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### Economic Commission for Europe

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in Decision-making and Access to Justice  
in Environmental Matters

#### Working Group of the Parties

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**Preparations for the fifth session of the Meeting of the  
Parties: financial matters: assessment of the current  
interim scheme of contributions**

### Assessment of the current interim scheme of contributions

#### Prepared by a consultant

##### *Summary*

The assessment of the current interim scheme of contributions under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and the accompanying document (AC/WGP-16/Inf.10)<sup>1</sup> were prepared pursuant to decision IV/7 on financial arrangements adopted by the Meeting of the Parties to the Convention at its fourth session (Chisinau, 29 June–1 July 2011).<sup>2</sup> Pursuant to this decision, the Working Group of the Parties approved a proposal on the preparation of the assessment at its fifteenth meeting (Geneva, 3–5 September 2012).<sup>3</sup> The draft assessment was considered by the Bureau at its thirtieth meeting (Geneva, 26 February 2013) and circulated to national focal points and stakeholders for comments and to the Bureau for its final feedback, prior to the finalization and submission of the documents to the Working Group of the Parties at its sixteenth meeting. The documents were prepared by a consultant and constitute an independent review of the current interim scheme of contributions under the Aarhus Convention. The Working Group

<sup>1</sup> See AC/WGP-16/Inf.10, available from <http://www.unece.org/env/pp/aarhus/wgp16.html>.

<sup>2</sup> See ECE/MP.PP/2011/2/Add.1, available from <http://www.unece.org/env/pp/mop4/mop4.doc.html>.

<sup>3</sup> See ECE/MP.PP/WG.1/2012/8/CRP.3, available from <http://www.unece.org/acwgp15.html>.

of the Parties is expected to consider the documents and, together with any budgetary constraints faced by Parties, take them into account when preparing a possible decision on financial arrangements for adoption by the Meeting of the Parties at its fifth session (June/July 2014).

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## I. Introduction

1. The United Nations Economic Commission for Europe (ECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) was adopted in 1998 and entered into force in 2001. The Aarhus Convention grants the public rights and imposes on Parties and public authorities obligations regarding access to information, public participation and access to justice related to environmental matters, and is forging a new process for public participation in the negotiation and implementation of international agreements. The Convention has been heralded as an international model for implementation of Principle 10 of the Rio Declaration on Environment and Development, and has also been described as providing the “public good of environmental democracy”.<sup>4</sup>

2. Today, the Convention has 46 Parties and 3 Signatories,<sup>5</sup> including ECE member States from all parts of Europe, the Caucasus and Central Asia, and the European Union (EU). Member States thus comprise a wide range, from the wealthiest economies to countries with the lowest gross domestic product (GDP) in the region. Despite these wide differences, the Convention has proved an effective tool for promoting public participation in environmental decision-making and access to information and justice in environmental matters, thereby influencing and strengthening the related legislative frameworks and practices across the region.

3. An important strength of the Convention lies in its multilateral institutional framework, based on the Meeting of the Parties (MOP), its subsidiary bodies, such as the Working Group of the Parties, the task forces and the compliance committee, as well as a permanent secretariat. This institutional framework assists Parties in implementing the Convention, including through facilitating the exchange of experience and good practices, preparing guidance material and recommendations, developing legally binding instruments and capacity-building measures. The work of the Convention also includes the participation of delegates from non-Parties (both State and non-State bodies) in a range of implementation activities. Such multilateral work facilitates cooperation, fosters partnerships, builds synergies and provides a platform for overseeing progress in implementation by individual Parties and addressing challenges. Lastly, this institutional framework also provides a forum for discussing and agreeing on a coordinated position of the Parties on various issues, illustrated through the common declarations and decisions adopted by the MOP.

4. At the core of this multilateral framework, however, is the fact that implementation of the Aarhus Convention ultimately remains the responsibility of each individual Party, with the required human and financial resources provided by respective State Governments at both the national and international levels. In addition to providing resources in-country, Parties to the Convention also provide resources at the international level, to ensure implementation of multilateral activities agreed by the Parties through adopted three-year work programmes. The Convention’s work programme activities are not one-time events, but rather continuous processes and long-term tasks, and therefore require secured long-term funding.

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<sup>4</sup> Institute for European Environmental Policy, “Who is Paying for the European Public Good of Environmental Democracy? An Analysis of Financial Contributions of Parties and Signatories to the Aarhus Convention to the Funding of its Work Programme (2003–2010)”, research brief (10 June 2008), p 7. Available from <http://www.ieep.eu/publications/2008/06/who-is-paying-for-the-european->

<sup>5</sup> An updated list of Parties and Signatories is available from <http://www.unece.org/env/pp/ratification.html>.

5. Since its establishment, the multilateral work under the Aarhus Convention has been dependent on voluntary funding from Parties and Signatories, as no sufficient funds have been allocated from the United Nations regular budget to support this work. These voluntary funds, however, are unpredictable in both timing and amounts. While the total amount of voluntary contributions has increased since the first implementation period (2003–2005), the last two work programme periods (2006–2008 and 2009–2011) have seen an increase in the number of Parties to the Convention, alongside a growth in multilateral activities. Total contributions have not adequately kept up with this growth in the number of Parties and activities, and consequently challenges have arisen related to:

- (a) The shortfall between income received and estimated costs;
- (b) Late contributions;
- (c) Unequal sharing of the financial burden.

## **A. Mandate, rationale and purpose**

6. To address the above-mentioned challenges, the MOP at its fourth session (Chisinau, 29 June–1 July 2011) requested the Working Group of the Parties and the secretariat to prepare an assessment of the current interim scheme of financial contributions and its relationship to the work of the Convention.<sup>6</sup> Pursuant to that decision, the Working Group of the Parties at its fifteenth meeting (Geneva, 3–5 September 2012) approved a proposal on the preparation of an assessment of the current interim scheme of financial contributions.<sup>7</sup> The present report has been prepared by a consultant in line with these decisions, and provides an overview of the financial history and trends found in the voluntary contribution scheme under the Aarhus Convention to date.

7. The aim of this assessment is to help the MOP to identify how the contribution scheme could be improved in order to achieve financial stability, predictability and a fair sharing of the burden for the multilateral work carried out to implement the Aarhus Convention.

## **B. Methodology**

8. This assessment has been carried out using a combination of quantitative and qualitative methods. To begin with, a general review was carried out of the history and evolution of the Convention's financial contribution scheme. Reports on implementation of the Convention's work programmes were reviewed for this purpose, as well as additional material provided by the Convention secretariat. Following this, all financial data (contribution amounts, timing, work programme budgets and income) were collated to provide an overview of financial activities and trends from the period 2003–2012. A secondary desk review was also carried out to compare the financial scheme under the Aarhus Convention to those of other multilateral environmental agreements (MEAs).

9. To supplement the desktop research element of the study, a questionnaire was also developed and distributed to Parties and Signatories to the Convention, as well as to the European ECO Forum coordinator. Despite the relatively low response rate, with only 20

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<sup>6</sup> ECE/MP.PP/2011/2/Add.1, decision IV/7, para. 8. Available from <http://www.unece.org/env/pp/mop4/mop4.doc.html>.

<sup>7</sup> The approved proposal on the assessment (ECE/MP.PP/WG.1/2012/8/ CRP.3) is available from <http://www.unece.org/acwgp15.html>.

completed questionnaires received,<sup>8</sup> a representative geographical range was still achieved, and valuable information was gained from the responses. The questionnaire responses provided a mix of quantitative and qualitative information, which helped to further develop the conclusions of this report (see section 4 of AC/WGP-16/Inf.10<sup>9</sup> for the full text of the distributed questionnaire).

10. While every effort was made to carry out a comprehensive review and analysis based on available data, it should be noted that there were a number of limitations to this work. These are, namely: unavailability of data, or incoherent/inconsistent data collection methods over time; time limitations and tight work schedule;<sup>10</sup> and the quality and number of questionnaire responses received. Also information for 2012 was limited at the time of writing the report, which therefore contains data on financial contributions only.

### C. The financial contribution scheme: a brief history

11. Common international activities (work programmes) of the Aarhus Convention are agreed upon by the MOP, which meets every three years, with the aim of setting the long-term direction and operational modalities for the Convention's implementation. Decisions on financial arrangements are also adopted by the MOP, on a consensus basis. At the first session of the MOP, held in 2002, a voluntary scheme of contributions to the Convention was established under decision I/13 on financial arrangements (ECE/MP.PP/2/Add.14).<sup>11</sup> This scheme was set up on an interim basis, however, with the intention that in the long term the financial contribution scheme should be both "stable and predictable" and exhibit "fair sharing of the burden" among the Parties to the Convention.<sup>12</sup> The stated aim in 2002 was also to ensure that future levels of contributions "should be based upon the United Nations scale of assessments or other appropriate scales, and that consideration should be given to establishing stable and predictable financial arrangements."<sup>13</sup>

12. Several efforts have been made since to move from the current voluntary scheme towards a mandatory contribution scheme and/or a scheme based on a scale of assessments in order to distribute the burden more "fairly" between Parties.<sup>14</sup> During the second to

<sup>8</sup> Completed questionnaires were received from the following countries and organizations: Armenia, Austria, Belgium, Bulgaria, Croatia, Czech Republic, EU, France, Georgia, Germany, Ireland, Kyrgyzstan, Lithuania, Portugal, Republic of Moldova, Serbia, Slovakia, Spain, Sweden, Ukraine and ECO Forum/European Environmental Bureau.

<sup>9</sup> The complementary document to this report (AC/WGP-16/Inf.10) is available from <http://www.unece.org/env/pp/aarhus/wgp16.html>.

<sup>10</sup> The proposal for the preparation of an assessment of the current interim scheme of contributions was approved by the Working Group of the Parties at its fifteenth meeting (3–5 September 2012). The questionnaire and the outline were finalized after the comments made by the Bureau on 25 November 2012. The questionnaire was distributed to the national focal points and the European ECO Forum coordinator on 28 November 2012, with a deadline to respond before 21 December 2012. Many responses from the Parties came after the deadline (January 2013) and therefore the adjustment of the figures and the text of the assessment required some additional time. In addition, the preparation of the report required a thorough study of substantial material related to financial matters since 2002. The first draft was submitted to the Bureau on 4 February 2013.

<sup>11</sup> Available from <http://www.unece.org/env/pp/mop1docum.statements.html>.

<sup>12</sup> Fifth and eighth preambular paragraphs and para. 9 (b).

<sup>13</sup> Eighth preambular paragraph.

<sup>14</sup> See, for example, the note by the Bureau to the Convention's Protocol on Pollutant Release and Transfer Registers on financial arrangements under the Protocol, submitted to the Working Group of the Parties to the Protocol at its second meeting (PRTR/WG.1/2012/Inf.3). Available from: <http://www.unece.org/index.php?id=28225>.

fourth sessions of MOP, held in 2005, 2008 and 2011, respectively, negotiations were held to establish a more stable and predictable financial scheme, given the increasingly clear difficulties associated with the voluntary scheme of contributions. However, all of these meetings failed to establish a new financial contribution model, due to a lack of consensus among Parties.

13. Consequently, the level and timing of financial contributions still remains erratic. Given the low level of financial contributions made in a timely manner in recent years, the Convention secretariat has faced numerous challenges due to the uncertainty of financial resources, and consequently has had to exercise a high degree of caution in the allocation of financial resources.

14. The following sections of this report provide an overview of the history of the financial arrangements under the Convention to date, as well as a snapshot of respondents' views on the functioning of the current financial scheme. The analysis aims to help the MOP identify ways in which to improve the financial contribution scheme.

## II. Flow of contributions

15. This section outlines the review of annual financial contributions in support of implementation of the three work programmes covering the period 2003 to 2011 (2003–2005,<sup>15</sup> 2006–2008<sup>16</sup> and 2009–2011<sup>17</sup>). Limited information is provided for 2012.

### A. Amounts and contributors

16. Since the inception of the first work programme period in 2003, the total amount of annual contributions received by Parties/Signatories to the Convention increased steadily until 2008. In 2009, however, there was a considerable decrease in overall contributions, although followed by a slow increase again from 2010 to 2011 (AC/WGP–16/Inf.10, figure 1, red line).<sup>18</sup> Preliminary data from 2012, however, shows another decrease in overall contributions from Parties/Signatories.<sup>19</sup>

17. Alongside this increase in total funding, the period 2003–2011 has also seen an overall increase in the number of Parties/Signatories providing financial contributions to the Convention. The period 2003 to 2008 saw a steady increase in the number of Parties (those legally obligated to the Convention) making financial contributions (*ibid.*, dark green line). However, since 2008, while there has been an increase in overall Parties to the Convention, there has been a decline in the number of Parties making financial contributions (*ibid.*, light green line). This reveals an increasing gap between the number of Parties to the Convention and the number of those contributing. Alongside this gap there is a trend towards a decreasing level of total contributions.

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<sup>15</sup> Decision I/12 (ECE/MP.PP/2/Add.13), available from <http://www.unece.org/env/pp/mop1/docum.statements.html>.

<sup>16</sup> Decision II/7 (ECE/MP.PP/2005/2/Add.11), available from <http://www.unece.org/env/pp/mop2/mop2.doc.html>.

<sup>17</sup> Decision III/9 (ECE/MP.PP/2008/2/Add.17), available from <http://www.unece.org/env/pp/mop3/mop3.doc.html>.

<sup>18</sup> See AC/WGP-16/Inf.10, sect. 2, for a breakdown of contributions by Party/Signatory and by year.

<sup>19</sup> Note that data for 2012 is not finalized, as there is still a possibility that some countries will make contributions for 2012 late.

18. This trend is seen also when considering both Parties and Signatories to the Convention. The number of contributors increased steadily, from 11 in 2003, to a peak of 37 in 2008. However, since 2009 there has been a decrease in contributing Parties/Signatories (*ibid.*, figure 2). Thus, it can be seen that the Convention is now experiencing an increased fluctuation in both the total financial contributions being made by Parties/Signatories, as well as a decline in the percentage of Parties/Signatories making contributions to the trust fund for the Convention.

19. Despite this new decrease in the total number of contributing countries, the last two work programme periods (2006–2008 and 2009–2011) saw a change in geographical scope of contributors, including contributions from new-EU and non-EU member States. While many of the “smaller” contributors’ amounts are dwarfed by those made by the top contributors,<sup>20</sup> this general increase in amounts of contributions and diversity is a positive trend that should be encouraged.

20. Although there has been an increase in diversity of contributors over time, the majority of the funding for the Aarhus Convention’s work programmes is still reliant on the contributions of a few select Parties, with the biggest overall contributors<sup>21</sup> being Belgium, Denmark, the EU,<sup>22</sup> France, Germany, Italy, the Netherlands, Norway, Switzerland and the United Kingdom of Great Britain and Northern Ireland — although the level of contributions is not consistent over time. The bulk of contributions still come from the EU-15<sup>23</sup> member States, despite a slight decrease by 5 per cent in 2011 (*ibid.*, figure 3). This shows a heavy reliance on a few Parties and Signatories, thereby making the implementation of the Aarhus Convention’s work programmes vulnerable to changes from these sources of contributions.

## B. Timeline analysis

21. The total amount of contributions received for a particular budget year does not paint a full picture of the financial flows of the Convention’s work programmes. Another aspect that must be considered is also the time at which the various contributions from Parties/Signatories are received in the Convention trust fund.

22. Aggregated data of the timing of contributions for each budget year shows a generally erratic pattern (*ibid.*, figures 4–6). The contribution peaks differ greatly from year to year, showing an unpredictability that impedes any assessment of when contributions are most likely to be received. The timeline trends also show that it is quite common for contributions for a specified year to be received late in the budget year, or even in following years.

23. In the period 2003–2005 (*ibid.*, fig. 4), the majority of contributions were received within the first half of the budget year. While there were several late contributions, the value of these did not dwarf the overall budget for those years.

<sup>20</sup> See AC/WGP-16/Inf.10, sect. 2, for detailed information.

<sup>21</sup> The biggest contributors have been listed in alphabetical order, not by size of contribution.

<sup>22</sup> The Convention entered into force for the European Community on 17 May 2005. As of 1 December 2009, the European Union succeeded the European Community in its obligations arising from the Convention (Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community).

<sup>23</sup> EU-15 countries: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and United Kingdom.

24. However, by the period 2006–2008 (*ibid.*, figure 5), there was a worsening trend of late contributions, which were of significant values compared with the overall contributions made for each respective year. For example, the 2007 budget year saw significant contribution amounts received between November and December 2007, with the same trend repeated during the 2008 budget year. However, these years also saw some contributions made in previous years for an upcoming year (e.g., in 2006 for 2007 and in 2007 for 2008), which was a welcome development, as it increased the security/predictability of funds for the upcoming budget period.

25. In the period 2009–2011 (*ibid.*, figure 6), the same pattern of late contributions was repeated, although there does seem to be a slight improvement since 2010. While, on the positive side, 2009 saw significant contribution amounts made quite early in the budget year or in the previous year, late contributions for 2009 were still being received in 2010 and stretching into 2011. In 2010 contributions were received more evenly over the course of the year, and in 2011 there was a much higher incidence of early contributions as compared with previous years.

26. Such late contributions inevitably affect the implementation of the work programmes they are meant to finance. The later the contributions are received, the more difficult it is to reliably plan and implement work programme activities. For example, in the first half of 2011, the secretariat had received less than 50 per cent of the forecasted budget for 2011. Similarly, until June 2012 Parties had contributed less than 30 per cent of the forecasted budget for 2012, and as of 31 December 2012, Parties had contributed less than 65 per cent of the forecasted budget for 2012. (The relationship between the timing of contributions and work programme implementation is further discussed in section IV below.)

27. Internal budgeting procedures also impact on how late in a budget year funds can be released and/or processed. For example, in accordance with the United Nations policy on the financial management of United Nations trust funds, all staff costs under extrabudgetary posts for a future financial year require an official cost plan and allotment (reservation of funds) to be approved at least three months prior to the beginning of that financial period. Another important consideration is the budgetary procedures and conditions by which contributing Parties/Signatories are themselves bound. From the pattern of contribution dates per country over time, as well as questionnaire responses, it seems that the majority of Parties/Signatories to the Convention can only make contributions within a specific budgeting year. Such considerations inevitably affect when contributions can be released as well as processed.

### **C. In-kind contributions**

28. The above analysis refers solely to contributions received in cash by the Convention over the past three work programme periods. However, there is also a need to acknowledge the in-kind contributions received from different sources, which have helped to advance the multilateral work of the Aarhus Convention. Sources of in-kind contributions are both countries (Parties/Signatories to the Convention) as well as organizations (including various multilateral agencies and non-governmental organizations).

29. Since the first work programme period (2003–2005), when only three in-kind contributions were received, the level of in-kind contributions has increased steadily in all subsequent work programme periods: 8 in-kind contributions were made in the period 2006–2008 and a record 28 in-kind contributions were received in 2009–2011. In addition to the number of in-kind contributions received, the diversity of sources and the variety of purpose of these in-kind contributions has also increased. Purposes have ranged from hosting of meetings and workshops, to the preparation of various documents, to travel

support for the secretariat to attend various events. These are welcome trends, and should be encouraged. However, such contributions should be seen as additional to the cash contributions made to the Convention, which are not earmarked to specific purposes.

30. Further details of all in-kind contributions made to the Convention to date can be found in section 3 of document AC/WGP-16/Inf.10.

### III. Burden sharing

31. This section overviews and analyses the “fair sharing” of the financial burden among and between Parties and Signatories to the Convention, related to a number of assessment criteria. These criteria include the adjusted United Nations scale of assessments (for the period 2003–2011), as well as GDP and population (for the period 2009–2011). This analysis adds an extra dimension to the discussion of raw financial contributions, building upon the previous study, “Who is Paying for the European Public Good of Environmental Democracy?”, by the Institute for European Environmental Policy.<sup>24</sup>

#### A. Actual share vs. United Nations scale of assessments

32. Table 1 of document AC/WGP-16/Inf.10 shows the actual budget share of each Party/Signatory to the Convention for each year over the period 2003–2012. This is compared in the far right column with how much of the burden they are suggested to take according to the United Nations scale of assessments.

33. According to the United Nations scale, adjusted to the Aarhus Convention’s Parties and Signatories, the countries that are meant to contribute the five highest percentage shares are Germany, the United Kingdom, France, Italy and Spain. However, when this figure is compared with their actual budget share over the period 2003–2011, it can be seen that these countries vary greatly in terms of shouldering their share of the burden. While all five are major contributors to the Convention in real terms, when compared with the United Nations scale, only Italy and France pay close to or more than their “fair” share. Germany, the United Kingdom and Spain have contributed less than half of their share according to the United Nations scale (AC/WGP-16/Inf.10, figure 7).<sup>25</sup>

34. Meanwhile, other countries have paid more than their fair share, while others have failed to contribute at all (ibid., table 1). A promising trend in the last two work programme periods (2006–2008 and 2009–2011) has been an increase in countries contributing and in contribution amounts from the non-EU-15 countries. This includes a number of countries from Eastern Europe, South-Eastern Europe, the Caucasus and Central Asia, including Albania, Armenia, Bulgaria, Croatia, the Czech Republic, Estonia, Georgia, Kyrgyzstan, Latvia, the Republic of Moldova, Slovenia, Turkmenistan, and Ukraine, which have overall contributed more than their “fair” share according to the adjusted United Nations scale, although some of them not regularly. While in real terms these countries’ contributed

<sup>24</sup> Research brief (10 June 2008) (see footnote 3).

<sup>25</sup> The contribution of the EU should be noted here. While not comparable with other country Parties within the United Nations scale of assessments, the EU as an entity and a Party to the Convention in its own right, has been one of the most significant contributors to the Aarhus Convention. The EU itself gets most of its funding from its member States.

amounts are still relatively minimal, with respect to their ability to pay (e.g., GDP), their contributions are commendable and should be encouraged.<sup>26</sup>

## **B. Additional criteria (2009–2011)**

35. The raw contributions made in the period 2009–2011 per Party/Signatory were also compared with per capita and per million dollars of GDP, in addition to the United Nations scale of assessments.

36. Based on this information (*ibid.*, table 2), it can be seen that the most “generous” contributors vary according to which criteria are used. Looking at top contributors for this period, the only Parties to have contributed more than the European Union (the largest contributor in previous years) are Italy and France, which have both contributed more than their “fair share” according to the United Nations scale.

37. Alternatively, when looking at a per capita basis, the top five contributors are Norway, Luxembourg, Denmark, Switzerland and Belgium. Population, however, is a less reflective criterion than economic status, which is a proxy indicator for ability to pay. When looking at the most generous contributors per million United States dollars (USD) of GDP, the top five are the Republic of Moldova, Slovenia, Latvia, Denmark and Bulgaria. Additionally, there are some Parties/Signatories that have failed to contribute at all within this period: Azerbaijan, Bosnia and Herzegovina, Cyprus, Iceland,<sup>27</sup> Lichtenstein, Lithuania, Monaco, Montenegro, Portugal, Romania and the former Yugoslav Republic of Macedonia.

38. From the above, it is still generally clear that the financial burden does not fall equitably between the Convention’s Parties/Signatories, regardless of which criteria or scale is used. The majority of the financial burden still falls on a few major contributors, which moreover makes the Convention’s work programmes vulnerable to any shifts in funding amounts made by the top contributors.

## **IV. Correlation between the flow of contributions and implementation of the work programmes**

39. This section addresses the dynamics in the availability of financial resources vis-à-vis the budgetary needs for the work programmes over time, for the periods 2003–2005, 2006–2008, and 2009–2011.

40. Since the first work programme period (2003–2005), the multilateral activities under the Aarhus Convention have been steadily expanding in both number and breadth, in order to respond to Parties’ needs. This increase in programming has in turn led to higher funding requirements. While generally the increase in overall contributions has allowed for these core funding requirements to be met, it has not been without challenges. Table 3 in document AC/WGP–16/Inf.10 shows that the margin between received contributions and work programme expenditures has become increasingly narrow since 2006, with the trust fund showing a negative balance for both 2010 and 2011.

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<sup>26</sup> Note that all of these budget share figures do not include in-kind contributions. Therefore the share of the burden shown in table 1 may not be reflective of the actual distribution of the financial burden. However, for the purposes of this analysis only those contributions which enter directly into the Convention’s trust fund and are therefore managed by the secretariat were taken into consideration.

<sup>27</sup> Iceland only became Party to the Convention in 2012.

41. In the period 2003–2005, while the 2004 budget was able to be covered from surplus remaining from 2003, it was recognized already in 2004 that work programme expenditures would exceed total contributions (*ibid.*, figure 8). In 2005, there was a negative balance as a result, and the secretariat started to explore additional sources of funding, while also encouraging higher contributions from Parties/Signatories to the Convention. During this period, the secretariat's efforts to raise funds from other sources, such as charitable foundations, seemed to be unsuccessful.<sup>28</sup>

42. The 2006–2008 period saw a steady increase in overall contributions, which helped to reduce the previous shortfall. Despite this overall increase in trust fund resources, however, the secretariat had to restrict spending during the budget years due to uncertainty over whether or when funds would be contributed. In 2006, for example, only 25 per cent of that year's funds were received in the first half of the year, while in 2007 less than 6 per cent of total funds for the year were received in the first half of the year.<sup>29</sup>

43. In the period 2009–2011, the total value of contributions dropped from the 2008 level, and again many contributions were received late in the calendar year. While contributions rose again from 2009 levels in 2010 and 2011, due to the level and timing of contributions the secretariat once again had to exercise caution in budgeting and allocation of resources.<sup>30</sup> Preliminary data for 2012 also shows that a number of significant contributions were received late in the budget year, showing that this trend is still persistent.

44. The past two work programme periods (2006–2008 and 2009–2011) have seen the restriction of expenditures for work programme activities. In response to the unpredictability concerning contributions, the secretariat made various efforts to encourage in-kind contributions and thereby reduce the impact on the trust fund. It also pursued synergies with other ECE MEAs, United Nations agencies, the Organization for Security and Cooperation in Europe and other partners in order to maintain a satisfactory number of activities and share implementation costs.

45. Another important point to note is that the work of the secretariat itself has been affected by the unpredictability of funds, which impacts on its ability to maintain staff on a regular and long-term basis. The secretariat has recently experienced unprecedented mobility among its staff, partially due to the lack of timely and predictable contributions to ensure long-term staff contracts. Moreover, contractual and timing issues have in some circumstances taken away from important secretariat work, which has also had to be made up through overtime work at other times. This situation has put an extraordinary amount of pressure on the secretariat, and required serious efforts to train new staff while at the same time ensuring the smooth implementation of all activities under the Convention.<sup>31</sup> The issue of unpredictability in funding must be resolved in order to maximize the utility of the secretariat, and ensure the smooth implementation of the Convention's work programmes.

46. Although the overall objectives of the work programmes have still been achieved under the Convention, this has been in the context of the irregularity and unpredictability of

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<sup>28</sup> See report on the implementation of the work programme for 2003–2005 (ECE/MP.PP/2005/10), available from <http://www.unece.org/env/pp/mop2/mop2.doc.html>.

<sup>29</sup> See report on the implementation of the work programme for 2006–2008 (ECE/MP.PP/2008/7), available from <http://www.unece.org/env/pp/mop3/mop3.doc.html>; see also figure 5 in document AC/WGP-16/Inf.10.

<sup>30</sup> See report on the implementation of the work programme for 2009–2011 (ECE/MP.PP/2011/9), available from <http://www.unece.org/env/pp/mop4/mop4.doc.html>.

<sup>31</sup> See report on the implementation of the Convention's work programmes for 2009–2011 and 2012–2014 (ECE/MP.PP/WG.1/2012/3), available from <http://www.unece.org/acwgp15.html>.

funding, particularly in the last two work programme periods. This undoubtedly signals that the full potential of the Convention's work programmes is not being realized, and there is a need to secure more stable and predictable funding in order to ensure full and smooth implementation of the Convention's multilateral work.

## **V. Challenges and opportunities**

47. Based on the review of reports on the implementation of the work programmes and the results of the questionnaires and written comments,<sup>32</sup> in combination with the preceding quantitative analysis, this section provides a more in-depth review of how the current financial contribution scheme could be altered, to better facilitate the implementation of the Convention's work programmes through a more reliable funding system.

### **A. Current functioning**

48. Parties and various stakeholders have clearly stated their concern regarding the current functioning of the contribution scheme in the light of significant implementation challenges. These concerns have also been reflected in the negotiations during the last two MOP sessions.

49. The results of the questionnaire, carried out as part of this assessment, reconfirm the general concern over the declining availability of adequate financial resources to implement the Convention's activities. In response to the question, "How would you rate the availability of financial resources to support implementation of the Convention's work programmes?", there is a clear decline in satisfaction levels from the first implementation period to the most recent one (*ibid.*, figure 9). While the majority rated the level as "good" for the period 2003–2005, there has been a clear increase in "satisfactory" and "unsatisfactory" ratings from 2006 onwards.

50. However, while there does seem to be a general decline in satisfaction regarding the availability of financial resources, at the same time there seems to be a general level of satisfaction in support of the current voluntary contribution scheme (*ibid.*, figure 10). In response to the question of how to rate the existing scheme, the majority of respondents gave a rating of "excellent" to "satisfactory".

51. A paradox seems to exist: while there is general satisfaction with the existing contribution scheme, at the same time there is increasing dissatisfaction with the availability of financial resources obtained by it. Therefore, there is a need to understand which specific aspects of the scheme may be leading to a decline in financial resources, and can be altered accordingly.

52. Another question asked respondents how they would rate the current scheme of financial contributions according to the following characteristics: transparency; predictability; stability; equitability; and insufficiency. The responses show that there is a near-even split between those who agree/disagree with the last four characteristics (*ibid.*, figure 11). While the majority of respondents are in agreement that there is transparency in the current scheme, there is a very mixed view about the predictability, stability, equitability and sufficiency of financial resources garnered from the current scheme.

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<sup>32</sup> See section 4 of AC/WGP-16/Inf.10 for the full text of the questionnaire. Note that the sample of questionnaire responses was relatively small, as only 20 responses were received. Additionally, not all questionnaires were completed in full.

53. Based on the questionnaire responses, it can be seen that the major concerns that have been brought up repeatedly at the MOP negotiations — as to whether there is a predictable, stable, equitable and sufficient financial base for the Convention — are areas in which the Parties/Signatories to the Convention are in fundamental disagreement. It is therefore clear why there has been a failure to reach consensus in altering the contribution scheme, given these very starkly differing views.

## B. Scale of assessments

54. The major debate faced in the recent MOP negotiations on a new financial scheme has been whether or not to introduce the United Nations scale of assessments as a guide that contributions should strive towards. The questionnaire responses demonstrated that there are both opponents as well as supporters of introducing such a scale, whether on a voluntary or mandatory basis.

55. Figure 12 in document AC/WGP-16/Inf.10 shows respondents' level of agreement with different options for changing the current financial scheme: a voluntary scheme based on the United Nations scale; a voluntary scheme based on another scale; or a mandatory scheme based on another scale. While approximately half of respondents were in agreement with introducing a voluntary scheme, there was a very clear opposition to introducing any kind of mandatory contribution scheme, whether based on the United Nations scale or not.

56. Given this clear opposition to introducing a scale of assessments, and particularly a mandatory one, there is clearly a need to explore alternative options for how to introduce more stable, predictable and equitable sources of financing for the Convention. However, it is also quite clear that a voluntary scheme that does not have reference to any suggested scale will undoubtedly fall short of achieving these characteristics. The Convention cannot achieve stability, predictability or equitability without its Parties committing to a more robust scheme.

## C. Alternative scales

57. When exploring alternative financing options, a useful place to start is reviewing the different financial contribution schemes used by other MEAs. Table 4 in document AC/WGP-16/Inf.10 provides a snapshot comparison of the financial contribution schemes of selected MEAs. The mix of schemes shows that there is clearly no one-size-fits-all approach, as each MEA has its own specific characteristics and motivations. For example, some have a mixed scheme whereby contributions are made either on a voluntary or a compulsory basis. There is also a mix of using a scale of assessments or other criteria.

58. It tends to be the specific nature of the MEA that determines whether or not a scale and/or a compulsory contribution scheme can be viable. If there is a scale that is reflective of some environmental problem that an MEA addresses, this could be ideally applied. For example, the Montreal Protocol on Substances that Deplete the Ozone Layer<sup>33</sup> uses the United Nations scale of assessments on a compulsory basis, which was politically possible to agree upon given that it effectively utilizes the polluter pays principle; also, the United Nations scale is reflective of economic development, and there is a clear correlation between the level of economic development and the use of ozone-depleting substances.<sup>34</sup>

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<sup>33</sup> The full Convention text can be accessed here: <http://ozone.unep.org/pdfs/Montreal-Protocol2000.pdf>

<sup>34</sup> See Nele Matz, "Environmental Financing: Function and Coherence of Financial Mechanisms in International Environmental Agreements". In J. A Frowein and R. Wolfrum (eds.), *Max Planck*

Comparison of other environmental conventions shows that there is a range of approaches undertaken from voluntary to compulsory and mixed schemes. For example, the major chemical conventions — the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal,<sup>35</sup> the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade<sup>36</sup> and the Stockholm Convention on Persistent Organic Pollutants<sup>37</sup> — have adopted an indicative scale of contributions, based on the United Nations scale defined on a consensus basis. Some ECE Conventions<sup>38</sup> are attempting to adopt similar scales on a voluntary basis,<sup>39</sup> for example, the Convention on Environmental Impact Assessment in a Transboundary Context<sup>40</sup> and the Convention on the Protection and Use of Transboundary Watercourses and International Lakes.<sup>41</sup> The Convention on the Transboundary Effects of Industrial Accidents<sup>42</sup> unsuccessfully attempted to introduce the United Nations scale of assessments in 2012. Alternatively, there are other international agreements, such as the Convention Concerning the Protection of the World Cultural and Natural Heritage<sup>43</sup> and the ECE Convention on Long-range Transboundary Air Pollution<sup>44</sup> (CLRTAP) that utilize a mixed voluntary/compulsory system as a financial contribution model.<sup>45</sup>

59. There is clearly a political element that determines whether or not an MEA will adopt certain types of contribution schemes. For the majority of convention funds administered through the United Nations Environment Programme (UNEP), there is no legal obligation for Parties to make financial contributions, but rather a political obligation.

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*Yearbook of United Nations Law*, vol. 6 (The Netherlands: Kluwer Law International, 2002); and Maria Ivanova, “Financing International Environmental Governance: Lessons from the United Nations Environment Programme”, Governance and Sustainability Issue Brief Series: Brief 1 (Boston, United States: Center for Governance and Sustainability, University of Massachusetts Boston, October 2011).

<sup>35</sup> The full Convention text can be accessed here:

<http://www.basel.int/TheConvention/Overview/TextoftheConvention/tabid/1275/Default.aspx>

<sup>36</sup> The full Convention text can be accessed here:

<http://www.pic.int/TheConvention/Overview/TextoftheConvention/tabid/1048/language/en-US/Default.aspx>

<sup>37</sup> The full Convention text can be accessed

here:<http://chm.pops.int/Convention/ConventionText/tabid/2232/Default.aspx>

<sup>38</sup> Please see: the discussion paper on sustainable extrabudgetary financial arrangements for the ECE environmental conventions, 15 February 2013, available from

[http://www.unece.org/fileadmin/DAM/env/teia/doc/Bureau2013/financial\\_paper\\_joint\\_bureaux\\_15\\_feb\\_2013.pdf](http://www.unece.org/fileadmin/DAM/env/teia/doc/Bureau2013/financial_paper_joint_bureaux_15_feb_2013.pdf)

<sup>39</sup> See the discussion paper on sustainable extrabudgetary financial arrangements for the ECE environmental conventions, 15 February 2013, available from

[http://www.unece.org/fileadmin/DAM/env/teia/doc/Bureau2013/financial\\_paper\\_joint\\_bureaux\\_15\\_feb\\_2013.pdf](http://www.unece.org/fileadmin/DAM/env/teia/doc/Bureau2013/financial_paper_joint_bureaux_15_feb_2013.pdf).

<sup>40</sup> The full Convention text can be accessed here: [http://www.unece.org/env/eia/about/eia\\_text.html](http://www.unece.org/env/eia/about/eia_text.html)

<sup>41</sup> The full Convention text can be accessed here: <http://www.unece.org/env/water/text/text.html>

<sup>42</sup> The full Convention text can be accessed here: <http://www.unece.org/env/teia/about.html>

<sup>43</sup> The full Convention text can be accessed here: <http://whc.unesco.org/en/conventiontext/>

<sup>44</sup> The full Convention text can be accessed here: [http://www.unece.org/env/lrtap/lrtap\\_h1.html](http://www.unece.org/env/lrtap/lrtap_h1.html)

<sup>45</sup> The rationale for a mixed voluntary/compulsory scheme for CLRTAP is based on the geographical source and scope of air pollution (see N. Matz, “Environmental Financing”). Another reason behind the mixed scheme is the CLRTAP protocol on the long-term financing of its monitoring programme, which establishes mandatory contributions based on the United Nations scale of assessments, while additional contributions are voluntary, also based on the United Nations scale adjusted to the Convention Parties (see discussion paper on sustainable extrabudgetary financial arrangements, footnote 38).

The Aarhus Convention can be said to fall into a similar category. In such cases, due to a lack of legal obligation, the extent of contributions is largely dependent on the degree of political will, regardless of a suggested scale of assessments.<sup>46</sup> However, it is recognized that reference to such a scale can help to encourage higher contribution amounts.<sup>47</sup>

60. Instead of linking contribution amounts to a “proxy” scale, such as the United Nations scale of assessments, recent studies and discussions within MEA circles have suggested linking contribution amounts directly to environmental criteria.<sup>48</sup> One suggested criteria is energy intensity, which can be a more realistic approximation of environmental degradation than the United Nations scale, or even GDP.

61. With respect to the Aarhus Convention, the introduction of a scale based on alternative criteria could be an avenue to explore, given the degree of resistance to introducing reference to the United Nations scale of assessments. These criteria should be directly relevant to the nature of the overall aims and work of the Convention, for example, a consolidated scale based on the three major pillars of the Convention: access to environmental information; public participation in environmental decision making; and access to justice. While creating such a scale would require considerable inputs, it does provide an alternative based on criteria which may be deemed more equitable if based on these three pillars of the Convention.

62. Another suggested measure to improve the viability of financial contributions for MEAs includes the introduction of a voluntary/compulsory scheme with specific minimum amounts for all Parties. Such a mixed scheme could take several forms, for example, having a mandatory contribution for core funding and voluntary contributions for non-core funding (e.g., based on an introduced scale). Another alternative could be to have an “opt-in” system for Parties to contribute funds on a mandatory basis, with remaining Parties to the Convention still encouraged to contribute on a voluntary basis. Other measures to improve the financial contribution scheme include options to widen the funding base, increasing financing and contributors’ diversity, and also increasing synergy with activities under other MEAs and organizations.<sup>49</sup> The Aarhus Convention secretariat has already started to explore and implement this latter option of increasing synergies, for example, through sharing the financial costs to support the participation of experts for joint meetings.

#### **D. Predictability and flexibility**

63. From the overall trends seen in contribution amounts over time, as well as the questionnaire responses that often cited the global and national economic crises as constraints to increasing funding amounts and/or implementing a mandatory scheme, it can be reasonably assumed that the Convention will not see a dramatic increase in funding in the short term. Based on the data from 2009 to 2012, however, total contributions could be estimated to average USD 900,000 for the next few years (a cautionary estimate). If the Parties to the Convention can agree upon such a base level of funding as a minimum

<sup>46</sup> N. Matz, “Environmental Financing”.

<sup>47</sup> M. Ivanova, “Financing International Environmental Governance”.

<sup>48</sup> See C. Gerstetter, et al., “Rio+20: Financial Resources for Improved International Environmental Governance” (Berlin, Ecologic Institute at the German Federal Ministry for the Environment, 2012); M. Ivanova “Financing International Environmental Governance”.

<sup>49</sup> C. Gerstetter et al., “Rio+20: Financial Resources for Improved International Environmental Governance”; M. Ivanova, “Financing International Environmental Governance;” and United Nations Joint Inspection Unit report, Management review of environmental governance within the United Nations system (JIU/REP/2008/3), available from <https://www.unjui.org/en/reports-notes/Pages/reports.aspx>.

amount to be made available by a certain date in the budget year, it will ease some of the planning difficulties faced by the secretariat. Moving forward from this, another option for the MOP and secretariat to pursue could be in improving the predictability in receipt of funding, while also trying to improve the flexibility of work programming.

64. In terms of predictability, if a generally agreed upon estimate of total funds for a year can be established the important next step is to better harmonize the timing of these contributions according to budgeting procedures of the secretariat. Such a scheme was already established through decision IV/7<sup>50</sup> at the fourth session of MOP; however, it still requires better implementation. When asked in the questionnaire whether a measure should be established to encourage contributions to be made for the upcoming year, the results show a high level of agreement for introducing such a scheme on a voluntary basis (AC/WGP-16/Inf.10, figure 13). While some Parties/Signatories report they are not able to do so due to internal budgetary constraints, upcoming year or multi-year contributions should still be encouraged, particularly from top contributors, so as to establish a more predictable funding base.

65. Another consideration with respect to predictability is the issue surrounding the fluctuation of exchange rates, particularly the United States dollar. While the Convention trust fund operates using dollars, the majority of major contributors use the euro or other European currencies in making contributions. Due to the volatility of the dollar, with marked declines in recent years, this has increased the financial uncertainty of the trust fund and the costs of the various activities, imposing a surcharge on the implementation of the work programmes.<sup>51</sup> Given this situation, it may be worthwhile to consider establishing a system that utilizes the euro instead of the dollar, if this is possible under ECE regulations.

66. Additionally, there should be a clearly established cut-off point in a budget year by which contributions should be made. As an initial guide, it should be noted that the majority of countries, based on the questionnaire responses, are able to make contributions within the first half of a given year. The secretariat can request to have a certain percentage of pledged contributions for an upcoming year made by a specified cut-off date (for example, 50 per cent by 1 October of the preceding year), so as to ensure more predictable funding for each budget year.

67. Given that there will be always some degree of unpredictability in funding amounts within a voluntary scheme, it is also accepted that there will be a need to set priorities for some activities — without jeopardizing the implementation of work programmes as a whole. The latest MOP decision on financial arrangements, decision IV/7, also addressed this point, giving both general and particular priorities for the upcoming work programmes, with careful consideration given to a balanced implementation of the different work areas under the Convention. Such prioritization should be encouraged, although it is noted that this is not an ideal solution — simply a “band-aid” fix. There is still a need to ensure that the root problems of stability and predictability are rectified through greater commitments, both with regard to timing and amounts, from Parties to the Convention.

## VI. Conclusion and recommendations

68. The preceding overview has shown that, while the secretariat has effectively managed to implement valuable work programmes since the first full programme period in 2003, this has been within the context of unstable, unpredictable and inequitably shared funding. Today, given the stage of maturity that the Aarhus Convention has reached, it is

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<sup>50</sup> See ECE/MP.PP/2011/2/Add.1, available from <http://www.unece.org/env/pp/mop4/mop4.doc.html>.

<sup>51</sup> See ECE/MP.PP/2008/7, available from <http://www.unece.org/env/pp/mop3/mop3.doc.html>.

high time for its Parties and Signatories to commit to a more stable, predictable and fair financial contribution scheme that allows for the necessary activities to be undertaken and contributes to advancing environmental democracy in the region and beyond.

69. It must be noted that the Convention's work programmes, although commonly agreed upon by the MOP, must go the further step of being implemented in a practical manner. Without financial stability and predictability, these activities cannot be fully implemented as envisioned and to their full potential. Therefore, the same Parties that negotiate future activities must also play a role in ensuring these same activities are able to be carried through. The Convention's work programme activities are not one-time events, but rather continuous processes and long-term tasks, and therefore require secured long-term funding.

70. The Parties to the Convention have made international commitments, for example, through the Strategic Plan 2009–2014<sup>52</sup> and the Chisinau Declaration,<sup>53</sup> where they stated that work still needs to be done to guarantee effective access to justice, public participation and access to information. Environmental rights and democracy were recognized as essential elements of good governance and informed decision-making, and as a prerequisite for achieving the objective of sustainable development. Parties also considered that their work in implementing the Aarhus Convention is paving the way for a universal application of Principle 10 of the Rio Declaration.

71. It is essential that Parties consider the value of promoting the environmental rights which they have endorsed in relation to the benefits of ensuring predictable and adequate funds for implementing the work programmes under the Aarhus Convention. Without the implementation of a mandatory scheme or at least a stronger commitment — whether this is based on minimum pledge amounts, a scale of assessments, or a mixed mandatory/voluntary scheme — it is unlikely that the Convention can maintain a level of financial stability and predictability in the long term. Parties to the Convention must commit to their responsibilities if they are to continue enjoying and promoting the right of environmental democracy.

72. Based on all of the preceding analysis and considerations, it is suggested that Parties consider demonstrating and establishing a stronger commitment to the Convention. The following steps are recommended to improve the functioning and effectiveness of the Convention's financial contribution scheme:

**(a) Harmonization of the budgeting requirements of Parties and Signatories with those of the Convention's secretariat:**

(i) Encourage upcoming-year contributions. Parties/Signatories should consider the flexibility in their internal budgetary requirements. For example, they can request to make upcoming year contributions through, inter alia, special requests to the responsible financial authority. Another possibility, if upcoming year contributions are not possible, is to try and accelerate the budget approval process in-year, to transfer funds to the Convention at an earlier date.

(ii) Establish and implement an in-year cut-off date for receipt of a percentage of pledged contributions (such as 50 per cent by 1 October of the preceding year), in order to meet budgetary requirements of the United Nations.

(iii) Make pledges for implementation of three-year work programmes prior to an upcoming MOP.

<sup>52</sup> ECE/MP.PP/2008/2/Add.16, available from <http://www.unece.org/env/pp/mop3/mop3.doc.html>.

<sup>53</sup> ECE/MP.PP/2011/2/Add.1, available from <http://www.unece.org/env/pp/mop4/mop4.doc.html>.

- (iv) Encourage multi-year contributions;
  - (b) **Implement a mixed voluntary/compulsory scheme of financial contributions:** Based on agreed-upon criteria or an agreed scale with an option for Parties to “opt-in” to the mandatory scheme or mandatory core funding;
  - (c) **Consideration of alternate criteria for establishing a scale of assessments:** Based on environmental/procedural criteria directly relevant to the three pillars of the Convention.
  - (d) **Increase of the minimum pledge amounts:** Either the overall minimum (currently USD 200) and/or altered minimums according to contributor’s category;
  - (e) **Prioritization of work programme activities:** Continue prioritizing activities, as was done through decision IV/7, recognizing at the same time the need for a balanced implementation of different work areas under the Convention;
  - (f) **Establishment of a required annual reserve sum:** Ensure that by 1 October of each year the Convention trust fund has a reserve sum required for extension of contracts of extrabudgetary secretariat staff for the upcoming year;
  - (g) **Encourage in-kind contributions additional to contributions based on an agreed-upon scale of assessments;**
  - (h) **Continue encouraging synergies with other organizations/MEAs to share the financial burden of implementation activities.**
-