariat remarks that there is a need to develop synergies and greater linkages between the range of international instruments and institutions dealing with these issues both at the policy and implementation levels and that the Guidelines' consideration by other international forums should help in bridging existing gaps.

4. The UNCCD secretariat remarks that the Guidelines are a good starting point in highlighting the importance of broad and full participation of the international community and the public in environmental issues. They also encourage all relevant actors who feel concerned to make their voices heard and be part of the decision-making processes at levels appropriate to the matter at hand. In this sense, the Guidelines represent a step forward towards effective information sharing, participation and decision-making in environmental matters.

5. The ITTO secretariat comments that the Guidelines are a good attempt to institutionalise public participation in international processes. The interim secretariat of the Carpathian Convention comments that the Guidelines seem to be a useful tool to promote the application of the principles of the Aarhus Convention in international forums and are also of help to the development and application of formalized and non-formalized rules of procedure and practices within international forums. ICWC's Scientific Information Center remarks that the Guidelines are a well-presented and quite relevant document for promoting the application of the principles of Aarhus Convention in international forums dedicated not only to Aarhus Parties but also to other States. It adds that the Guidelines are particularly important for post-Soviet Newly Independent States in the process of democratic development and civil society building. UNESCAP comments that the Guidelines are likely to serve as a useful instrument for allowing international forums to re-examine their own policies and procedures, not only as they relate to environmental issues, but in relation to general practice.

6. The UNCTSD secretariat states that the Guidelines could be useful for improving public participation in international forums, however they are generic and should be more practical. The CMS secretariat similarly remarks that the Guidelines are very generic, and guidance is mainly a matter of common sense and good practice, as is the nature of United Nations' guidance. It considers that, in view of the importance of the topic, more should be done to develop practical guidance for access to information and public participation in environmental issues and processes, including clear examples and procedures. It remarks that most of what is proposed in the Guidelines has been discussed and proposed at length under other processes such as the CSD. Although repeating these concepts is important, the fact there is a need to still address the issue is a sign that efforts so far were not effective, and new instruments and a different type of guidance should be developed.

7. The MAP secretariat states that it intends to make full use of the Guidelines, which are in line with the spirit of the MAP and the Barcelona Convention and their practices on public participation. The secretariat remarks that the Guidelines provide a number of recommendations and suggestions through which Parties, other States and international organisations or bodies may promote and facilitate public access to information and public participation and provide an excellent opportunity to further develop and implement such policies.

Applicability

8. The UNFF secretariat notes that, as a subsidiary organ of ECOSOC, the UNFF's rules of procedures are those directed to functional commissions of ECOSOC and the Guidelines therefore do not apply directly to its work. It goes on to make the point, however, that since the signatories of the Aarhus Convention are all members of the UNFF, they can influence its work by introducing proposals in accordance with the Guidelines.

9. The UNESCO World Heritage Centre indicates that the Guidelines have not been provided to the World Heritage Committee, the governing body of the UNESCO World Heritage Convention, so there has been no formal process of taking them into account. However, the Aarhus Convention has been noted in the recommendations of selected field missions monitoring World Heritage properties (e.g. the 2005 mission to Durmitor National Park in Montenegro, which concerned threats by a hydropower project).

10. IFAD remarks that, given its particular characteristics as an institution working mainly through a programme/project approach, the Guidelines do not fully apply to its mandate.

11. The Bureau of the LRTAP reports that its Executive Body and Implementation Committee have taken note of the Guidelines and the obligations on Aarhus Parties, and have further noted that a number of Aarhus Parties are also party to the LRTAP. The Bureau observes, however, that as overall the set of Parties to the two Conventions is different, it is for LRTAP Parties, in the light of the specificities of that Convention, to agree how such principles as those in the Guidelines might be applied in their work.

12. The Bern Convention's secretariat indicates that the Guidelines are relevant to that Convention, as it falls within the definition of "international forum" provided in paragraph 9 of the Guidelines, as well as paragraphs 4(a) and (e) regarding the scope of the Guidelines. It also notes the large overlap of membership between the Aarhus and Bern Conventions.

13. The ICPDR secretariat indicates that the countries cooperating in its processes have agreed to cooperate under the Convention on Cooperation for the Protection and Sustainable Use of the Danube River and the European Union Water Framework Directive and that the Commission therefore does not base its public participation activities on the provisions of the Aarhus Convention.

Whether forums' practices generally accord with Guidelines

14. UNEP's Division of Early Warning and Assessment indicates that, with respect to access to environmental information, it has taken practical steps to comply with these provisions. In regard to public participation in international forums, it comments that, at a practical level, representation would have to be facilitated through NGOs and civil society groups.

15. The IWC secretariat remarks that the Guidelines' provisions on access to information seem broadly acceptable and the Commission's practices would largely conform. However, it considers that the provisions on public participation in decision-making would be likely to be controversial in the context of the Commission. In particular, the Commission's meetings are not open to the general public, although accredited NGOs can attend meetings as observers. The Commission's decisions are taken by vote by member governments. NGOs are therefore not involved directly in the decision-making process, although several member governments include representatives from NGOs on their delegations and NGOs may lobby member governments both at and between meetings. The secretariat notes that, in addition, many member governments (and the secretariat itself) receive a significant volume of correspondence from members of the general public in relation to Commission matters that governments may use in framing their policy decisions.

16. The CBD secretariat indicates that, broadly speaking, the requirements of the Almaty Guidelines have already found expression in the provisions and practices of the Convention.

17. The secretariat of the UNESCO Man and the Biosphere Programme remarks that the definition of "the public" in biosphere reserves is as broad as its definition in the Almaty Guidelines.

18. The SAICM secretariat remarks that the Guidelines' purpose is closely aligned with approaches taken by SAICM. For example the objectives of SAICM's Strategic Approach with regard to knowledge and information are, inter alia, to ensure for all stakeholders that information on chemicals throughout their life cycle is available, accessible, user friendly, adequate and appropriate to the needs of all stakeholders.¹

¹ SAICM Overarching Policy Strategy, paragraph 15(b)(i).

19. The response from the European Commission in its capacity as a Party to the Cotonou Agreement remarks that the Guidelines are very relevant and to the point. The European Commission notes that the Cotonou Agreement does not make direct reference to access to information, public participation in decision-making or access to justice with respect to environmental issues. However, it contains two provisions relevant to the subject which, taken together, are well in the spirit of the Aarhus Convention and the Almaty Guidelines.
20. The secretariat of the Industrial Accidents Convention indicates that the provision of information to the potentially affected public regarding a hazardous activity (before and during an accident), public participation in decision-making on off-site contingency plans, and access to justice, are addressed by the Convention. Their implementation is reviewed by the Convention's Working Group on Implementation.
21. The Bureau of the Water Convention reports that the Parties at their fourth meeting took note of the Guidelines and of the obligations on Parties to the Aarhus Convention, the majority of which are also Parties to the Water Convention. The Bureau notes that the Water Convention and its Protocol on Water and Health address and promote access to information, public participation in decision-making, and, to a lesser degree, access to justice in environmental matters. Moreover, a *Guidance on Public Participation and Compliance with Agreements* has been developed under the Water Convention (<http://www.unece.org/env/water/publications/documents/guidance.pdf>). The Bureau indicates that there is therefore a strong awareness of these issues among Parties to the Water Convention and its Protocol on Water and Health.
22. The secretariat of the Espoo Convention observes that the Convention and its Protocol address and promote access to information, public participation in decision-making and, to a lesser degree, access to justice in environmental matters and that there is therefore a strong awareness of these issues among participants in meetings under the Espoo Convention.
23. The Alpine Convention's secretariat comments that, with regard to the particular characteristics, the processes and activities of the Alpine Convention, there is no need for changes or specifications in the differentiated system of rules set by the Almaty Guidelines.
24. OAS' Department of Sustainable Development observes that the Guidelines reflect the general objective of the principles and recommendations contained in its Inter-American Strategy.
25. Similarly, the Caribbean Environment Programme's secretariat states that the Guidelines reflect many of the elements used in the development and adoption of the Cartagena Convention on the Protection of the Marine Environment of the Wider Caribbean Region and its supporting Protocols. It adds that these elements are employed in the development and implementation of national, sub-regional and regional projects and activities to implement the Convention and its Protocols.
26. ADB indicates that whilst the Bank has not adopted a formal stance regarding the Guidelines, their spirit – one promoting information sharing with the public on environmental matters – is certainly consistent with the way in which ADB conducts its business.

Institutional realities

27. The EBRD response remarks that the Guidelines could make greater recognition of how institutions work in practice. It says that the Guidelines do not focus on the opportunities associated with organizations and institutions, but rather attempt to put them in the Parties' format, which does not always work. For example, organizations and institutions often have internal and external policies, strategies, grievance/accountability mechanisms, some of which may have associated or direct environmental issues. Institutional decisions are made by a managerial structure or board of directors, which is accountable to its shareholders. Organizations and institutions deal with matters of confidentiality and documentation belonging to third parties, sometimes provided under restrictions. They often have events with stakeholders, such as annual meetings, and they make decisions on external documentation and reporting. The EBRD response states that all of these aspects potentially have a public dimension, particularly for organisations and institutions supported by public funds. It suggests that while the structure of the Guidelines is directed at "international forums", it perhaps does not take full advantage of the potential aspects of organizations and institutions which might apply the principles (although restricted by structure on applying the letter) of the Aarhus Convention. In addition, the EBRD response remarks that there is not enough separation in the Guidelines between what applies to an international conference on environment, and to a multilateral organization whose actions may affect the environment.

Stakeholders

28. The UNCCD secretariat comments that the Guidelines rightly state that participation of the public should be as broad as possible, and that in the international context, this should be done having in view the nature and the level of each particular meeting.

29. The Sava Commission's secretariat suggests that it would be very useful if the Guidelines defined the main "stakeholders" as otherwise some stakeholders who could potentially play a significant role in the international forum might be missed.²

30. The ICPDR secretariat indicates that it has found it very difficult to address and involve individuals in its processes and it has therefore decided not to target individuals, but only the organized public (organizations, unions, etc.). It considers that targeting individuals at the international level is simply too ambitious, too costly and not cost-efficient.

31. The ICPDR secretariat also observes that since developing and running public participation processes is very expensive, it does not seem sensible to impose the costs of the capacity building of the stakeholder groups on international organizations. It suggests that such activities, which are in most cases "democratization processes", could be carried out on a voluntary basis but should not be seen as the sole responsibility of international organizations. It should be the

² Paragraph 30 of the Guidelines does give some guidance as to who relevant stakeholders may be. However, it appears that the Sava Commission considers further guidance is required.

responsibility of institutions to set up the legislative and practical frameworks for public participation, and a shared responsibility to secure the democratization process on the other side.

Investment of resources

32. The UNCCD secretariat remarks that the direct link the Guidelines make between international access and investment of resources should perhaps be stressed more. It comments that experience shows that attendance, and thus active participation, in sessions of its COP and other subsidiary bodies, depends on funds being made available. Often it is not only envisaged, but also wished, that representatives of NGOs be more widely present at meetings, but they more often than not lack the means to do so. The UNCCD has organized meetings at the regional and national level to remedy this situation.

33. ICWC's Scientific Information Center comments that it seems expedient to add a principle of providing financial support to international organizations to the Guidelines in order to increase the activity level of civil society in environmental management.

Access to information

34. The ICPDR secretariat indicates that the ICPDR provides information to the interested public in two ways, namely simple leaflets for wide distribution and technical reports for specific audiences. It remarks that it has to date distributed documents in printed form as well as via the internet but that it is not sure whether the documents distributed through the internet were useful and reached the audience, although it does not indicate the basis of this view. It adds that general information can be easily shared via the internet, but it is less convinced that distributing targeted and specialised information via the internet makes sense.

Public participation in decision-making

35. The EBRD response remarks that the Almaty Guidelines should encourage transparency in policy and strategy development and public *consultation*, but institutions should not be told to conduct public *participation* as they do not have the ability to provide the public with a decision-making role. Rather, it is the remit of the relevant government to provide such rights. The EBRD response observes it can take comments into account, but final decisions are made by its Board of Directors.

36. The EBRD response also comments that while it appreciates the public's right to environmental information, the environment is often a cross-cutting issue and this can create a difference of expectations on what information is necessary to be in the public domain. Furthermore, if countries lack overarching citizens' rights to information and participation, the public's rights may be codified under environmental law, instead of a more general right under constitutional law. As a consequence, the public may turn their non-environmental concerns about a proposed project into environmental concerns because to do so will be their only opportunity to voice a concern about the project generally.

37. The ICPDR secretariat reports on its own lessons learned, namely:

(a) Informed stakeholders are the basis of meaningful participation. It is crucial to provide information in time and for free. Efforts should be undertaken to make sure that the stakeholders get the information they need.

(b) Public participation is a process and it takes time, should be started early and planned carefully. Several years may be needed to ensure that new structures fit the needs of stakeholders and that stakeholders can adapt to the new concept of governance.

(c) Public participation is a cooperative effort and needs to be actively implemented by all partners. It is not enough that organizations offer the possibility to participate if the stakeholders are not willing to sit at the table to discuss and to develop solutions and/or compromises.

(d) Public participation has to happen on different levels, both locally and internationally.

(e) Stakeholders are very diverse (e.g. navigation, hydropower, agriculture, environmentalists), and each group might need a slightly different approach.

(f) A mixture of tools is necessary to secure the right tool for each stakeholder group (e.g. workshops, conferences, electronic feedback forms).

(g) It is crucial to make the best use of the people's time, so that observers do not feel that outcomes do not justify the time and money they put into the process.

Access to justice

38. The UNCCD secretariat remarks that legal settlement of dispute mechanisms, such as arbitration and conciliation procedures or other ways of resolving questions of implementation, remain valid and useful within multilateral environmental agreements. It also expects that more attention will be paid to dispute avoidance within the general framework of dispute settlement and resolution.

39. AfDB's Sustainable Development Division states that the Guidelines are well-written and adequate for the purposes of the Convention. In this regard, the Guidelines cover the minimum requirements in terms of access to information and public participation in line with the objectives of the Convention. However, the paragraph with respect to the access to justice pillar of the Convention is somewhat short. AfDB suggests that this section be expanded on the basis of the international experiences involving compliance and review procedures.

Specific comments on specific provisions

40. The majority of the international forums' comments are of a general nature, not expressly directed to particular provisions of the Guidelines. However, seven forums, namely UNEP's Division of Early Warning and Assessment, the IWC secretariat, the CMS secretariat, EBRD, ICWC's Scientific Information Center, the Sava Commission secretariat and UNESCAP provide comments on specific provisions of the Guidelines as well. A synthesis of their comments is set out in the annex.

ANNEX
Comments on specific provisions of the Guidelines

<i>Paragraph</i>	<i>Paragraph text</i>	<i>Forum</i>	<i>Comments</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.	IWC	The IWC secretariat comments "Given the challenging working environment of the Commission, the second sentence of paragraph 1 of the Guidelines, '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', seems particularly important." ³
2 (a)	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.);	EBRD	EBRD's response suggests to amend paragraph 2(a) to read '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, <i>applied strategy and policies that affect environment, safety, social issues, communication within a specific sector or geographical area, etc.</i>);'
4 (c)	These Guidelines relate to international forums, including: (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;	EBRD	EBRD's response comments "There may be an over-emphasis on international conferences in [the Guidelines] - they are only one type of communication, and not a primary one for providing rights of access to information, decision-making or justice."

³ Direct quotations from the responses received from the international forums are indicated by double quotation marks (""). Excerpts from the Guidelines are shown by single quotation marks ("). Possible amendments to the Guidelines proposed in the international forums' responses are shown in italics.

<i>Paragraph</i>	<i>Paragraph text</i>	<i>Forum</i>	<i>Comments</i>
4 (e)	These Guidelines relate to international forums, including: (e) Decision-making processes within the framework of other organizations in matters relating to the environment.	EBRD	EBRD's response suggests to amend paragraph 4(e) to read 'decision-making processes within the framework of other international organizations in matters <i>that may be relevant to the environment, such as applied policies or strategies relevant to sector development or geographical areas.</i> ' EBRD's response comments "It may not just be on environmental documentation – it could be an energy policy, or the Balkan Stability Pact, or some other regional initiative where environment needs to be taken into consideration. The wording of the Guidelines should be generic enough so that people affected by the various decision-making processes can have input - regardless of whether the word 'environment' is in the title."
5	These Guidelines relate to all international stages of any relevant decision-making process in matters relating to the environment.	EBRD	EBRD's response suggests to add ' <i>or that may have an impact on the environment</i> ' to the end of the sentence.
		UNESCAP	UNESCAP's Environment and Sustainable Development Division comments "While the guidelines are indicated as relating to 'all international stages of any relevant decision-making process', it is clear that at the international stage, many important decisions have been taken that would benefit from (non-international) public participation and information access before the 'international stage'."
General considerations			
13	There may be a need to adapt and structure international processes and mechanisms in order to ensure meaningful and equitable international access.	ICWC	The ICWC's Scientific Information Center suggests that the provision should be stated as an obligation rather than as 'may be'.
		EBRD	EBRD's response suggests to amend paragraph 13 to read "There may be a need to adapt and structure international processes and mechanisms in order to <i>identify affected stakeholders</i> and ensure meaningful and equitable <i>access for them to information that may have an impact on the environment. In addition, other stakeholders who are not directly affected, may have an interest in the information, and this also should be accommodated wherever possible.</i> "

<i>Paragraph</i>	<i>Paragraph text</i>	<i>Forum</i>	<i>Comments</i>
14	In any structuring of international access, care should be taken to make or keep the processes open, in principle, to the public at large.	EBRD	EBRD's response suggests to add ' <i>but particularly designed in a way that the affected stakeholders can participate</i> ' to the end of the sentence. EBRD's response comments "International organizations develop policies for investment in developing countries—and design communication programmes that are easy for international non-governmental organizations to participate—but less often, for the people in the country actually affected to participate. The mechanisms selected, such as internet access, email comment, may not be appropriate for the affected public."
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 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.	Sava Commission	The Sava Commission's secretariat comments "[D]ue to different socio-cultural circumstance and economic and political influence special measures should be taken ...and we would expect that some of the measures should be incorporated into the Guidelines."
		ICWC	The ICWC's Scientific Information Center comments "In [paragraph] 15 the meaning of 'special measures' to ensure balanced and equitable process should be clarified." "Participation of all stakeholders should be facilitated." It suggests to amend the last phrase of the paragraph to read 'and <i>particularly</i> 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.	ICWC	The ICWC's Scientific Information Center suggests to amend paragraph 16 to read ' <i>In the case of a physical person</i> , international access should be provided without discrimination on the basis of citizenship, nationality, <i>sex</i> 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 <i>according to national legislation</i> . <i>It is strongly recommended to keep gender balance when providing international access.</i> '

<i>Paragraph</i>	<i>Paragraph text</i>	<i>Forum</i>	<i>Comments</i>
17	Capacity-building may be important to facilitate international access for the public concerned, in particular NGOs promoting environmental protection, and especially in developing countries and in countries with economies in transition.	UNEP	UNEP's Division of Early Warning and Assessment comments "Fast and reliable internet access is an issue for developing countries and the reference to capacity building in para 17 is very important. Aside from webcasting, the simple downloading of documents from websites can take as long as one hour for developing country users with limited bandwidth." "The reference to capacity building in para17... should perhaps be brought to the attention of the United Nations Development Group."
Access to 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.	EBRD	EBRD's response comments "[T]here needs to be a differentiation between information held by an institution and information generated by that institution. We have control over the information we generate. We cannot make the same promises regarding release of information...submitted to us by third parties, for example, private sector project sponsors. This information does not belong to us and is submitted under confidentiality agreements in most cases." The response suggests that the phrase 'environmental information that they hold' in paragraph 19 might be amended to be ' <i>environmental information that they originate.</i> '
21	The availability of appropriate 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.	EBRD	EBRD's response comments "We would suggest not specifying webcasting, but make it more general - to consider different technologies that may be useful. The key issue is whether or not they are reaching first, the affected public, and secondly, the interested public. The first category may not have as high tech access as the second category of people. In the transition countries, for example, access to this technology may be non-existent or extremely limited." The response suggests to delete 'Where appropriate, live webcasting of events and alternative methods to reach a broader public should be considered' and to replace it with ' <i>Consideration should be given to method of release to reach the interested public, taking into account new technologies and methodologies.</i> '

<i>Paragraph</i>	<i>Paragraph text</i>	<i>Forum</i>	<i>Comments</i>
22	Environmental information should be provided proactively, in a meaningful, accessible form, including, as appropriate, in the official languages of the concerned international forum, 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.	ICWC	The ICWC's Scientific Information Center suggests that 'proactively' and 'proactively in a meaningful, accessible form' should be clarified. It also suggests that the Russian language version of the Guidelines sentence should be slightly edited to read ' <i>Environmental information should be provided in a meaningful and accessible form in [a] proactive manner</i> '.
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, recalling that the time limit under the Convention is one month.	EBRD	EBRD's response comments "We suggest that there should be a 'reasonableness test' associated with requests. We frequently get requests phrased 'Give me all your information on projects in (specific country)'. This is not specific enough [a] request to be manageable – a country may have hundreds of projects, etc. and the resources needed to accommodate such a request are unreasonable."
25	Requests for environmental information should be permitted to be refused only on the basis of specific grounds for refusal, taking into account the relevant provisions of the Convention, including the requirement that grounds for refusal should be interpreted in a restrictive way, taking into account the public interest in disclosure.	EBRD	EBRD's response comments "[T]his may differ slightly for institutions, which are talking about information that is in the public interest to make transparent – whereas for Parties under the Convention – you are talking about people's inherent rights to information held by their government. Some differentiation may be in order here – or simply specify that [i]nstitutions should clearly state the types of information that will not be released and definitions of confidentiality in a publicly available policy (e.g. personnel information, commercially confidential information, etc)."

Paragraph	Paragraph text	Forum	Comments
Public participation in decision-making			
31	<p>While an international forum, or a process within it, should in principle be open to the participation of the public, the number of members of the public concerned participating in the meetings 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.</p> <p>Such procedures should be transparent, fair, timely, accountable and accessible, and aimed at securing meaningful and equitable participation, while avoiding excessive formalization.</p> <p>Selection criteria may include field of expertise, representation in geographic, sectoral, professional and other relevant contexts, and knowledge of the working language, having due regard for paragraphs 17 and 18.</p>	CMS	The CMS secretariat comments “More practical guidance could be provided on difficult situations, like the handling of closed sessions. More details could also be provided in para 31, providing examples [of the] actions described.”
35	Public participation procedures in international forums should include reasonable time frames for the different stages, 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.	ICWC	The ICWC’s Scientific Information Center suggests to amend the final sentence to read “The opportunity to participate in a given international decision-making process should be provided at <i>any stage, including the process of project proposal preparation</i> , when options are still open and effective public influence can be exerted.’

<i>Paragraph</i>	<i>Paragraph text</i>	<i>Forum</i>	<i>Comments</i>
36	The public 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 feasible, 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.	UNEP	UNEP's Division of Early Warning and Assessment comments "The reference in para 36 to the web as a means of engaging with the public and obtaining comments on draft documents under preparation for international forums is very timely and relevant." [but] "will present some challenges. It should be noted that there are language considerations to be taken into account. Drafts may only be available in English and this may rule out the receipt of comments from non-English speakers. Furthermore, individuals and organizations in developing countries may have difficulty in accessing documents due to bandwidth limitations. With respect to draft decisions, it may be very difficult for the public to influence decisions that are prepared by the secretariats of international forums and the delegations of member states. It has to be assumed that non-governmental and civil society organisations, as representatives of the public, would scrutinise draft decisions and provide comments on them, which may lead to subsequent amendments by member states."
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, facilitating the public availability of documents submitted by the public.	EBRD	EBRD's response suggests that the phrase ' <i>due account should be taken of the outcome of public participation</i> ' may be more appropriate phrasing for Parties. EBRD's response comments "For institutions, our boards of directors are not Parties and have not granted the public a specific role in participating in decision-making - only in taking public comments into account, in most cases."

<i>Paragraph</i>	<i>Paragraph text</i>	<i>Forum</i>	<i>Comments</i>
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.	EBRD	EBRD's response suggests to amend 'with a view to maximising participation' at the end of the provision to read ' <i>with a view to allowing full participation, with particular emphasis on affected stakeholders.</i> ' EBRD's response comments "We would suggest that the goal is not maximising participation for the sake of large scale initiatives – which have significant resource costs in planning, managing, and implementation. The key is to identify the relevant stakeholders and to ensure full participation for those affected, and as much participation as possible for those who are interested. The goal should not be to just make it as big as possible – but to make it as meaningful as possible."