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ECONOMIC COMMISSION FOR EUROPE

MEETING OF THE PARTIES TO THE
CONVENTION ON ACCESS TO INFORMATION,
PUBLIC PARTICIPATION IN DECISION-MAKING AND
ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS

Working Group of the Parties to the Convention

Seventh meeting
Geneva, 2–4 May 2007
Item 13 of the provisional agenda
Financial arrangements

OPTIONS FOR A DRAFT DECISION ON FINANCIAL ARRANGEMENTS

Prepared by the Bureau¹

The Meeting of the Parties,

Recalling article 10, paragraph 3, of the Convention, which states that the Meeting of the Parties may, as necessary, consider establishing financial arrangements on a consensus basis,

¹ This document was prepared pursuant to the request of the Working Group at its sixth meeting (ECE/MP.PP/WG.1/2006/2, para. 69).

Recalling also its decisions I/13 and II/6 through which an interim voluntary scheme of contributions based on a system of shares, open to contributions from Parties, Signatories and other States having opted to participate in it, has been established and maintained,

Determined to ensure that the necessary resources are available for implementing the work programme,

Believing that, in order to achieve this, it is necessary to establish financial arrangements under the Convention based on the principles of a fair sharing of the burden, stable and predictable sources of funding, accountability and sound financial management,

Recognizing the need for a scheme of financial contributions which is transparent and accessible to all Parties and Signatories, as well as other States and organizations wishing to contribute,

Believing that some non-State entities such as charitable foundations may be interested in contributing financially to the activities under the work programme and should be encouraged to do so,

Recognizing that the interim voluntary scheme has raised significant levels of funding and was a particularly appropriate mechanism at a stage when there were relatively small numbers of Parties,

Mindful, however, that the amounts contributed under the interim voluntary scheme have consistently fallen short of the estimated core costs of implementing the work programme,

Noting that the distribution of the burden has been far from equitable, with significant numbers of Parties and Signatories failing to contribute at all,

[*Believing* that only a legally binding obligation on all Parties to contribute towards the costs of the work programme will ensure that the core costs are covered and that the distribution of the burden is equitable,²

Believing [, *furthermore,*] that the financial arrangements in place under the Convention will need to be kept under periodic review by the Meeting to ensure that they continue to meet the goals of stability, predictability and a fair sharing of the burden,

² The text in square brackets would be included in Options 1A and 1B but not Options 2A and 2B.

OPTION 1A: LEGALLY BINDING – AMENDMENT^{3,4}

1. *Adopts* the amendment to the Convention set out in the annex to this decision;
2. *Encourages* Parties to ratify, accept or approve the amendment at the earliest opportunity and to apply it to the maximum extent possible pending its entry into force;
3. *Resolves* to review progress in the ratification, acceptance and approval of the amendment at its fourth meeting.

Annex

**PROPOSED AMENDMENT ON THE WORK PROGRAMME
AND FINANCIAL ARRANGEMENTS**

Insert a new article 14 bis as follows:

Article 14 bis

Work programme and financial arrangements

1. At each ordinary meeting of the Parties, the Meeting shall adopt a work programme covering the intersessional period up to the next ordinary meeting of the Parties. The estimated costs of implementing the work programme that are not covered by the United Nations regular budget shall be indicated[, broken down by year, by area of activity and by budget line].
2. Each Party shall contribute annually to covering those costs of the implementation of the work programme that are not covered by the United Nations regular budget.
3. In order to achieve a fair sharing of the burden, the amount that each Party is required to contribute during any given intersessional period shall be decided [by consensus] at the

³ The titles of the options are for explanatory purposes only and would not remain as part of the final draft text.

⁴ This option implies that at each meeting of the Parties following the amendment's entry into force, there would be a decision of the Meeting of the Parties setting out the amount that each Party would be required to contribute, and that the overall amount that Parties would collectively be required to contribute would correspond to the estimated costs of the work programme (where these are not covered by the United Nations regular budget). Each such decision could also contain an operative paragraph or paragraphs through which the Meeting of the Parties would encourage Parties and others to contribute towards the non-core costs of the work programme. The scheme thereby created would thus contain both mandatory and voluntary elements. Pending the entry into force of the amendment, the Meeting of the Parties would need to adopt decisions maintaining the non-binding regime (see Options 2A and 2B). For the third session of the Meeting of the Parties, it would be possible to address in a single decision both the adoption of an amendment and the perpetuation of a non-binding regime pending the entry into force of that amendment. To avoid overcomplicating the text, this has not been attempted at this stage.

preceding ordinary meeting of the Parties, taking into account the United Nations scale of assessments.

4. At each ordinary meeting, the Meeting of the Parties shall review the status of contributions and expenditures since the previous ordinary meeting on the basis of a comprehensive report to be prepared by the secretariat.

OPTION 1B: LEGALLY BINDING – PROTOCOL⁵

1. *Adopts* the Protocol to the Convention set out in document ECE/MP.PP/...;⁶
2. *Encourages* Parties to ratify, accept or approve the Protocol at the earliest opportunity and to apply it to the maximum extent possible pending its entry into force;
3. *Resolves* to review progress in the ratification, acceptance and approval of the Protocol at its fourth meeting.

⁵ One of the differences between options 1A and 1B is that whereas the conditions for entry into force of amendments are determined by article 14 of the Convention, the conditions for entry into force of a Protocol would be determined in the Protocol itself and could therefore involve a higher or lower threshold than that contained in article 14. A risk of having too high a threshold for entry into force of such a protocol is that the protocol would take more time to enter into force. A risk of having too low a threshold for entry into force is that the Parties to the Protocol might constitute a small minority within the Meeting of the Parties, and yet they would have a legal obligation to contribute to the costs of the work programme adopted by the Meeting of the Parties, even if they had voted against its adoption. Under the Convention on Long-range Transboundary Air Pollution, the body that makes decisions on certain activities is not identical in composition to the body that decides on financing those activities, but, while this situation appears to be somewhat anomalous, it does not seem to have caused problems in practice, possibly because more than 80 per cent of the Parties to the Convention are Parties to the Protocol on EMEP Financing.

⁶ The Bureau has not developed the draft text of a Protocol at this stage. If the Working Group deems it useful to develop such a draft text, some elements of the Convention on Long-range Transboundary Air Pollution Protocol on EMEP Financing could prove useful for reference purposes. If a protocol on financing the work under the Aarhus Convention were to be adopted, it is likely that, as in the case of an amendment, following the protocol's entry into force, a decision specifying the amount to be contributed on a mandatory basis would need to be adopted at each meeting of the Parties. As in the case of an amendment, each such decision could contain non-mandatory elements encouraging Parties and others to contribute towards covering the non-core costs of the work programme (see footnote 3).

OPTION 2A: NON-LEGALLY BINDING, GUIDANCE ON AMOUNT OF CONTRIBUTION

1. *Establishes* a [voluntary] scheme of contributions aimed at covering the costs of activities under the work programme that are not covered by the United Nations regular budget, based on the following principles:

(a) The Parties [and Signatories] should collectively ensure that, as a minimum, the costs of the core activities of the work programme that are not covered by the United Nations regular budget are covered through the scheme, and should endeavour to ensure that non-core costs are covered;⁷

(b) Subject to subparagraph (c), the burden of covering the costs of the core activities should be distributed among the Parties [and Signatories] to the Convention in proportion to the United Nations scale of assessments;⁸

(c) The scale should be adjusted so that no Party [or Signatory] would be expected to contribute [more than [20%] of the estimated core costs to be covered by the scheme or] less than US\$ 200;

(d) Each Party [and Signatory] should contribute each year, at a minimum, the amount derived from applying the adjusted scale of assessments referred to in paragraph (c) to the total estimated costs of the core activities (hereafter, the “core contribution”)

(e) Core contributions should be made in cash and should not be earmarked for a particular activity;

(f) Contributions that are surplus to the core contribution may be made in cash or in kind and may be earmarked for a particular activity;

(g) Contributions in cash should be made through the UNECE Trust Fund for Local Technical Cooperation (Aarhus Convention project);

(h) Contributions in cash to be used for activities taking place in a given calendar year should be made as early as possible and in any case no later than the end of [October] of that year;

2. *Requests* Parties [and [invites] Signatories] to contribute each year, in accordance with the scheme established through paragraph 1, towards the costs of activities under the work

⁷ It is assumed in Options 2A and 2B that the distinction between core and non-core costs is retained, and that quantitative estimates of both are provided in the work programme. It may be worth considering whether it is necessary to quantify the costs of non-core activities.

⁸ The United Nations scale of assessments is adopted by the General Assembly for a 3-year period. It provides the basis for calculating the contributions of Member States to the United Nations regular budget. In December 2006, the General Assembly adopted a scale for the next 3-year cycle (years 2007–2009). The fundamental principle for calculating Member States' contributions is that “the expenses of the Organization shall be apportioned among Member States according to capacity to pay” (Resolution A/RES/58/1 B).

programme [for 2009–2011]⁹, the core contribution of each Party [and Signatory] for 2009 being as shown in the annex;¹⁰

3. *Requests* the secretariat to circulate to the Parties [and Signatories] each year during the month of [October] an updated version of the table indicating core contributions contained in the annex, reflecting any changes to
- (a) the estimated costs of core and non-core activities for the next calendar year,
 - (b) the composition of the Parties, or
 - (c) the United Nations scale of assessments

which will take effect for the following calendar year and supersede the previous version;

4. *Invites* [Signatories,] other interested States and organizations to contribute, in cash or in kind, towards covering the costs of the work programme;

5. *Encourages* Parties that have historically contributed more than their core contribution to maintain their previous levels of contribution;

6. *Encourages* Parties [and Signatories] that have so far failed to contribute, or have contributed significantly less than the amounts stipulated in paragraph 1 (d), to increase their contributions during the current and future budget cycles to the specified levels, and requests the Bureau to liaise with such Parties [and Signatories] where appropriate concerning the achievement of this goal;

7. *Requests* the secretariat, in accordance with the financial rules of the United Nations, to monitor the expenditure of the funds and to prepare annual reports for review by the Working Group of the Parties in order to ensure that the level of contributions matches the level of funding needed for the implementation of the work programme;

8. *Also requests* the Working Group of the Parties to consider, in the light of these annual reports, whether changes would be required to the content or time frame of the work programme in the event that the level of actual and/or pledged contributions does not match the level of funding needed;

9. *Furthermore requests* the secretariat to prepare a comprehensive report for each meeting of the Parties, including information on how much Parties and other participating States and organizations contributed to the budget of the Convention in cash and in kind, and on how the contributions were spent;

⁹ Deleting the words in square brackets would generalize the decision, that is, the scheme would remain in place until altered by a future decision.

¹⁰ The Bureau has not prepared a draft of the annex referred to here. For a very approximate example of what such an annex might look like, see ECE/MP.PP/WG.1/2006/9, annex I, table 2 and the associated notes.

10. *Agrees* to review the operation of the scheme of financial arrangements at its fourth meeting.

OPTION 2B: NON-LEGALLY BINDING, NO GUIDANCE ON AMOUNT OF CONTRIBUTION

1. [*Decides* to extend the] [*Establishes* a] [voluntary] scheme of contributions aimed at covering the costs of activities under the work programme that are not covered by the United Nations regular budget, based on the following principles:
 - (a) The Parties [and Signatories] should collectively ensure that, at a minimum, the costs of the core activities of the work programme that are not covered by the United Nations regular budget are covered through the scheme, and should endeavour to ensure that non-core costs are covered;
 - (b) No Party [or Signatory] is expected to contribute less than US\$ 200;
 - (c) Contributions may be made in cash or in kind;
 - (d) Contributions in cash should be made through the UNECE Trust Fund for Local Technical Cooperation (Aarhus Convention project);
 - (e) Contributions in cash to be used for activities taking place in a given calendar year should be made as early as possible and in any case no later than the end of [October] of that year;
2. *Requests* Parties [and [invites] Signatories] to contribute each year, in accordance with the scheme established through paragraph 1, towards covering the costs of activities under the work programme [for 2009–2011], as set out in the annex to Decision III/[...];
3. *Invites* [Signatories,] other interested States and organizations to contribute, in cash or in kind, towards covering the costs of the work programme;
4. *Encourages* Parties that have historically contributed more than their core contribution to maintain their previous levels of contribution;
5. *Encourages* Parties [and Signatories] that have so far failed to contribute, or have contributed to a disproportionately small extent by comparison with their economic status, to increase their contributions during the current and future budget cycles, and requests the Bureau to liaise with such Parties [and Signatories] where appropriate concerning the achievement of this goal;
6. *Requests* the secretariat, in accordance with the financial rules of the United Nations, to monitor the expenditure of the funds and to prepare annual reports for review by the Working Group of the Parties in order to ensure that the level of contributions matches the level of funding needed for the implementation of the work programme;
7. *Also requests* the Working Group of the Parties to consider, in the light of these annual reports, whether changes would be required to the content or time frame of the work programme in the event that the level of actual and/or pledged contributions does not match the level of funding needed;
8. *Furthermore requests* the secretariat to prepare a comprehensive report for each meeting of the Parties, including information on how much Parties and other participating States and

organizations contributed to the budget of the Convention in cash and in kind, and on how the contributions were spent;

9. *Agrees* to review the operation of the scheme of financial arrangements at its fourth meeting.