

Access to information, public participation, and access to justice in environmental matters

Engaging national governments in the conversation

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10. Why and how to engage national governments in the conversation?

Article 19, Universal Declaration of Human Rights, 1948

•Everyone has the right to **freedom of opinion and expression**; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Declaration of the United Nations Conference on Human Environment, 1972

•To achieve (...) environmental goal will demand the **acceptance of responsibility by citizens and communities and by enterprises and institutions at every level**, all sharing equitably in common efforts. Individuals in all walks of life as well as organizations in many fields, by their values and the sum of their actions, will shape the world environment of the future. (Preamble, para. 7)

•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 a **solemn responsibility to protect and improve the environment for present and future generations**. (Principle 1)

Rio Declaration on Environment and Development, 1992

• **Environmental issues are best handled with participation of all concerned citizens**, at the relevant level. At the national level, each individual shall have **appropriate access to information** concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and **encourage public awareness and participation** by making information widely available. Effective **access to judicial and administrative proceedings**, including redress and remedy, shall be provided.
(Principle 10)

Three pillars:

- Access to information
- Public participation
- Access to justice

Access to information

- Openness and transparency in decision making
- More efficient and effective environmental regulations

Public participation

- Informed citizen participation
- Mechanism for integrating citizen concerns into public policy making
- Enhanced ability of governments to respond to public concerns and demands, build consensus, improve acceptance of and compliance with environmental decisions
- Build ownership of the decisions

Access to justice

- Protecting the rights to access to information and participation
- Questioning decisions
- Competent legal bodies to protect environmental rights
- Independent and expeditious judicial processes for environmental damage

The Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (Bali Guidelines)

- February 2010
- Commentary to the guidelines
- Voluntary guidelines
- Developed with input from civil society

Purpose

Provide general guidance to States (mainly developing countries) to implement Principle 10 within the framework of their national legislation and processes



GUIDELINES FOR THE DEVELOPMENT OF
NATIONAL LEGISLATION ON
ACCESS TO INFORMATION, PUBLIC PARTICIPATION
AND ACCESS TO JUSTICE
IN ENVIRONMENTAL MATTERS



Access to information (AI)

- Making information available and accessible to any person in an affordable, effective and timely manner without proving a legal or other interest.
- Type of environmental information to be made available (environmental quality, environmental impacts on health and factors that influence them. Legislation, policy and advise on how to obtain information).

Public Participation (PP)

- Opportunities for early and effective PP in decision-making; members of the public should be informed about their opportunities to participate in decision-making processes at an early stage .
- PP to be sought in a transparent and consultative manner, providing adequate opportunities for members of the public to express their views.

Access to Justice (AJ)

- Review procedure before a court of law or other independent and impartial body to challenge such a decision, act or omission by the public authority in question.

Areas of progress

- Freedom of information acts
- Environmental legislation that ensures public participation
- EIA
- Enhanced court access, environmental remedies and jurisprudence
- Better institutions

Regions/Countries

- LAC, with the Principle 10 Declaration adopted at Rio+20, with 17 signatories to date
- Kenya
- Uganda
- South Africa
- Nigeria (in particular AI)
- China

- Different capacities to implement the guidelines and Rio Principle 10
- Some lack adequate laws
- Have weak institutions and participatory processes
- Lack of information (technology) & informed citizenry to participate in decision-making
- Lack of experts to represent the public
- Lack of adequate, accessible, affordable court facilities and processes

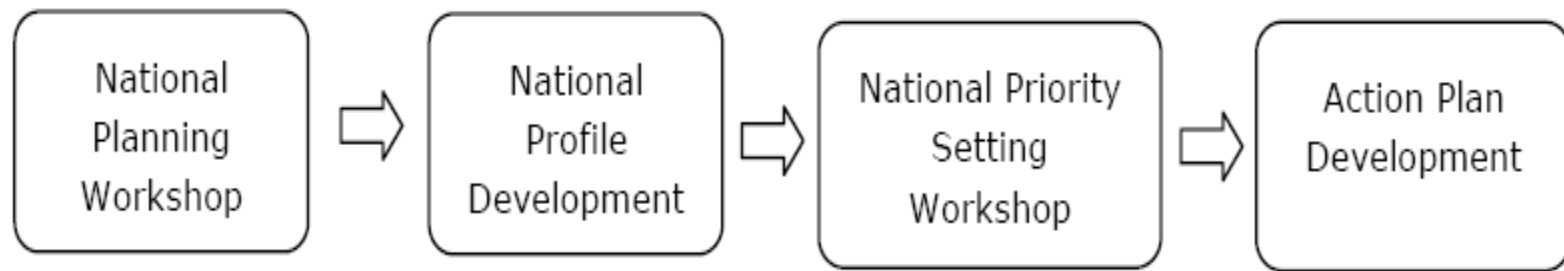
8. Special initiatives on the application of the Bali guidelines

- UNEP and UNITAR joint Bali guideline project
 - Enhance the capacity of States, major groups and stakeholders in in developing countries and in countries with Economies in Transition to implement Principle 10 and the Bali Guidelines
 - Preparation of Bali Guideline Implementation Guide and Training Material
 - Regional Workshops and legal practitioners training courses
 - National Projects in 10 countries (Phase 1)
- UNITAR Global Programme to strengthen national implementation of Principle 10, applying the Bali Guidelines:
 - Costa Rica
 - Dominican Republic
 - El Salvador
 - Honduras
 - Nicaragua
 - Panama
 - Botswana
 - Democratic Republic of Congo
 - Mali

National legislation vs. a regional instrument

- **Regional P10 instrument:** support and enhance implementation of national P10 related legislation in Latin America and the Caribbean
 - Declaration on the Implementation of Principle 10 of the Rio Declaration on Environment and Development (June 2012)
 - Declaration has launched a process to create a regional instrument to promote transparency, inclusiveness and accountability in environmental decision-making, a move with huge implications for the rights of Latin American and Caribbean citizens.
 - 17 signatories to date
 - 2014 action plan to conclude a regional agreement on applying Principle 10 in Latin America and the Caribbean (April 2013): working groups on capacity building and on access rights consultation and the regional instrument
- **Aarhus Convention:** instrumental in developing national legislation and other instruments for the national level

10. Why and how to engage national governments in the conversation?



Government and stakeholder participation throughout the project:

various government ministries, industry associations, public interest organizations (e.g. NGOs and indigenous groups), academia and unions, etc.

Bali Guidelines:

- [http://www.unep.org/civil-society/Portals/59/Documents/Resources/GUIDELINES TO ACCESS TO ENV INFO 2.pdf](http://www.unep.org/civil-society/Portals/59/Documents/Resources/GUIDELINES_TO_ACCESS_TO_ENV_INFO_2.pdf)

Commentaries to Guidelines:

- <http://www.unep.org/civil-society/Portals/59/Documents/Resources/Commentary-to-the-guidelines-for-the-development-of-national-legislation.pdf>

THANK YOU