



**COUNCIL OF
THE EUROPEAN UNION**

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INFORMATION NOTE

from: General Secretariat

to: Delegations

Subject: 14th meeting of the Working Group of the Parties + 4th Meeting of the Parties
(Chisinau, 27 June-1 July 2011)

- Compilation of contributions and statements by the EU and its Member States

Delegations will find attached for information a compilation of contributions and statements by the EU and its Member States delivered during the 14th meeting of the Working Group of the Parties to the Aarhus Convention (WGP 14) and during the 4th Meeting of the Parties to the Aarhus Convention (MoP 4) (Chisinau, 27 June-1 July 2011).

Fourteenth Meeting of the Working Group of the Parties to the Aarhus Convention

Contribution by the EU and its Member States to the 14th Working Group of the Parties to the Aarhus Convention (WGP 14)

Item 3 (a) of the Annotated Provisional Agenda
Work programme for 2012-2014

- (1) The EU and its Member States would like to thank the Secretariat and the Bureau for the draft decision on work programme for 2012-2014.
- (2) We are content with the priorities for funding identified in paragraphs 6 and 7 of the draft decision for the next inter-sessional period.
- (3) We would like to thank the Secretariat and the Bureau for including the reference to an in-depth evaluation of the current functioning and implementation of the Aarhus Convention in annex I of the Work Programme. We believe that this evaluation is an important exercise for the next inter-sessional period which will consider how the task forces are functioning. This evaluation will enable the MOP to take informed decisions on how best to deliver work under the Convention for improving the implementation in the future.
- (4) We therefore think that the in-depth evaluation should be listed as a separate activity under the work programme. This should include a specific timeframe for the work to be completed in order to ensure that the work is completed in time to be taken into account in the preparation of the decisions for MOP5 in particular the strategic plan for 2015-2020. The terms of reference for this evaluation should be considered by the Working Group of the Parties on a proposal from the Bureau with the assistance of the Secretariat.
- (5) We would also like to propose some in annex I to bring it in line with the Strategic Plan.
- (6) Firstly, point IV.on Access to information we propose to add "exchange of information and best practice in promoting the accessibility of environmental information held by the private sector".
- (7) Secondly in point V. on Public participation we would suggest adding “undertake preparatory work in connection with the achievement of the relevant objectives and the related indicative activities in focal area III of the Strategic Plan 2009-2014, notably objectives III.3, III.4, III.5 and III.7.”
- (8) We have submitted drafting suggestions on annex I to the Secretariat and request the Secretariat to amend annex II according to annex I.

Fourteenth Meeting of the Working Group of the Parties to the Aarhus Convention

Contribution by the EU and its Member States to the 14th Working Group of the Parties to the Aarhus Convention (WGP 14)

Item 3 (b) of the Annotated Provisional Agenda **Financial matters**

- (1) The EU and its Member States would like to thank the Secretariat and the Bureau for the draft decision on financial arrangements.
- (2) As we have stated previously, we recognise the need for financial arrangements based on the principles of a fair sharing of the burden and predictable sources of funding, accountability and sound financial management. Whilst we are conscious that adequate resources are required for the implementation of the Convention's work programme, we have to be aware of the budget constraints affecting Parties at this time and therefore of the need to preserve flexibility. We also need to collectively ensure the effective implementation of the work programme, while ensuring that spending under the Convention is cost effective and focused on the priorities set out in paragraph 6 and 7 of the draft decision on the work programme. In our view, it is important to prioritize the concrete activities and have made a proposal to do this.
- (3) Bearing in mind the above considerations, at this point in time we support the maintenance of an interim voluntary scheme of contributions and we are not in a position to accept a reference to the United Nations scale of assessment as an indicative basis for calculating an estimate of the voluntary contributions of Member States.. In this regard, we support the deletion of paragraphs 1.b and 1.c, the text in the second set of square brackets in paragraphs 2 and the Annex. Paragraph 1 should then read "Maintains an interim voluntary scheme".
- (4) We would also like to emphasize the importance of Parties striving to ensure that contributions are made at the earliest possible point, and, insofar as possible and subject to the internal budgetary procedures of the Parties, preferably by the end of the preceding year. This will help to ensure the smooth functioning of the secretariat and facilitate the implementation of the work programme. The EU and its Member States confirm their ambition to live up to this objective and we remain open to further discuss on the financial arrangements for the Aarhus Convention in future meetings of the WGP and the MoP.

Fourteenth Meeting of the Working Group of the Parties to the Aarhus Convention

Contribution by the EU and its Member States to the 14th Working Group of the Parties to the Aarhus Convention (WGP 14)

Item 4 (a) of the Annotated Provisional Agenda **Declaration**

- (1) The EU and its Member States would like to thank the Bureau and the Secretariat for their further work on the draft declaration for the High Level Segment of MOP4.
- (2) In our previous contribution we have made suggestions to make the main messages of the Declaration clearer. We note with satisfaction that many of our suggestions have been taken on board. We welcome the new draft, which is a good step closer to a concise and political declaration underlining the important contribution of the Aarhus Convention to the Rio+20 process. We welcome especially the new structure of the Declaration, giving more emphasis to the achievements of the Aarhus Conventions. We also appreciate the stronger focus on the two main issues of the Rio+20 process; greening the economy and international governance arrangements.
- (3) We would like to underline the importance of the Aarhus Convention principles and achievements in promoting the transition to a greener economy and the need to ensure to reflect the Aarhus principles in international governance arrangements as well as the importance of involving the public in the Rio+20 preparatory process.
- (4) We have submitted our drafting suggestions to the Secretariat.

Fourteenth Meeting of the Working Group of the Parties to the Aarhus Convention

Contribution by the EU and its Member States to the 14th Working Group of the Parties to the Aarhus Convention (WGP 14)

Item 4 (e) of the provisional agenda for MOP 4 **International forums**

- (1) The EU and its Member States appreciate the efforts of the Bureau and the Secretariat to take into consideration the proposal made by the EU at the thirteenth meeting of the Working Group of the Parties (WGP 13).
- (2) At this final stage on the preparations for the Fourth Meeting of the Parties (MOP 4) we would like to draw attention to the fact that two relevant parts of our proposal have not taken into account in the current draft decision.
- (3) We consider that it is very important to continue the discussion on Promoting the application of the principles of the Convention in international forums and that the WGP holds a substantial discussion annually on the basis of information provided by Parties and the Secretariat. However, we requested the deletion of the reference to additional reporting requirements in paragraph 8.(a) of the current draft decision because we take the view that the annual intersessional review should not imply an extra mandatory reporting requirement upon the Parties. Furthermore we requested further information on the forum for capacity-building proposed in paragraph 8. (b). We understand "capacity building" as a discussion exercise about problems, challenges and possible solutions.
- (4) We therefore propose to delete paragraphs 8(a) and 8(b) and replace them with the following: Agrees that the Working Group of the Parties shall oversee progress and challenges encountered in implementing article 3, paragraph 7 of the Convention by Parties, Signatories and other stakeholders to promote the application of the principles of the Conventions in international forums, through, inter alia, annual thematic sessions on the subject.
- (5) With regard to paragraph 12 (b) (i.e. tasks for the Secretariat), we propose to add at the end of the sentence "and to inform the WGP on new practices developed in such forums".
- (6) We have submitted this drafting suggestion to the Secretariat.

Fourteenth Meeting of the Working Group of the Parties to the Aarhus Convention

Contribution by the EU and its Member States to the 14th Working Group of the Parties to the Aarhus Convention (WGP 14)

Item 5 (c) of the provisional agenda for MOP 4 **Reporting requirements**

- (1) The EU and its Member States appreciate the efforts of the Bureau and the Secretariat to take into consideration the proposal made by the EU at the thirteenth meeting of the Working Group of the Parties (WGP 13).
- (2) At this final stage on the preparations for the Fourth Meeting of the Parties (MOP 4) we would like to draw attention to the fact that our proposal regarding **paragraph 14** has not been taken into account in the current draft decision. It was agreed that the following amendment be inserted between words of “the preparations of the reports” and of “at least one year” in paragraph 14:
“as well as proposed timing and confirmation of the date for the submission of the reports to the Secretariat in accordance with Decision II/10 paragraph 9”.
- (3) We have submitted this drafting suggestion to the Secretariat.

Fourteenth Meeting of the Working Group of the Parties to the Aarhus Convention

Contribution by the EU and its Member States to the 14th Working Group of the Parties to the Aarhus Convention (WGP 14)

Item 6 (a) of the provisional agenda for MOP 4 **Accession by non-ECE States**

- (1) The EU and its Member States appreciate the efforts of the Bureau and the Secretariat to take into consideration the proposal made by the EU at the thirteenth meeting of the Working Group of the Parties (WGP 13).
- (2) However on further consideration of the text, we consider that one further change is necessary to the text of the draft decision. It was brought to our attention that the text in the last paragraph is legally not correct as it implies that the approval of the MOP leads to the immediate accession of the State.
- (3) We would therefore propose a short amendment to changing in point “e” of paragraph 4 (para 4.e.) to clarify the position. We propose to delete referring to “to approve the accession to the Convention by the State concerned” and replace it with “to give approval to the State concerned to accede to the Convention”.
- (4) We have submitted this drafting suggestion to the Secretariat.

Fourth Meeting of the Parties to the Aarhus Convention

Position of the EU and its Member States on

General issues of compliance

The EU and its Member States are grateful for all the hard work done by the compliance committee to consider cases of non-compliance during the last intersessional period.

We have some comments on the draft decision on general issues of compliance:

Firstly, we would like to delete the words “endorses the findings of the Committee” from paragraph 5. We consider that it should be for the decisions on each specific case to endorse the individual findings relevant to each Party.

As regards the question of recommendations more generally, the EU and its Member States consider that the role of recommendations is to assist individual Parties to ensure compliance with their convention obligations taking into account the particular circumstances of each case. Additionally, we consider that the MOP should only endorse recommendations addressed to those Parties found in non-compliance and we therefore propose to amend paragraph 8 so that it reads “Also welcomes the acceptance by most of the Parties found not to be in compliance...”

We have submitted this drafting change to the Secretariat.

Position of the EU and its Member States on

Draft decision IV/9f on compliance by Spain with its obligations under the Convention

The EU and its Members States recall that Decision I/7 allocates different responsibilities to the compliance committee and the MOP. We welcome the work of the compliance committee in considering cases of non-compliance. However, it is important that the MOP fulfils its role in deciding whether or not to endorse findings of the compliance committee since such endorsement can have legal consequences for the interpretation of the Convention which could affect all Parties.

On this basis, we have some concerns about the draft decision on compliance by Spain.

Paragraph 1 of the draft decision on Spain’s compliance endorse the compliance committee findings in case 2008/24 and in particular paragraph 1(c) endorses the conclusion that if costs are imposed on a losing party this could constitute non-compliance with Article 9(4) of the Convention. This is based on paragraphs 110 and 117 of the compliance committee findings.

The EU and its Member States do not share this interpretation of the Convention. It is also inconsistent with the finding of the compliance committee in case 2008/33 concerning the United Kingdom, in which the committee found that a “costs follow the event rule” is not inherently objectionable under the Convention but rather that the compatibility of this rule with the Convention depends on the outcome in each specific case and the existence of a clear rule that prevents prohibitively expensive procedures.

Accordingly, the EU and its Member States cannot support the decision as drafted and would like to request that paragraph 1(c) of the draft decision is amended so that the decision states that the MOP endorses the finding that “the failure of the Spanish system of access to justice to provide adequate and effective remedies as shown in that case constituted non-compliance with article 9, paragraph 4 of the Convention except the finding contained in the second sentence of paragraph 117”. The second sentence should be deleted.

We have submitted this proposal in writing to the Secretariat.

Position of the EU and its Member States on
draft Decision 9h on compliance by the Ukraine

The EU and its Member States would like to raise a concern regarding the draft decision on the compliance by Ukraine with its obligations under the Convention. Here again, we would like to ensure the proper division of responsibility between the MOP and the Compliance committee.

We note that the draft decision provides for the special rights and privileges to be suspended “if certain conditions are not met by 1 June 2012” and that it be the compliance committee that decides if those conditions are met. This is an important decision and in accordance with paragraph 37 of decision I/7 it is the MOP which must decide upon measures to bring about full compliance of the committee. We therefore propose an amendment to the decision to provide for the caution to be issued and for the compliance committee to report on the progress of the Party concerned to MOP 5. The MOP may then take the decision whether to lift the caution or suspend the special rights and privileges of the Party concerned.

We have submitted a drafting suggestion to the Secretariat.

Fourth Meeting of the Parties to the Aarhus Convention

Statement by the European Union

Item 7 (c) of the provisional agenda **Financial arrangements**

Mr. Chairman,

Let me reaffirm that the European Union fully recognises the need for stability, predictability and fair burden sharing in financial matters.

With regard to the contribution of the EU, I confirm that the European Union will maintain its annual pledge of €100,000 until that amount becomes 2.5% of the total estimated costs of activities under the work programme not covered by the United Nations regular budget.

This percentage represents the usual EU contribution in multilateral environmental agreements and is also reflected in the financial arrangements for the PRTR Protocol to the Aarhus Convention as adopted by the Meeting of the Parties last year.

This commitment is of course subject to annual endorsement by the budgetary authorities of the European Union and is without prejudice to the arrangements for State Parties.

I would be grateful if this statement could be reproduced in the minutes of this Meeting of the Parties.

Fourth Meeting of the Parties to the Aarhus Convention

High Level Segment (Chisinau, 1 July 2011)

Opening Statement on behalf of the EU and its Member States

Mister Chairman, Excellencies, distinguished Delegates, Ladies and Gentlemen

I have the honour of speaking on behalf of the European Union and its Member States. As a future member of the European Union, Croatia aligns itself with this statement.

First of all we would like to express our appreciation to the Government of Moldova for hosting the 4th Meeting of the Parties to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters here in Chisinau. We would like to thank you, Mr. Salaru, and your staff for these splendid surroundings and for your hard work on organising this meeting.

The European Union and its Member States, as well as many other delegations, are closely involved in preparing for the United Nations Conference on Sustainable Development ("Rio + 20") and fully committed to its success. Indeed, the two main themes of Rio + 20, a green economy in the context of sustainable development and poverty eradication as well as the institutional framework for sustainable development, are closely linked to the objective of the Aarhus Convention, which is "to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being".

We strongly believe that access to information, participation in decision making and access to justice in environmental matters are key elements to achieving better and more transparent decision making and to ensuring the full participation of civil society and private sector in decision making. Through realising the objectives of the Aarhus Convention we can help to engage the public in the protection of the environment and the transition to a green economy.

We welcome the focus of this 4th Meeting of the Parties on sustainable development and Rio + 20. By adopting the Chisinau Declaration, we will send a clear message that public participation and other Aarhus Convention principles should play an important role in the preparations of Rio + 20 and in the implementation of the measures, which are to be agreed at the Rio conference in June 2012. Ensuring these principles are properly observed in this process represents both a big challenge and a unique opportunity for all Parties to the Convention.

The EU and its Member States welcome the work of the Parties and all other stakeholders in the practical implementation of the Convention and the progress achieved. We reiterate our commitment to the Convention and our will to address the challenges ahead. We believe that implementing our ambitious but realistic work programme for 2012-2014 in particular is the best way in which we can consolidate and promote the principles of the Aarhus Convention. It is by upholding these principles that we can bring added value to the Rio + 20 process.

We would also like to express our appreciation of the work being carried out and the commitment shown by all various stakeholders involved; not least by regional and non-governmental organizations

The EU and its Member States are convinced that during this 4th Meeting of the Parties we are making a significant step in the right direction of achieving the objectives of the Aarhus Convention.

Thank you for your attention.

Fourth Meeting of the Parties to the Aarhus Convention

High Level Segment (Chisinau, 1 July 2011)

Item 15 (Review and adoption of decisions)

- Decision on accession to the Convention by non-ECE states

- We take note again of the proposal from the NGOs that was formulated this morning during the Thematic session, which received some support.
- I already stated in reaction to this proposal that the EU and its Member States are not convinced that this is the best way to proceed. We had a chance to have an extra EU coordination on this issue and I will try to explain our position and our reasoning in a more clear way.
- Let me first of all underline that the EU and its Member States support the general idea that we should facilitate procedures for accession to the Convention by non-ECE states. The decision on accession to be adopted by this meeting constitutes a positive step in this direction that should will pave the way for non-ECE states to accede to the Convention. I have also stated this morning that we fully support the Secretariat and the Bureau in their efforts to apply the proposed procedure in order to facilitate the accession of non-ECE states.
- This being said, the EU and its Member States are not in favor of amending this decision or the Chisinau Declaration in the way proposed by the NGOs. We are not in favor either of reflecting in the report of this session a mandate from the Meeting of the Parties to the Working Group of the Parties to prepare a proposal for amending the Convention.
- As I also said this morning, in terms of substance we believe that the step of amending the Convention in that direction requires careful reflection. We still have doubts as to whether an amendment to the Convention is really necessary in view of the light-touch approach to assessing requests for accession that is going to be adopted by this meeting.
- We would like to assess the operation of this procedure before mandating the Working Group of the Parties to consider other options. In this regard, we believe that the text proposed by the Chairman of the Bureau represents a fair balance between the different opinions expressed today and sets a concrete agenda with a view to the next Working Group of the Parties.

Fourth Meeting of the Parties to the Aarhus Convention

High Level Segment (Chisinau, 1 July 2011)

Closing Statement by the EU and its Member States

The European Union and its Member States would like to express their gratitude to the members of the Bureau and the Secretariat for their engagement and work for the Convention and thereby for their contribution to participatory democracy in the field of environment. You have been a great help and support for all of us.

We would also like to thank the Compliance Committee for their work. The Committee's contribution to the Convention is really significant. I have the pleasure to say on behalf of the EU and its Member States that it has been a great honour to work with all the members of the Committee. We are sure that newly elected members will build on your achievements.

We appreciate the efforts made and the results achieved by the leaders and members of the Task Forces, which were of great support in putting into practice principles of the Convention.

Since the cornerstone of the Aarhus Convention is public participation, we especially would like to thank non-governmental organisations for their significant input to the work of all the Convention bodies. Our meetings during MOP-4, at which we could exchange views, were of great interest for the European Union and its member states. We consider them a new platform for ensuring public participation in the decision making process.

Last but not least we would like to express our gratitude to the Chairman of the Bureau Mr Jan Dusik for his extraordinary skills of combining effective and professional chairmanship with creating comfortable and friendly atmosphere of our meetings.

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