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**ECONOMIC COMMISSION FOR EUROPE  
COMMITTEE ON ENVIRONMENTAL POLICY**

Meeting of the Signatories to the  
Convention on Access to Information,  
Public Participation in Decision-making and  
Access to Justice in Environmental Matters

Working Group on Compliance and Rules of Procedure  
(First meeting, Geneva, 12-16 February 2001)

**REPORT OF THE FIRST MEETING**

1. At their second meeting, the Signatories to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters proposed the establishment of an open-ended intergovernmental working group charged with the tasks of (a) preparing a further draft of rules of procedure for the Meeting of the Parties, and (b) preparing a text for a draft decision establishing a compliance mechanism, with a view to both the rules of procedure and the decision on a compliance mechanism being adopted at the first meeting of the Parties (CEP/WG.5/2000/2, paras. 19 and 23). The establishment of the working group was agreed by the Committee on Environmental Policy at its seventh session.
2. The first meeting of the Working Group was held in Geneva from 12 to 16 February 2001.
3. The meeting was attended by delegations from the Governments of Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Italy, Latvia, Monaco, Netherlands, Norway, Republic of Moldova, Slovakia, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and Yugoslavia.

4. The Commission of the European Communities was also represented.
5. The following non-governmental and regional organizations were represented: Conseil International de la Forêt et de l'Environnement, the European ECO Forum, GLOBE Europe and the Regional Environmental Center for Central and Eastern Europe.
6. The meeting was chaired by Mr. A. McGlone (United Kingdom), as proposed by the Meeting of the Signatories and confirmed by the Committee on Environmental Policy at its seventh session. Ms. D. Kubinova (Czech Republic) was elected as Vice-Chair.
7. The provisional agenda for the meeting (CEP/WG.5/AC.1/2001/1) was adopted without amendment.
8. The Working Group discussed the draft rules of procedure prepared by the secretariat for the second meeting of the Signatories (CEP/WG.5/2000/3), taking into account the views expressed by the Meeting of the Signatories and the written comments submitted by delegations (CEP/WG.5/2000/2, paras. 19 and 20). The Working Group prepared a draft decision for the Meeting of the Parties on the adoption of the rules of procedure (see annex I below).
9. The report of the second meeting of the task force on review of compliance, which took place in London on 6-8 November 2000 (CEP/WG.5/AC.1/2001/3), was presented to the Working Group, together with a paper prepared by the secretariat concerning the resource implications of the various options for establishing a compliance mechanism under the Convention (CEP/WG.5/AC.1/2001/4). Basing its deliberations on draft elements for a compliance mechanism which were annexed to the report of the task force, the Working Group prepared a draft decision for the Meeting of the Parties establishing a compliance mechanism under the Convention (see annex II below).
10. It was noted that more time would be needed in order for the Working Group to finish its work. The Working Group agreed to recommend to the Bureau that a second meeting of the Working Group be scheduled to take place immediately before the preparatory meeting for the first meeting of the Parties, at the beginning of the week 26-30 November 2001. The draft decisions on rules of procedure and on a compliance mechanism would then be transmitted to the preparatory meeting, where outstanding issues could be resolved with a view to the eventual adoption of the draft decisions by the Parties at their first meeting.
11. The Chairperson thanked the participants for their contributions and the secretariat for its preparations, and closed the meeting.

**Annex I**

**DRAFT DECISION I/...  
RULES OF PROCEDURE**

**The Meeting of the Parties,**

Recalling article 10, paragraph 2 (h), of the Convention, stipulating that at their first meeting the Parties shall consider and by consensus adopt rules of procedure for their meetings and the meetings of subsidiary bodies,

Recalling also article 10, paragraph 6, of the Convention, which requires that the rules of procedure shall, for the purposes of article 10, paragraphs 4 and 5, provide for practical arrangements for the admittance procedure and other relevant terms,

Adopts the rules of procedure as set out in the appendix to this decision.

## **Appendix**

# **DRAFT RULES OF PROCEDURE OF THE MEETING OF THE PARTIES TO THE CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS**

## **PURPOSES**

### **Rule 1**

These rules of procedure shall apply to any meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters convened in accordance with article 10, paragraph 1, of the Convention.

## **DEFINITIONS**

### **Rule 2**

For the purposes of these rules:

1. "Convention" means the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, adopted at Aarhus, Denmark, on 25 June 1998;
2. "Parties" means Contracting Parties to the Convention;
3. "Meeting of the Parties" or "Meeting" means the Meeting of the Parties established in accordance with article 10, paragraph 1, of the Convention;
4. "Regional economic integration organization" means an organization in accordance with article 17 of the Convention;
5. "Chairperson" means the Chairperson elected in accordance with rule 18 of these rules of procedure;
6. "Bureau" means the Bureau established in accordance with rule 22 of these rules of procedure;
7. "Subsidiary body(ies)" means the body(ies) established by the Meeting of the Parties in accordance with rule 23;
8. "Secretariat" means, in accordance with article 12 of the Convention, the Executive Secretary of the United Nations Economic Commission for Europe (ECE).

9. “The public” means the public as defined in article 2, paragraph 4, of the Convention.

## **PLACE AND DATE OF MEETINGS**

### Rule 3

The meetings of the Parties shall be held at the United Nations Office at Geneva, unless the Parties decide otherwise.

### Rule 4

1. Ordinary meetings of the Parties shall be held at least once every two years, unless the Parties decide otherwise.
2. At each ordinary meeting, the Parties shall set the indicative date for the opening and the duration of their next meeting.
3. Extraordinary meetings of the Parties shall be convened at such times as may be deemed necessary by the Meeting of the Parties, or at the request of a Party pursuant to article 10, paragraph 1, of the Convention.
4. In the case of an extraordinary meeting convened at the written request of a Party pursuant to article 10, paragraph 1, of the Convention, it shall be convened not more than ninety days after the date at which the request is supported by at least one third of the Parties.

## **NOTIFICATION**

### Rule 5

1. The secretariat shall notify all Parties in the official languages of the Meeting of the date and venue of a meeting at least six weeks before it is due to take place.
2. The secretariat shall also provide notification in the official languages of the Meeting of any meeting, including information on the date and venue, at least six weeks before it is due to take place to:
  - (a) ECE member States and regional economic integration organizations that are entitled to become Parties to the Convention but have not yet done so;
  - (b) Any State that is entitled under article 19, paragraph 3, of the Convention to seek to accede to it which has requested to be so notified;
  - (c) The United Nations, its specialized agencies and the International Atomic Energy Agency;

(d) Relevant intergovernmental organizations, qualified or having an interest in the fields to which the Convention relates, that have requested to be so notified;

(e) Relevant non-governmental organizations, qualified or having an interest in the fields to which the Convention relates, that have requested to be so notified;

(f) Any member of the public that has requested to be so notified.

3. Unless there are specific reasons requiring the use of other communication methods, notification by electronic mail shall be considered sufficient for the purposes of this rule, provided the receipt of the electronic mail is acknowledged by the recipient.

## **OBSERVERS**

### Rule 6

1. Representatives of the States and the organizations identified in rule 5, paragraphs 2 (a), (c) and (d), shall be entitled to participate in the proceedings of any meeting governed by these rules. Representatives of any State that is entitled under article 19, paragraph 3, of the Convention to seek to accede to it shall also be entitled to participate in such meetings, regardless of whether it has requested to be notified of such meetings.

2. Representatives of any of the organizations referred to in rule 5, paragraph 2 (e), shall be entitled to participate in the proceedings of any meeting governed by these rules, unless one third of the Parties present at that meeting object to the participation of representatives of that organization.

3. Observers entitled to participate in meetings pursuant to this rule do not have the right to vote at such meetings.

## **PRESENCE OF THE PUBLIC**

### Rule 7

1. The meetings of the Parties shall be open to members of the public, unless the Meeting of the Parties, in exceptional circumstances, decides otherwise especially to protect the confidentiality of information pursuant to the Convention.

2. Where it is not feasible to accommodate in the meeting room all members of the public having requested to attend the meeting, the proceedings of the meeting shall be relayed to those members of the public using audiovisual equipment wherever possible.

3. The secretariat, and, in the event of the meeting being held in a location other than the United Nations Office at Geneva, the host government or organization, shall ensure that practical arrangements are made to facilitate the entitlements of members of the public under this rule.

## **AGENDA AND DOCUMENTATION**

### Rule 8

With the agreement of the Bureau, the secretariat shall prepare the provisional agenda of each meeting.

### Rule 9

1. The provisional agenda of each ordinary meeting shall include:
  - (a) The items specified in article 10, paragraph 2, of the Convention, where relevant;
  - (b) The items whose inclusion was decided at a previous meeting;
  - (c) Any item proposed by the Bureau or the secretariat;
  - (d) Any item proposed by a Party before the provisional agenda is circulated;
  - (e) The date and venue of the next meeting;
  - (f) Any item proposed by a subsidiary body.
2. When the Meeting of the Parties decides to convene an extraordinary meeting, it shall also decide upon the provisional agenda for the extraordinary meeting.
3. The provisional agenda for an extraordinary meeting convened at the request of a Party, pursuant to article 10, paragraph 1, shall consist only of those items proposed for consideration in the request.
4. The first item on the provisional agenda for each meeting shall be the adoption of the agenda.

### Rule 10

The provisional agenda, together with any supporting documents for the meeting, shall be distributed by the secretariat to the Parties and to the other States, organizations and bodies referred to in rule 6 at least six weeks before the opening of the meeting. In this regard, the provisions of rule 5, paragraph 3, shall apply.

### Rule 11

All official meeting documentation prepared in connection with meetings of the Parties or of subsidiary bodies, and the notification under rule 5, shall be placed on the ECE web site when sent to the Parties and shall be provided to members of the public on request. The terms of public

access to the information shall be consistent with the provisions of article 4 of the Convention, except that the documentation shall be provided in electronic form where it exists in that form unless the applicant has specific reasons justifying its provision in a different form in which it is also held. 1/

#### Rule 12

The secretariat shall, with the agreement of the Chairperson, include in an addendum to the provisional agenda any question suitable for the agenda which may arise between the dispatch of the provisional agenda and the opening of the ordinary meeting, which the Meeting shall examine together with the provisional agenda.

#### Rule 13

The Meeting when adopting the agenda may add, delete, defer or amend items. Only items that the Meeting considers to be urgent and important may be added to the agenda.

### **REPRESENTATION AND CREDENTIALS**

#### Rule 14

Each Party participating in the meeting shall be represented by a delegation consisting of a head of delegation and such other accredited representatives, alternate representatives and advisers as may be required.

#### Rule 15

An alternate representative or an adviser may act as a representative upon designation by the head of delegation.

#### Rule 16

The credentials of all representatives shall be submitted to the secretariat at least one hour before the opening of the meeting. Notification of any subsequent change in the composition of the delegation shall also be submitted to the secretariat.

#### Rule 17

The officers of any meeting shall examine the credentials and submit their report to the Meeting for approval.

### **OFFICERS**

#### Rule 18

1. At each ordinary meeting, a chairperson and [a][two] vice-chairperson[s] shall be elected

from among the representatives of the Parties present at the meeting. They shall serve as the officers of the Meeting until their successors have been elected. [In accordance with the procedures set out in rule 22, paragraph 3, a second vice-chairperson shall be elected by the Meeting from among the representatives of non-governmental organizations established for the purpose of, and actively engaged in, promoting environmental protection and sustainable development.] 2/

2. The Chairperson shall participate in the meeting in that capacity and shall not at the same time exercise the rights of a representative of a Party. In such a case, the Chairperson or the Party concerned may designate another representative who shall be entitled to represent the Party in the meeting and to exercise its right to vote.

#### Rule 19

1. In addition to exercising the powers conferred upon him or her elsewhere by these rules, the Chairperson shall:

- (a) Declare the opening and closing of the meeting;
- (b) Preside at the sessions of the meeting;
- (c) Ensure the observance of these rules;
- (d) Accord the right to speak;
- (e) Put questions to the vote and announce decisions;
- (f) Rule on points of order;
- (g) Subject to these rules, have complete control over the proceedings and maintain order.

2. The Chairperson may, moreover, propose:

- (a) The closure of the list of speakers;
- (b) A limitation on the time to be allowed to speakers and on the number of times each representative may speak on a question;
- (c) The adjournment or closure of debate;
- (d) The suspension or adjournment of the meeting.

3. The Chairperson, in the exercise of his or her functions, remains under the authority of the Meeting of the Parties.

Rule 20

If the Chairperson is temporarily absent from a meeting or any part thereof or is unable to complete his or her term of office or to perform his or her functions, [the][a] Vice-Chairperson [elected from among the representatives of the Parties] shall act as Chairperson.

Rule 21

At the outset of each ordinary meeting, the Chairperson elected at the previous ordinary meeting or, in his or her absence, the Vice-Chairperson [referred to in rule 20] shall preside until the Meeting has elected a new chairperson.

**BUREAU**

Rule 22

1. A bureau shall be established consisting of [eight] members, as follows:
  - (a) The officers referred to in rule 18;
  - (b) Representatives of other Parties[;
  - (c) [A] [Two] representative[s] of non-governmental organizations established for the purpose of, and actively engaged in, promoting environmental protection and sustainable development].
2. At each ordinary meeting of the Parties, following the election of the officers, the remaining members of the Bureau shall be elected by the Parties present at the meeting, taking into account the need for a balanced representation of the different geographical subregions of ECE.
- [3. The representative[s] of the non-governmental organizations referred to in paragraph 1 (c) shall be nominated by those organizations. The Meeting may require the nomination of three candidates from this category, if requested by the Chairperson or any representative of a Party.]
4. Except for the first meeting of the Parties, when members shall serve from the beginning of the meeting, all the members of the Bureau shall serve from the end of the ordinary meeting at which they are elected until the end of the next ordinary meeting of the Parties, this being one term of office. The members of the Bureau shall be eligible for re-election for one further consecutive term of office only. In electing the Bureau members, due account shall be taken of the need to ensure a balanced representation of the different geographical subregions of ECE.
5. The Bureau shall be chaired by the Chairperson of the Meeting of the Parties or, in his or her absence, by [the] [a] Vice-Chairperson [elected from among the representatives of the Parties].

6. If a member of the Bureau resigns or is otherwise unable to complete the assigned term of office or to perform the functions of the office, a representative of the same Party [or of the same non-governmental organizations] shall be named by the Party [or non-governmental organizations] concerned to replace the said member for the remainder of that member's mandate.

## **SUBSIDIARY BODIES**

### Rule 23

1. The Meeting of the Parties may establish such subsidiary bodies as it deems necessary, in accordance with article 10, paragraph 2 (d), of the Convention. It may also dissolve such bodies.
2. These rules of procedure shall apply mutatis mutandis to the proceedings of subsidiary bodies established by the Meeting of the Parties, save as otherwise specified in paragraphs 3 to 6 below or decided by the Meeting of the Parties.
3. The Meeting of the Parties shall determine the matters to be considered by its subsidiary bodies and establish their terms of reference.
4. The Meeting of the Parties may decide that any subsidiary body shall or may meet in the period between ordinary meetings.
5. Unless the Meeting of the Parties decides otherwise, each subsidiary body shall elect its own Chairperson and Vice-Chairperson(s).
6. Rules 14 to 17 shall not apply to the proceedings of subsidiary bodies.

## **SECRETARIAT**

### Rule 24

The Executive Secretary of the United Nations Economic Commission for Europe may delegate his or her functions to a member of his or her staff. He or she, or his or her representative, shall act as secretariat for all meetings of the Parties and for all meetings of the subsidiary bodies.

### Rule 25

For all meetings of the Parties and for all meetings of the subsidiary bodies and in accordance with article 12 of the Convention, the secretariat shall:

- (a) Prepare, in consultation with the Bureau, the documentation;
- (b) Arrange for the translation, reproduction and distribution of the documents;

(c) Arrange for interpretation at the meeting;

(d) Arrange for the custody and preservation of the documents in the archives of the United Nations Economic Commission for Europe.

## **CONDUCT OF BUSINESS**

### Rule 26

The Chairperson may declare a meeting open and permit debate to proceed. The presence of a majority of the Parties shall be required for any decision to be taken.

### Rule 27

1. No one may speak at a meeting without having previously obtained the permission of the Chairperson. The representatives of the States, organizations and bodies entitled to participate under rule 6 shall be entitled to seek to address the Meeting under each agenda item and, having made such a request, shall be included on the list of speakers. Without prejudice to rules 28, 29, 30 and 32, the Chairperson shall in general call upon speakers in the order in which they signify their desire to speak, but may at his or her discretion decide to call upon representatives of Parties before observers. The secretariat shall be in charge of drawing up a list of such speakers. The Chairperson may call a speaker to order if his or her remarks are not relevant to the subject under discussion.

2. The Meeting may, on a proposal from the Chairperson or from any Party, limit the time allowed to each speaker and the number of times each representative may speak on a question. When it has been decided to so limit the time for debate and a speaker exceeds the allotted time, the Chairperson shall call him or her to order without delay.

3. The Executive Secretary of the United Nations Economic Commission for Europe, or his or her representative, may at any meeting make either oral or written statements concerning any question under consideration.

4. The Chairperson may request representatives of two or more non-governmental organizations having common goals and interests in so far as the subject matter of the Convention is concerned to constitute themselves into a single delegation for the purposes of the meeting, or to present their views through a single representative, in order to facilitate the proceedings.

### Rule 28

An officer of a subsidiary body may be accorded precedence by the Chairperson of the Meeting of the Parties for the purpose of explaining the conclusions arrived at by that subsidiary body.

### Rule 29

During the discussion of any matter, a representative of a Party may at any time raise a point of order, which shall be decided immediately by the Chairperson in accordance with these rules. A representative of a Party may appeal against the ruling of the Chairperson. The Chairperson may then, following consultation if he or she so desires, deem that the appeal should be put to the vote immediately, whereupon the ruling shall stand unless overruled by a majority of the Parties present and voting. A representative may not, in raising a point of order, speak on the substance of the matter under discussion.

### Rule 30

Any motion calling for a decision on the competence of the Meeting to discuss any matter or to adopt a proposal or an amendment to a proposal submitted to it shall be decided on before the matter itself is discussed or a decision is taken on the proposal or amendment in question.

### Rule 31

1. Without prejudice to paragraph 2 of this rule, proposals and amendments to proposals shall normally be presented in writing and handed to the secretariat, which shall circulate copies to the Parties. As a general rule, no proposal shall be discussed or put to the vote at any meeting unless copies of it have been circulated to delegations not later than 24 hours in advance. The Chairperson may, however, permit the discussion and consideration of amendments to proposals or of procedural motions even though those amendments or motions have not been circulated or have been circulated only the same day.

2. Proposals for amending the Convention, including its annexes, shall be submitted to the secretariat at least 120 days before the meeting at which they are proposed for adoption, so that the secretariat can communicate them to the Parties at least ninety days before the meeting, in accordance with article 14 of the Convention.

### Rule 32

1. Subject to rule 29, the following motions shall have precedence, in the order indicated below, over all other proposals or motions:

- (a) To suspend the meeting;
- (b) To adjourn the meeting;
- (c) To adjourn debate on a question under discussion;
- (d) For closure of the debate on a question under discussion.

2. Permission to speak on a motion falling within paragraphs 1 (a) to (d) shall be granted only to the proposer and, in addition, to one speaker in favour of and two against the motion, after which it shall immediately be put to the vote.

#### Rule 33

A proposal or motion may be withdrawn by its proposer at any time before voting on it has begun, provided that the proposal or motion has not been amended. A proposal or motion that has been withdrawn may be reintroduced by any other Party.

#### Rule 34

When a proposal has been adopted or rejected, it may not be reconsidered at the same meeting, unless the Meeting, by a three-quarters majority of the Parties present and voting, decides in favour of reconsideration. Permission to speak on a motion to reconsider shall be accorded only to the mover and to one speaker against, after which it shall immediately be put to the vote.

### **DECISION-MAKING**

#### Rule 35

1. The Meeting of the Parties shall make every effort to reach its decisions by consensus.
2. If all efforts to reach consensus have been exhausted and no agreement reached, decisions on substantive matters shall, as a last resort, be taken by a three-fourths majority vote of the Parties present and voting, except where the Convention or rule 47 provides otherwise.
3. When decisions of the Meeting of the Parties on procedural matters cannot be reached by consensus, their adoption shall require a simple majority vote of the Parties present and voting at the meeting.
4. If the question arises whether a matter is one of a procedural or substantive nature, the Chairperson shall rule on the question. An appeal against this ruling shall immediately be put to the vote and the Chairperson's ruling shall stand unless overruled by a simple majority of the Parties present and voting.
5. For the purposes of these rules, "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall be considered as not voting.

### Rule 36

If two or more proposals relate to the same question, the Meeting shall, unless it decides otherwise, decide on the proposals in the order in which they have been submitted. The Meeting may, after each decision on a proposal, decide whether or not to take a decision on the next proposal.

### Rule 37

1. Any representative may request that any part of a proposal or of an amendment to a proposal be decided on separately. If objection is made to the request for division, the Chairperson shall permit two representatives to speak, one in favour of and the other against the motion, after which a decision shall immediately be taken on it.

2. If the motion referred to in paragraph 1 is adopted, those parts of a proposal or of an amendment to a proposal which have been approved shall then be decided on as a whole. If all the operative parts of a proposal or amendment have been rejected, the proposal or amendment shall be considered to have been rejected as a whole.

### Rule 38

A motion is considered to be an amendment to a proposal if it merely adds to, deletes from, or revises that proposal. The Meeting shall decide on an amendment before it decides on the proposal to which it relates, and if the amendment is adopted, the amended proposal shall then be voted on.

### Rule 39

If two or more amendments to a proposal are moved, the Meeting shall first decide on the amendment furthest removed in substance from the original proposal, then on the amendment next furthest removed therefrom, and so on, until all amendments have been decided on.

### Rule 40

Voting on a single proposal shall normally be by show of hands. A roll call shall be taken if one is requested by any Party. It shall be taken in the English alphabetical order of the names of the Parties participating in the meeting, beginning with the Party whose name is drawn by lots by the Chairperson.

### Rule 41

The vote of each Party participating in a vote by roll call shall be recorded in the report of the meeting.

### Rule 42

After the Chairperson has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of voting. The Chairperson may permit the Parties to explain their votes, either before or after the voting, and may limit the time allowed for such explanations.

Rule 43

In the absence of consensus, the elections referred to in rules 18, 22 and 23 shall be decided by means of a secret ballot. [No other decisions shall be taken by secret ballot.] 3/

**OFFICIAL LANGUAGES**

Rule 44

The official languages of the Meeting of the Parties shall be English, French and Russian.

Rule 45

1. Statements made in an official language of the Meeting shall be interpreted into the other official languages.
2. A representative may speak in a language other than an official language of the Meeting, if he or she provides for interpretation into one of the official languages.

Rule 46

Official documents of the meetings shall be drawn up in one of the official languages and translated into the other official languages.

**AMENDMENTS TO RULES OF PROCEDURE**

Rule 47

Amendments to these rules of procedure shall be adopted by consensus of the Meeting of the Parties.

**OVERRIDING AUTHORITY OF THE CONVENTION**

Rule 48

In the event of a conflict between any provision of these rules and any provision of the Convention, the provision of the Convention shall prevail.

Notes

1/ The deletion of the reference to the exemptions should be revisited after discussions on the compliance mechanism.

2/ It remains to be determined whether the wording should be aligned with the Convention.

3/ It was noted that this sentence would need to be revisited in the light of the proposed text of the draft decision on establishing a compliance mechanism, paragraph 1.

**Annex II**

**DRAFT DECISION I/... CONCERNING ARRANGEMENTS FOR REVIEW OF COMPLIANCE**

The Meeting of the Parties,

Determined to promote and improve compliance with the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Convention) and recalling article 15 of the Convention,

Recognizing the necessity for rigorous reporting by Parties of their compliance with the Convention,

1. Establishes the Compliance Committee for the review of compliance by the Parties with their obligations under the Convention;
2. Decides that the structure and functions of the Compliance Committee and the procedures for review of compliance shall be those set out in the appendix to this decision;
3. Resolves that the Compliance Committee as well as the structure, functions and procedures set out in the appendix to this decision shall be available for the review of compliance with any future amendments or protocols to the Convention;
4. [Instructs][Requests] the Committee to draw up reporting requirements under the Convention.

## Appendix

### STRUCTURE AND FUNCTIONS OF THE COMPLIANCE COMMITTEE AND PROCEDURES FOR REVIEW OF COMPLIANCE

#### Structure

#### [[Alternative 1 on structure – a committee comprising Parties, or Parties and observers]]

1. (a) The Committee shall consist of

**option 1** [eight Parties to the Convention. Two entities entitled to participate in meetings of the Parties to the Convention in accordance with its article 10, paragraphs 4 and 5, may attend committee meetings as observers.]

**option 2** [six Parties to the Convention and two non-governmental organizations promoting environmental protection that are entitled to participate in meetings of the Parties to the Convention in accordance with its article 10, paragraph 5.]

(b) The Meeting of the Parties shall, as soon as practicable, elect [**option 1** four Parties][**option 2** three Parties and one organization] to the Committee to serve until the end of the next ordinary meeting and [**option 1** four Parties][**option 2** three Parties and one organization] to serve a full term of office. At each ordinary meeting thereafter, the Meeting of the Parties shall elect [**option 1** four Parties][**option 2** three Parties and one organization] for a full term of office. Outgoing [**option 1** Parties] [**option 2** Parties and organizations] may be re-elected once for a further full term of office, unless in a given case the Meeting of the Parties decides otherwise. A full term of office commences at the end of an ordinary meeting of the Parties and runs until the second ordinary meeting of the Parties thereafter. The Committee shall elect its own President and Vice-President.]

#### [[Alternative 2 on structure – a committee with independent members]]

1. (a) The Committee shall consist of eight members;

(b) The members of the Committee shall serve in their personal capacity;

(c) The Committee shall be composed of nationals of the Parties to the Convention who shall be persons of high moral character and recognized competence in the fields to which the Convention relates, including persons having legal experience;

(d) The Committee may not include more than one national of the same State;

(e) Committee members shall be nominated for election at meetings of the Parties;

(f) Committee members shall be elected on the basis of nominations in accordance

with subparagraph (e). The Meeting of the Parties shall give due consideration to all nominations;

(g) The Meeting of the Parties shall elect the members of the Committee by consensus or, failing consensus, by secret ballot;

(h) In the election of the Committee, consideration should be given to geographical distribution of membership and diversity of experience;

(i) The Meeting of the Parties shall, as soon as practicable, elect four members to the Committee to serve until the end of the next ordinary meeting and four members to serve a full term of office. At each ordinary meeting thereafter, the Meeting of the Parties shall elect four members for a full term of office. Outgoing members may be re-elected once for a further full term of office, unless in a given case the Meeting of the Parties decides otherwise. A full term of office commences at the end of an ordinary meeting of the Parties and runs until the second ordinary meeting of the Parties thereafter. The Committee shall elect its own President and Vice-President;

(j) If a member of the Committee can no longer perform his or her duties as member of the Committee for any reason, the Bureau of the Meeting of the Parties shall appoint another expert fulfilling the criteria in this paragraph to serve the remainder of the term, subject to the approval of the Committee;

(k) Every person serving on the Committee shall, before taking up his or her duties, make a solemn declaration in open Committee that he or she will perform his or her functions impartially and conscientiously.]

### Meetings

2. The Committee shall, unless it decides otherwise, meet at least once a year. The secretariat shall arrange for and service its meetings.

### Functions of the Committee

3. (a) The Committee shall:

- (i) Consider any submission [or][,] referral [or communication] made in accordance with paragraphs [4 and 5][4, 5 and 6] below and make appropriate recommendations;
- (ii) Prepare, at the request of the Meeting of the Parties, a report on compliance with or implementation of the provisions in the Convention;
- (iii) Monitor, assess and facilitate the implementation of and compliance with the reporting requirements under article 10, paragraph 2, of the Convention;

- (iv) Invite, when appropriate and in agreement with the Party concerned by its recommendations, international specialized institutions or other competent bodies to provide assistance such as legal advice, technical contributions or training;

(b) The Committee may examine compliance issues and make recommendations if and as appropriate.

#### Submission by Parties

4. (a) A submission may be brought before the Committee by one or more Parties that have reservations about another Party's compliance with its obligations under the Convention. Such a submission shall be addressed in writing to the secretariat and supported by corroborating information. The secretariat shall, within two weeks of receiving a submission, send a copy of it to the Party whose compliance is at issue. Any reply and supporting information shall be submitted to the secretariat and to the Parties involved within three months or such longer period as the circumstances of a particular case may require but in no case later than six months. The secretariat shall transmit the submission and the reply, as well as all corroborating and supporting information, to the Committee, which shall consider the matter as soon as practicable;

(b) A submission may be brought before the Committee by a Party that concludes that, despite its best endeavours, it is or will be unable to comply fully with its obligations under the Convention. Such a submission shall be addressed in writing to the secretariat and explain, in particular, the specific circumstances that the Party considers to be the cause of its non-compliance. The secretariat shall transmit the submission to the Committee, which shall consider it as soon as practicable.

#### Referrals by the secretariat

5. Where the secretariat, in particular upon reviewing the reports submitted in accordance with the Convention's reporting requirements, becomes aware of possible non-compliance by a Party with its obligations, it may request the Party concerned to furnish necessary information about the matter. If there is no response or the matter is not resolved within three months, or such longer period as the circumstances of the matter may require but in no case later than six months, the secretariat shall bring the matter to the attention of the Committee.

#### Communications from the public

6. (a) The Committee may consider written communications, including those in electronic form, from the public concerning compliance with the Convention;

(b) The Committee shall not consider any communication under subparagraph (a) which:

(i) Is anonymous;

(ii) [Is with respect to a Party to which [the compliance mechanism][subparagraph

(a)] does not apply]; 1/

(iii) It considers to be an abuse of the right of submission of such communications;

(iv) It considers to be manifestly unreasonable;

(v) It considers to be incompatible with the provisions of this decision or with the Convention;

(c) The Committee may at any stage take into account any available domestic remedy unless its application is unreasonably prolonged or obviously does not provide an effective and sufficient means of redress;

(d) Subject to the provisions of subparagraph (b), the Committee shall bring any communications submitted to it under subparagraph (a) to the attention of the Party alleged to be in non-compliance;

(e) A Party shall, as soon as possible but not later than five months after any communication is brought to its attention, submit to the Committee written explanations or statements clarifying the matter and describing any response that may have been made by that Party;

(f) The Committee shall, as soon as practicable, consider communications submitted to it pursuant to subparagraph (a) and take into account all relevant written information made available to it, and may hold hearings.

#### Information gathering

7. To assist the performance of its functions, the Committee may:

(a) Request further information on matters under its consideration;

(b) Undertake, with the consent of any Party concerned, information gathering in the territory of that Party;

(c) Consider any relevant information submitted to it; and

(d) Seek the services of experts and advisers as appropriate.

#### Confidentiality

8. (a) Save as otherwise provided for in this paragraph, no information held by the Committee shall be kept confidential;

(b) The Committee and any person involved in its deliberations shall ensure the confidentiality of any information that falls within the scope of the exceptions provided for in

article 4, paragraphs 3 (c) and 4, of the Convention and that has been provided in confidence;

(c) The Committee and any person involved in its deliberations shall ensure the confidentiality of information that has been provided to it in confidence by a Party when making a submission in respect of its own compliance in accordance with paragraph 4 (b) above;

(d) Information submitted to the Committee, including all information relating to the identity of the member of the public submitting the information, shall be kept confidential if submitted by a person who asks that it be kept confidential because of a concern that he or she may be penalized, persecuted or harassed;

(e) If necessary to ensure the confidentiality of information in any of the above cases, the Committee shall hold closed meetings[;

(f) Committee reports shall not contain any information that the Committee must keep confidential under subparagraphs (b) to (d) above. Information that the Committee must keep confidential under subparagraph (d) shall not be made available to any Party. All other information that the Committee receives in confidence and that is [related][relevant] to any recommendations by the Committee to the Meeting of the Parties shall be made available to any Party upon its request; that Party shall ensure the confidentiality of the information it has received in confidence].

#### Entitlement to participate

9. (a) A Party [, whether a member of the Committee or not,] in respect of which a submission, referral or communication is made or which makes a submission, as well as the member of the public making a communication, shall be entitled to participate in the discussions of the Committee with respect to that submission, referral or communication; 2/

(b) The Party [, whether or not a member of the Committee,] and the member of the public shall not take part in the preparation and adoption of any findings or any recommendations of the Committee; 3/

(c) The Committee shall send a copy of its draft findings and any draft recommendations to the Parties concerned and the member of the public who submitted the communication if applicable, and shall take into account any comments made by them in the finalization of those findings and recommendations.

#### Committee reports to the Meeting of the Parties

10. The Committee shall report on its activities at each ordinary meeting of the Parties and make such recommendations as it considers appropriate. Each report shall be finalized by the Committee not later than ten weeks in advance of the meeting of the Parties at which it is to be considered. Every effort shall be made to adopt the report by consensus. Where this is not possible, the report shall reflect the views of all the Committee members. Committee reports shall be available to the public.

11. [If, as a result of the operation of paragraph 9, the size of the Committee is reduced to five members or less, the Committee shall forthwith refer the matter in question to the Meeting of the Parties.] 4/

Consideration by the Meeting of the Parties

12. The Meeting of the Parties may, upon consideration of a report and any recommendations of the Committee, decide upon appropriate measures to bring about full compliance with the Convention. The Meeting of the Parties may, depending on the particular question before it and taking into account the cause, degree and frequency of the non-compliance, decide upon one or more of the following measures:

- (a) Provide advice and facilitate assistance to individual Parties regarding the implementation of the Convention;
- (b) Make recommendations to the Party concerned;
- (c) Request the Parties concerned to submit a strategy, including a time schedule, to the Compliance Committee regarding the achievement of compliance with the Convention and to report on the implementation of this strategy;
- (d) In cases of communications from the public, make recommendations to the Party concerned on specific measures to address the matter raised by the member of the public;
- (e) Publicize non-compliance;
- (f) Issue cautions;
- (g) Suspend the rights and privileges of the Party concerned under the Convention;
- (h) Take such other measures as may be appropriate.

Relationship between settlement of disputes and the compliance procedure

13. The present compliance procedure shall be without prejudice to the settlement-of-disputes provisions in article 16 of the Convention.

[Optionality] 5/

14. OPTION I

**[opt-in possibility – communications from the public]**

[The Committee shall not consider any communication under paragraph 6 (a) unless it has ascertained that the Party concerned, when ratifying, accepting, approving or acceding to the Convention, or at any time thereafter, has declared in writing to the Depositary that it accepts that communications under paragraph 6 (a) may be made with respect to its compliance.]

OPTION II

**[opt-out possibility – communications from the public]**

[The Committee shall not consider any communication under paragraph 6 (a) unless it has ascertained that the Party concerned, when ratifying, accepting, approving or acceding to the Convention, or at any time thereafter, has not declared in writing to the Depositary that it does not accept that communications may be made under paragraph 6 (a) with respect to its compliance.]

OPTION III

**[opt-in possibility during initial two- or four-year period, thereafter opt-out possibility – communications from the public]**

[For a period of [two][four] years from the date of the entry into force of the Convention, or the ratification, acceptance, approval or accession of a Party, whichever is later, the Committee shall not consider any communication under paragraph 6 (a) unless it has ascertained that the Party concerned has declared in writing to the Depositary that it accepts that communications under paragraph 6 (a) may be made with respect to its compliance. At any time thereafter, the Committee shall not consider any communication under paragraph 6 (a) if it has ascertained that the Party concerned has declared in writing to the Depositary that it does not accept that communications under paragraph 6 (a) may be made with respect to its compliance.]

OPTION IV

**[opt-out possibility, either for an indefinite period or for up to 4 years – communications from the public]**

[From the date of the entry into force of the Convention with respect to a Party or on the expiry of twelve months from the date of adoption of this decision, whichever is the later, the Committee may consider communications from the public concerning a Party's compliance with the Convention, unless that Party has notified in writing to the Depositary that [, for a period of not more than four years,] it is unable to accept the consideration of such communications by the Committee. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, from the date of deposit of an instrument of acceptance with the Depositary, the Committee may consider communications from the public concerning that Party's compliance with the Convention.]

OPTION V

**[opt-out possibility for an indefinite period, to be triggered during a short initial period – entire compliance mechanism or communications from the public]**

[ (a) Within six months after the adoption of this compliance mechanism by the Meeting of the Parties, or within three months of the coming into force of the Convention with respect to a Party, whichever comes later, a Party that chooses not to participate in the compliance mechanism [or to allow consideration of communications from the public in respect of its compliance] [until a later time] shall so notify the secretariat of the Convention;

(b) A Party that has chosen not to participate for the time being may reverse that decision at any time by withdrawing the previous notification;

(c) A Party that has become subject to the compliance mechanism may not

subsequently withdraw from participation in the compliance mechanism without withdrawing from the Convention;

(d) No submission or referral relating to the compliance of a Party may be considered if that Party has submitted a notification under subparagraph (a).]

#### Notes

1/ It was agreed to revisit this provision in the light of the outcome of discussions on optionality.

2/ The text in the square brackets in this subparagraph reflects alternative 1 on the structure of the Committee and should be deleted if it is decided to delete that alternative.

3/ The text in the square brackets in this subparagraph reflects alternative 1 on the structure of the Committee and should be deleted if it is decided to delete that alternative.

4/ The text in the square brackets is only needed for alternative 1 on the structure of the Committee.

5/ For presentational reasons, the two options for providing for optionality with respect to individual communications from the public which appear at the end of paragraph 8 of annex I to document CEP/WG.5/AC.1/2001/3 and the two new options which were presented during the meeting are here grouped under the single heading 'Optionality' together with what was option 3 in paragraph 16 of annex I to document CEP/WG.5/AC.1/2001/3. Cross-references have been adjusted accordingly, and for the sake of consistency, square-bracketed explanatory texts summarizing each option have been added or edited accordingly by the secretariat. This is not intended to pre-empt any decision on the final location of whichever option or options are chosen by the Working Group.