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INFORMATION NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters: 22nd meeting of the Working Group of the Parties (WGP 22) (Geneva, 19-21 June 2018)
- Compilation of statements by the EU and its Member States

Delegations will find in the [Annex](#), for information, a compilation of statements by the EU and its Member States agreed and delivered during the 22nd meeting of the Working Group of the Parties to the Aarhus Convention (WGP 22).

**Convention on Access to Information, Public Participation in Decision-making and Access to
Justice in Environmental Matters:**

22nd meeting of the Working Group of the Parties (WGP 22)

(Geneva, 19-21 June 2018)

- Compilation of statements by the EU and its Member States -

Agenda item 1: Opening of the meeting and adoption of the agenda

The EU and its Member States would like to thank the Secretariat and the Chair of the 22nd meeting of the Working Group of the Parties for their preparatory work and the timely submission of background documents.

We are ready to contribute to the common efforts by all Parties to the success of this meeting.

The agenda is fine for us as it stands.

Agenda item 3(b): Public participation in Decision-making (PPDM)

The EU and its Member States would like to thank the Secretariat and the Chair of the Task Force on Public Participation in Decision-making for its work to date.

We welcome the preparation for the eighth meeting of the Task Force (Geneva, 8-9 October 2018) following up on the subjects identified in Decision VI/2 of the Meeting of the Parties on promoting effective public participation in decision-making.

Agenda item 3(c): Access to justice

The EU and its Member States would like to thank the Secretariat and the Chair of the Task Force on Access to Justice for its work to date.

We take note of the outcomes of the eleventh meeting of the Task Force on Access to Justice (Geneva, 27–28 February 2018).

We welcome the progress of discussions made by the Task Force and the Secretariat and the outputs delivered by updating a study on the possibilities for non-governmental organizations (NGOs) promoting environmental protection to claim damages on behalf of the environment and finalizing a study on the scope of review in selected countries of Eastern and South-Eastern Europe, the Caucasus and Central Asia.

In relation to the follow-up to the Sixth session of the Meeting of the Parties held last September in Budva, we would like to take this opportunity to briefly update all Parties about the steps that we have taken since then with regard to the EU compliance issues highlighted in compliance case [ACCC/C/2008/32](#).

The Council of the European Union has requested the Commission to submit a study on the Union's options for addressing the findings of the Aarhus Convention Compliance Committee in case [ACCC/C/2008/32](#) to explore ways and means to comply with the Aarhus Convention in a way that is compatible with the fundamental principles of the Union legal order and with its system of judicial review. The study shall cover the legal, financial and human resources implications of different options, including amending the Aarhus Regulation. The Council has also requested the Commission to submit, if appropriate with a view to the outcomes of the study, a legislative proposal amending the Aarhus Regulation, or to inform the Council on other follow-up measures to the study.

The Commission has published a Roadmap outlining the follow-up it intends to give to the EU commitment in Budva. Accordingly, the Commission will evaluate the redress possibilities in environmental matters covered by EU law which are currently available both in EU courts and via national courts of its Member States, by way of a detailed external study. This study will allow to examine the functioning of the existing system, to identify the possible shortcomings and the options for addressing them and to assess their respective impacts. The Roadmap announces that an open public consultation will be conducted.

Finally, we would like to emphasize our full commitment towards the Aarhus Convention and our firm determination to keep on implementing it.

Agenda item 3(d): Genetically modified organisms (GMOs)

The EU and its Member States would like to thank the Secretariat for the work done to date.

We welcome the bilateral collaboration with the Secretariat of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity dedicated to genetically modified organisms (GMOs).

The EU and its Member States take note of the outcomes of the discussions on relevant developments with regard to GMOs.

Agenda item 4(a): Compliance mechanism

The EU and its Member States would like to thank the Compliance Committee (herein after – ‘the Committee’) for the preparation of the reports on its meetings and the hard work done after the Sixth session of the Meeting of the Parties to the Aarhus Convention (MoP).

We welcome and appreciate the Committee's continued engagement on the use of domestic remedies and audio and video conferencing in view that the workload of both the Secretariat and the Committee related to the functioning of the compliance mechanism has significantly increased during the last years and is expected to increase further. We encourage the UNECE to provide the necessary equipment which would allow further use of audio and video conferencing by the Committee.

We welcome that the fourth version of the Guide on Compliance has new provisions on applying the criterion of the *de minimis* threshold by the Committee when determining preliminary admissibility and on commencing deliberations by the Committee on a case without holding a hearing. We believe that these developments could further improve the effectiveness of the proceedings of the Committee.

With regard the further work on drafting the Guide on Compliance we reiterate our suggestions made at the Sixth session of the MoP, namely:

- The deadline for distribution of draft decisions on compliance before MoP to be extended to at least 3 months;
- Only cases concluded at least 6 months before a MoP to be included in the Committee's report;
- Audio conferencing, web conferencing and video conferencing to be used for the hearing of a communication or submission.

Furthermore, taking into account the time needed for implementing internal formal consultation procedures with regard the compliance, we propose some of the deadlines for Parties to react in the different stages of the compliance procedure to be determined as follows:

- at least 6 weeks for informing the Party concerned that a communication concerning its compliance will be considered as to its preliminary admissibility at the next meeting of the Committee;
- at least 3 months for written comments by the Party to new submissions by the Communicant in the framework of a pending compliance case, to additional questions by the Committee or in reaction to draft findings of the Committee.

In order the procedure for election of Committee's members to be alleviated and made more transparent, we suggest the existing criteria for selecting members for the Committee to be outlined in more detail, as well as a template for nominating a candidate to be established.

Compliance cases concerning individual Parties to the Aarhus Convention have so far been grouped in a single draft decision to be submitted to the MoP. In this regard we suggest separating the compliance cases in individual decisions, upon request by a Party and by way of exception, in order to avoid any problems with the internal handling of cases that could arise.

Agenda item 4(c): Capacity-building and awareness-raising

The EU and its Member States would like to thank the Secretariat for the work done to date.

We welcome the efforts and progress made by the Secretariat in promoting capacity-building and awareness-raising by enhanced bilateral and multilateral cooperation with United Nations partner agencies, international organizations, potential donors and other stakeholders.

The EU and its Member States take note of the developments in the area of capacity building and awareness-raising under the Convention.

Agenda item 5: Accession to the Convention by States from outside the United Nations Economic Commission for Europe region and other relevant developments and interlinkages related to the promotion of the Convention and its principles

The EU and its Member States warmly welcome the Regional Agreement on Access to Information, Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Convention) following Principle 10 of the Rio Declaration, recently adopted by 24 Latin American and Caribbean countries, which is the first binding treaty on environmental rights for this region.

The EU and its Member States would like to thank the Secretariat for the extensive work done to promote and raise awareness about the Convention and its Protocol at the international level as presented in the Report on the implementation of the work programmes for 2015–2017 and 2018–2021. We welcome these efforts by the Secretariat and we will appreciate to be informed in more detail for the practical results and the feedback these activities have yielded by the future Secretariat's reports.

We welcome and appreciate the efforts by the Secretariat in promoting the principles of the Convention in and promote interlinkages with various international forums.

The EU and its Member States welcome the developments in the area of accession to the Convention by States from outside the United Nations Economic Commission for Europe region and other relevant developments and interlinkages related to the promotion of the Convention and its principles.

Finally, we welcome the fact that Guinea-Bissau has completed all procedural steps according to decision IV/5 and we look forward to Guinea-Bissau's application for the upcoming MoP 7 in 2021.

Agenda item 6: Implementation of the work programmes for 2015–2017 and 2018–2021, including financial matters

The EU and its Member States would like to thank the Secretariat for providing the Report on the Implementation of the Convention's work programmes for 2015–2017 and 2018–2021.

We welcome and highly appreciate the efforts by the secretariat to ensure synergies with activities under other United Nations Economic Commission for Europe (ECE) multilateral environmental agreements, United Nations agencies and other partners in implementing the work programme for 2018-2021. We encourage the continued use and expansion of such an approach further in implementing the work programme.

We welcome the progress made by the secretariat in making its activities more resource and time efficient through the use of electronic tools. We invite the secretariat to explore further opportunities for use of electronic tools such as phone and video conferences, webinars and email consultations in respect of the compliance mechanism and participation in various task forces.

We believe that identifying synergies and common activities among the multilateral environmental agreements and continued and extensive use of electronic tools are promising ways to meet the financial challenges due to continuing uncertainty as to the availability of sufficient funds.

Agenda item 13: Adoption of outcomes

Statement on the proposals orally outlined by the ACCC Chair to revise the ACCC Guide

The EU and its Member States recognize the high workload for the members of the Aarhus Convention Compliance Committee. We would like to thank the Chair of the Committee for his proposals to revise the Guide for Aarhus Convention Compliance Committee. We will consider these carefully and if appropriate will submit written comments.

Our initial view is that in light of the consultative nature of the compliance mechanism and the fundamental principles relating to the right to be heard, we consider it is essential that any decision not to hold a hearing can only be taken with the prior consent by the Party concerned and the Communicant.

This statement is without prejudice to the position that the EU and its Member States will adopt once and if such proposed amendments will be tabled in writing.

Closing statement

The EU and its Member States would like to welcome the outcomes of the 22nd meeting of the Working Group of the Parties to the Aarhus Convention and the constructive and collaborative spirit in which this event was held.

We believe that we have made fruitful discussions on important items, related with the implementation of the three pillars of the Convention and the work programmes and we have celebrated the twentieth anniversary of the adoption of the Aarhus Convention accordingly and respectfully.

We would like to thank you, Madam Chair, as well as the UNECE Secretariat and all delegates and stakeholders that have contributed to the success of this 22nd meeting of the Working Group of the Parties.

Finally, we would like to thank the Swiss Government for its hospitality and generosity, and in particular for the wonderful reception it organized yesterday at the Botanical Garden to mark the 20th anniversary of the adoption of the Aarhus Convention.

We are looking forward to meet you all again in this setting at the 23rd Working Group of the Parties in 2019.
