



The UNFCCC provides a commitment to encourage the widest participation of NGOs in the climate process (article 4.1(i)) as well as to promote and facilitate public access to information and public participation in climate policies (**UNFCCC article 6**). The Paris Agreement commits Parties to further cooperate to enhance public participation and access to information (Paris Agreement article 12).

These provisions build upon a long-established recognition of the critical nature of procedural rights in environmental decision-making. **Principle 10 of the 1992 Rio Declaration** stresses that “environmental issues are best handled with participation of all concerned citizens, at the relevant level”. Further guidance regarding the implementation of this principle has been developed by international environmental institutions (such as **the UNEP Bali Guidelines** on Principle 10) and by **International Human Rights institutions**. **Agenda 2030** builds on States’ renewed commitment to participatory and transparent policies, respect for human rights, the empowerment of all groups of societies, and gender equality. SDG Target 16.7 in particular stresses the need to “ensure responsive, inclusive, participatory and representative decision-making at all levels”.

Regional Instruments on Public Participation in Environmental Decision-Making

The principle of public participation in environmental decision making has been further elaborated through two regional instruments: the 1998 Aarhus Convention and the 2018 Escazú Agreement that both seek to provide detailed legally binding obligations to State Parties.

Forty-seven (47) UNFCCC Parties from Europe and Central Asia are Parties to the **Aarhus Convention** on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (with one African State – Guinea Bissau – having formally notified its intent to accede to the Convention). Article 3.7 of the Convention provides a legally binding obligation for all of its Parties to “promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment”. The scope of this obligation has been further elaborated through the adoption of the **Almaty Guidelines** on the Promotion of the Application of the Principles of the Aarhus Convention in International Forums. This guidance emphasizes the importance of promoting public participation and access to information both in relation to the modalities and procedures of intergovernmental processes and in relation to their substantive outcomes, including work programmes, projects, and decisions adopted by these processes. Additionally, the Aarhus Parties adopted the **Maastricht Recommendations** on Promoting Effective Public Participation in Decision-Making to guide the implementation of the Aarhus Convention with regards to domestic processes.

Additionally, 24 UNFCCC Parties from Latin America and the Caribbean adopted, in March 2018, a Latin American and Caribbean Convention on information, participation, and justice in environmental matters (the **Escazú Agreement**). The Agreement stresses the importance of the growing awareness in international forums regarding the need for public participation in environmental decision-making. It also provides a commitment to promote public participation in the context of international forums and negotiations on environmental matters, including at the domestic level in matters related to these forums. The Agreement further emphasizes the importance of capacity-building and is the first legal instrument to provide a framework for the effective protection of environmental defenders. It has been signed by sixteen countries from the UN-ECLAC region and **ratified by two States: Guyana and Bolivia**. The Escazú Agreement will enter into force as soon as eleven States have ratified it.

Both instruments consider public participation from the perspective of the human rights of the individuals and communities directly impacted by the impacts of environmental decisions, building on the principle that no policy should be decided by any representative without the full and direct participation of members of the group(s) affected by that policy.

Relevant Decisions adopted at the COP-24

The COP-24 adopted a number of decisions that stress the importance of public participation in the implementation of the Paris Agreement and of domestic climate policies.



Communication of Nationally Determined Contributions (NDCs)

The guidelines for the communication of NDCs invite Parties to provide information regarding public participation and engagement with local communities and indigenous peoples, in a gender-responsive manner.



Enhancing Action for Climate Empowerment

A decision was adopted in Katowice to enhance cooperation related to Article 12 of the Paris Agreement, which addresses public participation and access to information. The decision invites Parties to integrate these actions in domestic climate plans and commitments, as well as to communicate on this integration.



Enhanced Transparency Framework

The modalities for the enhanced transparency framework seek access to information regarding the implementation of climate policies. Additionally they invite Parties to communicate on the participation of stakeholders in adaptation policy planning and in the context of capacity building.



Global Stocktake

In Katowice, Parties agreed that the Global Stocktake would be organized through an open, inclusive, and transparent process and that its sources of information would include submissions by observer organizations.



Technology Framework

The modalities for the technology framework and for the periodic assessment of the technology mechanism emphasize the importance of stakeholder engagement, including local communities and civil society organizations.



Local Communities and Indigenous Peoples Platform

The Parties also finalized the operationalization of the Local Communities and Indigenous Peoples Platform at the COP-24, including through the establishment of a Facilitative Working Group with equal participation of indigenous peoples and State Parties.

Relevant Agenda Items of the SBI-50 and SBSTA-50

Article 6 Mechanisms (SBSTA – item 11)

Guaranteeing access to information, public participation, and remedy is especially critical in the context of the **mechanisms created under Article 6 of the Paris Agreement**. The modalities, rules, and procedures to be adopted for Article 6 mechanisms must include rules that guarantee these critical rights so that the mechanism does not promote climate action that harms communities and the environment, but instead works to prevent harms from occurring initially and remedies them when they do. The damages that occur when these procedural rights are not guaranteed have been well documented in the context of the Clean Development Mechanism (CDM). The CDM, which has no provisions for rules related to procedural rights, has a history of harmful projects. This lack of sufficient guidance on procedural rights in the CDM, such as for meaningful community consultation during project design, coupled with a lack of ability for a harmed community to seek remedy has resulted in the CDM approving unsustainable projects that cause significant harm in the name of climate action. The “Sustainable Development Mechanism” (SDM) established under Article 6.4 of the Paris Agreement must learn from these shortcomings and guarantee, among other principles, the procedural rights of local communities, and can build upon the safeguards developed, for instance, in the context of REDD+.

The rules for the SDM must include that project proponents **conduct local stakeholder consultation** and fulfil requirements to ensure that it is conducted a manner that allows for meaningful consultation starting with project design and continuing throughout implementation. Meaningful consultation necessitates having **access to the relevant environmental and social information** in an accessible and timely manner. Thus the rules for the SDM should include this as part of adopting a set of robust environmental and social safeguards. Ensuring **meaningful consultation** can help prevent harms, such as those seen in CDM projects, from occurring. Additionally, the SDM must also have a **grievance redress mechanism** that guarantees communities **access to remedy** if and when harms occur. To ensure that communities have an adequate avenue for access to redress, the rules for the SDM must include the establishment of an **independent, accessible, equitable, transparent, efficient, transparent, rights-based, and legitimate redress mechanism**. Including these elements is critical to guarantee that the procedural rights of local communities are respected.

Terms of reference for the review of the Doha work programme on Article 6 of the Convention (SBI – item 15)

Article 6 of the UNFCCC and Article 12 of the Paris Agreement provide a commitment for parties to promote and enhance climate change education, training, public awareness, public participation and public access to information – particularly in relation to the implementation of the climate agreements. Since 2013, the **Doha Work Programme on Action for Climate Empowerment** has served as the main channel to promote this implementation. As the Doha Work Programme (DWP) will be completed in 2020, the SBI is mandated to draft terms of reference for the review of the DWP. This review is expected to pave the way for the adoption of a new Work Programme at COP-26. To ensure that the renewal of the DWP contributes to promoting procedural rights in climate-policy making, Parties could consider including the following elements so that the review offers an opportunity to make progress towards this vision:

- Review the linkages between the DWP and other relevant international frameworks;
- Consider how the DWP contributes to mainstreaming ACE elements in the implementation of the UNFCCC and Paris Agreement, including in line with decision 17/CMA.1;
- Consider in particular how the groups explicitly listed in the DWP have been involved in, and have benefited from, the DWP; and,
- Ensure that the review addresses all six ACE elements in a balanced manner.

Gender and climate change (SBI – item 16)

At the SB50, the SBI is mandated to initiate the review of the **Gender Action Plan** adopted in 2017 under the framework of the Lima Work Programme on Gender. This review will be informed by an in-session workshop. Priority Area B of the Gender Action Plan focuses on gender balance, participation, and women's leadership, stressing in particular the importance of training at all levels to empower women. The review of the Gender Action Plan could consider how to enhance the implementation of this Priority Area, for instance including through the mobilization of adequate resources and the integration of this priority in the design and implementation of NDCs and other key processes under the Paris Agreement as well as in the context of response measures.

Participation of Observers in the Intergovernmental Process (SBI – item 17)

The SBI has consistently reiterated the importance of enhancing the engagement of non-Party stakeholders in the intergovernmental process – an issue considered by the SBI. While the UNFCCC process provides examples of good practices with regards to access to information and public participation, its modalities offer only limited opportunities for effective input by civil society compared to other intergovernmental processes. In particular, observer organizations have **very limited opportunities to address directly specific contact groups and informals** where their inputs could be most relevant and help the negotiations progress towards finding consensus. All Parties have the responsibility to invite such interventions by requesting that facilitating officers invite civil society statements unless other Parties object.

The review of Arrangements for Intergovernmental Meetings offers an opportunity for Parties to reiterate existing mandates to ensure the effective and meaningful participation of observers in the negotiating process and to request that presiding officers and chairpersons of the meetings more systematically seek opportunities for the delivery of such interventions. Additionally, the principles of environmental democracy embodied in the two regional instruments and in principle 10 of the Rio Declaration require that procedural arrangements are adopted to ensure that the voices of the public impacted by environmental decisions are particularly facilitated and that, "where members of the public have differentiated capacity, resources, socio-cultural circumstances or economic or political influence, special measures should be taken to ensure a **balanced and equitable process**" (Almaty Guidelines, para. 15).

Beyond Bonn: Enhancement and Updating of NDCs and Development of Long-Term Decarbonization Strategies

The request for Parties to communicate enhanced and/or updated Nationally Determined Contributions by 2020 offers Parties an opportunity to promote access to information and public participation in the implementation of their commitments under the Paris Agreement. Ensuring the effective and meaningful participation of the public in the development of these commitments, including that of all key segments of the population, can contribute to identifying additional opportunities to enhance ambition. Such participation is essential to guarantee that NDCs are truly "owned" by the public and thereby that their implementation benefits from broad societal support. To promote the exchange of good practices among Parties with regards to inclusive and participatory NDCs planning, Parties should **communicate, along with their NDCs, information regarding how the planning process ensured the effective participation of the public** and the lessons learned with regards to this process.

The obligation under the Paris Agreement for Parties to develop long-term decarbonization strategies offers a second opportunity for further inclusive and participatory policy planning at the national level, particularly as the objective of this exercise is to develop a long-term vision for sustainable development.