

**[DRAFT] SYNTHESIS REPORT ON THE ACTIVITIES  
OF THE IMPLEMENTATION COMMITTEE**

Submitted by the Implementation Committee

[DRAFT MADE AVAILABLE TO WORKING GROUP ON EIA, 21-23 NOVEMBER 2007]

*Summary*

The present report responds to the requirement in the workplan adopted at the third meeting of the Parties, appended to decision III/9, that the Implementation Committee report on its activities to the fourth meeting of the Parties. This requirement echoed paragraph 11 of the description of the structure and functions of the Implementation Committee and procedures for the review of compliance, appended to decision III/2 (hereinafter referred to as the structure and functions). The Committee's recommendations to the Meeting of the Parties, presented in this report, were adopted unanimously.

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## I. INTRODUCTION

### A. Membership and meetings of the Implementation Committee

1. The members of the Committee and the Parties they represented were:
  - (a) Armenia (Ms. Margarita Korkhmazyan);
  - (b) Croatia (Mr. Nenad Mikulic, replaced by Ms. Vesna Montan at the twelfth meeting);
  - (c) Finland (Ms. Seija Rantakallio);
  - (d) Germany (Mr. Matthias Sauer);
  - (e) Kyrgyzstan (Ms. Gulfiya Shabaeva, replaced by Ms. Tatiana Filkova at the twelfth meeting and by Mr. Kubanychbek Noruzbaev at the thirteenth [and fourteenth] meetings);
  - (f) Poland (Mr. Jerzy Jendroska);
  - (g) Slovakia (Mr. Tomáš Černoš);
  - (h) The Former Yugoslav Republic of Macedonia (Ms. Menka Spirovska, until and including the eleventh meeting).
2. The third meeting of the Parties appointed Ms. Rantakallio as Chair of the Committee. The Committee nominated Ms. Spirovska as its Vice-Chair.
3. The Committee met [nine] times in the period between the third and fourth meetings of the Parties:
  - (a) Sixth meeting from 3 to 5 November 2004 in Geneva (MP.EIA/WG.1/2005/3);
  - (b) Seventh meeting on 3 and 4 March 2005 in Helsinki (MP.EIA/WG.1/2005/4);
  - (c) Eighth meeting on 14 and 15 November 2005 in Geneva (ECE/MP.EIA/WG.1/2006/3);
  - (d) Ninth meeting from 6 to 8 February 2006 in Geneva (ECE/MP.EIA/WG.1/2006/4);
  - (e) Tenth meeting on 9 and 10 October 2006 in Berlin (ECE/MP.EIA/WG.1/2007/3);
  - (f) Eleventh meeting on 13 and 14 February 2007 in Skopje (ECE/MP.EIA/WG.1/2007/4);
  - (g) Twelfth meeting from 26 to 28 June 2007 in Geneva (ECE/MP.EIA/WG.1/2007/9);

(h) Thirteenth meeting from 30 October to 1 November 2007 Geneva (ECE/MP.EIA/WG.1/2007/11);

(i) [Fourteenth meeting from 15 to 17 January 2008 Geneva (ECE/MP.EIA/WG.1/[2008/...])].

4. Both the workplan (appended to decision III/9) and budget (appended to decision III/10) specified that the Committee should meet six times in the period between the third and fourth meetings of the Parties. The Committee agreed to meet on [three] further occasions, taking into account the postponement of the fourth meetings of the Parties from 2007 to 2008 and the need to consider a submission by Romania, and having secured funding from Parties represented by members of the Committee.

5. Reports of the Committee's meetings were made available to the Working Group on Environmental Impact Assessment (EIA) and are referenced in this report.

#### **B. Activities assigned to the Implementation Committee**

6. In the workplan appended to decision III/9 on the adoption of the workplan up to the fourth meeting of the Parties, the Meeting of the Parties assigned to the Implementation Committee certain items of an activity on compliance with and implementation of the Convention. The workplan specified the following method of work, reflected in the structure of the present report:

(a) Consideration by the Committee of received compliance submissions (see Part II);

(b) Examination of the Committee's structure and functions (see Part IV);

(c) Report on the Committee's activities to the fourth meeting of the Parties (the present report);

(d) Examination of the outcome of the first review of implementation (see Part V);

(e) Preparation of a revised and simplified questionnaire (see Part VI).

7. The Committee undertook the items above with the support of the secretariat. Additionally, the workplan included the following that were assigned to the secretariat but progress was followed by the Committee:

(a) Distribution of the questionnaire to the Parties to the Convention for them to complete and return (see Part VI);

(b) Preparation of a draft review of implementation (see Part VI).

8. Besides these requirements in the workplan, the Committee addressed the following issues, among others, as reported below:

(a) Committee initiative (further to para. 6 of the Committee's structure and functions)

- (b) Encouraging Parties to bring issues concerning their own compliance before the Committee (further to para. 1 of decision III/2);
- (c) Public involvement in the activities of the Committee (further to para. 5 of decision III/2);
- (d) Criteria for dealing with information other than submissions by Parties (further to para. 7 of decision III/2);
- (e) Membership of the Committee when considering matters related to the Protocol on Strategic Environmental Assessment (further to para. 7 of decision III/2);
- (f) Addressing compliance issues in the intersessional period;
- (g) Operating rules;
- (h) Other multilateral environmental agreements providing for transboundary EIA.

9. Item (a) above is covered in Part III below. Items (b) to (g) above are addressed in Part IV below on the examination of the Committee's structure and functions. Item (h) above is addressed in Part VII below.

10. In addition, the Committee contributed to draft decisions proposed for adoption at the fourth meeting of the Parties to the Convention:

- (a) On adoption of the workplan (ECE/MP.EIA/WG.1/2007/3, para. 29) ;
- (b) On the review of compliance, to which the present report is appended (ECE/MP.EIA/WG.1/2007/3, para. 28, and ECE/MP.EIA/WG.1/2007/4, para. 19);
- (c) On the review of implementation (ECE/MP.EIA/WG.1/2007/3, para. 27, and ECE/MP.EIA/WG.1/2007/4, para. 20).

## II. SUBMISSIONS BY PARTIES

11. Paragraph 5 of the Committee's structure and functions provides for submissions by Parties.

12. Romania made a submission to the Committee regarding the compliance of Ukraine with its obligations under the Convention with respect to the Danube-Black Sea Deep-Water Navigation Canal in the Ukrainian Sector of the Danube Delta (the 'Bystroe Canal Project'). This is the subject of [Appendix 3 to this decision IV/2].<sup>1</sup> Regarding the inquiry procedure, and in light of the submission by Romania, **the Committee recommended that all Parties immediately notify other concerned Parties following a positive conclusion of an inquiry commission.**

13. There were no submissions by Parties regarding their own compliance.

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<sup>1</sup> Appendix 3 is not yet available as this matter is still being considered by the Committee.

### III. COMMITTEE INITIATIVE

14. Paragraph 6 of the Committee's structure and functions provides for a Committee initiative. On the basis of the previous review of implementation (Part V below), the Committee considered supporting the strengthening of Armenia's capacities to comply with its obligations under the Convention. This is the subject of [Appendix 4 to this decision IV/2].<sup>2</sup>

### IV. EXAMINATION OF THE COMMITTEE'S STRUCTURE AND FUNCTIONS

15. In paragraph 5 of decision III/2 on the review of compliance, the Meeting of the Parties decided "to keep under review and develop if necessary the structure and functions of the Committee at the fourth meeting of the Parties in the light of experience gained by the Committee in the interim, including with public involvement, and in this context [requested] the Committee to prepare any necessary proposals for the fourth meeting of the Parties". In addition, in paragraph 7 of the same decision, the Meeting of the Parties requested "the Committee to consider developing criteria for dealing with information other than submissions from Parties and proposals on membership of the Committee when considering matters under the Protocol" on Strategic Environmental Assessment (SEA). The issues raised in these two decisions, together with other procedural issues identified by the Committee (see para. [8] above), are addressed in this Part of the report.

#### A. Encouraging Parties to bring issues concerning their own compliance before the Committee

16. The Committee noted that in paragraph 1 of decision III/2, the Meeting of the Parties encouraged 'Parties to bring issues concerning their own compliance before the Committee'. The Committee understood that the Meeting of the Parties wished to encourage Parties to seek assistance with their implementation of and compliance with the Convention through the Committee's function provided in paragraph 5(b) of the description of its structure and functions.

17. The Committee noted that Parties might prefer to make such a submission rather than be the subject of a submission by another Party or of a Committee initiative. In addition, such a submission might be a channel for receiving expert help. The Committee identified other remedial measures that might be offered (ECE/MP.EIA/WG.1/2006/3, para. 29).

18. Further, the Committee considered that, by changing paragraph 5(b) of the description of its structure and functions, the Meeting of the Parties might be able to encourage Parties to make submissions regarding their own compliance with their obligations under the Convention. There should be a clear inducement to Parties to make such submissions. **The Committee concluded that it would therefore wish to come back to this matter in the light of any experience** with the activity on country-specific performance reviews that it proposed be included in the draft decision on the adoption of the workplan (ECE/MP.EIA/WG.1/2007/4, para. 17).

#### B. Public involvement

19. In discussing public involvement in its work, the Committee took into consideration the discussion on public participation included in the report of its third meeting (MP.EIA/WG.1/2003/8, Part II) and the advice of the Working Group on EIA on the criteria for

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<sup>2</sup> Appendix 4 is not yet available as this matter is still being considered by the Committee.

dealing with information other than submissions from Parties (see section C below). The Committee recalled that it had:

- (a) Requested the secretariat to make publicly available on the Convention website the provisional agendas of Committee meetings and the correspondence regarding the specific compliance issues presented in Part V, section B, below;
- (b) Not received any requests for participation in its meeting from the public since the third meeting of the Parties.

20. The Committee also examined material provided by the secretariat to the Aarhus Convention, and took note of experience of public involvement under other multilateral environmental agreements. The Committee agreed not to propose amendments to its structure and functions in the light of its current experience in public involvement. However, **the Committee wished to continue keeping this matter under review in the light of future experience** (ECE/MP.EIA/WG.1/2007/4, para. 16).

### **C. Criteria for dealing with information other than submissions from Parties**

21. The Committee saw that the development of criteria for dealing with information other than submissions from Parties was linked to its discretionary function of Committee initiative, defined in paragraph 6 of the description of its structure and functions, and this function was potentially linked in turn to its examination of specific compliance issues identified in the previous review of implementation (ECE/MP.EIA/WG.1/2006/3, para. 13). The Committee also took note of the reports of its previous meetings in this regard (notably in MP.EIA/WG.1/2004/4, para. 7).

22. The Committee considered and identified a number of possible sources of information by which the Committee might become aware of possible non-compliance by a Party. It also considered and identified a number of possible criteria for starting a Committee initiative. The Committee drafted proposals for possible sources and criteria, sought and accepted the advice of the Working Group on EIA on the proposals, and incorporated the amended proposals in the proposed operating rules in [Appendix 2 to this decision IV/2] (ECE/MP.EIA/WG.1/2006/2, para. 9, and ECE/MP.EIA/WG.1/2007/3, para. 7).

### **D. Membership of the Committee when considering matters under the Protocol on SEA**

23. The Committee discussed proposals regarding the membership of the Committee when considering matters under the Protocol on SEA after the first meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol. In this regard, the Committee worked with a small working group, comprising the delegations of Germany, the Netherlands and the United Kingdom, established by the Meeting of the Signatories of the Protocol. The Committee member representing Germany was also a member of the small working group and so acted as a link between the two bodies (ECE/MP.EIA/WG.1/2007/3, para. 22, and ECE/MP.EIA/WG.1/2007/4, para. 17). The Working Group on EIA, at its tenth meeting, supported the resulting proposal by the small group, including a draft decision addressing the composition of the Committee when considering matters under the Protocol (ECE/MP.EIA/WG.1/2007/2, para. 35 and annex).

## **E. Addressing compliance issues in the intersessional period**

24. The Committee discussed an informal paper, prepared by the United Kingdom for the Working Group on EIA, regarding the frequency of future meetings of the Parties. The Committee considered that it could adjust as required to whatever frequency or level of meetings of the Parties was decided on. However, the longer the interval between meetings of the Parties, the greater would be the delay before the Meeting of the Parties could adopt the Committee's draft recommendations regarding compliance with the Convention. In addition, a longer interval would further delay the examination of the Committee's report on the prior review of implementation. On the other hand, a longer interval would provide greater continuity in the Committee's membership (ECE/MP.EIA/WG.1/2006/4, para. 35). The Committee agreed to recommend addressing this issue in the proposed operating rules in [Appendix 2 to this decision IV/2].

## **F. Operating rules**

25. The Committee considered that paragraph 5 of decision III/2 provided the mandate for the development of operating rules that could provide practical arrangements for the conduct of the Committee's meetings (ECE/MP.EIA/WG.1/2006/4, para. 28). The Committee therefore drafted such rules and decided to ask the Meeting of the Parties to approve the draft operating rules as a separate legal document (ECE/MP.EIA/WG.1/2006/4, para. 28). The Committee also sought the advice of the Working Group on EIA on the mandate for developing such rules and whether and how they required adoption. The Working Group on EIA advised that a legally-sound and evidence-based justification was required for proposing operating rules (ECE/MP.EIA/WG.1/2007/3, para. 23). The Committee provided such a justification in a preambular paragraph to the proposed operating rules. The Working Group subsequently welcomed the draft operating rules, while providing a period for detailed comments by delegations (ECE/MP.EIA/WG.1/2007/2, para. 15); no such comments were received. The proposed operating rules are presented in [Appendix 2 to this decision IV/2].

# **V. EXAMINATION OF THE OUTCOME OF THE FIRST REVIEW OF IMPLEMENTATION**

## **A. General compliance issues**

26. Taking note of paragraph 5 of decision III/1 on the review of implementation, the Committee discussed general compliance issues reported in the previous review of implementation.<sup>3</sup> The Committee decided that general compliance issues as well as possible remedies should be reported to the Working Group on EIA for possible action within the framework of the workplan, to be put forward for adoption by the fourth meeting of Parties (ECE/MP.EIA/WG.1/2006/3, para. 12). Further, the Committee agreed that general compliance issues and possible recommendations should also be addressed in the present report (ECE/MP.EIA/WG.1/2006/4, para. 19); such recommendations are indicated in bold in this section.

27. Members of the Committee were each assigned one chapter of the first review of implementation. These were examined to identify possible general compliance issues, referring

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<sup>3</sup> The full review of implementation 2003 is available at <http://www.unece.org/env/eia/review2006.htm>.

also to decision III/1, paragraph 3, and initial suggestions by the secretariat. The Committee then discussed the reports of the individual members and so made the following recommendations.

## 1. Notification

28. The Committee examined compliance issues related to the implementation of the Convention's notification requirements. **The Committee recommended that each Party:**

(a) **Clarify the timing of notification in bilateral and multilateral agreements or directly bilaterally and multilaterally**, noting that Parties send the notification at different stages in their EIA procedure and recalling Article 3, paragraph 1 ('as early as possible and no later than when informing its own public about the proposed activity');

(b) **Inform the secretariat of any necessary changes to the information on the points of contact presented on the Convention's website (further to decision I/3)** (ECE/MP.EIA/WG.1/2006/4, para. 13 (a)), so as to ensure notifications are correctly addressed;

(c) **As a Party of origin, consult potential affected Parties early as to whether notification was necessary, in order to avoid problems when a notification comes at a very late stage in the procedure** (ECE/MP.EIA/WG.1/2007/3, para. 13);

(d) **As a Party of origin, send the notification both by post and by electronic means**, taking into account the legal limitations on electronic communications in some countries (ECE/MP.EIA/WG.1/2007/4, para. 28);

(e) **As a Party of origin, specify a reasonable time frame for a response to a notification (Art. 3.2(c)) and, as a matter of good practice, request an acknowledgement of the notification** (ECE/MP.EIA/WG.1/2006/4, para. 13 (b));

(f) **As an affected Party, always respond within the deadline specified in a notification (Art. 3.3)** (ECE/MP.EIA/WG.1/2006/4, para. 13 (c));

(g) **As a Party of origin, and as a matter of good practice, take action to confirm that the notification has been received before assuming that the lack of a response indicates that an affected Party does not wish to participate** (ECE/MP.EIA/WG.1/2006/4, para. 13 (d)).

## 2. Preparation of the EIA documentation

29. The main compliance problems identified were: the time required for a response from the affected Party to a notification; and the adequacy of the content of the EIA documentation in terms of whether the information met the needs of the affected Party and whether it was in line with the Convention. The Committee agreed that these problems might lead to delays for the Party of origin and the project proponent, as well as limiting public information in the affected Party, and that Parties might need guidance on how to overcome the problems (ECE/MP.EIA/WG.1/2006/3, para. 10). **The Committee recommended that:**

(a) **A workshop be provided in the workplan for the exchange of good practices in legal measures to implement the provisions of the Convention;**

(b) **Concerned Parties maximize direct contact between them to resolve timing problems, for example, by verifying that the documentation had been received (e.g. by requesting acknowledgement);**

(c) **Parties, as a Party of origin, make early contact with the affected Party regarding the content of the documentation might help avoid serious difficulties later in the transboundary EIA procedure, including the provision of effective public participation and reasonable time frames. Consultation might also be used to resolve perceived problems with the EIA documentation;**

(d) **Parties ensure that the EIA documentation meets the requirements of Appendix II to the Convention and, as a matter of good practice, is of sufficient quality (ECE/MP.EIA/WG.1/2006/4, para. 18).** The documentation should properly address issues that the affected Party identifies in response to the notification, if they are reasonable and based on Appendix II.

### **3. Transfer and distribution of the EIA documentation**

30. Based on the very limited number of answers to this part of the questionnaire, the Committee examined timing and organizational problems with the transfer and distribution of the EIA documentation, and highlighted difficulties with Article 4, paragraph 2, of the Convention. The secretariat noted that difficulties with this provision had also been identified in the guidance on public participation (decision III/8, appendix). **The Committee recommended that this provision be addressed in bilateral and multilateral agreements, and agreed that interpretative guidance might be required (ECE/MP.EIA/WG.1/2006/3, para. 11).**

### **4. Public participation**

31. The Committee examined general compliance issues related to public participation. The Committee recognized that Parties had experienced difficulties regarding joint responsibility for organizing public participation ('the concerned Parties' in Art. 3, para. 8, and Art. 4, para. 2), and it noted that public participation is an integral part of transboundary EIA. **The Committee therefore urged Parties to clarify responsibilities regarding public participation case by case and in bilateral and multilateral agreements,** taking into account the guidance on public participation in transboundary EIA (decision III/8, appendix, particularly section 2.5). The Committee agreed to give particular attention to public participation when it examines the next review of implementation (ECE/MP.EIA/WG.1/2006/4, para. 16).

### **5. Consultation**

32. **The Committee discussed possible non-compliance issues related to consultation (Art. 5), emphasizing the need to clarify practical arrangements case by case and in bilateral and multilateral agreements.** The Committee agreed to also give particular attention to consultation when it examines the next review of implementation (ECE/MP.EIA/WG.1/2006/4, para. 17).

### **6. Final decision**

33. The Committee then examined general compliance issues related to the final decision (Art. 6). The Committee concluded that there were few difficulties with the implementation of this provision, though Parties perhaps needed more practice in its application. It was noted that it

was difficult to assess the influence of EIA on decision-making (ECE/MP.EIA/WG.1/2007/3, para. 14).

## 7. Research programmes

34. Finally, the Committee discussed general compliance issues related to research programmes (Art. 9). It observed that there had been very little experience in implementing this provision. **The Committee agreed that Parties should be urged to share research results**, not only from research into transboundary EIA but also from research in connection with national EIA that could also be useful to others in the transboundary context, e.g. in the areas of evaluation, monitoring and methodological research. This sharing could be done, inter alia, through responding to the questionnaire, including by indicating where results would be found, preferably in official languages of UNECE. **The Committee also suggested that future workplans might reflect Article 9 with the aim to encourage good practice** (ECE/MP.EIA/WG.1/2007/3, para. 15).

### B. Specific compliance issues

35. On the basis of the previous review of implementation, the secretariat had identified four specific compliance issues regarding which the Committee decided to write to the Parties concerned (Armenia, Finland, Kyrgyzstan and Moldova) requesting clarification with regard to their implementation of or compliance with the Convention. The Committee asked these Parties to clarify their situation, and how it had developed since 2003, and agreed to offer assistance if needed (MP.EIA/WG.1/2005/4, para. 7).

36. The Committee considered these issues to be pilot cases, with three of the four Parties concerned (Armenia, Finland and Kyrgyzstan) being represented by members of the Committee. The Committee decided that a member whose country's compliance was being discussed should be allowed to participate in the discussion, though it might choose not to do so. Should recommendations be drawn up, paragraphs 9 and 10 of the description of the structure and functions should be applied, mutatis mutandis, to avoid a conflict of interest (ECE/MP.EIA/WG.1/2006/3, para. 19).

37. The Committee later agreed that relevant correspondence should be placed on the Convention's website as an illustration of the Committee's approach and of responses from Parties (ECE/MP.EIA/WG.1/2006/3, para. 17).

38. The Committee also agreed that the examination of the different parts of the review of implementation, being undertaken by the members to identify general compliance issues, should be extended to specific compliance matters. To avoid any conflict of interest, a second member was identified for each part of the review to examine only compliance with provisions in that part by the country of the first member. The Committee agreed on a set of principles to be borne in mind when considering specific compliance issues arising from the review of implementation: issues should be within the Committee's mandate, and their consideration should promote credibility, predictability, transparency and consistency and should be unbiased and fair to all (ECE/MP.EIA/WG.1/2006/3, para. 20). The Chair volunteered to identify those Parties that had indicated a lack of experience in applying the Convention so that the Committee might discuss why this might be the case (ECE/MP.EIA/WG.1/2006/3, para. 22).

39. The Committee reviewed the specific compliance issues identified by members and noted that it was not always clear whether the information gathered indicated compliance. The Committee therefore agreed that, in examining the responses to the next questionnaire, it would

pay particular attention to Parties' answers regarding the implementation of Article 2, paragraph 6, Article 3, paragraph 8 (see also para. [31] above) and Article 6, paragraph 1, as well as responses indicating a lack of practical experience (ECE/MP.EIA/WG.1/2006/4, para. 21).

40. To avoid any conflict of interest, the Chair (from Finland) asked the Vice-Chair to act as Chair during the discussion of the response received from Finland in October 2005. The Chair was not present during the discussion or the decision-making. The remaining members considered Finland's response to be sufficient and asked the Vice-Chair to send a letter to Finland, thanking it for its response, informing it of the Committee's discussion and asking to be informed of progress with planned measures to strengthen compliance (ECE/MP.EIA/WG.1/2006/3, para. 17). The Committee took note of an email reply in October 2006 from Finland indicating that: (a) Finland had not been the affected Party for any projects subject to the Convention since its letter to the Committee in October 2005; and (b) it would inform the Committee when it had been able to apply the principles for public participation set out in that letter (ECE/MP.EIA/WG.1/2007/3, para. 18).

41. The Committee reviewed the written response provided by Kyrgyzstan. The Committee took note that the Convention had not yet been in force in Kyrgyzstan at the time of the case for which a transboundary EIA procedure was described in the questionnaire, and that Kyrgyzstan had since developed its EIA regulations to ensure full implementation of the Convention. The Committee agreed that the Chair write to Kyrgyzstan stating that the Committee was satisfied with the information provided and would not consider the matter further. The member representing Kyrgyzstan did not take part in this decision (ECE/MP.EIA/WG.1/2006/4, para. 20, and ECE/MP.EIA/WG.1/2007/3, para. 19).

42. The Committee noted the response from Moldova. Having considered the response and having the possibility to examine at the same time the completed revised questionnaire submitted in April 2006 by Moldova, the Committee agreed that it was satisfied with the information. The Committee asked the secretariat to write to Moldova on behalf of the Chair: (a) thanking it for its response; (b) noting that the Committee had, by reference to the completed revised questionnaire, concluded that it had no specific concerns regarding the transboundary EIA procedure in Moldova; and (c) requesting that the correspondence between the Committee and Moldova be placed on the Convention's website. (ECE/MP.EIA/WG.1/2007/3, para. 20).

43. The Committee's consideration of Armenia's capacities to comply with its obligations under the Convention is addressed in Part III above.

## **VI. REVISED AND SIMPLIFIED QUESTIONNAIRE**

### **A. Preparation of the revised and simplified questionnaire**

44. In paragraph 6 of decision III/1 on the review of implementation, the Meeting of the Parties requested the Committee to prepare a revised and simplified questionnaire on the implementation of the Convention for consideration by the Working Group on EIA and for circulation by the secretariat thereafter.

45. In addition, paragraph 6 of decision III/2 on the review of compliance, the Meeting of the Parties recommended that further measures should be taken to strengthen reporting and in this respect welcomed decision III/9 on the work plan.

46. In light of the above decisions, the Committee decided to establish a structure for a reporting system, based on the first review of the implementation of the Convention, that would

include two main parts. One part would deal with national legal, institutional and administrative frameworks and be based on the first questionnaire. This part would only have to be updated by Parties. The second part would deal with the application of the Convention and was expected to include new information. Together the two parts would form a national report from each country and also a basis for the Committee to review implementation of, and compliance with, the Convention (MP.EIA/WG.1/2005/3, para. 7).

47. The Committee revised the draft questionnaire for the report on implementation, taking into account the general compliance issues that the Committee members had identified when reading their designated chapters from the review of implementation 2003 (part V above).

48. Following the review and amendment of the draft questionnaire by the Working Group on EIA (MP.EIA/WG.1/2005/2, para.10-12), the secretariat sent out the finalized questionnaire in October 2005, with a deadline of 30 April 2006 for returning the reports on implementation. The Working Group agreed that the reports would be placed on the Convention's website.

## **B. Responses to the revised and simplified questionnaire: Reporting by Parties on their implementation of the Convention**

49. By the eleventh meeting of the Implementation Committee (13-14 February 2007), 36 responses had been received from the European Commission and 35 States, including reports on their implementation by 33 States Parties to the Convention (ECE/MP.EIA/WG.1/2007/4, para. 4).

50. The second amendment to the Convention, adopted in decision III/7, provides in Article 14 bis an obligation to report. The Meeting of the Parties shall decide on the frequency of regular reporting required by the Parties and the information to be included in those regular reports (Art. 14 bis, para. 1). Though the amendment was not yet in force, the Committee considered that the Meeting of the Parties had expressed a strong wish for Parties to report. Therefore, the failure to submit reports, or inadequate reporting, might be considered as a compliance matter in the future (MP.EIA/WG.1/2005/3, para. 8). The Committee therefore expressed its concern that many Parties had not responded to the revised questionnaire. At its tenth meeting, the **Committee agreed to report to the fourth meeting of the Parties on those Parties that had not responded to the revised questionnaire**, noting that most had also not responded to the original questionnaire (ECE/MP.EIA/WG.1/2007/3, para. 9), even if they subsequently submitted reports on their implementation of the Convention (ECE/MP.EIA/WG.1/2007/4, para. 7).

51. Further, **the Committee agreed that it might consider approaching Parties that do not respond to questionnaires to enquire how they are implementing the Convention** (ECE/MP.EIA/WG.1/2007/3, para. 9). At the Committee's eleventh meeting, the secretariat presented the draft of a letter that it proposed be sent by the Committee to those Parties that had not completed the revised questionnaire. The Committee requested its Chair to send the letter, suggesting that the letter require that an explanation be provided as to why the revised questionnaire had not been completed by the Party and to indicate that the Committee might look into the Party's compliance with the Convention (ECE/MP.EIA/WG.1/2007/4, para. 6). The letter led to further information, including completed questionnaires in each case, being provided by Belgium, Greece, Luxembourg and Portugal in the period May to July 2007. However, no completed questionnaire was received from the following Parties:

- (a) Albania;
- (b) Ireland.

52. **The Committee considered that it should, in the period between the fourth and fifth meetings of the Parties, examine the implementation of the Convention by those Parties that had failed to respond to the questionnaire.**

53. To facilitate reporting, **the Committee also suggested that in future the Working Group on EIA agree a detailed timetable not only for the submission of completed questionnaires, but also for the generation of the subsequent draft review of implementation** (ECE/MP.EIA/WG.1/2007/4, para. 7).

54. The secretariat was responsible for drafting the second review of implementation. Nonetheless, the Committee considered it important that members of the Committee assist the secretariat in editing the draft second review of implementation, as the Committee would be examining the document after the fourth meeting of the Parties (ECE/MP.EIA/WG.1/2007/3, para. 11). The review is provided as an appendix to draft decision IV/[1].

55. The Committee considered that the possibility for Parties to complete future questionnaires via the Internet might be reflected in the draft decision on the review of implementation (ECE/MP.EIA/WG.1/2006/4, para. 39).

## **VII. OTHER MULTILATERAL ENVIRONMENTAL AGREEMENTS PROVIDING FOR TRANSBOUNDARY EIA**

56. The Committee discussed examples of other multilateral agreements providing for transboundary EIA (MP.EIA/WG.1/2005/3, para. 18, and ECE/MP.EIA/WG.1/2006/4, para. 38). The secretariat made proposals on how the Committee might have a role in advising Parties to the Convention on how they could ensure compliance with the Convention if they were also party to another agreement that contained provisions related to transboundary EIA. The Committee agreed that if a contradiction were to be identified between provisions in the Convention and provisions in other agreements to which a Party to the Convention is also a Party, then it might consider it as a compliance matter provided that such a contradiction can be construed as a compliance issue under the Convention (ECE/MP.EIA/WG.1/2007/4, para. 26). The Committee considered it useful to identify any potential conflicts, between provisions in other multilateral environmental agreements and provisions in the Convention, that might impede Parties' compliance with the Convention. The Committee requested the secretariat to inform it of any such potential compliance issues of which it became aware (ECE/MP.EIA/WG.1/2006/3, para. 32).

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