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REVISED NOTE

from :	General Secretariat
to :	Delegations
Subject :	Aarhus package

Delegations will find attached an information note from the Presidency on the above subject, to be dealt with under "other business" at the Council (Environment) meeting on 14 October 2004.

Information Note from the Presidency
Aarhus EU package

Introduction

The Convention on Access to Information, Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was adopted in 1998. The Convention entered into force in October 2001 and the first Meeting of Parties was held in Lucca, October 2002.

To date, many EU Member States are Parties to the Convention.

The Second Meeting of Parties to the Convention will take place in Kazakhstan, May 2005. This meeting provides an important opportunity for the EU to confirm its commitment to the Convention and to highlight the efforts undertaken to implement the Convention. The Presidency strives for a swift ratification of the Convention.

Instruments for ratification

Legislation for the implementation of the first and second pillar of the Aarhus Convention has been adopted. This legislation exists of the Directive on Access to information (2003/4/EC) and the Directive on Public Participation with regard to certain Plans and Programmes (2003/35/EC).

The European Commission proposed the following additional instruments:

- a. A draft Regulation on the Application of the Provisions of the Aarhus Convention to Community Institutions (doc. 14152/03 - COM(2003) 622 final);
- b. A draft Directive on Access to Justice in Environmental Matters (doc. 14154/03 - COM(2003) 624 final);
- c. A draft Council Decision on the Conclusion, on behalf of the European Community, of the Convention (doc. 14153/03 - COM(2003)625 final).

Given the tight timetable, the Council Working Group gave priority to the draft Regulation and the draft Decision since the adoption of both of these instruments would be conditional for the ratification of the Convention. Concerning the draft Directive on Access to Justice, questions were raised on the relation with national legislative systems. A discussion on these questions might hold up ratification of the Convention by the Community and will therefore be organised later.

Timetable

We aim to give a positive political signal regarding ratification during the Second Meeting of the Parties, Kazakhstan May 2005. To do this, we need to deposit the instrument for ratification at the UN headquarters in New York well in advance of that date. This puts us on a tight schedule with regard to reaching agreement on the draft Regulation and draft Decision. This means that we, as the Council, will have to reach an agreement at the December Environment Council.

The European Parliament has already shown willingness to co-operate in a constructive manner, as to limit the time needed for the second reading.

Issues to be addressed

So far, there have been four Council Working Groups devoted to the draft regulation. We have made considerable progress in the discussions on the draft regulation. However, the following issues need further consideration:

- **access to information:** central elements of the Aarhus Convention, concerning access to information, deal with the restrictive application of specific grounds for refusal, as well as the transparency of information concerning emissions into the environment;
- **public participation concerning plans and programmes:** the Aarhus Convention contains specific procedural provisions for public participation. The Convention also prescribes that public participation applies during the preparation of plans and programmes relating to the environment. These procedural and material elements, also have to be taken on board when discussing the Aarhus-requirements;

- **access to justice:** We still need to decide on the qualification criteria for NGOs. We also need to further discuss the interrelationship between Access to Justice in the draft Regulation and the draft Directive on Access to Justice.

The Presidency welcomes the views of all delegations on these issues.

Commitment

The Presidency calls upon and urges Member States to continue to co-operate constructively and work with the Presidency to be ready to conclude the Regulation and Decision in the Environment Council in December.
