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**ENVIRONMENT FOR EUROPE**

KIEV, UKRAINE  
21-23 May 2003

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**REPORT OF THE FIRST MEETING OF THE PARTIES**

submitted by

the Secretariat of the Convention on Access to Information,  
Public Participation in Decision-making and Access to Justice  
in Environmental Matters

through the Ad Hoc Working Group of Senior Officials

BACKGROUND DOCUMENT



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**ECONOMIC COMMISSION FOR EUROPE**

Meeting of the Parties to the  
Convention on Access to Information,  
Public Participation in Decision-making and  
Access to Justice in Environmental Matters

**REPORT OF THE FIRST MEETING OF THE PARTIES**

1. The first meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters took place in Lucca, Italy, from 21 to 23 October 2002, at the invitation of the Government of Italy.
2. The meeting was attended by delegations from the following Parties to the Convention: Albania, Armenia, Azerbaijan, Belarus, Denmark, Estonia, France, Georgia, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Malta, Poland, Republic of Moldova, Romania, Tajikistan, Turkmenistan and Ukraine.
3. Delegations from the following ECE member States were also present: Austria, Belgium, Bulgaria, Croatia, Czech Republic, Finland, Germany, Holy See, Ireland, Luxembourg, Monaco, Netherlands, Norway, Russian Federation, Slovenia, Spain, Sweden, Switzerland, United Kingdom, United States of America, Uzbekistan and Yugoslavia. Representatives of the Government of Malaysia attended the meeting.
4. The Commission of the European Communities was also represented.
5. Representatives of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), United Nations Economic Commission for Latin America and the Caribbean (ECLAC), United Nations Environment Programme (UNEP), United Nations Environment Programme GRID-Arendal, United Nations Institute for Training and Research (UNITAR), World Bank and European Investment Bank also attended.
6. The Chairperson of the Advisory Board to the Aarhus Convention, Mr. Willem Kakebeeke, also attended the meeting.

7. The following regional environmental centres were represented: Regional Environmental Center for Central and Eastern Europe (REC), Regional Environmental Centre for Central Asia, Regional Environmental Centre for the Caucasus and Regional Environmental Centre for the Russian Federation.

8. The following international and regional non-governmental organizations working together in the European ECO Forum were represented: Access Initiative, Northern Alliance for Sustainability (ANPED), Environmental Law Association of Central and Eastern Europe and the Newly Independent States (GUTA Association), Earth Justice, European Environmental Bureau, Friends of the Earth, GLOBE Europe and Interactive Health Ecology Access Links (IHEAL). The following national non-governmental organizations, also working within the European ECO Forum, were represented: Albanian Association of Industrial Ecology, ECO Globe (Armenia), Yanus (Armenia), Ecological Society "Ruzgor" (Azerbaijan), Information Analytical Agency "Trend" (Azerbaijan), Belorussian Division of International Academy of Ecology, Ecoline (Belarus), Inter-environment Bruxelles (Belgium), Ecological Association "Demetra" (Bulgaria), Environmental Partnership (Czech Republic), Green Circle (Czech Republic), Estonian Society for Nature Conservation, Peipsi Center for Transboundary Co-operation (Estonia), France Nature Environment (France), Georgian Center for Environmental Research, Georgian Environmental and Biological Monitoring Association, German League for Nature and Environment/DNR, Independent Institute for Environmental Concerns (Germany), Environmental Management and Law Association (Hungary), New Israel Fund's Empowerment and Training Center (Shatil), Cultural-Environmental Union "Belovodye" (Kazakhstan), Environmental News Agency "Green Woman" (Kazakhstan), "For Civil Society" (Kyrgyzstan), Global and Local Informational Partnership (Kyrgyzstan), Youth Ecological Movement "Biom" (Kyrgyzstan), Environmental Protection Club of Latvia, Stichting Natuur and Milieu (Netherlands), Environmental Law Center (Poland), Polish Green Net, Earth Friends (Romania), ECO-Accord (Russian Federation), Ecoline EIA Centre (Russian Federation), Society for Sustainable Living/STUZ (Slovakia), Gaja Association (Slovenia), ADEGA (Spain), Ecologistas en Acción (Spain), Med Forum (Spain), Bureau of Ecological Problems (Tajikistan), Journalists Legal Environmental Center "Erina" (the former Yugoslav Republic of Macedonia), Association of Ecological Non-profit Organizations of Turkmenistan, EcoPravo Lviv (Ukraine), Mama-86 (Ukraine), National Ecological Centre of Ukraine, Environmental Law Institute (United States), Natural Resources Defense Council, World Resources Institute (United States), Aralecostan (Uzbekistan), Union of Defence of the Aral Sea and Amudarya/UDASA (Uzbekistan) and Ecological Society "Gradac" (Yugoslavia).

9. The welcome address on behalf of the host Government was delivered by Mr. Altero Matteoli, Minister for the Environment of Italy. He stressed the commitment of his Government to the implementation of the Convention and expressed the hope that the meeting would further promote environmental democracy. The Mayor of Lucca, Mr. Pietro Fazzi, also greeted the delegates and guests.

10. Ms. Brigita Schmögnerová, Executive Secretary of the United Nations Economic Commission for Europe, delivered the opening address. She described the Convention as a major step forward in international law and reminded delegations of the Secretary-General Kofi Annan's description of the Convention as 'the most ambitious venture in environmental democracy undertaken under the auspices of the United Nations'. Welcoming the rapid pace of ratification in Eastern Europe and Central Asia which was largely responsible for the early entry into force of the Convention, she noted the solid commitment of many Western countries to the Convention

and expressed the hope that most States in Western and Central Europe would become Parties well before the second meeting of the Parties.

11. Following these ceremonial statements, Ms. Schmögnerová presided over the meeting until the election of the Chairperson.

## **I. OPENING AND CONSTITUTION**

### **A. Constitution of the Meeting of the Parties**

12. The secretariat informed the Meeting about the status of ratification of the Convention (MP.PP/2002/INF.1). As of 18 October 2002, twenty-two ECE member countries had become Parties to the Convention. These were: Albania, Armenia, Azerbaijan, Belarus, Denmark, Estonia, France, Georgia, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Malta, Poland, Republic of Moldova, Romania, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan and Ukraine. Declarations upon signature had been made by Denmark, Germany, the United Kingdom and the European Community. A declaration upon approval had been made by France. The Meeting of the Parties was declared to be duly constituted.

### **B. Election of the Chairperson**

13. Mr. Matteoli (Italy) was elected as Chairperson of the Meeting of the Parties.

### **C. Adoption of the agenda**

14. The Chairperson put forward the following proposals for amending the provisional agenda (ECE/MP.PP/1):

(a) Agenda item 1 (e) should read Election of other officers and other Bureau members;

(b) A new agenda sub-item 8 (e) on activities promoting the Aarhus Convention and its implementation should be added; and

(c) After agenda item 9, new agenda item on the election of the second Bureau, i.e. the Bureau serving from the end of the first meeting up to the end of the second meeting, should be added.

It was noted that through the election of the Chairperson of the Meeting, agenda item 1 (b) had effectively been amended to delete the reference to the Ministerial segment.

15. The agenda with the proposed amendments was adopted by consensus.

### **D. Adoption of the rules of procedure**

16. Draft decision I/1 on the rules of procedure (MP.PP/2002/2) was presented by Mr. Jerzy Jendroska (Poland), Vice-Chairperson of the Working Group for the preparation of the first

meeting of the Parties. He expressed his gratitude to Mr. Alistair McGlone (United Kingdom), who had chaired the Working Group that had prepared the draft rules of procedure as well as the draft compliance mechanism. He then proposed a small clarifying amendment to the second sentence in rule 22, paragraph 5, of the annex to the draft decision, so that it would read as follows:

“The members of the Bureau shall be eligible for re-election but may not serve three consecutive terms.”

17. With this amendment, decision I/1 on the rules of procedure was adopted by consensus.

#### **E. Election of officers and other Bureau members**

18. By virtue of rule 47 of the rules of procedure, the Meeting decided to make an ad hoc amendment to the rules for the purpose of the first meeting of the Parties so that the Bureau would comprise only the Chairperson and one Vice-Chairperson. Mr. Serhii Kurykin, Minister for the Environment, Ukraine, was elected as the Vice-Chairperson. The Chairperson chaired the morning session of the high-level segment and the Vice-Chairperson chaired the afternoon session. For the remainder of the meeting, the Chairperson designated Ms. Giuliana Gasparrini (Italy) to substitute for him.

### **II. GENERAL STATEMENTS**

19. The following delegations delivered general statements to the Meeting: Armenia, Azerbaijan, Belarus, Belgium, Bulgaria, Croatia, Czech Republic, Denmark (on behalf of the European Union), France, Hungary, Kazakhstan (also on behalf of the Interstate Committee for Sustainable Development in Central Asia), Kyrgyzstan, Luxembourg, Malta, Malaysia, Netherlands, Norway, Poland, Portugal, Romania, Tajikistan and the United States of America. Statements were also delivered by the representatives of the World Bank and REC. The European ECO Forum made a general statement presenting the conclusions of its two-day conference which had preceded the meeting. It was agreed that all statements of which copies had been provided in written form would be made available in full on the Convention's web site and summarized in the proceedings of the meeting.

### **III. MINISTERIAL PANEL DISCUSSIONS “MAKING AARHUS WORK”**

20. Launching the panel discussions, Mr. Klaus Töpfer, Executive Director of the United Nations Environment Programme delivered a keynote address. He expressed an urgent need for resource backing for the implementation of the Convention in countries in transition and welcomed the Aarhus Convention's capacity building service, a joint effort of UNECE, UNEP and UNEP/GRID-Arendal. Pointing out that, in order to achieve sustainable development in a globalizing world, cultural diversity needed to be taken into account, he nevertheless stressed the universal significance of the Convention and expressed the hope that the process would spread outside the UNECE region.

21. Introducing the panel discussions, the Chairperson mentioned the need to move from theory to practice and to come to grips with implementation. Furthermore, he referred to some practical obstacles to implementation and the need to find workable solutions.
22. For the first panel, the following panellists delivered introductory statements: Mr. Vardan Ayvazyan, Minister of Nature Protection, Armenia; Ms. Andjelka Mihajlov, Minister for the Protection of Natural Resources and Environment, Serbia; Mr. Michael Meacher, Minister for the Environment, United Kingdom, and Mr. John Hontelez, Secretary-General of the European Environmental Bureau and Chair of the Public Participation Campaigns Committee, European ECO Forum.
23. During the second panel, chaired by the Vice-Chairperson of the Meeting, the following panellists delivered introductory statements: Mr. Rolf Annerberg, Head of Cabinet of the European Commissioner for the Environment; Mr. Zaal Lomtadze, Deputy Minister for the Environment, Georgia; Mr. Ravi Sawhney, Director of the Environment and Sustainable Development Division, ESCAP; and Mr. Willem Kakebeeke, Chair of the Aarhus Convention Advisory Board and formerly Chair of the Ad Hoc Working Group for the preparation of the Convention. After these statements, the floor was opened for questions and comments.
24. It was agreed that the discussions and conclusions should be recorded in the proceedings of the meeting.

#### **IV. ADOPTION OF DECLARATION**

25. An informal meeting of the Working Group for the preparation of the first meeting of the Parties had taken place on Sunday, 20 October 2002 to discuss the draft Lucca Declaration, using as a basis a proposal from the Chairman of the Working Group, Mr. Francesco La Camera (Italy) (MP.PP/2002/1). The informal meeting had prepared a revised draft of the declaration (MP.PP/2002/CRP.1). Mr. Jerzy Jendroska, who had chaired the informal meeting, presented the new draft to the Meeting and briefly described the main changes made to the previous draft.
26. The Chairperson invited the heads of delegation of Parties, Signatories and other States, as well as non-governmental organizations and other representatives of civil society, to adopt the text prepared by the Working Group at its informal meeting. It was noted that for such a wide range of bodies and interests, including both governmental and non-governmental bodies, to reach agreement on such a text would represent a significant achievement and could be regarded as a symbol of the close cooperation between governments and non-governmental bodies which had been a consistent feature of the processes under the Convention.
27. The Lucca Declaration was adopted unanimously.

#### **V. SPECIFIC SUBSTANTIVE ISSUES**

##### **A. Pollutant release and transfer registers**

28. Mr. Karel Blaha (Czech Republic), Chairperson of the Working Group on Pollutant Release and Transfer Registers (PRTRs) established under the Committee on Environmental

Policy, introduced the agenda item on pollutant release and transfer registers. He referred to the requirement in article 10, paragraph 2, of the Convention, which had been the main reason for the issue being on the agenda of the Meeting of the Parties. He described the progress which had been achieved first by the task force on PRTRs established by the Meeting of the Signatories, and subsequently by the Working Group, towards developing a draft protocol. He then presented draft decisions I/2 on establishing a new working group on PRTRs under the auspices of the Meeting of the Parties and I/3 on convening an extraordinary meeting of the Parties for the primary purpose of adopting the new protocol (MP.PP/2002/3 and 4). The new working group, like the former one, would be charged with the preparation of a draft protocol on PRTRs in time for adoption and signature at the Fifth Ministerial Conference 'Environment for Europe' (Kiev, May 2003). He reaffirmed the offer of the Czech Republic to chair the new working group.

29. The delegation of Denmark, on behalf of the European Union, while being in support of the draft decision, expressed its concern about the short time available if the protocol was to be ready in time for the Kiev Conference. It recommended that the new working group should focus on options which could be supported by all or at least most of the delegations involved. It considered that in the light of the different approaches taken in existing emission registers, and in order to avoid duplication of work, a certain degree of flexibility was called for.

30. The European ECO Forum stated that PRTRs were a powerful right-to-know tool to drive pollution prevention and contribute to sustainable development but which needed to contain a number of important elements. Further work on both the implementation and development of the protocol should be continued after the conclusion of the negotiations.

31. The Meeting adopted decisions I/2 and I/3 by consensus, thanking the Czech Republic for its leadership of the activities to date and for its offer to chair the new Working Group.

## **B. Genetically modified organisms**

32. Mr. Helmut Gaugitsch (Austria), Chairperson of the Working Group on Genetically Modified Organisms (GMOs) established under the Committee on Environmental Policy, introduced the agenda item on genetically modified organisms. He referred to the request in the resolution of the Signatories to the Convention that the topic should be addressed at the first meeting of the Parties and described how first a task force and then a working group had been established in the light of that request. The Working Group had adopted a twin-track approach, addressing on the one hand a legally binding approach and on the other a 'soft' approach. He then presented draft decision I/4 (MP.PP/2002/5) and the draft guidelines on access to information, public participation and access to justice with respect to GMOs (MP.PP/2002/6). Reflecting the twin-track approach, the proposed decision would commit Parties to adopting the guidelines and establishing a new working group, under the auspices of the Meeting of the Parties, to explore and develop options for a legally binding approach to the issue. He reaffirmed Austria's willingness to chair the new working group.

33. The delegation of the United States, while acknowledging that it was not in a position to block the decision, stated its opposition to elements of the draft guidelines. It had provided its views in writing during the process but considered that these had not been taken into account. It considered furthermore that the matters in question were already being addressed in appropriate forums in which it would continue to engage.



34. The European ECO Forum expressed its deep regret that, despite two years of negotiations, nothing had been achieved in rectifying what it considered to be the arbitrary exclusion of GMO-related activities from annex I to the Convention.

35. The Meeting adopted decision I/4 by consensus, thanking Austria for having chaired the task force and the former working group and welcoming its offer to chair the new Working Group.

### **C. Access to justice**

36. Ms. Rita Annus (Estonia), representing the lead country for the Task Force on Access to Justice established under the Meeting of the Signatories, introduced the agenda item on access to justice. She referred to the provisions of article 9 of the Convention and reported on the progress achieved by the Task Force, in particular the work to develop a handbook on access to justice and a workshop held in Tallinn in September 2001. She thanked Finland and the United Kingdom for their financial support and REC for its role in preparing the text of the handbook with the support of the American Bar Association's Central and Eastern European Law Initiative, the European ECO Forum, the GUTA Association and Environmental Law Alliance Worldwide.

37. The delegation of Belgium presented draft decision I/5 (MP.PP/2002/7) on promoting effective access to justice and establishing a task force, under the authority of the Working Group of the Parties, which would continue and further develop the work undertaken by the former Task Force. Belgium reiterated its willingness to chair the new task force on access to justice and offered to host its first meeting in Brussels in March 2003.

38. The delegation of Denmark, on behalf of the European Union, welcomed the draft decision. However, it proposed a minor amendment to paragraph 1, so that it would begin:

'Welcomes the impending publication of the Handbook on Access to Justice...'

39. The Meeting adopted decision I/5 with the proposed amendment by consensus, and thanked Estonia and the other countries and organizations for their active contributions to date and Belgium for its offer to chair the new Task Force.

### **D. Electronic information tools**

40. Mr. Johannes Mayer (Austria), Chairman of the Task Force on Electronic Information Tools established by the Meeting of the Signatories, introduced the agenda item on electronic information tools and reported on the progress achieved by the Task Force. The main results were a list of possible actions to further the use of electronic tools in the implementation and promotion of the Convention which had been identified at a workshop hosted by Norway and UNEP/GRID-Arendal in March 2001 (CEP/WG.5/2001/4) and a compendium of good practice examples and priorities put together by REC. He noted that electronic tools provided instant access to documents and databases and thus helped the public to obtain timely and accurate information, while at the same time enhancing the responsiveness of the government. He presented several

examples of the effective use of electronic tools to provide access to environmental information and in outreach projects.

41. Following this report, Ms. Nelly Ilieva (Bulgaria) presented draft decision I/6 (MP.PP/2002/8) on promoting the use of electronic and other information tools establishing a task force, under the authority of the Working Group of the Parties, to continue and further develop the work of the former task force. The new Task Force would be charged inter alia with further documenting and sharing best practices in the use of electronic information tools and with preparing draft recommendations on the more effective use of electronic information to provide public access to environmental information. She confirmed the offer of Bulgaria to take the lead in this work and proposed that the task force should meet in the first half of 2003 to explore in detail how to fulfil its mandate more precisely, inter alia based on the results of a survey among the ECE member States.

42. Some delegations considered that the task force should focus on the needs of the end-users in order to ensure the accessibility and usability of environmental information. Some organizations, including REC, UNEP and the World Bank, expressed interest in the work of the future Task Force. They stressed the importance of cooperating with the Convention's capacity-building service for the purpose of carrying out specific projects on the implementation of the Convention and with other international processes concerning electronic tools and the environment to enhance synergies and to avoid overlap.

43. The Meeting thanked REC, UNEP, GRID-Arendal and the Governments of Austria and Norway. The Meeting welcomed the offer of Bulgaria to lead the task force and adopted decision I/6 by consensus.

## **VI. PROCEDURES AND MECHANISMS**

### **A. Compliance mechanism**

44. Ms. Frederique Van Zomeren (Netherlands) introduced the agenda item on the establishment of a compliance mechanism by referring to the emphasis that ECE placed on compliance, as evidenced through the compliance mechanisms established for the purpose of the different environmental conventions but also through the Committee on Environmental Policy's Task Force on Compliance and Enforcement, which had prepared a set of guidelines on compliance to be presented for adoption at the fifth Ministerial Conference "Environment for Europe" (Kiev, May 2003). Ms. Van Zomeren presented draft decision I/7 on the review of compliance (MP.PP/2002/9), which was the result of hard but constructive negotiations within the Working Group on Compliance and Rules of Procedure, under the chairmanship of Mr. Alistair McGlone. She highlighted some of the main elements in the proposed compliance mechanism as set out in the annex to the decision.

45. The delegation of the United States circulated and presented a written statement expressing its concerns with respect to the proposed compliance mechanism and the negotiating process which had led to it. It requested that its full written statement be annexed to the report. The secretariat reminded the Meeting that the General Assembly had set certain limits on the length of documents and sought guidance from the Meeting on how to deal with requests from

delegations for lengthy statements to be attached to meeting reports. The Meeting agreed to annex the statement to the report, on the understanding that this should not set a precedent (see annex). The delegation of the United States thanked the Meeting for its cooperation and indicated that it understood that its request was being granted on an exceptional basis which would not be used as a precedent, and that it would report back to its capital accordingly.

46. Several other delegations, including that of Denmark, on behalf of the European Union, and the European ECO Forum, expressed their support for the proposed compliance mechanism and their conviction that it was fully compatible with international law.

47. The Meeting adopted the decision I/7 on the review of compliance by acclamation, noting the statement by the United States.

48. The Meeting then turned to the question of the election of the Compliance Committee referred to in the decision. Thirteen candidates had been proposed; twelve of these were nationals of countries which were Parties or Signatories. Taking into account that there were only eight seats on the Committee, consultations facilitated by the Chairperson of the Advisory Board, were held with a view to reaching a consensus on the composition of the Committee.

49. The consultation process was completed successfully and the Meeting elected the following candidates to the Compliance Committee by consensus to serve until the end of the next ordinary meeting: Mr. Vadim Nee (Kazakhstan), Mr. Merab Barbakadze (Georgia), Ms. Eva Kružíková (Czech Republic) and Mr. Veit Koester (Denmark). The following candidates were elected by consensus to serve on the Committee until the end of the third ordinary meeting of the Parties: Mr. Laurent Mermet (France), Ms. Elizabeth France (United Kingdom), Mr. Sándor Fülöp (Hungary) and Ms. Svitlana Kravchenko (Ukraine).

50. The Meeting considered that the geographical distribution reflected in this selection of candidates should not set a precedent for future elections.

## **B. Reporting requirements**

51. Ms. Jayne Boys (United Kingdom) presented draft decision I/8 on the reporting requirements (MP.PP/2002/10). The proposed reporting format covered each of the specific obligations under the Convention and the legislative and regulatory measures put in place to implement it. The reporting requirements were meant to be clear, concise and not excessively burdensome. Parties should report in advance of each meeting of the Parties and the secretariat would be requested to prepare a synthesis report.

52. The Meeting adopted decision I/8 by consensus.

## **C. Designation of focal points**

53. The secretariat introduced draft decision I/9 on the designation of focal points (MP.PP/2002/11). All countries were invited to communicate to the secretariat any changes with respect to their focal point or to contact points for specific issues. The delegation of Belgium requested confirmation that the system of focal points would accommodate the position of federal States, which might need several focal points. This was confirmed by the Meeting.

54. The Meeting adopted decision I/9 by consensus.

#### **D. Clearing-house mechanism and capacity-building service**

55. The secretariat presented some of the activities which it had undertaken so far in conjunction with various partners to assist countries in the implementation of the Convention, in particular the four multi-stakeholder workshops held in the South Caucasus and Central Asia over the past two years. These had been highly appreciated and considered extremely useful by the participants, but were only a first step towards addressing the needs for assistance of the region. It had therefore been proposed to establish a clearing-house mechanism to facilitate the exchange of information and the matching of funds available and specific needs. In the establishment of the information clearinghouse, opportunities for linking up with the Task Force on Electronic Tools would be explored to enhance synergies and avoid any overlap.

56. The clearing-house mechanism would be complemented by a capacity-building service with a broader scope, which was being jointly established by UNECE, UNEP/Regional Office for Europe and UNEP/GRID-Arendal. Ms. Claudia Heberlein (UNEP/GRID-Arendal) described the capacity-building service in more detail. The objectives of the service would be to facilitate and accelerate the implementation of the Convention and to set up a comprehensive assistance structure which would allow for continued support to recipient countries. It was emphasized that the service would seek to cooperate with other capacity-building activities and would draw upon experts in the implementation of the different activities.

57. Draft decision I/10 (MP.PP/2002/12) on the establishment of the clearing-house mechanism and capacity-building service was presented to the Meeting for adoption. According to the draft decision, the Meeting of the Parties would request the secretariat to continue its efforts to develop further these assistance mechanisms, would urge all Parties, Signatories and other States to contribute to the operation of these activities and would invite Parties, Signatories, other States and NGOs to avail of the mechanisms for assistance when needs occurred.

58. The Meeting adopted decision I/10 by consensus.

### **VII. PROGRAMME OF WORK AND OPERATION OF THE CONVENTION**

59. The Meeting agreed to discuss draft decisions I/11, I/12, I/13 and I/14 together, since they were interrelated, with a view to adopting all four at once.

#### **A. Procedures for the preparation, adoption and monitoring of work programme for the Convention**

60. The secretariat introduced draft decision I/11 on the procedures for the preparation, adoption and monitoring of work programmes for the Convention (MP.PP/2002/13), referring to the requirement in article 10, paragraph 2 (g), of the Convention and draft decision I/14 on the establishment of the Working Group of the Parties.

61. Following discussions, a number of amendments to decision I/11 were provisionally agreed, as follows:

(a) In the fifth preambular paragraph, amend the end of the paragraph to read as follows:

“... adjusting the activities to changing circumstances within the framework of the agreed work programme,”;

(b) Amend paragraph 2 (e) to read as follows:

“Estimated costs and expected sources of funding, if other than the Convention’s estimated budget, indicating the core requirements;”; and

(c) Insert two new paragraphs before paragraph 3 as follows:

“3. Requests the secretariat to provide a more detailed assessment of the activities in the work programme for the period 2004 to 2005, including a breakdown of the cost estimates of each activity, and to report to the Working Group of the Parties;

4. Requests the Working Group of the Parties to consider further the prioritization of the activities in the work programme for the period 2004 to 2005, and to report and make appropriate recommendations to the Parties at their second ordinary meeting;”,

and renumber the following paragraphs accordingly.

## **B. Work programme for 2003-2005**

62. The secretariat introduced draft decision I/12 on the work programme and budget for 2003-2005 (MP.PP/2002/14).

63. It was provisionally agreed that the words ‘and budget’ should be deleted from the titles of draft decision I/12 and its annex, and that the necessary consequent amendments should be made in other draft decisions where necessary. It was also provisionally agreed that the word ‘budget’ in the heading of the right-hand column in the annex should be amended to ‘costs’.

64. The delegation of the Denmark, on behalf of the European Union, expressed support for the activities in the work programme, but stated that, if contributions fell short of the funds required, further prioritization within the proposed work programme would be needed. For the full work programme period (2003-2005), the funds contributed should first and foremost be allocated to cover the activities of the compliance mechanism. In the work programme for 2003, after covering the activities of the compliance mechanism, priority should be given to the core requirements of the following activities:

- Pollutant release and transfer registers
- Genetically modified organisms
- Access to justice
- Electronic information tools
- Capacity-building service, awareness raising and promotion of the Convention and
- Extraordinary and second meeting of the Parties.

65. The remaining activities, according to the proposal by the European Union, would then be covered by any additional contributions to specific activities, as usual. These were:

- Coordination and oversight of intersessional activities
- Information and fund-matching clearing house
- Interlinkages with other conventions.

66. Several delegations supported the views expressed by the European Union.

### **C. Financial arrangements**

67. The secretariat introduced draft decision I/13 on financial arrangements (MP.PP/2002/15), which referred to the need for stable and predictable sources of funding and a fair sharing of the burden as the guiding principles of any financial arrangements established under the Convention. The draft decision envisaged an interim voluntary scheme of contributions in the form of ‘shares’ of US\$ 20,000 that should provide an effective and workable solution in the short to medium term. In the longer term, the levels of contribution should be based upon the United Nations scale of assessment or other appropriate scales.

68. The Meeting provisionally agreed to a number of amendments to the draft decision, as follows:

(a) Delete the words ‘and budget’ from the third preambular paragraph in line with the provisional amendments to draft decision I/12;

(b) Amend paragraph 2 to read as follows:

“Recognizes that activities under the work programme for 2003-2005 not covered by the United Nations regular budget should be covered by voluntary contributions corresponding to 59 shares of US\$ 20,000 per year, of which 43 shares would cover core requirements and 16 shares would cover the remaining requirements;”;

(c) In paragraph 4, delete the reference to an annex, and delete the annex itself;

(d) In paragraph 7, amend the end of the paragraph to read as follows:

“...the Committee on Environmental Policy, while recognizing that the provision of any financial support is subject to the availability of funds;”;

(e) Amend the beginning of paragraph 8 to read as follows:

“Requests the secretariat, in accordance with the financial rules of the United Nations, to monitor...”.

69. Upon request, the secretariat gave a short explanation of the United Nations system of managing funds based on voluntary contributions.

#### **D. Operation of the Convention in the intersessional periods**

70. The Chairperson presented draft decision I/14 on establishing the working group of the Parties for adoption. It was provisionally agreed that a small consequential amendment in the second preambular paragraph, namely the deletion of the words 'and budget', was required for consistency with the provisionally agreed amendment to the title of draft decision I/12.

#### **Adoption of decisions I/11, I/12, I/13 and I/14**

71. The Meeting then adopted the four decisions I/11, I/12, I/13 and I/14, as amended by consensus.

#### **Pledges**

72. The Chairperson invited delegations to pledge their contributions in accordance with the scheme proposed in decision I/13. The following pledges were made:

<b>Country or delegation</b>	<b>Shares</b>
Austria	½ share for the year 2002, with plans to extend this support for the year 2003 and thereafter, subject to budget approval
Belgium	Contribution in kind through the Task Force on Access to Justice; in addition, considering 1 share for the years 2004-2005
Denmark	2 shares for the year 2003, with plans to contribute 2 additional shares earmarked for the extraordinary meeting of the Parties and the preparation of the PRTR protocol, subject to parliamentary approval
Finland	½ share for the year 2003
France	Approximately 3 shares for the year 2002, possibly a further contribution for 2003
Germany	1 share for the year 2002; plans to contribute 2 additional shares for 2003, subject to approval by Parliament and termination of the budget freeze introduced after recent floods
Italy	5 shares contributed in 2002 for activities in 2003
Netherlands	2 shares for the year 2002 and additional contribution for specific activities, subject to approval;
Norway	1 share for the year 2003, contributions for 2004 and following years to be considered at a later stage
Spain	1 share for the year 2002, plans to contribute an equal amount for the year 2003, subject to parliamentary approval
Sweden	1 share for each year in the 2003-2005 period, subject to budgetary decisions
United Kingdom	2 ¾ shares already contributed for the year 2002 in addition to support for PRTR; contributions for the remaining period subject to approval
European Commission	5 shares, subject to approval

## **VIII. ISSUES FOR INFORMATION**

### **A. Follow-up to the World Summit on Sustainable Development**

73. The secretariat introduced the background paper on the relevant outcomes of the World Summit on Sustainable Development (MP.PP/2002/17). The two main documents representing the formal, high-level outcome of the Summit, namely the Plan of Implementation and the Johannesburg Declaration, had failed to establish any important new principles in environmental democracy which could be said to represent an advance on principle 10 of the Rio Declaration. Neither did they contain any commitment to further concrete action to promote the regional or global implementation of principle 10, even though the idea had been discussed during the preparatory process. However, the reiteration throughout the Plan of Implementation of the importance of transparency, accountability and civil society involvement in many different contexts could be seen as a useful reinforcement of progressive policies promoting environmental democracy. Furthermore, the informal dimension of the Summit, including side events such as the one co-organized by UNECE together with the Council of Europe and REC, had been particularly useful in providing a forum for discussion and promoting principle 10 issues. A number of so-called Type II-Partnerships had been launched at the Summit, three of which related to the principles of the Convention.

74. The European ECO Forum expressed the view that the Johannesburg Declaration had extended principle 10's guarantee of public participation broadly to cover all three dimensions of sustainable development (environmental, economic and social), at all levels, which it welcomed. It urged Parties and Signatories to promote the Aarhus Convention and related Protocols globally, so that countries outside the UNECE region would be encouraged to accede to them; to provide financial, technical and political support for national, regional and global efforts to implement principle 10; and to work with like-minded countries around the world to create a global framework to guarantee environmental rights, including procedural rights.

75. The delegation from the World Resources Institute informed the Meeting that one of the Type-II partnerships referred to was the "Partnership for Principle 10". This would bring together governments, national and international NGOs and international organizations to support concrete actions for the implementation of principle 10. It pointed out that the Convention's secretariat as well as Parties and Signatories to the Convention could benefit from and contribute to the Partnership and to the implementation of the World Summit's Plan of Implementation and invited them to join the initiative.

76. The Meeting took note of the paper prepared and presented by the secretariat.

### **B. Public participation in international forums**

77. The secretariat introduced the agenda item on public participation in international forums and noted that the idea of addressing this issue had come from the Committee on Environmental Policy. At its eighth session, the Committee had decided that an analysis of public participation in international forums and its potential problems should be prepared and consequently the secretariat had commissioned a consultant, Ms. Susan Casey-Lefkowitz, to undertake the task.



The Committee had considered that the analysis might provide the basis for the development of guidelines on public participation in international forums for possible adoption at the Kiev Ministerial Conference. However, the Bureau of the Committee had suggested that the idea of such guidelines might be more appropriately taken up within the framework of the Aarhus Convention.

78. Ms. Casey-Lefkowitz briefly presented the background analysis and the linked survey (MP.PP/2002/18 and Add.1). The analysis reviewed the rules and practices in a selection of international forums, including UNECE, UNEP, the European Commission, the Organisation for Economic Co-operation and Development (OECD), the Commission on Environmental Cooperation of North America, The Economic and Social Council, the Commission on Sustainable Development and the World Trade Organization (WTO). All the organizations surveyed had different mandates and conducted activities with their member States in different ways. However, all of them influenced national decision-making and social and economic policies that had far-reaching environmental impacts. The analysis found that most of these organizations did not have clear procedures for access to information, public participation and access to justice. In cases where they did provide access to information and public participation, this was often ad hoc. However, there was an indication of growing interest in providing better opportunities for public participation. The analysis showed that there was a need for multilateral discussion on how best to provide opportunities for public involvement in international decision-making processes – one way could be to develop guidelines in UNECE with the help of the Parties to the Aarhus Convention. Ms. Casey-Lefkowitz noted that other studies on the same topic arrived at similar conclusions. One example was the recent study on the participation of NGOs in international environmental governance, carried out on behalf of the German Federal Environment Ministry, which found that “a further formalization of the rules governing NGO participation in international institutions relevant to the environment should therefore be considered” among other things through “the adoption of general minimum-standard guidelines” for public participation in international environmental governance (“Participation of Non-Governmental Organisations in International Environmental Co-operation: Legal Basis and Practical Experience” Ecologic, June 2002).

79. The Meeting welcomed the work undertaken, in particular the survey on the rules and practices of public involvement in international organizations and processes. Having regard to the recommendation in the Lucca Declaration (MP.PP/2002/CRP.1, para. 31) that consideration should be given to the possibility of developing guidelines on public participation in international forums for possible adoption, as appropriate, at a future meeting of the Parties, the Meeting agreed that the outcome of the ninth session of the Committee on Environmental Policy should be presented to the Working Group of the Parties for consideration.

**C. Interlinkages between the Aarhus Convention and the other ECE environmental conventions and protocols**

80. The secretariat briefly introduced the agenda item on interlinkages between the Aarhus Convention and the other ECE environmental conventions and protocols, and explained that the analysis of the interlinkages between the Aarhus Convention and the other ECE environmental instruments stemmed from the same process under the auspices of the Committee on Environmental Policy. This process started at a roundtable between all convention bureaux at the occasion of the seventh session of the Committee and was followed up by a joint bureaux meeting

in June 2001. At its eighth session, the Committee had decided that this analysis should be carried out to clarify links between these instruments. In response to this decision, the secretariat had commissioned a consultant, Mr. Stephen Stec, to prepare the study.

81. Mr. Stec briefly introduced the study (MP.PP/2002/19) and described the process for its preparation. He noted that a draft of the paper had been presented at a joint meeting of the bureaux of the ECE environmental instruments and the Committee on Environmental Policy (July 2002) and that some comments had been received and taken into account. The final document had been submitted to the Committee for consideration at its ninth session (November 2002). He briefly recalled the main conclusions of the paper. The one which had probably generated the most interest was the conclusion that there were no conflicts between the Convention and the other ECE environmental instruments, which was not a surprise as experts on other instruments had been actively engaged in the Convention's negotiations. Nevertheless, the paper concluded, the Aarhus Convention must be considered as an important development in international environmental law and the law of sustainable development. As such, it had an influence on how the other instruments were implemented, in particular in the following three areas: (a) the interpretation and implementation of provisions touching upon the three pillars (access to information, participation and justice); (b) the way in which certain operative provisions were implemented (e.g. relating to information held by authorities or to the development of plans, programmes and policies or rules); and (c) the application of the Aarhus Convention's principles to the functioning of the convention bodies themselves (e.g. rules of procedure). Mr. Stec referred to paragraphs 102 to 109 inclusive of the paper for further details on these conclusions.

82. The Meeting thanked Mr. Stec for his work and took note of the analysis.

#### **D. Strategic environmental assessment**

83. Mr. Jerzy Jendroska, Vice-Chairperson of the Ad hoc Working Group on the Protocol on Strategic Environmental Assessment (SEA), gave a brief update on the progress in preparation of the draft protocol. Significant progress had been made at the latest session of the Working Group and it was most likely that the Working Group would be able to present a draft protocol for adoption at the Kiev Conference. He indicated that the principles of the Aarhus Convention had been quite controversial in the negotiations and that it was clear that as far as public participation was concerned, the scope of the protocol would be limited to public participation in strategic environmental assessment.

84. The ECO Forum called upon all Parties and Signatories taking part in the SEA negotiations, as well as the Aarhus Convention's secretariat, to promote the linkage between the Aarhus principles and the SEA protocol.

#### **E. Activities to promote the Convention and its implementation**

85. The secretariat briefly reported that a multi-stakeholder training workshop for the five Central Asian countries had taken place in Dushanbe in June 2002. It had been organized jointly by UNECE, UNEP, the Organization for Security and Co-operation in Europe (OSCE), the American Bar Association Central and East European Law Initiative (ABA/CEELI) and the Tajik Ministry for the Environment with the financial support of Norway. The report of the workshop was made available to the Meeting.

86. A joint project between UNECE and UNITAR on the preparation of a guidance document on national profiles to assess national policies, programmes and capacities to implement the Aarhus Convention was presented by Mr. Achim Halpaap (UNITAR). He explained that a national profile was essentially an assessment of the infrastructure and the capacity needs for a particular area of environmental management, such as the area covered by the Aarhus Convention. A national profile was drawn up through collaboration of government with the various stakeholders in the country and was a self-assessment rather than an external assessment. The project partners were currently drafting a guidance document on national profiles. A draft outline of the guidance document was made available to the Meeting and delegates were invited to submit their comments. It was expected that the draft guidance document would be ready before the end of 2002 and that pilot projects would be carried out in three or four countries in 2003, subject to the availability of resources. Based on the experience gained with the pilot projects, the guidance document would be reviewed and the final publication was expected in early 2004. He encouraged countries interested in participating in the project as pilot countries to contact UNITAR or UNECE and invited potentially interested donors to provide support to the projects in pilot countries.

87. The European ECO Forum reported that it was actively involved in all the processes under the Aarhus Convention. In the past two years, work had been undertaken on the issues of PRTR, SEA and access to justice. Several publications, including one on SEA and a report on the implementation of principle 10 of the Rio Declaration in Europe (English and Russian), had been issued. A publication providing a simple explanation of the Convention had been distributed in English and Russian, and was currently being prepared in French and Spanish. The European ECO Forum also issued a regular newsletter on the international development of the Convention and progress made at national level. A web site was facilitating communication between environmental citizens' organizations in different countries. The European ECO Forum's work programme for 2003 would include monitoring the impact of the Convention on the legislation and practices of Parties and Signatories. The European ECO Forum expressed its gratitude to Denmark, Finland, Germany, Italy, Netherlands, Norway, UNECE and UNEP for providing financial support and invited all countries to continue to contribute.

## **IX. DATE AND VENUE OF THE SECOND ORDINARY MEETING**

88. The Meeting noted that two countries had offered to host the second ordinary meeting of the Parties, namely Kazakhstan and Bulgaria. It was decided to mandate the Working Group of the Parties to decide on the date and venue of the next meeting, noting that late 2004 or early 2005 would be the most likely time.

## **X. ELECTION OF BUREAU**

89. In accordance with the rules of procedure, the Meeting elected the following persons to serve on its Bureau from the end of the meeting: Mr. Jerzy Jendroska (Poland) as Chairperson, Ms. Aida Iskoyan (Armenia) and Ms. Giuliana Gasparrini (Italy) as Vice-Chairpersons and Ms.

Rita Annus (Estonia), Mr. Thierry Berthelot (France) and Ms. Tatiana Shakirova (Kazakhstan) as members of the Bureau. The Meeting agreed that Belgium, having ratified the Convention, would nominate a representative to replace the French representative on the occasion of the extraordinary meeting of the Parties in Kiev, May 2003, and noted that the Polish representative was only willing to serve as Chairperson for a limited period of time. The Meeting noted that one seat was left empty for the time being and decided to appoint the seventh member of the Bureau at its forthcoming extraordinary meeting, taking into account that more countries would have become Parties at that stage and would be in a position to put forward candidates, and furthermore that, if a decision on a host country for the second ordinary meeting of the Parties had been made, a representative from that country might be selected.

90. The European ECO Forum informed the Meeting that, pursuant to rule 22, paragraph 4, of the rules of procedure, Mr. John Hontelez (European Environmental Bureau) had been appointed to attend Bureau meetings as an observer.

#### **XI. ANY OTHER BUSINESS**

91. No issues were put forward for consideration by the Meeting under this item.

#### **XII. ADOPTION OF THE REPORT**

92. The secretariat reported that the following Parties to the Convention had presented appropriate credentials: Armenia, Denmark, Estonia, France, Georgia, Hungary, Italy, Kyrgyzstan, Latvia, Malta, Poland and Romania. The following Parties had presented credentials by fax indicating that the original would be sent to the secretariat by post as soon as possible: Albania, Kazakhstan, Republic of Moldova and Ukraine.

93. The Meeting adopted its report based on draft and entrusted its Chairperson and the secretariat with finalizing the text.

#### **XIII. CLOSE OF THE MEETING**

94. Delegations thanked the organizers, the Chairperson and the secretariat for a successful meeting. Special thanks were given to Minister Matteoli for the excellent arrangements made by the host country, as well as to Mr. Francesco La Camera, who had chaired the preparatory process up until a few weeks before the meeting, and to Ms. Guiliana Gasparrini, who had taken over the task at short notice. The exceptional contribution made by Mr. Veit Koester (Denmark), who had been Vice-Chairperson during the negotiations of the Convention and right through the preparatory process for the meeting and who would shortly be retiring, was acknowledged. The European ECO Forum thanked the Meeting for allowing environmental organizations to participate fully and actively in its proceedings. Finally, the Chairperson thanked the interpreters and closed the meeting.

## **Annex**

### **STATEMENT BY THE DELEGATION OF THE UNITED STATES WITH RESPECT TO THE ESTABLISHMENT OF THE COMPLIANCE MECHANISM**

#### **General comment**

1. As the United States is not a Party to the Aarhus Convention, we are not in a position to block the adoption of the decision related to the compliance mechanism. We would, however, like to have the following statement outlining our concerns included in the record of this session.
2. The United States followed the development of the Aarhus compliance regime with interest.
3. We were interested not only because the compliance regime applies to a convention in the UNECE region, but also because it raises unique compliance issues, given that the obligations in the Convention flow largely toward the nationals of a Party, rather than toward other Parties.
4. We were quite disappointed with both the negotiating process and the substantive outcome.
  - As a matter of process, attempts to focus on the interesting differences between this Convention and other conventions were largely ignored.
  - As a matter of outcome, we believe there are many curious and troublesome elements of the compliance regime.
5. We do not consider the compliance rules adopted here to be a precedent for compliance procedures in other regional or multilateral environmental agreements.
6. These procedures are a product of this specific treaty and were agreed by Aarhus Parties for use among themselves in this particular context. We have questions about whether elements of these rules are consistent with the Aarhus Convention itself.

#### **Procedures**

7. We note that the compliance mechanism provides for a variety of unusual procedural roles that may be performed by non-State, non-Party actors, including the nomination of members of the Committee and the ability to trigger certain communication requirements by Parties under these provisions.
8. We have doubts about the efficacy of such provisions as a general policy matter. We also note that their application here could lead to an unfortunate situation where a non-governmental organization might be afforded a greater status under these procedures than a Party. For example, in cases where the Committee is reviewing a submission by a member

of the public, it appears that a member of the public would be entitled to participate in the Committee's review while another Party would not be so entitled. We believe that the inversion of traditional treaty practice in this regard is likely to impede rather than enhance the effective operation of the treaty regime.

### **Consequences**

9. We have a number of concerns about chapter XII of the compliance text, concerning measures that the Meeting of the Parties may impose.
10. First, we question whether certain of these measures are consistent with the enabling provision in the Aarhus Convention, which calls for "arrangements of a non-confrontational, non-judicial and consultative nature." It is difficult to see how measures such as the issuance of "declarations of non-compliance," the issuance of "cautions," and the suspension of a Party's rights and privileges could be considered "non-confrontational, non-judicial and consultative."
11. Second, with respect to the possibility that the Meeting of the Parties might "suspend, in accordance with the applicable rules of international law concerning the suspension of the operation of a treaty, the special rights and privileges accorded to" a non-complying Party, we have serious questions about the legal basis for such a measure.
  - To the extent that such authority is intended to be derived from the text of the Aarhus treaty itself, we see no basis in the Convention to authorize such a measure. As noted previously, at most the treaty provides only for "arrangements of a non-confrontational, non-judicial and consultative nature."
  - To the extent that such authority is intended to be derived from the general rules of treaty law in the event of a material breach, such authority is set out in article 60 of the Vienna Convention on the Law of Treaties. Article 60 authorizes the other Parties, by unanimous agreement, to suspend the operation of the treaty in the relations between themselves and a defaulting Party. We find it hard to understand how Article 60 of the Vienna Convention could be applied in the context of the Aarhus Convention.
    - o Virtually all of the Aarhus obligations flow from a Party to "the public." We, therefore, question how suspension of the other Parties' performance would have any practical effect on a non-complying Party.
    - o If this language is instead intended to refer to the deprivation of a Party's right to vote in the Meetings of the Parties, we do not see how article 60 could be applied in this manner. Nor are we aware of precedent for such a measure where, as is the case here, the treaty itself does not authorize it.

**Enhancement of synergies**

12. We view each compliance procedure as uniquely reflective of the particular obligations and character within the governing agreement. We, therefore, remain concerned by the concept embodied in document MP.PP/2002/9, paragraph 39, about the enhancement of “synergies” between the compliance procedure in this treaty and procedures under other agreements.

**Conclusion**

13. For the reasons outlined, among others, the United States will not recognize this regime as precedent.