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ECONOMIC COMMISSION FOR EUROPE

**Meeting of the Parties to the Convention
on Environmental Impact Assessment
in a Transboundary Context**

**Working Group on Environmental Impact Assessment
(Fifth meeting, Geneva, 27-29 January 2003)
(Item 4(b) of the provisionnal agenda)**

**REPORT OF THE SECOND MEETING
OF THE IMPLEMENTATION COMMITTEE**

1. The second meeting of the Implementation Committee took place in Geneva from 10 to 12 June 2002.
2. Representatives from the following Parties, members of the Implementation Committee, attended the meeting: Armenia, Canada, Finland, Netherlands, Republic of Moldova, Slovakia, the Former Yugoslav Republic of Macedonia and the United Kingdom.
3. The meeting recognized that since its first meeting a number of representatives had been replaced by others, because of a reorganization of government institutions. It was felt that continuation of membership is an important element for the work of the Committee.
4. Informal background documents were available to the participants for their consideration, including, No. 6 in the Environmental Series, Decision II/4 on Review of Compliance by the Meeting of the Parties to the EIA Convention (ECE/MP.EIA/4) and the relevant part of the report of the fourth meeting of the Working Group on EIA (MP.EIA/WG.1/2001/2). The Committee used for its deliberations the agenda prepared by the lead country, with the assistance of the secretariat. The meeting expressed its appreciation to the secretariat for its thorough work in the preparation of the first draft of the questionnaire on the implementation of the Convention.

DECISION OF THE FOURTH MEETING OF THE WORKING GROUP ON THE QUESTIONNAIRE

5. The secretariat informed the meeting of the decision regarding the questionnaire taken at the fourth meeting of the Working Group on Environmental Impact Assessment, which took place in November 2001 in Orvieto (Italy), whereby the Working Group decided that the replies to the questionnaire will be used to indentify possibles areas for amendments. Three members of the Implementation Committee (Armenia, Republic of Moldova and the Former Yugoslav Republic of Macedonia) noted that the following issues are important for the completion of the questionnaire: a sufficient training for completing the questionnaire, the availability of relevant software, the adequate translation and the interpretation of certain terms. The meeting concluded that proposals on how to deal with these issues should be discussed at a later stage. The Committee also reaffirmed the expectation expressed at its first meeting that access to the replies to the questionnaire should not be restricted and be available in the ENIMPAS Database for all interested persons to consult.

COMPLIANCE/NON-COMPLIANCE UNDER THE CONVENTION

6. The meeting discussed the experience related to the method of work of the Implementation Committee under the Convention on Long-range Transboundary Air Pollution(LRTAP Convention) and noted that both Conventions did not include a provision to report on the implementation of the Convention. The meeting considered the issue related to the obligation to report and recognised that some Parties may have difficulties in answering the questionnaire. For further work of the Implementation Committee it was considered useful that Parties contact the Committee members, through the secretariat, in order to identify what potential difficulties they may have in providing answers to the questionnaire and in that light the Committee may consider what appropriate assistance could be given to those Parties. The Committee decided that it would, once the replies to the questionnaire were returned, consider the responses provided by Parties and see how to deal with some of the problem areas and take action accordingly. As there is no legal obligation to report, the Committee considered that it can not review compliance with reporting.

7. The meeting noted that there is a difference between the obligations of the LRTAP Convention and the EIA Convention; it was mentioned that the LRTAP Convention is more result oriented and the EIA Convention contains mainly process oriented obligations. In this respect the Implementation Committee reflected that these differences would have to be taken into account when considering the LRTAP experience.

8. The Implementation Committee was informed of the relevant work related to bilateral and multilateral agreements, the practical implementation of the Convention and the content of the publication No. 6 in the Environmental Series. In the ensuing discussion the meeting recognized that the Convention applies to the whole range of environmental impacts, both to neighbouring countries and long range impacts.

9. The Implementation Committee considered that, while it is not in its mandate to develop a hierarchy of the obligations under the Convention, it could identify the following issues as core obligations: establishment of an EIA procedure; notification; confirmation of participation in the

procedure under the Convention; transmittal of information; public participation; preparation of EIA documentation; distribution of the EIA documentation for the purpose of participation of authorities and public of the affected country; consultation between Parties; final decision and transmittal of final decision documentation. The Committee was of the opinion that these obligations are an integral part of the whole process in the Convention.

10. The Committee discussed in detail the question of notification. It was recognized that the Convention did not include a clear provision to which authority in the Affected Party the notification would have to be sent. It was noted that for this reason the first Meeting of Parties established in its Decision I/3 the points of contact. It was mentioned that a decision by the Meeting of the Parties did not constitute a legally binding obligation and thus would not be subject to compliance review. However, it was realized that this is relevant for a good functioning of the Convention. The Implementation Committee concluded that a Party would have fulfilled its obligations under the Convention when the notification was sent to the authority nominated for this purpose by the Affected Party, which would normally be the point of contact or the Ministry of Foreign Affairs, unless otherwise provided for in a bilateral or multilateral agreement.

STRUCTURE AND FUNCTION OF THE IMPLEMENTATION COMMITTEE

11. The meeting discussed the experience with the structure and function of the compliance regime under the LRTAP Convention. The meeting also considered the most recent draft of the decision on review of compliance under the Aarhus Convention. The meeting noted that the following three issues were not included in Decision II/4: secretariat referral, public participation in the work of the Implementation Committee and the publicly available information. The Committee should therefore, following paragraph 4 of Decision II/4, prepare the necessary proposals for further consideration by the Working Group on EIA.

12. To that end, the Implementation Committee decided to propose to the Working Group on EIA the following amendments to the structure and functions of the Implementation Committee as included in the appendix to Decision II/4 for formal adoption by the third Meeting of the Parties: (i) to add to the end of paragraph 6(e) "or any other relevant sources as it considers appropriate" and (ii) to add to the end of paragraph 9 "Committee reports shall be available to the public."

13. The Committee noted that the involvement of the public in the work of the Implementation Committee was a decision to be taken by the Meeting of Parties. The Committee also noted that experience in time with the compliance regime under the EIA Convention as well as with other compliance regimes, such as under the Aarhus Convention, may be useful to assess how to deal with this issue in the future. However, in order to fulfil the request by the Meeting of Parties to the Implementation Committee to prepare the necessary proposals for review of the structure and functions of the Committee at the third Meeting of Parties, the Committee identified the following five possible ways for public involvement:

(i) **public to be informed**

The reports of the meetings of the Implementation Committee could be made available to the public and/or the public could be informed of cases which are before the Committee.

(ii) public able to provide information to the Implementation Committee

This could be either in relation to cases already before the Committee or on cases not before the Committee or both. It could cover situations where the Committee itself seeks information or where the public provides information on its own.

(iii) attendance

Meetings of the Implementation Committee could be open to the public in a passive manner. Meetings could be open either for invited members of the public or the public at large.

(iv) public initiative

The public could have the possibility to initiate a compliance procedure before the Implementation Committee.

(v) direct and active participation

The public could be members of the Implementation Committee as such and/or otherwise be able to participate actively in its work.

14. The delegation of Canada offered to prepare, with the assistance of the secretariat, a discussion paper in order to identify and consider in greater detail issues related to the above five possible ways of public involvement for the next meeting of the Implementation Committee. The Committee expressed its gratitude to the Canadian delegation.

15. The meeting adopted its report and decided to have its next meeting from 10 to 11 March 2003 in Geneva.

16. The meeting was closed on Wednesday 12 June 2002.