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

**Working Group on Environmental Impact Assessment
(Seventh meeting, Geneva, 28-30 January 2004)
(Item 2(b) of the provisional agenda)**

**REPORT OF THE FOURTH MEETING
OF THE IMPLEMENTATION COMMITTEE**

1. The fourth meeting of the Implementation Committee took place in Geneva from 30 to 31 October 2003.
2. Representatives from the following Parties, members of the Implementation Committee, attended the meeting: Armenia, Canada, Finland, the Netherlands, the Republic of Moldova, Slovakia, the former Yugoslav Republic of Macedonia and the United Kingdom.
3. The Committee considered a request from an NGO, UNISFERA, to attend the meeting. It noted that if the rules of procedure were to be applied *mutatis mutandis* to it, observers, including NGOs, could participate in its discussions without the right to vote. This would mean that, as an observer to the Convention, UNISFERA would have the right to participate in the meeting, provided there was no objection from the Parties present. The Committee agreed that, on this occasion and as an experiment, UNISFERA could participate in its discussions during the early part of the meeting. It was further agreed that the report of the meeting would reflect the deliberations of the Committee and the secretariat only. The Committee's President therefore welcomed the representative of UNISFERA to the meeting, explaining the interpretation of the rules of procedure, including the need for confidentiality.
4. The following background documents were available to the participants for their consideration: a draft decision on the review of compliance prepared by the President and the secretariat; two letters from an NGO regarding a compliance matter and a draft response prepared by the secretariat; the report of the third meeting of the Implementation Committee (MP.EIA/WG.1/2003/8); and Guidelines for Strengthening Compliance with and Implementation

of Multilateral Environmental Agreements (MEAs) in the ECE Region (ECE/CEP/107). The Committee used for its deliberations the agenda prepared by the President, which was adopted noting that new members of the Committee would be discussed under “any other business”.

5. The Committee recalled that the following statement had been made at its third meeting: “A minority view was expressed that the meetings of the Implementation Committee should not be open to the public”. The Committee requested that this statement should be reflected in the record of the fourth meeting of the Implementation Committee, in accordance with paragraph 9 of the appendix to decision II/4, which pointed to the need to reflect the views of all the Committee members if there was no consensus on an issue.

I. DRAFT DECISION ON REVIEW OF COMPLIANCE

6. The President reported that the Working Group on Environmental Impact Assessment (EIA) had, during its sixth meeting, noted the report of the third meeting of the Committee (MP.EIA/WG.1/2003/8). Some comments made on the report at that meeting were taken into account in the Committee’s deliberations on the draft decision on the review of compliance being prepared for the third meeting of the Parties. As a result, several amendments were proposed to the working draft of the draft decision and would be discussed further at the Committee’s next meeting (Geneva, 18-19 December 2003).

II. DISCUSSION OF POTENTIAL NON-COMPLIANCE ISSUES

7. The President drew the attention of the Committee to a letter from an NGO dated 11 August 2003 to the Committee and to the secretariat; the secretariat had forwarded the letter to the Committee on 26 August 2003. The Committee noted that no submissions had been received from either the possible Party of origin or the possible affected Parties. A further letter had been received from the NGO on the same subject on 29 October 2003. The secretariat noted that two months had elapsed between the receipt of the first letter and this meeting. The present meeting was the first opportunity for the Committee as a group to consider the information received, although there had been some e-mail discussion between the Committee members prior to the meeting.

8. The Committee discussed various issues, including:

- Whether the Committee could examine information provided by an NGO;
- Whether the information provided indicated fully that the reported activity fell under the list of activities in Appendix I to the Convention;
- Whether the information provided demonstrated that the activity was likely to have a significant adverse transboundary impact;
- What other information would be necessary when considering a submission and for acquiring a better understanding of the location; and
- How to react to information that might be dealt with by another international organization or multilateral environmental agreement, or where domestic remedies had not been exhausted.

9. The Committee discussed extensively what, if any, criteria might be applied in addressing

information from anyone other than a Party. One of the Parties represented at the Working Group had asked for criteria to be developed (see further para. 14 below). The Committee decided to consider this further with a view to clarifying at the meeting of the Parties the mandate of the Committee in dealing with such information.

10. The Committee agreed that the information provided so far was insufficient for it to be considered. In particular, it was insufficient to demonstrate either that there was a transboundary effect, or that the activity described fell within the scope of the Convention. The Committee drafted a letter in reply to the NGO and asked the secretariat to transmit the reply to the NGO, acknowledging the letters and explaining that the letters did not provide sufficient information. The acknowledgement was to be copied to the Party alleged to be the Party of origin with a simple covering letter. The Committee agreed that, since this was not a matter under consideration, it was not necessary to contact potentially affected Parties at this stage.

III. REVIEW OF COMPLIANCE QUESTIONNAIRES

11. The delegation of the former Yugoslav Republic of Macedonia presented the work of the small group on the review of implementation, the review having been based on the responses to the questionnaire on implementation. In addition, the secretariat described the information that had been presented at the sixth meeting of the Working Group on this activity. The Committee took note of this information.

IV. OUTSTANDING POINTS FOR CONSIDERATION BEFORE THE THIRD MEETING OF THE PARTIES

12. The Committee reflected on the experience of the attendance and participation of an observer (UNISFERA) during part of the meeting. The Committee discussed the possible difficulties that the participation of observers might create. It was suggested that applying the rules of procedure *mutatis mutandis* and extending participation rights to observers would create a situation where observers would have greater participation rights than Parties not member of the Committee. The Committee noted other potential issues that would need to be addressed if observers were to be allowed to participate, such as whether they would need to announce their participation in advance. It was agreed that further guidance should be sought from the Meeting of the Parties on this matter.

13. The Committee noted that, in accordance with paragraph 9 of the appendix to Decision II/4, it was expected to report on its activities and make recommendations regarding compliance with the Convention at each meeting of the Parties. It was also noted that the Committee met regularly and that a meeting of the Parties usually took place once every three years. This could lead to a situation where the Committee would have prepared a recommendation regarding the compliance with the Convention which could be considered by the meeting of the Parties only at a very late stage. However, the practical circumstances of the case could require action to be taken earlier. The Committee decided to come back to this issue at its next meeting.

14. The Committee noted that further consideration needed to be given to:

- The participation of observers at its meetings;

- How to respond to unsolicited information, noting the suggestion made by the Working Group that criteria should be developed for application to unsolicited information;
- Whether a representative of a country which was a Party to the Convention and not a Party to the Protocol should be a member of the Committee when compliance matters related to the Protocol were discussed;
- Whether a representative of a Party serving on the Committee should be present at the meeting or part of it where compliance of that Party was discussed.

V. ANY OTHER BUSINESS

15. The Committee welcomed the Guidelines for Strengthening Compliance with and Implementation of Multilateral Environmental Agreements (MEAs) in the ECE Region (ECE/CEP/107), as adopted at the fifth Ministerial Conference 'Environment for Europe' (Kiev, 21-23 May 2003).
16. The secretariat drew the attention of the Committee to the fact that four members had been elected for one term only, which meant that, at their third meeting, the Parties were expected to elect four new members to the Committee.
17. The Committee thanked the representative of Finland, Ms. Leena Ivalo, who was to be replaced by a colleague.
18. The Committee agreed to hold another meeting in Geneva on 18 and 19 December 2003.