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**ECONOMIC COMMISSION FOR EUROPE  
COMMITTEE ON ENVIRONMENTAL POLICY**

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

Working Group on Compliance and Rules of Procedure  
(Second meeting, Geneva, 26-27 November 2001)

**REPORT OF THE SECOND MEETING**

1. The second meeting of the Working Group was held in Geneva from 26 to 27 November 2001.
2. The meeting was attended by delegations from the Governments of Armenia, Austria, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Italy, Kazakhstan, Latvia, Netherlands, Norway, Portugal, Republic of Moldova, Romania, Slovakia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom, United States of America, Uzbekistan and Yugoslavia.
3. The Commission of the European Communities was also represented.
4. The following regional and non-governmental organizations were represented: Earthjustice Legal Defense Fund, European ECO Forum, GLOBE Europe, the Regional Environmental Center for Central and Eastern Europe (REC) and Regional Environmental Center for Moldova.
5. The meeting was chaired by Mr. A. McGlone (United Kingdom).

6. The provisional agenda for the meeting (CEP/WG.5/AC.1/2001/5) was adopted without amendment.
7. The Working Group continued the work of preparing draft rules of procedure for the Meeting of the Parties, taking as a basis the draft decision contained in annex I to the report of its first meeting (CEP/WG.5/AC.1/2001/2). Due to time constraints, the Working Group only succeeded in discussing rule 22, which was amended as indicated in annex I below.
8. The Working Group continued to prepare a draft decision for the Meeting of the Parties establishing a compliance mechanism for the Convention, taking as a basis the draft decision contained in annex II to the report of its first meeting (CEP/WG.5/AC.1/2001/2). The draft decision was amended during the course of the meeting as indicated in annex II below. That annex includes two proposals on the composition of the compliance committee. The first would be a compliance committee comprising Parties. The second would be a compliance committee comprising independent members. The majority supported the latter. The Working Group focused primarily on the second alternative.
9. Noting the close linkage between the issue of reporting and that of compliance, the Working Group agreed to recommend to the ad hoc Working Group preparing for the first meeting of the Parties to commence preparatory work on a draft decision on reporting, e.g. through the creation of a task force for this purpose.
10. The Chairperson thanked the participants and the secretariat and closed the meeting.

**Annex I**

For rule 22, paragraph 1 (c), read

[(c) [A] [Two] representative[s] of non-governmental organizations established for the purpose of, and actively engaged in, promoting environmental protection and sustainable development [qualified in the fields to which the Convention relates] [without voting rights] [in an advisory capacity]].

**Annex II**

DRAFT DECISION I/...  
**ARRANGEMENTS FOR REVIEW OF COMPLIANCE**

In the first sentence for (Convention) read (“the Convention”)

Delete paragraphs 3 and 4

Insert a new paragraph 3, reading

3. Decides that this decision shall become effective on the thirtieth day following the date of its adoption.

## Appendix

### **STRUCTURE AND FUNCTIONS OF THE COMPLIANCE COMMITTEE AND PROCEDURES FOR REVIEW OF COMPLIANCE**

#### **Paragraph 1**

[[Alternative 1 on structure: compliance committee comprising Parties to the Convention]]

1. (a) The Committee shall consist of eight Parties to the Convention. [Two entities entitled to participate in meetings of the Parties to the Convention in accordance with its article 10, paragraphs 4 and 5, may attend committee meetings as observers.]

(b) The Meeting of the Parties shall, as soon as practicable, elect four Parties to the Committee to serve until the end of the next ordinary meeting and four Parties to serve a full term of office. At each ordinary meeting thereafter, the Meeting of the Parties shall elect four Parties for a full term of office. Outgoing Parties may be re-elected once for a further full term of office, unless in a given case the Meeting of the Parties decides otherwise. A full term of office commences at the end of an ordinary meeting of the Parties and runs until the second ordinary meeting of the Parties thereafter. The Committee shall elect its own Chairperson and Vice-Chairperson.

(c) The Meeting of the Parties shall elect the members of the Committee by consensus or, failing consensus, by secret ballot.

(d) In the election of the Committee, consideration should be given to geographical distribution of membership and diversity of experience.

(e) In carrying out its functions, the Compliance Committee shall be guided by the objective of the Convention as expressed in its article 1.]

[[Alternative 2 on structure: compliance committee comprising independent members]]

For subparagraph (a) read

(a) The Committee shall consist of eight members[, six of whom shall be nominated by the Parties and two of whom shall be nominated by the non-governmental organizations[falling within the scope of article 10, paragraph 5, of the Convention][promoting environmental protection]].

For subparagraph (e) read

(e) Committee members meeting the requirements of subparagraph (c) shall be nominated by Parties[, and by non-governmental organizations [falling within the scope of article 10, paragraph 5, of the Convention] [promoting environmental protection,]] for election pursuant to subparagraph (g).

In subparagraph (i), for President read Chairperson and for Vice-President read Vice-Chairperson

In subparagraph (j) for expert read member

In subparagraph (k) for person read member

## **Paragraph 2**

For the second sentence read

The secretariat shall arrange for and service the meetings of the Committee.

## **Paragraph 3**

For subparagraph (a) (i) read

- (i) Consider any submission, referral or communication made in accordance with paragraphs 4, 5 and 6 below;

At the end of subparagraph (a) (ii) insert and

After subparagraph (a) insert as following so as to apply to (a) (i)-(iii)

and act pursuant to paragraphs 12 and 13.

Delete subparagraph (a) (iv)

## **Paragraph 4**

In the last sentence of subparagraph (b) for it read the matter

## **Paragraph 5**

In the first sentence for reviewing read considering

after obligations insert under the Convention

At the end of the last sentence insert , which shall consider the matter as soon as practicable.

## **Paragraph 6**

For paragraph 6 read

(a) On the expiry of twelve months from either the date of adoption of this decision or from the date of the entry into force of the Convention with respect to a Party, whichever is the later, communications may be brought before the Committee by one or more members of the public concerning a Party's compliance with the Convention, unless that Party has notified in writing by the end of the applicable period to the Depositary that it is unable to accept [, for a period of not more than [four] years,] the consideration of such

communications by the Committee. The Depositary shall without delay notify all Parties of any such notification received. [During the [four]-year period mentioned above, the] [The] Party may [at any time] revoke its notification thereby accepting that, from that date, communications may be brought before the Committee by one or more members of the public concerning that Party's compliance with the Convention.

(b) The communications referred to in subparagraph (a) shall be addressed to the Committee through the secretariat in writing and may be in electronic form. The communication shall be supported by corroborating information.

(c) The Committee shall consider any such communication unless it determines that the communication is:

- (i) Anonymous;
- (ii) An abuse of the right to make such communications;
- (iii) Manifestly unreasonable;
- (iv) Incompatible with the provisions of this decision or with the Convention.

(d) The Committee should at all relevant stages take into account any available domestic remedy unless the application of the remedy is unreasonably prolonged or obviously does not provide an effective and sufficient means of redress.

(e) Subject to the provisions of subparagraph (c), the Committee shall as soon as possible bring any communications submitted to it under subparagraph (a) to the attention of the Party alleged to be in non-compliance.

(f) A Party shall, as soon as possible but not later than five months after any communication is brought to its attention by the Committee, submit to the Committee written explanations or statements clarifying the matter and describing any response that it may have made.

(g) The Committee shall, as soon as practicable, further consider communications submitted to it pursuant to this paragraph and take into account all relevant written information made available to it, and may hold hearings.

## **Paragraph 8**

In subparagraphs (b) and (c) for deliberations read work

In subparagraph (e), delete the bracket

In subparagraph (f), third sentence, delete all brackets and delete relevant

## **Paragraph 9**

In subparagraph (b) after any findings insert , any measures

In subparagraph (c) after draft findings insert , draft measures

and after those findings insert , measures

### **Paragraph 10**

In the first sentence for ten read twelve

### **Paragraph 12**

Insert a new paragraph 12, and renumber the remaining paragraphs accordingly

#### Consideration by the Compliance Committee

12. Pending consideration by the Meeting of the Parties, with a view to addressing compliance issues without delay, the Compliance Committee may:

- In consultation with the Party concerned, take the measures listed in paragraph 13 (a);
- Subject to agreement with the Party concerned, take the measures listed in paragraph 13 (b), (c) and (d).

### **Paragraph 13** (formerly paragraph 12)

For subparagraph (e) read

- (e) Issue declarations of non-compliance;

For subparagraph (g) read<sup>1</sup>

(g) 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 the Party concerned under the Convention;

For subparagraph (h) read

(h) Take such other non-confrontational, non-judicial and consultative measures as may be appropriate.

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<sup>1</sup> Representatives of the Signatories to the Convention present at the Working Group considered that the notion of “special rights and privileges” in paragraph 13 refers to rights and privileges offered by the Meeting of the Parties or subsidiary bodies to individual Parties. It does not refer to rights and privileges granted by the provisions of the Convention itself to all Parties, in particular the right of the Party concerned to vote.



## **Paragraph 14**

For the former paragraph 13 read

14. The present compliance procedure shall be without prejudice to article 16 of the Convention on the settlement of disputes.

Delete the former paragraph 14 and insert a new paragraph 15

Enhancement of synergies

15. In order to enhance synergies between this compliance procedure and compliance procedures under other agreements, the Meeting of the Parties may request the Compliance Committee to communicate as appropriate with the relevant bodies of those agreements and report back to it, including with recommendations as appropriate. The Compliance Committee may also submit a report to the Meeting of the Parties on relevant developments between the sessions of the Meeting of the Parties.