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COMMITTEE ON ENVIRONMENTAL POLICY
(Ninth session, 4 - 6 November 2002)
(Item 9 of the provisional agenda)

MINUTES OF THE INFORMAL MEETING OF THE BUREAUX OF THE COMMITTEE ON
ENVIRONMENTAL POLICY AND OF THE ECE ENVIRONMENTAL CONVENTIONS
HELD IN GENEVA ON 1 JULY 2002

1. At the invitation of the Chairman of the Committee on Environmental Policy, an informal meeting was organized between the Bureaux of the Committee on Environmental Policy and of the ECE environmental conventions, namely the Convention on Long-range Transboundary Air Pollution, the Convention on Environmental Impact Assessment in a Transboundary Context, the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, the Convention on the Transboundary Effects of Industrial Accidents and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. The aim of the meeting was to follow up and support the regional environmental conventions, following a decision of the Committee to offer a catalysing forum in which all government representatives, including the governing bodies, were invited to share their experience and investigate possible synergies and areas of cooperation between instruments and to discuss specific items of common interest.
2. The meeting was chaired by Mr. H. von Meijenfeldt (Netherlands), Chairman of the Committee on Environmental Policy.
3. The list of participants is annexed. The ECE secretariat also participated.

A. Identification of means of improving compliance with the environmental instruments

4. The secretary to the Task Force on Environmental Compliance and Enforcement reported briefly on the progress made in the development of the draft guidelines on strengthening compliance with and implementation of multilateral environmental agreements (MEAs) in the ECE region, including the latest results of the meeting of the small drafting group on reporting which had been held on 26-28 June 2002 in The Hague (Netherlands).

5. The guidelines were complementary to the ones on compliance and enforcement prepared by UNEP. They drew upon those elements of the UNEP guidelines which could be further elaborated, from a regional perspective. Consequently, the Task Force had considered that a special part on enforcement was not needed, and that enforcement aspects could be considered as part of the national implementation process. To that end, it had proposed to call them "Draft guidelines on strengthening compliance with and implementation of MEAs in the ECE region", which reflected their content and value added more clearly.

6. In the discussion that followed, it was noted that the Task Force on Environmental Compliance and Enforcement had successfully identified the issues to be tackled in the guidelines and the document would be a very useful tool for strengthening the implementation of existing and future MEAs.

7. It was proposed that the guidelines should contain an annex, with practical experiences, lesson learned or case studies. The importance of countries sharing their experience in implementation with other potential Parties was also mentioned.

8. Apart from their practical nature, the guidelines also conveyed a strong political message with regard to the importance of compliance, full and timely reporting, effective enforcement, financing and capacity-building. It was noted that the message should be reflected in the Kiev ministerial declaration.

9. It was recommended that the Task Force should:

(a) Take into account the role of the public, when ensuring that Parties complied with their reporting obligations. The same issue should be considered with regard to enforcement;

(b) Illustrate practical cases where cooperation among Parties to a convention was a major activity and identify obstacles and solutions;

(c) With regard to paragraph 10 of the draft guidelines, consider additional items namely: confidentiality and the relationship between the compliance mechanism and the dispute settlement procedures;

(d) Reflect the importance of a clear understanding and interpretation of the legal obligations of MEAs;

(e) Elaborate further the issue of capacity-building, so as to allow countries to assess their own capacity to implement MEAs and to better understand the legal requirements.

10. The specific comments made by the participants will be presented to the Task Force at its fifth meeting on 3-4 October 2002 in Geneva and subsequently be reflected in the guidelines.

B. The links between the Aarhus Convention and the other ECE environmental instruments

11. Following a decision by the Committee at its eighth session (ECE/CEP/80, para. 35 (a)), an in-depth legal analysis of the links between the Aarhus Convention and the other ECE environmental conventions and protocols had been commissioned by the secretariat to a consultant, who had prepared a first draft of the analysis.

12. The consultant introduced the draft analysis. After a brief explanation on the background and the methodology, he highlighted the preliminary conclusions:

(a) Overall, the Aarhus Convention could be considered as a further development of those principles which had already been expressed – albeit in less detail – in the other instruments. No real conflicts between the provisions of the Aarhus Convention and the other instruments existed;

(b) At the national level, the Aarhus Convention was relevant to the other instruments in several ways, e.g. in the interpretation and implementation of provisions touching upon the three pillars of the Aarhus Convention and in the way certain operative provisions of other instruments were implemented;

(c) At the international level, the Aarhus Convention might be relevant in the functioning of the convention bodies themselves.

13. The participants welcomed the draft and made some specific comments on the purpose of the analysis, its status and its content. With respect to the content, some participants found it particularly useful to know that no real conflicts between the Aarhus Convention and the other instruments had been identified. Some provisions might concern the same topic but the Aarhus Convention would just provide more detailed provisions, which would not be in conflict with less detailed provisions of other instruments. It was also noted that even if no conflict could be detected in the provisions of the instruments, such might appear at the national level when implementing the different provisions in national law, and it was considered to be useful to provide some examples of this in the next draft of the analysis. Finally, it was considered to be important that the consultant should stay in close contact with the consultant working on public participation in international forums (see sect. C below) to avoid any overlap between the two studies.

14. All participants were requested to send their comments on the draft to the secretariat and the consultant so that they could finalize the analysis.

C. Public participation in international forums

15. At its eighth session, the Committee had agreed that an analysis of good practices in public participation in international forums, and its potential problems, should be undertaken by the secretariat or a consultant commissioned by the secretariat (ECE/CEP/80, para. 35 (b)). On this basis, the secretariat had commissioned another consultant to prepare a draft analysis. The consultant introduced the paper to the Meeting.

16. The mandate to carry out such study was given by the Committee, but article 3, paragraph 7, of the Aarhus Convention also requires its Parties to promote its principles in international decision-making processes and within the framework of international organizations in environment-related matters. Public participation in decision-making of international organizations was considered to be important because of their impact at national level and because social and economic policies determined at international level had far-reaching impact on the environment.

17. Some of the findings and lessons learned were highlighted in the study. With respect to access to information, many documents of the different organizations could now be found on their web sites and the general trends was that documents were declassified. Concerning public participation, international forums provided for some participation, mostly on an ad hoc basis, and did not have a written policy on how public participation should be handled on a consistent basis. It was therefore concluded that there was a need for clearer procedures. Concerning access to justice – even defined as broadly as possible – examples of clear mechanisms were rare. Even the ones in place sometimes proved difficult to use by the public.

18. Participants discussed the study and found the analysis interesting and useful. Some, however, considered that the addressee of the analysis should be clarified: was it meant to guide other international organizations or Parties to the Aarhus Convention to fulfil their obligations under article 3, paragraph 7? The section under "lessons learned" needed to be revised so as to provide conclusive remarks rather than recommendations.

19. More specific suggestions referred to the importance of adding examples of some subregional organizations, such as the International Commission for the Protection of the Rhine and the Helsinki Commission. It was also suggested that the European Union might be considered separately, being different from other international organizations. The question of resource implications when implementing some of the principles was raised and it was considered to be useful to include any available information on this. Finally, it was suggested that some practices should be included to illustrate some of the problems and difficulties in applying the principles of the Convention in other contexts.

20. It was agreed that the consultant should prepare a final draft on the basis of the discussion and any additional comments submitted by the participants after the meeting.

D. “Pan-European governance”

21. The Chairman of the Committee on Environmental Policy introduced his discussion paper and his proposal for improving environmental governance in the region. This document would also be discussed at the meeting of the Committee's Bureau and at the meeting of the Working Group of Senior Officials (2-4 July) to receive input from the widest audience. Thereafter, it would be further elaborated. The intention was to present the document at the Ministerial Conference in Kiev in May 2003.

22. Participants exchanged views on the paper and highlighted the importance of reflecting the outcome of the World Summit on Sustainable Development, which might have direct implications for the regional commissions. The issue of holding an annual ministerial meeting was thoroughly discussed, as was the issue of whether the ministerial meetings should have

mainly an environmental agenda or involve also other ministers. Some participants felt that this paper should also be linked with the analytical paper prepared (by a consultant) for the Committee on Environmental Policy on the future ECE strategic direction for the environment.

E. Other business

23. The Chairman of the Bureau of the Water Convention drew the attention to the activity on environmental monitoring carried out by an ad hoc working group under the Committee on Environmental Policy. The working group was requested, while carrying out its task, to consider ongoing monitoring activities at international level, which also included work under the ECE conventions. He reported that the Bureau of the Water Convention was prepared to provide a possible contribution towards the Kiev Ministerial Conference in general and the ad hoc group in particular. The Water Convention's Working Group on Monitoring and Assessment was prepared to share experience with the ad hoc working group with a view to improving monitoring systems in the future, in particular their potential for harmonizing monitoring approaches and practices throughout Europe. He reiterated the importance of coordination among all those dealing with monitoring activities.

F. Conclusions

24. The participants underlined the usefulness of such meetings as a forum for sharing experiences and ideas, and as an example of how bureau meetings could be organized and combined with other meetings. However, the importance of defining clear objectives and agendas for such meeting was stressed.

25. The participants were invited to attend the ninth session of the Committee on Environmental Policy from 4 to 6 November 2002 and to take an active part more specifically in the debate on items 4 and 9 (a) of its preliminary agenda (ECE/CEP/85).

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