

Decision 2012/25

On improving the functioning of the Implementation Committee

The Executive Body,

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

1. *Recalling* its decision 2006/2 on the Implementation Committee, its structure and functions and procedures for review, its decision 1997/2 establishing the Implementation Committee for the review of compliance by the Parties with their obligations under the protocols to the Convention and its decision 1998/3 on procedures for amending decisions pertaining to the Implementation Committee;

2. *Recalling* its request to the Implementation Committee in its decision 2011/4 to identify and evaluate systemic and other barriers to achieving compliance;

3. *Requests* the Implementation Committee to develop an information paper on compliance to inform technical bodies under the Convention about the importance of compliance/implementation to the good functioning of the Convention, in accordance with the Long-term Strategy;

4. *Further requests* the Chair of the Implementation Committee to disseminate the information paper to the chairs of other bodies under the Convention to ensure that they are each aware of the role they play in terms of compliance/implementation;

5. *Decides* that the work programme of each technical body should always include an item to ensure that the Committee can receive support from these bodies where needed;

6. *Further decides* that the Chair of the Implementation Committee should be consulted on the development of capacity-building workshops to ensure that cross-cutting issues of importance to a number of Parties can be covered in a way that enhances compliance;

7. *Requests* the secretariat to create within the “members area” of the Implementation Committee website a space to store reference documents related to the work of the Committee;

8. *Decides* that this decision supersedes decision 2006/2, and that the structure and functions of the Implementation Committee and the procedures for review of compliance referred to in decision 1997/2 shall be those set out in the annex to this decision;

9. *Further decides* that the rule that all members of the Committee shall be Party to at least one of the following protocols to the Convention — the Protocol on Heavy Metals, the Protocol on Persistent Organic Pollutants or the Protocol to Abate Acidification, Eutrophication and Ground-level Ozone — shall become effective on 1 January 2017.

Annex
Implementation Committee, its structure and functions and procedures for review

I. Structure

1. The Implementation Committee shall consist of nine Parties to the Convention. Each member of the Committee shall be Party to at least one of the following protocols to the Convention: the Protocol on Heavy Metals; the Protocol on Persistent Organic Pollutants; or the Protocol to Abate Acidification, Eutrophication and Ground-Level Ozone. The Executive Body shall elect members for terms of two years, with due regard to balanced and equitable geographical representation and a mixture of technical and legal expertise. Outgoing members may be re-elected for one consecutive term, unless in a given case the Executive Body decides otherwise. The Executive Body shall elect a Chair of the Implementation Committee from among the members for a term of two years, renewable once, unless the Executive Body decides otherwise. Election as Chair shall, where necessary, extend the normal term of that member by one year.

II. Meetings

2. The Committee shall, unless it decides otherwise, meet twice a year.

III. Role of the secretariat

2 bis. The secretariat shall arrange for and service the Committee's meetings. This shall include:

(a) Preparation of a draft agenda for each meeting in conjunction with the Chair of the Committee and circulation of that draft agenda to the members of the Committee at least four weeks before each meeting;

(b) Preparation of the documentation for the meeting, including:

(i) An overview report to the Committee on reporting obligations, along with explanatory notes for the Committee's consideration;

(ii) A compilation of emission data for all Parties to the Convention and its Protocols from the base year to the most recent reporting year;

(iii) Compilation of all communication with and information received from Parties whose compliance is under consideration or to be considered by the Committee;

(iv) Distribution by electronic means of that documentation to the members of the Committee at least two weeks before each meeting;

(c) Assisting the Committee to draft its reports and draft letters to Parties whose compliance has been considered by the Committee, submitting the report to the members of the Committee within two weeks of each Committee meeting for approval and promptly transmitting the letters to the Parties concerned and copying them to the Committee for information;

- (d) Ensuring the Committee has access to all relevant information for its work, including:
 - (i) Facilitating electronic access to reported data on emissions and strategies and policies;
 - (ii) Placing all information relevant to the Committee's work on the Committee members' area of the United Nations Economic Commission for Europe website when distributed to the members;
- (e) Such other functions as may be necessary to facilitate the Committee's meetings and work.

IV. Functions of the Committee

- 3. The Committee shall:
 - (a) Review periodically compliance by the Parties with the reporting requirements of the protocols to the Convention;
 - (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;
 - (c bis) Consider, as necessary, systemic issues relating to compliance that have been identified in the course of its work under sub-paragraphs (a) and (b) above and make recommendations to the Executive Body accordingly; 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), (c) and (c bis) above, a report on compliance with or implementation of specified obligations in an individual protocol.

V. 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;
 - (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.

VI. Referrals by the secretariat

5. Where the secretariat, in particular upon reviewing the reports submitted in accordance with a protocol's reporting requirements or on receipt of information from a technical body or centre under the Convention, becomes aware of possible non-compliance by a Party with any of its obligations, it shall promptly 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.

VII. Identification of possible referrals by the Committee

5 bis. Where the Committee, in its consideration of the information referred to in paragraph 2 bis above, becomes aware of possible non-compliance by a Party with any of its obligations that has not been identified by the secretariat, it may inform the secretariat. The secretariat shall forthwith, on the basis of that information, initiate contact with the Party concerned following the process referred to in paragraph 5 above.

VIII. Information gathering

6. To assist the performance of its functions under paragraph 3 above, the Committee may:

- (a) Request, through the secretariat, further information on matters under its consideration;
- (b) Undertake, at the invitation of the Party concerned, information gathering in the territory of that Party;
- (c) Consider any information forwarded by the secretariat concerning compliance with the protocols;
- (d) Consider any other relevant information available under the Convention and from technical or other bodies under the Convention;
- (e) Liaise with any technical body under the Convention to seek assistance or information.

7. The Committee shall ensure the confidentiality of any information that has been provided to it in confidence.

IX. 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.

X. 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 10 weeks in advance of the session of the Executive Body at which it is to be considered.

XI. 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 four members or less, the Committee shall forthwith refer the matter in question to the Executive Body.

XII. 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.

XIII. 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.
