

# AARHUS CONVENTION

## Brief Facts

UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention):

- adopted on 25 June 1998 in Aarhus, Denmark at the 4<sup>th</sup> 'Environment for Europe' Ministerial Conference
- entered into force on 30 October 2001
- 47 Parties including the EU
- grants public rights and imposes on Parties and public authorities obligations regarding access to information, public participation and access to justice, reinforced by the compliance review system
- the most far-reaching international treaty on environment and human rights
- the 1<sup>st</sup> multilateral environmental agreement to allow members of the public to bring cases before the Compliance Committee

# THE CARTAGENA PROTOCOL ON BIOSAFETY

## Brief Facts

The Cartagena Protocol on Biosafety to the Convention on Biological Diversity (Cartagena Protocol):

- adopted on 29 January 2000 in Montreal, Canada, by the First Extraordinary Meeting of the Conference of the Parties (EXCOP) to the Convention on Biological Diversity
- entered into force on 11 September 2003
- 172 Parties
- an international agreement to ensure the safe handling, transfer and use of living modified organisms (LMOs) resulting from modern biotechnology that may have adverse effects on biological diversity, taking also into account risks to human health

# AARHUS CONVENTION AND CARTAGENA PROTOCOL

## GENERAL PROVISIONS

### Aarhus Convention:

- detailed modalities and procedural requirements
- Aarhus Clearinghouse – host of practical material on implementation
- Lucca Guidelines on GMOs (2002) and the Almaty Amendment on public participation in GMO decisions (2005) – direct references to CBD and the Cartagena Protocol/national biosafety framework

### Cartagena Protocol:

- Article 23 - Public Awareness and Participation
- Article 20 - Information Sharing and the Biosafety Clearing-House
- Decisions BS-V/13 and BS-VIII/18 - Programme of Work on public awareness, education and participation regarding LMOs (2011-2020) and its Priority Areas

# GENERAL PROVISIONS OF THE AARHUS CONVENTION – HOW THEY APPLY TO GMOs

Aarhus Convention:

- **three pillars: access to information, public participation in decision-making and access to justice**
- **complementary and mutually supportive to the provisions of the national biosafety framework**
- **neither for nor against GMOs**
- **covers deliberate release into the environment<sup>1</sup>, placing on the market<sup>2</sup> and contained use<sup>3</sup> of GMOs**

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<sup>1</sup> by current Article 6 (11) of the Convention

<sup>2</sup> both – by Almaty Amendment

<sup>3</sup> all three – by access to information and access to justice provisions of the Convention and the Lucca Guidelines

# AARHUS CONVENTION ACCESS TO INFORMATION

## Aarhus Convention:

- “Environmental information” means any information in written, visual, aural, electronic or any other material form on: (a) The state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including **genetically modified organisms**, and the interaction among these elements; [(b) ...] - (Article 2 (3))

## Obligations of public authorities to:

- provide environmental information upon request (Article 4)
- collect and disseminate environmental information (Article 5)

# AARHUS CONVENTION ACCESS TO INFORMATION

Provision of environmental information upon request (Article 4):

- without an interest having to be stated
- in the form requested
- shall be made available ASAP and within 1 month at the latest
- a request may be refused on a limited list of grounds which shall be interpreted in a restrictive way
- refusal in writing if request was in writing or if applicant so requests; ASAP and at the latest 1 month unless complexity of information justifies extension to 2 months, in which case notice, including reasons, must be given; reasons for refusal to be stated; information on the review procedure to be provided
- charges for supplying information may be levied but shall not exceed a reasonable amount and shall be communicated by the public authority beforehand

# AARHUS CONVENTION ACCESS TO INFORMATION

## Disclosure of information

- **Presumption of maximum disclosure, incl. EIA and other assessments documentation**
- **Information on emissions shall be disclosed**
- **Optional grounds for refusal to be interpreted in a restrictive way, i.e. when the disclosure adversely affects (article 4 (4)):**
  - Proceedings of public authorities and personal data when confidential under national law
  - Commercial and industrial information when confidential under national law
  - Intellectual property rights; international relations, national defence, public security
  - The interests of a third party which has supplied the information voluntarily, and where that party does not consent to the release of the material; course of justice

**AND public interest served by disclosure should be always taken into account**

- **Information exempted should be kept under review and Information to be disclosed should be separated**

# AARHUS CONVENTION

## ACCESS TO INFORMATION

Active information dissemination (Article 5):

- **public authorities shall possess and update environmental information relevant to their functions**
- **mandatory systems ensuring an adequate flow of information to public authorities about proposed and existing activities which may significantly affect the environment**
- **in the event of any imminent threat to human health or the environment all information which could enable the public to take measures to prevent or mitigate harm arising from the threat and is held by a public authority is disseminated immediately and without delay to members of the public who may be affected**



# AARHUS CONVENTION ACCESS TO INFORMATION

Active information dissemination (Article 5):

- **sufficient information to the public about the type and scope of environmental information held by the relevant public authorities, the basic terms and conditions under which such information is made available and accessible, and the process by which it can be obtained**
- **establish and maintain free of charge publicly accessible lists, registers, databases etc.**
- **develop mechanisms with a view to ensuring that sufficient product information is made available to the public in a manner which enables consumers to make informed environmental choices**

# THE CARTAGENA PROTOCOL ON BIOSAFETY ACCESS TO INFORMATION

The Biosafety Clearing-House (Article 20):

- serves as a means through which information is made available
- provides access to information made available by the Parties relevant to the implementation of the Protocol
- also provides access, where possible, to other international biosafety information exchange mechanisms
- each Party shall make available to the BCH any information required to be made available to the BCH under the Protocol
- each Party shall endeavour to inform its public about the means of public access to the Biosafety Clearing-House (Article 23 (3))

# THE CARTAGENA PROTOCOL ON BIOSAFETY ACCESS TO INFORMATION

Information which shall not be considered confidential (Article 21):

- **the name and address of the notifier;**
- **a general description of the living modified organism or organisms;**
- **a summary of the risk assessment of the effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health; and**
- **any methods and plans for emergency response.**

# THE CARTAGENA PROTOCOL ON BIOSAFETY

## ACCESS TO INFORMATION

Public awareness and education (Article 23):

- Parties shall promote and facilitate public awareness and education concerning the safe transfer, handling and use of LMOs in relation to the conservation and sustainable use of biological diversity, taking also into account risks to human health
- Parties shall endeavour to ensure that public awareness and education encompass access to information on LMOs that may be imported
- Parties shall make the results of decisions regarding LMOs available to the public