

CASPIAN ENVIRONMENT PROGRAMME

**PUBLIC PARTICIPATIONS GROUND TRUTHING
REPORT**

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INTRODUCTION

Public Participation plays an important role in developing democracy and building civil society. Non-governmental and community-based organizations promote democracy by giving people the opportunity to express their points of view as well as by smoothing the social consequences of the process of economic transition with the help of alternative mechanisms to solve important social tasks. NGOs and CBOs are an important tool for expansion of participation in decision-making. At this modern stage of Azerbaijan's development when mobilization of non-renewable natural resources, primarily hydrocarbons, is the driving factor of development, expansion of people's participation in decision making and realization of their right to take part in national and regional projects is of great importance. Participation in planning, management and control of revenues obtained from the use of non-renewable natural resources and protection of the environment for the goals of sustainable development and formation of human gold, is one of the most important tasks of NGOs, CBOs and other public institutions.

1. Review of the Legislative Framework

Environmental Laws of Azerbaijan

1. **Law on the Entrails of Earth 13.02.1998**
2. **Law on Environmental Safety 08.06.1999**
3. **Law on Obligatory Ecological Insurance 12. 03.2002**
4. **Law on Ecological Education and Awareness of Population 10.01.2002**
5. **Law on the Protection of the Environment 8.06.1999**
6. **Law on Specially Protected Natural Territories and Objects 24.03.2000**
7. **Forestry Code 30.12.1997**
8. **Law on Protection of Atmospheric air 27.03.2001**
9. **Law on Radiation Safety 30.31.1997**
10. **Law on Fish-Farm 27.03.1998**
11. **Law on Industrial and Domestic Waste 30.06.1998**
12. **Law on Fertility of Land 30.12.1999**
13. **Law on Foods 18.11.1999**
14. **Law on Water Supply and Manufacturing Water 28.10.1999**
15. **Law on Tourism 04.06.1999**
16. **Law on Electric and Thermal Power Plants 28.12.1999**
17. **Water Code 22.06.1999**

Data collection and reporting

Various legal acts establish priorities for environmental monitoring and requirements for environmental data collection and management. The Law on Environmental Protection (1999) sets up the overall system of state monitoring of environment and natural resources. The Law on Hydrometeorology (1998) provides for hydro meteorological observations and monitoring of environmental pollution. Legislation on water (1997) and forestry (1997), the Laws on the Radiation Safety of the Population (1997), on Fisheries (1998), on Air Protection (2001), on the State Land Cadastre, Soil Monitoring and Land Management (1999), on Mineral Resources (1998), on Industrial and Municipal Waste (1998), on Wildlife (1999), on Specially Protected Natural Areas and Objects (2000), and on Pesticides and Agrochemicals (1997) lay down requirements for monitoring in these respective areas. Furthermore, legal acts on the ratification of global and regional environmental conventions contain specific monitoring provisions to ensure compliance with these international legal instruments.

According to article 4 of the Law on Environmental Protection, the public authorities are obliged to establish rules for the collection, processing and supply of environmental information and statistics. The Law on Environmental Safety defines the public authorities that are responsible for the provision of environmental information including monitoring of the environment and natural resources.

Access to information and public participation

Legislation on public access to environmental information, on public participation in environmental decision-making, and on access to justice in environmental matters includes the Constitution, the Law on Environmental Protection, the Law on Access to Environmental Information, the Law on Sanitary and Epidemiological Services, the Law on Information, its Dissemination and Protection, the Law on Freedom of Information, the Law on Procedures for the Consideration of Citizen's appeals, the Law on the Mass Media and the Law on State Secrets. Azerbaijan also ratified the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, the Espoo Convention on Environmental Impact Assessment in a Transboundary Context and other relevant international treaties. According to the Constitution (chapter 148, part 2, and chapter 152), the requirements of applicable international treaties take precedence over national legislation.

The Laws on Environmental Protection on Access to Environmental Information establish the scope of environmental information to be provided to the public: the state of environment and impacts on it, environmental regulations, standards and expenditures. The Law on Sanitary and Epidemiological Services (art. 12) requires public authorities to collect and provide the public with full and reliable information on environmental health.

Public access to other types of environmental information that are not specifically mentioned in the national legislation but are covered by article 2, paragraph 3, of the Aarhus Convention, such as plans and programmes of relevance to the environment, is ensured by the national legislation that establishes the direct applicability of provisions of international law.

The Law on Access to Environmental Information (art. 5) obliges the national and local authorities to establish information collection systems including cadastres of natural resources and pollution register, update continuously environmental databases including in electronic form, provide the public with lists of authorities possessing information and with environmental documentation, and to disseminate information about emergencies without delay. They should publish, at least once every three years, state-of the-environment reports and make these accessible to the public. Furthermore, according to the Law on Procedures for the Consideration of Citizen's Appeals, the public has the right to request environmental information from national and foreign enterprises and organizations operating in Azerbaijan.

National legislation sets time limits for providing the public with environmental information upon request. This should be done within 15-30 days or maximum 2 months in exceptional cases and in written form only. Applicants are not obliged to prove their specific interest in the requested information. The information should be provided either free of charge or upon payment of reasonable costs. Legislation establishes cost-recovery cases for the provision of specific types of information (e.g. hydrometeorological data) as well as appeals procedures for cases of violation of citizen's rights of access to information.

2. Communication Culture

The survey conducted among population with the purpose to discover communication culture of population in terms of public participation and awareness displayed that the most information about the environment general public is delivered through local TV channels AZTV1, Lider TV, ANS and some Russian channels that are broadcasting to Azerbaijan.

Population in the regions receives information through local regional TV mostly Xayal, Gutb and Khachmaz televisions and news papers such as "Khalg", "Respulica", "Shafag "and "Insan Haglari" only a small number of people receives it through internet and seminars held in the their areas (rayons).

Different media that promote environmental issues to the general public is important for different stakeholder groups. For example, for community based organizations (CBOs) it is most important to read the community newspapers and local TV channels. For NGOs and others are most important news papers, magazines, internet,TV and Radio channels.

As for the quality of reporting in the different media, people think that Mass Media just report the news. Sometimes they do examine issues in depth looking for causes but it, unfortunately, give no results.

Media never take a lobbying role, very seldom it takes campaigning role but at very low level. Media is politically free based on people opinion, but half- economically influenced. Actually an impact that media have is to quickly deliver information and news to the public and enlighten public about different issues.

During the past years it is possible to detect changes in the balance of different communication media. For example, television is becoming more popular than radio and newspapers or magazines.

Taking into consideration public opinion, the most effective way of communicating an environmental message is TV. Distributing booklets and educational books among population is also a good way to deliver environmental message. Internet, newspaper and radio could be important for the same purpose.

There is a few number of environment groups which have their own public media, but in most cases the public has no information of their existence. NGOs, CBOs and initiative groups acting in the field of environment have their own public media in minimum quantity and are not effective.

Besides the above, I think that the most of efforts should be focused to public environmental education and enlightenment. It would be recommended to develop a strategy together with the Ministry of Education and the Ministry of Ecology and Natural Resources start education process from schools. I would advise to encourage schoolboys to participate voluntarily in this process and with the support of NGOs and initiative groups to organize campaigns and actions directed to this issue.

3. SWOT and Change

The 2003 National Programme on Environmentally Sustainable Socio-economic Development foresees increasing the role of NGOs in the implementation of economic and social projects, to raise public awareness by organizing art, photo and poster exhibitions, festivals and contests on environmental protection, and to promote environmental culture and environmental ethics among the general public.

New IT considerably expand the capabilities of public organizations. For instance, the Internet opens broad opportunities for organizational networks of NGOs and CBOs, which are capable of promptly mobilizing collective actions. Over the past years, there has been an intensive process of establishing NGOs and public organizations in Azerbaijan. Their activities now cover most aspects of public life.

Despite the complexity of interrelations between the government and NGOs in Azerbaijan, the tendency for constructive cooperation is progressing. To develop and deepen such relationships, the government needs to establish enough space for NGO activity and involve them in the solution of socially important problems. The respective legal base has already been established in the country for the development of NGOs. The national Parliament has adopted a special Law that regulates the activity of NGOs. Also an NGO working group has been established to work on the State Program for NGOs development. This draft identifies some of the problems of non-government organizations, in terms of the complicated process of official registration. The State Program assumes the responsibility of establishing an NGO Institute, which will aim at strengthening the capabilities of public organizations.

As a form of realization of human public activity, NGOs promote involvement of significant human resources in the process of studying and forwarding initiatives on socially important matters. However, an insufficient development of democratic institutions limits the use of NGOs and CBOs potential in decision-making.

The process of growth of the number of NGOs and other public institutions expansion of the fields of their activity, and dynamics of their contacts with government bodies indicate that the national government understands the necessity for cooperating with non-governmental and public organizations. The State is displaying interest in NGO activity in terms of training people for new professions. This contributes to professional re-orientation of people and solves some employment problems, to a certain extent. Expansion of political and civil opportunities for public participation is of prior importance from the perspective of deepening democracy and building a democratic management system. Cooperation among NGOs can be seen in various projects such as the Azerbaijan Development Gateway.

According to the Regulation on Environmental Impact Assessment (1996), the project proponent and the State Environmental Impact Assessment Department of the Ministry of Ecology and Natural Resources are obliged to consult the public before preparing the EIA documentation and to organize public hearings once this documentation has been prepared. Representatives of the public have the right to be included in expert groups that examine EIA documentation. The public can submit comments on EIA documentation and on the concluding document by the governmental expert group in various ways as stipulated in the Regulation.

The State Environmental Impact Assessment Department generally follows the provisions of the Regulation on EIA. It was particularly successful in cases where foreign companies proposed economic development projects. In many instances, the public was provided with EIA documentation on proposed activities and open hearings were organized with active public participation. Frequently, big companies, especially foreign ones, have disseminated environmental information on proposed projects and announcements about public hearings via popular newspaper and TV. High company executive and experts of the Ministry of Ecology and Natural Resources took part in the hearings to brief the public.

Representatives of research and academic institutions and the mass media take an active part in public hearings. The participation of NGOs, including environmental ones, is rather weak. The State Environmental Impact Assessment Department does not generally inform the public about contact points to whom written comments should be sent or about deadlines for comments. Neither does it inform members of the public whether their comments were taken into account in the decisions as a result of EIA and, if not, on what grounds.

Based on consultation with experts and stakeholders, please see below table on the SWOT and a list of the ways Public Participation have improved and not improved over the last years.

Strengths now	<u>Scale</u> 2-3	Weaknesses now	<u>Scale</u> 3
Opportunities in the future	<u>Scale</u> 4	Threats in the future	<u>Scale</u> 4

Things that have got better	Ranking of changes	Things that have got worse	Ranking of changes
Planting of trees and gardens	M	Enlightenment in the environment field	N
Purification of drinking water	M	Waste and anti sanitary	N

4. Current Information on the Stakeholder Groups

Around 1,500 NGOs have been established in Azerbaijan by this time. Please see the below table of NGO distributions on kinds of activity, according to data provided by NGO Resource and Training Center.

№	Name of the Sector	NGOs
1	Education and Science	11.7%
2	Economy	8.7%
3	Culture	8.5%
4	Morality and Health	15.6%
5	Gender	3.5%
6	Human Rights and Legislation	16.5%
7	Humanitarian	27.6%
8	Ecology	5.6%
9	Media	2.3%

According to a recent inventory by the Regional Environmental Center for the Caucasus, there are over 86 environmental NGOs in Azerbaijan. The initiative for Social Action and Renewal in Eurasia (ISAR -Azerbaijan) compiles and regularly updates a bilingual (Azeri and English) directory of environmental NGOs of Azerbaijan with records on both the NGOs themselves and their activities.

Many of the NGOs, such as Agro-Ecoconsulting Center, Azerbaijan Society for the protection of Animals, Bird Protection Society, Ecolex Legal Environmental Center,-Eco-Energy Academy, Ecosphere Social and Ecological Center, Fovgal Expert Association on Emergencies and Human Safety, Gulum Children Association, Hezri Association for Development and Environmental Research, Human and Environment, Pilgrim and Ruzgar, have gained broad public support for their initiatives in environmental education, environmental law, ecotourism, wildlife protection, environmental technology, waste management of other areas. However, the lack of a general database on all the NGOs and CBOs operating in the country prevents a complete understanding of all their activities.

There is significant potential for the development of such form of NGOs, and CBOs in the country. This form of participation in decision-making is traditional for the national culture and has the perspective to optimally mobilize resources for sustainable development and the formation of human gold.

About 25 environmental NGOs have formally registered with Ministry of Justice. It appears that the latter applies stringent registration procedures for all NGOs. This creates difficulties for NGOs from public authorities, and they are largely dependent on foreign assistance for their projects.

According to the national legislation, NGOs are subject to value-added tax (VAT) and other taxation. The 2000 legislation on NGOs does not establish procedures to explicitly regulate NGO operations. All this impedes a more active involvement of civil society in environmental activities in Azerbaijan.

In May 2002, the Ministry of Ecology and Natural Resources started a structured dialogue with the environmental NGO community. The Minister invite representatives of 20-25 NGOs and mass media representatives on a regular basis to round –table discussions on salient issues of the national environmental policy. These have included the environmental implications of the Baku-Ceyhan pipeline, reforestation, environmental inspections, environmental emergencies and modalities of NGO interaction with the Ministry. The Ministry’s intention is to form a consultative NGO council at the Ministry. On some occasions the Ministry has invited NGO representatives and journalists to attend meetings of its collegiums.

A table of the major public participation stakeholder groups

Stakeholder	Target group	Major PP activities of stakeholder	Effectiveness of activities - on a scale of 1 (very poor) through to 5 (very effective)	Suggestions for improvement
Local government	population	Planting of gardens	4	investment
CBO’s	Community	To lay water pipelines, roads, bridges.	4	investment
Municipalities	population	Cleaning territory, water purification, enlightenment.	4	investment

NGO	Target group	Major PP activities of NGO	Effectiveness of activities - on a scale of 1 (very poor) through to 5 (very effective)	Suggestions for improvement
Regional NGOs	population	Cleaning territory, planting forest.	5	investment
-	Youth, woman	Trainings, seminars	5	opportunities
-	population	Enlightenment	3	Opportunities, investment

5. Public Participation Activities

Actually no key events or activity done with public participation are identified in period of 2003-2004 up to date.

Basically some NGOs/CBOs and regional initiative groups were involved in a small (micro) projects and events (Please see below table).

Event or activity	Organised by	Target group	Impact
Planting of trees and gardens	Ministry of environment	population	effective
To lay water pipelines	CBO's -NGO's	communities	effective
Enlightenment	NGO's	population	law effective

In the meanwhile some international NGOs/ foundations and state organizations made a significant contribution in developing system and mechanism of public participation access to the environmental information through establishing the training information centers for public.

One of the main programmes of REC Caucasus is directed to information and public participation issues. One concrete project under this programme is the project "Implementing the Aarhus Convention: Practical Tools of Public Participation in Armenia, Azerbaijan and Georgia."

The Ministry of Ecology and Natural Resources is making substantive efforts to ensure that environmental information is accessible to the public. On 11 September 2003, an Aarhus Information Center was opened within the Ministry, with the support of OSCE. The Ministry has also established a web site, and it posts a wide range of information on its own activities on it. In May 2001, it established a press office to improve links with the media and NGO's and to produce information publications for the general public. The press office issues press releases a few times each week and circulates these among journalists and NGOs. It also posts the press releases on the Ministries web site. The Ministry publishes the Priroda Azerbaijan (Nature of Azerbaijan) magazine every other month. It has a circulation of 2,000 copies and is intended for a wide audience.

The press office is developing a concept for a weekly newspaper on the environment to promote, in a particular, a dialogue on key issues of public concern such as transport emissions, water problems, unauthorized landfills, untreated water discharges into the sea and reforestation in rural areas. It is considering practical ways and means to produce information leaflets, to support the production of environmental advertisements along with foreign companies operating on Azerbaijan.

At the regional level, only the Baku – Absheron environmental committee has an information division that cooperates with the mass media.

It is also relatively to note that GFA Envest is contributing to the development of the Shah Dag and Ordubad National Parks in Nakhichevan Region of Azerbaijan for The World Bank and the Ministry of Ecology and Natural Resources of Azerbaijan Republic. The project aims at supporting community based small investments into sustainable agriculture, eco-tourism, handcraft and sale of medicinal plants; promoting community based rural support services; introducing multiple-use national parks concept (co-financed by Global Environmental Facility (GEF)); strengthening community capacity and participation in natural resource management; introducing pilot approaches to alternative rural energy supply and distribution, institutional development, biodiversity conservation.

The following publications were printed for the past year by different organizations:

Name of Organization –Author	Name of Edition
UNEP-UNDP-OSCE	Environment and Security
REC Caucasus	Caucasus Environment
REC Caucasus	Environmental NGO Directory
“Himayadar” NGO Resource & Training Centre	100 Q&A about Oil
Alatdin Askerov and Eldar Gouseynov	Modern Ecology
“Himayadar” NGO Resource & Training Centre	War in Irag and Azerbaijan Oil
Caspian Revenue Watch	Caspian Oil Profit: Who will earn?
E. Yusifov and B. Tahmazov	Environment-Economy- Life
CENN with financial assistance of SDC	Environmental Legislation
International Eco energy Academy	Energy-Ecology-Economy
Eco-Inter	International Public-Politic

6. Definition of Public Participation

Some NGOs and CBOs with which consultations and discussions were conducted, stated of some limited access they have in regards to participation and implementation of large-scale projects and programmes driven by national and international institutions. So, public participation organizations are active at only discussion stage and have no chance to make decision or somehow influence on process of decision-making.

No	Stakeholder Group	What is the main emphasis T, A or D
1	Government	A
2	CBO's	D
3	NGO's	D

7. Barriers to Public Awareness and Participation & Access to Justice

Practical application

The Law on Access to environmental information and the Law on Freedom of Information establish restrictions for public access to environmental information. These restrictions largely follow the relevant provisions of the Aarhus Convention. Nevertheless, the national legislation gives the public authorities the power to interpret these restrictions broadly, and this is widely used on the basis of State security considerations.

The lack of regulations establishing clear procedures and rule impedes the practical implementation of the citizen's right of access to environmental information.

The practical experience in Azerbaijan in providing the public with possibilities for participating in environmental decision-making is limited, to great extent, to environmental impact assessment procedures. The public does not participate in the development of strategies, programs and plans of relevance to the environment. It can receive information about them only through the mass media, if at all. Neither are environmental permitting and licensing procedures open to the public, nor is the information on them accessible to the public.

In pursuance of the Law on Environmental Safety, the public may participate in the discussion in the parliament of draft environmental laws prepared by the public authorities.

There is some initial practice for involving NGOs in discussing draft environmental regulations that are subject to adoption by the President, the Cabinet of Ministers or by relevant ministries.

National legislation establishes cases when a person can resort to juridical procedures to enforce his/her right of access to environmental information and participate in environmental decision-making. These cases generally follow the relevant provisions of the Aarhus Convention.

The lack of precision in legal norms ensuring the protection of individual rights, however, poses difficulties in considering environmental claims in court. Furthermore, as judges are designated by the executive powers and report to the Ministry of Justice, the public is generally not very confident in the national judicial system and people tend to avoid resorting to courts to defend their rights. They seem to prefer to use administrative procedures by appealing to supervisory bodies or officials instead.

Under the existing law, On Non Governmental Organizations, passed in 2000, local NGOs that receive more than 70 percent of their budgets from foreign financing (for example, grants) are prohibited from participating in environmental monitoring.

Taking into account that the activity of practically all NGOs in Azerbaijan is funded primarily by foreign agencies, the this effectively eliminates local non-government institutions from the process of monitoring the environment.

It should be noted that local NGOs had been able to avoid such provision of the law prior to the, referendum of August 24, 2002. For example, members of local NGOs were engaged in monitoring the environment as representatives of various media outlets. Controversy over the situation and application of this Law is also related to the fact that the very foreign organizations which fund local NGOs have the right themselves to participate freely in the process of monitoring environment in Azerbaijan.

Special concern to Non Governmental Organizations is the Law on Grants under which any legal or physical entity, which has received a grant, is obliged to register a relevant agreement with “an appropriate state body”. Although this change in Law does not impose any restrictions for receipt of grants and is directed solely at the provision of transparency in this field; it is, however, not denied that in the conditions of undeveloped democratic institutes, this provision may cause additional mechanisms of control in this field and limitation of funding, according to representatives of some NGOs.

8. Gender issues in Public Participation

Public participation should mean just that: participation of the general public. As far as is practicable, decision-making processes should be open to participation by individual members of the public, irrespective of whether they belong to an organisation. This is readily achievable at the local level and can apply to some degree at all levels of decision-making.

Stakeholders may or may not have the protection of health and environment as their primary objective and must reconcile their support in principle for that objective with other more or less compatible objectives (e.g. trade unions, with the goal of protecting the working conditions of their members; industrial federations, with the goal of protecting the long-term profitability of their members). They do however, by definition, each have a significant and legitimate interest in the issue under consideration.

Whereas the involvement of stakeholders from all parts of the spectrum is desirable, it is important to take into account their different motivations as well as the differences in their capacities, levels of resources, expertise, political influence and so on.

The need for gender equity is of paramount importance, and in most contexts this will mean preventing discrimination against women and actively encouraging their involvement. In most countries, women have the primary responsibility for taking care of children, the elderly and the disabled, including the victims of environmental disasters, and are well-placed to represent the interests of those who are not able to play an active role in public decision-making. It is therefore important to ensure that women are not under-represented in decision-making processes on environment and health.

Barriers that face woman in Azerbaijan in terms of public participation are mostly related to time limit because of family life problem, especially rural woman. The most time they spent for earning money and house keeping.

The other, not least, problem of woman's non activity is absence of leader who may fugal woman. Besides, Occidentalism inherent in population, is also influent to woman participation and decrease their activity. The survey among rural man proved that the barriers which face woman in terms of public participation are not considered as a problem.

9. Visions for Enhancement of Public Awareness and Participation

Five main visions for public awareness and participation in Azerbaijan

	Vision Statement
1	To promote academic partnership at school and university level
2	To encourage the media to actively participate in the dissemination of information
3	To promote NGO/government/private sector environmental partnership
4	Increase costal community involvement in managing Caspian environment
5	Increase micro-grants projects addressing coastal community and local environmental problems

10. Future Activities

Outcome In CEP Project Document	Activity	Priority
A5	Create and train Caspian Watch Groups for Biodiversity Monitoring	High
B1	Establish and Eco Net and Run public biodiversity awareness campaigns	High
E3	Public awareness campaign against the use of banned pesticides	High
G1	Develop a CEP media kit	High
G2	Strengthen Caspian NGO community	High
G3	Establish Caspian Concern Groups	Medium
G4	Establish an Environmental Awareness training programme for policy makers	High
G5	Strengthened private sector participation in CEP	High
G6	Create a public participation plan	High

SAP EQO Indicator	Activity	Priority
EQO II 1.5	Biodiversity Awareness Raising	High
EQO V 1.1	Create a Caspian Environment Centre (but after year 5)	High
EQO V 1.2	Create a CEP Press Bureau	High
EQO V 1.3	Promote broader access to environmental information	High
EQO V 1.4	Develop an Academic Curriculum for school and university	High
EQO V 1.5	Set up a micro funds grant	High
EQO V 2.1	Establish issues awareness training programmes for local administrations	Medium
EQO V 2.2	Implement EIA procedures	High
EQO V 2.3	Host mayors conferences	High
EQO V 2.4	Promote Eco Tourism	High
EQO V 3.1	Promote NGO/government/private sector partnerships	High

Additional Questions

How many NGOs active in your country's coastal region deal with environmental issues?
 What is the size of membership?
 What is the primary focus of these? (Oil industry, biodiversity, public health, civil society etc.)
 Where does their funding come from?
 What is the biggest challenge that they face in project implementation, other than lack of funds?

How many CBOs exist in coastal areas?
 How are they addressing environmental issues?
 What is the size of membership?
 How many media organizations in the coastal region report at least monthly on environmental issues?
 What is the estimated population of coastal regions in your country?
 What is the number of protected areas (either coastal, marine or otherwise) in the coastal regions?
 What are the top 5 income earning industries in the coastal region?

For Fisheries Ministry/Fisheries Committee or Ministry in charge of fisheries

Other than lack of money, what is the biggest obstacle to successful fisheries management?
 What is being done to protect genetic diversity of fish from hatcheries?
 What is the biggest challenge to enforcing the CITES ban on fisheries?

For Public Health Care Provider

What is the most prevalent illness of your patients?
 Do your patients think there is a relationship between their health and environmental conditions?
 What is your biggest concern about the health of people who you treat?

For Coastal Zone Residents

Where do you get information about the environment?
 What is the main source of income for coastal zone residents?