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## **Economic Commission for Europe**

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

### **Ninth session**

Meeting of the Parties to the Convention  
on Environmental Impact Assessment in  
a Transboundary Context serving as the  
Meeting of the Parties to the Protocol on  
Strategic Environmental Assessment

### **Fifth session**

Geneva, 12–15 December 2023  
Items 3 (a) and 8 (a) of the provisional agenda

**Outstanding issues: draft joint decisions**

**Adoption of decisions: decisions to be taken jointly**

## **Track-changes version of the proposed amendments to the Implementation Committee's structure and functions and operating rules**

**Note by the Implementation Committee**

### *Summary*

The present informal document complements document ECE/MP.EIA/2023/5 – ECE/MP.EIA/SEA/2023/5 on Proposed amendments to the Implementation Committee's structure and functions and operating rules and informal document ECE/MP.EIA/2023/INF.6 on Rationale for the proposed amendments to the Implementation Committee's structure and functions and operating rules. It is based on a consolidated electronic publication of 2020 of the Committee's structure and functions and operating rules<sup>a</sup> and illustrates, for ease of reference, in track-changes the proposed amendments by the Implementation Committee.

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<sup>a</sup> <https://unece.org/sites/default/files/2023-04/Implementation%20Committee%20structure%20functions%20procedures%20rules.e%202020%20%281%29.pdf>

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ECONOMIC COMMISSION FOR EUROPE

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**Structure and functions  
of the Implementation Committee  
and procedures for  
review of compliance**

**Operating rules  
of the Implementation Committee**

**Convention on Environmental  
Impact Assessment in a  
Transboundary Context  
and  
Protocol on Strategic Environmental  
Assessment**





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# Structure and functions of the Implementation Committee and procedures for review of compliance

*Decision III/2, appendix (ECE/MP.EIA/6)  
as amended by decision VI/2 (ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1)*

## Structure

1. (a) The Committee shall consist of eight Parties.<sup>1</sup> Each of the eight Parties shall appoint a permanent and an alternate member of the Committee. To ensure continuity of the Committee's discussions, Parties shall ensure that the members participate in all the Committee's sessions<sup>2</sup> and alternate members only as an exception, when the permanent members cannot participate (see also the Committee's operating rule 4, para. 2). Should the permanent member not be able to participate, he/she shall be responsible for briefing the alternate member and facilitating his/her participation in a Committee's session:

(b) At their second meeting, the Parties elected four Parties to the Committee for two terms and four Parties for one term. At each session thereafter, the Meeting of the Parties shall elect four new Parties for two terms. Outgoing Parties may be re-elected once, unless in a given case the Meeting of the Parties decides otherwise. Further to the application of the implementation of the compliance procedure of the Convention to the Protocol (decisions V/6–I/6), Parties to the Convention and to the Protocol shall also cooperate with a view to ensuring that the total of the number of Parties elected under the Convention and under the Protocol shall preferably not exceed 12:

(c) The Committee shall elect its own chair and two vice-chairs. The chair and the first vice-chair of the Committee shall also serve as vice-chairs of the Bureau:

(d) For the purposes of this paragraph "term(s)" means the period that begins at the end of one meeting of the Parties and ends at the end of the next meeting of the Parties.

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<sup>1</sup> In accordance with decision V/6–I/6 on the application of the compliance procedure of the Convention to the Protocol on Strategic Environmental Assessment, references in the Committee's structure and functions to the Convention and to the Meeting of the Parties to the Convention shall be understood also as referring to the Protocol and to the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol. In line with paragraph 2 of that decision, where review of compliance of the Protocol is concerned, the Committee should consist of eight Parties to the Protocol. If the elected members represent Parties to Convention that are not yet Parties to the Protocol, the Parties to the Protocol shall elect the necessary number of additional Parties for Protocol matters, to serve for the same term.

<sup>2</sup> It is important for the Parties to understand their obligations when nominating representatives to serve on the Committee, including to ensure that appropriate time and resources are allocated to allow their nominated members to accomplish their tasks as Committee members. In addition to participating in the Committee sessions, the work of the Committee members involves: preparing for the sessions by reviewing the information available on all compliance cases and other agenda items to be considered; and, as an assigned curator for some of the cases, thoroughly analysing them and preparing the related written, in-depth reports in a timely manner. Good preparation for the sessions is a prerequisite for the effectiveness of the Committee's work. Moreover, consultations in between the ordinary sessions can take place.

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## Meetings

2. The Committee shall, unless it decides otherwise, meet at least once a year. The secretariat shall arrange for and service its meetings. The agenda for each meeting shall be made publicly available before the meeting.
3. Committee meetings shall be open to other Parties and the public, unless the Committee decides otherwise. Parts of meetings dealing with compliance matters shall not be open to other Parties or to the public, unless the Committee and the Party whose compliance is in question agree otherwise.

## Objective and functions of the Committee

4. The objective of the Committee shall be to assist Parties to comply fully with their obligations under the Convention, and to this end it shall:
  - (a) Consider any submission made in accordance with paragraph 5 below or any other possible non-compliance by a Party with its obligations that the Committee decides to consider in accordance with paragraph 6, with a view to securing a constructive solution;
  - (b) Review periodically, in accordance with guidelines or criteria formulated by the Meeting of the Parties, compliance by the Parties with their obligations under the Convention on the basis of the information provided in their reports;
  - (c) Prepare the reports referred to in paragraph 11 with a view to providing any appropriate assistance to the Party or Parties concerned, for example by clarifying and assisting in the resolution of questions; providing advice and recommendations relating to procedural, technical or administrative matters; and providing advice on the compilation and communication of information; and
  - (d) Prepare, at the request of the Meeting of the Parties, and based on relevant experience acquired in the performance of its functions under subparagraphs (a), (b) and (c) above, a report on compliance with or implementation of specified obligations in the provisions of the Convention.

## Submission by Parties

5. A submission may be brought before the Committee by:
  - (a) One or more Parties to the Convention that have concerns about another Party's compliance with its obligations under that instrument. Such a submission shall relate specifically to those concerns and shall be addressed in writing by the focal point of the Party in question to the secretariat and supported by corroborating information. The secretariat shall, within two weeks of receiving a submission, send a copy of it to the focal point of the Party whose compliance is at issue. Any reply and information in support thereof shall be submitted to the secretariat and to the focal points of the Parties involved within three months or such longer period as the Parties involved agree. The secretariat shall transmit the submission and the reply, as well as all corroborating and supporting information, to the Committee, which shall consider the matter as soon as possible; or
  - (b) A Party that concludes that, despite its best endeavours, it is or will be unable to comply fully with its obligations under the Convention. Such a submission shall be addressed in writing to the secretariat and explain, in particular, the specific circumstances that the Party considers to be the cause of its non-compliance. The secretariat shall transmit the submission to the Committee, which shall consider it as soon as possible.

## Committee initiative

6. Where the Committee becomes aware of possible non-compliance by a Party with its obligations, it may request the Party concerned to furnish necessary information about the matter. Any reply and information in support shall be provided to the Committee within



three months or such longer period as the circumstances of a particular case may require. The Committee shall consider the matter as soon as possible in the light of any reply that the Party may provide.

## Information gathering

7. To assist the performance of its functions under paragraph 4 above, the Committee may:
  - (a) Request further information on matters under its consideration, through the secretariat;
  - (b) Undertake, at the invitation of the Party of origin and/or the affected Party, information gathering in the territory of that Party;
  - (c) Consider any information forwarded by the secretariat concerning compliance with the Convention; and
  - (d) As appropriate, seek the services of scientific experts and other technical advice or consult other relevant sources.
8. The Committee shall ensure the confidentiality of information that has been provided to it in confidence, inter alia, with regard to the reports of its meetings.

## Entitlement to participate

9. At the invitation of the Committee, a Party in respect of which a submission is made or a Committee initiative is opened, or which makes a submission shall be entitled to attend the Committee's session and present to the Committee information and opinions on that matter, but shall not take part in its consideration, including the preparation and adoption of any report or of findings and recommendations of the Committee. The Committee may also invite other concerned Parties to attend its sessions in order to present information and opinions, as appropriate. The Committee shall send the draft findings and recommendations to the Parties concerned, and shall take into account any representations from such Parties in their finalization (see also operating rule 11, para. 2).
10. The following rules apply to the participation of the members of the Committee:
  - (a) Each member should, with respect to any matter that is under consideration by the Committee, avoid direct or indirect conflict of interest. Where a member finds himself or herself faced with a direct or indirect conflict of interest, that member should bring the conflict of interest to the attention of the Committee before consideration of that particular matter. The concerned member should not participate in the elaboration and adoption of any part of a report or findings and recommendations of the Committee in relation to that matter.
  - (b) A member who 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 or findings and recommendations of the Committee that relates to that submission. This subparagraph should be applied, mutatis mutandis, in the case of a Committee initiative (see also operating rule 5 para.1).

## Committee reports to the Meeting of the Parties

11. The Committee shall report on its activities at each meeting of the Parties through the secretariat and make such recommendations as it considers appropriate, taking into account the circumstances of the matter, regarding compliance with the Convention. Each report shall be finalized by the Committee not later than ten weeks in advance of the session of the Meeting of the Parties at which it is to be considered. Committee reports shall be available to the public.

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## Competence of Committee members

12. If, as a result of the operation of paragraph 10, the size of the Committee is reduced to fewer than four members, the Committee shall forthwith refer the matter in question to the Meeting of the Parties.

## Consideration by the Meeting of the Parties

13. The Meeting of the Parties may, upon consideration of a report and any recommendations of the Committee, decide upon appropriate general measures to bring about compliance with the Convention and measures to assist an individual Party's compliance. The Parties shall make every effort to reach a decision by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the decision shall, as a last resort, be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.

## Relationship to settlement of disputes and the inquiry procedure

14. The present compliance procedure, as a non-adversarial and assistance-oriented procedure, shall be without prejudice to the settlement of disputes provisions in Article 15 of the Convention.

15. Where a matter is being considered under an inquiry procedure under Article 3, paragraph 7, of the Convention, that matter may not be the subject of a submission under this decision.

# Operating rules of the Implementation Committee

*Decision IV/2, annex IV (ECE/MP.EIA/10),  
as amended by decision V/4 (ECE/MP.EIA/15) and decision VI/2  
(ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1)*

## Preamble

The second meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context decided to establish an Implementation Committee for the review of compliance by the Parties with their obligations under the Convention, with a view to assisting them fully to meet their commitments (decision II/4). The third meeting of the Parties decided to revise the structure and functions of the Committee and the procedures for review of compliance (decision III/2).

These operating rules guide the Implementation Committee in the execution of its functions and provide more detail on how the Committee should operate within its structure and functions. The Committee considers that the rules are needed to facilitate its work. The rules incorporate decisions made by the Committee in its meetings and reflected in their reports. It is intended that the rules promote consistency, predictability, credibility, transparency, accountability and efficiency in the work of the Committee, particularly with regard to procedures for the review of compliance. It is also intended that the rules will provide a flexible means of adapting the Committee's mode of operation in the light of its experience.

Upon the entry of the 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.

## Purposes

### Rule 1<sup>3</sup>

These operating rules should apply to any meeting and to any other conduct of business of the Implementation Committee under the Convention and should be read together with and in furtherance of the structure, functions and procedures set out in the appendix to decision III/2 of the Meeting of the Parties to the Convention.

<sup>3</sup> The Committee should refer here to paragraph 4 of the appendix to decision III/2.

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## Rule 2

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).

## Definitions

### Rule 3

For the purposes of these rules:

- (a) “Convention” means the Convention on Environmental Impact Assessment in a Transboundary Context, adopted at Espoo (Finland) on 25 February 1991;
- (b) “Protocol” means the Protocol on Strategic Environmental Assessment to the Convention, adopted in Kyiv, Ukraine, on 21 May 2003;
- (c) “Parties” means Contracting Parties to the Convention;
- (d) “Meeting of the Parties” means the Meeting of the Parties established in accordance with Article 11 of the Convention;
- (e) “Committee” means the Implementation Committee first established by decision II/4 of the Meeting of the Parties;
- (f) “Submitting Party” means one or more Parties that have concerns about another Party’s compliance with its obligations under the Convention and accordingly bring a submission before the Committee in accordance with paragraph 5 (a) of the appendix to decision III/2 of the Meeting of the Parties;
- (g) “Parties involved” means the Party whose compliance with its obligations under the Convention is in question and, as appropriate, the submitting Party;
- (h) “Chair” and “Vice-Chair” mean, respectively, the Chairperson and the Vice-Chairperson elected in accordance with rule 6 and with paragraph 1 (a) of the appendix to decision III/2;
- (i) “Member” means a member of the Committee appointed in accordance with paragraph 1 of the appendix to decision III/2 or a replacement appointed in accordance with of rule 4;
- (j) “Secretariat” means, in accordance with Article 13 of the Convention, the Executive Secretary of the United Nations Economic Commission for Europe;
- (k) “Official language” means one of the official languages of the United Nations Economic Commission for Europe: English, French and Russian.

## Members

### Rule 4<sup>4</sup>

1. The Meeting of the Parties shall elect Parties for serving two terms in the Committee. Each Party elected by the Meeting of the Parties shall appoint a permanent and an alternate member of the Committee for two terms. The term of office of a member shall commence with the appointment by a Party. This paragraph shall apply without prejudice to the right of a

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<sup>4</sup> The Committee should refer here to the first four sentences of paragraph 1 (a), and to paragraph 1 (b), of the appendix to decision III/2.

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.

3. Each member should ensure the confidentiality of information in accordance with these rules.

4. Committee members elected for Protocol matters only, but representing a Party to both the Protocol and the Convention, shall participate in the consideration and decision-making 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 act as curator for an issue relating to compliance with the Convention. 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. Furthermore, 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).

## Rule 5

1. If a Party considers that a member of the Implementation Committee is faced with a direct or indirect conflict of interest with respect to a matter concerning it that is under consideration by the Committee, that Party must raise an objection through the secretariat within two months from the reception of a communication from the Committee and/or the publication of the meeting report on the United Nations Economic Commission for Europe website. The Party shall state the facts giving rise to the objection. A member being the subject of such an objection, if deemed justified by the Committee in accordance with paragraph 10 of its structure and functions, shall not take part when the Committee considers the matter.

2. The members and the secretariat might accept invitations to present the Convention's compliance mechanism at appropriate events, such as conferences and workshops.

## Officers

### Rule 6

1. The Committee should elect a Chair and two (first and second) Vice-Chairs for one term.<sup>6</sup> 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.

<sup>6</sup> The Committee should refer here to the fifth sentence of paragraph 1 (a), and to paragraph 1 (b), of the appendix to decision III/2.

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2. In the case that a Party intends to provide a permanent replacement for a member elected as a Chair or Vice-Chair, it should notify the Committee well in advance in order to allow a new election of the respective officer.
  3. No officer should serve for more than two consecutive terms.

## Meetings<sup>7</sup>

### Rule 7<sup>8</sup>

1. At each meeting, the Committee, taking into account the current workplan adopted by the Meeting of the Parties, should set the indicative date for the opening and the duration of its next meeting.
2. The Committee should decide on the date, duration and venue of its meetings having regard to the budget adopted by the Meeting of the Parties. If the Committee considers necessary for the execution of its functions the holding of meetings for which no budget has been adopted by the Meeting of the Parties, it should first ensure that the necessary additional funding is available.

### Rule 8

The secretariat should notify all members of the dates and venue of a meeting at least four weeks before the meeting is due to take place.

## Agenda

### Rule 9

In agreement with the Chair, the secretariat should prepare the provisional agenda of each meeting. The provisional agenda should include items arising from the Committee's functions as specified by the Meeting of the Parties and other matters related thereto. The provisional agenda for each meeting should indicate which items are closed to the public in accordance with rule 17, paragraph 1.

### Rule 10

To the extent possible, the provisional agenda should be distributed by the secretariat to all members at least four weeks before the meeting takes place. Other documents, prepared by the secretariat or by members, should be distributed, to the extent possible, at least two weeks before the meeting begins.

## Procedures for submissions<sup>9</sup>

### Rule 11

1. Generally, the Committee should not begin the formal discussion on a matter at any meeting that takes place before any requested reply has been received from the Party whose compliance is in question or the applicable deadline for replying has passed. This paragraph should be applied, *mutatis mutandis*, in the case that the Committee requests additional information from the Submitting Party.
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

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<sup>7</sup> The Committee should refer here to the second sentence of paragraph 2 of the appendix to decision III/2.

<sup>8</sup> The Committee should refer here to the first sentence of paragraph 2 of the appendix to decision III/2.

<sup>9</sup> The Committee should refer here to paragraphs 5 (a), 5 (b) and 7 of the appendix to decision III/2.

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.

4. Generally, the Parties involved should present any new substantial information to the Committee through the secretariat at least four weeks in advance of the meeting at which the matter will be discussed.

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.

8. Parties are requested to respond to the Committee's requests for information by the deadline set by the Committee. The Committee may disregard any late information.

### Rule 12<sup>10</sup>

1. The Committee should prepare draft findings and recommendations in closed session, taking into account, *inter alia*, any submission, reply, corroborating and supporting information and presentations to the Committee by the Parties involved. The Committee should start by considering and drawing appropriate conclusions as to whether or not the Party concerned is in compliance. It might distinguish at this point between failure to establish the necessary implementing measures and failure to apply such measures.

2. If the Committee provisionally finds that the Party whose compliance is in question is not in compliance, it should then consider and agree upon possible recommendations to the Meeting of the Parties, recalling that the present compliance procedure is non-adversarial and assistance-orientated. Possible recommendations to bring about compliance might include:

(a) Recommendations to the Party concerned on what legislation, procedures or institutions require strengthening and how;

(b) A recommendation to the Party concerned to submit to the Committee a strategy, with time schedule, for action to bring about compliance, and to report to the Committee on its implementation of the strategy;

(c) A recommendation to the Meeting of the Parties, and to potential donors, to provide assistance to the Party concerned through national or subregional workshops, training, seminars or technical assistance;

(d) A recommendation to the Meeting of the Parties to issue a declaration of non-compliance or a caution;

(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

<sup>10</sup> The Committee should refer here to the second sentence of paragraph 9 of the appendix to decision III/2.



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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.<sup>11</sup>

### Rule 13<sup>12</sup>

1. Once prepared, the draft findings and recommendations should be transmitted to the Parties involved inviting them to comment (or make representations) within a reasonable deadline, and to submit their comments through the secretariat. The draft findings and recommendations should not be publicly available at this stage. If possible and if necessary to help the Parties involved to comment, the Committee might arrange for the draft findings and recommendations to be translated into another official language.
2. Within two weeks of receiving any comments, the secretariat should transmit the comments to the Committee and the other Parties involved, unless the Party providing the comments requested otherwise, in which case those comments should be forwarded only to the Committee.
3. At its meeting following the deadline for comments, the Committee should review and finalize the draft findings and recommendations taking into account the comments received. The findings and recommendations should be prepared as an addendum to the report of the meeting or issued as a separate document (i.e. as an official document), and transmitted to the Parties involved and to the Meeting of the Parties.
4. If, after the transmission of findings and recommendations to the Meeting of the Parties in accordance with rule 13, paragraph 3, substantial information that could have an influence on the findings and recommendations becomes available to the Committee, it may communicate additional information to the Meeting of the Parties and reflect any changes in the corresponding decision on compliance.

### Rule 14<sup>13</sup>

Pending consideration by the Meeting of the Parties, with a view to addressing compliance issues without delay, the Committee might:

- (a) Provide advice and facilitate assistance to a Party whose compliance is in question regarding its implementation of the Convention, in consultation with that Party;

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<sup>11</sup> See Article 60 of the Convention on the Law of Treaties (Vienna, 1969), which provides for the termination or suspension of the operation of a treaty as a consequence of its breach:

1. A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part.
2. A material breach of a multilateral treaty by one of the parties entitles:
  - (a) The other parties by unanimous agreement to suspend the operation of the treaty in whole or in part or to terminate it either:
    - (i) In the relations between themselves and the defaulting State, or
    - (ii) As between all the parties;
  - (b) A party specially affected by the breach to invoke it as a ground for suspending the operation of the treaty in whole or in part in the relations between itself and the defaulting State;
  - (c) Any party other than the defaulting State to invoke the breach as a ground for suspending the operation of the treaty in whole or in part with respect to itself if the treaty is of such a character that a material breach of its provisions by one party radically changes the position of every party with respect to the further performance of its obligations under the treaty.
3. A material breach of a treaty, for the purposes of this article, consists in:
  - (a) A repudiation of the treaty not sanctioned by the present Convention; or
  - (b) The violation of a provision essential to the accomplishment of the object or purpose of the treaty.
4. The foregoing paragraphs are without prejudice to any provision in the treaty applicable in the event of a breach.
5. Paragraphs 1 to 3 do not apply to provisions relating to the protection of the human person contained in treaties of a humanitarian character, in particular to provisions prohibiting any form of reprisals against persons protected by such treaties.

<sup>12</sup> The Committee should refer here to the second sentence of paragraph 9 of the appendix to decision III/2.

<sup>13</sup> The Committee should refer here to paragraph 11 of the appendix to decision III/2.



- (b) Make recommendations to a Party whose compliance is in question, subject to agreement with that Party. **Procedures for Committee initiatives**<sup>14</sup>

### Rule 15

1. The sources of information by which the Committee might become aware of a possible non-compliance could be:
  - (a) Parties' work under the Convention;
  - (b) Any other source.
2. In determining whether to begin a Committee initiative, in accordance with paragraph 6 of the appendix to decision III/2, the Committee should take into account, inter alia, the following:
  - (a) The source of the information is known and not anonymous;
  - (b) The information relates to an activity listed in Appendix I to the Convention likely to have a significant adverse transboundary impact;
  - (c) The information is the basis for a profound suspicion of non-compliance;
  - (d) The information relates to the implementation of Convention provisions;
  - (e) Committee time and resources are available.
3. The Committee should consider the information on a non-discriminatory, non-arbitrary and unbiased basis.
4. Rules 11 to 14 should be applied, mutatis mutandis, in the case of a Committee initiative.

## Publication of documents and information

### Rule 16<sup>15</sup>

1. The provisional agenda, together with related official documents (other than confidential items) of a meeting of the Committee, should be publicly available on the Convention website.
2. Meeting reports, together with other related official documents (other than confidential items), should be publicly available on the Convention website once agreed by the Committee. The Committee may disclose further documents, as it deems appropriate.
3. Discussion papers prepared by the secretariat or by members for meetings of the Committee should not be publicly available unless the Committee decides otherwise.
4. A submission and any reply to the submission should be made available through the Convention website within one month of receipt.
5. The following documents and information should be made available through the Convention website, once the Committee has concluded its consideration of the issue:
  - (a) Information by which the Committee becomes aware of a possible non-compliance;
  - (b) Any reply to a Committee initiative;
  - (c) Corroborating or supporting information;
  - (d) Correspondence by the Committee;
  - (e) Draft findings and recommendations, and ensuing representations from the Parties involved.

<sup>14</sup> The Committee should refer here to paragraphs 6 and 7 of the appendix to decision III/2.

<sup>15</sup> The Committee should refer here to the third sentence of paragraph 2 and to paragraph 8 of the appendix to decision III/2

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6. Documents and information other than those identified in paragraphs 4 and 5 should be available upon request if agreed by the Committee.
  7. Paragraphs 4, 5 and 6 should not apply to parts of documents and information that have been provided to the Committee requesting confidentiality.
  8. Paragraphs 4, 5 and 6 should not apply to the following documents and information that relate to a self-referral in accordance with paragraph 5 (b) of the appendix to decision III/2, unless agreed by the Committee and by the submitting Party:
    - (a) A submission;
    - (b) Corroborating or supporting information;
    - (c) Correspondence by the Committee;
    - (d) Draft findings and recommendations, and ensuing representations from the submitting Party.
  9. In the absence of any reasoned objections from the Party or any other sources concerned, copies of all correspondence between the Party or other sources and the Committee should be made available to other Parties or sources involved in a particular compliance matter and its related Committee proceedings upon their request.
  10. Pending consideration by the Committee, a short summary of the issue should be available on the Convention website, once agreed by the Committee, together with a list of relevant documents and information, but not their content. The summary should be prepared by the secretariat to include in particular:
    - (a) The names of the Party or Parties involved;
    - (b) The date of the submission, information or Committee initiative;
    - (c) The name and type of the activity in question, in the case of a submission or Committee initiative.
  11. Any progress report from a Party requested by the Meeting of the Parties or by the Implementation Committee should be made available through the Convention website as soon as possible and at the latest within one month of receipt.

## Participation in meetings of the Committee

### Rule 17<sup>16</sup>

1. Meetings of the Committee should be open to observers (other Parties, States, bodies, agencies and the public), unless the Committee decides otherwise. Parts of meetings dealing with <sup>17</sup>compliance matters should not be open to observers, unless the Committee and the Party whose compliance is in question agree otherwise (see also para. 3 of the Committee's structure and functions). Observers should register with the secretariat in advance of each meeting.
2. A Party concerned by a particular compliance matter shall not participate in, or be present during, the consideration by the Committee of that matter, including the preparation and adoption of any part of the findings or recommendations of the Committee relating to that matter (see also para. 9 of the Committee's structure and functions).

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<sup>16</sup> The Committee should refer here to paragraphs 3 and 9 of the appendix to decision III/2.

<sup>17</sup> For drafting purposes : The reference to "specific compliance matters" should be avoided, in order not to create confusion with the existing category of Implementation Committee cases "specific compliance issues" <https://unece.org/environment-policy/environmental-assessment/specific-compliance-issues>. The draft therefore uses, where needed, "particular compliance matter" or "compliance matter".

## Decision-making

### Rule 18<sup>18</sup>

1. The Committee should make every effort to reach its decisions by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, any other decision should, as a last resort, be taken by a majority vote of the members present and voting, if at least four members are present. For decision-making, each member should have one vote. Where consensus is not possible, the meeting report should reflect the views of all members.
2. Without prejudice to rule 19 for the purposes of these rules, the phrase “members present and voting” means members present at the meeting at which voting takes place and casting an affirmative or negative vote. Members abstaining from voting should be considered as not voting.

### Rule 19

1. Meetings of the Committee can be held online.<sup>19</sup>
2. In between meetings, electronic means of communication may be used by the members for the purposes of any aspect of the Committee’s work to be discussed at the ordinary session and of conducting informal consultations on issues under consideration in order to ensure efficient management of its workload.
3. The decision-making procedure by electronic means includes:
  - (a) Circulation, at the request of the Chair by the secretariat, of a draft document subject to a decisionmaking procedure, with an invitation to all Committee members to provide comments to the draft document, or to agree with the Chair’s proposal (also by not replying at all) by the deadline set by the Chair; if specified by the Chair in advance, in the absence of any objections from a member by the deadline set, the proposal is deemed adopted by the Committee;
  - (b) If, based on the comments received, it becomes clear that the matter is not suitable for the decision-making procedure between meetings, the Chair may decide to postpone the decision-making procedure to the next ordinary session.
4. Decisions by electronic means of communication shall be made further to the Committee’s operating rule 18. Any decision made in between ordinary meetings by electronic means of communication shall be reflected in the report of the meeting of the Committee that follows the making of the decision.

## Language

### Rule 20

1. The working language of the Committee should be English. The secretariat, for meetings of the Committee held at the United Nations Office at Geneva, or the host country, for meetings held elsewhere, might arrange interpretation in one of the other official languages, if needed and agreed by the Committee.
2. The Committee might allow members to be accompanied by their own interpreters at their own cost. Members are responsible for ensuring that their own interpreters ensure the confidentiality of information in accordance with these rules.

<sup>18</sup> The Committee should refer here to paragraphs 9, 11 and 12 of the appendix to decision III/2.

<sup>19</sup> Provided that interpretation between English and Russian is not required or is not available, and the meeting is held in English only; or that sufficient financial and secretariat staffing resources are available for organizing meetings with remote simultaneous interpretation.

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3. Communication by electronic means and informal Committee papers should be in English. Official documents of the meetings should be drawn up in English and translated into the other official languages.

### **Rule 21**

A submission from a Party, the reply and further documents and information should be in English.

## **Amendments to the operating rules**

### **Rule 22**

Any amendment to these rules shall be adopted by consensus by the Committee and submitted to the Meeting of the Parties for consideration and approval. These rules shall be amended to reflect, as necessary, any amendment to decision III/2.

## **Overriding authority of the Convention and decision III/2**

### **Rule 23**

In the event of a conflict between any provision in these rules and any provision in the Convention or decision III/2, the provisions of the Convention or decision III/2 shall prevail.

# Rules of Procedure of the Convention referred to in the Committee rules

*From decision I/1*

## Place of meetings

### Rule 3

The meetings of the Parties shall be held at the United Nations Office at Geneva, unless other appropriate arrangements are made by the Parties in consultation with the secretariat.

## Agenda

### Rule 12

The Meeting when adopting the agenda may add, delete, defer or amend items. Only items that the Meeting considers to be urgent and important may be added to the agenda.

### Rule 13

Any item on the agenda of a meeting whose consideration has not been completed at that meeting shall automatically be included in the agenda of the next meeting unless otherwise decided by the Meeting of the Parties.

## Officers

### Rule 20

1. In addition to exercising the powers conferred upon him elsewhere by these rules, the President shall:
  - (a) Declare the opening and closing of the meeting;
  - (b) Preside at the sessions of the meeting;
  - (c) Ensure the observance of these rules;
  - (d) Accord the right to speak;
  - (e) Put questions to the vote and announce decisions;
  - (f) Rule on points of order;
  - (g) Subject to these rules, have complete control over the proceedings and maintain order.
2. The President may, moreover, propose:
  - (a) The closure of the list of speakers;
  - (b) A limitation on the time to be allowed to speakers and on the number of times each representative may speak on a question;
  - (c) The adjournment or closure of debate;
  - (d) The suspension or adjournment of the meeting.
3. The President, in the exercise of his functions, remains under the authority of the Meeting of the Parties.

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## Rule 21

If the President is temporarily absent from a meeting or any part thereof or is unable to complete his term of office or to perform his functions, a Vice President shall act as President.

## Rule 22

At the outset of each meeting, the President elected at the previous meeting or, in his absence, a Vice President, shall preside until the Meeting has elected a new President from the representatives of the Parties.

## Secretariat

### Rule 24

The Executive Secretary of the United Nations Economic Commission for Europe may delegate his functions to a member of his staff. He, or his representative, shall act as secretariat for all meetings of the Parties and for all meetings of the subsidiary bodies.

### Rule 25

For all meetings of the Parties and for all meetings of the subsidiary bodies and in accordance with Article 13 of the Convention, the secretariat shall:

(c) Arrange for the custody and preservation of the documents in the archives of the United Nations Economic Commission for Europe.

## Conduct of business

### Rule 28

1. No one may speak at a meeting without having previously obtained the permission of the President. Without prejudice to rules 29, 30, 31 and 33, the President shall call upon speakers in the order in which they signify their desire to speak. The secretariat shall be in charge of drawing up a list of such speakers. The President may call a speaker to order if his remarks are not relevant to the subject under discussion.

2. The Meeting may, on a proposal from the President or from any Party, limit the time allowed to each speaker and the number of times each representative may speak on a question. Before a decision is taken, two representatives may speak in favour of and two against a proposal to set such limits. When the debate is limited and a speaker exceeds the allotted time, the President shall call him to order without delay.

### Rule 30

During the discussion of any matter, a representative may at any time raise a point of order, which shall be decided immediately by the President in accordance with these rules. A representative may appeal against the ruling of the President. The appeal shall be put to the vote immediately and the ruling shall stand unless overruled by a majority of the Parties present and voting. A representative may not, in raising a point of order, speak on the substance of the matter under discussion.

### Rule 31

Any motion calling for a decision on the competence of the Meeting to discuss any matter or to adopt a proposal or an amendment to a proposal submitted to it shall be put to the vote before the matter is discussed or a vote is taken on the proposal or amendment in question.

## Rule 32

1. Without prejudice to paragraph 2 to this rule, proposals and amendments to proposals shall normally be presented in writing and handed to the secretariat, which shall circulate copies to the Parties. As a general rule, no proposal shall be discussed or put to the vote at any meeting unless copies of it have been circulated to delegations not later than 24 hours in advance. The President may, however, permit the discussion and consideration of amendments to proposals or of procedural motions even though those amendments or motions have not been circulated or have been circulated only the same day.

## Rule 33

1. Subject to rule 30, the following motions shall have precedence, in the order indicated below, over all other proposals or motions:

- (a) To suspend the meeting;
- (b) To adjourn the meeting;
- (c) To adjourn debate on a question under discussion;
- (d) For closure of the debate on a question under discussion.

2. Permission to speak on a motion falling within (a) to (d) above shall be granted only to the proposer and, in addition, to one speaker in favour of and two against the motion, after which it shall immediately be put to the vote.

## Rule 34

A proposal or motion may be withdrawn by its proposer at any time before voting on it has begun, provided that the proposal or motion has not been amended. A proposal or proposal or motion that is withdrawn may be reintroduced by any other Party.

## Rule 35

When a proposal has been adopted or rejected, it may not be reconsidered at the same meeting, unless the Meeting, by a two thirds majority of the Parties present and voting, decides in favour of reconsideration. Permission to speak on a motion to reconsider shall be accorded only to the mover and one other supporter, after which it shall immediately be put to the vote.

## Voting

### Rule 37

1. Save as otherwise provided by the Convention and by paragraph 2 of this rule, the Meeting of the Parties shall make every effort to reach its decisions by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the decision shall, as a last resort, be adopted by a three fourths majority vote of the Parties present and voting at the meeting.

2. Decisions of the Meeting of the Parties on procedural matters shall be taken by a simple majority vote of the Parties present and voting at the meeting.

3. If the question arises whether a matter is one of a procedural or substantive nature, the President shall rule on the question. An appeal against this ruling shall immediately be put to the vote and the President's ruling shall stand unless overruled by a majority of the Parties present and voting.

4. For the purposes of this rule, "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall be considered as not voting.

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### **Rule 38**

If two or more proposals relate to the same question, the Meeting of the Parties, unless it decides otherwise, shall vote on the proposals in the order in which they have been submitted. The Meeting may, after each vote on a proposal, decide whether or not to vote on the next proposal.

### **Rule 39**

Any representative may request that any part of a proposal or of an amendment to a proposal be voted on separately. If objection is made to the request for division, the President shall permit two representatives to speak, one in favour of and the other against the motion, after which it shall immediately be put to the vote.

### **Rule 40**

If the motion referred to in rule 39 is adopted, those parts of a proposal or of an amendment to a proposal which have been approved shall then be put to the vote as a whole. If all the operative parts of a proposal or amendment have been rejected, the proposal or amendment shall be considered to have been rejected as a whole.

### **Rule 41**

A motion is considered to be an amendment to a proposal if it merely adds to, deletes from, or revises that proposal. An amendment shall be voted on before the proposal to which it relates is put to the vote, and if the amendment is adopted, the amended proposal shall then be voted on.

### **Rule 42**

If two or more amendments to a proposal are moved, the Meeting shall first vote on the amendment furthest removed in substance from the original proposal, then on the amendment next furthest removed therefrom, and so on, until all amendments have been put to the vote. The President shall determine the order of voting under this rule.

### **Rule 43**

Except for elections, voting shall normally be by show of hands. A roll call shall be taken if one is requested by any Party. It shall be taken in the English alphabetical order of the names of the Parties participating in the meeting, beginning with the Party whose name is drawn by lots by the President. However, if at any time a Party requests a secret ballot, that shall be the method of voting on the issue in question.

### **Rule 44**

The vote of each Party participating in a vote by roll call shall be recorded in the report of the meeting.

### **Rule 45**

After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of voting. The President may permit the Parties to explain their votes, either before or after the voting, and may limit the time allowed for such explanations. He shall not permit the proposer of a proposal or an amendment to a proposal to explain his vote on his own proposal or amendment, unless it has been amended.

### **Rule 46**

In the absence of consensus, elections shall be decided by means of a secret ballot.