UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

Information Note to the second part of the fifth session of the Intergovernmental Negotiating Committee to develop an international legally binding instrument on plastic pollution, including in the marine environment (INC-5.2) – 26 June 2025

The Right to Participation in Multilateral Environmental Processes

1. Introduction

The effective functioning of international and regional organizations is inexorably linked to civil society actors, Indigenous Peoples, human rights defenders, and marginalized groups' participation. Their engagement ensures that international discussions and decisions are informed by what is happening on the ground, that a full and diverse range of perspectives are heard, and that decision-making is fully informed by relevant expertise and experience. Where their engagement is restricted, responses to environmental degradation, among others, risk being ill-informed and more susceptible to the influence of narrow private interests.[1]

Economic actors with vested interests participating in negotiations have been shown, through empirical studies, to influence scientific outputs when science is industry funded. Industry has also tried to distort scientific consensus through strategic funding, ghostwriting, and aggressive lobbying on climate science, and health impacts of tobacco and chemicals, for instance.[2] This can lead to misleading claims that cast doubt on established evidence, thereby stalling or undermining effective policy action. Examples include the denial or dismissal of well-established scientific consensus on the health impacts of plastic pollution.[3] Addressing conflicts of interest and disinformation is therefore essential for meaningful and informed participation.

Respecting, protecting and fulfilling the human right to public participation is a matter of obligation in decision-making processes related[4], including at the international level. Ensuring the implementation of fair and effective policies to fulfil the human right to participation and guarantee adequate transparency and accountability in negotiation processes for effective inclusion of stakeholders also leads to better, more sustainable and just outcomes.

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[1] See HRC, Procedures and practices in respect of civil society engagement with international and regional organizations, Report of the United Nations High Commissioner for Human Rights, A/HRC/38/18
[2] McGarity & Wagner (2008), Bending Science, and Oreskes & Conway (2010), Merchants of Doubt.
[3] Scientific evidence already confirms adverse effects across the entire life cycle of plastics, including links to developmental issues, cancer, metabolic and reproductive disorders—yet some statements falsely claim this evidence is insufficient or non-existent.
[4] UNECE, The Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums, paras. 5, 28-39

2. *International Human Rights Law*

The foundation of the human right to participation in public affairs is set out in **Article 21 of the Universal Declaration of Human Rights** and **Article 25 of the International Covenant on Civil and Political Rights (ICCPR). As the Human Rights Committee has noted,** it includes the right to partake in the formulation and implementation of policy at the international and regional levels.[5]

The right to participation is also explicitly included in the **Convention on the Elimination of All Forms of Discrimination against Women** (Article 7), **International Convention on the Elimination of All Forms of Racial Discrimination** (Article 5(c)), **Convention on the Rights of Persons with Disabilities** (Article 29) and the **International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families** (Art 41).

The right has been established in regional instruments, such as **Articles 23(1)(a) of the Inter-American Convention on Human Rights, Article 13 of the African Convention on Human Rights, Article 25 of the ASEAN Human Rights Declaration and Article 24 of the Arab Charter on Human Rights**. The European Court of Human Rights has stated that public participation is part of the right to private and family life under Article 8 of the European Convention on Human Rights.[6] According to both the Inter-American Court of Human Rights and European Court of Human Rights, States have an obligation to ensure the right to public participation in policies and decision-making that could affect the environment.[7]

In addition to being a stand-alone human right, participation is an enabling right for – and also reliant upon – the effective exercise of other human rights such as the rights to equality and non-discrimination, peaceful assembly and association, freedom of opinion and expression, education, and science. It is understood as one of the elements of the human right to a clean, healthy, and sustainable environment.[8] The right to freedom of expression, including access to information, is foundational for informed public participation. The full realization of democracy,[9] the rule of law,[10] and development (articles 2 (3) and 8(2) of the **Declaration on the Right to Development**) are all dependent on effective enjoyment of the human right to participation.

The **Human Rights Committee, in its General Comment No. 25,** recognized that the right to take part in the conduct of public affairs also covers the formulation and implementation of policy at the international and regional levels.[11] As established in the **OHCHR Guidelines on Public Participation**, decision-making in multilateral environmental processes has a significant effect on the realization of human rights, as it impacts national legislation, policies

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[5] Human Right Committee, General Comment No. 25, CCPR/C/21/Rev.1/Add.7 (1996), paras. 5 and 8.
[6] See ECtHR, Verein KlimaSeniorinnen and Others v. Switzerland, Application no. 53600/20(2(2024), para. 539 e.
[7] See IACtHR, Advisory Opinion OC-23/17, "The Environment and Human Rights," (2017), para. 226 and Conclusion (g) and ECtHR, Taşkin and Others v. Turkey, App. No. 46117/99 (2003), paras. 119 and 120.
[8] In July 2022, the UN General Assembly unanimously adopted the resolution recognizing the human right to a clean, healthy, and sustainable environment. According to the General Assembly, ensuring an effective right to participation is vital for exercising the right to a clean, healthy, and sustainable environment. UNGA, The human right to a clean, healthy, and sustainable environment, A/RES/76/300, Preamble.
[9] Human Rights Committee, General Comment No. 25, which states that Article 25 (participation) "lies at the core of democratic government." CCPR/C/21/Rev.1/Add.7, para. 1.
[10] According to former UN Secretary General Kofi Anan, the Rule of Law requires participation in decision-making. See the Report of the Secretary-General "The rule of law and transitional justice in conflict and post-conflict societies," S/2004/616 para. 6.
[11] Human Rights Committee, General comment no. 25, CCPR/C/21/Rev.1/Add.7.

and practices. Decisions in these processes must be made in a transparent and accountable manner, respectful of fundamental rights.[12]

As the **Committee on the Elimination of Discrimination against Women** has stressed in its **General Recommendation No. 40**, women have the right to equal and inclusive representation in all decision-making systems on equal terms with men – this requires institutionalization of fifty-fifty parity between women and men in all spheres of decision-making.[13]

The **Committee on the Rights of the Child, in its General Comment No. 26**, stipulated that for free, active, meaningful and effective participation, children should be provided with environmental and human rights education, age-appropriate and accessible information, adequate time and resources and a supportive and enabling environment. They should receive information about the outcomes of environment-related consultations and feedback on how their views were taken into account and have access to child-sensitive complaint procedures and remedies when their right to be heard in the environmental context is disregarded.[14]

According to the **Committee on Economic, Social and Cultural Rights, in its General Comment 25,** the right enshrined in article 15 (1) (b) of the International Covenant on Economic, Social and Cultural Rights encompasses not only a right to receive the benefits of the applications of scientific progress, but also a right to participate in scientific progress.[15]

Under international human rights law, States have obligations to ensure the right to participation including in multilateral environmental negotiations. Participation should allow individuals to contribute to and benefit from decision-making processes. That is, participation must be active (i.e. not symbolic), inclusive (i.e. particularly of groups in vulnerable situations), informed (i.e. access to documents and information), and meaningful (i.e. real potential to influence decisions).

This includes not only actively facilitating participation and empowering individuals, Peoples and groups to engage in decision-making processes that affect their rights and well-being, but an obligation to end all acts of intimidation and reprisals against those participating or seeking to participate in international forums and related events.[16] Meaningful participation also includes the ability to speak and contribute during sessions, sharing independent research and lived experiences, involvement in informal meetings where key decisions are made, consideration of input in the outcomes, and removal of practical and procedural barriers.

A human rights-based approach demands attention to power asymmetries between rights-holders and duty-bearers and other stakeholders. In this sense, the right to participation protects against power asymmetries which can hinder meaningful participation, particularly for people in vulnerable situations, and lead to decisions that do not reflect diverse perspectives or needs. While recognizing that multilateral environmental processes are Party–driven, the

[12] OHCHR Guidelines for States on the effective implementation of the right to participate in public affairs.
[13] Committee on the Elimination of Discrimination against Women, General Comment 40 on the equal and inclusive representation of women in decision-making systems, UN Doc. CEDAW/C/GC/40

[14] Committee on the Rights of the Child, General Comment No. 26, CRC/C/GC/26, para. 27.
[15] Committee on Economic, Social and Cultural Rights, General Commet No. 26, E/C.12/GC/25, para.11
[16] See HRC, Draft guidelines for States on the effective implementation of the right to participate in public affairs, Report of the Office of the United Nations High Commissioner for Human Rights,, A/HRC/39/28.

imbalance in representation, where business interests are consistently present and civil society is sidelined, leads to unequal decision-making. This is why effective engagement in multilateral environmental negotiations requires protecting negotiations from vested interests and guaranteeing the participation of the most vulnerable populations in their capacity as rights-holders so they can have a voice in shaping policies and programs that affect their lives.[17]

As put forward by the UN Working Group on Business and Human Rights, private sector participation should be conducted transparently and responsibly. However, where businesses engage in political processes to support policies that are inconsistent with respect for human rights – especially where the modes of engagement utilized and the surrounding regulatory contexts preclude adequate oversight – there is a significant risk of unmitigated human rights harms to individuals and communities and impairment of the State's ability to safeguard against those harms.[18] Addressing this issue requires transparency, traceability and conflict of interest provisions to ensure that corporate political engagement is responsible and rights-respecting.

3. International Environmental Law

The right to participation in public affairs is vital to the protection of the environment, and States also have positive legal obligations, under international environmental law, to ensure participation in environmental matters. In 1982, the UN General Assembly adopted the **World Charter for Nature**, stating that all persons shall have the opportunity to participate in decisions of concern to the environment. Similarly, **Principle 10 of the Rio Declaration** establishes that "Environmental issues are best handled with the participation of all concerned citizens," and **Agenda 21** promotes "the broadest public participation."

State parties to the **UN Framework Convention on Climate Change (UNFCCC)** have committed to promoting and facilitating public participation in addressing climate change, as stated in Article 4. Similarly, the **Paris Agreement** calls upon Parties to cooperate in taking appropriate measures to enhance participation (Article 12).

Participation is also included under the **Kunming-Montreal Global Biodiversity Framework**, which urges Parties to enable participation at all levels of government, and the Agreement under the **United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ)**, according to which, Parties are to facilitate the participation of relevant global, regional, subregional and sectoral bodies, Indigenous Peoples, and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders.

The right to participation in environmental matters in international context has been further reaffirmed through the **Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)**, which is open for global accession, and the **Regional Agreement on Access to Information,**

[17] See the UN Framework Principles on Human Rights and the Environment, in the Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/37/59.
[18] Working Group on Business and Human Rights, Corporate influence in the political and regulatory sphere: Ensuring business practice in line with the Guiding Principles on Business and Human Rights, UN Doc A/77/201, para. 2

Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), both of which impose a legal duty on Parties to ensure the right. These instruments provide a framework that can be used by Parties in international negotiations, such as those under the INC and those on climate change, biodiversity, and other issues.

Specifically, under Article 3.7 of the Aarhus Convention and Articles 4.10 and 7.12 of the Escazu Agreement, Parties have legally binding obligations to promote the right to public participation in international forums on matters relating to the environment. This includes an obligation to facilitate broad and open access to participation in multilateral environmental processes.[19]

Under Article 9 of the Escazu Agreement, Parties must guarantee a safe and enabling environment for human rights defenders in environmental matters, and protect and promote their rights including the freedom to participate in activities regarding environmental matters. Likewise, Article 3 (8) of the Aarhus Convention requires each Party to protect environmental defenders from penalisation, persecution or harassment.

The **Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters under the Aarhus Convention (Maastricht Recommendations)** provide a step-by-step practical guidance on how to implement effective public participation in decision-making in domestic and transboundary context.[20]

The **Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums (Almaty Guidelines)**[21] provide practical measures to facilitate public participation in international decision-making processes and within the framework of international organizations in matters relating to the environment. These measures include ensuring access to documents, transparency of procedures, and participation rights. They cover both procedural aspects (e.g., room access, document availability) and substantive aspects (e.g., decision-making influence). The Almaty Guidelines also emphasize the importance for States to ensure that modalities for participation in international forums are designed in a manner that minimize inequality, avoid the exercise of undue economic or political influence, while facilitating the participation of those constituencies that are most directly affected and might not have the means for participation without encouragement and support.[22]

The **ECLAC Observatory on Principle 10** provides legal developments and best practices including on the right to public participation, as enshrined in Principle 10 of the Rio Declaration and the Escazú Agreement.[23]

4. The Right to Participation in the Intergovernmental Negotiating Committee on Plastic Pollution (INC)

[19] See also ECLAC, Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean: implementation guide.
[20] UNECE, Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters.
[21] UNECE, The Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums.
[22] Ibid, guideline 15.
[23] ECLAC, Observatory on Principle 10.

The **UNEA Resolution 5/14** stresses the need to ensure the widest and most effective participation possible in the work of the ad hoc open-ended working group and of the intergovernmental negotiating committee (para 6), and requests the Executive Director to facilitate the participation of, and close cooperation and coordination with, relevant regional and international instruments and initiatives and all relevant stakeholders in the context of the mandate of the intergovernmental negotiating committee (para 11).[24]

UN experts have highlighted the importance of promoting and protecting the right to participation in the plastics treaty negotiations.

- **UN Special Rapporteur on toxics and human rights**: *The following principles should be reflected in the plastics treaty: "**Meaningful Participation**: This principle seeks to engage the public at all relevant levels of environmental decision-making. One of the fundamental roots of this principle is the right to development, which understands development as a process that is built on an inclusive societal dialogue based on informed participation in decision-making. Another key element of this principle is the deliberate inclusion of groups and individuals in situations of vulnerability or marginalization. This principle is also rooted in the right to science, which calls for open and participatory decision-making processes that are transparent and free from greenwashing or undue influence by entities who stand to profit from disinformation."*[25]

- **UN Special Rapporteur on the right to a clean, healthy and sustainable environment**: *"States must promote sustainable ocean practices to prevent further severe and irreversible damage, including by: m) Ensuring that all multilateral, regional and bilateral negotiations and conferences relating to the ocean include a human rights- and ecosystem-based approach, while incorporating the human right to a clean, healthy and sustainable environment, starting with (...) the work of the intergovernmental negotiating committee to develop an internationally legally binding instrument on plastic pollution, including in the marine environment;"*[26]

- **The Working Group of the Parties to the Aarhus Convention** has at its meetings in 2022[27] and in 2023[28], recognized the importance of promoting the principles of the Aarhus Convention, including the right to participation, in international forums and processes related to the legally binding instrument on plastic pollution. The Secretariat of the Aarhus Convention submitted information to INC 5 on the relevance of the Aarhus Convention for the international legally binding instrument on plastic pollution.[29]

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[24] UNEP, Preparation of an international legally binding instrument on plastic pollution, including in the marine environment, Information submitted by the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, UNEP/PP/INC.5/INF/3

[25] Communication of the Mandates of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and the Special Rapporteur on the human right to a clean, healthy and sustainable environment.

[26] Special Rapporteur on the human right to a clean, healthy and sustainable environment, The Ocean and Human Righrs, UN Doc A/HRC/58/5, para. 100.

[27] UNECE, Draft decision VIII/4 on promoting the application of the principles of the Convention in international forums, ECE/MP.PP/WG.1/2022/2.

[28] UNECE, Report of the Working Group of the Parties on its twenty-seventh meeting, ECE/MP.PP/WG.1/2023/2

[29] According to the Aarhus secretariat "the Aarhus Convention requires its Parties to promote the principles of the Convention in international environmental decision-making and within the framework of international organizations in matters relating to the environment (art 3.7). This means that, for example, Aarhus Parties engaged in the UN Environmental Assembly or when negotiating a legally binding instrument on plastic pollution, are under an obligation to promote the Convention's principles both in the procedures of those processes and in their substantive outcome." See UNEP, Information submitted by the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, UNEP/PP/INC.5/INF/3.

- In 2025, **the UN Permanent Forum on Indigenous Issues** recommended that the intergovernmental negotiating committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, should guarantee the meaningful participation of Indigenous Peoples in all negotiations; their rights under the United Nations Declaration on the Rights of Indigenous Peoples should be respected, and their knowledge systems incorporated into the instrument.[30]

5. Conclusion and Recommendations

Under international human rights and environmental law, all people have the right to free, active, meaningful and informed participation in decision-making relevant to the environment. Participation, in general and in multilateral environmental processes, promotes a deeper understanding of specific issues and helps identify gaps and real-life impacts on individuals, communities and groups, allowing for more informed, sustainable and effective decision-making.[31] This also makes for more effective policies and provides safeguards against concentrations of wealth and power eroding rule of law and democratic governance.

Multilateral environmental processes are seeing a worrying trend of growing restrictions on public participation. These restrictions include, for instance, prohibitive costs and visa barriers in gaining access to certain locations, lack of financial support to attend meetings, inadequate space to hold meetings, complex and inconsistent rules governing participation of observers and lack of clarity about the negotiation process, inadequate time allocated on agendas for observer contributions/ limited speaking rights, an increasing number of closed-door negotiations and under-representation of certain segments of civil society. In addition to these procedural obstacles, many environmental human rights defenders have faced threats and reprisals before, during and after attending multilateral environmental meetings, as a result of their participation. This has included smear campaigns, travel bans, and arbitrary arrests and detention.

It is therefore essential that States and the UN when acting as secretariats for intergovernmental bodies and forums should:[32]

- Design international processes to ensure public participation from an early stage when options are still open and effective public influence can be exerted. This includes the negotiation and application of international agreements; the preparation, formulation and implementation of decisions; substantive preparation of events, and participation in subsidiary bodies.
- Proactively encourage the participation of civil society actors and rights-holders in meetings and ensure meetings are open to observers. If closed-door meetings must be held, the reasons for and adequate channels for information must be provided.

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[30] Permanent Forum on Indigenous Issues, Matters calling for action by the Economic and Social Council or brought to its attention, E/C.19/2025/L.6.

[31] E.g., IPCC AR6, C6.5: "Drawing on diverse knowledges and cultural values, meaningful participation and inclusive engagement processes— including Indigenous Knowledge, local knowledge, and scientific knowledge— facilitates climate resilient development, builds capacity and allows locally appropriate and socially acceptable solutions." IPBES Nexus Assessment, Summary for Policymakers, states that: "Ensuring the full and effective participation of a wide range of actors, including Indigenous Peoples and local communities, in the codesign, coordination and implementation of bundles of response options can help to increase the magnitude and equity of benefits as well as to facilitate the emergence of new options from collaborative contexts" (KM – C2).

[32] United Nations, Guidance Note on the Protection and Promotion of Civic Space. See also, OHCHR, Civic Space Brief: hearing civil society voices in treaty making.

- Address venue accessibility and cost, providing support for visas and travel when possible, allocating agenda time for observers, and designing room layouts, and speaking order to allow participation.
- Ensure access is provided without discrimination of any kind. Processes should be designed to minimize inequality and support constituencies that would otherwise be excluded due to financial or structural barriers.
- Ensure remote channels of participation, through virtual means accessible to civil society actors and human rights defenders who cannot attend meetings in person.
- Implement conflict of interest policies to protect the negotiations from vested interests and/or undue economic influence and increase transparency. Ensure that large corporate interests and industry associations are not disproportionately represented.
- Timely inform civil society actors and rights-holders of participation opportunities, procedures, criteria, and available information.
- Maintain transparent, fair, timely, accountable and accessible accreditation and selection procedures aimed at securing meaningful and equitable participation.
- Prevent all acts of intimidation and reprisals against civil society actors engaging or seeking to engage in the process. When intimidation takes place, investigate, provide effective remedies and adopt and implement preventive measures.

5.1 Specific suggestions to mainstream the right to participation in the Plastics Treaty[33]

- Principles (Article 1): include the right to public participation (as a standalone or as part of Rio Principles/Principle 10) under principles
- Existing Plastic Pollution (Article 9), Just Transition (Article 10), Public Information, Awareness, Education and Research (Article 18): strengthen language in the draft text from “promoting engagement” to “facilitating public participation.”
- Financial mechanism (Article 11): ensure meaningful participation and active involvement of rights-holders in the operationalization of the financial mechanism under the instrument.
- Implementation and Compliance (Article 13): establish mechanisms for rights-holders to participate and channel their concerns, including at the national level, e.g., including written submissions from observers while ensuring the meaningful participation of rights holders.
- National Action Plans (14): strengthen language in the draft text from “consult national stakeholders” to “facilitate public participation.”
- Subsidiary Bodies (Article 20bis): the following language could be considered: “Each subsidiary body shall ensure regional balance, gender balance, meaningful public participation, transparency, and the implementation of strong conflict of interest policies.”

[33] Suggestions based on the Chair’s Text of 1 December 2024.