



PROPOSAL BY THE AARHUS SECRETARIAT ON ELEMENTS FOR THE 2012-2014 WORKPLAN UNDER THE AARHUS CONVENTION

EU COMMENTS

The European Union (EU) would like to thank the Aarhus Convention Secretariat for its proposal on elements for the 2012-2014 workplan under the Aarhus Convention. We welcome this initiative and its general objective of achieving a more streamlined and focused approach to the work of the Aarhus Convention and ensuring a more efficient implementation of the Convention.

General comments

Need for an in-depth evaluation of the work of the Task Forces (TFs)

The proposal made by the Secretariat outlines new elements and important changes for the future work under the Aarhus Convention, significantly the downscaling of activities currently performed by the TFs and the establishment of an “assistance mechanism”. While the EU is open to discuss these proposals, further clarifications on the ideas proposed by the Secretariat are needed, since it may be felt that they are based on assumptions rather than on an in-depth assessment of the results achieved on implementation through the work of the TFs.

The EU considers that a comprehensive evaluation of the current functioning of the Aarhus Convention, with a focus on its three pillars, is needed in order to be able to react on the Secretariat's proposal regarding the TFs. Considering the fact that a decision on the work programme should be taken at MOP4, the EU would like to suggest that an in-depth evaluation of the work of the different TFs (with the exception of the TF on public participation, which is a new one) be carried out by the Bureau with the assistance of the Secretariat with a view to discussing it at WGP13. This assessment should in particular address the question whether the different TFs have fulfilled or not their mandate, as well as the reasons for it. In this context, the reports of the meetings of those TFs should be used as a basis and the respective Chairpersons should be consulted.

The EU considers that a cost-benefit analysis of the proposals to downscale the activities of the TFs should also be provided, together with a detailed estimation of the overall financial implications. This further information would help Parties to decide whether a new structure like the proposed “assistance mechanism” is actually needed or whether an improvement of the current TFs system would be more appropriate.

Need for a systematic estimation of the financial implications for new activities proposed

The proposal does not include any estimation of the financial implications of the new activities envisaged. The EU thinks that such financial assessment should systematically accompany each new proposal.

Need to look at the whole strategic plan when developing the work programme

While the EU fully supports the effective implementation of the Aarhus Convention as a priority area for the next work programme, all three areas of work of the strategic plan should serve as a reference when developing the work programme, since it aims at guiding the work of the Convention up to MOP5.

Need for further clarification on the concept of “assistance mechanism”

The concept of “assistance mechanism” is one of the major changes proposed by the Secretariat, as it could have an important impact on the entire work made under the Convention. It seems to be designed as a coordination mechanism connecting most – if not all – activities of the Convention in the future. It is thus very important for the Secretariat to offer a clear picture of what is really envisaged, especially in terms of how will it work concretely, the expected staff and financing.

Therefore, and although the EU thanks the Secretariat for its complementary paper on that issue, we think that more information and explanations are needed (*see below detailed comments on the “assistance mechanism”*). The EU would also like to stress that the setting up of such mechanism should be discussed in light of the evaluation to be made on the current work of the different TFs. The EU thinks it is premature to take position on this specific proposal, as well as on any new proposal where a link is made between the assistance mechanism and particular activities of the Convention.

Detailed comments

Compliance Committee

The EU supports the proposal that the Compliance Committee (CC) should continue its work as set out in Decisions I/7 and II/5.

While it could be appropriate to make a better link between the recommendations of the CC and the assistance to be provided to countries, the EU would like first to receive more information on how this can be fulfilled and whether the “assistance mechanism” is supposed to play a role in relation to this activity.

On the other hand and while it could also be convenient to better use the potential of the members of the CC, e.g. by bringing their expertise and experience through support activities like trainings, the EU thinks that an initiative would be difficult to implement given the current workload of the CC, which is constantly increasing, as well as the impact it would have on the workload of the staff of the Secretariat. For this reason, the EU considers that the CC should keep its focus on its main tasks rather than on new initiatives that might prove unworkable.

Reporting mechanism

The EU supports the general approach of making a better link between the needs and challenges identified by countries through e.g. the reporting cycle. In order to have a comprehensive overview of the needs, the EU believes NGO's and other stakeholders should also be included. This being said, and in line with our general remark on the “assistance mechanism”, we would like to receive more information concerning the manner in which this link could be strengthened through the proposed "assistance mechanism".

New assistance mechanism

Bearing in mind the above general remarks, the EU is open to consider a possible new mechanism aiming at facilitating effective implementation of the convention on the ground but on the basis of an in-depth assessment of the current system (see above our general remarks 1 and 4). The proposal for a new "assistance mechanism" is too vague at this stage and we need more explanations and clarifications from the Secretariat especially on:

- Governance: role of the Secretariat, the Bureau, the WGP, and others in relation of the "assistance mechanism"
- Structure: members, functions, decision-making system, scope of work, etc.
- What kind of instruments would be used (workshops, projects, etc.)?

- Which geographical scope for which kind of activities? How to assess concretely the need corresponding to a particular level?
- How to avoid potential duplication of tasks with respect to other subsidiary bodies, like the CC and the TFs?
- How would it relate to existing initiatives at sub-regional or national level?
- How would the mechanism be financed and what would be the estimated annual costs? What would be the financial impact on the budget of the Aarhus Convention?
- How would the selection criteria be defined, taking into account the proposed limitation of the assistance to only 2 countries?
- Given the limited resources of the Convention and the proposed limitation of the assistance to only 2 countries, how to avoid frustration on other countries having legitimate expectations of assistance in the case their candidature is not retained?
- What would be the mechanism's role in implementing activities (coordinator, "implementing agency" or broker bringing together demand and support)?
- How could the mechanism best use synergies with related multi- or bilateral activities?

Since the Secretariat's complementary paper makes clear that the assistance mechanism is not intended to provide direct access to financial assistance and in order to avoid confusion, it may be worth considering a change in the name of the proposed mechanism, given that the terms "assistance mechanism" are commonly associated with the concept of "financial assistance mechanisms".

GMOs

The synergies between the AC and the CBD/Protocol on Biosafety should be maintained.

It is not very clear what is proposed in relation with the setting up of a GMO's dialogue at national level. As a general principle, and with the exception of the provisions related to the GMOs amendment, the EU is not in favour of making use of the Aarhus Convention to improve/amend general GMO-related national legislation. Indeed, we think it is important to respect the scope of the Convention, which aims only at having a full legislation on access to information, public participation and access to justice regarding GMO's.

Furthermore, we do not believe that specific actions for focal points should be included in the work programme, since the purpose of the work programme is to set out the tasks of the bodies of the Convention (i.e. the WGP, the task Forces and the Secretariat) and not the requirements for internal coordination within Parties.

Access to Justice

The EU supports the work done under the current TF and would like to stress in that view the importance of conducting both analytical studies and capacity-building activities. The EU is in favour of a more streamlined approach with regard to activities relating to access to justice, but we think that the proposal to drop the relevant TF deserves more consideration before taking a final position on it. In line with our general considerations outlined above, a decision on the future of the TF should be taken in light of the outcome of the global assessment on the work on the three pillars of the Convention. We also think it is important to explore how to make better use of existing networks and programmes (e.g. general programmes for supporting exchange among judges/lawyers).

Public participation

The EU would like to reiterate its support to the newly established TF on public participation and to underline the need for the TF to effectively begin its work and decide on its own workplan, in accordance with its current mandate for the period up to the fourth MOP, as set out in paragraph 2 of the Decision on public participation in decision-making taken at the Ex-MOP in April 2010. We would like to stress that a new timing than the one currently foreseen in the mandate of the TF may be needed in order to implement the workplan. It might, for example, be premature to prepare possible recommendations for MOP4, given that the first meeting of the task force is only taking place this autumn 2010. Furthermore, in line with paragraph 3 (b) of the above mentioned decision, Parties at MOP4 will need to assess in light of the TF's progress report whether it will be appropriate to include in the public participation section of the work programme 2012-2014 work on focal area III of the Strategic Plan or whether it would be more appropriate for the TF to continue only with those activities and tasks referred to in paragraph 2 of the same Decision on improving implementation.

In this context, we also require further clarifications in relation to the proposal to use the "assistance mechanism" to promote the cooperation at country level.

Electronic information tools (EIT)

The EU is open to consider the possibility for the downscaling of activities relating to EIT (for instance by organizing workshops or by giving support to implementation in countries).

However, and in line with our main thinking, a decision on that issue can only be taken on the basis of the assessment to be provided of the work of the Aarhus Convention.

Aarhus clearinghouse

The EU supports the proposal to maintain the Aarhus clearinghouse in a professional way but would like to have more information on the financial implications associated with its maintenance. Like for other activities, we would like to receive more information on the manner the “assistance mechanism” could be used when implementing this activity.

Interagency coordination on capacity-building

The EU supports maintaining the coordination activities but needs more clarification on the question whether the “assistance mechanism” will be part of the work of this platform and what role will it play.

We would like to clarify whether the concept of “agencies” refers to UN agencies, national agencies, new institutions or all of them.

Accession to the Convention by States from outside the UNECE region

Accession to the Convention by States from outside the UNECE region is an important goal decided by Parties and the EU supports outreach activities in this regard. However, the EU cannot support paragraph 22 of the proposal as currently drafted, because of its implications on foreign policy which go beyond the scope of competence of the Aarhus Convention. Therefore, this kind of activity should not be mentioned in a work programme. Furthermore, it seems difficult for us to see on what basis and modalities the Parties could coordinate themselves on such outreach activities.

Promotion of the application of the principles of the Convention in international forums

The EU is open to consider new ways of making an efficient use of the experiences that had resulted from the work of the TF but would like to receive more explanation on how and by whom the work made under the different proposed mechanisms will be coordinated. In line with our main thinking, a decision on that issue can only be taken on the basis of the assessment to be provided on the work of the Aarhus Convention.

In addition, we do not believe that specific actions for focal points should be included in the work programme, since the purpose of the work programme is to set out the tasks of the bodies of the Convention (i.e. the WGP, the task Forces and the Secretariat) and not the requirements for internal coordination within Parties.

Awareness-raising

The EU supports making efforts to promote the Convention, inter alia through the communication strategy. Activities on the ground should also be promoted and the national focal points (NFPs) have certainly a role to play in this context, but again we do not believe specific actions for NFPs should be included in the work programme for Convention bodies. Furthermore, the EU does not support setting up a new reporting mechanism procedure, since this would put an additional burden on NFPs and the current reporting mechanism should be sufficient to report on activities carried out by them.

The EU believes the communication strategy should be focused on some important international events that will take place in 2010 and 2011 in the framework of UNFCCC, UNCBD, UNCCD, UNCSD 2012 (Rio+20), Environment for Europe, etc.

The proposal set out in paragraph 26 to develop concrete communication tools aiming at promoting the convention should be part of the Communication strategy, together with the question of who will be responsible for that and for which financial costs.

Cooperation with the MOP to the PRTR Protocol

The EU supports the proposal to increase the efforts for more synergies and cost efficiency between both instruments.

Bodies and mechanisms under the Convention

In line with its general remarks on the institutional architecture of the Aarhus Convention, the EU thinks the final decision on this issue should be based on the evaluation of the results achieved so far by the TFs and the clarifications given by the Secretariat on the new proposed mechanisms, especially the setting-up of an assistance mechanism. The EU will express its final views once this complementary information will be available.

Concerning paragraph 29, the EU is open to set out roundtables on specific topics as this could indeed be interesting to exchange views, but we would like to stress that we only support new work on specific topics where it could bring added value.