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EXECUTIVE BODY FOR THE CONVENTION ON
LONG-RANGE TRANSBOUNDARY AIR POLLUTION

Twenty-second session
(Geneva, 29 November–1 December 2004)
Item 8 of the provisional agenda

THE SEVENTH REPORT OF THE IMPLEMENTATION COMMITTEE

Introduction

1. At its twentieth and twenty-first sessions, the Executive Body elected the following members to the Implementation Committee: Ms. Sue BINIAZ (United States); Mr. Volkert KEIZER (Netherlands); Mr. Tuomas KUOKKANEN (Finland); Ms. Melanija LEŠNJAK (Slovenia); Mr. Lars LINDAU (Sweden); Mr. Stephan MICHEL (Switzerland); Mr. Christian LINDEMANN (Germany); Mr. Cristiano PIACENTE (Italy) and Mr. Patrick SZÉLL (United Kingdom). Mr. Széll was elected Chairman of the Committee (ECE/EB.AIR/77, para. 25 and ECE/EB.AIR/79, para. 27).

2. The Implementation Committee held two meetings in 2004. Its thirteenth meeting took place in Helsinki on 14-16 April and its fourteenth meeting in Geneva on 26-28 July. Mr. Piacente did not participate in either meeting. Mr. Lindau did not participate in the thirteenth meeting. Ms. Albena Karadjova participated on behalf of the secretariat in both meetings. Mr. Keith Bull and Ms. Brinda Wachs of the secretariat participated in the discussion of item 4 (b - d) of the agenda at the fourteenth meeting.

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I. SUBMISSIONS AND REFERRALS CONCERNING COMPLIANCE BY PARTIES WITH THEIR PROTOCOL OBLIGATIONS

A. Follow-up to Executive Body decisions 2000/1, 2003/1, 3, 5, 6, 7 and 8

3. Based on recommendations made by the Implementation Committee in its third and sixth reports (EB.AIR/2000/2 and EB.AIR/2003/1 and Add.1), the Executive Body at its eighteenth and twenty-first sessions adopted decisions concerning compliance by Slovenia, Norway, Finland, Sweden, Italy, Greece, Ireland and Spain. The submissions by Finland and Sweden were closed. As requested, the secretariat sent letters to the Ministers of Foreign Affairs of the remaining Parties informing them about the decisions.

1. Follow-up to decision 2000/1 on compliance by Slovenia with the 1994 Sulphur Protocol (ref. 1/00)

4. In its decision 2000/1, the Executive Body took note of the conclusions of the Implementation Committee with regard to Slovenia's submission and in particular the conclusion that Slovenia could not be in compliance with paragraph 5 (b) of article 2 of the 1994 Sulphur Protocol before 1 July 2004, the date on which the obligation contained in that provision would first apply to it. The Executive Body noted Slovenia's intention to adopt an ecological action programme to reduce the sulphur emissions from the Trbovlje thermal power plant (TPP) and, in due course, to shut it down, and it invited Slovenia to keep the Implementation Committee informed of its progress.

5. The secretariat informed the Committee that it had sent a letter on 31 October 2003 to Slovenia inviting it to provide information by 31 March 2004 on the measures taken to reduce emissions from the Trbovlje TPP, as well as on its latest emission data. Slovenia provided that information on 8 April 2004. In addition, Ms. Melanija Lešnjak gave an oral presentation to the Committee at its thirteenth meeting.

Consideration

6. The Committee carefully considered the information, both written and oral, provided by Slovenia. The Trbovlje TPP (or more precisely its unit 2, which is the only remaining unit) was built in 1968 and had a thermal input capacity of 360 MW_{th}. It uses local brown coal with a sulphur content of up to 3%. To protect the immediate vicinity, a chimney 360 m high (at 220 m above sea level) was built in 1976. The plant emits some 30 kt SO₂ per year with concentrations reaching levels above 10,000 mg/m³. It is equipped with an electrostatic precipitator for the removal of dust and uses primary measures to reduce nitrogen oxides. It operates without any sulphur control technique. A new plant with a thermal input of 550 MW_{th} had been planned to replace the existing plant. It was to have come into operation before 2004 and would have complied with all relevant legislation. The financing for this new plant was, however, rejected by

a national referendum in January 1999.

7. In April 2002 Trbovlje TPP prepared an environmental action plan which set out measures to reduce excessive SO₂ ambient air concentrations from the plant. The action plan considered all aspects of environmental problems connected with the operation of unit 2 of Trbovlje TPP. Special attention was devoted to air quality issues and abatement options for sulphur emissions. Regarding the technology, several sulphur emission abatement options that would have satisfied the Oslo Protocol's obligations, as well as other environmental requirements, at reasonable costs were analysed. Inter alia, the possibilities of coal cleaning as well as of flue gas desulphurization were examined.

8. Slovenia concluded that the only technically feasible solution at relatively reasonable cost that would satisfy minimum health and environmental protection standards (such as sufficient reduction of SO₂ emissions, acceptable SO₂ ambient air concentrations and minimizing acidification) would be the wet calcite flue gas desulphurization method. This method would be applied in October 2005. The problem of non-compliance with paragraph 5 (b) of article 2 and annex V to the 1994 Sulphur Protocol would, therefore, be solved no earlier than that time.

9. The Committee observed that Slovenia had carefully considered all the measures proposed in decision 2000/1, paragraph 5. It noted that Slovenia had not received any offers of assistance from other Parties as recommended in paragraph 6 of the decision. It noted further that Slovenia had taken the only technically feasible solution that seemed economically viable, but that this solution would take effect only in October 2005. In the meantime, Slovenia had not considered establishing any emission limit values or emission limitations as of 1 July 2004. As a result, it would be in non-compliance with its obligation under paragraph 5 (b) of article 2 for at least 15 months.

Recommendation to the Executive Body

10. Based on the above consideration, the Implementation Committee recommends to the Executive Body that it adopt the following decision:

The Executive Body,

Acting under paragraph 11 of the structure and functions of the Implementation Committee (Executive Body decision 1997/2, annex, as amended in 2001, ECE/EB.AIR/75, annex V),

- (a) Recalls its decision 2000/1;
- (b) Notes the report provided by the Implementation Committee on Slovenia's

progress, based on the information, written and oral, that it received from Slovenia on 8 and 14 April 2004, respectively, including its conclusion that Slovenia, having applied neither sulphur emission limit values nor emission limitations with respect to the Trbovlje thermal power plant, was not in compliance with paragraph 5 (b) of article 2 of the 1994 Oslo Protocol as of 1 July 2004, and would achieve compliance with that obligation no earlier than October 2005;

(c) Expresses its concern at the failure by Slovenia to fulfil its obligation under paragraph 5 (b) of article 2 of the Oslo Protocol, while recognizing the efforts it had made to accelerate its compliance with that provision;

(d) Urges Slovenia to fulfil its obligation under paragraph 5 (b) of article 2 of the Oslo Protocol as soon as possible;

(e) Requests Slovenia to inform the Implementation Committee of its progress towards achieving compliance with paragraph 5 (b) of article 2, if possible before the Committee's sixteenth meeting and, in any event, in time for its seventeenth meeting.

2. Follow-up to decision 2003/1 on compliance by Norway with the 1991 VOC Protocol (ref. 1/01)

Background

11. In its decision 2003/1, the Executive Body requested the Committee to review Norway's progress and timetable for compliance with paragraph 2 (b) of article 2 of the VOC Protocol. The secretariat informed the Committee that it had sent a letter on 16 January 2004 to Norway's Minister of Foreign Affairs, drawing her attention to the decision. It had received a written submission from Norway on 1 April 2004 in response to the decision.

Consideration

12. The Committee carefully considered the further information provided by Norway. It noted: the recalculated figures and the explanations for them submitted by Norway; the practical steps that Norway had taken to put in place measures to reduce its volatile organic compound (VOC) emissions from the loading and storing of crude oil offshore. It further noted, inter alia, Norway's decision to extend the time allowed for the installation of VOC-reducing technology from the end of 2005 to the end of 2007, the increase in expected emissions in 2004 and 2005 of approximately 6,000 tons more than previously expected and the increase in expected emissions in 2006 and 2007 of about 2,000 tons compared with the increase envisaged in the original time schedule. The Committee registered the view of Norway that any further tightening of the time schedule could not be justified given the very high investment costs for the installation of the new technology and it took note of the problems encountered by Norway when revising the relevant emission permits and/or the installation of equipment for large stationary sources. The Committee

observed that, although Norway did not rule out the possibility that it would fulfil its Protocol commitments one year earlier, it continued to expect to reach compliance with the obligation relating to its TOMA by 2006 and with the obligation relating to its national territory by 2005.

13. The Committee was of the view that Norway's latest submission addressed all the relevant issues but did not contain any elements that should lead the Executive Body to alter the conclusions that it had reached in its decision 2003/1. According to its own data and projections, Norway continued not to fulfil its obligation under paragraph 2 (b) of article 2 of the VOC Protocol (i) to take effective measures to reduce its annual emissions within the TOMA specified under annex I by at least 30% using 1989 as its base year and (ii) to ensure that its total national annual emissions did not exceed its 1988 levels. The Committee was not in a position to judge whether Norway would meet the target dates specified in its submission. Substantial acceleration of measures leading to early compliance had not been achieved. It, therefore, remained important for Norway to provide the Committee with reports describing progress made towards achieving full compliance, including indications of accelerations of its timetable for achieving that target.

14. The Committee recalled its view – given earlier in the context of the ministerial endorsement in Kiev of the Guidelines for Strengthening Compliance with and Implementation of Multilateral Environmental Agreements in the UNECE region – that if States were to make a point of taking the necessary steps to ensure implementation at the national level before ratification, it would reduce the likelihood of non-compliance with the Convention's obligations after ratification (EB.AIR/2003/1/Add.1, para. 55). Against this background it was regretted that Norway, which had ratified the VOC Protocol early in 1993, had been in non-compliance since 1999 and would stay in non-compliance for at least one or two more years.

Recommendation to the Executive Body

15. Based on the above consideration, the Implementation Committee recommends to the Executive Body that it adopt the following decision:

The Executive Body,

Acting under paragraph 11 of the structure and functions of the Implementation Committee (Executive Body decision 1997/2, annex, as amended in 2001, ECE/EB.AIR/75, annex V),

- (a) Recalls its decisions 2001/1, 2002/2 and 2003/1;
- (b) Notes the report provided by the Implementation Committee on Norway's progress, based on the information provided by Norway on 1 April 2004 (EB.AIR/2004/6 paras. 11-14), and in particular its conclusion that Norway remained in non-compliance with the

emission reduction obligation of the 1991 Protocol on the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes;

(c) Welcomes the national measures that have been taken by Norway to reduce its VOC emissions;

(d) Remains concerned, however, by the continuing failure of Norway to fulfil its obligations to take effective measures to reduce its annual emissions within the TOMA specified under annex I by at least 30%, using 1989 as its base year, and to ensure that its total national annual emissions do not exceed its 1988 levels, as required by paragraph 2 (b) of article 2 of the VOC Protocol;

(e) Expresses its disappointment that, notwithstanding Executive Body decision 2003/1, Norway has not demonstrated that it will shorten the period of seven years that it has anticipated it will remain in non-compliance;

(f) Strongly urges Norway to fulfil its obligations under the VOC Protocol as soon as possible;

(g) Calls on Norway to provide the Implementation Committee, through the secretariat, by 31 March 2005 with a report describing the progress that it has made towards achieving compliance, in particular with regard to any acceleration of its timetable for achieving this goal; and

(h) Requests the Implementation Committee to review Norway's progress and timetable, and report to it thereon at its twenty-third session.

3. Follow-up to decision 2003/3 on compliance by Italy with the 1991 VOC Protocol (ref. 3/01)

Background

16. In its decision 2003/3, the Executive Body requested the Committee to review Italy's progress and timetable for compliance with paragraph 2 (a) of article 2 of the VOC Protocol. The secretariat informed the Committee that it had sent a letter on 16 January 2004 to Italy's Minister of Foreign Affairs, drawing his attention to the decision. It had received a written submission by Italy on 1 April 2004 in response to the decision.

17. The Committee carefully considered the information provided and noted that, according to the provisional data for 2002, Italy appeared to have achieved compliance with its obligation to reduce emissions of VOC. While it was stated that the data for the base year (1990) and for the

years from 1999 to 2002 had been "updated on the basis of the most recent scientific knowledge and information available", the Committee was concerned that no indications had been given as to the basis on which these figures were arrived at. The Committee requested the secretariat to write again to Italy asking it to provide, by 30 June 2004, its final emission data, more details about the most recent scientific knowledge that was used as the basis for the recalculations, and an explanation of the difference between the figures submitted in the letter of 1 April 2004 for 1999-2001, as well as for the base year, and previously submitted official data in the records of the secretariat. If the final emission data showed Italy to be in a worse position than that shown by the provisional data, the secretariat was asked to remind Italy to provide, in time for the Committee's fourteenth meeting, a timetable as requested in decision 2003/3.

18. On 26 July 2004, the Committee received a written response from Italy. In it, Italy explained that the difference between the figures submitted in its letter of 1 April 2004, in the official data submitted on 7 May 2004 and in its previously submitted data resulted from the unintentional inclusion of certain non-anthropogenic emissions. In addition, Italy stated that it would provide more information at a later date about the most recent scientific knowledge that had been used as the basis for the recalculation of its emission data.

Consideration

19. The Committee was grateful to Italy for its communications. Having carefully considered the information provided, the Committee was pleased to see that the data seemed to establish that Italy was in 2002 in compliance with its obligation to reduce emissions under the VOC Protocol. However, it noted that there remained some unresolved questions concerning the consistency of the methodology that Italy had used for calculating its base year emission data and the rest of its emission data series and the way in which the recalculation was conducted in relation to different source categories. It requested the secretariat to write to Italy reminding it of the importance of providing this information as soon as possible and, in any event, no later than 31 March 2005. Moreover, the Committee noted that Italy said it would submit at a later stage more information about the most recent scientific knowledge that it had relied on as the basis for the recalculation of its emission data. For these reasons, the Committee concluded that it would not be appropriate to finalize its work on this submission until all such information had been received and considered.

4. Follow-up to decision 2003/5 on compliance by Greece with the 1988 NO_x Protocol (ref. 2/02)

Background

20. In its decision 2003/5, the Executive Body requested the Committee to review Greece's progress and timetable for compliance with paragraph 1 of article 2 of the NO_x Protocol. The secretariat informed the Committee that it had sent a letter on 16 January 2004 to Greece's

Minister of Foreign Affairs, drawing his attention to the decision. As the Committee received no response from Greece, at its thirteenth meeting it requested the secretariat to write further to Greece, stressing the importance that a full response to decision 2003/5 be forwarded no later than 30 June 2004. However, no such response was provided by Greece.

21. The secretariat provided the Committee with the latest NO_x emission data submitted by Greece. According to those data, Greece's emissions in 2002 were 318 kt. This figure was 12% above the 285 kt reported as its emissions for the base year, 1987.

Consideration

22. The Committee carefully considered the matter. It expressed disappointment that Greece had not submitted written responses in time for either its thirteenth or fourteenth meeting. It noted that Greece remained in non-compliance with its obligation under paragraph 1 of article 2 of the NO_x Protocol and had not responded to the request of the Executive Body in decision 2003/5. In particular, it had not presented any projections about the year by which it expected to be in compliance or listed any measures specifically targeted at reaching compliance with that obligation.

Recommendation to the Executive Body

23. Based on the above consideration, the Implementation Committee recommends to the Executive Body that it adopt the following decision:

The Executive Body,

Acting under paragraph 11 of the structure and functions of the Implementation Committee (Executive Body decision 1997/2, annex, as amended in 2001, ECE/EB.AIR/75, annex V),

- (a) Recalls its decisions 2002/6 and 2003/5;
- (b) Notes the report provided by the Implementation Committee, in particular its conclusion that Greece has remained in non-compliance with the emission reduction obligation of the 1988 NO_x Protocol since 1998;
- (c) Expresses its growing concern at the continuing failure of Greece to fulfil its obligation to take effective measures to control and/or reduce its annual emissions so that these do not exceed its emissions in 1987, as required by paragraph 1 of article 2 of the NO_x Protocol;
- (d) Notes the Implementation Committee's concern that Greece did not provide the information that the Executive Body, in its decision 2003/5, requested it to present;

(e) Expresses disappointment that Greece does not expect to achieve compliance with paragraph 1 of article 2 even by 2010 and that, moreover, it has not indicated a year by which it expects to achieve compliance;

(f) Continues to urge Greece to fulfil its obligation under paragraph 1 of article 2 of the NOx Protocol as soon as possible;

(g) Repeats its request to Greece to provide the Implementation Committee, through the secretariat, by 31 March 2005 with a report describing the progress it has made towards achieving compliance and setting out a timetable that specifies the year by which it expects to be in compliance, listings the specific measures taken or scheduled to fulfil its emission reduction obligation under the NOx Protocol and settings out the projected effects of each of these measures on its NOx emissions up to and including the year of compliance;

(h) Invites in addition an official from Greece with the relevant expertise to attend the fifteenth meeting of the Implementation Committee to give an oral presentation and respond to questions from the Committee;

(i) Requests the secretariat to communicate with the Permanent Mission of Greece to the United Nations in Geneva to discuss Greece's non-compliance and its failure to respond to Executive Body decision 2003/5, unless, by the Committee's fifteenth meeting, Greece has provided the information pursuant to paragraph (g) above or Greece has made the necessary arrangements to invite representatives of the secretariat and Implementation Committee to Greece to discuss these matters;

(j) Calls on Greece, unless it has provided the information pursuant to paragraph (g) above to the Implementation Committee by its sixteenth meeting, to make a presentation containing such information to the Executive Body at its twenty-third session;

(k) Requests the Implementation Committee to review Greece's progress and timetable, and report to it thereon at its twenty-third session.

5. Follow-up to decision 2003/6 on compliance by Ireland with the 1988 NOx Protocol (ref. 3/02)

Background

24. In its decision 2003/6, the Executive Body requested the Committee to review Ireland's progress and timetable for compliance with paragraph 1 of article 2 of the NOx Protocol. The secretariat informed the Committee that it had sent a letter on 16 January 2004 to Ireland's Minister of Foreign Affairs, drawing his attention to the decision. It had received a letter from Ireland on 31 March 2004 in response to the decision. After considering this reply, the Committee requested the secretariat to send a further letter to Ireland, requesting various clarifications. The

letter was sent on 16 June 2004. Ireland replied on 22 July 2004 stating that it was not in a position to make any formal submission with respect to paragraph 7 of Executive Body decision 2003/6.

Consideration

25. The Committee considered the information submitted by Ireland and in particular the provisional emission data presented in its two letters. It was grateful to Ireland for the additional information. It noted with concern, however, that Ireland had not fully complied with Executive Body decision 2003/6, and in particular its paragraph 7. Ireland stated that it was not in a position to describe the progress that it had made towards compliance. Nor did it set out a timetable specifying the year by which it expected to be in compliance, listing the specific measures taken or scheduled to fulfil its emission reduction obligations under the NO_x Protocol, and setting out the projected effects of each of these measures on its NO_x emissions up to and including the year of compliance. In addition, in its letter of 22 July 2004, Ireland did not provide a satisfactory explanation of the inconsistencies between the emission data contained in its letter to the Committee of 31 March 2004, in particular the adjustments for road traffic, and the official emission data that it had previously submitted to the secretariat. The Implementation Committee remained of the opinion that it was essential that Ireland provide the information requested in paragraph 7 of Executive Body decision 2003/6 and a clear explanation of the adjustments for road traffic that Ireland had made to its emission data.

Recommendation to the Executive Body

26. Based on the above consideration, the Implementation Committee recommends to the Executive Body that it adopt the following decision:

The Executive Body,

Acting under paragraph 11 of the structure and functions of the Implementation Committee (Executive Body decision 1997/2, annex, as amended in 2001, ECE/EB.AIR/75, annex V),

(a) Recalls its decisions 2002/7 and 2003/6;

(b) Notes the report provided by the Implementation Committee on Ireland's progress, based on the information it received from Ireland on 31 March and 22 July 2004 (EB.AIR/2004/6, paras. 24-25), and in particular its conclusion that Ireland remains in non-compliance with its emission reduction obligation under the 1988 NO_x Protocol;

(c) Remains concerned about the continuing failure by Ireland to fulfil its obligation to take effective measures to control and/or reduce its national annual emissions so that these do not exceed its emissions in 1987, as required by paragraph 1 of article 2 of the NOx Protocol;

(d) Notes the Implementation Committee's continuing concern that Ireland has not provided all the information that the Executive Body, in its decisions 2002/7 and 2003/6, requested it to present;

(e) Expresses disappointment that Ireland has not demonstrated that it will be able to shorten the period of nine years that it previously anticipated it would remain in non-compliance;

(f) Continues to urge Ireland to fulfil its obligation under paragraph 1 of article 2 of the NOx Protocol as soon as possible;

(g) Repeats its request to Ireland to provide the Implementation Committee, through the secretariat, as soon as possible, but no later than 31 March 2005, with a report describing the progress it has made towards compliance and setting out a timetable that specifies the year by which it expects to be in compliance, listing the specific measures taken or scheduled to fulfil its emission reduction obligations under the NOx Protocol and setting out the projected effects of each of these measures on its NOx emissions up to and including the year of compliance and to provide clear explanations on the emission data adjustments submitted in its letter of 31 March 2004 to the secretariat, as elaborated in its letter of 22 July 2004; and

(h) Requests the Implementation Committee to review Ireland's progress and timetable, and report to it thereon at its twenty-third session.

6. Follow-up to decision 2003/7 on compliance by Spain with the 1988 NOx Protocol (ref. 4/02)

Background

27. In its decision 2003/7, the Executive Body requested the Committee to review Spain's progress and timetable for compliance with paragraph 1 of article 2 of the NOx Protocol. The secretariat informed the Committee that it had sent a letter on 16 January 2004 to Spain's Minister of Foreign Affairs, drawing her attention to the decision. It had received on 1 April 2004 a letter from Spain indicating that it was providing a copy of its replies to the 2004 questionnaire on strategies and policies as information to be used by the Committee to review Spain's compliance.

Consideration

28. The Committee considered the letter from Spain but was of the opinion that Spain had not answered the request for information set out in decision 2003/7, paragraph 6, as read with

decision 2002/8, paragraph 5. It, therefore, requested the secretariat to write again to Spain, asking it to submit official written information according to the terms of decision 2003/7 as soon as possible and, in any event, no later than 30 June 2004. Furthermore, the Committee noted that it would be very helpful to its consideration of the matter if, in addition to the officially submitted written information, an official with the relevant expertise were able to attend its fourteenth meeting to give an oral presentation and respond to questions from the Committee.

29. No official written information according to the terms of decision 2003/7 was submitted by Spain, nor did an official from Spain attend the fourteenth meeting of the Implementation Committee. The Committee recalled that the same situation had arisen in 2003. Moreover, Spain had again not responded to the secretariat's follow-up letter. Despite repeated attempts, the secretariat had been unable to establish contact with the relevant authorities in Madrid.

30. The Implementation Committee noted again with concern that, according to the figures provided by Spain, Spain had been moving further away from compliance in recent years and that there was no indication when it would achieve compliance, even a decade after the obligation became effective.

31. The Committee noted that, since the requested information had not been received by 18 June 2004, Spain was expected under the terms of paragraph 6 of decision 2003/7 to make a presentation to the Executive Body at its twenty-second session, containing the information called for in that decision. It was of the opinion that if such a presentation was made, the Executive Body should forward the information provided to the Committee for review of Spain's progress and timetable at its fifteenth meeting. If the Committee was not satisfied by the information received, or if Spain chose not to make a presentation to the Executive Body at its twenty-second session, the secretariat should communicate with the Permanent Mission of Spain to the United Nations in Geneva to discuss Spain's non-compliance, including practical means through which an active and meaningful dialogue between the relevant Spanish authorities and the Implementation Committee with regard to Spain's non-compliance could be established. There should be appropriate representation from the Implementation Committee at the meeting. The Committee felt that in such case it would be both appropriate and convenient, in addition, to raise with the Permanent Mission Spain's non-compliance with the VOC Protocol (see paras. 33-37 below), notwithstanding the fact that that case was at a slightly earlier stage of the non-compliance procedure.

Recommendation to the Executive Body

32. Based on the above consideration, the Implementation Committee recommends to the Executive Body that it adopt the following decision:

The Executive Body,

Acting under paragraph 11 of the structure and functions of the Implementation Committee (Executive Body decision 1997/2, annex, as amended in 2001, ECE/EB.AIR/75, annex V),

- (a) Recalls its decisions 2002/8 and 2003/7;
- (b) Notes the report provided by the Implementation Committee (EB.AIR/2004/6, paras. 27-31) concerning Spain's compliance with the requirements of paragraph 1 of article 2 of the 1988 NO_x Protocol, and in particular the Committee's conclusion regarding the failure of Spain to comply with the emission reduction obligation of the Protocol;
- (c) Continues to be concerned by the failure by Spain to fulfil its obligation to take effective measures to control and/or reduce its national annual emissions so that these do not exceed its emissions in 1987, as required by paragraph 1 of article 2 of the NO_x Protocol;
- (d) Continues to urge Spain to fulfil its obligation under paragraph 1 of article 2 of the NO_x Protocol as soon as possible;
- (e) Notes with concern that Spain has not provided the Implementation Committee with the further information requested in paragraph 6 of decision 2003/7, as read with paragraph 5 of decision 2002/8;

Alternative 1 (if Spain makes a presentation to the Executive Body)

- (f) Welcomes the presentation made by Spain to it at its twenty-second session relating to information provided pursuant to paragraph 6 of decision 2003/7, as read with paragraph 5 of decision 2002/8;
- (g) Requests the Implementation Committee to review at its fifteenth meeting the information contained in the presentation in the context of assessing Spain's progress and timetable;
- (h) Requests the secretariat, in the event that the Implementation Committee indicates it is not satisfied with the information provided by Spain pursuant to paragraph 6 of decision 2003/7, as read with paragraph 5 of decision 2002/8, to communicate with the Permanent Mission of Spain to the United Nations in Geneva to discuss Spain's non-compliance;
- (i) Requests the Implementation Committee to report to the Executive Body at its twenty-third session and make further recommendations as appropriate.

Alternative 2 (if Spain does not make a presentation to the Executive Body)

(f) Notes with great concern that Spain has not provided it with the further information requested in paragraph 6 of decision 2003/7, as read with paragraph 5 of decision 2002/8;

(g) Requests the secretariat to communicate with the Permanent Mission of Spain to the United Nations in Geneva to discuss Spain's non-compliance and its failure to respond to the Executive Body decisions;

(h) Requests the Implementation Committee to review Spain's progress and to report to it at its twenty-third session thereon and in particular on the results of the discussion with the Permanent Mission of Spain, and make further recommendations as appropriate.

7. Follow-up to Executive Body decision 2003/8 on compliance by Spain with the 1991 VOC Protocol (ref. 6/02)

Background

33. In its decision 2003/8, the Executive Body requested the Committee to review Spain's progress and timetable for compliance with paragraph 2 (a) of article 2 of the VOC Protocol. The secretariat informed the Committee that it had sent a letter on 16 January 2004 to Spain's Minister of Foreign Affairs, informing her about the decision. The Committee received a communication from Spain dated 6 February in response to decision 2003/9 concerning compliance with reporting obligations in the form of responses to the questionnaire on strategies and policies for the 2004 compliance review.

34. The Committee was grateful to Spain for its communication and its replies to the 2004 questionnaire on strategies and policies, but it considered that these replies did not answer the request for information set out in decision 2003/8, paragraph 4. The Committee, therefore, requested the secretariat to write again to Spain, asking it to submit official written information according to the terms of decision 2003/8 as soon as possible and, in any event, no later than 30 June 2004. Furthermore, the Committee noted that it would be very helpful to its consideration of the matter if, in addition to the officially submitted written information, an official with the relevant expertise would be able to attend its fourteenth meeting to give an oral presentation and respond to questions from the Committee. However, no information was provided by Spain prior to or during the fourteenth meeting of the Implementation Committee.

35. The secretariat provided the Committee with the latest VOC emission data submitted by Spain. According to that data, Spain's emissions in 2002 were 1510 kt. This figure was at the same level as the emissions in its base year, 1988.

Consideration

36. The Committee carefully considered the information provided by Spain. It noted that Spain remained in non-compliance with its obligations under paragraph 2 (a) of article 2 of the VOC Protocol and that it had not responded to the request of the Executive Body in decision 2003/8. In particular, it had not presented any projections about the year by which it expected to be in compliance or listed measures specifically targeted at reaching compliance with its obligation under the VOC Protocol.

Recommendation to the Executive Body

37. Based on the above consideration, the Implementation Committee recommends to the Executive Body that it adopt the following decision:

The Executive Body,

Acting under paragraph 11 of the structure and functions of the Implementation Committee (Executive Body decision 1997/2, annex, as amended in 2001, ECE/EB.AIR/75, annex V),

- (a) Recalls its decision 2003/8;
- (b) Notes the report provided by the Implementation Committee on Spain's progress, and in particular its conclusion that Spain has remained since 1999 in non-compliance with the emission reduction obligation under paragraph 2 (a) of article 2 of the 1991 VOC Protocol;
- (c) Remains concerned about the continuing failure of Spain to fulfil its obligation to take effective measures to reduce its national annual emissions by at least 30% using 1988 as its base year, as required by paragraph 2 (a) of article 2 of the VOC Protocol;
- (d) Notes the Implementation Committee's concern that Spain has not provided all the information that the Executive Body, in its decision 2003/8, requested it to present;
- (e) Expresses disappointment that Spain has not indicated a year by which it expects to achieve compliance;
- (f) Urges Spain to fulfil its obligation under paragraph 2 (a) of article 2 of the VOC Protocol as soon as possible;
- (g) Repeats its request to Spain to provide the Implementation Committee, through the secretariat, by 31 March 2005 with a report describing the progress it has made towards achieving compliance and setting out a timetable that specifies the year by which it expects to be in compliance, listing the specific measures taken or scheduled to fulfil its emission reduction

obligation under the VOC Protocol, and setting out the projected effects of each of these measures on its VOC emissions up to and including the year of compliance;

(h) Invites in addition an official from Spain with the relevant expertise to attend the fifteenth meeting of the Implementation Committee to give an oral presentation and respond to questions from the Committee;

(i) Calls on Spain, unless it has provided the information pursuant to paragraph (g) above to the Implementation Committee by its sixteenth meeting, to make a presentation containing such information to the Executive Body at its twenty-third session;

(j) Requests the Implementation Committee to review Spain's progress and timetable, and report to it thereon at its twenty-third session.

B. Referral by the secretariat concerning compliance by Luxembourg with the 1991 VOC Protocol (ref. 5/02)

Background

38. At its tenth meeting the Committee took note of the referral by the secretariat concerning Luxembourg's compliance with paragraph 2 (a) of article 2 of the VOC Protocol (EB.AIR/2002/2, para. 45). On 22 April 2003, Luxembourg responded in writing to the secretariat's referral. In addition, Mr. Frank Thewes, on behalf of Luxembourg, attended part of the eleventh meeting of the Committee. He informed the Committee about the situation in his country, and explained the results of recent emission recalculations by his authorities. He concluded that the secretariat's referral had been based on the data available at that time. These had thereafter been updated, and the required 30% reduction had, in fact, been achieved since 1999 (EB.AIR/2003/1, paras. 46-50).

39. At its eleventh meeting, the Committee had requested the secretariat to write to Luxembourg and ask for additional data to be submitted by 31 July 2003 (EB.AIR/2003/1, para. 52). Luxembourg responded with a letter dated 28 July 2003. The Committee considered the additional information at its twelfth meeting. It concluded that the updated data presented by Luxembourg indicated that it had never been in non-compliance with its obligation to take effective measures to reduce its national annual emissions by at least 30% using 1990 as its base year, as required by paragraph 2 (a) of article 2 of the VOC Protocol. In 1999 and the two subsequent years for which data were available, it had measures in place enabling it to be in full compliance. However, the Committee was still unclear about one matter. There remained uncertainty as to whether the data for the base year (1990) had been calculated on the same basis as its emission data for 1999 to 2001 had been calculated. It decided, therefore, not to finalize its work on the referral with regard to Luxembourg until this uncertainty had been clarified.

40. Luxembourg wrote to the secretariat on 8 April 2004 stating that the criteria relied on for measuring Luxembourg's emission data for the base year 1990 were the same as those used for establishing the data of 1999, 2000 and 2001.

Consideration

41. The Committee was grateful for Luxembourg's letter of 8 April. It considered its contents carefully and concluded that Luxembourg's emission inventory series for 1999 to 2001 were consistent and comparable with those for 1990 and that, as a result, there was no reason for it to continue to review compliance by Luxembourg with its obligation under paragraph 2 (a) of article 2 of the VOC Protocol as initiated by the secretariat's submission in 2002.

Recommendation to the Executive Body

42. Based on the above consideration, the Implementation Committee recommends to the Executive Body that it adopt the following decision:

The Executive Body,

Acting under paragraph 11 of the structure and functions of the Implementation Committee (Executive Body decision 1997/2, annex, as amended in 2001, ECE/EB.AIR/75, annex V),

(a) Notes the report provided by the Implementation Committee (EB.AIR/2004/6, paras. 38-41) concerning Luxembourg's compliance with paragraph 2 (a) of article 2 of the 1991 VOC Protocol, and in particular the Committee's conclusion that it was apparent from the updated data provided by Luxembourg that it was at all times in 1999, 2000 and 2001 in compliance with its obligation under paragraph 2 (a) of article 2 of the Protocol;

(b) Decides that there is no reason for the Implementation Committee to continue to review Luxembourg's compliance with its obligation under paragraph 2 (a) of article 2 of the VOC Protocol as initiated by the secretariat's referral in 2002.

Note

Chapters II to VII are contained in EB.AIR/2004/6/Add.1.