

Decision VI/2

Adopted by the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context at its sixth session

Review of compliance with the Convention

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Annex II

Amendments of the operating rules of the Implementation Committee

1. In the operating rules of the Implementation Committee (decision IV/2, annex IV, as amended by decision V/4), add the following paragraphs to the end of the preamble:

Upon the entry into force of the Protocol on Strategic Environmental Assessment the Meeting of the Parties to the Convention, at its fifth session, and the Meeting of the Parties of the Convention serving as the Meeting of the Parties to the Protocol, at its first session, decided to extend the application of the compliance procedure of the Convention to the Protocol. Therefore, in accordance with decisions V/6–I/6:

(a) The structure and functions of the Committee and its operating rules, as amended in the light of experience gained by the Committee, shall apply, *mutatis mutandis*, to the Protocol, unless otherwise decided by the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol;

(b) References to the Convention and to the Meeting of the Parties to the Convention in the Committee's structure and functions and in the Committee's operating rules shall be understood as referring also to the Protocol and to the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol.

2. Replace rule 2 with the following text so as to include an explicit reference to rule 37 of decision I/1 on the rules of procedure:

The following rules of procedure of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context should apply, *mutatis mutandis*, to any meeting of the Implementation Committee under the Convention on Environmental Impact Assessment in a Transboundary Context, except as otherwise provided in the rules set out herein and in the appendix to decision III/2: rule 3 (Place of meetings); rules 12 and 13 (Agenda); rules 20 to 22 (Officers); rules 24 and 25 (c) (Secretariat); rules 28 and 30 to 35 (Conduct of business), except rule 32, paragraph 2; and rules 37 to 46 (Voting).

3. Amend rule 3 to add a new paragraph (b), as follows (and renumber the subsequent subparagraphs):

(b) "Protocol" means the Protocol on Strategic Environmental Assessment to the Convention, adopted in Kyiv, Ukraine, on 21 May 2003;

4. Replace paragraphs 1 and 2 of rule 4 with the following:

1. The Meeting of the Parties shall elect Parties to serve for two terms in the Committee. Each Party elected by the Meeting of the Parties shall appoint a permanent member of the Committee for two terms. Each Party elected by the Meeting of the Parties should also appoint an alternate

member for two terms. The term of office of a member shall commence with the appointment by a Party. This paragraph should apply without prejudice to the right of a Party elected by the Meeting of the Parties to appoint in exceptional cases a permanent replacement for the permanent or the alternate member.

2. Members are expected to participate in every meeting of the Committee. If in exceptional cases the permanent member is unable to participate in a meeting of the Committee, the alternate member shall participate and the Party shall inform the Chair and the secretariat accordingly well in advance of the meeting. To ensure continuity in the Committee's deliberations, Parties should avoid rotation of permanent members and alternate members in a Party's participation in the Committee meetings. The responsibility for the proper briefing of the alternate member and the facilitation of his/her participation in a meeting rests with the permanent member who cannot participate. If the alternate member is also unable to participate, the respective Party should make every effort to find a suitable replacement of its nominated members for that meeting of the Committee, informing the Chair and the secretariat accordingly well in advance of the meeting.

5. Add new paragraph 4 at the end of rule 4, as follows:

4. Committee members elected for Protocol matters only may participate in the consideration of an issue relating to compliance with the Convention, provided that there is no objection by a Committee member elected for Convention matters. However, a Committee member elected for Protocol matters should not take part in decision-making concerning Convention matters and should not act as curator for an issue relating to compliance with the Convention, but might provide information, opinions and advice. This rule should be applied, *mutatis mutandis*, in the case of a Committee member elected for Convention matters only, but representing a Party to both the Convention and the Protocol. Further, this rule should be applied without prejudice to paragraphs 10 (entitlement to participate) and 12 (competence) of the structure and functions of the Committee and procedures for review of compliance, and without prejudice to the Committee's operating rules 5 (members), and 18 and 19 (decision-making).

6. In rule 5, replace paragraph 2 with the following:

2. A member that represents a Party in respect of which a submission is made or which makes a submission should not participate in the consideration by the Committee of that submission or the follow-up to a related decision by the Meeting of the Parties, and should not participate in, or be present during, the preparation and adoption of any part of a report, finding or recommendation of the Committee that relates to that submission. This paragraph should be applied, *mutatis mutandis*, in the case of a Committee initiative.

7. In rule 6, replace paragraph 1 with the following:

1. The Committee should elect a chair and two (first and second) vice-chairs for one term. They should serve in those capacities until their successors are elected. The chair and vice-chairs may be re-elected. If an officer resigns during, or is unable to complete, his or her term of office, the Committee should elect a successor until the end of the term. The Chair and the first Vice-Chair of the Committee shall also serve as Vice-Chairs of the Bureau, unless the Meetings of the Parties decide otherwise.

8. In rule 11, replace paragraph 2 with the following and add a new paragraph 3 (renumbering subsequent paragraphs):

2. When it is known that the Committee will discuss the matter of any submission at a particular meeting, the secretariat should notify the Parties involved that the matter will be discussed as well as of their right to present to the Committee information and opinions on the matter under consideration.

3. The Committee should not begin to prepare or adopt any finding or recommendation that relates to a submission before the Party in respect of which a submission is made or which makes a submission, at the invitation of the Committee, presents their views on the submission before the Committee.

9. At the end of rule 11, add new paragraphs 5, 6 and 7, as follows:

5. Information presented to the Committee should be as concise and concrete as possible. Parties should avoid including information that is not strictly necessary to establish the existence and nature of the alleged non-compliance or to respond to the allegations or to the Committee's requests for additional information. If the information is inevitably lengthy due to the complexity of the matter and the volume of the related information, it is recommended that Parties include a three-page (maximum) summary with the main facts and/or arguments of their position.

6. Parties are requested to submit any information to the Committee through the secretariat. The information should be submitted in electronic form, and as relevant, by sending original copies subsequently by post.

7. The information should consist of original documents and their English translation. The Committee may choose not to consider documentation referred to by the Parties via web links.

10. In rule 12, replace paragraph 2 (e) with the following:

(e) In circumstances of persistent non-compliance since the previous Meeting of the Parties, a recommendation to the Meeting of the Parties to 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 and the Protocol, including the possibility to appoint a member to the Implementation Committee.

11. In rule 17, replace paragraph 2 with the following:

2. A Party in respect of which a submission is made or which makes a submission shall not participate in, or be present during, the consideration by the Committee of that submission, including the preparation and adoption of any part of the findings or recommendations of the Committee relating to that submission (see also para. 10 of the Committee's structure and functions).

12. Replace rule 19 with the following:

In between meetings, electronic means of communication might be used by the members for the purpose of decision-making and of conducting informal consultations on issues under consideration. Decisions can only be taken by electronic means of communication if all members participate in decision-making by submitting to the Chair and the secretariat their vote or abstention within the deadline set by the secretariat in consultation with the Chair, or by not replying at all within 10 days to the Chair's request for decision-making by electronic means of communication. Any decisions taken by electronic means of communication should be reflected in the report of the meeting of the Committee that follows the taking of the decision.