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Substantive issues: public participation in international forums

Good practice and challenges for public participation in international forums

Report prepared by the secretariat in cooperation with the Chair of the Task Force on Public Participation in International Forums

Summary

The document was prepared pursuant to the work programme for 2009–2011 for the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, adopted by the Meeting of the Parties to Convention at its third session (11–13 June 2008) (see ECE/MP.PP/2008/2/Add.17), and the decision of the Working Group of the Parties at its thirteenth session (Geneva, 9–11 February 2011) (ECE/MP.PP/WG.1/2011/2; para. 10).

Contents

I. Introduction

1.   The context for the present document is the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, (Aarhus Convention), which entered into force in 2001. The Aarhus Convention grants rights to the public, and imposes on Parties and their public authorities obligations concerning access to information, public participation in decision-making and access to justice regarding the environment. Building on Principle 10 of the 1992 Rio Declaration, the Aarhus Convention operates from the premise that sustainable development can be achieved only through the involvement of all stakeholders, and links environmental and human rights, and environmental protection and government accountability. It focuses on interactions between the public and public authorities in a democratic context and particularly on accountability, transparency and responsiveness within and between Governments. Although the Aarhus Convention was elaborated at a regional level, under UNECE, other regions may lack similar obligations and be interested in following the Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums (ECE/MP.PP/2005/2/Add.5),[1] in order to ensure best practice.

2.   The Almaty Guidelines were adopted by the Meeting of the Parties to the Aarhus Convention in Almaty, Kazakhstan, in May 2005. The Meeting of the Parties established a Task Force to enter into consultations regarding the Guidelines with relevant international forums. Approximately 50 international forums took part in the consultation process, which was carried out from mid-2006 to mid-2007, culminating in an international workshop attended by representatives of international forums, government, academia and civil society.

3.   This document reflects much of the good practice in promoting public participation in international forums identified during the consultation process, and subsequently by the Task Force.[2] In doing so, it is hoped that this document will provide a user-friendly reference for those interested in an overview of many of the leading good practices in this area. It should be noted that the examples referred to throughout this document do not necessarily represent the only forums engaging in each particular practice, but are highlighted to serve as illustrations.

4.   This document also points out the efforts and the remaining challenges for international forums to keep up with a growing need and demand, for public participation in decision-making in general and in international forums in particular. Recent encouraging innovations include the compliance mechanisms adopted under some multilateral environmental agreements and the independent review mechanisms established by a

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[1]   The Almaty Guidelines are available on the Convention website at
http://www.unece.org/env/documents/2005/pp/ece/ece.mp.pp.2005.2.add.5.e.pdf .
The Almaty Guidelines will be included as an annex in the online publication, which wll be based on the present document.

[2]   The text of this document is drawn from the six official documents produced as a result of the consultation process: "Synthesis of responses received from international forums to the written questionnaire in the consultation process on the Almaty Guidelines" (ECE/MP.PP/WG.1/2007/L.2) and its five addenda — Rules, practices and procedures on access to information and access to justice (Add.1), Rules, practices and procedures on public participation (Add.2), Current and future work plans (Add.3), Challenges (Add.4) and Comments on Almaty Guidelines (Add.5), all available at http://www.unece.org/env/pp/wgp.htm (under seventh meeting). The responses received from international forums are available online at http://www.unece.org/env/pp/ppif-response.htm.

number of international financial institutions. These are quite complex institutional provisions; however, much progress can come from some quite simple innovations, such as responding to the increased opportunities from growing Internet access and rapid expansion of social networking, which continue to increase the public's aspirations and expectations of involvement. International forums need to remain alive to the changing context for participation. At the same time, however, not everyone is at ease with, or able to use such mechanisms and they may not be appropriate in some situations. Hence, the need for continuing innovation around more traditional methods also remains: to find appropriate venues, tools and processes to enable meaning participation which is gender and culturally sensitive and includes all interest groups, including the disadvantaged and minority groups.

II. Access to environmental information

A. Good practices

5. International forums use a wide variety of ways to provide access to information to the public. Some of their practices are formalized and incorporated in their rules of procedure. Others are not formalized but are used in the forum's everyday practice. Examples of good practices regarding access to information are set out below.

1. All official documents and reports are public documents and published through the website

6. The United Nations Framework Convention on Climate Change (UNFCCC) makes all official documentation available in the six official United Nations languages[3] immediately following release, and publishes them on its website.

2. In addition to all official documents, unofficial documents are also available

7. The UNECE Convention on the Transboundary Effects of Industrial Accidents (Industrial Accidents Convention) makes all official and non-official documents of the Conference of the Parties and its subsidiary bodies publicly available on its website.

3. Parties' national reports are made available on the website

8. The Convention on Biological Diversity (CBD) posts all its national reports on its website

9. The International Atomic Energy Agency (IAEA) posts all national reports from its member States on its website.

10. The UNECE Convention on Long-range Transboundary Air Pollution posts all responses from Contracting Parties to its biennial questionnaire on strategies and policies on its website.

4. Documents are made available before meetings of the international forum

11. The European Environment and Health Committee (EEHC) makes all documentation for its meeting available on its website prior to meetings.

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[3] Arabic, Chinese, English, French, Russian and Spanish.

12.   The Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention) also makes all of its meeting documentation available on its website prior to meetings.

5.   Non-governmental organizations have access to draft documents and are able to comment

13.   The UNECE Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) includes non-governmental organizations (NGOs) on its electronic mailing lists for draft documents issued for consultation. Comments on such documents are accepted from anyone, provided they are not anonymous.

6.   Prompt responses to information requests from the public

14.   The secretariat of the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) has a policy of responding to requests for information from the public, typically within a few days, including sending information by post without charge.

7.   Official policy document on access to information

15.   The European Bank for Reconstruction and Development (EBRD) has a Public Information Policy, which sets out the principles of transparency and the definition of confidentiality. It commits to the release of certain information through EBRD Publications Offices and Resident Offices and through the EBRD website (www.ebrd.com), and also covers issues of translation.

16.   The Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) in its Mediterranean Action Plan defines objectives related to information and participation activities.

8.   Communication plan or strategy

17.   The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention) has an Outreach and Communications Plan indicating actions and areas for work on public information.

9.   Webcasting of major events

18.   Recent sessions of the United Nations Environment Programme (UNEP) Governing Council/Global Ministerial Environment Forum have pilot-tested live webcasting.

10.   Parties legally required to provide access to information

19.   The Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention) requires Contracting Parties to ensure that information on the condition of the Baltic Sea and the waters in its catchment area, together with information on actual or planned measures to prevent and eliminate pollution, and the effectiveness of those measures, is available to the public.

11.   Clearinghouse mechanism

20.   The Cartagena Protocol on Biosafety to CBD hosts the Biosafety Clearinghouse, a global clearinghouse on all matters relating to biosafety.

21.   The Stockholm Convention, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Basel Convention on the Control of Transboundary Movements of Hazardous

Wastes and their Disposal are implementing a shared Clearing-House Mechanism as a joint activity.

12. Information on the international forum and its processes

22.   The secretariat of the Bonn Convention has a specific mandate from the Convention to provide information about the Convention and its objectives to the general public.

13. Information on the subject matter covered by the international forum

23.   The website of the UNECE Water Convention provides extensive substantive information on transboundary water cooperation in the region and links to other sources of information, such as links to the official websites of river commissions.

14. Project evaluations made public

24.   The Nordic Environment Finance Corporation evaluates all its projects before, during and after investment, and their combined environmental effects are published annually. The Corporation's annual environmental report includes a non-formalized report on its in-house environmental burden.

15. Dedicated information unit

25.   The Barcelona Convention has established an Information Union within its Convention secretariat to address information and communication.

16. Translations into national languages

26.   A number of Parties to the Espoo Convention have provided translations of the Convention, its Protocol on Strategic Environmental Assessment and practical guidance into their national languages.

17. Producing informative brochures and publications

27.   The World Bank East Asia and Pacific Regional Department publishes the "Environment Monitor" to disseminate available information on key environmental trends in countries in that region.

28.   The International Convention for the Protection of the Alps (Alpine Convention) publishes several publication and brochures on its website, and it is possible to obtain a hard copy on request.

18. Disseminating electronic newsletters

29.   The Organization of American States (OAS) Department of Sustainable Development sends out information bulletins on civil society initiatives (via e-mail and regular post) and a quarterly newsletter with updates on its activities.

19. Circulating documents to Parties and non-governmental organizations at the same time

30.   The Water Convention distributes documents, announcements and other information electronically to NGOs at the same time as to its Parties.

20. Use of media to disseminate information

31.   Members of the International Sava River Basin Commission (Sava Commission) and its secretariat give media interviews via newspapers, radio and television.

32.   The Northwest Atlantic Fisheries Organization (NAFO) has a media policy in place that allows journalists to attend the opening and closing sessions of meetings. NAFO publishes press releases directly after its annual meeting.

33.   Civil society give press briefings at sessions of the UNFCCC Conference of the Parties, which allows them to share their views on the negotiations, and helps to translate the technical/diplomatic language of the negotiating process into more user-friendly language.

34.   Earth Negotiations Bulletin, an independent expert service of the International Institute for Sustainable Development, provides a free daily reporting service, both electronically and in hard copy, on the meetings of many international forums.

21.   Training and awareness-raising at the national level

35.   The International Fund for Agricultural Development works at the country/project level through targeted training to raise awareness regarding the environment.

22.   Use of website to provide detailed information

36.   The Water Convention has carried out an assessment of transboundary waters in the UNECE region. The assessment makes available to the public information on the pressures on water resources, their status and trends, together with the policy responses implemented to address water management issues. The assessment is available on the Water Convention website.

37.   The Alpine Convention has a dedicated climate change web portal , linked to the Convention website, containing various information.

23.   Using web-based graphic images to disseminate information

38.   The EEHC hosts a user-friendly web-based map on its website to provide information on countries' activities to support the implementation of the commitments made at Ministerial Conferences on Environment and Health. The implementation map is regularly updated and also contains information on relevant activities by NGOs in the countries.

24.   Documents on Parties' compliance made public

39.   With the agreement of the Committee and the Parties concerned, the Espoo Convention places correspondence between the Committee and Parties on its website to illustrate the approach of its Implementation Committee.

25.   Web-based video conferencing and webcasting

40.   The UNFCCC webcasts present many of its events, including plenary sessions of the Conference of the Parties and of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol; official press conferences; selected special events and side events; and other key activities held during the official sessions, including meetings of the Clean Development Mechanism Executive Board and the Joint Implementation Supervisory Committee. This webcasting process allows the public a more complete view of the process.

41.   The Environment and Sustainable Development Division of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) is trialling web-based video-conferencing and webcasting to address the cost constraints of growing public participation in its processes.

26.   **Special events and festivals**

42.   The secretariat of the United Nations Convention to Combat Desertification (UNCCD) organized numerous events during the International Year of Deserts and Desertification in 2006 to foster awareness-raising, education and capacity-building. These included a meeting about the role of civil society in combating desertification, an International Symposium on Desertification and Migration and a film festival entitled "Desert Nights — Tales from the Desert".

27.   **Regular upgrading of website, including in multiple languages**

43.   The UNFCCC secretariat continuously reviews and improves its website for usability and content, which is a constant challenge as the climate change process becomes more technical and involves more economic sectors.

44.   The International Tropical Timber Organization (ITTO) has upgraded its English website, and is in the process of developing English, Spanish and Japanese versions.

B.   Ongoing challenges

45.   Despite the many ways that international forums are working to provide access to information, a number of important challenges remain, as detailed in this section.

1.   Limited funding

46.   The Environment and Sustainable Development Division of ESCAP reports that funding is the chief constraint to maximizing access to information, particularly because of high translation costs due to the many languages spoken in its region. Many other international forums share this concern.

2.   Poor access to information technology

47.   Internet use is still not an everyday tool in many countries in the Latin American and Caribbean region covered by OAS, particularly in small rural towns and indigenous communities.

48.   The Espoo Convention secretariat indicates that distribution of materials by e-mail in Eastern European, Caucasian and Central Asian countries is sometimes restricted by technical problems.

49.   The UNCCD secretariat reports that the gap between developed and developing countries in access to information technology constitutes a major stumbling block to allowing full public participation in environmental matters.

3.   Presenting information in an accurate and objective but user-friendly style

50.   The Caribbean Environment Programme (UNEP-CEP) secretariat reports that it is a challenge to present environmental information in a user-friendly but accurate style. Environmental data is often presented in a scientific format that does not generate much interest. Alternatively, it may be presented in a sensational style, which is open to misinterpretation.

4.   Multiple languages and high costs of translation

51.   The Espoo Convention secretariat reports that language barriers are a challenge to the dissemination of environmental information in its region, a challenge which is exacerbated by funding constraints for providing translations into other languages.

5. **Lack of infrastructure to generate, analyse and disseminate environmental information**

52.   UNEP-CEP remarks that there is a lack of an appropriate infrastructure for data generation, analysis and dissemination in some countries in its region, a lack of adequate baseline environmental data and information, and inadequate mechanisms for data compilation, analysis, interpretation and dissemination.

III.   Public participation in decision-making on environmental matters

A.   Good practices

53.   Public participation can be promoted in many different ways. Some of these are formalized, through ensuring provisions promoting public participation are included in international forum's rules of procedure, or in international instruments themselves. In addition, modern information technology has provided a range of new opportunities to promote public participation. Examples of good practices regarding promoting public participation in international forums are set out below.

1.   Meetings in open session

54.   Meetings of the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Committee are held in public unless decided otherwise by the Committee. This rule cannot be suspended by the Bureau.

2.   Access to meeting documentation

55.   The rules of procedure of the Standing Committee of the Conservation of European Wildlife and Natural Habitats (Bern Convention) require both Contracting Parties and observers to receive meeting documents at least one month before the meeting concerned.

3.   Opportunity to receive and distribute comments on unedited working documents

56.   In the process leading up to sessions of the UNEP Governing Council/Global Ministerial Forum, accredited civil society organizations have the possibility to receive unedited working documents at the same time as the Committee of Permanent Representatives and to submit written comments on these to the UNEP secretariat for distribution to Governments.

57.   During the drafting of its safety standards, the IAEA make public the draft standard on the IAEA website for comments.

4.   Speaking rights, making proposals and raising points of order

58.   The rules of procedure applied by the Strategic Approach to International Chemicals Management process allow NGO participants to speak, to put forward proposals and to raise points of order in the same manner as Governments and intergovernmental participants (although only Governments have voting rights).

5.   Written statements

59.   The Framework Convention on the Protection and Sustainable Development of the Carpathians (Carpathian Convention) provides the framework for cooperation and multisectoral policy coordination, a platform for joint strategies for sustainable

development and a forum for dialogue between all stakeholders involved. In doing this it allows observers to circulate written statements at meetings.

6. Interventions under any agenda item

60. The ITTO has a policy of allowing anyone admitted to its open meetings to contribute under any agenda item. There is also a regular Council agenda item on inputs from observers.

7. Civil society documents as part of official documentation

61. Discussion papers and "priorities for action" papers produced by the major groups participating in the United Nations Commission on Sustainable Development (CSD) are distributed as part of CSD official documentation, in all official United Nations languages, without editing for content.

8. Financing of travel for non-governmental organization representatives

62. The United Nations Forum on Forests (UNFF) provides financial assistance towards the travel costs of representatives of major groups in order for them to attend its meetings.

9. Who may participate

63. The rules of procedure of the UNEP Governing Council state that international NGOs having an interest in the field of the environment may designate representatives to sit as observers at public meetings of the Governing Council and its subsidiary organs.

64. The rules of procedure of CBD provide for the representation of "any body or agency, whether governmental or non-governmental" at meetings of the Conference of the Parties and its subsidiary bodies as observers, unless at least one third of the Parties present at the meeting object.

65. Other international forums impose other requirements such as one or more of the following: that observers be qualified in matters covered by the Convention,[4] support the forum's objectives,[5] have a well-organized internal structure[6] and may or may not provide for the possibility for one third of the Parties to veto participation.

10. Non-governmental organizations as official members of the forum

66. EEHC has three NGO members, representing trade unions, and the health and the environment sectors, respectively. There are also two youth delegates. Other relevant NGOs are invited to attend meetings as observers.

67. The Alpine Convention has various Working Groups and Platforms (eight at March 2011, plus two newly decided at the last Conference of the Parties). These Working Groups and Platforms prepare the policy documents which are then approved by the Ministers. The concrete work of the Working Group and Platforms benefits from the active participation of the public (via the organizations which have observer status). Relevant recent examples are

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[4] UNCCD, Industrial Accidents Convention, Bern Convention, Carpathian Convention.

[5] Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, International Commission for the Protection of the Danube, International Commission for the Protection of the Rhine.

[6] Helsinki Commission, International Commission for the Protection of the Danube, International Commission for the Protection of the Rhine.

the guidelines for small hydropower stations in the Alps and the guidelines for the management of large carnivores, both adopted at the last Conference of the Parties and drafted in close collaboration with the observers (environmental NGOs and also hunters' associations).

11. Electronic consultation platform

68. Since 2006, the OAS has hosted a virtual consultation forum to obtain comments and recommendations from civil society in the framework of the meetings of the Inter-American Meeting of Ministers and High-level Authorities on Sustainable Development.

12. Side events and exhibits

69. More than half of the side events at the UNFCCC Conference of the Parties are organized by civil society. In addition, exhibits allow NGOs to share their climate change activities, publications and viewpoints.

13. International forums working together to promote public participation

70. In 2006, the Baltic 21 Nordic Environment Finance Corporation (NEFCO), the Nordic Investment Bank (NIB), the EBRD, the Council of Europe Development Bank and the European Investment Bank signed the European Principles for the Environment (EPE), which among other things aim to promote best European Union practice in the fields of environmental management, transparency, public consultation and reporting. The Aarhus Convention is one of the treaties cited as supporting material under EPE.

14. Grouping the public seeking to participate into "major groups" or "constituencies"

71. UNFCCC manages the high level of civil society interest in its processes through the use of a constituency system. Civil society may participate through one of nine constituencies: business and industry NGOs; environmental NGOs; farmers; indigenous peoples' organizations; local government and municipal authorities; research and independent NGOs; trade unions; women and gender; and youth.

15. Promoting the participation of special interest groups

72. OAS is focusing on ensuring the presence of indigenous peoples during public consultations.

73. UNCCD has held conferences on women and desertification and young people and desertification.

16. Public participation in the subject matter of the international forum

74. Recommended actions in the Seville Strategy (1996) of the UNESCO Man and the Biosphere Programme (MAB) include the preparation of guidance on surveying the interests of stakeholders and fully involving them in planning and decision-making regarding the management and use of biosphere reserves.

75. Several of the IAEA safety standards address public participation, particularly regarding radiation and nuclear safety practices and in respect of the siting of facilities using or involving radioactivity, which can impact the environment.

17. Focused dialogue sessions and round tables

76. Two open dialogue sessions on NGO activities are scheduled within the official programme of meetings of UNCCD.

77.   Contracting Parties to the Barcelona Convention have established the Mediterranean Commission for Sustainable Development, a forum for dialogue on sustainable development issues and an advisory body to the Contracting Parties. NGOs, socio-economic actors, academic and research institutions and other stakeholders may participate in the Commission's meetings and activities on an equal footing with Contracting Parties to the Convention.

78.   The Inter-American Development Bank (IADB) organizes region-wide meetings each year where members of civil society are invited to meet with the President of the Bank and Bank officials to discuss important areas of concern. The results of the meeting are disseminated within the Bank and the NGO community.

79.   The African Development Bank (AfDB) has established a joint Bank-NGO Committee as a formal and permanent forum to promote dialogue with NGOs.

18.   Stakeholder conferences

80.   In 2006 and 2007, stakeholder conferences were held to facilitate the involvement of the public and other sectors in the development of the Baltic Sea Action Plan of the Baltic Marine Environment Protection Commission (Helsinki Commission/HELCOM). The conferences were intended to get input and commitments at the local, national and regional levels, as well as from the private sector.

19.   Meetings between civil society and high-level representatives of the international forum

81.   The UNFCCC Clean Development Mechanism has institutionalized question-and-answer sessions with the Clean Development Executive Board for observers.

82.   As mentioned previously (see para. 78 above) IADB organizes region-wide meetings each year during which the President of the Bank and Bank officials discuss important issues with civil society..

20.   Web-based platforms for exchange

83.   European members of the UNESCO-MAB programme have established a EuroMAB web platform for more systematic exchanges on cooperative activities in the network.

21.   Evaluation of participatory aspects of proposed projects

84.   The ESCAP Programme and Project Management Guide requires every ESCAP project concept to be reviewed by a Quality Assurance Team, who assesses the concept based on whether participatory approaches have been employed in designing the project and whether appropriate project partners are clearly identified.

22.   Official policy on public participation

85.   The IADB Strategy to Promote Citizen Participation in Bank Activities lays out the Bank's commitment and approach to public participation and transparency in its activities in general, including matters relating to the environment and sustainable development.

86.   The Staff Guide to Consultation and Participation (2006) of the Asian Development Bank is designed to assist staff in their engagement of stakeholders in its operations.

23. Formal review of civil society policies

87. Prior to the 2007 Meeting of the Parties to the Barcelona Convention, a review of the Convention's partnership policy with civil society was carried out, including its criteria, modalities and effectiveness, concluding with the making of a proposal for the consideration of the Contracting Parties at the meeting. The Aarhus Convention's Almaty Guidelines were taken into account during the review.

24. Manual for civil society participation

88. OAS has a Manual for Civil Society Participation in OAS Activities, which explains in a straightforward manner the means by which NGOs can participate in and be connected to OAS activities and policymaking (available at http://www.civil-society.oas.org/).

25. Public participation mechanisms in the preparatory stages of international forums

89. In 1997, CSD initiated its "organizing partners' mechanism" to reach out to its major groups worldwide. Under the mechanism, a steering group of organizing partners from each major group engages in consultations with their groups' networks to draft a "discussion paper" or a "priorities for action" paper (depending on the year of the implementation cycle), which represents a common platform for each sector. The CSD secretariat reports that this approach allows the secretariat and the Bureau to consult in a more timely fashion with major groups during the preparatory phase of CSD and to organize the participation of major groups in a more harmonious, targeted and coordinated fashion during the session itself.

B. Ongoing challenges

90. While international forums have developed many innovative ways to promote public participation in their processes, a number of important ongoing challenges remain. Challenges identified by international forums are detailed below.

1. Political will

91. The secretariat of UNFF notes that the rules and regulations of the United Nations regarding the participation of NGOs can be interpreted by member States in a broader or more restrictive manner, and that this can either enhance or curtail the participation of major groups in official meetings.

92. NEFCO reports that low governmental interest in environmental issues, corruption, weakly developed institutional routines, legislation and enforcement present a challenge in some of its target countries.

93. UNEP-CEP remarks that there can be a lack of a culture of using environmental data and information for decision-making and decision makers may have other economic and social priorities where linkages to environmental issues are not made.

2. Limited funding

94. Limited financial resources to support public participation in their processes are identified as a major challenge by a number of international forums. The secretariat of CBD remarks that this is particularly the case with NGOs and indigenous and local communities from developing countries and countries with economies in transition, which has in some meetings led to the underrepresentation of NGOs from developing countries and countries with economies in transition. At its seventh Conference of the Parties (Kuala Lumpur, February 2004), CBD established a voluntary funding mechanism to facilitate the

participation of indigenous and local communities in meetings under the Convention, giving special priority to those from developing countries, countries with economies in transition and small island developing States.

3. Ensuring representativeness

95.   The ESCAP Environment and Sustainable Development Division remarks that it is critical to ensure that issues brought to the table benefit from and reflect the viewpoints of a wide range of stakeholders so that the practical limitations of participation at the international stage are mitigated.

4. Facilitating the participation of special interest groups

96.   EEHC indicates that facilitating the participation of a special interest group — in its case the involvement of youth — can present challenges, in particular to establish mechanisms and funding to facilitate their participation.

97.   The UNESCO World Heritage Centre states that the biggest challenge is for access to decision-making at the local, i.e., site level, and that transparency of processes is necessary to make people feel partners in site management.

5. Fluctuating or low level of civil society involvement and awareness

98.   A number of international forums, for example, the United Nations Commission on Science and Technology for Development, the Mediterranean Action Plan and the UNECE Committee on Environment Policy remark that participation in their processes is somewhat low and, in some cases, based mainly on funding by the secretariat. The Sava Commission reports that a lack of knowledge among the public also presents a challenge.

99.   The AfDB Sustainable Development Division remarks that, in a number of countries, NGOs and civil society are either non-existent or else have limited influence.

6. High level of civil society involvement

100.   The secretariat of the UNFCCC indicates that its process attracts many thousands of participants, and the secretariat faces challenges channelling this interest to provide useful inputs into its processes. It reports that the development of its "constituency" system has helped to allow the representation of different perspectives in order to provide input in a fair, transparent manner.

101.   The secretariat of the UNECE "Environment for Europe" process indicates that the major challenges it faces are mostly related to practical difficulties, such as the limited capacity of meeting rooms.

102.   The International Whaling Commission has adopted an NGO Code of Conduct, with the aim to prevent any disruptive civil society involvement.

7. Public participation in the implementation and evaluation of projects and workplans

103.   The AfDB Sustainable Development Division remarks that expanding public participation beyond the preparation of projects to include the implementation and evaluation phases presents a challenge.

8. Limited time frames

104.   The European Commission, in its capacity as a Party to the Cotonou Agreement between the European Communities and the African, Caribbean and Pacific States (Cotonou Agreement), notes that there is usually a limited time available for the preparation

of Country Environmental Profiles, which limits the possibilities for constructively engaging with civil society on environmental issues.

9. Coordinating divergent interests and differing expertise

105. The Sava Commission secretariat observes that participants in a process may have differing knowledge or expertise, e.g., on technical matters, economic or social issues, and that integrating these different skills is essential.

106. The secretariat of the Framework Convention for the Protection of the Marine Environment of the Caspian Sea (Teheran Convention) notes that lack of coordination among NGOs themselves may be a challenge to effective participation.

107. The NAFO secretariat observes that it can be challenging to strike a balance in accommodating the potentially conflicting interests of different stakeholders in the conservation of fishery resources.

10. Lack of clear rules on public participation, at both the national and international level

108. The Teheran Convention secretariat reports that, during the negotiations of the Convention and its Protocols, the absence of clear, transparent and regionally agreed rules on the participation and status of observers very often obstructed the aim of allowing the participation of relevant NGOs to the maximum extent possible.

109. EBRD observes that even though its own policies might allow for public participation on its projects, this does not ensure appropriate legislation to ensure stakeholder input at the national level.

11. Ensuring the right to freedom of expression and assembly

110. NGOs involved in past media stunts and demonstrations at international forums, such as UNFCCC meetings, report that arrangements have not in their view been in keeping with international standards. They consider that arrangements restrict the rights to freedom of expression and to peaceful assembly. NGO actions, such as small-scale media stunts and demonstrations, have been limited to a few designated places in areas with poor access to decision makers. This, and the requirement to register actions 48 hours in advance, was seen as limiting the ability of NGOs to contribute and comment effectively on the ongoing negotiations. The content of messages delivered during such actions is also constrained by additional requirements, such as the prohibition of specific references or of the use of impersonation.

12. Capacity-building

111. Some environmental agreements are of such global significance that new NGOs are continually joining the process. Many of these are newcomers to intergovernmental processes and need guidance on how to interact. The UNFCCC secretariat remarks that this task is often best carried out by NGOs already taking part in the process, with the secretariat providing support and expert information on the process.

13. Evaluating the effect of public participation

112. The secretariat of UNEP-MAP reports that evaluating the efficiency of public participation at the regional level can be difficult.

IV. Review procedures in environmental matters

113.   Two important innovations regarding access to justice in international forums are the compliance mechanisms adopted under some multilateral environmental agreements and the independence review mechanisms established by a number of international financial institutions.

1. Compliance mechanisms of multilateral environmental agreements

114.   Public involvement increases the legitimacy and effectiveness of a compliance review process and increases the public's trust in that process. The public may participate in the compliance review process either directly or indirectly. For example, direct involvement may include the right to nominate members of the compliance review body. To date, only the Aarhus Convention allows this.

115.   Another key way to directly involve the public is through the right to trigger the compliance mechanism. Direct involvement may also include the possibility for the public to attend meetings of the compliance mechanism and to make interventions. The Bern Convention, the Alpine Convention and the Water and Health Protocol to the Water Convention give the public the right to put compliance issues before their respective compliance mechanisms, to attend its meetings and to make interventions.

116.   Indirect involvement may include a right for the public to have access to information on pending cases, such as the current status of proceedings, and access to compliance documents, including in due course the findings, as well as the right to comment on nominations to the Committee. The compliance mechanism of the Water and Health Protocol allows the public to be indirectly involved in this way. The public may also be indirectly involved in any follow-up to implement the compliance mechanism's findings at the national level.

2. Redress mechanisms of international financial institutions

117.   A number of international financial institutions (IFIs) have independent review mechanisms by which local people who believe that they have been harmed by a project funded by a particular IFI can complain that it did not follow its own policies. For example, AfDB, IADB and EBRD all have independent review mechanisms in place.

Annex

List of international forums that participated in the Aarhus Convention consultation process

African Development Bank (AfDB)

Asian Development Bank (ADB)

Baltic 21 Nordic Environment Finance Corporation (NEFCO)

Baltic Marine Environment Protection Commission (Helsinki Commission/HELCOM)

Caribbean Environment Programme (CEP)

Convention concerning the Protection of the World Cultural and Natural Heritage (UNESCO World Heritage Convention)

Convention on Biological Diversity (CBD)

Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention)

Convention on the Conservation of Migratory Species of Wild Animals (CMS/Bonn Convention)

Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention)

Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (NAFO)

Convention on Long-range Transboundary Air Pollution (CLRTAP)

Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention)

Convention on the Protection of the Alps (Alpine Convention)

Convention on the Transboundary Effects of Industrial Accidents (Industrial Accidents Convention)

Cotonou Agreement between the European Communities and the African Caribbean and Pacific States (Cotonou Agreement)

"Environment for Europe" Ministerial Process

European Bank for Reconstruction and Development (EBRD)

European Environment and Health Committee (EEHC)

Framework Convention for the Protection of the Environment of the Caspian Sea (Teheran Convention)

Framework Convention on the Protection and Sustainable Development of the Carpathians (Carpathian Convention)

Inter-American Development Bank (IADB)

International Atomic Energy Agency (IAEA)

International Civil Aviation Organization (ICAO)

International Commission for the Protection of the Danube (ICPDR)

International Commission for the Protection of the Rhine (ICPR)

International Fund for Agricultural Development (IFAD)

International Maritime Organization (IMO)

International Monetary Fund (IMF)

International Tropical Timber Organization (ITTO)

International Whaling Commission (IWC)

Inter-State Coordination Water Commission of Central Asia (ICWC)

Organization of American States (OAS)

Sava River Basin Commission (Sava Commission)

Strategic Approach to International Chemicals Management (SAICM)

United Nations Commission on Science and Technology for Development (UNCSTD)

United Nations Commission on Sustainable Development (CSD)

United Nations Convention to Combat Desertification (UNCCD)

United Nations Economic and Social Commission for Asia and the Pacific (ESCAP)

UNECE Committee on Environment Policy

UNECE Committee on Housing and Land Management

UNECE Committee on Sustainable Energy

United Nations Educational, Scientific and Cultural Organization Programme on Man and the Biosphere (UNESCO-MAB Programme)

United Nations Environment Programme (UNEP)

UNEP Mediterranean Action Plan (UNEP-MAP)

United Nations Forum on Forests (UNFF)

United Nations Framework Convention on Climate Change (UNFCCC)

World Bank Group