

**Meeting of the Parties to the Aarhus Convention
Eleventh meeting of the Working Group of the Parties
Geneva, 8-10 July 2009**

INFORMAL DISCUSSION PAPER ON FINANCIAL ARRANGEMENTS

Prepared by the Chair¹

I. Introduction

1. At its first session, through decision I/13 on financial arrangements (ECE/MP.PP/2/Add.14), the Meeting of the Parties put in place a voluntary scheme of financial arrangements. This scheme was extended, with minor modifications, at the second and third sessions of the Meeting through decisions II/6 and III/7 on financial arrangements (ECE/MP.PP/2005/2/Add.10 and ECE/MP.PP/2008/2/Add.15 respectively) and remains in place today. Two key features of the scheme are that it is voluntary and that it does not give any guidance as to the amount each Party should contribute (apart from the requirement that no contribution be less than \$200). The scheme is linked to the work programme, in the sense that the funds contributed are to be used to cover the costs of the work programme that are not covered through the regular budget.

2. At each session, the Meeting of the Parties has expressed its wish to establish a scheme of financial arrangements based on the principles of stable and predictable sources of funding and a fair sharing of the burden, and has agreed to re-visit the matter at the following session with a view to adopting such a scheme. At the third session, the principles of accountability and sound financial management were added to the list of principles that should guide the scheme.

3. At its third session, through decision III/7, the Meeting asked the Working Group of the Parties to “continue in-depth discussions on possible future schemes of financial arrangements that meet the goals of stability, predictability and equity, including schemes that combine elements of the two options presented to the Meeting of the Parties in document ECE/MP.PP/2008/L.9, and on the basis of such discussion, to make recommendations concerning one or more options for a scheme of financial arrangements with a view to their adoption at the fourth ordinary meeting of the Parties” (ECE/MP.PP/2008/2/Add.15, para. 9).

4. The present paper has been prepared to facilitate discussion by the Aarhus Convention Working Group of the Parties on possible future schemes of financial arrangements under the Convention that meet the goals of stability, predictability and equity.

II. Background documentation

5. In 2002, to facilitate the preparatory process for the first session of the Meeting of the Parties, the secretariat prepared a paper describing the schemes of financial

¹ The views of the Bureau on the paper will be presented orally at the Working Group meeting.

arrangements in place under other multilateral environmental agreements and setting out some elements for a scheme of financial arrangements (CEP/WG.5/2002/4, available at <http://www.unece.org/env/pp/documents/Fin2002.pdf>).

6. In 2006, the secretariat prepared a similar paper in connection with discussions in the Working Group on Pollutant Release and Transfer Registers (PRTR) on the establishment of a scheme of financial arrangements under the Protocol on PRTR (ECE/MP.PP/AC.1/2006/6, available at <http://www.unece.org/env/documents/2006/pp/ece.mp.pp.ac.1.2006.6.e.pdf>). This paper made reference to, and to some extent provided an update on, the 2002 paper. It also referred to a paper prepared by the World Health Organization (WHO) for the Intergovernmental Negotiating Body on the WHO Framework Convention on Tobacco Control, which resulted in the report “Financial Arrangements for Convention Secretariats during the Interim Period and on a Permanent Basis: Precedents in Multilateral Environmental Agreements” (A/FCTC/INB6/INF.DOC/3, available at www.who.int/gb/fctc/PDF/inb6/einb6id3.pdf).

7. In combination, these papers provide a useful body of background information on examples of schemes of financial arrangements under other instruments which may be taken into consideration in the discussion at the eleventh meeting of the Working Group of the Parties.

8. It follows from paragraph 9 of decision III/7 that the draft decision on financial arrangements contained in document ECE/MP.PP/2008/L.9 will serve as a key point of reference for the discussion.

III. Structure of the discussion

9. The Chair considers it would be premature to prepare a further draft decision on financial arrangements until some further consensus emerges on some basic issues. In order to attempt to reach such a consensus, it is proposed that delegations to the Working Group be invited to address the following clusters of questions:

- (a) Should the scheme of financial arrangements be **legally binding or not**?
- If so, what legal form should this take (e.g. a protocol, an amendment giving subsequent MoP decisions a binding status, etc)?
 - If not, does the option of a ‘politically binding’ commitment make legal sense?

In earlier discussions on the issue, some Parties have indicated that having a legally binding scheme would simplify the internal administrative process of getting approval to make the Party’s contribution to the trust fund. Others have warned that a legally binding scheme might only increase the predictability of contributions at the expense of their amount, i.e. it could lead to less generous contributions. No doubt both perspectives correctly reflect the different situations in different countries.

- (b) Should the scheme of financial arrangements stipulate or provide guidance on **how much each Party should contribute**?
- If so, what scale should be used? Should there be (as now) a minimum level of contributions? Should there be a maximum level or percentage? How should the special case of the European Community be dealt with?

- If no reference is made in the scheme to the amount of each Party's contribution, what other means are available to ensure, or seek to ensure, that the goal of equity is met?

(c) If Parties are divided (as up to now) on questions a) and/or b), what **compromise options** are available? For example, could there be a hybrid scheme with some Parties agreeing to be subject to a legal obligation to contribute a certain amount (or percentage) and others having exercised an 'opt out' option enabling them to continue to make their contributions on a voluntary basis?

IV. Future process

10. It is proposed that once further clarity emerges as to the different positions on these issues and there has been an opportunity for an exchange of views on how to reconcile different positions, the Bureau be mandated to prepare a draft decision on financial arrangements for consideration by the Working Group of the Parties at its twelfth meeting.

29 June 2009