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Review of the Rules and Practice for Civil Society Organisations (CSOs)
Participation in Regional Seas Conventions and Action Plans

REVIEW OF THE RULES AND PRACTICE FOR CIVIL SOCIETY ORGANISATIONS (CSOs) PARTICIPATION IN REGIONAL SEAS CONVENTIONS AND ACTION PLANS

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1. Introduction

- 1.1. The [6th Global Meeting of the Regional Seas](#)² discussed the importance of civil society and its potential role within the framework of the Regional Seas Conventions and Action Plans (RSCAPs). There was consensus that Regional Seas Programmes and Civil Society Organisations (CSOs) could benefit greatly from enhanced awareness and mutual exchange.
- 1.2. In this regard, the UNEP Regional Seas Programme (RSP) engaged an expert to undertake a review of the rules of procedure governing the participation of CSOs in Regional Seas Conventions and Action Plans, and to address the following topics:
 - 1.2.1. Identify some of the best practices and rules facilitating the co-operation between CSOs, Governments and Regional Seas Secretariats with the aim to increase the ability of Regional Seas to effectively involve CSOs in their work;
 - 1.2.2. Identify some of the most common and useful existing criteria on how to decide CSO's accreditation to Regional Seas Conventions; and
 - 1.2.3. Identify any new or particular areas in which CSO expertise or skills could enhance the work of Regional Seas.
- 1.3. The aim of the review was to identify possible improvements bearing in mind:
 - 1.3.1. The financial and logistical limitations of Regional Seas secretariats;
 - 1.3.2. The public information deficit that may be filled with enhanced co-operation with CSOs; and
 - 1.3.3. The importance of outreach and support for national ownership.
- 1.4. For the purpose of this review, "Civil Society Organisation" is understood to mean any non-state organisation, including public interest advocacy NGOs and organisations that represent economic and technologic private sector interests.
- 1.5. Given that participation in Global Meetings of the Regional Seas is not limited to the Secretariats of UNEP Regional Seas Programmes but extends to other "Regional Seas" secretariats such as the Helsinki and OSPAR Commissions, the term "Regional Seas" is used in a broad sense. It includes all Regional Seas Programmes as listed and described on the [UNEP Regional Seas Programme website](#)³: the Antarctic, Arctic, Baltic, Black Sea, Caspian, Eastern Africa, East Asian Seas, Mediterranean, North-East Atlantic, North-East Pacific, North-West Pacific, South Pacific, Red Sea and the Gulf of Aden, ROPME Sea Area, South Asian Seas, South-East Pacific, the Western and Central Africa and the Wider Caribbean. Hence lessons and recommendations are also drawn from some of the rules, experience and practices within other fora outside UNEP with a marine mandate, e.g. the UN International Maritime Organisation (IMO).

Review Topics

Review Aims

² November 30th - December 2nd 2004, Istanbul, Turkey. Report available at:

<http://www.unep.ch/regionalseas/home/meetingreport.doc>

³ <http://www.unep.org/regionalseas/Programmes/default.asp>

2. Methodology

2.1. The recommendations presented throughout this report and summarized in Section 6 resulted from:

- 2.1.1. A review and comparison of the references to NGOs contained in all tables on “Partners and Projects” available on the UNEP Regional Seas Programme website, and where appropriate the rules concerning the participation of CSOs in a number of relevant intergovernmental bodies;
- 2.1.2. Interviews with several stakeholders from CSOs (both from public advocacy NGOs and private sector organisations), Secretariat and former Secretariat staff, and a small sample of government delegates.

2.2. **This report contains 24 recommendations.** Each is outlined, explained and easily identifiable throughout the text in Sections, 3, 4 and 5. Section 6 contains the complete list of all recommendations.

3. Best practices and rules facilitating the co-operation between CSOs, Governments and Regional Seas Secretariats

Historic Context

- 3.1. The participation of Civil Society Organisations as observers has become the norm within nearly all inter-governmental meetings since the Rio Earth Summit of 1992. There is nonetheless substantial divergence in practice and rules amongst different bodies and regions. Even amongst Regional Seas Conventions and Action Plans the level of CSO participation varies considerably.
- 3.2. At the high end of the participation spectrum, there are quite a number of NGOs with observer status within the [North East Atlantic OSPAR Commission](#)⁴.
- 3.3. The [Caspian Sea Convention template](#) does not reference work with NGOs, but the website of that Convention (adopted in 2003) contains an appeal to NGOs to join a database “*to help to improve communication with and between the Caspian environmental NGOs*”.⁵ In some cases it may be a deliberate choice to restrict the participation of NGOs because the programme’s building phase is hard enough in itself where countries lack prior experience of working together. In the case of the Black Sea Programme the choice has been made to rely exclusively on local [NGOs](#), perhaps as a means of empowering them.⁶

Recommendation # 1

If increasing CSO participation is a priority, the Regional Seas Programme could prepare a **user-friendly template to help standardise reporting on co-operation with NGOs**. This would allow the Secretariats of Regional Seas Conventions and Action Plans to provide comparable information and allow for an objective comparison of results.

IMO and tradition of participation

- 3.4. Several interviewees, from both governmental and CSO backgrounds, noted that the tradition of participation of CSOs in a number of marine environmental fora finds its foundation in the rules and practices of the UN International Maritime Organization (IMO) (See Box 1).

⁴ http://www.unep.org/regionalseas/Publications/parts_data/part_nea.doc

⁵ <http://www.caspianenvironment.org/newsite/NGOReqForm.asp>

⁶ See “The Black Sea NGO Network” <http://www.bseanetwork.org/>

3.5. Nearly all the countries that participate in Regional Seas Programmes are members of the IMO. So they are familiar with the fact that the rules that apply within that organisation have been sufficiently tested.

Recommendation # 2

Regional Seas Programmes could consider adopting for their meetings (i.e. meetings of Contracting Parties, intergovernmental and/or Council meetings) **rules and mechanisms** similar to those of the IMO to increase the input of CSOs, including the circulation, presentation and discussion on the floor of documents, and make the right to speak more operational.

Box 1 - Rules and Practices of the International Maritime Organisation (IMO).

- a) The IMO (then IMCO) adopted Rules Governing Relationship with Non-Governmental International Organizations as early as 1961¹ whereby (Rule 1)
“subject to approval by the [IMO] Assembly, the [IMO] Council may grant consultative status to any non-governmental international organization which is able to make a substantial contribution to the work of the IMO”.
- b) Rule 6(b) confers to NGOs with IMO consultative status with the IMO
“the right to submit written statements on items of the agenda of the Assembly [and all its subsidiary bodies] [...] provided that such submission does not impede the smooth functioning of the IMO or the organ involved” (emphasis added).
- c) Rule 7, “Status at meetings of the International Maritime Organization” stipulates that
“Such observer [from NGOs] shall have no voting rights but may, on the invitation of the Chairman and with the approval of the body concerned, speak on any item of the agenda of special interest to the NGO of which he is the representative”¹.
- d) In 1978, the Rules were complemented with Guidelines on the Grant of Consultative Status. As a result of those rules, a large number of CSOs have enjoyed within IMO a Consultative Status that gives them the right to submit official documents at all the meetings of the IMO and its subsidiary bodies and to take part in the proceedings including full participation in Working Groups unless decided otherwise by the Chair or the Bureau.
- e) Many interviewees noted that the Helsinki and OSPAR Commissions are already doing this 1, and that UNEP would benefit from adopting such a practice. Some of the interviewees emphasised in particular how in their view, and based on their experiences, it was mutually beneficial for both governments and CSOs to be able to submit and present documents that are entered into the records of the meetings – a common practice at the IMO, but not at UNEP.

1. Resolution A.31 (II) of 13 April 1961, amended on 20 November 1985.

2. Abstracts from Rules 6 and 7, Rules Governing Relationship with Non-Governmental International Organizations, IMO. Emphasis added.

3.6. From the various examples and interviews, the terminology *consultative status* used by IMO as opposed to the *observer status* used by other organisations encourages a qualitative difference in both the expectations of member states towards CSOs and the CSOs' own sense of responsibility. *"Maybe we are expected to be more result-oriented if we are told we are consulted than if we are told to observe"*, said one CSO interviewee.

Recommendation # 3

In order to empower CSOs to participate more, and in order to emphasise the *"Natural Allies"* approach, Regional Seas Conventions and Action Plans may wish to give consideration to **labelling the status of CSOs as *consultative* and not merely *observer***.

3.7. In summary, within an intergovernmental organisation dealing with marine issues, observers from international CSOs should be given rights of the same nature and very similar in practice as those given to Observer States, the UN, its specialized agencies and the IAEA. In practice, although they are called *"observers"*, CSOs within some Multilateral Environment Agreements are entitled to submit papers that are properly recorded in the same way as the submissions of Contracting Parties, and discussed on a *"first come-first served"* basis (the number assigned to them by the Secretariat is in accordance with the date of delivery/issue).

3.8. Furthermore, in some but not all cases, CSO submissions are translated by the Secretariat in all working languages of the particular meeting, thereby facilitating their consideration in the capitals before each meeting. Most NGO representatives at various meetings believe that unless the opportunities for input and intervention are widened, there is a risk that it will become increasingly difficult to secure their long-term participation. *"The funders of NGO projects want to see results from their investments; if the dividends resulting from participation in intergovernmental fora are not measurable, funders won't see the benefits of NGO participation"*.

3.9. Allowing CSOs to participate actively in discussions, albeit recognising the precedence of Contracting Parties, can ensure that CSO contributions are made at a time in proceedings when their comments and insights may be most relevant and valuable to the work of the body as a whole. CSO representatives frequently bring expertise and experience of direct relevance which can simply be lost to the meeting if CSOs are allowed to intervene only after discussions between Parties have already effectively concluded.

Recommendation # 4

Regional Seas Conventions and Action Plans that have not yet done so may consider **applying the *first come-first served approach* for the distribution, consideration and discussion of all submissions**, including those for CSOs.

3.10. Another proposal worth considering is that the Chair, his Deputy and/or a senior Secretariat staff could always meet with CSOs before a meeting begins, giving them the opportunity to make clear their objective and on which issues they would like to intervene. In this way the Chair can provide CSOs with appropriately timed opportunities to intervene. Such meetings could also serve as an occasion for the Chair and/or the Secretariat to provide feedback and where appropriate advice to CSOs, and could assist CSO representatives to make their interventions as efficient and valuable to the meeting as possible. This approach worked very effectively at the FAO Committee on Fisheries meeting in March of 2005, where a senior Secretariat staff arranged briefings with the NGOs both before and during the meetings.

Recommendation # 5

Regional Seas Programmes and Action Plans could consider **establishing an informal Chair/Secretariat consultation with CSOs before each meeting begins.**

3.11. CSOs unanimously refer to the OSPAR and Helsinki Commissions rules and practice for NGOs as examples of best practices.

3.12. The Mediterranean Action Plan, the first UNEP Regional Seas Programme (its creation dates back to the adoption of the Barcelona Convention in 1976) provides another example of innovative participation mechanisms for CSOs (See Box 2). The [UNEP MAP](#) website lists over 60 CSOs (international, regional and national) as partners.⁷

Different Roles for different CSOs

3.13. Several interviewees suggest that it is important to view through a different prism “economic lobbies” (such as CEFIC for the chemical industry) whose role is described as “attempting to reduce regulatory pressure as well as to bring their expertise which is indispensable to make sure that the measures that are adopted are not impossible to implement” and “public goods NGOs.” There are “two different kinds of public goods NGOs”: those whose role is limited to expressing and advocating their policies and viewpoints on the one hand, and “more complex ones that combine advocacy with direct involvement in the management and implementation of agreements and programmes.”

Box 2 – The Mediterranean Action Plan and participation mechanisms for CSOs.

- a) The latest version of the [Mediterranean Action Plan](#)¹ itself contains no less than ten references to NGOs – a sign that UNEP does not expect to fulfil its mandate without the active participation of CSOs. The opportunities for CSO input at the meetings of UNEP MAP, including the meetings of Contracting Parties to the Barcelona Convention, are governed by Rule 8.1B and Rule 8.2 the [Rules of Procedure for Meetings and Conferences of the Contracting Parties to the Convention and its related Protocols](#).²
- b) It should be noted that there is a need to amend Rule 8.1.B³ by deleting the last two words “against pollution” to reflect the active role of NGOs in the implementation of the Barcelona Protocol on Biodiversity and related MAP activities.
- c) At the same time, Rule 8.2⁴ should be amended to provide a mechanism for NGO submissions to be numbered and entered into the official records of any meeting (see Recommendation # 4, above).
- d) This could also serve to encourage other Regional Seas Programmes to harmonize their own Rules of Procedure along the same lines.
- e) One question is whether governments believe that having CSO submissions become part of the official record would be useful (for example, is there a value in having such documents posted on the Regional Seas Programmes and Action Plan websites as a result?).

1. http://195.97.36.231/acrobatfiles/02BUR59_Inf4_eng.pdf

2. http://195.97.36.231/Acrobatfiles/MAPDocAcrobatfiles/Rules_of_Procedure_Eng.pdf

3. Rule 8.1.B: *The Executive Director shall, with tacit consent of the Contracting Parties, invite to send representatives, to observe any public sitting of any meeting or conference, including the meetings of technical committees, any international non-governmental organization which has a direct concern in the protection of the Mediterranean Sea against pollution;*

4. Rule 8.2: *Such observers may, upon the invitation of the President and with the tacit consent of the meeting or the conference, participate without vote in the deliberations of the meeting or conference dealing with matters of direct concern to the organizations they represent.*

⁷ <http://www.unepmap.gr/homeeng.asp>

Recommendation # 7

The Regional Seas Programmes could consider **encouraging amending and harmonizing the Rules of Procedures to increase CSO input.**

3.14. One innovative mechanism for CSOs under UNEP MAP lies with the Mediterranean Commission on Sustainable Development. CSOs are full members of the Commission, on an equal footing with member States. Private sector and local authority NGOs sitting on the Commission are elected pursuant to their nomination by member States. In contrast, environmental NGOs may nominate themselves and are thereby given more autonomy. Five environmental NGOs sit on the Mediterranean Commission on Sustainable Development, representing a good mix of international, regional and national NGOs. Of course, allowing CSOs to cast their votes with equal weight to member States is possible only within advisory bodies such as this one.

Recommendation # 8

The experience of UNEP MAP with the innovative mechanism for CSOs existing under the Mediterranean Commission on Sustainable Development could be shared, with a view to **considering whether its duplication in other advisory bodies is desirable in other Regional Seas Programmes.**

*OSPAR and
Helcom CSO
participation
in HOD
meetings*

3.15. The Helsinki Commission does allow NGOs at its meetings of Heads of Delegation, apparently to the satisfaction of all concerned. OSPAR Ministerial Meetings have been prepared by meetings of the Heads of Delegations. To involve CSOs, separate preliminary meetings with CSOs were tried for the preparation of the 1998 Ministerial Meeting. This proved to be unsatisfactory. So, for the 2003 OSPAR Ministerial Meeting and the 2003 Joint HELCOM/OSPAR Ministerial Meeting, it was agreed that CSOs could attend the second and third of the three Meetings of Heads of Delegations to prepare the Ministerial Meetings.

3.16. CSOs with observer status at OSPAR subsequently asked to be admitted to all Meetings of Heads of Delegations. OSPAR maintained the previous arrangements, but amended the OSPAR Rules of Procedure so that – on an on-going basis – all Heads of Delegations meetings papers and reports would be made available to CSOs, and that when it is decided by the Heads of Delegations that a vote by correspondence should take place, CSOs are informed in advance so that they be given a chance to make submissions or representations in advance of that vote.

3.17. The reality is that everyone understands that nothing can nor should prevent Heads of Delegations to meet behind closed doors when it is necessary. As a general rule, the

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