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NOTE

from :	General Secretariat
to :	Council
Subject :	Proposal for a Directive of the European Parliament and of the Council on access to justice in environmental matters – State of play

1. On 28 October 2003 the Commission submitted to the Council the so-called Århus package:
 - i) a proposal for a Regulation of the European Parliament and of the Council on the application of the provisions of the Århus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to EC institutions and bodies;
 - ii) a proposal for a Directive of the European Parliament and of the Council on access to justice in environmental matters; and
 - iii) a proposal for a Council Decision on the conclusion, on behalf of the European Community, of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.

2. Given the tight timetable in view of the preparations of the second meeting of the Parties in Almaty (Kazakhstan, 22-27 May 2005), the Working Group on the Environment gave priority to the proposal for a regulation and the proposal for a decision since both instruments were seen as indispensable to the ratification of the Århus Convention.

The Council reached political agreement on a common position with a view to the adoption of the regulation on 20 December 2004. The Council also reached agreement on the decision on 20 December 2004, which led to the deposit of the European Community's Instrument of Approval for the Århus Convention on 17 February 2005.

3. On 3 March and 22 April 2005 the Working Party on the Environment examined the proposal for a Directive of the European Parliament and of the Council on access to justice in environmental matters.

A majority of delegations was of the view that this directive was not desirable at this stage. The reasons put forward could be summarised as follows:

- since most Member States have now ratified the Århus Convention, this proposal for a directive is no longer necessary since these Member States are in any case legally bound to meet all of the Convention's requirements on access to justice;
- the harmonisation at Community level would have no added value since an overriding majority of Member States would like the directive to be fully in line with the Århus Convention and since it has not been demonstrated that the directive would lead to a better application and enforcement of environmental legislation in the Community without impinging on the existing level of access to justice in environmental matters in the Member States.

Several delegations and the Commission have stated that the directive would still have an added value since:

- not all Member States have ratified the Århus Convention yet;
 - the directive would allow for a better enforcement of Community environmental legislation in a manner that is not already ensured by the Århus Convention.
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