

# The Aarhus Convention and Biosafety

Fiona Marshall  
United Nations Economic Commission for Europe





- What is the Aarhus Convention?
- How does the Aarhus Convention work?
- What is its relevance for biosafety?
- Future steps for Aarhus and biosafety

# What is the Aarhus Convention?



- Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters
- Three pillars: information, participation, justice
- Entered force in 30 October 2001, now has 44 Parties: 43 countries and the European Union
- Parties adopted Lucca Guidelines on GMOs in 2002, still a useful tool
- Amendment on public participation in GMO decisions adopted in May 2005, not yet in force.

# What is the Aarhus Convention?



- Most far-reaching international treaty on environment and human rights
- First international environmental treaty to allow members of the public to bring cases before the compliance mechanism
- Expressly covers information and decisions on GMOs
- **Neither for or against GMOs**
- **Aarhus Clearinghouse, which also contains biosafety related materials.**

# How does the Aarhus Convention work?



- Requires Parties to provide access to information, public participation and access to justice to the public regarding the environment
- Obligations mainly fall on public authorities
- Rights are owed to the public, or the public concerned

# The Aarhus Convention and biosafety



## Right of access to information

- Has two sides: active and passive:
  - Public has right to environmental information upon request
  - Obligation on Parties to collect and disseminate environmental information, including on GMOs
- Environmental information widely defined
  - Includes (among other things) any information in any form on the state of elements of the environment, eg air, atmosphere, water, soil, land, landscape and natural sites, biological diversity, including **genetically modified organisms, and the interaction between these elements.**



## **Passive information obligation: Access to information on GMOs on request**

- Requirements:
  - Without interest having to be stated
  - In form requested
  - As soon as possible or at latest within one month
  - Reasonable charges published beforehand
  - Limited grounds for refusal to be interpreted in a restrictive way

## **Active information obligation: To collect and disseminate environmental information**



Parties must ensure that:

- Public authorities have up-to-date environmental information relevant to their functions
- Systems are established to ensure an adequate flow of information to public authorities about proposed and existing activities which may significantly affect the environment
- **Also product information:**  
Parties must develop mechanisms to ensure that sufficient product information is available for consumers to make informed environmental choices.





## Public participation in GMO decisions – current article 6 (11)

- Currently, Parties must apply the Convention's public participation requirements on decisions on whether to permit the deliberate release of GMOs into the environment *to the extent feasible and appropriate* within the framework of its national law

## Public participation in GMO decisions – current article 6 (11)



- Requirements:
  - Reasonable timeframes
  - Early public participation when all options are open
  - Applicants encouraged to identify public concerned, to provide information and to enter into discussions with them before applying for a permit
  - All relevant information to be accessible to public concerned upon request, free of charge

## Public participation in GMO decisions – current article 6 (11)



- Requirements (continued):
  - Opportunity for public concerned to comment
  - Due account of public participation
  - Public to be promptly informed of decision and decision (including reasons) to be made accessible



## Aarhus Convention amendment on GMOs, 2005

- In 2005, Parties to the Aarhus Convention adopted an amendment to the Convention on public participation in GMO decisions
- Requires Parties to provide for early and effective information and public participation in decisions on the deliberate release into the environment and placing on the market of GMOs
- Will enter into force when ratified by  $\frac{3}{4}$  of Parties at time amendment was adopted.
- Has 26 ratifications, 22 of which count to entry into force, needs 5 more.



## Requirements:

- Gives rights to “public”, generally, not just “public concerned”
- Requires a reasonable timeframe in order to give the public an adequate opportunity to express an opinion on proposed decisions
- Some possible exceptions
  - For deliberate release, if another such release in comparable bio-geographical conditions approved by Party and sufficient experience gained
  - For placing on market, if already approved by Party or if intended for research or future culture collection



- Summary of notification to obtain authorization and assessment report to be made public in timely and effective manner, if available
- Some information cannot be kept confidential:
  - General description of GMO, name and address of applicant, intended use, and if appropriate, location of release
  - Methods and plans for monitoring and emergency response
  - Environmental risk assessment



- Must ensure transparency of decision-making procedures
- Public entitled to submit any comments, information, analyses or opinion it considers relevant
- Must endeavour to take due account of outcome of public participation
- Text of decision, along with reasons, to be made public



## Access to justice regarding GMOs

- For a refused request for information
- For impairment of a right provided under the national law regarding public participation in decisions on deliberate release covered by art 6(11) – but not regarding decisions covered by GMO amendment.
- To challenge an act or omission by private persons or public authorities which contravenes national environmental law





## Lucca Guidelines on GMOs, 2002

- Non-binding examples of good practice
- Most far-reaching and detailed instrument on GMOs e.g. covers contained use as well as deliberate release and placing on the market
- Still a valuable guidance tool

# Future steps for Aarhus and biosafety



- Entry into force of the GMO amendment
- Preparation of draft 2012-2104 work plan
- More effective implementation of Convention's provisions
- Collaboration and dialogue with Cartagena Protocol and other relevant organizations



Thank you!

Fiona Marshall

Aarhus Convention secretariat, UNECE

[fiona.marshall@unece.org](mailto:fiona.marshall@unece.org)

[www.unece.org/env/pp](http://www.unece.org/env/pp)