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Meeting of the Parties to the
Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters

(First meeting, Lucca, Italy, 21-23 October 2002)
(Item 6 (a) of the provisional agenda)

**DRAFT DECISION I/7
REVIEW OF COMPLIANCE**

The Meeting,

Determined to promote and improve compliance with the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters and recalling its article 15,

Recognizing the necessity for rigorous reporting by the Parties on their compliance with the Convention,

1. Establishes the Compliance Committee for the review of compliance by the Parties with their obligations under the Convention, and
2. Decides that the structure and functions of the Compliance Committee and the procedures for the review of compliance shall be those set out in the annex to this decision.

Annex

**STRUCTURE AND FUNCTIONS OF THE COMPLIANCE COMMITTEE AND
PROCEDURES FOR THE REVIEW OF COMPLIANCE**

I. STRUCTURE

1. The Committee shall consist of eight members, who shall serve in their personal capacity.

2. The Committee shall be composed of nationals of the Parties and Signatories to the Convention who shall be persons of high moral character and recognized competence in the fields to which the Convention relates, including persons having legal experience.

3. The Committee may not include more than one national of the same State.

4. Candidates meeting the requirements of paragraph 2 shall be nominated by Parties, Signatories and non-governmental organizations falling within the scope of article 10, paragraph 5, of the Convention and promoting environmental protection, for election pursuant to paragraph 7.

5. Unless the Meeting of the Parties, in a particular instance, decides otherwise, the procedure for the nomination of candidates for the Committee shall be the following:

(a) Nominations shall be sent to the secretariat in at least one of the official languages of the Convention not later than 12 weeks before the opening of the meeting of the Parties during which the election is to take place;

(b) Each nomination shall be accompanied by a curriculum vitae (CV) of the candidate not exceeding 600 words and may include supporting material;

(c) The secretariat shall distribute the nominations and the CVs, together with any supporting material, in accordance with rule 10 of the Rules of Procedure.

6. Committee members shall be elected on the basis of nominations in accordance with paragraphs 4 and 5. The Meeting of the Parties shall give due consideration to all nominations.

7. The Meeting of the Parties shall elect the members of the Committee by consensus or, failing consensus, by secret ballot.

8. In the election of the Committee, consideration should be given to the geographical distribution of membership and diversity of experience.

9. The Meeting of the Parties shall, as soon as practicable, elect four members to the Committee to serve until the end of the next ordinary meeting and four members to serve a full term of office. At each ordinary meeting thereafter, the Meeting of the Parties shall elect four members for a full term of office. Outgoing members may be re-elected once for a further full term of office, unless in a given case the Meeting of the Parties decides otherwise. A full term of office commences at the end of an ordinary meeting of the Parties and runs until the second ordinary meeting of the Parties thereafter. The Committee shall elect its own Chairperson and Vice-Chairperson.

10. If a member of the Committee can no longer perform his or her duties as member of the Committee for any reason, the Bureau of the Meeting of the Parties shall appoint another member fulfilling the criteria in this chapter to serve the remainder of the term, subject to the approval of the Committee.

11. Every member serving on the Committee shall, before taking up his or her duties, make a solemn declaration in a meeting of the Committee that he or she will perform his or her functions impartially and conscientiously.

II. MEETINGS

12. The Committee shall, unless it decides otherwise, meet at least once a year. The secretariat shall arrange for and service the meetings of the Committee.

III. FUNCTIONS OF THE COMMITTEE

13. The Committee shall:

(a) Consider any submission, referral or communication made in accordance with paragraphs 15 to 24 below;

(b) Prepare, at the request of the Meeting of the Parties, a report on compliance with or implementation of the provisions of the Convention; and

(c) Monitor, assess and facilitate the implementation of and compliance with the reporting requirements under article 10, paragraph 2, of the Convention;

and act pursuant to paragraphs 36 and 37.

14. The Committee may examine compliance issues and make recommendations if and as appropriate.

IV. SUBMISSION BY PARTIES

15. A submission may be brought before the Committee by one or more Parties that have reservations about another Party's compliance with its obligations under the Convention. Such a submission shall be addressed in writing 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 Party whose compliance is at issue. Any reply and supporting information shall be submitted to the secretariat and to the Parties involved within three months or such longer period as the circumstances of a particular case may require but in no case later than six months. 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 practicable.

16. A submission may be brought before the Committee by 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 the matter as soon as practicable.

V. REFERRALS BY THE SECRETARIAT

17. Where the secretariat, in particular upon considering the reports submitted in accordance with the Convention's reporting requirements, becomes aware of possible non-compliance by a Party with its obligations under the Convention, it may request the Party concerned to furnish necessary information about the matter. If there is no response or the matter is not resolved within three months, or such longer period as the circumstances of the matter may require but in no case later than six months, the secretariat shall bring the matter to the attention of the Committee, which shall consider the matter as soon as practicable.

VI. COMMUNICATIONS FROM THE PUBLIC

18. On the expiry of twelve months from either the date of adoption of this decision or from the date of the entry into force of the Convention with respect to a Party, whichever is the later, communications may be brought before the Committee by one or more members of the public concerning that Party's compliance with the Convention, unless that Party has notified the Depositary in writing by the end of the applicable period that it is unable to accept, for a period of not more than four years, the consideration of such communications by the Committee. The Depositary shall without delay notify all Parties of any such notification received. During the four-year period mentioned above, the Party may revoke its notification thereby accepting that, from that date, communications may be brought before the Committee by one or more members of the public concerning that Party's compliance with the Convention.

19. The communications referred to in paragraph 18 shall be addressed to the Committee through the secretariat in writing and may be in electronic form. The communications shall be supported by corroborating information.

20. The Committee shall consider any such communication unless it determines that the communication is:

- (a) Anonymous;
- (b) An abuse of the right to make such communications;
- (c) Manifestly unreasonable;
- (d) Incompatible with the provisions of this decision or with the Convention.

21. The Committee should at all relevant stages take into account any available domestic remedy unless the application of the remedy is unreasonably prolonged or obviously does not provide an effective and sufficient means of redress.

22. Subject to the provisions of paragraph 20, the Committee shall as soon as possible bring any communications submitted to it under paragraph 18 to the attention of the Party alleged to be in non-compliance.

23. A Party shall, as soon as possible but not later than five months after any communication is brought to its attention by the Committee, submit to the Committee written explanations or statements clarifying the matter and describing any response that it may have made.

24. The Committee shall, as soon as practicable, further consider communications submitted to it pursuant to this chapter and take into account all relevant written information made available to it, and may hold hearings.

VII. INFORMATION GATHERING

25. To assist the performance of its functions, the Committee may:

- (a) Request further information on matters under its consideration;
- (b) Undertake, with the consent of any Party concerned, information gathering in the territory of that Party;
- (c) Consider any relevant information submitted to it; and
- (d) Seek the services of experts and advisers as appropriate.

VIII. CONFIDENTIALITY

26. Save as otherwise provided for in this chapter, no information held by the Committee shall be kept confidential.

27. The Committee and any person involved in its work shall ensure the confidentiality of any information that falls within the scope of the exceptions provided for in article 4, paragraphs 3 (c) and 4, of the Convention and that has been provided in confidence.

28. The Committee and any person involved in its work shall ensure the confidentiality of information that has been provided to it in confidence by a Party when making a submission in respect of its own compliance in accordance with paragraph 16 above.

29. Information submitted to the Committee, including all information relating to the identity of the member of the public submitting the information, shall be kept confidential if submitted by a person who asks that it be kept confidential because of a concern that he or she may be penalized, persecuted or harassed.

30. If necessary to ensure the confidentiality of information in any of the above cases, the Committee shall hold closed meetings.

31. Committee reports shall not contain any information that the Committee must keep confidential under paragraphs 27 to 29 above. Information that the Committee must keep confidential under paragraph 29 shall not be made available to any Party. All other information that the Committee receives in confidence and that is related to any recommendations by the Committee to the Meeting of the Parties shall be made available to any Party upon its request; that Party shall ensure the confidentiality of the information that it has received in confidence.

IX. ENTITLEMENT TO PARTICIPATE

32. A Party in respect of which a submission, referral or communication is made or which makes a submission, as well as the member of the public making a communication, shall be entitled to participate in the discussions of the Committee with respect to that submission, referral or communication.

33. The Party and the member of the public shall not take part in the preparation and adoption of any findings, any measures or any recommendations of the Committee.

34. The Committee shall send a copy of its draft findings, draft measures and any draft recommendations to the Parties concerned and the member of the public who submitted the communication if applicable, and shall take into account any comments made by them in the finalization of those findings, measures and recommendations.

X. COMMITTEE REPORTS TO THE MEETING OF THE PARTIES

35. The Committee shall report on its activities at each ordinary meeting of the Parties and make such recommendations, as it considers appropriate. Each report shall be finalized by the Committee not later than twelve weeks in advance of the meeting of the Parties at which it is to be considered. Every effort shall be made to adopt the report by consensus. Where this is not possible, the report shall reflect the views of all the Committee members. Committee reports shall be available to the public.

XI. CONSIDERATION BY THE COMPLIANCE COMMITTEE

36. Pending consideration by the Meeting of the Parties, with a view to addressing compliance issues without delay, the Compliance Committee may:

(a) In consultation with the Party concerned, take the measures listed in paragraph 37 (a);

(b) Subject to agreement with the Party concerned, take the measures listed in paragraph 37 (b), (c) and (d).

XII. CONSIDERATION BY THE MEETING OF THE PARTIES

37. The Meeting of the Parties may, upon consideration of a report and any recommendations of the Committee, decide upon appropriate measures to bring about full compliance with the Convention. The Meeting of the Parties may, depending on the particular question before it and taking into account the cause, degree and frequency of the non-compliance, decide upon one or more of the following measures:

(a) Provide advice and facilitate assistance to individual Parties regarding the implementation of the Convention;

(b) Make recommendations to the Party concerned;

(c) Request the Party concerned to submit a strategy, including a time schedule, to the Compliance Committee regarding the achievement of compliance with the Convention and to report on the implementation of this strategy;

(d) In cases of communications from the public, make recommendations to the Party concerned on specific measures to address the matter raised by the member of the public;

(e) Issue declarations of non-compliance;

(f) Issue cautions;

(g) 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;

(h) Take such other non-confrontational, non-judicial and consultative measures as may be appropriate.

XIII. RELATIONSHIP BETWEEN SETTLEMENT OF DISPUTES AND THE COMPLIANCE PROCEDURE

38. The present compliance procedure shall be without prejudice to article 16 of the Convention on the settlement of disputes.

XIV. ENHANCEMENT OF SYNERGIES

39. In order to enhance synergies between this compliance procedure and compliance procedures under other agreements, the Meeting of the Parties may request the Compliance Committee to communicate as appropriate with the relevant bodies of those agreements and report back to it, including with recommendations as appropriate. The Compliance Committee may also submit a report to the Meeting of the Parties on relevant developments between the sessions of the Meeting of the Parties.