

Preparing a National Profile to Assess National Capacities for Implementation of the Aarhus Convention

Guidance Document

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UNITAR



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How to Make Use of this Guidance Document to Address National Needs and Circumstances

This *Guidance Document* has been developed to assist countries in preparing a National Profile to assess their national situations and capacities concerning the implementation of the Aarhus Convention through a process that involves interested parties at the country level. While the suggested approach is comprehensive, the document has been designed to provide flexibility in order to ensure that the National Profile is prepared in accordance with country priorities and is consistent with available information and resources. Therefore, the suggestions contained in this document should be adapted to meet national needs and circumstances.

For additional information please contact:

Principal Coordinator
Programme in Democracy & Environment
United Nations Institute for Training and Research (UNITAR)
Palais des Nations
CH-1211 GENEVE 10
Switzerland
FAX + 41 22 917 80 47
E-mail: aarhus@unitar.org
Website: www.unitar.org/cwm

Secretary
Convention on Access to Information, Public Participation in Decision-Making and
Access to Justice in Environmental Matters (Aarhus Convention)
United Nations Economic Commission for Europe
Environment and Human Settlement Division
Room 332, Palais des Nations
CH- 1211 Geneva 10, Switzerland
Phone: +41 22 917 2384
Fax: +41 22 907 0107
E-mail: jeremy.wates@unece.org
Website: www.unece.org/env/pp

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Note to Reviewers

In the pilot edition of this guidance document, developed by UNITAR and UNECE, we ask that the following questions are considered when reviewing the document:

- Is the scope of the document appropriate? Is the information provided too general or too detailed? What additional information or issues should be included, if any?
- Is the guidance and information provided in the document practical? Too theoretical?
- Is the presentation of the information (e.g. language, format) user-friendly?
- Is the information and guidance provided consistent with the needs and circumstances of developing countries and countries with economies in transition?
- Are the suggestions outlined in Parts II and III useful? What are some possible ways in which the suggestions and related guidance could be made more relevant and useful?
- Are there additional types of information that should be included as an annex in order to make the document more valuable to the user?

This working draft will be further developed taking into account the general outcomes and ideas generated by countries using the guidance document, as well as specific comments and feedback on the draft. Your contribution to the further development of this document is sincerely appreciated.

The deadline for comments is 15 February 2005

PREFACE

This guidance document was developed by the United Nations Institute for Training and Research (UNITAR) and the United Nations Commission for Europe (UNECE) to assist countries in documenting and taking steps to strengthen national capacities for implementation of the Aarhus Convention. It provides suggestions for interested countries to prepare a National Profile, which provides an overview and documents strengths and weaknesses of national access to information, public participation in decision-making and access to justice schemes related to environmental matters. It is hoped that the National Profile will provide practical information to interested citizens and groups to learn about democratic environmental governance and that it can facilitate a national process for priority setting and capacity development toward effective implementation of the Convention. Finally, the Profile may also be of value for preparing national reports in line with Decision I/8 of the First Meeting of Parties in Lucca in 2002.

As important as the output itself—the National Profile—is the process of its preparation. Although the Profile preparation process is initiated by Government, representatives of environmental and health-protection organizations, consumer groups, industry, labour unions and academia, among others, are expected to contribute to its preparation. Developing a National Profile is, in fact, a key opportunity for governments and members of the public to work together and build the foundations for greater public participation. The National Profile thus aims to be not only a tool but also an opportunity for public participation.

In preparing the Profile, UNITAR and UNECE encourage countries to make, whenever possible, use of results from related ongoing or already completed initiatives, such as the Regional Environment Center's Door to Democracy project or the World Resources Institute's Access Initiative. Each of these initiatives has its specific methodology and approach. The aim of the National Profile is not to substitute such initiatives but to provide a national framework document that is directly linked to efforts of the government and its partners to implement the Convention, including the identification of possible capacity-development issues to be addressed.

During the course of 2004, Kyrgyzstan and Tajikistan have initiated National Profile pilot projects in collaboration with UNITAR and UNECE. A pilot project in Serbia and Montenegro will commence in January 2005. Results from the three pilot projects will inform the further development of the guidance document in 2005. In addition, it is hoped that other countries and stakeholders develop an interest in the initiative and share their views. We very much welcome and look forward to your comments.

Achim Halpaap
Principal Co-ordinator, UNITAR
Democracy & Environment Programme

Jeremy Wates
Secretary, Aarhus Convention

Geneva, 1 November 2004

PART I: BACKGROUND AND CONTEXT

Part I of the Guidance Document provides an introduction to the international and national policy frameworks for procedural environmental rights, as well as some explanatory remarks concerning the three pillars of the Aarhus Convention and its implementation.

1. The Concept of Procedural Environmental Rights

Substantive rights are general rights that reserve to the individual the power to possess or do certain things, e.g. the right to a healthy environment. Procedural rights are linked to the use of the administrative machinery to enforce the rights and duties recognised under substantive law. Procedural environmental rights provide members of civil society with opportunities to participate actively in environmental decision-making processes, to access environmental information (or information relevant to the environment) and to access justice in environmental matters. The initial notion behind procedural environmental rights is a concept of administrative procedure, which demands that every individual who is affected by a decision made by an organ of the state has a right to know about and possibly participate in the process. This essential prerequisite of democratic decision-making and governance was later extended and adapted to environmental matters mainly due to international events that have led to the adoption of principle 10 of the Rio Declaration.

One of the earliest legal manifestations of the philosophy behind procedural rights dates back to several centuries ago in Scandinavia. In Sweden and Finland, which was part of Sweden at the time, the first Act on the Freedom of Publishing and the Right of Access to Official Documents was enacted in 1776. Ever since, the principle of free access to information has prevailed in these countries. Similarly, in Denmark, for more than a hundred years all concerned citizens have held the right to access relevant information in the possession of public authorities.

2. Potential Benefits of Strengthening Procedural Environmental Rights

The rationale for involving the public in environmental decision-making is that it is likely to improve the development and implementation of national environmental policies as well as improve compliance with international obligations. First, through public input into legislative (regulatory and local) or adjudicative decision-making processes, concerns and values of the public can be identified at an early stage and opportunities can be expanded to explore a wider range of alternative decision options. This, enjoying broader support, can lead to more effective environmental decisions. Second, access to environmental information previously held exclusively by public authorities will allow the public to participate on a more equal footing in decision-making processes. Equally important, enhanced access to environmental information (e.g. through hazard or eco-labelling schemes) may encourage consumers to make informed and environmentally-sound choices, often independent of possible regulatory action. Third, informed and well-educated consumers and citizens may become an important ally of governments in helping to enforce environmental regulations, e.g. by initiating legal action against illegal polluters.

All three factors together, according to the rationale, can result in driving forces that motivate polluting industry to comply with existing environmental regulations and to initiate voluntary action beyond its regulatory requirements. In addition, increased dialogue and transparency may help to (re)build trust in government institutions held by the public at large and can reduce the conflict traditionally associated with adversarial and pluralistic decision-making processes, or the suspicion often associated with managerial closed-door policy processes. Evidence from several countries suggests that procedural environmental rights can indeed make a positive contribution to improved environmental performance and enhanced environmental quality beyond what substantive environmental policy measures have been able to achieve on their own.

For these reasons, many countries, both developed and developing, are now considering the advancement of procedural environmental rights as an important – if not crucial – element in the next-generation environmental policy instruments. These approaches transcend the thinking of the past that solutions to environmental problems should be mainly viewed as exclusively technical or scientific issues. Rather, they extend the principles of democratic governance to environmental decision-making – an area that has been viewed for a long time as the exclusive prerogative of elected representatives and technical experts in government agencies.

3. Potential Challenges of Strengthening Procedural Environmental Rights

However ideal it may seem, the implementation of procedural environmental rights is not a simple task and countries are likely to face several challenges. For example, it will be important to address a number of policy considerations and policy questions such as:

- Why is access to information and public participation important and what goal should they accomplish?
- For which type of environmental decisions is public participation essential (and for which is it not essential) and at what level (i.e. strategic, project level)?
- What degree of influence on decision-making should be granted to the public?
- Which conditions have to be met to ensure that participation is meaningful?
- Are special funding mechanisms necessary to ensure effective participation?
- Through what types of consultation mechanisms should public views be elicited?
- What type of information should be available to ensure meaningful participation and allow for informed decision-making?
- How can both technical expertise and public values be integrated into the decision-making process?

The way in which the above challenges are addressed is related to the actual political, social and economic situation and traditions in each particular country. Even in some developed

countries the introduction of procedural environmental rights has been subject to debate. As for developing countries and countries with economies in transition, addressing these issues may pose even more challenges. For example, such countries may have little experience in democratic decision-making processes in general, may be facing serious problems in environmental management, or may not possess the necessary sufficient institutional capacities or financial resources to successfully implement procedural environmental rights. Public officials in developing countries are concerned that the public, faced with economic uncertainty, may not attribute due importance to environmental problems and that public participation procedures may not lead to better decision-making. On the other hand, newly democratic countries are sometimes able to develop innovative procedures precisely because they do not have long-established institutions which, even if democratic, can be rigid and resistant to change.

Another type of challenge results from the nature of procedural environmental rights: this includes considerations such as the question of equality of all involved stakeholders, the capacity of the public to comprehend the scientific information used in the decision-making process and the necessity of involving the public in certain types of decisions such as regulatory re-distribution of wealth. Another important issue is whether agreed participation rules are applied consistently within and across government agencies or whether individual decision-making processes allow for deviations from agreed procedures.

4. The International Policy Framework

Stockholm Declaration, 1972

As early as 1972, Principle 1 of the Stockholm Declaration established the foundation for linking human rights and environmental protection: “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears the solemn responsibility to protect and improve the environment for present and future generations.” The two decades following the Stockholm Conference have produced numerous – mostly regional – international instruments that refer to every person’s right to a healthy environment and public participation.¹ A significant early initiative by UN/ECE was the 1990 draft charter of environmental rights and obligations. Although not adopted, the draft represents an early compilation of principles and themes similar to those ultimately found in the Aarhus Convention.

Principle 10 of the Rio Declaration

Principle 10, adopted by Heads of States and Government at the Rio Summit in 1992 laid the groundwork for the three pillars of the Aarhus Convention by calling for access to information, public participation and access to justice in environmental matters. The Principle states that environmental issues are best handled with the participation of all concerned citizens, at the relevant level. It demands that, at the national level, each individual has

¹ See, for example: The African Charter of Human’s and People’s Rights of 1981, EEC Directive 85/337 EEC of 1985 on the assessment of the effects of certain public and private projects on the environment, Council of Europe Resolution No. 171 of 1986, the Brundtland Report of 1987, the Additional Protocol to the American Convention of Human Rights of 1988, the European Charter on Environment and Health of 1989 and EEC Directive 90/313 on Freedom of Access to Information on Environment.

appropriate access to information about the environment held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States should facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, should also be provided. National and international developments since Rio indicate the close connection between the protection of human rights and environmental protection, in the context of sustainable development. They reflect the growing interrelationship between approaches to ensuring human rights and environmental protection, as well as the synergies that have developed between these previously distinct fields.²

The Sofia Guidelines, 1995

One of the main stepping-stones on the way to the Aarhus Convention was the UNECE Guidelines on Access to Environmental Information and Public Participation in Environmental Decision-making (“Sofia Guidelines” of 1995). At the meeting of the Second Ministerial Conference ‘Environment for Europe’ in 1993, the Senior Advisers to ECE Governments on Environmental and Water Problems identified public participation as one of the seven key elements for the long-term environmental programme for Europe. Following two years of preparation, the Guidelines were endorsed at the Third Ministerial Conference “Environment for Europe” held in Sofia in October 1995. The same Conference decided that the preparation of a convention should be considered.

Development of the Aarhus Convention, 1998

The preparation of the draft of what later became the Aarhus Convention began in 1996. The negotiating sessions involved an unprecedented level of participation on the part of NGOs, amongst them a coalition of environmental citizens organisations established especially for the drafting sessions. The Convention was adopted on 25 June 1998, in Aarhus, Denmark. It entered into force on 30 October 2001. As of 30 June 2003, 25 countries had ratified, accepted, approved or acceded to the Convention. As Kofi Annan, Secretary-General of the United Nations put it: “Although regional in scope, the significance of the Aarhus Convention is global. It is by far the most impressive elaboration of Principle 10 of the Rio Declaration, which stresses the need for citizen's participation in environmental issues and for access to information on the environment held by public authorities. As such it is the most ambitious venture in the area of ‘environmental democracy’ so far undertaken under the auspices of the United Nations.”

The three pillars of the Aarhus Convention

The Aarhus Convention uses the same structure as Principle 10 and covers access to information, public participation and access to justice in environmental matters – often referred to as the three pillars of the Convention.

A. Access to Information

Article 4 of the Convention establishes the general principle that information on the environment – or relevant to the environment – held by public authorities must be accessible

² See, for example, Human Rights and the Environment, Council of Europe, 2002.

to any party without a need for the party to state a particular interest (passive access to information). This is the key feature of freedom-of-information acts of this type. The definition of environmental information in article 2 includes:

(i) information on the state of elements of the environment (e.g. air, water, and soil) and the interaction amongst these elements; (ii) factors affecting or likely to affect the elements of the environment (e.g. substances, energy, as well relevant activities and measures ranging from administrative measures and legislation to cost-benefit and other economic analysis and assumptions used in environmental decision-making); and (iii) information on the state of human health and safety, conditions of human life, cultural sites, and built structures in as much as they relate to or are affected by the above environmental factors. Those requesting the information do so as interested citizens; they do not have to explain why they want the information. The goal is to provide those outside of government with better access to the information and reasoning behind the internal decisions of the executive.

Article 4 also defines procedures for information disclosure and several categories of information that are exempted from disclosure.³ A demand may also be refused if the information is not available, if a request is manifestly unreasonable, or if the request concerns material in the course of completion. Refusals to the exceptions must be interpreted in a restrictive way, taking into account the public interest served by the disclosure. Refusals must be made in writing if the request was made in writing or if the applicant requests it. Where only part of the information requested falls within one of the exempt categories, the remainder of the information must be separated out and made available.

Article 5 addresses issues of active information disclosure and dissemination. It places obligations on public authorities to develop national information systems and procedures that ensure systematic and periodic dissemination of environmental information, for example, through state-of-the-environment reports, or national pollutant inventories or registers (PRTRs). These systems must also provide sufficient product information to enable consumers to make informed environmental choices. All efforts should be made to provide environmental information in electronic format that is easily accessible through public telecommunications networks.

B. Public Participation

Requirements for public participation in environmental decision-making are addressed through article 6 (decisions on specific activities), article 7 (plans, programmes and policies), and article 8 (preparation of executive regulation and legally binding normative instruments). Activities under article 6 generally include activities subjected to the environmental impact assessment (EIA) procedure under the UNECE Convention on Environmental Impact Assessment in a Transboundary Context, as well as activities subject to the Integrated Pollution Prevention and Control (IPPC) directive of the European Community.⁴

³ Exemptions from information disclosure include: matters of confidentiality related to administrative proceedings; international relations, national defense or public security; course of justice in judicial matters; confidentiality of commercial and industrial information; intellectual property rights; personal data; and certain environmental information, such as breeding sites of rare species.

⁴ Council Directive 96/61/EC concerning integrated pollution prevention and control (IPPC), September 1996, Official Journal of the European Communities, L 257/26.

Many activities referred to under article 6 of the Convention are likely to have a potential environmental impact at the local level. For such activities, the Convention prescribes a fairly formal and detailed public participation process. Required elements include public notice of the proposed activity, detailed information on the proposed activity, transparent opportunities for public comment and participation, reasonable timeframes for participation, and full information disclosure on all relevant aspects of the decision-making process. Participation should take place early in the process when options are still open, and due account must be taken of the outcome of the public participation. The final decision must be publicised and the reasons and considerations on which it is based must be made publicly accessible.

Participation requirements related to plans, and programmes (article 7) are not specified in similar detail. Public participation should take place in a transparent and fair framework and follow several of the obligations established in article 6, including reasonable timeframes, early participation, and due consideration of the outcome of the participation. As far as the development of policies is concerned, article 7 merely specifies that each Party shall, to the extent appropriate, endeavour to provide opportunities for public participation, without further defining the concept.

Article 8 of the Convention addresses public participation in the preparation of executive regulations and legally binding normative instruments. It stipulates that Parties should strive to promote public participation in the preparation of legislation, e.g. by publicising draft rules, that the public should be given the opportunity to comment directly, or through representative consultative bodies, and that the results shall be taken into account as far as possible. This article is even less precise than article 7 and hence gives considerable leeway for individual countries to interpret the provisions differently.

C. Access to Justice

The access-to-justice provisions (article 9) of the Convention are closely linked to the first two pillars of the Convention. First, any person who considers that his or her request for information was not dealt with in accordance with article 4 of the Convention has, within the framework of national legislation, access to a judicial or non-judicial review procedure. Second, members of the public – and any non-governmental organisation – have access to a review procedure to challenge the substantive and procedural legality of decisions or omissions related to article 6 of the Convention (as well as for other relevant provisions of the Convention, if so provided by national law). The claimant should, however, have a sufficient interest, or maintain impairment of a right if national administrative law requires this as a precondition. Third, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene national law relating to the environment, subject to access criteria as they may be specified by national law. References to national law, of course, mean that the impact of this section will in the end depend upon the way courts interpret their own national laws in light of the Convention.

Recent developments

The international efforts concerning procedural environmental rights did not come to a halt with the adoption of the Aarhus Convention. Rather, they are still taking place in the realms of the UNECE. For example, the Water and Health Protocol (London, 1999) to the UNECE Convention on the Protection and Use of International Watercourses and Transboundary

Lakes was the first international instrument to take the provisions of the Aarhus Convention into account. Finally, a recent protocol on strategic environmental assessment⁵ contains certain provisions granting the public rights to participate.

The outcomes of the Johannesburg Summit are also important with respect to the Aarhus Convention and principle 10 of the Rio Declaration. Although the formal, high-level outcomes, namely the Declaration and the Plan of Implementation, do not establish any important new principles within the field of environmental democracy, throughout the Plan of Implementation the reiteration of the importance of transparency, accountability and civil society involvement in many different decision-making contexts could be seen to reinforce certain policies which are expressed in more concrete terms in the Aarhus Convention. Moreover, this could be seen to establish an ethos which is generally supportive of access to information, public participation and access to justice. The informal dimension of the Summit provided a valuable forum for sharing information and views on plans for various regional initiatives promoting principle 10, for example in the Asia-Pacific region and in the Americas. In this respect, it is likely to have played a useful, albeit indirect, role in supporting such initiatives.

During the last two years, the European Commission has undertaken various steps to update existing legal provisions in order to meet the requirements of the Aarhus Convention. The first concerns the introduction of Directive 2003/4/EC of the European Parliament and of the Council on public access to environmental information, which was adopted on 28 January 2003 and replaced Council Directive 90/313/EEC.

The second step deals with public participation in environmental decision-making. In the process, two important pieces of EU environmental legislation had to be amended: the Council directive 85/337/EEC concerning the environmental impact assessment of certain public and private projects and the Council directive 96/61/EC concerning integrated pollution prevention and control (IPPC-directive). A proposal from the European Commission for a single directive which would modify a number of existing directives is still under review in the EU institutions. This new directive is also expected to include new provisions for public participation in the elaboration of certain plans and programmes relating to the environment.

The European Commission's Directorate-General for the Environment is working on the development of a third instrument – on improving access to justice in environmental matters. Consultation rounds with relevant stakeholders and experts from member states have already been carried out. In addition to its primary purpose of implementing provisions of the Aarhus Convention, the working document underlines a need to improve the implementation of environmental legislation in the European Union, particularly with a view to its enlargement.

5. Development of National Implementation Plans for the Aarhus Convention

Implementation of the Aarhus Convention at the national level can be achieved through a range of legal provisions, policy instruments and practical measures. These may include, for

⁵ Protocol of the Espoo Convention was adopted on 21 May 2003 and signed by 35 states and the European Community.

example, promulgation of administrative law provisions which define participation rules in regulatory decision-making processes, public information disclosure regimes (such as PRTRs or hazard communication labelling schemes) and rights to legal redress or standing rights (*locus standi*) for public interest group litigation.

Regarding the first pillar of the Convention, countries need to put in place an access-to-information law or regulation, clearly stating deadlines and charges, and defining the scope of information and the exemptions. Compliance with the access to information pillar will also require the preparation and updating of public registers as well as the setting up of environmental information offices or the identification of individual points of contact. This may include the use of electronic databases and the Internet as well as the introduction of product labelling systems.

The provisions concerning public participation in decision-making require the Parties to develop rules and procedures of participation through the amendment of existing laws and regulations or the creation of new ones. One possible instrument in this context is Environmental Impact Assessment (EIA); however, public participation requirements in the Aarhus Convention go further than EIA. In most UNECE countries, public hearings may be held within the EIA process and other decision-making procedures. Additionally, regular and reliable vehicles for publishing drafts of laws and secondary legislation as well as policies, plans and programmes should be put into place.

The third pillar of the Convention requires the establishment of an institutional and procedural framework for access to justice in environmental affairs. This includes establishing impartial deliberating bodies or the use of such existing bodies, i.e. courts, rules concerning the standing of individuals and groups and the development of efficient remedies such as injunctive relief.

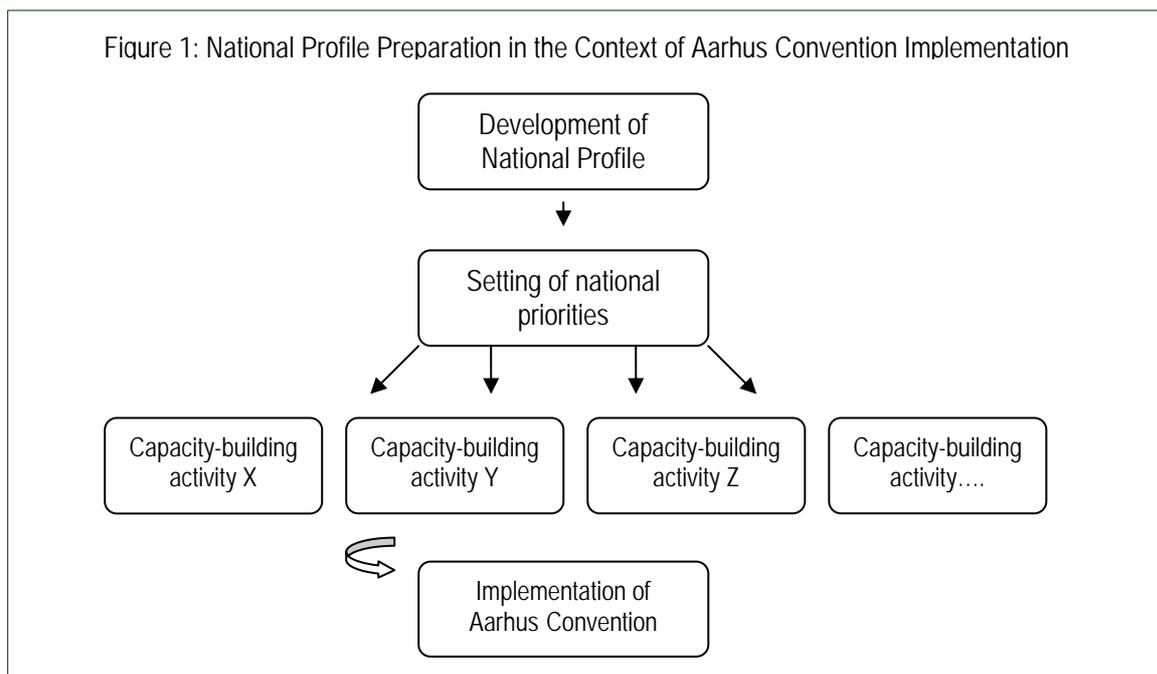
The above discussion shows the variety of instruments and measures to be introduced towards implementing the Aarhus Convention. This cannot be done, however, without taking into consideration the existing infrastructure and traditions on which this new system of instruments and measures will be based. Through a multi-stakeholder process of self assessment, directions for further action can be identified, priorities developed and coordinated as well as all the interested parties involved in the dialogue. It also helps to evaluate national and external financial resources, a key element for further action.

6. National Capacity Self-Assessment as a Starting Point for National and Local Capacity Building

The path to the involvement of all concerned parties in the environmental decision-making process is long and challenging. Each country committed to implementing the Convention is likely to be facing a unique baseline situation. Determining national priorities is not an easy task and requires careful deliberations in order to ensure that national action targets areas that require the greatest attention. A good understanding of the existing national instruments and mechanisms related to public participation in decision-making procedures in general and to procedural environmental rights more specifically is key to any national programme to implement the obligations of the Aarhus Convention.

However, while various efforts have been made to assess needs in certain countries, no such comprehensive self-assessment has been conducted in the region, although some countries conducted analyses or assessments prior to their ratification or are conducting them at the moment.

Experience gained through several UNITAR capacity building programmes suggests that a country-driven self-assessment of capacity needs can be an important stepping-stone toward a systematic national action in specific areas of environmental management. Such an assessment— or National Profile— can provide important baseline information on existing national policies, programmes and capacities, and can also serve as a tool to identify strengths and weaknesses of the relevant national situation and infrastructure. As a next stage, a National Profile can become a national reference document on the basis of which priorities can be identified and systematic actions taken. In other words, further programmes/action plans to implement the obligations of the Aarhus Convention may be carried out on the basis of the findings of the Profile. Figure 1 illustrates this process.



Box 1: What is Meant by the Term “Capacity Building”?⁶

The term “capacity building” is used in many contexts, often with little reflection regarding its meaning. Over the last few years experts from many countries have been moving towards a common definition of the term and there is now general agreement that “capacity building” can be taken as “the actions needed to enhance the ability of individuals, institutions and systems to make and implement decisions and perform functions in an effective, efficient and sustainable manner”.

At the *individual* level, capacity building refers to the process of changing attitudes and behaviors, most frequently through imparting knowledge and developing skills through training. However it also involves learning by doing, participation, ownership, and processes associated with increasing performance through changes in management, motivation, morale, and levels of accountability and responsibility.

Capacity building at the *institutional* level focuses on overall organisational performance and functioning capabilities, as well as the ability of an organisation to adapt to change. It aims to develop the institution as a total system, including its constituent individuals and groups, as well as its relationship to the outside. In addition to improvements in physical assets, such as infrastructure, institutional capacity building involves clarification of missions, structures, responsibilities, accountabilities and reporting lines, changes in procedures and communications, and changes in the deployment of human resources.

At the *systemic* level capacity building is concerned with the creation of “enabling environments”, i.e. the overall policy, economic, regulatory, and accountability frameworks within which institutions and individuals operate. Relationships and processes between institutions, both formal and informal, as well as their mandates, are important.

Capacity building can occur at local, national, or global levels and amongst any individual or group of stakeholders – individuals, entities or institutions, as well as at an overall systems level. Interactions between the different levels are also important to overall capacity. Capacity is relevant in both the short term (for example, the ability to address an immediate problem) and the long term (the ability to create an environment in which particular changes will take place). Capacity may imply “action”, or “inaction”, depending on the result desired. Capacity building does not always involve the creation of new capacity, but often the redeployment or release of latent capacities. One could therefore talk about capacity strengthening, which also implies that capacities are not “built” from scratch but are being assessed and strengthened where necessary, which is the idea behind this project.

For additional information on capacity building, please see Annex 1, which provides guidance to identify capacity constraints at the systemic, institutional and individual levels.

⁶ Adapted from Capacity Development Initiative, October 2000, Country Capacity Development Needs and Priorities: A Synthesis.

PART II: ORGANISATIONAL CONSIDERATIONS

Part II of this Guidance Document introduces suggestions for organising the preparation of a National Profile at the country level. A key element of the proposed approach is the involvement of a broad range of concerned parties, both within and outside of government, to ensure that the National Profile will be used and endorsed by all concerned. Special emphasis is placed on preparatory and organisational considerations, practical steps towards completing the National Profile, and a checklist to help assess progress in preparing the National Profile.

1. Defining the Objectives of Preparing a National Profile

A National Profile, and the process of its preparation with input from all concerned parties, can serve important national objectives to strengthen access to information, public participation in decision-making, and access to justice in environmental matters. It is crucial to outline and agree on the objectives of the National Profile to set the course for its preparation. Possible objectives of preparing a National Profile may, for example, include the following:

- to document the status and practices of implementing the Aarhus Convention at various levels of government (i.e. national, regional and local);
- to serve as a starting point for identifying priority issues related to the implementation of the Aarhus Convention;
- to recommend practical measures to strengthen the implementation of procedural rights within the existing structures;
- to catalyse policy reform and capacity building intervention in areas requiring the most urgent attention; and
- to evaluate the capacity of civil society to participate effectively in environmental decision-making.

It is also important to agree on why implementation of the Aarhus Convention in the country is important and how the National Profile process can contribute towards building capacities for successful implementation. As stakeholders may hold different perspectives about this issue, efforts should therefore be made to reach, at an early stage, a common understanding of the overall goals of the process as well as an understanding of different opinions.

Finally, countries may wish to maximize the benefits of developing a National Profile by using it as the basis for a report of requirements mandated by the first Meeting of the Parties to the Aarhus Convention in Decision I/8. As the Decision's reporting requirements are more specific than the information reported in the National Profile, countries may wish to include Decision I/8 responses in their National Profile.

2. Defining the Scope of the “Environment”

It is important to develop a clear understanding of the National Profile’s underlying focus: namely, to define the scope of the term “environmental decision-making”. While the Aarhus Convention does not contain a definition of “environment”, some indication of the meaning of this term in the context of the Convention can be deduced from the explanation of “environmental information” (see article 2, paragraph 3). This article suggests that environmental decisions are not only taken directly by environmental ministries and agencies, but also include decisions taken by other ministries which may affect human health and the environment, such as Ministries of Transport. More generally, the Convention provides a set of minimum standards to Parties to guide them on how to protect the right to a healthy *environment*. Developing a good understanding and obtaining agreement on the definition of environmental decision-making early in the process can provide a critical foundation for the National Profile preparation process.

3. Ensuring Involvement of Relevant Government Sectors

It is necessary to identify and involve partners within the government who have the potential to become involved in preparing the National Profile. These may include a range of federal, regional and local government ministries, agencies and bodies. Those potential partners who have mandates directly related to the elements of the Aarhus Convention – access to information, public participation in decision-making and access to justice in environmental matters – are the most obvious and easiest to identify. This would include, for example, ministries or agencies concerned with environment, health, transport, agriculture, fisheries, forestry and justice.

An integrated approach to implementing the Aarhus Convention is, however, complicated by the fact that several ministries have mandates for decision-making affecting the environment. While each country allocates responsibilities somewhat differently and may use different titles for their ministries/agencies, in most cases:

- *Ministries of Environment* are generally concerned with the direct and indirect effects of activities affecting the environment such as control of emissions and wastes to air, water and land, but in some countries also includes the management of natural resources;
- *Ministries of Agriculture* are concerned with agricultural production and the use of chemicals and Genetically Modified Organisms (GMOs);
- *Ministries of Health* are mainly concerned with the short- and long-term health impacts of pollution on the general public;
- *Ministries of Labour* are generally concerned with occupational health and safety issues affecting the health of workers;
- *Ministries of Industry* are often concerned with the industrial production and the introduction of cleaner production technologies;
- *Ministries of Transport* are generally concerned with planning of the use of land and roads, including the safe transportation including the transport of hazardous materials;

- *Ministries of Trade* are generally responsible for regulating the import and export of hazardous substances and often have the authority to issue relevant trade permits;
- *Ministries of Justice or Legal Affairs* are generally concerned with the development and enforcement of laws and regulations, and often deal with issues concerning public access to information and the protection of confidential business information;
- *Government printing/publications offices* are generally concerned with the publication and distribution of laws, regulations and other government documents;
- *Ministries of Planning* often deal with the donation or receipt of development assistance, which could include, for example, chemicals for agricultural use, technical or financial assistance for the development of industries, or technical assistance;
- *Ministries of Tourism* deal with management of hospitality industry and tourism activities; and
- *Ministries of Foreign Affairs* usually coordinate all international aspects of environmental management, such as participation in relevant international agreements and conventions.

For some of the above ministries, the relationship to the Aarhus Convention may not be immediately obvious. For example, officials from a Ministry of Finance may have no direct mandate relating to the environment, however, may make decisions that have profound implications on the quality of the environment. If a forum exists to enhance dialogue and coordination at the inter-ministerial level, it may provide an effective mechanism to exchange experiences and lessons learned on how the Aarhus Convention is implemented in the various sectors involved in environmental decision-making.

Box 1: Making Use of Relevant Public Participation Initiatives

A number of initiatives that address public-participation issues and that relate to Principle 10 of the Rio Declaration or the Aarhus Convention are relevant to or inform the National Profile process. For example, the *Regional Environment Center (REC)* led, in 1998, a pan-European assessment of trends and practices in public participation in environmental matters, published as "Doors to Democracy." The REC's Public Participation Programme has several relevant ongoing projects, such as "Implementing the Aarhus Convention: Practical Tools for Public Participation" and a variety of capacity-building efforts (for more information, see www.rec.org.)

Another important effort is *The Access Initiative (TAI)*. TAI is a global coalition of public-interest groups, convened by the World Resources Institute, collaborating to promote national-level implementation of commitments to access to information, participation, and justice in environmental decision-making. After pilot tests in nine countries, the Access Initiative has developed a new tool to help civil society groups assess their government's commitment to public access to information and participation. The guide for this assessment can be accessed at www.accessinitiative.org. As each initiative has its own goal and approach, countries may wish to consult relevant documentation to inform the preparation of their National Profile.

4. Ensuring Involvement of the Public Concerned

The “public concerned,” as referred to by the Aarhus Convention, refers to interested and affected parties. Another term used for the “public concerned” is “stakeholder”: individuals and groups with private and public interests. In this Guidance Document, “stakeholder” and “public concerned” are used interchangeably to identify groups or individuals that may be interested or affected in matters relating to the environment.

Why is stakeholder involvement important?

The involvement of stakeholders from within the country in the National Profile process is considered a prerequisite for its success. The reason is straight forward: to be successful, the process for developing a National Profile must provide a comprehensive but easily accessible and flexible mechanism for the collection and dissemination of country-specific information related to the Aarhus Convention. The National Profile therefore cannot be prepared without the active involvement and participation of the key users. Without the input from all stakeholders, important concerns are likely to be omitted, language will fail to communicate clearly, and some significant ongoing activities will escape notice. In other words, the involvement of stakeholders in the National Profile process is already a major step in complying with the public participation provisions of the Aarhus Convention.

At the outset, it is essential that key stakeholders agree to and have the capacity to participate in the development of the National Profile. It is also important that these stakeholders recognise that their participation is meaningful, thereby increasing the likelihood that the National Profile will be both useful for their purposes and broadly acceptable. While not all members of the public concerned will need to be directly involved in preparing the National Profile, it is nevertheless important to understand who the stakeholders are and to ensure that their perspectives and concerns are taken into account. Involving key stakeholders may also be of practical relevance, since their actions and commitment will be essential to the implementation and success of the Aarhus Convention. It should also be recognised that certain parties will be more enthusiastic, more willing and more capable in terms of human resources to be responsible for taking the lead in preparing parts of the National Profile. In any case, it is important that all stakeholders are kept informed and involved throughout the process.

Identifying relevant stakeholders

A stakeholder, in the context of preparing a National Profile, may include an organisation, institution, community or other body that is concerned about issues related to the Aarhus Convention, as well as the development of the National Profile, and recognises that the decisions made in the course of the National Profile preparation could have an effect on its activities and related interests.

The list of participants in developing the National Profile will vary amongst countries. In most cases, concerned parties will come from the following major sectors of the country:

- *NGO and interest-group representatives*

These may include consumer, environmental, or other community-based organisations (e.g. women’s groups), industry groups or other associations that share a concern about

environmental matters within the country. These groups often have specific knowledge of certain aspects related to the Aarhus Convention which is valuable to include in the National Profile. It may be difficult to determine the appropriate NGO and interest group representatives, in particular, if there are too many for all concerned organisations and groups to be represented. Therefore, it may be necessary to establish a mechanism to determine the most qualified or interested NGOs and interest groups or to establish a means for allowing the NGOs and interest groups to determine for themselves who should represent them and how this representation should be organised.

- *Academic and research-sector interests*

This group typically includes researchers from major universities as well as representatives of environmental and legal research centres and other sources of scientific/technical information needed for implementation of the Aarhus Convention.

- *The Media*

The media plays an important role in raising awareness of environmental problems and disseminating information about related policy debates to the public at large. In light of this important role, the media could be considered a stakeholder that should be involved in the National Profile preparation process.

All participants should recognise that the development of the National Profile is a fact-finding and evaluation exercise about procedural issues and not an opportunity to attempt to change policies or lobby for a particular substantive outcome.

Conducting a stakeholder analysis

It is important to develop a thorough understanding of the interests of different stakeholders, the extent to which implementation of the Aarhus Convention may affect them, and the reasons behind their likely support or opposition. This will provide insight into who can be involved in the National Profile preparation process, what roles they might be expected to play in the process, how they might become involved, etc. It is equally important to determine what roles each stakeholder would like to play in the process, and what expectations they have regarding their participation as well as the Aarhus Convention in general (see Box 2).

In order to determine who should possibly be involved or might want to be involved in preparing the National Profile, the following questions can be asked:

- Who might be affected by the implementation of the Aarhus Convention?
- What are their interests and positions?
- Who has information and expertise that might be helpful?
- Who has been/is involved in similar initiatives?
- Who has expressed interest in being involved in similar initiatives/efforts before?
- Who else might be interested in preparing the National Profile?

Box 2: Conducting a Stakeholder Analysis

A simplified table for categorising stakeholders, which may assist with the stakeholder analysis, is shown below. After identifying stakeholders, respective interests, etc., it may be helpful to divide stakeholders into four categories: (i) those who will likely want to participate fully or whose active involvement will determine the credibility of the process; (ii) those who would likely play a more limited role (e.g. by being involved only in parts of the process); (iii) those who likely will wish simply to be kept well informed; and (iv) those who will not want to be involved. This categorisation may help with organisational matters. It may also be useful to classify stakeholders (as appropriate) according to their affiliation, history with the issues, established positions, potential influence, specific field of competence (e.g. PRTRs, GMOs, waste management), economic or social sector, geographic region, gender, cultural background and language.

<i>Who?</i> Stakeholder Name	<i>What?</i> Stakeholder Interests, Position & Official Mandate	<i>Why?</i> Reasons for Inclusion	<i>How?</i> Possible Role

Some stakeholders may only want to be involved in specific limited issues, for example, providing input/comments on specific sections of a chapter that concerns particular environmental issues and problem areas (see Part III, Chapter 5). The National Profile preparation process should therefore allow for this type of involvement, which can increase the accuracy of the information without increasing the number of partners in the coordination team.

Identification of stakeholders for the National Profile process will yield a body of information that may be very useful in identifying stakeholders for future decision-making cases. A dataset identifying the organizations and groups that are concerned with environmental, health and public participation issues in the country may be a useful foundation for stakeholder involvement for other processes. Those stakeholders may be able to identify other relevant members of the public concerned, for instance. Part III, section 6, of this Guidance Document may be helpful in developing such a dataset.

Identifying mechanisms for stakeholder involvement

Stakeholder involvement may comprise any or a combination of a range of activities, tools and relationships, such as two-way communication, stakeholder consultation, advisory boards, partnerships and joint decision-making. Determining how to involve stakeholders depends on many factors including: the nature and context of the issue; the complexity, uncertainty, impact and level of controversy associated with the National Profile; the urgency with which the issue needs to be addressed; the manner in which the stakeholder groups would like to be involved; the extent to which they can be involved and have a genuine influence on decisions⁷; and resources available to facilitate involvement.

One significant challenge involves addressing the costs of stakeholder involvement processes early on in the process. Organisation of and participation in meetings has resource implications and the cost of such processes should be balanced with their benefits. Sound budgeting for effective stakeholder involvement is therefore an important consideration, since it is easy to underestimate the financial or human resources that will be needed in order to successfully involve stakeholders. The cost of involving stakeholders is determined by various factors, including the number of participants and the speed with which the National Profile preparation must be made. One aspect that should be taken into consideration is that stakeholder groups that represent public interests are often not as well funded as groups that represent specific interests. The convening ministries should therefore consider special efforts to support the participation of groups with few organisational resources.

5. Managing the Process of Preparing the National Profile

Establishment of a National Coordinating Team

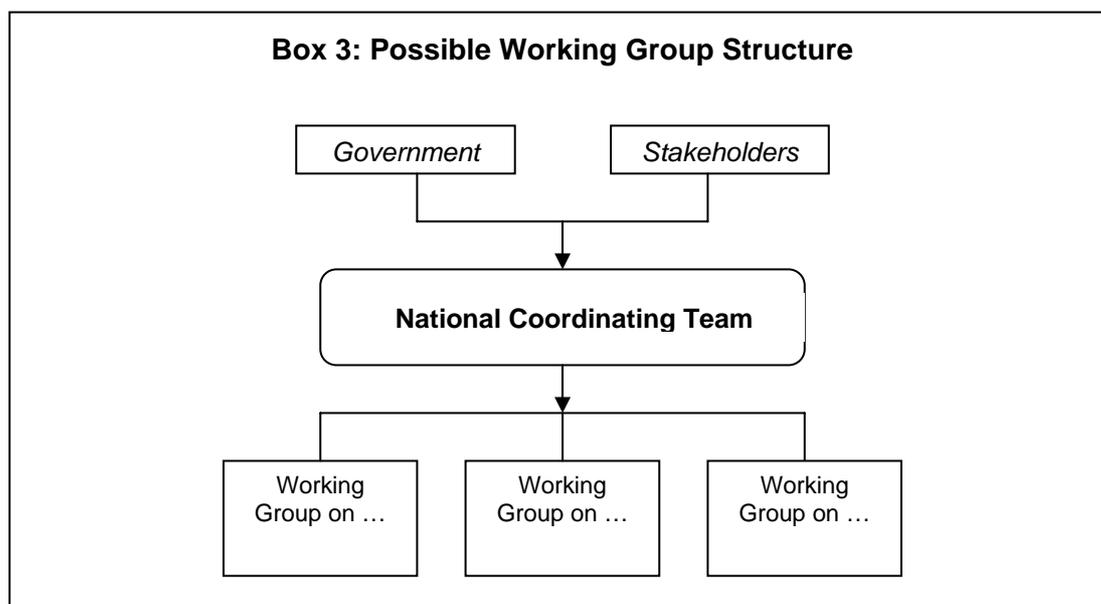
Basic to the success of preparing a National Profile is the establishment of a clear management structure for overseeing its preparation. It is therefore suggested that a National Coordinating Team be established with a membership of about 10-15 members which represents the various concerned parties, within and outside of government, that have an

⁷ For example, in many circumstances, involving stakeholders should allow time for participants to report back to their organisations and seek guidance on specific issues.

interest in the Aarhus Convention. In this regard, it is important to recognise the value of including representatives of a range of relevant disciplines (e.g. natural resources, chemicals management, energy, law) in the National Coordinating Team.

Experience has shown that it is important to raise sufficient awareness at the country level before selection of members of the National Coordinating Team. Moreover, it is useful to undertake active outreach to ensure that all parties are aware that the process is underway. The National Coordinating Team would be responsible for such tasks, which would fall under its primary role of organising and supervising the work towards the preparation of the National Profile.

Sharing the task of completing the National Profile is an important element of the National Profile process. The National Coordinating Team may therefore want to delegate the drafting of certain sections to its members or establish informal working/drafting groups (see Box 3). Alternatively, a knowledgeable and unbiased national consultant (e.g. based in a respected university) could be involved in collecting relevant information and drafting the various chapters, subject to further review by the National Coordinating Team.



Selection of a National Coordinator

A National Coordinator should be identified to facilitate and catalyse the preparation of the National Profile and to serve as the Secretariat for the National Coordinating Team. Selection of an appropriate and committed National Coordinator is a key to the success of the National Profile preparation process. The National Coordinator should probably be located in a ministry or organisation which has an interest in and a mandate related to the implementation of the Aarhus Convention. One option would be to choose the focal point of the Aarhus Convention. Alternatively, countries may decide to locate the National Coordinator in an organisation or institution outside the government.

It is important for the National Coordinator to have the respect and cooperation of all participants in the development of the National Profile. Furthermore, the National

Coordinator should have sufficient political clout to draw other government ministries and other institutions, as well as parties outside of government, into the process of preparing the National Profile.

Each country should determine the best way to choose a National Coordinator, recognising that the process of involving and coordinating activities amongst the concerned parties will be greatly facilitated if the National Coordinator is widely considered to be knowledgeable, unbiased and trustworthy. It may be appropriate for the National Coordinator to be chosen, or at least endorsed, by the National Planning Meeting for the preparation of the National Profile or at some other point in the planning process (see Box 4).

Box 4: Holding a National Planning Workshop

Holding a National Planning Workshop early in the process can help to ensure that the National Profile process is accepted as a national activity that requires input from all affected and interested parties. A preliminary step will be to identify and agree on an agenda and background documents for agenda items. By the end of the workshop, agreement should be reached on:

- the objectives and anticipated benefits of preparing the National Profile;
- the selection of the overall coordinating mechanism;
- the need for and establishment of working groups responsible for developing the thematic assessments, if existing consultation mechanisms are not in place;
- a workplan and budget for preparation of the National Profile;
- intermediate and final outputs; and
- a timeframe for completion of the National Profile.

Participants of the National Planning Workshop should include representatives of all interested national, regional and local ministries/agencies, universities and research institutes, industrial and professional organisations, labour organisations, and environmental, consumer and other interested community-based groups. In particular, the representatives of the various national ministries should be high-level officials with sufficient authority to ensure the required input of various ministries in the National Profile process. Countries may also consider inviting representatives of international and bi-lateral technical cooperation agencies and organisations which have interests and programmes related to the thematic areas and which are present in the country.

Coordination and communication within the National Coordination Team

The basis for an effective, well coordinated process is clear communication. From the outset, participants need to know what is expected of them and what types of support they will receive. The National Coordinator must also recognise that participants are typically involved in a large number of other activities and that it is useful to establish schedules and plans well in advance (e.g. the times and location of the meetings of the National Coordinating Team).

No matter how carefully the process is designed, coordination amongst members of the National Coordinating Team sometimes will prove to be challenging. Why might challenges arise? Four reasons are particularly important:

- *Differences in values*
Certain team members will have one particular set of concerns whereas other team members will be concerned about other issues. This is to be expected and welcomed: the reason why different groups are invited to participate in the process is because they have different concerns and interests. The main task of the National Coordinator with respect to differences in values is to try to ensure that groups move beyond vague statements and contribute towards developing an information base which is truly useful for improving understanding on general as well as specific aspects of the Aarhus Convention.
- *Differences in the interpretation of factual information*
Where differences in the interpretation of factual information occurs, the National Coordinator should take a proactive stance, seeking to discover the reasons for such discrepancies amongst concerned parties. Alternatively, the National Coordinator may be able to search for additional data sources that can help to clarify a specific issue. For example, a factual dispute may arise because one group involved in discussions is simply misinformed. If this is the case, the National Coordinator should provide the correct information in order to resolve the dispute.
- *Size*
The size of the National Coordinating Team influences coordination in many ways. As the number of participating parties increases, it can become increasingly difficult to coordinate amongst them. If more than 15 parties are involved, it may be advisable to break down the National Coordinating Team into smaller groups, each of which can conduct specific tasks, for example completing the “Access to Information” section of the National Profile. A large number of participating parties can also complicate the logistics of planning meetings or add to the expenses involved in gathering together all participants.
- *Logistics*
Travel costs and time required for National Coordinating Team meetings can, in some cases, constitute a significant barrier to members located far from the capital city. For some countries, this aspect should be taken into consideration when deciding on size and members of the National Coordinating Team as well as on the frequency of meetings.

All these questions will require frank discussions in the early stages of the process; in many cases, it will make sense for countries to begin small, by obtaining the key sources of information that are easily available and then building on this base over time and within the context of realistic financial and technical constraints.

Developing an effective process for participation

Effective participation in the process requires, in general, that participants believe they have an important role to play in designing the National Profile and that this input will contribute to the development of an improved outcome. To this end, awareness-raising of the National Profile process (e.g. by involving the media and organising briefing sessions with decision-makers) should commence at an early stage so that those who may wish to be involved are sufficiently informed on time.

In many cases, it will be possible to easily reach agreement on a large number of issues such as those relating to the identity and number of concerned parties to be represented in the National Coordinating Team, or the number of times that National Coordinating Team meetings are scheduled.

In other cases, however, attaining agreement will not be possible due to differences of opinion and interpretation that exist amongst members of the National Coordinating Team. In such cases, it will be necessary to clarify areas of agreement and disagreement and, with this knowledge carefully recorded, move ahead towards the development of workable and generally-acceptable strategies for completing the Profile. Areas where agreement may prove to be difficult typically include controversial information, such as the diagnosis of possible gaps or overlaps in a country's existing legal basis for implementation of certain procedural environmental rights. Another area of contention may involve agreement on which type of information or data should be considered confidential.

An important task of the National Coordinator is therefore to carefully identify topics where agreement can be easily reached and those with which decisions will require greater effort (through other means). Team members also should be reminded that the development of the National Profile is an ongoing process and that the fate of the first version of the National Profile does not hinge on every detailed decision that is made. Thus, team members should be encouraged to work hard to achieve their major objectives but to compromise on less important issues (see Box 5).

Box 5: Key Questions for Successful Participation

An effective involvement process will require a high degree of flexibility. If anticipated results with regard to team participation are not being generated, if participants are dissatisfied or sceptical, or if unforeseen developments have altered the dynamics, the process should be modified.

Important questions to consider at the outset of the National Profile preparation process include:

- Has a clear statement of purpose and intentions for the National Coordinating Team members been provided, e.g. through a National Planning Meeting?
- Has the deadline for completing the National Profile preparation process and any stages along the way been clarified?
- Do participants have a clear understanding of what is expected of them?
- Does the knowledge of participants' issues and concerns include an understanding of: (i) who will be affected by the implementation of the Aarhus Convention and (ii) the sectors, interests and/or regions that different participants represent?

6. Development of Terms of Reference and Workplan

It is also important for the National Coordinator to pay close attention to a variety of basic organisational and logistical duties: to clearly designate meeting times, to ensure that background materials are distributed to participants well in advance, and to decide on a process for recording decisions of the group. Most participants in the National Coordinating Team will have been part of earlier efforts, often discussing similar topics, and they will have formed expectations on the basis of these earlier experiences. It is therefore valuable to uncover these expectations, with the intention of replicating the positive experiences and avoiding the negative ones.

In order to clearly define all organisational aspects of preparing the National Profile, it may be helpful to prepare a short terms of reference, which could specify, for example:

- the tasks and functions of the National Coordinator;
- the parties which should be represented on the National Coordinating Team including, as appropriate, agreement on the National Coordinator; and
- the role and functions of the National Coordinating Team and of individual members of the Team (this could include the need for and establishment of working parties responsible for developing specific parts of the National Profile).

A workplan can also be prepared which sets out the details for the National Profile preparation process, such as:

- milestones, sequence of events and timelines, and expected outputs (including reference to interim status reports, meetings, etc); and
- a time frame for completion of the National Profile.

Developing draft terms of reference and workplan will help to ensure that each participant is in agreement concerning important administrative and organisational details. A workplan checklist is a useful tool to document progress towards completing the National Profile. The following checklist (see Table 1 below) could be adapted to be consistent with the procedures established in each country.

7. Dissemination and Endorsement of the National Profile

Once the National Profile has been completed, it will be important to receive governmental endorsement and undertake broad dissemination to all interested and affected parties. This can help to generate additional interest and support among those whose input may be needed to address selected follow-up topics and activities.

Government/parliament endorsement of the Profile can take the form of a media event⁸ in order to facilitate reaching as wide an audience as possible. It can also set the stage for a National Priority Setting Workshop to take place at a later date (see section 8 below). In addition, in an effort to make the Profile and its information easily accessible, it is also possible to publish and disseminate the Executive Summary as a separate document.

⁸ The media are an important mechanism for disseminating information of environmental issues and should not be overlooked.

Table 1: Checklist of workplan activities

Activity	Timeframe	Completed?
Identify a national coordinator		
Contact key government agencies and stakeholders		
Hold a high-level national planning meeting		
Identify key sources of information		
Divide responsibility of drafting specific chapters		
Hold interim meeting(s) to review progress and drafts of available chapters		
Circulate a revised draft of the national profile to key government agencies and stakeholders		
Prepare final profile and the executive summary		
Print and circulate the national profile		
Print and circulate the executive summary		

8. Using the National Profile as a Starting Point for Identifying Priorities and Capacity Constraints

The National Profile should provide a snapshot of the existing situation in the country, including details on existing problems, programmes in place, responsible bodies and officers, and ongoing activities. Further, the preparation of a National Profile may be the first time that the various concerned and interested parties within and outside of government have joined together on a common project. Preparing a National Profile may therefore serve as a good stepping-stone for a national initiative to strengthen related capacities.

Setting priorities

In order to develop specific opportunities for capacity building, a good understanding of the baseline situation is essential. It is with this information in hand that priorities can be identified (or confirmed) and related capacity constraints and opportunities for capacity building (or capacity strengthening) determined. A first step following preparation of a National Profile may be to consider potential shortcomings and gaps (and strengths) in the current situation as well as areas/topics which may warrant priority attention. This information can help to facilitate an effective priority setting process. The matrix provided in Box 6 can assist with the identification of priority issues.

The priority setting process (or priority review and confirmation) should result in a manageable number of issues which are of paramount importance and which may require capacity building. Setting or confirming priority issues will help to provide focus for the identification of capacity constraints (and ultimately future capacity building projects).

Identifying capacity constraints

Once a number of priority issues have been determined, relevant capacity constraints can be identified. In this context, “capacity constraints” can be defined as something that prevents effectively addressing the issues identified above. One approach for identifying capacity constraints is to build on the information collected in the National Profile by thinking through further the reasons for the existence of identified gaps or weaknesses. This involves identifying the negative aspects of an existing situation and establishing the “cause and effect” relationships between the problems that exist. With any approach, the guiding question should always be, “What specific problems are preventing an adequate response to the priority issues?”

Resulting from this exercise would be a list of relevant problems (including the identification of focal or central problems). These problems are essentially capacity constraints. These can then be grouped into categories along the concepts of individual, institutional and systemic capacity constraints (see Part I, Box 1). It is important to assess and group capacity constraints according to these three levels of capacity constraints, as the level at which the capacity constraint occurs will influence the type of capacity building required. The concept of systemic, institutional and individual levels of capacity constraints and guiding questions for identifying these are outlined in Annex 1.

9. From Priority Setting to Capacity Building

Categorising each capacity constraint identified as either individual, institutional or systemic may provide direction for identifying possible opportunities for building the capacity needed. It may also be helpful to categorise the type of capacity building required to further define the opportunity for capacity building. Capacity building opportunities can generally be categorised as:

- creating new capacity;
- mobilising or redeploying existing capacity; and
- enhancing existing capacities.

This analysis could result in some concrete ideas for capacity building projects and the specific objectives these projects would aim to accomplish. It may be of value to also identify particular project “areas” based on identified opportunities for capacity building. To be most effective, capacity building efforts should be linked to concrete investment and sectoral activities.

In order to conduct a transparent priority setting exercise, it is essential to use simple decision criteria against which the various issues can be evaluated and prioritised. Ranking issues against the selected criteria will allow a simple comparison of the relative importance of each and should thereby facilitate further group discussion on setting, confirming or reviewing priorities. Such a tool, however, should not be seen as an end in itself. It is first and foremost an evaluative tool. Simply adding values assigned to each issue will not take into account the different weighting assigned to particular criteria. Table 2 offers a guide for developing an issue prioritization matrix.

Based on the capacity constraints and opportunities for capacity building identified, countries may wish to consider developing action plans for capacity building. An action plan may comprise a goal, specific objectives to be achieved and courses of action to reach the goal and objectives. In addition, countries may wish to develop related project funding proposals to support their action plans.

Table 2: Issue Prioritization Matrix

Issue	Scale of Problem ¹	Level of Concern ²	Ability to Adequately Address Issue ²	Priority Ranking ³
Issue A:				
Issue B:				
Issue C:				
Issue D:				
Issue E:				

¹ Enter: local, regional, national, or global.

² Enter: low, medium, or high.

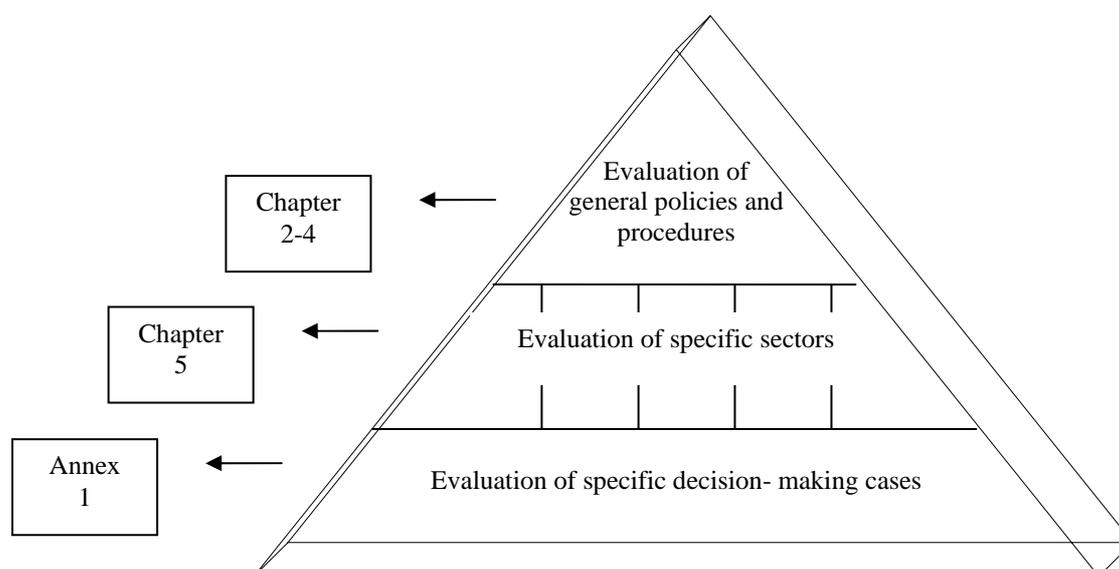
³ Provide relative ranking from 1 to 5 of the problem(s) being faced by the country (1 = most severe problem(s), 2 = second most severe problem(s), etc.). The same ranking can be given to different issues where appropriate.

PART III: SUGGESTED STRUCTURE AND CONTENT OF THE NATIONAL PROFILE

Part III of this Guidance Document outlines the suggested structure and contents for a National Profile. It proposes that the National Profile consist of a total of eight chapters. Chapter 1 would provide and introduce political institutions and democratic procedures important to understanding environmental governance. Chapters 2-4, following the three pillars of the Aarhus Convention, would address questions of access to information (Chapter 2), public participation (Chapter 3) and access to justice (Chapter 4) respectively. Chapter 5 provides the opportunity to deepen understanding of how the general policies described in Chapters 2-3 are applied to environmental governance in specific environmental sectors or problems areas, such as energy, chemical management, etc. Finally, Chapter 6 would provide an overview of non-governmental groups, Chapter 7 would summarize existing capacity and related constraints and Chapter 8 would outline opportunities for taking action. Specific case studies (please see textbox 5.1) could be attached as an annex to the National Profile.

Figure 1 provides an overview of the different levels of depth of the evaluations.

Figure 1: Level of Analysis in the National Profile



Methodological suggestions

In preparing the chapters of the Profile, a combination of text and tables are available to present the relevant information and findings of the respective chapter evaluations. For the evaluative sections, identified as “Analysis and Assessment,” specific questions are posed to assist the National Coordinating Team in identifying the existing national infrastructure and related capacities.

The questions and suggested tables presented below should be adapted by each country to meet its respective needs. It is recognised that no country will be able to complete all of the tables or answer all of the questions. In many cases, however, documents already exist that may include relevant information, which could then be summarised for the Profile. Such documents should be used as much as possible and referenced in the final National Profile. The ultimate goal of the Profile is to collect and analyse, to the extent appropriate, relevant existing information. However, identifying a lack of information will in itself provide important insights for analysis and follow-up activities.

Using the National Profile for Reporting under the Aarhus Convention

At the first Meeting of the Parties to the Aarhus Convention in Lucca, Italy, on 21-23 October 2002, the Parties to the Convention agreed to specific reporting requirements for national implementation of the Convention's provisions through Decision I/8. As the National Profile is based on the Convention's provisions and structure, countries may wish to use the National Profile as a basis for reporting in accordance with Decision I/8. The questions contained in Part III of this guidance document may, however, not have the specificity and level of detail required for answering all questions covered in the reporting guidelines. Countries which would like to use the National Profile for reporting under Decision I/8 are therefore encouraged to review the Reporting Guidelines (attached as Annex 3) and include more detailed information in relevant section of the National Profile.

CHAPTER 1. INTRODUCTION TO THE POLITICAL SYSTEM AND STATE INSTITUTIONS

Objective of Chapter 1:

To provide a general background to the country's political system including its constitution, institutions and political structures

1.0 Introduction

The National Profile may serve as an educational tool for environmentally concerned citizens to learn about and better understand democratic institutions and their related decision-making procedures at a general level. Chapter 1 of the National Profile could provide an overview of the country's political system, including its constitution, political organization and institutions. Describing the characteristics of the political system and the state institutions of a country is important because these determine how decisions are made, who is involved in the decision-making process, and the extent of public participation. In other words, procedural aspects of environmental decision-making are linked to and dependent upon issues of decision-making and democracy building in general.

The greatest challenge in preparing Chapter 1 of the National Profile will be to cover the various issues in a concise manner. Therefore, it may be preferable to address only select questions listed in the following sections. The length of Chapter 1 can be kept to a minimum by providing references to, or annexing, relevant documents or webpages that give additional information on specific subject areas. Finally, when completing Chapter 1 of the National Profile, some consideration could be given to an environmental perspective, as appropriate. It is important, however, to note that certain information will be better placed in subsequent chapters of the Profile.

1.1 The Constitution: Human and Environmental Rights

The Constitution is the fundamental charter of a country and the pillar of its governance system. As such, identification of relevant constitutional provisions sheds light on the country's political structure affecting environmental management. The recognition and implementation of human rights, especially environmental rights, can influence the extent of public participation since rights listed in the Constitution are protected by the courts of law in a direct or indirect way (e.g. in some countries, claimants can refer directly to the violation of a constitutional right in front of a court; in other countries, specific laws and regulations that implement the constitutional provisions must be violated in order to establish a case). This section of the Profile could serve to briefly introduce the national constitution. Table 1.1 may be useful in identifying relevant human rights and corresponding constitutional provisions in more detail.

Table 1-1: Constitutional Rights

Type of Human Rights	Relevant Constitutional Provision
<i>Right to a (healthy) environment:</i>	
<i>Other human rights that can be used for the protection of the environment:</i>	
Right to health	
Right to decent living and/or working conditions	
Freedom of speech	
Freedom of assembly	
Right to privacy	
Right to equal protection by the law	
<i>Procedural human rights that can be used in an environmental context:</i>	
Right to access to information	
Protection of personal data	
Protection of business, bank, insurance, medical secrecy, etc	
Right to access to justice (natural and/or legal person); right to judicial remedy in case of administrative decisions	
Right to participate in the decision-making process	

1.2 Type of Political System and Democracy

A brief description of the political system and type of democracy (e.g. parliamentary democracy, presidential democracy) may provide a useful point of entry for the National Profile. The description may include a brief outline of the major political institutions, identification and description of their respective roles, and clarification of their relationship *vis-à-vis* each other in order to discover any institutional dependencies.

The following points may be useful in conducting the analysis:

- What are the major political institutions in the country (e.g. parliament, head of state, head of government)? How do they come into power (e.g. elected directly by the citizens, elected by the members of parliament, electoral system, succession)?
- What are the most important roles of the head of state that might have an influence in environmental governance? These may include, for example:
 - constitutional norm control;
 - nomination of certain high ranking officials (e.g. prime minister, supreme court judges, heads of central agencies);
 - forum for citizens' complaints;
 - representation of the country in international relations, signing international conventions (e.g. related to the environment);
 - enacting presidential decrees or other sources of law; and
 - other functions that might be relevant in environmental affairs.

1.3 Levels of Government

The geographical and thus administrative division of a country has a major impact on its political system and the distribution of power amongst the different levels of government and authorities. In order to identify the geographical and administrative division, it might be helpful to address the following questions:

- Is the country a federal state or unitary state?
- What are the different levels of government (e.g. national, regional, local)?
- What is the general division of responsibility in environmental governance amongst the different levels of government (e.g. in some countries environmental legislation is mainly developed at the national level, while enforcement takes place at the regional/provincial or local level)?

1.4 The Legislature and Other Elected Bodies

Democratically elected legislative bodies form the core of modern political systems and offer a means for the country's citizens to indirectly participate in governance (through elected representatives). While in some countries legislative proceedings are closed to the public, other countries have open legislatures, and provide opportunities for public participation. This section of the National Profile can present the political institutions responsible for the

development of legislation (e.g. statutes, by-laws) at the national, regional and municipal levels, as appropriate. Details regarding opportunities for the public to participate in legislative processes that affect the environment are covered in more detail in Chapter 3 of the National Profile.

Electoral rules and political parties

Electoral rules determine how the public can designate its representatives; as a result, rules concerning issues such as direct voting or electoral colleges, the size and characteristics of the electoral districts, and electoral lists influence the extent and importance of the participation of each citizen and their freedom of choice. Similarly, the nature of the party system and political parties determine the level of independence of political representatives and thus the way and extent the public can exert influence on its delegates.

In order to analyse this aspect of the political system, the following issues may be considered:

- What are the major rules concerning the elections, suffrage, electoral districts and electoral colleges of the country?
- What influence do political parties have in state decision-making (e.g. loyalty of members/representatives of the party; powers and functions in the parliament linked to membership in parties; possibility of influencing party-members by party orders)?

National parliament

National parliaments are at the centre of legitimate democratic decision-making. When statutes are enacted by national parliaments, every other national or local decision-making organ must respect these. To characterise the role of the national parliament, the following questions may prove to be useful:

- What is the form of the parliament structures (e.g. number and type of chambers)?
- Do *ad hoc* and/or permanent committees exist? Which committees have a say in environmental governance (e.g. environmental, budgetary, energy, industry)? (see Table 1-1 below)
- How is the representation of regions ensured in the central legislative body?
- What role does the national parliament play in environmental governance? In this context, special mandates of the national parliament may include the following:
 - preparation and promulgation of statutory legislation;
 - right to review certain regulation developed by the executive;
 - organisation of hearings on environmental issues;
 - acceptance of budget (including amounts attributed to government agencies dealing with environmental matters);
 - overseeing the Ombudsman;
 - right to investigate the actions taken by the executive power;
 - right to demand the resignation of a minister (e.g. minister responsible for the environment); and
 - ratification of international environmental conventions.

The following table can be used to chart various parliamentary committees affecting environmental issues and their respective functions.

Table 1-2: National parliamentary committees involved in environmental decision-making

Name of Committee	Function

Regional parliaments

In many countries, especially in federal states, regional legislative organs have an important role to play in environmental governance. While describing the role of regional parliaments, the following issues could be addressed:

- What is the composition/structure of the regional legislative organs?
- What role do regional legislative organs play in environmental governance? The mandates may include, for example:
 - review of draft national environmental legislation;
 - development of regional legislation, action plans or regulations;
 - waste management and siting decisions; and
 - land-use planning and nature protection.

Local parliaments/municipal councils

Local decision-making organs not only reinforce the democratic nature of decision-making, but also often allow for wider and direct participation of the concerned public, as opposed to the more detached indirect participation mechanisms of national or regional institutions. As a result, local organs often play a crucial role in environmental decision-making. Questions to be addressed in this context may include:

- What is the relationship of these bodies to central state organs (e.g. direct dependence on hierarchical superior, complete independence, discretion in certain areas)?
- What role do these regional organs play in environmental governance?

1.5 The Executive and Administration

General structures

The executive branch of government is not only designated to implement decisions, but is also an important decision-making organ. In contrast to the institutions and procedures described in the previous section, decision-makers in the executive are not elected (with the exception, perhaps, of the heads of government or state), but are appointed. In order to characterise this branch of government, it may be helpful to provide an overview (e.g. in the form of a table or organisational chart) of the administrative organs at the national, regional and local levels, including administrative bodies that are not integrated in the traditional ministerial system.

Role of the executive and administration in environmental governance

Following an overview of the executive and administration, it is important to ask the following question: What role does the executive play in environmental governance? The mandates may include, *inter alia*:

- preparation of draft legislation for parliament;
- adoption of generally applicable rules and regulations (e.g. setting standards, giving technical details of laws dealing with the environment);
- adjudicative decision-making (e.g. issuance of permits and licenses);
- non-judicial review of administrative decisions;
- negotiating and implementing international conventions;
- adoption of plans and programmes;
- management of accredited laboratories and other scientific institutions; and
- enforcement of administrative decisions (e.g., fines, inspections).

The civil service

Civil servants are not directly elected, but nevertheless have an important role and often significant powers related to environmental governance. Traditional cultures of administration may have an impact on the procedural nature of environmental decision-making.

When describing the civil service culture, the following questions may be relevant:

- How are the civil servants recruited in the country (e.g. competitive examinations, quotas, graduates of certain schools)?
- What is the self-understanding of the civil service (i.e. do they see themselves as technical experts or as facilitators of pluralistic decision-processes)?
- How independent is the civil service from the political power (e.g. party influence, conditions of removal or retirement from post)?
- How mobile are the civil servants vertically and/or horizontally in the administration (e.g. possibility of transfer from one organ to another (higher or lower) or to one with different competences)?

1.6 The Judiciary System

Introduction

An independent judiciary system has been one of the most important prerequisites of democratic political systems for centuries. This section can provide an overview on the judiciary's relationship with the other branches of government, the relationship amongst different courts, and their level of specialisation and role in environmental decision-making – all of which have a major impact on the extent to which the avenues of public participation are open and known to the public. Questions to be addressed in this context may include, for example:

- Is the legal system based on the Roman law or the Anglo-Saxon tradition, or is it a combination of the two?
- How is the independence of the judiciary power from the executive ensured? The following question may be of use:
 - By whom and according to what conditions are judges appointed?
 - How can they be removed and by whom?
 - How can they be influenced in their decisions, what influence does the higher level courts have on the lower level courts?

Structure of the court system

Countries have established different courts which become active depending on the legal nature of a particular issue (e.g. administrative, civil or criminal cases). For a layperson these distinctions can be difficult to comprehend and ambiguity typically remains regarding which courts are responsible for which type of issues. Therefore a brief overview of the courts system may be appropriate.

While providing an overview of the court system, the following questions could prove to be useful:

- What is the hierarchical structure of the courts?
- Do specialised courts exist? Specialised courts may include, for example:
 - administrative courts (independent or part of the executive);
 - labour courts; and
 - other (e.g. military, juvenile).

The *Constitutional Court* plays a particular role within the courts. It is not only a special court, but also the last court of instance and may also be a powerful political institution. Its various functions linked to constitutional control may have an important impact on the outcome of decision-making procedures. Issues which may be addressed by a Constitutional Court include, for example:

- norm control (legislative instruments v. constitution, executive instruments v. legislative instruments and constitution);
- norm control in an international context (national laws and instruments v. international agreements);
- norm interpretation (e.g. interpretation of human rights listed in the Constitution);
- resolution of conflict related to competence of state organs; and
- ultimate constitutional protection of citizens in law suits.

With the assistance of Table 1-3, the different types of disputes can be identified and linked with the competent courts. Such classification is undeniably simplified and generalised, but the table should nevertheless include the most typical dispute types and the regularly competent court.

The role of courts in environmental governance

The general role that the judiciary plays in environmental decision-making, and the roles that each type of court plays, depend on the characteristics presented above (e.g. court system, legal culture). At this point in the National Profile, a brief section could be introduced that summarises the role of courts in environmental issues.

Table 1-3: Linking types of disputes with court responsibilities

Type of Disputes	Court of First Instance	Appeal Court
Review of rules and regulations prepared by the executive		
Review of adjudicative administrative decisions (e.g. review of permitting and licensing decisions)		
Criminal offences		
Nuisance issues		
Other		

1.7 Other Institutional and Non-Institutional Factors Affecting Environmental Decision-Making

The previous sections have provided detail on the most typical constitutional institutions, but since every country has a different political system, there are special organs that may have not been mentioned (e.g. in some countries nuclear agencies are directly established through the Constitution; in other countries an ombudsman is enshrined in the Constitution). Are there any other institutional or non-institutional factors that might have an influence on environmental decision-making in the country? These institutions can be listed in this section.

1.8 Analysis and Assessment

The following questions are meant to facilitate a general overview of the procedural nature of the country's national political institutions. A more detailed analysis with a specific focus on environmental issues will be undertaken in subsequent chapters.

- Does the national constitution provide sufficient guarantees for implementation of procedural environmental rights?
- Is the process of preparing statutory legislation sufficiently open and transparent?
- Does general administrative law contain adequate provisions to implement procedural fairness in administrative decision-making and access to information in executive and administrative processes?
- Are the courts sufficiently accessible to defend concerns of the public interest, and what importance do the courts have in enforcing procedural environmental rights?

CHAPTER 2. ACCESS TO INFORMATION ABOUT THE ENVIRONMENT AND ENVIRONMENTAL DECISION-MAKING PROCESSES OF STATE INSTITUTIONS

Objective of Chapter 2:

To describe and analyze provisions for access to information on the environment, as well as about decisions and jurisprudence affecting the environment

2.0 Introduction

Chapter 2 of the National Profile could provide an introduction to public access to environmental information, the first pillar of the Aarhus Convention covered through articles 4 and 5. Three different yet related areas of information are considered relevant: environmental information (e.g. air emissions), information affecting the environment (e.g. road planning) and information concerning legislative, executive and administrative proceedings concerned with the environment. All three areas are likely to be affected by general procedural legal provision, if in place, such as general access to information legislation, administrative procedures legislation, and possibly constitutional provisions.

2.1 General Access to Information Legislation and Policies

The general rules related to legislation and policies on access to information greatly determine the extent and manner to which the public has access to information in an environmental context.

Key issues to be addressed may include the following:

- What are key constitutional and or statutory provisions, which regulate access to legislative, administrative and judicial documents in general?
- How could the secrecy legislation in force in the country be characterised? What are the examples and definitions of the types of secrecy used (e.g. bank, industrial, tax, insurance, national defence)? Are there any dispositions that exist concerning data confidentiality (e.g. protected personal data, sensitive personal data)?
- What delivery mechanisms are used by the government to provide access to information to the public (e.g. information centres, media)?
- How is the implementation of legislation on access to information coordinated? Is it subject to external oversight (e.g. by the Ombudsman)?

2.2 Information About Environmental Decision-Making Processes of State Institutions

Prior to being able to exercise rights to access environmental information or to participate in environmental decision-making, it is important for the public to have access to an overview of ongoing and planned environmental decision-making processes of state institutions. The Aarhus Convention does not specifically refer to this matter, but it is an important aspect of facilitating effective public participation. Some countries, for example, have developed a public register that provides information about ongoing decision-making processes. In other countries, organisations have become specialised in following relevant processes and informing their constituencies regularly. In any case, challenges often remain regarding the ease with which such information can be accessed in terms of money, time, conditions, etc. Three areas that are considered important and should be addressed in the National Profile are:

- *Information about legislative proceedings;*
- *Information about administrative proceedings; and*
- *Information about judicial procedures.*

Questions relevant for completing each of the above three areas, include, for example:

- Through which means is the public informed about respective decision-making processes and relevant meeting? Are these means accessible and effective?
- Is access to relevant documentation ensured to effectively follow-up on the decision-making process in more detail?
- Does an organisation exist which summarises proceedings and, if so, are these services affordable to the public at large?
- How are new information and communication technologies used to facilitate access to information about relevant decision-making processes?

2.3 Access to Environmental Information Held by Government

This section of the National Profile covers specific rules concerning access to environmental information held by the government. The following questions may be relevant in this context:

- Are general access to environmental information legislation and policy in place?
- What is the general approach to access to environmental information (e.g. whether the general regime applies, if there are any exceptions)?
- What are the institutional responsibilities linked to environmental information collection and dissemination?

Following a general introduction, Table 2-1 below might help to provide a useful overview.

Table 2-1: Availability and accessibility of environmental data held by government

Type of Environmental Information	Institution Holding Information	Available to the Public?	Fees?	Comments
<i>Hazard/emission data and sources:</i>				
Inventories of hazardous facilities				
Inventory of waste sites				
Pollutant release and transfer registers (PRTs)				
Air emissions				
Water emissions				
Chemical hazard information/testing data				
Pesticides/chemicals registers				
Wastes quantity and quality data				
Other				
<i>Environmental quality data:</i>				
Water quality				
Air quality				
Soil quality, food quality				
Epidemiological data				
Other				
<i>Data on nature protection and biodiversity:</i>				
Protected species/areas inventories				
Other				

2.4 Access to Information Affecting the Environment Held by Government

This section addresses access to information which is not considered “environmental” in a narrow sense, such as emission data, but rather information held by the government about projects or activities which may have an impact on the environment, such as national or regional transport plans. Table 2-2 might be useful for capturing relevant information.

Table 2-2: Availability and accessibility of data affecting the environment held by government

Type of environmental information	Institution Holding Information	Available to the Public?	Fees?	Comments
Land-use planning				
Transport planning				
Energy planning				
Agricultural policies and planning				
Other				

2.5 Environmental Data Held by Industry and Private Sector Parties

Industry and private sector parties hold a wealth of information relevant to environmental decision-making and environmental performance. While a significant amount of this information is also in the hands of public institutions (and thus is subject to relevant access rules), a lot of data remains exclusively in the hands of the private sector but may be in the public interest. Some of this information may, however, have commercial value or it may be subject to rules of protection of trade secrets and confidentiality.

Questions relevant in this context might include:

- What specific obligations do private parties have in collecting and disseminating environmental information (e.g. emission data, waste data, toxicity data)?
- What is the public availability of these data, either directly or through administrative bodies? Do major companies publish annual environmental reports and do these reports include sufficient details?
- What exemptions exist for public release of data originating from private parties (e.g. confidentiality)?
- In cases where the public has access, are there any special conditions to be met (e.g. fees, interest to prove)?
- Are there any exemptions (e.g. business confidentiality rights)?

- What sanctions exist in the case of non-respect?
- What rules apply to industry that is owned by state bodies?

2.6 Analysis and Assessment

This section of the National Profile provides an opportunity to identify areas of success as well as problem areas that require further attention and capacity building. For the problem areas, underlying issues and capacity constraints could be identified and summarised in a table. The following questions may assist in undertaking the evaluation:

- On the basis of the collected information on existing legislation on public access to information, is it possible to assess its effectiveness?
- If so, what areas of strength exist in the national system to strengthen public access to information? Which specific activities or initiatives work well or are promising?
- If the framework or parts of it are insufficient, what possible reasons might exist for its ineffectiveness?
- Is government capacity sufficient to enforce the right to information in accordance with the provisions of the Aarhus Convention? If not, what are current limitations and which area(s) would require additional attention?
- Is it possible to identify specific needs and priorities (agreed to by all concerned parties) with respect to access to information? If not, why? How can existing capacities be used to address identified needs?

The following table can be used to summarise the above discussion resulting concerning areas and issues requiring further attention related to access to information. For instance, if the issue requiring attention were the lack of effective procedures for collecting information on air pollutants, that information would be included in the first column. The second column might state that legal and technical capacity for reporting are not in place. The third column might state the need to develop legal and human resources for the implementation of a pollutant release and transfer registry (PRTR).

Table 2-3: Summary evaluation of access to information – Areas and issues requiring further attention and capacity building

Area/issue Requiring attention	Relevant capacity constraint for problem area	Possible capacity development activity

CHAPTER 3. PUBLIC PARTICIPATION IN ENVIRONMENTAL DECISION-MAKING

Objective of Chapter 3:

To describe and analyze opportunities and procedures for the participation of the public in decision-making, including non-judicial review and national positioning in international negotiations

3.0 Introduction

Chapter 3 of the National Profile could describe opportunities available to the public to participate in executive and administrative environmental decision-making, in non-judicial review of executive and administrative decisions, as well as in the development of national positions for international negotiations. The Aarhus Convention's articles 6, 7 and 8 refer to a number of different decision-making processes in which the executive plays a role (e.g. policy development, program implementation and development of regulations).

3.1 Public Participation in Executive and Administrative Decision-Making

In many countries, procedural practices differ with regard to the various types of decision-making processes. It is therefore recommended that each country review each of the six decision-making processes: development of plans, policies and programmes; executive preparation of draft statutory legislation and bills for parliament; development of generally applicable rules and regulations; development of administrative guidelines; standards development; and adjudicative/project specific decision-making.

General Suggestions for Completing Section 3.1

The following questions can assist with providing a starting point for completing brief summaries (see Table 3-1) for each of the decision-making processes:

- Do citizens have the right to propose new legislation or policy?
- At what stage in the decision-making process do draft decision documents become available? Through which means are such documents made available?
- Do certain parties have privileged access to draft documentation at earlier stages of the decision-making process?
- What level of participation is granted to interested parties and the public in the decision-making process and which specific consultation tools/mechanisms are used?
- Are important meetings publicly known and open to the public?

- To what extent are decision-makers obliged to take into consideration the views of the public?

The order of the types of decision-making processes presented below has been selected so that the more generally applicable decision-making processes are addressed first followed by the more specific processes. This order is consistent with the hierarchy often found within legislative, executive and administrative decision-making, which typically begins with the development of a policy, continues with the development of statutory legislation, and is followed in turn by the development of regulation standards, etc.

(1) Development of Plans, Policies and Programmes

Article 7 of the Aarhus Convention covers issues linked to public participation in plans, programmes and policies relating to the environment. Such decision-making processes often fall under the responsibility of the executive and include, for example, land-use and regional development strategies, sectoral planning in transport, energy, health and sanitation, and industry.

Policy development covers the most general planning activities of a government and it is not necessarily legally binding. It guides the decision-makers at all levels concerning the general directions to follow by setting the priorities and may lead to the development of more formal legislation at a later stage.

Programme development still belongs to the general planning activities of the government as well, but in this case the problems and the possible solutions are more concrete than in the case of policy development. Often, development of programmes is associated with the allocation of financial resources for specific activities.

(2) Executive Preparation of Draft Statutory Legislation and Bills for Parliament

Public participation in the proceedings of parliamentary bodies is not specifically addressed in the Aarhus Convention. However, in many countries (in particular, countries which have a parliamentary democracy), the executive and administration have an important role to play in preparing drafts of environmental statutes prior to their submission to parliament. It is at this earlier stage of preparing the draft law that many features and elements of future legislation are determined. Thus, an understanding of how the executive involves interest groups and the public in the technical preparation of environmental statutes, as well as statutes affecting the environment, may be useful.

(3) Development of Generally Applicable Rules and Regulations (Delegated Law-Making)

Generally applicable regulatory measures are often taken on the initiative of the executive power within the framework of general authority granted to it through the Constitution. Alternatively, such measures are initiated following delegation of authority by parliament by means of enacting specific pieces of legislation that grant certain discretionary authority. The unique feature of these instruments is that they address a wide range of anticipated future decisions, as opposed to adjudicative decisions, which address specific cases (see section 3.5). Also, regulations are legally binding unlike the administrative and agency guidelines (see section 3.3) and can be enforced through the courts.

(4) Development of Administrative Guidelines

In many cases, neither a framework statute, nor related implementing regulations provide the necessary details to ensure a predictable regulatory environment. For this reason, the executive prepares and adopts administrative guidelines that assist the responsible civil servants in making specific decisions. Thus, administrative guidelines reduce the degree of discretion available to the bureaucracy: such guidelines can be prepared on substantive issues (e.g. providing the prescriptions for what is “Best Available Technology”) or on procedural issues (e.g. harmonising public participation procedures within the government or a particular ministry). In essence, the content of administrative guidelines often affects the outcome of an environmental decision in a significant way. Therefore, an understanding of how the public is involved in its preparation may be quite important.

(5) Standards Development

Standards are similar in nature to administrative guidelines, as they are typically not legally binding, but provide a degree of detail (e.g. specific environmental quality standards) that is not provided by statutes or regulations. In some cases, standards may become legally binding if they are referenced or adopted by law. In light of the technical nature of many standards, they are often developed by professional bodies which are usually composed of technical experts in government, the affected industry, and other stakeholders. Traditionally, however, the public has not played a major role in these processes in many countries.

(6) Adjudicative/Project Specific Decision-Making

Decision-making for specific projects—or adjudicative decision-making—is addressed through article 6 of the Aarhus Convention. Case-by-case decision-making can cover a range of issues, ranging from permits for new industrial facilities to registering a pesticide for specific uses. It is often at this level that concrete decisions are taken that directly affect the environment and human population. It is for this reason that the Aarhus Convention has perhaps more stringent obligations for adjudicative decision-making processes than for other executive-led processes. It will not be possible to describe procedural details of all types of adjudicative decision-making processes in this section of the National Profile. Rather, such issues can be addressed in Chapter 5, which focuses on specific environmental sectors. Nevertheless, at this stage, it may be valuable to address important general procedural principles of administrative law that may be relevant (e.g. the obligation to consult with a directly affected party).

3.2 Non-judicial Review/Appeal of Executive and Administrative Environmental Decisions

In many countries a number of non-judicial opportunities exist which provide affected and, in some cases, interested parties the opportunity to seek independent non-judicial review of the decisions taken by the administration. These mechanisms have been developed to avoid the often lengthy and resource-intensive proceedings associated with formal legal action.

This section of the National Profile provides an overview of non-judicial review opportunities. In providing the relevant information, a distinction should be made between

the six different decision-making process mentioned above. Opportunities for formal judicial review of executive and administrative decisions will be addressed in the first part of the Chapter 4. Table 3-2 may assist with this section.

Table 3-1: Summary of public participation in executive decision-making

Area/issue requiring attention	General obligation for public participation (Yes/No)	Relevant legal provisions
Development of plans, policies and programmes		
Executive preparation of draft statutory legislation and bills for Parliament		
Development of generally applicable rules and regulations (delegated law-making)		
Development of administrative guidelines		
Standards development		
Adjudicative/project specific decision-making		

Table 3-2: Overview of non-judicial review opportunities

Type of Decision-making Process	Possibility for Non-Judicial Review	Relevant Constitutional or Legal Provision
Development of plans, policies and programmes		
Executive preparation of draft statutory legislation and bills for Parliament		
Development of generally applicable rules and regulations (delegated law-making)		
Development of administrative guidelines		
Standards development		
Adjudicative/project specific decision-making		

3.3 Public Participation in the Development of National Positions for International Negotiations and Policy Processes

As international instruments and international environmental obligations continue to increase, it is becoming increasingly important to develop national decision-making processes for establishing national positions for international negotiations. These negotiations are usually executed by high-level civil servants instead of members of parliament or other elected members of society. Furthermore, the obligations are eventually the result of negotiations between governments; although a growing tendency to involve other stakeholders is emerging. For the above reasons, governments in many countries are starting to involve members of the public in the preparation of national positions for relevant international negotiations. In some cases, members of the public may accompany the official national delegation as advisors.

This section of the National Profile may, therefore, provide an overview of consultation with stakeholders at the national level on issues dealing with international environmental conventions. Table 3-3 can provide a summary of this section.

Table 3-3: Public Participation in Relevant National Processes Concerned with International Agreements and Processes

International Agreements and Processes	Level of Public Participation in Relevant National Processes (high, medium, low)
Commission on Sustainable Development (WSSD implementation) and follow-up	
National Sustainable Development Strategy	
"Environment for Europe" Process	
UN Framework Convention on Climate Change and Kyoto Protocol	
Intergovernmental Panel on Climate Change	
Convention on Biological Diversity	
Cartagena Protocol on Biosafety	
UN Forum on Forests	
Convention on International Trade in Endangered Species	
Vienna Convention for the Protection of the Ozone Layer	
Montreal Protocol on Substances that Deplete the Ozone Layer	
Stockholm Convention on Persistent Organic Pollutants	
Rotterdam Convention on the Prior Informed Consent for Certain Hazardous Chemicals and Pesticides in International Trade	
Globally Harmonized System of Classification and Labelling of Chemicals	
Intergovernmental Forum on Chemical Safety	
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal	
UN Convention on the Law of the Sea	
World Trade Organization environmental processes	
Other	

3.4 Analysis and Assessment

This section of the National Profile provides an opportunity to identify areas of success as well as problem areas that require further attention and capacity building. For the problem areas, underlying issues and capacity constraints could be identified and summarised in a table. The following questions may assist in undertaking the evaluation:

- On the basis of the collected information on existing framework legislation regulating public participation procedures, is it possible to assess its effectiveness?
- If so, what areas of strength exist regarding public participation in executive and administrative decision-making? Which specific activities or initiatives work well or are promising?
- If the framework is insufficient, what possible reasons might exist for the ineffectiveness or lack of use of existing public participation mechanisms?
- Is government capacity sufficient to enforce the right to participation in decision-making in accordance with the provisions of the Aarhus Convention? If not, what are current limitations and which area(s) would require additional attention?
- Is it possible to identify specific needs and priorities (agreed to by all concerned parties) with respect to the existing framework legislation regulating public participation procedures? If not, why? How can existing capacities be used to address them?

The following table can be used to summarise discussion resulting from the above concerning areas and issues requiring further attention and capacity building related to the general framework for public participation in decision-making.

Table 3-4: Summary evaluation of public participation – Areas and issues requiring further attention and capacity building

Area/issue requiring attention	Relevant capacity constraint for problem area	Possible capacity development activity

CHAPTER 4. ACCESS TO JUSTICE IN THE ENFORCEMENT OF NATIONAL ENVIRONMENTAL LAW

Objective of Chapter 4:

To describe and analyze public access to justice in matters of constitutional, administrative, criminal and private/civil law

4.0 Introduction

Article 9 of the Aarhus Convention contains provisions for the third pillar of procedural environmental rights—access to justice. Access to justice is the ultimate guarantee of the implementation of rules relating to access to information and public participation: it means that any member of the public can seek judicial relief if his/her rights are violated. In addition, access to justice provisions is an important component toward providing the public with opportunities to “participate” in the enforcement of procedural and substantive environmental issues covered by administrative, criminal, and or private/civil law.

While Chapter 3 has already addressed opportunities for non-judicial review of administrative environmental decisions, Chapter 4 of the National Profile takes the next step and covers opportunities for individual citizens or public interest groups to seek environmental remedies through the courts, such as injunctive relief or damages. It covers all areas of law concerned with the environment, including constitutional, administrative, criminal and private/civil law.

According to various legal cultures and traditions, the boundaries of different branches of law are set differently and, as a result, the same set of facts and events can be categorised in various ways. Assuming that a distinction exists between constitutional, administrative, private law, and criminal law, the following issues might be useful in analysing the situation relating to the third pillar of the Aarhus Convention.

General Suggestions for Completing Sections 4.1- 4.3

For each main area of environmental law enforcement (i.e. constitutional, administrative, criminal, and private/civil law) including its respective sub-sections, as outlined below, the following questions are considered relevant:

- Which court has the primary responsibility for the issue?
- Who can initiate the proceedings (e.g. affected citizens, public interests groups, any interested person)?
- What conditions need to be in place?
- Are relevant documents publicly available?
- Can the public participate in the proceedings?
- What opportunities exist to appeal the court decision?
- What are the costs involved?

4.1 Access to Justice in Matters of Administrative Law Enforcement

4.1.1 Judicial Review of Administrative Decision-Making

Compliance with procedural norms

This section of the National Profile summarises opportunities for the public to challenge procedural aspects of administrative action (as opposed to substantive issues which are addressed in the sections below). Possible scenarios in this context include, for example, denial of access to information, denial of participation opportunities, and denial of non-judicial reviews of administrative decisions.

Compliance with substantive norms

This section of the National Profile covers cases where the public would like to challenge an administrative decision from a substantive point of view (e.g. a permit provided by the administration to a polluter does not comply with certain technology based standards prescribed by a regulation).

4.1.2 Enforcement Proceedings Against Non-complying Polluters

This section of the National Profile describes opportunities for citizens to become involved in cases where polluters do not comply with administrative law (e.g. legislative texts, regulatory texts, adjudicative decisions). For each scenario outlined below, it may be helpful to ask the question: Do opportunities exist for the public to become involved and what conditions need to be in place to allow citizen involvement?

i. Enforcement proceedings initiated by the administration

In this case, the administration has initiated enforcement proceedings, however, the public may also contribute to this process.

ii. Enforcement proceedings initiated by the public

In this case, the public takes the polluter directly to court under administrative law.

4.1.3 Enforcement Proceedings Against Administrative Inaction on Matters Required by Law

This section of the National Profile covers legal proceedings that take place when the administration should have implemented an act or law either by regulatory measures or by adjudicative decisions but has not fulfilled its obligation. Thus, in this case, the subject of the legal proceedings is the administration (and not the polluter, as above). For each scenario outlined below, it may be helpful to ask the question: Do such opportunities exist and what conditions need to be in place to allow citizen involvement?

i. Inaction to develop generally applicable rules and regulation required by a law

In this case the public takes the administration to court for failing to follow a specific statute requiring development of legislation or for failing to do so within the mandated timeframe.

ii. Inaction to require polluters to control pollution in accordance with existing environmental law

In this case the public takes the administration to court for failing to enforce compliance with pollution laws and regulations in force

iii. Inaction to initiate law enforcement proceedings against non-complying polluters

In this case the public takes the administration to court for failing to take the necessary steps to stop illicit behaviour by initiating proceedings against a polluter.

Table 4-1 can be used to summarize discussion resulting from the previous section on administrative law enforcement.

**Table 4-1: Summary of Access to Justice
in Administrative Law Enforcement**

Type of Legal Disputes	Citizen involvement opportunities (yes / no)	Responsible Court	Relevant conditions
Judicial Review of Administrative Decision-Making			
Compliance with procedural norms			
Compliance with substantive norms			
Enforcement Proceedings Against Non-complying Polluters			
Enforcement proceedings initiated by the administration			
Enforcement proceedings initiated by the public			
Enforcement Proceedings Against Administrative Inaction on Matters Required by Law			
Inaction to develop generally applicable rules and regulation required by a law			
Inaction to require polluters to control pollution in accordance with existing environmental law			
Inaction to initiate law enforcement proceedings against non-complying polluters			

4.2 Access to Justice in Matters of Criminal Law Enforcement

Generally, the initiation and conducting of criminal procedures is reserved to the public attorney who is representing the state. However, in some countries it might be possible for the public to initiate, participate in or even represent the prosecution in a criminal case in court. For each scenario outlined below, it may be helpful to ask the question: Do such opportunities exist and what conditions need to be in place to allow citizen involvement? Three scenarios are possible:

- i. Citizen/public initiation of criminal law proceedings through the public attorney general*
- ii. Direct citizen/public initiation of criminal law proceedings*

iii. Participation in criminal proceedings as “public attorney”

Table 4-2 can be used to summarize discussion resulting from the preceding section on criminal law enforcement provisions.

Table 4-2: Summary of Access to Justice in Criminal Law Enforcement

Type of Legal Disputes	Citizen involvement opportunities (yes / no)	Responsible Court	Relevant conditions
Citizen/public initiation of criminal law proceedings through the public attorney general			
Direct citizen/public initiation of criminal law proceedings			
Participation in the criminal proceedings as “public attorney”			

4.3 Access to Justice in Matters of Private/Civil Law Enforcement

This section concerns civil law enforcement cases, which usually imply compensation for environmental damage. Once again, different legal cultures may include different scenarios under this heading.

In addition to the general overview for this area provided through Chapter 1 of the National Profile, the following issues are considered relevant for this section:

- Is it possible to get compensation for damage caused to the environment?
- What kind of damage is included?
- Who can be held liable for environmental damage?
- What are the criteria used to establish civil liability for environmental damage?
- Who can initiate the proceedings?

4.4 Access to Justice in Matters of Constitutional Law Enforcement

The constitutional courts have the ultimate decision authority in the country on legal matters. They are, therefore, only accessible for certain cases and specific types of decisions. This section provides an overview of the role of the constitutional courts in environmental disputes and the conditions that have to be met in order to bring environmental cases to the constitutional court.

The following table can be used to summarize discussion resulting from the previous section on constitutional law enforcement.

Table 4-4: Summary of Access to Justice in Constitutional Law Enforcement

Type of Legal Disputes	Citizen involvement opportunities (yes / no)	Relevant conditions

4.5 Alternative Dispute Resolution

In some legal cultures, alternative dispute resolution mechanisms have been developed to provide a less formal way of addressing disputes that would otherwise end up in court. Relevant questions in this context include, for example:

- Do any general statutes or environmental statutes provide provision for alternative dispute resolutions?
- Under what conditions can these be initiated?
- What are the cost implications of using alternative dispute resolution mechanisms?

4.6 Analysis and Assessment

This section of the National Profile provides an opportunity to identify areas of success as well as problem areas that require further attention and capacity building. For the problem areas, underlying issues and capacity constraints could be identified and summarised in a table. The following questions may assist in undertaking the evaluation:

- On the basis of the collected information on existing framework legislation regulating access to justice, is it possible to assess its effectiveness? Consider, for instance, standing requirements and costs of legal procedure.
- If so, what areas of strength exist regarding access to justice in executive and administrative decision-making? Which specific legislation or initiatives work well or are promising?
- If the framework is insufficient, what possible reasons might exist for the ineffectiveness or lack of use of existing access to justice mechanisms?
- Is government capacity sufficient to enforce the right to access to justice in accordance with the provisions of the Aarhus Convention? If not, what are current limitations and which area(s) would require additional attention? Can these constraints be compensated by outside expertise? If so, is outside expertise available to anyone and at a reasonable price?
- Is it possible to identify specific needs and priorities (agreed to by all concerned parties) with respect to the existing framework legislation regulating access to justice? If not, why? How can existing capacities be used to address them?

The following table can be used to summarise discussion resulting from the above concerning areas and issues requiring further attention and capacity building related to access to justice in the enforcement of national environmental law.

**Table 4-5: Summary evaluation of access to justice
in matters of environmental law enforcement –**

Area/issue requiring attention	Relevant capacity constraint for problem area	Possible capacity development activity

CHAPTER 5. IMPLEMENTATION OF PROCEDURAL ENVIRONMENTAL RIGHTS FOR SPECIFIC ENVIRONMENTAL SECTORS AND PROBLEM AREAS

Objective of Chapter 5:

To summarize and analyze procedural rights for particular economic sectors and environmental issues

5.0 Introduction

While the previous chapters of the National Profile have addressed the implementation of procedural environmental rights from a general perspective, Chapter 5 provides the opportunity to document access to information, public participation and access to justice for specific environmental sectors or problem areas. Often specific environmental sectors or activities feature modified procedural rules particular to the sector. Such modification may partially depend on the different consultative cultures of the various ministries or departments within a government. This chapter provides an opportunity to describe and analyse how procedural environmental rights are implemented in various areas of “substantive” environmental decision-making.

For each of the areas listed in sections 5.1- 5.11 below, a one- or two-page overview could be prepared describing implementation of the three pillars of the Aarhus Convention for each of the specific environmental issues and problem areas.

Box 5.1: Evaluation of Specific Decision-Making Cases Preparation of Case Studies

Going a step further and analysing in detail a specific decision-making process in which public participation took place (or did not) can provide a better understanding of how general procedures requirements are implemented. This exercise may yield a number of lessons which in turn can inform further efforts to strengthen public participation in light of differences across sectors. A more complete picture of participation practices would emerge by conducting a series of case studies. For the purposes of the National Profile, conducting one or two case studies may provide a good starting point. To this end, selecting a non-controversial case study may be most appropriate for the National Profile. Annex 2 provides a sample structure for developing a case study report for a specific decision-making case.

5.1 Air Quality

Access to information

Are there any specific rules in force concerning access to information (e.g. who has access, conditions, costs, special procedures) in the following matters?

- air quality standards (e.g. permissible levels);
- pollution levels of a given body of air;
- emission levels of a certain company; and
- environmental/health impacts of pollution types.

Public participation

Are there any specific rules in force (e.g. who can participate, conditions, special procedure, costs, extent of participation) concerning participatory processes in decision-making relating to air quality? The decision-making processes covered may include, for example:

- standard setting;
- permitting (any activity having repercussions on water resources); and
- inspection of activities having repercussions on air quality.

Access to justice

Are there any specific rules in force (e.g. standing conditions, special procedures) concerning the public's access to justice in air quality issues?

5.2 Land-Use

Access to information

Are there any specific rules in force concerning access to information (e.g. who has access, conditions, costs, special procedures) in the following matters?

- designation of land for rural and urban development; and
- rules applying to the selected use (e.g. prohibitions, limitations).

Public participation

Are there any specific rules in force (e.g. who can participate, conditions, special procedure, costs, extent of participation) concerning participatory processes in decision-making relating to land-use planning? The decision-making processes covered may include, for example:

- designation of land use and determination of relevant rules (e.g. erosion-prevention measures);
- permitting (any activity having repercussions on land resources); and
- inspection of activities having repercussions on resources and follow-up.

Access to justice

Are there any specific rules in force (e.g. standing conditions, special procedures) concerning the public's access to justice in land-use planning and nature protection?

5.3 Biodiversity and Nature Protection

Access to information

Are there any specific rules in force concerning access to information (e.g. who has access, conditions, costs, special procedures) in the following matters?

- designation of protected areas and species;
- rules applying to the selected use (e.g. prohibitions, limitations); and
- protected species/areas inventories.

Public participation

Are there any specific rules in force (e.g. who can participate, conditions, special procedure, costs, extent of participation) concerning participatory processes in decision-making relating to the protection of species and ecosystems? The decision-making processes covered may include, for example:

- designation of protected areas/species and determination of relevant rules (e.g. hunting, fishing, planting);
- permitting (any activity having repercussions on forests, wetlands and other fragile ecosystems); and
- inspection of activities having repercussions on resources and follow-up.

Access to justice

Are there any specific rules in force (e.g. standing conditions, special procedures) concerning the public's access to justice in the protection of species and ecosystems?

5.4 Genetically Modified Organisms (GMOs)

Access to information

Are there any specific rules in force concerning access to information (e.g. who has access, conditions, costs, special procedures) in the following matters?

- Level of hazard posed by specific GMOs;
- rules applying to their production (e.g. prohibitions, limitations);
- labelling of foods and ingredients;
- import, export and transit of GMOs; and
- accidental release communication.

Public participation

Are there any specific rules in force (e.g. who can participate, conditions, special procedure, costs, extent of participation) concerning participatory processes in decision-making relating to the GMOs? The decision-making processes covered may include, for example:

- designation of level of hazard posed to health and environment by specific GMOs;
- permitting (any activity having repercussions on GMO production, consumption and transit);
- labelling of GMO foods and ingredients, and
- inspection of activities having repercussions on health and environment and follow-up.

Access to justice

Are there any specific rules in force (e.g. standing conditions, special procedures) concerning the public's access to justice on GMO-related issues?

5.5 Water quality

Access to information

Are there any specific rules in force concerning access to information (e.g. who has access, conditions, costs, special procedures) in the following matters?

- water quality standards (e.g. permissible levels of pollutants, bacteria and temperature changes for different types of water);
- pollution levels of a given water resource;
- effluent levels of a certain company; and
- environmental/health impacts of pollution types.

Public participation

Are there any specific rules in force (e.g. who can participate, conditions, special procedure, costs, extent of participation) concerning participatory processes in decision-making relating to water resources? The decision-making processes covered may include, for example:

- standard setting;
- designation of water use;
- permitting (any activity having repercussions on water resources); and
- inspection of activities having repercussions on water resources and follow-up.

Access to justice

Are there any specific rules in force (e.g. standing conditions, special procedures) concerning the public's access to justice in water management issues?

5.6 Energy Resources

Access to information

Are there any specific rules in force concerning access to information (e.g. who has access, conditions, costs, special procedures) in the following matters?

- general energy planning (amount used and types preferred by government, trends to be expected, etc.);
- energy use by household, industry, etc.;
- environmental impacts of energy production; and
- taxes on energy sources and the designation and use of the income.

Public participation

Are there any specific rules in force (e.g. who can participate, conditions, special procedure, costs, extent of participation) concerning participatory processes in decision-making relating to energy planning? The decision-making processes covered may include, for example:

- general energy planning decisions (e.g., sources and infrastructure needs);
- permitting (any activity relating to the production of energy, setting up of power plants);
- inspection of activities relating to energy production and follow-up.

Access to justice

Are there any specific rules in force (e.g. standing conditions, special procedures) concerning the public's access to justice in energy planning issues?

5.7 Nuclear Energy

A separate regime exists in some countries governing nuclear energy and related issues. For this reason, a specific overview of national management of nuclear energy may be included.

Access to information

Are there any specific rules in force concerning access to information (e.g. who has access, conditions, costs, special procedures) in the following matters?

- general nuclear energy planning (e.g. amount used, trends to be expected); and
- environmental impacts (e.g. power plant hazards, management of nuclear wastes).

Public participation

Are there any specific rules in force (e.g. who can participate, conditions, special procedure, costs, extent of participation) concerning participatory processes in decision-making relating to nuclear energy? The decision-making processes covered may include, for example:

- general nuclear energy planning decisions;
- permitting (e.g. setting up of power plants, designation of nuclear waste treatment

- facilities); and
- inspection of activities relating to nuclear energy production and follow-up.

Access to Justice

Are there any specific rules in force (e.g. standing conditions, special procedures) concerning the public's access to justice in nuclear energy planning issues?

5.8 Climate Change

Access to Information

Are there any specific rules in force concerning access to information (e.g. who has access, conditions, costs, special procedures) in the following matters?

- the phenomenon of climate change, the causes and possible consequences (e.g. sectors affected) and the proposed solutions (e.g. economic and social repercussions of the measures);
- national greenhouse gas emissions inventories; and
- general planning activities concerning the reduction of greenhouse emissions (e.g. amount of energy used and types of energy preferred by government, proposed emissions reduction strategies).

Public participation

Are there any specific rules in force (e.g. who can participate, conditions, special procedure, costs, extent of participation) concerning participatory processes in decision-making relating to climate change? The decision-making processes covered may include, for example:

- general planning decisions (e.g., reducing consumption, increasing energy efficiency; expanding carbon sequestration capacities);
- permits (such as for project implementation under the Kyoto Protocol); and
- international negotiating position on specific climate issues.

Access to justice

Are there any specific rules in force (e.g. standing conditions, special procedures) concerning the public's access to justice in energy planning issues?

5.9 Chemical Management

Access to information

Are there any specific rules in force concerning access to information (e.g. who has access, conditions, costs, special procedures) in the following matters?

- hazard communication and labelling;
- quality standards (e.g. food quality);

- siting of chemical industrial facilities (see, for example, the SEVESO directives of the EU)
- taxes on hazardous products and the designation of the income; and
- inventories of hazardous chemicals, pesticide registers.

Public participation

Are there any specific rules in force (e.g. who can participate, conditions, special procedure, costs, extent of participation) concerning participatory processes in decision-making relating to the management of hazardous chemicals? The decision-making processes covered may include, for example:

- standard setting (concerning health standards, labels, etc.);
- registration of hazardous substances;
- permitting (any activity using hazardous chemicals including facility siting); and
- inspection of activities relating to hazardous chemicals.

Access to justice

Are there any specific rules in force (e.g. standing conditions, special procedures) concerning the public's access to justice in issues related to the management of hazardous chemicals?

5.10 Waste Management

Access to information

Are there any specific rules in force concerning access to information (e.g. who has access, conditions, costs, special procedures) in the following matters?

- classification of hazardous substances in waste categories;
- designation of sites;
- selection of waste to be treated;
- selection of elimination and recycling methods;
- waste quantity; and
- environmental/health impacts of waste sites.

Public participation

Are there any specific rules in force (e.g. who can participate, conditions, special procedure, costs, extent of participation) concerning participatory processes in decision making relating to waste management? The decision-making processes covered may include, for example:

- standards setting (concerning health standards, labels, etc.);
- permitting (any site/activity relating to waste); and
- inspection of activities related to the management of waste.

Access to justice

Are there any specific rules in force (e.g. standing conditions, special procedures) concerning the public's access to justice in issues related to waste management?

5.11 Other Relevant Environmental Issues

In a number of countries, separate regimes exist for specific environmental issues or problem areas. Such is the case of hazardous industrial facilities in some countries (see, for example, the SEVESO directives of the EU). The regime includes specific permitting, inspection and risk management provisions. It also calls for particular procedures in order to facilitate the participation of the concerned public. If a separate regime exists in the country for a relevant issue, please provide an overview here following the format presented above.

5.12 Analysis and Assessment

This section of the National Profile provides an opportunity to identify areas of success as well as problem areas that require further attention and capacity building. For the problem areas, underlying issues and capacity constraints could be identified and summarised in a table (see table 5-1). Assessing the relative importance of the issue for the country can be helpful in deciding if action should be prioritized. The following questions may assist in undertaking the evaluation:

- Which of the environmental areas reviewed in this chapter have a particularly high national priority?
- Are there any new laws and/or policies proposed to address areas of specific concern? Will they include any procedures related to access to information, public participation in decision-making and access to justice related to these specific issues?
- Has the general evaluation of specific areas in this chapter revealed the need for further evaluation and/or specific action from a procedural perspective?
- Is there already an agreement between parties concerned on the priority areas for action to address these procedural problems? If not, why? What can be done to reach an agreement on this issue or to take next steps?
- How can the National Profile be used to advance the application of provisions of the Aarhus Convention to specific areas of concern?

Table 5-1: Summary evaluation of specific environmental issues and sectors

	Issue's importance (High, medium, low)	Issue requiring attention (For the 3 Convention pillars))	Capacity constraint for problem area	Possible capacity development activity
Air quality				
Land use				
Biodiversity and Nature Protection				
GMOs				
Water quality				
Energy resources				
Nuclear energy				
Climate change				
Chemical management				
Waste management				
Other issues				

CHAPTER 6. NON-GOVERNMENTAL GROUPS INVOLVED IN ENVIRONMENTAL DECISION-MAKING

Objective of Chapter 6:

To describe public and private non-governmental entities active in environmental decision-making and organizational patterns

6.0 Introduction

As organised participation often proves to be more efficient than isolated efforts, groups of the public concerned, representing both private and public interests, form. These groups may play a major role in influencing decision-making processes and making use of access to information and justice provisions. In turn, some groups assist other members of the public concerned in obtaining information and justice, as well as in participating in environmental decision-making.

6.1 Identifying Relevant Non-Governmental Groups

This section of the National Profile provides information on the various interest groups involved in environmental matters, or matters affecting the environment, within the country. An important question to ask is: What are the most significant non-governmental actors in the country? The following categories may be useful to consider:

- environmental protection groups;
- consumer protection groups;
- health-advocacy groups;
- media;
- industry and private-sector associations;
- trade and labour unions;
- academia; and
- individuals, such as writers and commentators.

It is suggested that Section 6.1 of the Profile introduce the main groups for each of the sectors listed above. Further details, such as areas of work and organizational structure, can be provided as an annex to the National Profile. The following table can be used to summarize the most significant non-governmental groups in the country.

Table 6-1: Summary table of main non-governmental groups

Type of Group	Name of Group	Group Contact Information
Environmental protection		
Consumer protection		
Health protection		
Media		
Industry/private sector		
Trade and labour unions		
Academia		
Others		

6.2 Legislative Recognition and Enabling of Non-Governmental Groups

Beyond basic democratic freedoms (of expression and assembly, for instance), additional conditions are essential for the formation of non-governmental organizations, such as state recognition and, in the case of public-interest organizations, access to funding. In analysing this issue, the questions below might provide some guidance:

Questions about non-governmental groups generally:

- Can non-governmental groups obtain legal personality? If so, how (e.g. competent state organ to enlist them, the general conditions, deadlines, fees, extent of discretion of the deliberating organ)?
- Does their legal personality (or lack of) influence their legal standing in decision-making processes? Do they have the same rights as other legal personalities?
- Is it difficult for these non-governmental organisations to obtain the recognition of the State? Are there restrictions or fees?
- Is there a classification of interest groups and, if so, how is a distinction made between groups defending the public interest and groups representing private interests?
- Are there any other relevant conditions that can provide insight into this issue?

Questions about public-interest groups specifically:

- Are non-governmental organizations exempt from taxes or entitled to certain exemptions or reductions?
- Does the government provide incentives for philanthropy (such as through tax exemptions)?
- Are non-governmental organizations allowed to receive financial support from international entities?

6.3 Organisation of Non-Governmental Groups

The following questions may be helpful in obtaining a better understanding of non-governmental groups involved in environmental decision-making:

- How are non-governmental groups organised? Do they have fixed or flexible membership?
- How are they financed? Do they receive financial support for their activities? If so, from whom?
- What is the relationship between non-governmental groups and the government and how does the former participate in decision making? Does the government provide equal access to all relevant interest groups?
- What is the relationship between non-governmental actors and the public? In what way do their activities reach the public at large? Which segments of the population do they most frequently reach? Do they belong to any particular geographical area?
- How are these interest groups organised vertically? Is there any sort of hierarchy or coordinating mechanism that exists among them?
- What are the specific issues the groups address? Are there several groups addressing a same issue holding opposing views? Are there coalitions for specific interest issues?
- Is there a diversity of activities among, and within, groups (such as information provision to the public, lobbying, natural-resource monitoring)?

6.4 Analysis and Assessment

This section of the National Profile provides an opportunity to identify areas of success as well as problem areas that require further attention and capacity building. For the problem areas, underlying issues and capacity constraints could be identified and summarised in a table. The following questions may assist in undertaking the evaluation:

- On the basis of the collected information on the legal framework affecting the formation and participation of non-governmental groups, is it possible to assess its effectiveness?
- If so, what areas of strength exist regarding the consolidation and participation of non-governmental groups? Which specific activities or laws work well or are promising?
- If the legal framework is insufficient, what possible reasons might exist for the ineffectiveness or lack of use of existing mechanisms? Are there any new laws and/or policies proposed to address areas of specific concern?
- Is government capacity sufficient to assist the development of interest groups? If not, what are current limitations and which area(s) would require additional attention?
- Is it possible to identify specific needs and priorities (agreed to by all concerned parties)

with respect to the existing legislation and policies regulating the consolidation and participation of non-governmental groups? If not, why? How can existing capacities be used to address them?

The following table can be used to summarise discussion resulting from the above concerning areas and issues requiring further attention and capacity building related to the general framework for public participation in decision making.

Table 6-2: Summary evaluation of non-governmental groups' participation and participation constraints –

Area/issue requiring attention	Relevant capacity constraint for problem area	Possible capacity development activity

CHAPTER 7. EVALUATION OF EXISTING CAPACITIES AND CAPACITY CONSTRAINTS TO IMPLEMENT THE AARHUS CONVENTION

Objective of Chapter 7:

To summarize current strengths and capacity needs for implementation of the Aarhus Convention

7.0 Introduction

Chapter 7 provides an opportunity to reflect on the assessment elaborated on access to information, participation in decision-making and access to justice in the country. Based on the information and analysis provided in the previous chapters, Chapter 7 of the National Profile provides a final analysis, which can be the basis for the executive summary of the National Profile.

General Suggestions for Completing the Section:

For all three aspects/pillars of the Aarhus Convention, the following key questions are considered relevant:

- Is the legal framework for procedural environmental rights sufficient? Are there particular areas that require more attention than others?
- How does actual implementation of procedural environmental rights compare to norms contained in the law?
- In cases where deficiencies and key issues are identified, what capacity constraints and bottlenecks prevent effective implementation of the Aarhus Convention? Of what nature are these capacity constraints?
- What strategy should be used to mobilise existing capacities to ensure more effective implementation of relevant national laws and policies?

The final assessment should include all three participation areas/pillars, as outlined below.

7.1 Summary Evaluation of Existing Capacities Related to Access to Information

7.2 Summary Evaluation of Existing Capacities Related Public Participation

7.3 Summary Evaluation of Existing Capacities Related to Access to Justice

CHAPTER 8. OPPORTUNITIES FOR TAKING ACTION AND TARGETED CAPACITY BUILDING

Objective of Chapter 8:

To determine and list priorities for action toward implementation of the Aarhus Convention

8.0 Introduction

Chapter 8 builds on the previous chapter's final assessment to identify next steps. Once the strengths and weaknesses of the existing situation have been identified, specific opportunities for action can be determined. Chapter 8 could provide an initial listing of possible action as the basis for further discussion. Such action may include for example:

- legislative reform;
- human resource development; and
- public education and targeted programmes for public-interest groups.

Based on the previous assessment, the following key questions are considered relevant:

- What lessons can be learned from preparing the National Profile that would be useful in the process of implementation of the Aarhus Convention?
- What are the most important opportunities for improving national legislation to bring it into compliance with the provisions of the Convention?
- How can a customer-service-oriented culture be promoted in the public administration of the country?
- How can the government's relations with citizens be improved? What specific actions can facilitate public access to environmental information and public participation in environmental decision-making?
- How can targeted public education programmes help the implementation of the Aarhus Convention? How can the National Profile be used in this context?
- What can be done to advance the current activities (including those at the international level) to ensure a more effective implementation of the Aarhus Convention at the national level?

ANNEX 1: IDENTIFYING CAPACITY CONSTRAINTS FOR ISSUES AT THE SYSTEMIC, INSTITUTIONAL AND INDIVIDUAL LEVELS

Assessing Capacity Needs Constraints at the Systemic Level

Capacity building at the systemic level emphasises the overall policy framework in which individuals and organisations operate and interact with the external environment, as well as the formal and informal relationships of institutions. Guiding questions include:

- Policy framework: Is the overall policy environment conducive?
- Legal and regulatory framework: Is the appropriate legislation in place and are these laws effectively enforced? (These may be both formal and informal, such as cultural mores)
- Management accountability framework: Are institutional responsibilities clearly defined and are responsible institutions held publicly accountable?
- Economic framework: Do markets function effectively and efficiently?
- Systems level resources: Are the required human, financial and information resources available? (These may be in any or all of national and local government, private sector, and civil society – including NGO's)
- Processes and relationships: Do the different institutions and processes interact and work together effectively? (Including national and local government, private sector, and civil society)

Assessing Capacity Constraints at the Institutional Level

Capacity building at the *institutional* level focuses on the overall organisational performance and functioning capabilities, as well as the ability of an organisation to adapt to change. It aims to develop the institution as a total system, including individuals, groups and the organisation itself. Guiding questions include:

- Mission/strategic management: Do the institutions have clearly defined and understood missions and mandates?
- Culture/structure/competencies: Are the institutions effectively structured and managed?
- Processes: Do institutional processes such as planning, quality management, monitoring and evaluation, work effectively?
- Human resources: Are the human resources adequate, sufficiently skilled, and appropriately deployed?
- Financial resources: Are financial resources managed effectively and allocated appropriately to enable effective operation?
- Information resources: Is required information available and effectively distributed and managed?

Infrastructure: Are material requirements such as buildings, offices, vehicles, computers, allocated appropriately and managed effectively?

Assessing Capacity Constraints Needs at the Individual Level

Capacity building at the *individual* level refers to the process of changing attitudes and behaviours-impacting knowledge and developing skills while maximising the benefits of participation, knowledge exchange and ownership. Guiding questions include:

- Job requirements and skill levels: Are jobs correctly defined and are the required skills available?
- Training/retraining: Is the appropriate learning taking place?
- Career progression: Are individuals able to advance and develop professionally?
- Accountability/ethics: Is responsibility effectively delegated and are individuals held accountable?
- Access to information: Is there adequate access to needed information?
- Personal/professional networking: Are individuals in contact and exchanging knowledge with appropriate peers?
- Performance/conduct: Is performance effectively measured?
- Incentives/security: Are these sufficient to promote excellence?
- Values, integrity and attitudes: Are these in place and maintained?
- Morale and motivation: Are these adequately maintained?
- Work redeployment and job sharing: Are there alternatives to the existing arrangements?
- Inter-relationships and team work: Do individuals interact effectively and form functional teams?
- Interdependencies: Are there appropriate levels of interdependence?
- Communication skills: Are these effective?

ANNEX 2: ANALYSIS OF A SPECIFIC ENVIRONMENTAL DECISION-MAKING CASE – SUGGESTED STRUCTURE FOR A CASE STUDY REPORT

Introduction

Annex 2 offers a suggested framework for the structure and content of a case study report on a particular decision-making case. As part of the National Profile, the study may be carried out by the National Coordinating Team (see Part II) or a subsection of it that includes the public concerned. Members of the public who were actively involved in the decision-making case to be analysed are the stakeholders for the case and may not necessarily be the same stakeholders comprising the National Profile Coordination Team.

1. Background and contextual information

Section 1 of the case study report could provide contextual and background information about the respective decision case. Information for Sections 1 - 3 are mainly be factual in nature and may be obtained through literature review, information provided by the lead agency, and ad hoc interviews with participants, if needed.

The following information is considered relevant for inclusion:

- Name of decision case/issues
- Start and end of the decision process
- Initiator/proponent of the decision process (e.g. government, industry/developer, individual, public interest group, etc.)
- Brief summary of key decision issues
- Type/level of administrative processes/decisions (preparation of bill, regulation, standard, adjudicative decision, etc.)
- Primary responsible administrative body/decision maker
- Other concerned governmental sectors
- Procedural discretion available to lead agency
- Substantive discretion available to lead agency
- Concerned statutory body(ies)
- Other relevant contextual information

2. Overview of the decision process

Section 2 of the case study report could summarize the decision framework for the decision under investigation. It could briefly describe and introduce key stages of the decision process, relevant timelines, milestones, etc. All phases of the decision process (from beginning to end), and not only those in which public consultation took place, may therefore be included. Often, specific phases of a process correlate with the preparation and adoption of a specific document (or various revisions thereof), such as an EIA Scoping Report, a draft bill, a draft standard, etc. These documents and their relevant versions could be mentioned in this section. For example, if a preparatory phase took place (e.g. preparation of a Public Involvement Plan) this could be noted. The decision-process should be summarized in the form of a PERT chart or flow chart in an Annex.

3. Opportunities for and patterns of public participation

Section 3 of the document could describe participation opportunities offered to the public concerned, as well as actual public participation patterns during various phases of the decision process. As participation opportunities and patterns may vary throughout the decision process, each phase should be covered separately, if needed. Similarly, if during a particular phase, a combination of public participation instruments were implemented, each specific instrument should be described in terms of the opportunities for participation offered and actual participation.

Questions to be considered in describing the process include the following:

General questions:

- What was the objective of public participation and was it clear at the outset? Was a public involvement plan developed and, if so, who prepared the plan?
- Who was responsible for managing the public involvement process (e.g. the lead agency, a consultant)?
- What were the public participation instruments used (e.g. notice and comments, workshop(s), etc.)⁹
- Were capacity-building activities organized (e.g. training for disadvantaged groups)?
- What provisions were made, if any, to support participation?
- Is information available on individuals who wanted to participate and could not? What are the reasons?

Specific questions relevant to individual participation activities:

- Through what means were respective opportunities announced? How frequently, where were they announced and in which languages?
- Who was given an opportunity to participate (e.g. selected individuals or groups, the general public)?
- Who actually participated (e.g. who provided written comments, participated in workshop(s) etc.)?¹⁰
- What information (in what form and language) was given to participants? Were there translators available? Were translations provided for verbal and written participation?

⁹ For an extensive list of public participation instruments see Mostert 2002.

¹⁰ Participation should be grouped by category.

- How representative were participants of broader constituencies and the public?
- How did they participate and in what capacity (e.g. representing self or others)?
- How was the decision process and public participation in it documented? What was the format and language of the documentation and how was it distributed?

4. Evaluation of procedural aspects of the decision-making process

Data for completing sections 4 and 5 may be elicited through a survey featuring closed and open-ended questions. In selected cases, follow-up interviews could be conducted. The survey will be sent to a sample of participants in the process (or all participants, if the number is relatively small).

The following questions are considered relevant for documenting procedural aspects of the public participation process (the questions will form the basis for the development of more detailed survey instruments).

- **Timing of public participation:** Did public participation take place sufficiently early for all members of the public?
- **Announcement of Opportunities:** Were opportunities for public participation adequately announced (e.g. means, languages, frequency, etc)?
- **Documentation:** Were the documents readily available? Were they appropriate for the relevant target groups?
- **Objectives of Public Participation:** Did the public have a clear understanding of the input expected of it?
- **Scope:** Were the boundaries of the process clear and understood by participants (i.e. the topics included in, and excluded from, the discussion)? Did disagreements emerge regarding areas that should be covered and left out?
- **Inclusiveness:** Was the level of inclusion adequate, i.e. did the relevant segments of the public participate? Were important perspectives missing?
- **Interaction and Deliberation:**
 - Did the process provide sufficient opportunity (how, frequency, language, mediums used) to elicit relevant views and perspectives? Did language problems prevent participation?
 - Were any perspectives missing and, if so, why?
 - Was the level of deliberation and exchange of perspectives adequate?
 - Were alternative options generated and trade-offs recognized?
- **Mutual Learning:** Did stakeholders learn from each other and start to understand the positions of parties with diverging perspectives?

- Documentation of Perspectives and Views: Were perspectives and views of the public concerned adequately documented (e.g. through minutes, workshop reports, etc.)?
- Management and Facilitation:
 - Was the facilitator considered neutral and unbiased? Was language or gender an issue?
 - How professionally was the consultation managed?
- Statement of Reasoning: Did the lead agency provide feedback and reasoning for why certain positions were adopted (or not) in the final decision?
- Selection of Instruments and Mechanisms: Were the selected participation instruments appropriate?
- What is the level of satisfaction of the public concerned with the decision-process?

5. Evaluation of determinants affecting public participation

- Interest: What was the relative interest and importance of the decision case for various stakeholders?
- Organizational Capacity and Coordination:
 - Did stakeholders have sufficient financial and infrastructure resources to participate in the process?
 - Did the public concerned speak with one voice?
- Information: Was all relevant administrative information available and easily accessible?
- Knowledge: Did stakeholders have sufficient access to knowledge related to the decision issue (e.g. knowledge about alternative technologies)

6. Evaluation of decision outcome

- What was the final decision?
- What influence did the public consultation have on the decision outcome in comparison to the baseline proposal (mapping of inputs to outcome of decision). Did it make a difference? If so, which major perspectives were taken on board?
- How did individual stakeholders perceive their ability to influence the decision outcome?
- What is the level of satisfaction of stakeholders with the final decision outcome?
- Did anyone take steps to challenge the decision through non-judicial or judicial means?

7. Summary of lessons learned

The final section of the case study report could detail lessons learned from each part of the decision-making case.

**ANNEX 3: REPORTING REQUIREMENTS FOR AARHUS CONVENTION:
DECISION 1/8**

Advance unedited version
31 October 2002

ECONOMIC COMMISSION FOR EUROPE

Meeting of the Parties to the
Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters

(First meeting, Lucca, Italy, 21-23 October 2002)

**DECISION I/8
REPORTING REQUIREMENTS**The Meeting,

Recalling article 10, paragraph 2, of the Convention, which states that, at their meetings, the Parties shall keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties,

Recognizing that reporting is a vital element in ensuring that it is informed about activities undertaken by Parties pursuant to the Convention,

Recognizing also that regular reporting by Parties provides important contextual information which will facilitate the assessment of compliance under the Convention and thereby contribute to the work of the Compliance Committee,

Believing that public involvement in the process of reporting is likely to improve the quality and accuracy of reports and to strengthen the credibility of the reporting process,

Noting that regular reporting by Parties may also serve as a means to keep the public informed of measures taken by Parties to implement the Convention,

Taking into account the objective of a simple, concise and not excessively burdensome reporting mechanism,

Recognizing that using a standard format for reporting will provide a useful structure for organizing the information received and will facilitate the incorporation of relevant parts of the reports into a database, as well as contribute to the comparability of reports,

Emphasizing the importance of timely submission of reports,

1. Requests each Party to submit to the secretariat, in advance of the second ordinary meeting of the Parties, or in advance of the first ordinary meeting of the Parties following the entry into force of the Convention for that Party, whichever is the later, a report on:

(a) The necessary legislative, regulatory or other measures that it has taken to implement the provisions of the Convention; and

(b) Their practical implementation,

in accordance with the format set out in the annex to this decision;

2. Also requests each Party in advance of each subsequent meeting of the Parties to review the report and to prepare and submit an updated version of it to the secretariat;

3. Furthermore requests the Parties to prepare their reports through a transparent and consultative process involving the public;

4. Requests that such reports should be submitted to the secretariat electronically and on paper in one of the official languages of the Convention, as well as in the language(s) of the Party, so as to arrive no later than 120 days before the meeting of the Parties for which they are submitted;

5. Requests the secretariat to prepare a synthesis report for each meeting of the Parties summarizing the progress made and identifying significant trends, challenges and solutions (“synthesis report”);

6. Invites Signatories and other States not Party to the Convention, pending their ratification or accession, to submit reports on measures taken to apply the Convention, in accordance with the aforementioned procedures;

7. Invites international, regional and non-governmental organizations engaged in programmes or activities providing support to Parties and/or other States in the implementation of the Convention to provide the secretariat with reports on their programmes or activities and lessons learned;

8. Requests the secretariat to:

(a) Circulate the synthesis report and the reports referred to in paragraphs 1 and 2 in the official languages of the Convention, as well as reports submitted to it in accordance with paragraphs 6 and 7, to the Meeting of the Parties; and

(b) Post these reports on the UNECE web site in the languages in which they are available;

9. Invites Parties and other States preparing their reports to consider adapting these to provide guidance to members of the public on the exercise of their rights under the Convention and the relevant implementing legislation.

Annex

FORMAT FOR AARHUS CONVENTION IMPLEMENTATION REPORT
CERTIFICATION SHEET

The following report is submitted on behalf of _____
[name of the Party or the Signatory] in accordance with decision I/8

Name of officer responsible for submitting the national report:	
Signature:	
Date:	

IMPLEMENTATION REPORT

Please provide the following details on the origin of this report

<i>Party</i>	
<i>National Focal Point</i>	
Full name of the institution:	
Name and title of officer:	
Postal address:	
Telephone:	
Fax:	
E-mail:	
Contact officer for national report (if different):	

Full name of the institution:	
Name and title of officer:	
Postal address:	
Telephone:	
Fax:	
E-mail:	

Provide brief information on the process by which this report has been prepared, including information on which types of public authorities were consulted or contributed to its preparation, on how the public was consulted and how the outcome of the public consultation was taken into account and on the material which was used as a basis for preparing the report.

Answer:

Report any particular circumstances that are relevant for understanding the report, e.g. whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

Answer:

ARTICLE 3

List legislative, regulatory and other measures that implement the general provisions in paragraphs 2, 3, 4, 7 and 8 of article 3.

Explain how these paragraphs have been implemented. In particular, describe:

(a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;

(b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;

(c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection;

(d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally;

(e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not be penalized, persecuted or harassed.

Answer:

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 3 listed above.

Answer:

Provide further information on the **practical application of the general provisions of the Convention**.

Answer:

Give relevant web site addresses, if available:

ARTICLE 4

List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.

Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person may have access to information without having to state an interest;
 - (ii) Copies of the actual documentation containing or comprising the requested information are supplied;
 - (iii) The information is supplied in the form requested;
- (b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;
- (c) With respect to **paragraphs 3 and 4**, measures taken to:
 - (i) Provide for exemptions from requests;
 - (ii) Ensure that the public interest test at the end of paragraph 4 is applied;
- (d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;
- (e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;
- (f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;
- (g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

Answer:

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 4.

Answer:

Provide further information on the **practical application of the provisions on access to information**, e.g. are there any statistics available on the number of requests made, the number of refusals and their reasons?

Answer:

Give relevant web site addresses, if available:

ARTICLE 5

List legislative, regulatory and other measures that implement the provisions on the collection and dissemination of environmental information in article 5.

Explain how each paragraph of article 5 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Public authorities possess and update environmental information;
 - (ii) There is an adequate flow of information to public authorities;
 - (iii) In emergencies, appropriate information is disseminated immediately and without delay;
- (b) With respect to **paragraph 2**, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;
- (c) With respect to **paragraph 3**, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;
- (d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;
- (e) Measures taken to disseminate the information referred to in **paragraph 5**;
- (f) With respect to **paragraph 6**, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;
- (g) Measures taken to publish and provide information as required in **paragraph 7**;

(h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;

(i) With respect to **paragraph 9**, measures taken to establish a nationwide system of pollution inventories or registers.

Answer:

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 5.

Answer:

Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g. are there any statistics available on the information published?

Answer:

Give relevant web site addresses, if available:

ARTICLE 6

List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
- (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
 - (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;

(b) Measures taken to ensure that the public concerned is informed, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;

(c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;

(d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;

(e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;

(f) With respect to **paragraph 6**, measures taken to ensure that:

(i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;

(ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;

(g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;

(h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;

(i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;

(j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied making the necessary changes, and where appropriate;

(k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Answer:

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6.

Answer:

Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 6, e.g. are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.

Answer:

Give relevant web site addresses, if available:

ARTICLE 7

List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

Explain what opportunities there are for public participation in the preparation of policies relating to the environment.

Answer:

Describe any **obstacles encountered** in the implementation of article 7.

Answer:

Provide further information on the practical application of the provisions on **public participation in decisions on specific activities in article 7.**

Answer:

Give relevant web site addresses, if available:

ARTICLE 8

Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

Describe any **obstacles encountered** in the implementation of article 8.

Answer:

Provide further information on the practical application of the provisions on public participation in the field covered by article 8.

Answer:

Give relevant web site addresses, if available:

ARTICLE 9

List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.

Explain how each paragraph of article 9 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
- (i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;
 - (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;
 - (iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;

(b) Measures taken to ensure that within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6;

(c) **With respect to paragraph 3, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment;**

- (d) **With respect to paragraph 4, measures taken to ensure that:**
- (i) **The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;**
 - (ii) **Such procedures otherwise meet the requirements of this paragraph;**

(e) **With respect to paragraph 5, measures taken to ensure that information is provided to the public on access to administrative and judicial review.**

Answer:

Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 9.

Answer:

Provide further information on **the practical application of the provisions on access to justice pursuant to article 9**, e.g. are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?

Answer:

Give relevant web site addresses, if available:

Articles 10-22 are not for national implementation.

General comments on the Convention's objective:

If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

Answer:



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- To carry out a wide range of training programmes in the field of social and economic development which include:
 - a. Training Programme in Multilateral Diplomacy, Negotiations and Conflict Resolution;
 - b. Environmental and Natural Resource Management Training Programmes;
 - c. Training Programme on Debt and Financial Management with special emphasis on the Legal Aspects;
 - d. Training Programme on Disaster Control;
 - e. Training Programme on Peace-Keeping, Peace-Making, and Peace-Building.

Street Address:
11-13 chemin des Anémones
1219 Châtelaine
Geneva
SWITZERLAND

Postal Address:
UNITAR
Palais des Nations
CH-1211 GENEVA 10
SWITZERLAND

Tel.: +41 22 917 1234

Fax: +41 22 917 8047

Website: <http://www.unitar.org>