

Provisional agenda item 2

DRAFT DECISION IV/1 TO BE TAKEN AT THE FOURTH MEETING OF THE PARTIES
[Submitted by the Working Group on Environmental Impact Assessment]

**DECISION IV/1
REVIEW OF IMPLEMENTATION**

**DRAFT SUBMITTED BY THE BUREAU FOR CONSIDERATION BY THE
WORKING GROUP ON EIA, 21-23 NOVEMBER 2007**

The Meeting,

Recalling its decision III/1 on the review of implementation,

Recalling also Article 14 bis of the Convention, as adopted by its decision III/7, that provides a legal obligation on Parties to report on their implementation of the Convention,

Having analyzed the reports provided by the Parties and non-Parties to the questionnaire for the reporting system,

Regretting that not all Parties had responded to the questionnaire,

1. Welcomes the reports by the Parties and non-Parties on their implementation, which have been made available on the website of the Convention;
2. Adopts the Second Review of Implementation, as appended to this decision;
3. Notes the findings of the Second Review of Implementation:
 - (a) Not all respondents to the questionnaire recognized that Article 3, paragraph 8, and Article 4, paragraph 2, state that the “concerned Parties” (as defined in Article 1, item (iv), to mean both the Party of origin and the affected Party) are responsible for ensuring opportunities for public participation.
 - (b) Not all respondents recognized that Article 5 provides for transboundary consultations distinct from Article 4, paragraph 2.
 - (c) Some Parties appeared to apply the Convention routinely. Others, with similar levels of development activity and similar possibilities to affect other Parties, appeared to be more reluctant to embark on transboundary consultations and so limited their experience in the application of the Convention.
 - (d) Few Parties had had experience of carrying out post-project analysis under Article 7.
 - (e) There was a continuing need for Parties to establish bilateral and multilateral agreements to identify direct contacts and to address differences in, inter alia, language, the payment of processing fees, the timeframes and deadlines, how to proceed when there is no response to a notification, the procedural steps, the timing of public participation (e.g. whether in screening or scoping), the interpretation of various terms (including “major change to an activity”, “significant” impact, “reasonably obtainable information” and “reasonable alternatives”), the content of the EIA documentation and the requirement for post-project analysis;

4. Requests the secretariat to bring to the attention of the Implementation Committee general and specific compliance issues identified in the Second Review of Implementation, and requests the Implementation Committee to take these into account in its work;
5. Requests the Implementation Committee to prepare a questionnaire on the implementation of the Convention in the period 2006-2009, for consideration by the Working Group on Environmental Impact Assessment and for circulation[, and for conversion into a parallel Internet-based questionnaire,] by the secretariat thereafter;
6. Requests the Implementation Committee to include in the questionnaire a question on whether the Party responding to the questionnaire recognizes that Article 3, paragraph 8, and Article 4, paragraph 2, of the Convention are distinct provisions, i.e. whether they provide the public of the affected Party with the opportunity to comment on the notification documentation and on the Environmental Impact Assessment documentation, respectively;
7. Requests the secretariat to put the project lists included in the answers to the questionnaire on the website of the Convention unless the responding Party does not agree;
8. Decides that Parties shall complete the questionnaire as a report on their implementation of the Convention, taking note of the obligation to report arising from Article 14 bis, as adopted by decision III/7;
9. Decides that a draft third review of implementation based on the reports by Parties will be presented at the fifth meeting of the Parties, and that the workplan shall reflect the elements required to prepare the draft third review;
10. Decides that a failure to report on implementation might be a compliance matter to be considered by the Implementation Committee.

Appendix: SECOND REVIEW OF IMPLEMENTATION