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NOTE ON THE RULES OF PROCEDURE AND PRACTICES OF THE CONVENTION ON
BIOLOGICAL DIVERSITY AND ITS PROTOCOLS¹

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 Secretariat of the Convention on Biological Diversity²

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¹ This document was not formally edited.

² The Secretariat of the Biodiversity Convention was consulted on factual information included in the note.

I. Introduction

1. This note aims at providing a non-exhaustive commentary on compatibility of the rules of procedure and practices under the Convention on Biological Diversity and its Protocols³ with the Almaty Guidelines on promoting the application of the principles of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) in international forums.⁴ The Secretariat of the Biodiversity Convention was consulted on factual information included in the note.

2. The Convention on Biological Diversity was adopted on 22 May 1992 and entered into force on 29 December 1993. The Cartagena Protocol on Biosafety to the Convention on Biological Diversity was adopted on 29 January 2000 as a supplementary agreement to the Biodiversity Convention, and it entered into force on 11 September 2003. The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity is another supplementary agreement to the Convention. It was adopted on 29 October 2010 and entered into force on 12 October 2014. Both supplementary protocols are administered by the Secretariat of the Biodiversity Convention located in Montreal, Canada. Since 1994, annual or biennial meetings of the Conference of the Parties (COP) of the Convention have been held. The next meeting will take place in October 2021 in Kunming, China. The COP serving as the meeting of the Parties to the Protocols (COP-MOP) meet in conjunction with the regular meetings of the COP to the Biodiversity Convention.

³ For more information, see: <https://www.cbd.int/>.

⁴ Available at: <https://www.unece.org/index.php?id=21464>.

II. Access to information (paras. 19-27 Almaty Guidelines)

Description

3. In accordance with the set of Rules of Procedure⁵, the Secretariat will distribute the provisional agenda and other supporting documents at least six weeks before the meetings (rule 10). Subsequently, it will translate, reproduce and distribute documents of the meetings (rule 28(b)) and publish and circulate the official documents of the meetings (rules 28(c)). The Rules of Procedure are applied *mutatis mutandis* to the meetings of the COP serving as the meeting of Parties to the Cartagena⁶ and Nagoya⁷ Protocols.

4. In addition to making official meeting documents publicly available⁸, the website of the Convention contains a considerable amount of proactive information disclosure in line with paragraph 22 of the Almaty Guidelines. The website also displays drafts and documents in preparation for upcoming meetings made available for peer review.⁹

5. The Convention's website includes information central to the implementation and further development of the Convention, such as information on all designated country contacts responsible for operationalizing the Convention (National Focal Points)¹⁰. It also includes main information on the biodiversity of each country and measures taken to implement the Convention, such as national strategies, programmes, legislation and monitoring mechanisms.¹¹ Information is also provided on each country's National Targets and business engagement programmes. Under the Convention, Parties have reporting obligations (Article 26) and these reports are also made available online¹². The website also publishes National Biodiversity Strategies and Action Plans (NBSAPs) submitted by each country¹³. Further information is disclosed, among others, on the country's UNFCCC Profile, World Heritage Sites and WTO Statistics. The Knowledge Base Search facilitates the finding of information on each country.

6. With regard to the designation of information officers (para. 22 of the Almaty Guidelines), there is one general contact point for the Secretariat which is used on a routine basis to address any queries to the Secretariat,¹⁴ as well as information on the Division Contacts available online¹⁵. In addition, the designated contacts of the National Focal Points can be directly contacted by the public when information specific to a Party is sought.¹⁶ Neither the website nor other available documents further specify a set of policies or procedures on how to obtain access to environmental information (para. 19 of the Almaty Guidelines), nor indicate time limits (para. 24 of the Almaty Guidelines) or grounds for refusal (para. 25 of the Almaty Guidelines).

7. In a similar vein, the website provides information on the supplementary Protocols¹⁷, including information on the Parties and the COP-MOP, the documentation of past and the announcement of upcoming meetings. Further resources are provided on specific Protocol issues. For example, the website for the Cartagena Protocol provides information on key issues such as handling, transport, packaging and identification, information sharing, risk assessment and management, transit and contained use and unintentional transboundary movements.

⁵ See annex to COP decision I/1 as amended by COP decision V/20. Available at: <https://www.cbd.int/convention/rules.shtml>.

⁶ COP-MOP decision BS-I/1, available at: <https://www.cbd.int/decision/mop/?id=8281>.

⁷ COP-MOP decision NP-I/1, available at: <https://www.cbd.int/decisions/np-mop/?m=np-mop-01>.

⁸ See: <https://www.cbd.int/decisions/> ; <https://www.cbd.int/recommendations/>.

⁹ See: <https://www.cbd.int/meetings/>.

¹⁰ See: <https://www.cbd.int/information/nfp.shtml>.

¹¹ See: <https://www.cbd.int/countries/>.

¹² See: <https://www.cbd.int/reports/>.

¹³ See: <https://www.cbd.int/nbsap/>.

¹⁴ See: <https://www.cbd.int/contact>.

¹⁵ See: <https://www.cbd.int/secretariat/staff/>.

¹⁶ See: <https://www.cbd.int/information/nfp.shtml>.

¹⁷ See: <https://www.cbd.int/abs/> ; <https://bch.cbd.int/protocol/>.

8. Pursuant to the provisions of the Convention and decisions of its governing bodies, the Secretariat operates a clearing-house mechanism (CHM). The mission of the clearing-house mechanism is to contribute to the implementation of the Convention and the Strategic Plan for Biodiversity 2011-2020 through effective information services and other means to promote and facilitate scientific and technical cooperation, knowledge sharing and information exchange.¹⁸ It consists of three components: the CBD website, acting as the central node¹⁹, the network of national Clearing-House Mechanisms²⁰ and various partner institutions. The central node includes a service for the submission of information with an online reporting tool enabling parties to submit information.²¹ There are two additional platforms, the Access and Benefit-Sharing Clearing House (ABSCH), which is an information exchange platform established by the Nagoya Protocol²², and the Biosafety Clearing-House (BCH), which facilitates the exchange of information on Living Modified Organisms and is set up by the Cartagena Protocol²³. The website provides extensive information on the objectives and functioning of the Clearinghouse Mechanism²⁴, capacity-building workshops and toolkits²⁵ and the work of the Informal Advisory Committee on the mechanism²⁶. Those countries engaging in the best practices providing information are granted an award²⁷.

9. A dedicated section of the Convention's website outlines in more detail the history of the Convention²⁸ the relevance of biodiversity²⁹ and legal resources such as biodiversity-related law and case studies³⁰. Publications on the website also include information on the Strategic Plan for Diversity 2011-2020 (including Aichi Biodiversity Targets)³¹, the UN Decade on Biodiversity, which informs about actions and events in individual countries as well as private initiatives and campaigns³², and communication, education and public awareness programmes and strategies³³. Moreover, the Bodies of the Convention are presented on the website³⁴.

10. Information on the meetings of the COP and subsidiary bodies is also shared with a global audience through the Secretariat's social media channels, websites, and through engagement with the media, including both print and TV.

Assessment

11. The active dissemination of information under the Convention is laudable as all central documents provided by the Parties and created by the bodies to the Convention appear to be published. The Convention has also started using electronic information tools such as clearing-houses, databases and registers, which is a positive development in the sense of paragraph 21 of the Almaty Guidelines, and information is provided in multiple languages (paragraph 22 of the Almaty Guidelines). At the same time more attention could be paid to the user-friendliness of the website, especially concerning the menu on the left side of the website. The menu is hard to navigate as its shape keeps changing when one clicks on items. Also, some information can only be found by searching it through Internet, the search then leads back to the website.

¹⁸ See: <https://www.cbd.int/chm/>.

¹⁹ See: <https://www.cbd.int/chm/network/>.

²⁰ See: <https://www.cbd.int/chm/network/>.

²¹ See: <https://chm.cbd.int/>.

²² See: <https://absch.cbd.int/>.

²³ See: <http://bch.cbd.int/>.

²⁴ See: <https://www.cbd.int/chm/background/> ; <https://www.cbd.int/chm/strategy/> ; <https://www.cbd.int/chm/work/>.

²⁵ See: <https://www.cbd.int/chm/capacity-building/>.

²⁶ See: <https://www.cbd.int/chm/iac/mandate/>.

²⁷ See: <https://www.cbd.int/chm/award/>.

²⁸ See: <https://www.cbd.int/history/>.

²⁹ See: <https://www.cbd.int/convention/guide/>.

³⁰ See: <https://www.cbd.int/ecolex/>.

³¹ See: <https://www.cbd.int/sp/>.

³² See: <https://www.cbd.int/2011-2020/>.

³³ See: <https://www.cbd.int/cepa/about.shtml>.

³⁴ See: <https://www.cbd.int/convention/bodies/intro.shtml>.

12. In view of paragraph 22 of the Almaty Guidelines, which refers to the benefit of designation of information officers or contact persons in international forums, it is furthermore positive that the contact information of the secretariat, both general and for its divisions, as well as designated country contacts is available online. While it may be useful to provide instructions on the website about the procedure for requesting information, in line with the requirements in paragraphs 19, 24 and 25 of the Almaty Guidelines, there is no indication that in practice there are any difficulties with obtaining information on request in a timely fashion, or indication that any information requests have been refused; nor are there any reasons why access to information should be refused. The overall assessment is that in view of the vast amount of proactive information disclosure outlined above, access to environmental information under the Convention does not appear to constitute a pressing concern at this time.

III. Public Participation

A. Broad public participation (paras. 14 & 30-31 of the Almaty Guidelines)

Description

13. Under the Convention on Biological Diversity, the Secretariat shall notify “any body or agency, whether governmental or nongovernmental, qualified in fields relating to the conservation and sustainable use of biological diversity, which has informed the Secretariat of its wish to be represented, of meetings of the Conference of the Parties so that they may be represented as observers unless at least one third of the Parties present at the meeting object.”³⁵

14. Observers who wish to attend a meeting are requested to submit an official letter of interest to the Secretariat.³⁶ New observers are required to provide additional information in addition to their letter of interest.³⁷ Once listed, a body or agency need not re-submit the information provided. Bodies and agencies should notify the Secretariat of any relevant change in the information provided that may affect their admission as an observer.³⁸ The rules are further clarified on the website³⁹.

15. Moreover, the Rules of Procedure establish that “upon invitation of the President” and unless there is an objection from one third of the Parties present, observers may participate in any meetings “in matters of direct concern” to them without the right to vote.⁴⁰

16. Under the Convention, “body” or “agency” for the purpose of observer definition is not only understood to refer to not-for-profit or non-governmental organizations and associations, but also to

³⁵ Article 23, paragraph 5, of the Convention; Rule 7, paragraph 1, of the Rules of Procedure.

³⁶ All letters of interest must be on the organization's letterhead and must be signed by the organization's chief executive or president. They must include: (1) A specific and clear request for the organization to be represented as an observer to the particular CBD meeting (name of meeting should be clearly stated); (2) The names, titles and contact details of the organization's nominated representatives. – See: <https://www.cbd.int/ngo/meetings.shtml>.

³⁷ This includes (1) A statement demonstrating the organization's qualifications in fields relating to the conservation and sustainable use of biological diversity; (2) A website address; (3) The organization's statutes/by-laws or terms of reference demonstrating the organization's legitimacy as a bona fide organization constituted in its home country; (4) Any other relevant information. – See: <https://www.cbd.int/ngo/meetings.shtml>. See also: annex to COP decision IX/29, available at: <https://www.cbd.int/doc/decisions/cop-09/cop-09-dec-29-en.pdf>.

³⁸ See: <https://www.cbd.int/ngo/meetings.shtml>. See also: annex to COP decision IX/29, available online at <https://www.cbd.int/doc/decisions/cop-09/cop-09-dec-29-en.pdf>.

³⁹ See: <https://www.cbd.int/ngo/meetings.shtml>.

⁴⁰ Rule 7, paragraph 2, of the Rules of Procedure.

academia and industry, including individual companies⁴¹. This is concluded on the basis of the lists of participants⁴².

17. In the margins of the meetings of the COP, side events, fairs and informal events provide opportunities for Parties, UN agencies and observers to exchange information and present their work and experience concerning the implementation of the Convention. Observers may use this opportunity to present their views and foster discussions on issues included in the agendas of the meetings of the COP. Participation in those events is open to the public. Side event organizers may invite panelists or members of the public for that specific event who are not necessarily registered to attend the COP meetings. The Convention informs about upcoming meetings on its website.⁴³ Moreover, the CBD Alliance, which is a loose network of activists and representatives from NGOs and other social movements, regularly provides briefings and sessions and invites NGOs to prepare advisory submissions relating to the work of the Convention's Bodies i.e. governing body (COP) and subsidiary bodies.

Assessment

18. Based on the provisions contained in the Convention, the observers are limited to certain members of the public, specifically to bodies and agencies that are qualified in fields relating to the conservation and sustainable use of biological diversity.⁴⁴ While paragraph 31 of the Almaty Guidelines allows restriction of access to certain members of the public concerned where “this is necessary and unavoidable for practical reasons”, efforts should be undertaken to ensure that “agencies” and “bodies” representing the members of the public who are, or are likely to be, most directly affected (see para. 30(a) of the Almaty Guidelines) have a chance to participate. It will therefore be important to interpret the admission criteria, which appear to be aimed at qualified observer organizations, in such a way as to not effectively prevent those most affected from participating. The fact that so far, no observer organizations have been refused accreditation appears to confirm that such a practice exists.

19. Moreover, other measures should be explored to allow for the participation of members of the public that do not fulfil the observer criteria. While good proactive information disclosure is an important step to that end (see para. 111 above), further potential measures include forums and dialogues open to members of the public, webcasting of events and general calls for comments, including on selected issues (see para. 33 of the Almaty Guidelines).

20. Concerning the accreditation procedures applies, it would certainly be beneficial to describe the applicable criteria on the website in order to ensure that they are based on clear and objective criteria in line with paragraph 31 of the Almaty Guidelines. In any event, if participants are permitted to attend as “Others”, they should still be reflected in the list of participants or a similar document in order to ensure transparency.

B. Modalities of public participation (paras. 29 and 32-37 of the Almaty Guidelines)

Description

Conferences of the Parties (COPs)

⁴¹ Note, however, individual companies might have participated in the meetings in the past due to some specific reasons such as the meetings were organized back-to-back with a side event on “business and biodiversity” or a technological fare. Otherwise, as a matter of procedure, individual companies are not included in the understanding of “body” or “agency” “qualified in the fields relating to the conservation and sustainable use of biological diversity”. They should request admission as associations or NGOs.

⁴² For example, the following list of participants features NGOs, academia and one biotechnology corporation: [cop-10-05-add4-en.pdf \(cbd.int\)](https://www.cbd.int/doc/meetings/cop/cop-10-05-add4-en.pdf); and <https://www.cbd.int/doc/meetings/cop/cop-01/official/cop-01-17-en.pdf>

⁴³ See: <https://www.cbd.int/meetings/>.

⁴⁴ Rule 7, paragraph 1, of the Rules of Procedure.

21. In accordance with the rules of procedures under the Convention, the meetings of the COP and subsidiary bodies are held in public unless the COP or subsidiary body decides otherwise.⁴⁵ In practice all meetings of the COP have been held in public so far. During the meetings of the COP, observers appear to be allowed to speak upon invitation by the President.⁴⁶

22. The provisional agenda of each COP meeting is prepared by the Secretariat in agreement with the respective COP President and uploaded on the relevant website well in advance of the respective meeting of the COP.⁴⁷ Moreover, relevant working and information documents for the COP are made available.⁴⁸

23. The rules of conduct on meetings are detailed in the Guidelines for the Participation of Representatives of Observer Organizations.⁴⁹ According to the Guidelines, observers can participate in a meeting by making short and concise verbal statements upon the invitation of the chair, holding pre-scheduled side events and press conferences, making available relevant information materials, and setting up by pre-arrangement displays such as exhibitions and posters.⁵⁰ These Guidelines have to be read in conjunction with the Guidelines on the Use of Cameras and Audio/Video Recording Devices by Participants at Meetings of the Convention on Biological Diversity.⁵¹ Photographs may be made in public areas such as lobbies and corridors, and in meeting rooms provided they do not disturb. In contrast, video and audio recordings are only permitted in public areas.⁵² Webcasts are available for meetings of the COP and its working groups through the Secretariat website.⁵³ The COP has recently decided to revise its procedures for decision-making regarding administrative and financial matters with a view to ensuring transparency and participation, including cross-cutting issues and capacity-building especially for developing countries.⁵⁴

Bureau

24. The Bureau of the COP of the Convention only consists of Party representatives. Bureau members are elected with equitable geographical representation of the five regions of the United Nations.⁵⁵ The Bureau usually meets each morning during the meetings of the COPs. The Bureau also meets in the intersessional period to guide the preparations for the next meetings of the COP, Subsidiary Body on Implementation and the Working Groups such as the Working Group on Article 8(j) and Related Provisions. Meetings of the Bureau are closed, but the minutes of the meetings and additional documents are made publicly available.⁵⁶

Subsidiary bodies

25. In accordance with the COP Rules of Procedure, sessions of subsidiary bodies shall be held in public unless the subsidiary body concerned decides otherwise.⁵⁷

- i. Subsidiary Body on Scientific, Technical, and Technological Advice (SBSTTA)

26. The open-ended SBSTTA is made up of government representatives with expertise in relevant fields, as well as observers from non-Party governments, the scientific community, and other relevant

⁴⁵ Rule 29 of the Rules of Procedure.

⁴⁶ See for instance the report of the first meeting of COP, paras. 46, 47, 59, among others, available at: <https://www.cbd.int/doc/meetings/cop/cop-01/official/cop-01-17-en.pdf>.

⁴⁷ See for instance: <https://www.cbd.int/meetings/COP-15>.

⁴⁸ See: <https://www.cbd.int/cop/>.

⁴⁹ Available at: <https://www.cbd.int/doc/meetings/cop/cop-11/other/cop-11-guidelines-observer-en.pdf>.

⁵⁰ Ibid., para. 14.

⁵¹ Available at: <https://www.cbd.int/doc/meetings/cop/cop-10/other/cop-10-guidelines-device-en.pdf>.

⁵² Ibid.

⁵³ See: <https://cslide.ctimeetingtech.com/cop14/attendee/confcal>.

⁵⁴ COP decision V/20, paras. 7-8, available at: <https://www.cbd.int/decision/cop/?id=7162>.

⁵⁵ Rule 21, paragraph 1, of the Rules of Procedure.

⁵⁶ See: <https://www.cbd.int/cop-bureau/minutes.shtml>.

⁵⁷ Rule 29, paragraph 2, of the Rules of Procedure.

organizations. The SBSTTA is responsible for providing recommendations to the COP on the technical aspects of the implementation of the Convention.⁵⁸ The sessional working groups are open to observers⁵⁹ and the scientific and technical contribution of NGOs is encouraged.⁶⁰ Practice shows that working group meetings are attended by these observers.⁶¹ Relevant working and information documents are made available on the relevant website.⁶² Documents in preparation are made available for peer review and comments can be sent by e-mail to the Secretariat.⁶³

ii. Subsidiary Body on Implementation (SBI)

27. The SBI reviews progress in implementing the Convention and identifies strategic actions to enhance implementation, including how to strengthen the means of implementation. It also addresses issues associated with the operations of the Convention and the Protocols.⁶⁴ The Bureau of the COP will serve as the Bureau of the Subsidiary Body on Implementation. The Chairperson of the Subsidiary Body on Implementation will, however, be elected by the Conference of the Parties to ensure active participation in the preparatory process as well as facilitation of the meeting. The Chairperson will be nominated by the regional groups and elected at an ordinary meeting of the Conference of the Parties.⁶⁵ Meetings are open to public,⁶⁶ and in practice observers do attend them.⁶⁷ Documents in preparation are made available for peer review and comments can be sent by e-mail to the Secretariat.⁶⁸ Meetings of working groups established by the SBI are also open to Parties and observers.⁶⁹

iii. Other subsidiary bodies

28. Several open-ended ad hoc subsidiary bodies have been established under the Convention to conduct specific tasks. Most of these bodies will report back to the COP. The composition (membership limited to Party representatives or open to representatives of observers), size and mandate of each body is decided by the COP. It is standard practice for the COP to confirm that the meetings of these bodies operate on the basis of the rules of procedure established by the COP, including that their meetings are public. Meetings are open to public.⁷⁰ For example, the meetings of the Working Group on Access and Benefit-Sharing (WGABS) have been attended by several Parties and NGOs.⁷¹ Similarly, the first meeting of the Working Group of Protected Areas was attended by several Parties and NGOs⁷². For the meetings of the Working Group on Article 8(j), which addresses issues related to the protection of traditional knowledge, the Secretariat has invited Parties, other governments, indigenous peoples and local communities and NGOs to submit their views.⁷³

⁵⁸ See: <https://www.cbd.int/convention/bodies/intro.shtml>.

⁵⁹ Article 25, paragraph 1, of the Convention; COP decision VIII/10, para. 16, available at: <https://www.cbd.int/decision/cop/?id=11024>.

⁶⁰ See the Consolidated *Modus Operandi* of the Subsidiary Body on Scientific, Technical and Technological Advice, para. 19 (annex III of CPO decision VIII/10, available at: <https://www.cbd.int/decision/cop/?id=11024>).

⁶¹ See list of participants, for instance for the twenty-third meeting of the SBSTTA at: <https://www.cbd.int/doc/c/e215/de56/af0aed70a7410e0fbffbe686/sbstta-23-09-en.pdf>, p. 58-59.

⁶² See for instance: <https://www.cbd.int/meetings/SBSTTA-23>.

⁶³ See: <https://www.cbd.int/sbstta24/review.shtml>.

⁶⁴ See: <https://www.cbd.int/convention/bodies/intro.shtml>.

⁶⁵ *Modus Operandi* of the Subsidiary Body on Implementation, para. C.2 (annex of decision XIII/25, available at: <https://www.cbd.int/sbi/modus-operandi/>).

⁶⁶ Rule 29, paragraph 2, of the Rules of Procedure.

⁶⁷ See for instance the list of participants of the second meeting, available at: <https://www.cbd.int/doc/c/05b3/3c25/2cc04a53ad3360ce1a1b940e/sbi-02-22-en.pdf>, p. 91-92.

⁶⁸ See for instance: <https://www.cbd.int/sbi/review.shtml>.

⁶⁹ *Modus Operandi* of the Subsidiary Body on Implementation, para. C.6 (annex of COP decision XIII/25, available at: <https://www.cbd.int/sbi/modus-operandi/>).

⁷⁰ Rule 29, paragraph 2, of the Rules of Procedure.

⁷¹ See for instance the list of participants of the ninth meeting, available at: <https://www.cbd.int/doc/meetings/cop/cop-10/official/cop-10-05-add4-en.pdf>.

⁷² See for instance the list of participants of the first meeting, available at: <https://www.cbd.int/convention/wgpa.shtml>.

⁷³ See <https://www.cbd.int/convention/bodies/intro.shtml>; see also the list of participants to the eleventh meeting of the Working Group, available at: <https://www.cbd.int/doc/c/bd0a/077c/9af6c8783485bec92396af97/wg8j-11-07-en.pdf>.

Assessment

29. According to paragraph 29 of the Almaty Guidelines, public access may only be restricted if there is a reasonable basis to exclude participation according to transparent and clearly stated standards that are made available, if possible, in advance. In that regard, the openness to observers of the COP and of meetings of its subsidiary bodies are positive examples in this regard. Attention should be paid that, going forward, meetings of all subsidiary bodies remain open to representatives of observers (at least for (a) representative(s) of non-governmental organizations qualified in matters related to the Convention) as far as possible and in all relevant stages of their decision-making procedures. As a good practice, this would include all modalities of the meetings, such as relevant contact, drafting or expert groups etc.

30. While there may be reasons to hold meetings of the Bureau without wider participation of the public, it could be explored whether a representative of a non-governmental organization qualified in matters related to the Conventions could become an observer representative at the Bureau. Such a representative could be chosen from among registered observers for the meetings COP.

31. Concerning paragraphs 32 and 36 of the Almaty Guidelines, agenda-setting is principally a prerogative of the Parties which adopt the agenda of meetings of the COP, work plans and relevant decisions. A positive point is the early online disclosure of the provisional agenda⁷⁴. Furthermore, observers can participate in the open-ended Working Groups to influence the development of the work programme.

32. As regards disclosure of “documents relevant to the decision-making process” (para. 34 of the Almaty Guidelines), website disclosure of information and working documents of all processes is done proactively and broadly, which is very positive. Moreover, observers appear to also be allowed to speak at all meetings in which they are permitted to participate (see para. 22 above).

33. As regards paragraph 37 of the Almaty Guidelines, observers do not have a right to participate in the decision-making, as this is the prerogative of each governing body; but certain documents are made available for peer review and written comments. Associated timeframes for various participation modalities outlined in the Almaty Guidelines also appear to be adequate (para. 36 of the Almaty Guidelines). In order to ensure participation of the public concerned at all relevant stages of the decision-making process (para. 29 of the Almaty Guidelines), further ways should be explored to collect and take into account input from members of the public, including on priority actions under the Convention and important decisions.

C. Capacity-building and financial assistance (paras. 17-18 and 38-39 Almaty Guidelines)

Description

34. Under the Convention, recognizable efforts have been undertaken in public awareness raising and in building capacities. The Convention has a part of its website dedicated to communication, education and public awareness (CEPA).⁷⁵ As regards biodiversity education, the website includes resources for teachers and educators⁷⁶ and didactic entertainment material and online games for children⁷⁷. Attention is drawn to several projects from the Global Initiative.⁷⁸ The website also makes available several toolkits for practitioners on certain elements of the implementation of the Convention⁷⁹

⁷⁴ See for instance the provisional agenda for the next COP:

<https://www.cbd.int/doc/c/cfe7/3e91/c44b145f99d04278cb7a2b71/cop-15-01-en.pdf>.

⁷⁵ See: <https://www.cbd.int/cepa/>.

⁷⁶ See: <https://www.cbd.int/education/biodiv-edu/teachers-corner/>.

⁷⁷ See: <https://www.cbd.int/education/biodiv-edu/youth/>.

⁷⁸ See: <https://www.cbd.int/cepa/projects.shtml>.

⁷⁹ See: <https://www.cbd.int/cepa/toolkit.shtml>.

and a database which contains the names and profiles of experts, educators, professionals and specialists in diverse aspects of biodiversity education and communication which have been nominated by Parties and are available for consultation⁸⁰. The Convention's Biodiversity E-Learning Platform hosts modules and courses on several relevant topics.⁸¹ Moreover, workshops⁸² and webinars⁸³ as well as events such as the International Day for Biological Diversity⁸⁴ or the CEPA Fair are organized regularly and announced on the website⁸⁵. The website also provides a platform for technical and scientific cooperation.⁸⁶ In a similar vein, the website provides resources concerning the Supplementary Protocols. For instance, the website on the Nagoya Protocol offers model contractual clauses, codes of conduct and best practices and standards.⁸⁷

35. It appears that there are currently no arrangements for financial assistance to support the travel and subsistence costs of observers to facilitate their participation in meetings of the COP and of subsidiary bodies⁸⁸, in conformity with paragraph 39 of the Almaty Guidelines.

Assessment

36. The Convention provides for a good range of capacity-building activities consistent with paragraph 38 of the Almaty Guidelines. The development of online e-learning tools and toolkits, as well as webinars, are to be recognized as good practices. A good element in this regard is the establishment of an expert database. The organization of webinars and workshops open to all members of the public interested in the implementation of the Convention is a further example of good practice and should continue to be organized by the Secretariat.

37. There is currently no information available on the website of the Convention on how to obtain funds for observers wishing to participate in meetings of the COP and subsidiary bodies of the Convention but lacking the financial means to do so. Possibilities for funding should be explored, in particular from the side of Parties to the Convention, and relevant information made available.

D. Review Procedures (para. 40 of the Almaty Guidelines)

Description

38. No specific review procedure relating to any application of the rules of procedures under the Convention regarding access to information and public participation appears to have been established.

Assessment

39. Some situations in which review procedures could be of use in the work of the Convention are (a) denial by the Secretariat of access to environmental information, and (b) application by the Secretariat of a measure against an observer on the basis of the guidelines for participation (see para. **Error! Reference source not found.**3 above). In such instances where an individual or an entity wishes to complain about the actions of the Secretariat, a complaint letter could be sent to the Secretary to the Convention. Whether or not any or all of these situations in fact require a review mechanism will depend

⁸⁰ See: <https://www.cbd.int/cepa/experts.shtml>.

⁸¹ See: <https://www.cbd.int/cb/E-learning/>.

⁸² See for example: <https://www.cbd.int/peace/implementation/workshops/> or <https://www.cbd.int/sustainable/workshops.shtml>.

⁸³ See for example: <https://www.cbd.int/article/stakeholder-open-webinar-climate-2021> or <https://www.cbd.int/article/dsi-webinar-series-2020>.

⁸⁴ See: <https://www.cbd.int/idb/>.

⁸⁵ See: <https://www.cbd.int/cepa/fair/>.

⁸⁶ See: <https://www.cbd.int/tsc/>.

⁸⁷ See: <https://www.cbd.int/abs/modelclauses.shtml>.

⁸⁸ With the exception of the special fund that the Secretariat manages to support the participation of representatives of the Indigenous Peoples and Local Communities (IPLCs).

on the practice under the Convention and should be ascertained in a participatory process, which is inclusive with respect to observers.

IV. Conclusions

40. Overall, there appears to be good information disclosure under the provisions of the Convention, its rules of procedure, and in the practices related thereto. The capacity-building activities, for example e-learning tools, webinars and workshops, can be highlighted as good practices that should be continued. The admission system for observers is transparent and objective. A central area for further improvement is to ensure that members of the public are able to express their views on key questions that are subject to decision-making under the Convention, and that their comments are adequately taken into account in practice. To overcome current limitations and further improve the overall practice, several measures, such as the following, could be considered:

- Consider designating contact points at the Secretariat to receive environmental information related to certain subject areas;
- Continue to explore the creation of forums and dialogues open to members of the public, webcasting of events and general calls for comments, including on selected issues (see para. 33 of the Almaty Guidelines) which are not open to registered observers;
- Ensure that meetings of working groups, task forces, review committees, informal groups and other current or future subsidiary bodies of the Convention remain or become open to observer participation;
- Explore the possibility of an observer representative on the Bureau, chosen by the observers;
- Arrange for further participation procedures for observers, including by inviting written comments on important topics under the Convention, such as priority actions and decisions to implement the Convention;
- Encourage provision of financial support by Parties for observers lacking the financial means to attend meetings of the bodies of the Convention;
- Consider whether the creation of specific review procedures in cases of refusals of access to information requests, admission of observers and enforcement of observer guidelines would be useful.
- Concerning the accreditation procedures, describe the applicable criteria on the website in order to ensure that they are based on clear and objective criteria in line with paragraph 31 of the Almaty Guidelines.
