

Annex V

**DECISION 1997/2 CONCERNING THE IMPLEMENTATION COMMITTEE, ITS
STRUCTURE AND FUNCTIONS AND PROCEDURES FOR REVIEW OF COMPLIANCE
AS AMENDED**

The Executive Body,

Determined to promote and improve compliance with the existing protocols to the 1979 Convention on Long-range Transboundary Air Pollution,

Recalling article 10, paragraph 2, of the Convention, as well as article 7 of the 1994 Protocol on Further Reduction of Sulphur Emissions and article 3, paragraph 3, of the 1991 Protocol concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes,

1. Establishes the Implementation Committee for the review of compliance by the Parties with their obligations under the protocols to the Convention;
2. Decides that the structure and functions of the Implementation Committee and the procedures for review of compliance shall be those set out in the annex to this decision;
3. Urges the Parties to the 1994 Protocol on Further Reduction of Sulphur Emissions to decide that the structure, functions and procedures set out in the annex to this decision shall apply for the review of compliance with article 7, paragraph 3, of that Protocol, in place of the regime adopted at the special session of the Executive Body in Oslo on 14 June 1994;
4. Urges the Parties to the 1991 Protocol concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes to decide to use the Implementation Committee established by this decision for the purposes of article 3, paragraph 3, of that Protocol and to apply the structure, functions and procedures set out in the annex to this decision to monitor compliance with that Protocol;
5. Resolves that the Implementation Committee as well as the structure, functions and procedures set out in the annex to this decision shall be available for the review of compliance with future protocols in accordance with the terms of such protocols and of any decisions of the Parties thereto.

Annex

**STRUCTURE AND FUNCTIONS OF THE IMPLEMENTATION COMMITTEE AND
PROCEDURES FOR REVIEW OF COMPLIANCE**

Structure

1. The Committee shall consist of nine Parties to the Convention; each member of the Committee shall be Party to at least one protocol. The Executive Body shall elect Parties for terms of two years. Outgoing Parties may be re-elected for one consecutive term, unless in a given case the Executive Body decides otherwise. The Committee shall elect its own Chairman and Vice-Chairman.

Meetings

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

Functions of the Committee

3. The Committee shall:

(a) Review periodically compliance by the Parties with the reporting requirements of the protocols;

(b) Consider any submission or referral made in accordance with paragraphs 4 and 5 below with a view to securing a constructive solution;

(c) Where it deems it necessary, be satisfied, before it adopts a report or recommendation on such a submission or referral, that the quality of data reported by a Party has been evaluated by a relevant technical body under the Executive Body and/or, where appropriate, by an expert nominated by the Bureau of the Executive Body; and

(d) Prepare, at the request of the Executive Body, and based on any relevant experience acquired in the performance of its functions under subparagraphs (a), (b) and (c) above, a report on compliance with or implementation of specified obligations in an individual protocol.

Submissions by Parties

4. A submission may be brought before the Committee by:

(a) One or more Parties to a protocol that have reservations about another Party's

compliance with its obligations under that instrument. 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 information in support thereof 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. 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; or

(b) A Party that concludes that, despite its best endeavours, it is or will be unable to comply fully with its obligations under a protocol. 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 a protocol'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, the secretariat shall bring the matter to the attention of the Committee.

Information gathering

6. To assist the performance of its functions under paragraph 3 above, the Committee may:
- (a) Request further information on matters under its consideration, through the secretariat;
 - (b) Undertake, at the invitation of the Party concerned, information gathering in the territory of that Party; and
 - (c) Consider any information forwarded by the secretariat concerning compliance with the protocols.
7. The Committee shall ensure the confidentiality of any information that has been provided to it in confidence.

Entitlement to participate

8. A Party in respect of which a submission or referral is made shall be entitled to participate in the consideration by the Committee of that submission or referral, but shall not take part in the preparation and adoption of any report or recommendations of the Committee in accordance with paragraph 9 below.

Committee report to the Executive Body

9. The Committee shall report at least once a year on its activities to the Executive Body and make such recommendations as it considers appropriate, taking into account the circumstances of the matter, regarding compliance with the protocols. Each report shall be finalized by the Committee no later than ten weeks in advance of the session of the Executive Body at which it is to be considered.

Competence of Committee members

10. Only those Committee members that are Parties to the protocol in respect of which compliance procedures in accordance with paragraphs 3, 6, 7 and 9 above are being undertaken may participate in those procedures. If as a result of the operation of this paragraph the size of the Committee is reduced to five members or less, the Committee shall forthwith refer the matter in question to the Executive Body.

Consideration by the Executive Body

11. The Parties to the protocol concerned, meeting within the Executive Body, may, upon consideration of a report and any recommendations of the Committee, decide upon measures of a non-discriminatory nature to bring about full compliance with the protocol in question, including measures to assist a Party's compliance. Any such decision shall be taken by consensus.

Relationship to settlement of disputes

12. Application of the present compliance procedures shall be without prejudice to the settlement of disputes provisions of the protocols.