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ECONOMIC COMMISSION FOR EUROPE

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

Twenty-fourth session
Geneva, 11–14 December 2006
Item 6 of the provisional agenda

THE NINTH REPORT OF THE IMPLEMENTATION COMMITTEE

Addendum

**III. IN-DEPTH REVIEW OF COMPLIANCE BY PARTIES WITH THE
PROTOCOL ON HEAVY METALS**

1. As requested by the Executive Body in its workplan (item 1.2) (<http://www.unece.org/env/lrtap/Workplan%202006.htm>), the Implementation Committee has continued and completed its in-depth review of compliance by the Parties with the 1998 Protocol on Heavy Metals, including their national emission obligations. For this purpose, it used as a basis the emission data reported by Parties to EMEP in the 2006 reporting round (<http://webdab.emep.int/>) and the responses to the questionnaire for the 2006 Review on Strategies and Policies. The Committee limited its review to the obligations it had identified for priority review (EB.AIR/2005/3/Add.2, Chap. IV, para. 36). In addition, the Committee noted that the obligations under article 3.2(c–d) would not enter into force until 2011 and therefore were not subject to this review. The reporting obligations of Parties under article 7 are dealt with separately in Chapter II of this report.

2. At its eighteenth meeting, the Committee carefully considered the information available. In conducting its work, the Committee was mindful of the fact that the purpose of its in-depth reviews was to assess the general “state of health” of the Protocol in question rather than to determine whether particular Parties were or were not in compliance with their obligations. It acknowledged the large amount of work carried out by the secretariat and various members of the Committee to prepare the necessary documentation for its review.

3. In considering sections A–F below, it should be borne in mind that nine of the Parties to the Protocol to which the reporting obligation in question applies (Bulgaria, France, Latvia, Liechtenstein, Luxembourg, Monaco, the Republic of Moldova, Romania and the European Community) did not reply to any of the relevant questions of the questionnaire. One Party to which this reporting obligation applies (Lithuania) replied to only one of these questions. Due to these countries’ failure to report under article 7.1(b), the Committee was unable to review whether or not they had complied with their obligations.

A. Compliance with article 3.1

4. Article 3.1 requires Parties to reduce their total annual emissions of each of the heavy metals listed in annex I of the Protocol from the level of emissions in the reference year set in accordance with that annex by taking effective measures appropriate to their particular circumstances.

5. The Committee concluded that officially submitted emission data showed that 20 of the 28 Parties to the 1998 Protocol on Heavy Metals had met their emission reduction obligations for all three heavy metals listed in annex I in 2004: Austria, Belgium, Bulgaria, Canada, the Czech Republic, Denmark, Estonia, Finland, France, Hungary, Latvia, Monaco, the Netherlands, Norway, the Republic of Moldova, Slovakia, Slovenia, Sweden, Switzerland and the United Kingdom. This was true even though the Protocol had entered into force for Belgium, Hungary, Latvia and the United Kingdom only in 2005, and for Estonia in 2006.

6. The Committee concluded that the following Parties had increased their emissions of at least one of the heavy metals listed in annex I of the Protocol and therefore were not in compliance with their obligation under article 3.1: Cyprus (cadmium and mercury) and Germany (cadmium). Lithuania had increased its emissions of one of the heavy metals listed in annex I (mercury) in 2003 and 2004; however, the Protocol had entered into force for Lithuania only in 2005.

7. The following four Parties did not submit complete emission data for the three heavy metals listed in annex I, and the Committee was not in a position to assess their compliance with

the obligation under this article: Liechtenstein, Luxembourg, Romania and the European Community. Compliance by the United States could not be assessed either. As a Party outside the geographic scope of EMEP, the United States is under no obligation to report emission data to EMEP using, as a minimum, the methodologies and the temporal and spatial resolution specified by the Steering Body of EMEP. According to article 7.1(b), Parties outside the geographic scope of EMEP are required to make similar information available to the Executive Body if requested to do so. However, the Executive Body has made no such formal request.

B. Compliance with article 3.2(a)

8. According to article 3.2(a) each Party shall, no later than the timescales specified in annex IV, apply the best available techniques, taking into consideration annex III, to each new stationary source within a major stationary source category (as defined in article 1.10–11) for which annex III identifies best available techniques. The timescale defined in annex IV is two years after the date of entry into force of the Protocol (29 December 2003).

9. The Committee concluded from the responses to the 2006 questionnaire on strategies and policies, and in particular the responses to question 33, that 12 of the 28 Parties appeared to be in compliance with this obligation: Austria, Canada, the Czech Republic, Finland, Germany, the Netherlands, Slovakia, Slovenia, Sweden, Switzerland, the United Kingdom and the United States. The obligation had not yet entered into force for Estonia.

10. Ten of the Parties to which the obligation applies (Bulgaria, France, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, the Republic of Moldova, Romania and the European Community) did not respond. Due to their failure to comply with their reporting obligation under article 7.1(a), the Committee was unable to evaluate whether they had complied with their obligation under article 3.2(a).

11. The Committee found that the following five Parties had submitted replies which were either incomplete or less relevant, and therefore it was unable to determine their compliance with the obligation under article 3.2(a): Belgium, Cyprus, Denmark, Hungary and Norway.

C. Compliance with article 3.2(b)

12. Article 3.2(b) requires Parties, no later than the timescales specified in annex IV, to apply the limit values specified in annex V to each new stationary source within a major stationary source category. Parties may, as an alternative, apply different emission reduction strategies that achieve equivalent overall emission levels. The timescale specified in annex IV is two years after the date of entry into force of the Protocol.

13. The Committee concluded from the responses to the 2006 questionnaire on strategies and policies, and in particular the responses to question 34, that five of the 28 Parties appeared to be in compliance with this obligation: Austria, the Czech Republic, Finland, Germany and Sweden. The obligation had not yet entered into force for Estonia. In accordance with article 3.7, Canada is exempt from this obligation, as it has demonstrated a 50 per cent reduction in emissions of each of the three heavy metals listed in annex I. Five other Parties (Belgium, Slovakia, Slovenia, Switzerland and the United States) appeared not to have complied with the obligation to apply the limit values specified in annex V of the Protocol and did not demonstrate that they had applied different emission reduction strategies that achieved equivalent overall emission levels.

14. Ten of the Parties to which the obligation applies (Bulgaria, France, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, the Republic of Moldova, Romania and the European Community) did not respond. Due to their failure to comply with their reporting obligation under article 7.1(a), the Committee was unable to evaluate whether they had complied with their obligation under article 3.2(b).

15. Six Parties had submitted replies which were either incomplete or less relevant, and therefore the Committee was unable to determine their compliance with the obligation under article 3.2(b): Cyprus, Denmark, Hungary, the Netherlands, Norway and the United Kingdom.

D. Compliance with article 3.3

16. Article 3.3 requires Parties to apply product control measures in accordance with the conditions and timescales specified in annex VI. Annex VI, paragraph 1, requires that, no later than six months after the date of entry into force of the Protocol, the lead content of marketed petrol intended for on-road vehicles not exceed 0.013 g/l. Parties are permitted to market small quantities (up to 0.5 per cent of their total petrol sales) of leaded petrol with a lead content not exceeding 0.15 g/l to be used by old on-road vehicles. The annex also provides for the application of measures for the mercury content in batteries no later than five years after the entry into force of the Protocol. The Committee reviewed compliance with the obligation for the lead content of marketed petrol.

17. The Committee concluded from the responses to the 2006 questionnaire on strategies and policies, and in particular the responses to question 35, that 17 of the 28 Parties appeared to be in compliance with this obligation: Austria, Belgium, Canada, Cyprus, the Czech Republic, Denmark, Finland, Germany, Hungary, Lithuania, the Netherlands, Norway, Slovenia, Sweden, Switzerland, the United Kingdom and the United States. The obligation had not yet entered into force for Estonia.

18. Nine of the Parties to which the obligation applies (Bulgaria, France, Latvia, Liechtenstein, Luxembourg, Monaco, the Republic of Moldova, Romania and the European Community) did not respond. Due to their failure to comply with their reporting obligation under article 7.1(a), the Committee was unable to evaluate whether they had complied with their obligation under article 3.3.

19. One Party (Slovakia) had submitted a reply which was incomplete, and therefore the Committee was unable to determine the Party's compliance with the obligation under article 3.3.

E. Compliance with article 3.5

20. Article 3.5 requires Parties to develop and maintain emission inventories for the heavy metals listed in annex I. Parties within the geographical scope of EMEP must use, as a minimum, the methodology and the spatial and temporal resolution specified by the Steering Body of EMEP, and Parties outside the geographical scope of EMEP must use as guidance the methodologies developed through the workplan of the Executive Body.

21. The Committee concluded, from the officially submitted emission data in 2006, that 22 of the 26 Parties within the geographic scope of EMEP had submitted complete emission data for the reference year, 2003 and 2004 for the heavy metals listed in annex I. One of the two Parties outside the geographic scope of EMEP had also provided emission data on the three heavy metals.

22. In the absence of complete emission data, the Committee was unable to evaluate whether four Parties within the geographic scope of EMEP (Liechtenstein, Luxembourg, Romania and the European Community) and one Party outside the geographic scope of EMEP (the United States) had complied with their obligation under article 3.5.

F. Compliance with article 5.1

23. Article 5.1 requires Parties to develop, without undue delay, strategies, policies and programmes to discharge their obligations under the Protocol.

24. The Committee concluded from the responses to the 2006 questionnaire on strategies and policies, and in particular the responses to question 31, that 17 of the 28 Parties were in compliance with this obligation: Austria, Belgium, Canada, Cyprus, the Czech Republic, Denmark, Finland, Germany, Hungary, the Netherlands, Norway, Slovakia, Slovenia, Sweden, Switzerland, the United Kingdom and the United States. The obligation had not yet entered into force for Estonia.

25. Ten Parties (Bulgaria, France, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, the Republic of Moldova, Romania and the European Community) did not respond. Due to their failure to comply with their reporting obligation under article 7.1(a), the Committee was unable to evaluate whether they had complied with their obligation under article 5.1.

G. Conclusion

26. Most Parties that reported appeared to be in compliance with the obligations reviewed, although this was less distinct for the obligation under article 3.2(b). In a number of cases, however, because no information or only partial information had been submitted, it was not possible for the Committee to assess the extent of compliance. The Committee was also mindful of the fact that the Protocol had only recently entered into force.

27. With respect to the Executive Body request to consider the results of the questionnaire (ECE/EB.AIR/87, para. 70 (f)), the Committee agreed, on the basis of the replies to the section related to the Protocol on Heavy Metals, that some questions could be further clarified in order to allow Parties to give more precise answers.

IV. IN-DEPTH REVIEW OF COMPLIANCE BY PARTIES WITH THE GOTHENBURG PROTOCOL

28. At its twenty-third session, the Executive Body requested the Committee to conduct, over the period 2006–2007, an in-depth review of compliance by Parties with their obligations under the Gothenburg Protocol. To this end, the secretariat provided the Committee with a draft table summarizing, in two categories, the obligations of the Parties to the Protocol: (i) obligations for priority review and (ii) other obligations. The table also listed those provisions of the Protocol that were associated with each obligation, as well as the information sources on which the review would be based.

29. The Committee reviewed the table and, subject to deleting the obligations in category (ii), agreed that it would proceed in 2007 with an assessment of compliance by the Parties with the following obligations in category (i) and report its conclusions to the Executive Body at its twenty-fifth session in 2007 as instructed: article 3.1, achievement of emission ceilings; article 3.2, application of limit values to new major stationary sources; article 3.3, application of limit values to existing stationary sources; article 3.5, application of limit values for fuels and new mobile sources; article 3.8(a), application of measures to control ammonia emissions; article 6.2, collection of information; article 7.1(a), reporting on measures for implementation; and article 7.1(b), reporting on emissions.

V. COOPERATION WITH OTHER BODIES UNDER AND OUTSIDE THE CONVENTION

30. In 2005, the Committee asked the secretariat to keep it informed of further developments in relation to improving the quality of the emission data reported by Parties. Accordingly, the secretariat provided information on the work of the EMEP Steering Body and its Task Force on Emission Inventories and Projections to develop an inventory review and improvement programme and the revision of the Emission Reporting Guidelines, including the specific issues identified by the Task Force on Emission Inventories and projections at its sixteenth meeting in June 2006. The Committee agreed to the need for information about data quality in assessing compliance of Parties with their obligations in the future. It stressed, however, that, to assess this effectively, it needed appropriate information on the quality of the data submitted by individual Parties, in a summary format, prepared by emission experts and presented to it well in advance of its second meeting in the year. The Committee pointed out that it would only to a very limited extent be in a position to assess the quality of the data. Such assessment would need to be done by emission experts, and the results would have to be contained in the documents submitted to the Committee by the secretariat. The secretariat suggested that such information might be drawn from the stage 2 inventory review. The Committee also noted that it could only take into account data quality where underlying legal obligations existed.

31. The Committee thanked the secretariat for its report. It stressed the need for high-quality data if its own work was to be carried out effectively. It noted the importance of the activities aimed at improving the quality of emission data, insofar as it related to the conduct of its functions. It invited the secretariat to continue to keep it informed of developments in this area of work.

VI. OTHER BUSINESS

32. The Committee discussed the opportunity to invite a representative of the European Commission with a view to gaining insight into the role played by the European Commission in compliance matters in general. Some members expressed the view that it would be useful to hear such a presentation by an EC representative, while other members disagreed. The Committee could not reach a conclusion at this point.

33. The Committee requested the secretariat to further develop the Convention's website to facilitate access to the Committee's reports and the decisions taken by the Executive Body on individual cases of compliance considered since the establishment of the Committee in 1997. The Committee was grateful to the secretariat for the work already undertaken.

VII. FURTHER WORK

34. The Implementation Committee considered and approved its draft workplan for 2007 (see annex) and agreed to submit it to the forthcoming session of the Executive Body.

35. It tentatively scheduled its nineteenth meeting for 16–18 April 2007 and its twentieth meeting for 23–25 July 2007. Both meetings would be held in Geneva unless the Committee received invitations to hold its meetings at another location.

Annex

Draft workplan for 2006

1.2 COMPLIANCE REVIEW

Description/objectives: Review of compliance by the Parties with their obligations under the Protocols to the Convention.

Main activities and time schedule: Any submission or referral made under paragraph 3 (b) of the Committee's functions will be dealt with as a priority, and the Committee may have to adjust its workplan and time schedule accordingly. In this regard, the Committee will continue to review the progress made by the Parties in response to decisions taken by the Executive Body based upon the Committee's recommendations, as well as the need for possible additional measures for dealing with non-compliance on a case-by-case basis. The Implementation Committee will also evaluate the reporting by the Parties on their emissions data and their strategies and policies, including the reporting on technology-related obligations. It will continue and complete its in-depth review of compliance by the Parties with the 1999 Gothenburg Protocol. The Committee will continue its dialogue with appropriate bodies and experts. It will also continue to consider, as appropriate, compliance issues related to obligations in the protocols that are not subject to specific reporting requirements, such as provisions dealing with research and monitoring. Furthermore:

- (a) The nineteenth meeting of the Implementation Committee will tentatively be held in Geneva on 16–18 April 2007;
- (b) The twentieth meeting of the Implementation Committee will tentatively be held in Geneva on 23–25 July 2007;
- (c) The tenth report by the Implementation Committee will be submitted to the Executive Body at its twenty-fifth session.