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Aarhus matters arising from WGP and PRTR meetings

Your e-mail of 13 July 2006

Germany's response to the questions concerning financial arrangements under the Aarhus Convention

Dear Mr. Wates,

in the first part of your message from July 13th, you invited all recipients to indicate their position in respect to several questions concerning the issue of financial arrangements under the Convention. We are happy to do so and welcome the work of the Bureau on this topic.

However, we want to express our concern about the proposal that the members of the Bureau of the PRTR Working Group shall be invited to join the Convention Bureau's discussion. In our opinion, the two processes are distinct and should be handled separately because of several reasons: First, the Parties to the Convention and those to the PRTR Protocol differ from each other now and will presumably differ from each other in the future. Second, the development of the Convention has

evolved further than the one of the PRTR Protocol. And third, the joint discussion could hide eventual differences in the financial requirements under the two agreements. The aim of a separate development of the Convention and the PRTR Protocol is also reflected in former statements of the Parties to the Convention. For example, as the report of the second Meeting of the Parties in Almaty puts on record, there was “general support for the development of separate rules of procedure and a separate compliance mechanism” (ECE/MP.PP/2005/2, para 19). Accordingly, the Working Group of the Parties at its 6th Meeting in April 2006 agreed to hold an extended Bureau meeting on the issue of financial arrangements involving the Chairpersons of the Convention’s subsidiary bodies (ECE/MP.PP/WG.1/2006/2, para. 69), but not involving members of the Bureau of the PRTR Working Group. Therefore, we do not agree with the proposal to link the two processes in a personal or structural way.

Regarding the questions (i) to (vi), we would like to make the following remarks:

i. General principles

As laid down in Decision I/13 and II/6, the financial arrangements under the Convention should be based on the principle of a fair sharing of the burden and stable and predictable sources of funding. Particular attention should be paid to a broad funding base and a high level of transparency.

ii. Voluntary versus mandatory contributions

From the German perspective, the contributions under the Convention should continue to be purely voluntary. Financial arrangements based on a voluntary mechanism are more flexible and allow all actors to contribute as much as they are able and willing to at a certain date. On the contrary, a legally binding mechanism would require considerable time and resources to negotiate and would not necessarily improve the somewhat difficult financial situation of the Convention, as it could deter Parties from continuing their voluntary support in the future. In addition, a volun-

tary scheme can be extended to include non-Parties and other actors, which can broaden the funding base of the Convention's work.

A voluntary mechanism would also correspond to the financial arrangements under all other UNECE conventions. With the single exception of the EMEP Protocol to the Convention on Long-range Transboundary Air Pollution (CLRTAP), all UNECE instruments work with financial instruments on a voluntary basis and without a fixed scale for contributions.

As the Task Force on Financial Arrangements under the Aarhus Convention pointed out in its first meeting on March 23rd, 2004, a voluntary mechanism would also not thwart the aim of stable and predictable sources of funding. In the meeting, there was a "general agreement" that any of the four options, including a purely voluntary mechanism, could be used as a basis for stable and predictable financial arrangements (see para. 8 of the report). On the contrary, "most delegations agreed that the level of stability and predictability would not increase with the introduction of the mandatory option and could even contribute to a decrease in the level of funding that had been provided under the shares system" (para. 9 of the report).

Finally, it should be pointed out that under the current voluntary mechanism, Germany has always paid its contribution in time.

iii. Who should contribute?

In order to broaden the funding base for the Convention, all potential contributors should be included – Parties and non-Parties, private foundations and NGOs. The flexible inclusion of these contributors is a major advantage of a voluntary system.

iv. Contributions according to a fixed scale?

The government of Germany objects to prescriptions, recommendations or suggestions or any type of fixed scales for the amount of the respective payments. Contributions should be made according to the current budgetary possibilities of each donor. The advantages of such a system are its greater simplicity, flexibility and the avoid-

ance of low targets for some traditionally large donors. As the Task Force on Financial Arrangements has argued in its first meeting on March 23rd, 2004, a state which is not in a position to contribute according to a certain scale of assessment because of financial restrictions could be discouraged and contribute in the future even less than under the shares system (see para. 17 of the report). In the same meeting, the members of the Task Force generally agreed that the shares system was still a preferred option (para. 18 of the report) and stressed that the aim was to facilitate the participation of a larger number of states (para. 19 of the report). Germany is in favour of the continuation of the voluntary scheme of contributions based on a differentiated system of shares.

The continuation of the current system would furthermore correspond to the financial arrangements under all other UNECE conventions except CLRTAP and its EMEP Protocol. Remarkably, the recommendation of the Executive Body under CLRTAP in Decision 2005/1 to contribute an amount calculated on the basis of the UN scale of assessments had no significant effect on the overall cash contributions. As the ECE secretariat pointed out, under CLRTAP, full payment of the recommended amount even appears to be decreasing (see Financial Requirements for the Implementation of the Convention, Note by the Secretariat, EB.AIR/2005/2, paras. 26 et seq.).

In this context, we would also like to express our disagreement with the fact that in a recent paper of the secretariat, the "expected contributions" under the Aarhus Convention are calculated on the basis of the UN scale of assessments (see Breakdown of Expected Expenditure and Income and Provisional List of Meetings under the Work Programme for 2006-2008, ECE/MP.PP/WG.1/2006/9 from January 27th, 2006, Annex I, corrected version: ECE/MP.PP/WG.1/2006/2 from July 6th, 2006, Annex). To use the UN scale in this context ignores the fact that a decision on whether to use a scale at all, and if so, which scale to use, has not been made yet. Moreover, we would like to draw your attention to the fact that it doesn't seem appropriate to use the UN scale which applies to 190 Parties with regard to the financial arrangements under the Aarhus Convention and its only 39 Parties. Germany holds the view that this option would lead to a distortion of the facts and contradict the principle of a fair sharing of the burden.

v. What should be funded?

To enhance transparency and allow for a focussed work, the separation between core tasks and other tasks is crucial. Core activities should be financed primarily, while other activities like implementation and capacity-building at the national level can also be provided directly by the respective donor state or organization in cash or in kind. It should also be examined whether the financial assistance to countries with economies in transition could be streamlined according to the new criteria chosen by the UNECE Committee on Environmental Policy (see Report on the Twelfth Session, ECE/CEP/127 from December 15th, 2005, para 54 and Annex II).

vi. Management, monitoring and reporting

The secretariat should manage the funds in accordance with the decisions of the Parties and, if applicable, the conditions which are set by the respective donor country (e.g. by earmarking the contribution). A regular detailed report on how the contributions have been spent is also essential for the transparency of the financial mechanism.

Yours sincerely

For the Federal Ministry for the Environment,
Nature Conservation and Nuclear Safety



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