

Negotiating Rules of Procedure For the Escazu Convention

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Overview

- ▶ Art 15 (4), subject matter of the Convention
- ▶ Key documents for procedures and rules agreed during the negotiating Process which can inform the ROP
- ▶ Typical Format for ROP including examples from other ROP and relevant practices from Escazu negotiations
- ▶ Good practices



Escazu Convention- Art 15 (4)

At its first meeting, the Conference of the Parties shall:

(a) discuss and adopt by **consensus** its **rules of procedure**, including the **modalities for significant participation by the public**;

Subject Matter of the Convention

- ▶ Transparency
- ▶ Accessibility
- ▶ Role of the public/ Public participation
- ▶ Art 7 Escazu- public participation in international forums

Standard Practice in MEAS generally- public meetings, information dissemination, participation of observers

Escazu- Negotiating process- Plan of Action 2013

► 2013 Guadalajara Plan of Action

- Regional Public Mechanism- members of the public can register on the mechanism - facilitate their involvement in the process

- Right of the public (natural or legal person or community organisation) to participate in meetings

- all parts of the meeting open except in exceptional circumstance where signatory countries decide to hold closed meeting

Escazu- Negotiating Process- Work Plan 2015

► Organisation and work Plan of the Negotiation Committee 2015, Santiago

- Contains detailed rules about role of presiding officers and secretariat, intersessional meetings, circulation of the agenda, *ad hoc* working groups, non-signatory observer countries etc.

- Role of the Public- ‘The public will have significant participation in the negotiation process...’

- Requests that the public elect two representatives

- Presiding officers to maintain a dialogue with the elected representatives

- Secretariat to support participation of the public

Escazu Negotiating Process-Modalities

- ▶ Modalities for Public Participation (Adopted at the 3rd meeting of the Negotiating Committee)

3 levels of participation : attendance statements, reporting - submission of language proposals

- ▶ the Negotiating Committee decided at its final act to apply mutatis mutandis the modalities for participation of the public in the negotiating committee until the first COP
- ▶ UN Special Rapporteurs '*Modalities for the participation of the public have included the ability of the public to speak at any moment of the discussions... This arrangement is an international good practice regarding stakeholder engagement in inter-governmental processes*'

ROP -Key Provisions

Definitions

Meetings

Notifications

Agenda

Observers

Presence of the Public

Officers- Bureau

Subsidiary bodies

Conduct of Business, Decision-making

ROP- Standard Format

- ▶ **Definitions-** ‘Parties’, ‘Bureau’, ‘Secretariat’, ‘public’ - (already agreed)
- ▶ **Meetings** -place and frequency of the sessions- usually every two years, Minamata- every year for the first three years

ROP Standard Format

- ▶ **Notification-** when? - usually 6 weeks (current practice Escazu)
Who?- Parties, Minimata-observers, Aarhus- observers and public
- ▶ **Agenda/Documentation-**
distribution Parties, Aarhus-observers, public, specific provisions web publication, access to info(std. practice)

ROP Standard format

► Officers

President: declares the opening of the meeting, put questions to the vote, rule on points of order

Vice President: Between 3-9, smaller nos. for regional conventions

Bureau:

Chair, Vice presidents, chairs of subsidiary bodies

Practice of continuous dialogue between Presiding officers and Elected Reps

Aarhus provides that a representative of non-governmental organizations shall be invited to attend bureau meetings as an observer- this could be adapted to apply to Elected Reps

ROP- Standard Format

► **Observers-** UN bodies, States not a Party to the Convention and any ‘body or agency qualified in matters relevant to the Convention’ , meetings in public, 1/3 rule.

► **Presence of the Public**

Art 15 (4) Escazu Convention - ROP, ‘including modalities for public participation’

Aarhus - ‘*meetings of the Parties shall be open to members of the public....*’ except in exceptional circumstances..

Potential here to specifically mention the Elected Representatives of the public and to provide for their participation with more detailed modalities to be agreed by COP decision.

ROP Standard format

▶ **Subsidiary bodies**

In most cases the ROP apply to meetings of subsidiary bodies- meetings in public, publication of official documentation , notification of meetings etc.

Committee to Support Implementation and Compliance-Participation of the Public also key here

▶ **Committees and Working Groups**

In most cases the ROP will apply. Common practice for these to be open to the public and to have transparent documentation etc.

ROP- Standard Format

Conduct of Business

- ▶ provisions relating to quorum for opening a meeting and making decisions, order of speaking, points of order , competence of the COP, rules governing proposals and amendments to proposals
- ▶ Aarhus provides that the President may request NGOs with common goals or interest to constitute themselves into a single delegation or to present their view through a single representative.

ROP-Standard Format

► Decision-making- Rules under the Convention

Art 16- Every Party has one vote

Art 15 (4) -ROP, Financial Rules- Consensus

Art15 (5)- Adoption of subsidiary bodies for implementation and effectiveness of the Agreement - Consensus

Art 20 -Amendments- Consensus, failing that, $\frac{3}{4}$ majority

ROP - Standard Format

Decision making- General Rules

Escazu- Each party has a right to one vote,
amendments- $\frac{3}{4}$ majority

- ▶ Parties shall make every effort to make decisions by consensus
 - ▶ Decisions on substantive matters- $\frac{3}{4}$ majority, $\frac{2}{3}$ majority
- (Aarhus exception regarding ROP - consensus)
- ▶ Procedural decisions- simple majority
 - ▶ Dispute over whether a matter is procedural or substantive, the President shall rule and any appeal on his ruling will be put to the vote by simple majority
 - ▶ Second vote if vote is equally divided (Basel)

Good Practices

- ▶ Creation of a Regional Public mechanism- strong access to information and transparency
- ▶ Elected Representatives- allows for focused discussions
- ▶ Open meetings with web-streaming
- ▶ Modalities for the participation of the public have included the ability of the public to speak at any moment of the discussions