



SUBSIDIARY BODY FOR IMPLEMENTATION

Sixth session

Bonn, 28 July - 5 August 1997

Item 10 of the provisional agenda

**MECHANISMS FOR CONSULTATIONS WITH
NON-GOVERNMENTAL ORGANIZATIONS**

Addendum

The participation of NGOs in the Convention process

Note by the Executive Secretary

1. The exercise mandated by the Conference of the Parties (COP) and the Subsidiary Body for Scientific and Technological Advice (SBSTA) has generated some reflection within the secretariat on the relationship between non-governmental organizations (NGOs) and the Convention process, notably on the principles governing the participation of NGOs.

Conditions of access

2. Arrangements for the participation of relevant NGOs in the Convention process were first made at the first session of the Intergovernmental Negotiating Committee (INC I) and were worked out between the United Nations Secretariat and the delegation of the United States of America, as host, on the basis of paragraphs 2 and 19 of General Assembly resolution 45/212 of 21 December 1990. Subsequently, the management of arrangements for NGO accreditation became the responsibility of the *ad hoc* secretariat of the INC, which evolved into the Convention secretariat. Similarly, the responsibility for decisions on the participation of NGOs passed from the INC to the COP. The subsidiary bodies of the COP have adopted the practice of granting provisional admission to NGOs, subject to formal accreditation at the subsequent session of the COP.

3. During the early years, some basic admission criteria were established. According to these, the secretariat seeks to establish that organizations to be accredited have activities of relevance to the Convention and are classed as "not-for-profit" (tax exempt) under the laws of their country of origin. Prior to COP 1, NGOs were requested to reconfirm their interest in continuing to participate in the Convention process; this resulted in the removal of some inactive names from the list.

4. Nevertheless, the conditions for admitting NGOs remain minimal, consistent with Article 7.6, which states that " ... Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention ..." may be admitted as an observer upon informing the secretariat of its wish to be represented. One third of the Parties present may bar such admission; this barrier has yet to be raised.

Constituencies

5. An important tool in the management of NGO participation, also dating back to INC I, has been the recognition of "constituencies" of NGOs. Initially, there were two constituencies: business and industry being one and the environmental NGOs the other. Since then, a third group has gained recognition: local government and municipal authorities.

6. None of these constituencies is monolithic and different strands of opinion can be discerned within them. Moreover, other constituencies such as parliamentary associations, labour unions, faith communities and youth groups, regularly seek to present their views to Convention bodies and could claim their distinct niche in consultative arrangements. Thus, it may be considered that the present processes for bringing the views of NGOs into the Convention through the channel of constituencies do not always accommodate the diversity of groupings or of the opinions held.

Practical questions

7. In dealing with the accreditation and participation of NGOs, and advising Convention bodies and their presiding officers on these matters, the secretariat has had to deal with a number of situations to which responses have been improvised but never codified. Some of the questions which have arisen are:

(a) Whether to accredit separately organizations that are affiliates of others already accredited, for example, the regional branches of a global coalition, or trade unions that are linked to a national umbrella organization - itself affiliated to an international federation;

(b) Whether to provide for the expression of differing views from the same constituency, for example, the business and industry constituency; and

(c) Whether to register individual experts or researchers as observers in the NGO category.

8. In general, the secretariat's improvised responses have tended to generosity; the result is an open house with a rather flimsy structure. It is reasonable to expect that a more systematic approach to consultation, such as is sought in different ways by the NGOs, will require a more solid structure.

9. For example, if, as is proposed, the secretariat is to use constituencies and their coordinators as channels of communication, for itself and on behalf of the Parties, then the constituencies need to be identified (see document FCCC/SBI/1997/14, in particular, paragraphs 17, 19, 26 and 31). This should be done in a manner that responds to the needs of the Parties for consultation and technical inputs. The greater the number of constituencies thus recognized, the greater the work involved in communication with them; this may have budgetary implications for the secretariat.

Principles

10. Some questions of principle have also been generated by these reflections, and are outlined below.

11. Should the consultative process aim to incorporate interested individuals or representative organizations or both? If it is considered important that organizations be genuinely representative, should there be a more transparent procedure to ascertain and place on record the nature of participating NGOs: what are their aims, who are their members, and by whom are they funded? Such transparency is the norm in the United Nations system and is often required by national legislation regulating the incorporation and activities of NGOs.

12. Also in line with practice in the United Nations system, should accreditation procedures require NGOs to declare support for the aims of the Convention, for example, its objective and principles, as set out in Articles 2 and 3? In national democratic processes, and even in corporate practice, diverse participation is encouraged on the assumption that it will contribute, through debate, to a set of broadly shared aims.

13. Should a greater effort be made to diversify the geographic sources of contributions by NGOs to the Convention process? This would require funding for participation, as proposed by NGOs themselves. In addition, should Parties with important non-governmental lobbies at work be encouraged to engage in debate with them at the national or regional level, so that the interaction between NGOs and the Convention process might be more representative of the global interests at play? For background to these questions, it may be noted that, of the nearly 240 NGOs currently accredited to participate in the Convention process, 55 per cent have addresses in States members of the European Community, 21 per cent in the USA, 15 per cent in other Annex II Parties and 9 per cent in developing countries. Only one accredited NGO is located in an Annex I Party with an economy in transition.

14. If accreditation under Article 4.6 were to be limited to organizations, should separate arrangements be made for the attendance of interested individuals such as experts and researchers, as observers, without the opportunity to take part in the proceedings? Would a distinction need to be made between an academic researcher and one from a commercial research organization?

15. What is the value of the "not-for-profit" criterion when a legitimate purpose of the business and industry NGOs is to defend and advance the interests of the enterprises that they represent? Would the COP consider admitting corporations under Article 7.6, or at least consulting directly with them, so as to have better access to their "unfiltered" views? It may be recalled that the original proposal from New Zealand for a business consultative mechanism envisaged such direct consultations.

16. These questions, as well as those raised in the preceding paragraphs of this addendum, are not unique to the Convention process and have been addressed elsewhere in the United Nations system (see, for example, Economic and Social Council (ECOSOC) resolution 1196/31 of 25 July 1996). Nevertheless, it is for the Parties to the Convention to decide with whom they wish to consult and whether they are satisfied with the present arrangements for accreditation and consultation or if they would prefer a more structured approach. Now that the Convention process has matured further, it may be timely for the Parties to address these important issues. The secretariat is ready to assist the Parties in doing so.

- - - - -