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Open-ended Ad Hoc Working Group on Non-compliance
First meeting
Geneva, 28–29 April 2006

**Report of the Open-ended Ad Hoc Working Group on
Non-compliance on the work of its first meeting**

Introduction

1. In its decision SC-1/14 on non-compliance, adopted at its first meeting, held in Punta del Este, Uruguay, from 2 to 6 May 2005, the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants decided to convene an open-ended ad hoc working group to consider procedures and institutional mechanisms on non-compliance under article 17, for a duration of two or three days, immediately prior to the second meeting of the Conference of the Parties. In its article 17, the Convention states:

“The Conference of the Parties shall, as soon as practicable, develop and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for treatment of Parties found to be in non-compliance.”

2. Accordingly, a meeting of the Open-ended Ad Hoc Working Group on Non-compliance was held on 28 and 29 April 2006 at the Geneva International Conference Centre, Geneva.

I. Opening of the meeting

3. The meeting was opened at 10.15 a.m. on Friday, 28 April 2006, by Mr. John Whitelaw, Deputy of the Chemicals Branch of the Division of Technology, Industry and Economics of the United Nations Environment Programme (UNEP-Chemicals) and acting Executive Secretary of the Convention for the meeting, who welcomed representatives.

II. Organizational matters

A. General

4. Although decision SC-1/14 did not specify that the Group was to act as a subsidiary body of the Conference of the Parties, the Working Group agreed that its relationship with the Conference was, by definition, that of a subsidiary body; it would therefore proceed accordingly.

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B. Election of officers

5. The representative of the Secretariat recalled that, according to rule 26 of the rules of procedure for the Conference of the Parties, the rules of procedure applied mutatis mutandis to the proceedings of any subsidiary bodies, subject to any modifications decided by the Conference of the Parties. Those rules applied, therefore, to the Working Group. He drew attention to rule 30 on the election of officers for subsidiary bodies, which stated that, unless decided otherwise by the Conference of the Parties, each subsidiary body would elect its own officers other than the chair. As the Conference of the Parties had not elected the chair of the Working Group, it was implicit that the responsibility now devolved upon the Working Group itself.

6. The Open-ended Ad Hoc Working Group elected Ms. Anne Daniel (Canada) as Chair and Mr. Deon Stewart (Bahamas) as Rapporteur, by acclamation. Given the short duration of the meeting, it was agreed that there was no need to elect vice-chairs.

C. Adoption of the agenda

7. The Open-ended Ad Hoc Working Group adopted the following agenda, on the basis of the provisional agenda contained in document UNEP/POPS/OEWG-NC.1/1:

1. Opening of the meeting.
2. Organizational matters:
 - (a) Election of officers;
 - (b) Adoption of the agenda;
 - (c) Organization of work.
3. Consideration of procedures and institutional mechanisms for determining non-compliance with the provisions of the Convention and for the treatment of Parties found to be in non-compliance.
4. Other matters.
5. Adoption of the report.
6. Closure of the meeting.

D. Organization of work

8. The Working Group decided that it should meet from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m., subject to adjustments as necessary.

E. Attendance

9. Representatives of the following Parties participated in the meeting: Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Belarus, Benin, Bolivia, Brazil, Bulgaria, Burkina Faso, Canada, Chad, Chile, China, Côte d'Ivoire, Czech Republic, Denmark, Ecuador, Egypt, Ethiopia, European Community, Finland, France, Germany, Ghana, Honduras, India, Japan, Jordan, Kenya, Lebanon, Madagascar, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Norway, Oman, Panama, Peru, Philippines, Portugal, Republic of Moldova, Romania, Rwanda, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Thailand, The Former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela and Viet Nam.

10. Representatives of the following States non-Parties attended the meeting as observers: Belgium, Cambodia, Cape Verde, Dominican Republic, Guinea, Hungary, Iran (Islamic Republic of), Israel, Italy, Lithuania, Malaysia, Sudan, Turkey and United States of America.

11. The permanent observer from Palestine also attended.

12. The following United Nations bodies, secretariat units, convention secretariats and specialized agencies were represented: Global Environment Facility, Ozone Secretariat, Secretariat of the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal, Secretariat of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain

Hazardous Chemicals and Pesticides in International Trade, United Nations Development Programme, United Nations Industrial Development Organization, United Nations Institute for Training and Research and the World Bank.

13. The following non-governmental organizations were represented: Centre for International Environmental Law, Earth Justice, Environmental Health Fund, International Council of Chemicals Association, International POPs Elimination Network Secretariat, Island Sustainability Alliance C.I. Inc., National Toxics Network Inc.

III. Consideration of procedures and institutional mechanisms for determining non-compliance with the provisions of the Convention and for the treatment of Parties found to be in non-compliance

14. In considering the item, the Working Group had before it a note by the Secretariat, containing in its annex a draft text of procedures and institutional mechanisms on non-compliance under Article 17 prepared by the Secretariat in response to the request of the Conference of the Parties in its decision SC-1/14 (UNEP/POPS/OEWG-NC.1/2). The Working Group also had before it a note by the Secretariat containing in its annex a compilation of the views and proposals on procedures and institutional mechanisms on non-compliance under Article 17 which had been submitted to the Secretariat, also in response to the request of the Conference of the Parties in its decision SC-1/14 (UNEP/POPS/OEWG-NC.1/INF/1).

15. The representative of the Secretariat said that the draft text contained in the annex to document UNEP/POPS/OEWG-NC.1/2 had been prepared on the basis of the views and proposals of both Parties and observers, bearing in mind recent developments concerning compliance with multilateral environmental agreements. Equal consideration had been given to all submissions. She noted that, within the text, square brackets had been used to indicate alternative wording or elements on which agreement had to be reached. She further noted that the whole text was contained in square brackets to reflect the view expressed by some Parties at the first meeting of the Conference of the Parties that the discussion of the document should be deferred to a later date.

16. The Working Group agreed to use the document as the basis of its discussions and commenced its consideration of the item with general statements from Parties and observers on the further development of a compliance mechanism for the Convention.

17. There was general agreement that attainment of the objectives of the Convention would require its full implementation by all Parties and that an effective compliance mechanism was therefore essential. Different opinions were voiced, however, regarding when the mechanism should be put into place. Several representatives expressed the belief that it should be established as soon as possible to expedite the delivery of assistance to Parties. Several others advocated waiting some period of time in order to reap the benefit of experience, both as to the kind of non-compliance problems that might arise and in the operation of the Convention itself.

18. There was general agreement that the non-compliance procedure should be non-confrontational, non-adversarial, fair, inclusive, transparent, effective, flexible and able to provide different types of assistance to Parties. Several representatives drew attention to the need to highlight in the procedures the principle of common but differentiated responsibility, while several others stressed the need to ensure that the question of that principle, if necessary at all, should be framed in its appropriate context. While several representatives stressed the need for simplicity, one representative questioned the value of such a focus, affirming that the aim of the Working Group should be to promote fairness and to prepare a mechanism that was practicable, meaningful and helpful.

19. There was agreement that the aim of the non-compliance procedure should be to encourage and facilitate compliance with the Convention, rather than to punish those Parties who failed to meet their obligations. Such an approach was of particular importance to developing countries and countries with economies in transition, whose relative lack of resources made it more difficult for them to comply with the Convention. In that regard, a number of representatives spoke in favour of developing additional tools to ensure that such countries were able to implement the Convention; it was suggested that the most appropriate response to non-compliance was capacity-building and the provision of technical and financial assistance.

20. Some representatives emphasized the need to promote coordination between Parties and spoke in favour of creating regional centres to promote developing country compliance. Others supported the establishment of a compliance committee with limited membership, comprising independent experts

appointed through regional consultations with due regard to the principle of equitable geographical representation.

21. Following the general comments, the Working Group considered the specific provisions of the annex to document UNEP/POPS/OEWG-NC.1/2. During its discussions, the Working Group reviewed the entire text, except for paragraphs 30–32, 34–38 and 41–55 of that document.

22. The Group discussed at length the provisions on the objective, nature and underlying principles of the proposed non-compliance procedures. Since the precise content of those provisions was partly dependent on the outcome of negotiations on the rest of the text, the Working Group decided to postpone consideration of those provisions until it had completed its first reading of the rest of the document.

23. During the discussion of additional measures available to the committee in the event of a Party's non-compliance, one representative, speaking on behalf of a regional group, suggested that such measures should be inapplicable if a Party's breach of its obligations arose from a lack of financial or technical assistance. Several other representatives opposed that suggestion, affirming that it would undermine the equality of States before the law. There were also diverging views about whether or not the measures available to the committee in the event of non-compliance should be limited to those expressly defined in the draft text.

24. Regarding the election of officers to the compliance committee, the Working Group tentatively agreed that the draft text should provide that the committee would elect its own chair; there was no need to refer specifically to the election of other officers, as rule 30 of the Convention's rules of procedure empowered subsidiary bodies to make such decisions. The Working Group also agreed that rule 22 of the rules of procedures did not imply that the committee would be required to appoint two officers from each region.

25. The Working Group agreed to forward the draft text to the Conference of the Parties for its consideration. As the Working Group had not completed its first reading of the document, the whole text remained in square brackets and was open to further negotiation. A copy of the draft text is contained in the annex to the present report.

26. Noting with satisfaction the progress made at the meeting and not wishing to lose the momentum achieved, the Working Group agreed to recommend to the Conference of the Parties that it be reconvened at the earliest convenience of the Conference of the Parties to consider the outstanding issues, including the objective, nature and underlying principles of the proposed non-compliance procedures.

IV. Other matters

27. No other matters were raised.

V. Adoption of the report

28. The Working Group adopted its report on the basis of the draft report which had been circulated, on the understanding that the Secretariat would be entrusted with its finalization. The Working Group agreed to recommend to the Conference of the Parties that the Chair be invited to present an oral report to the Conference at its second meeting on the outcome of its work. In that statement, she would highlight the diverging views expressed by Working Group members on the inclusion in the procedures of the principle of common but differentiated responsibilities. In addition, she would request that the issue be reflected in the report of the second meeting of the Conference.

VI. Closure of the meeting

29. The meeting was closed by the Chair at 6.10 p.m. on 29 April 2006.

Annex

[[Non-compliance][Compliance] procedures under Article 17 of the Stockholm Convention

[The following procedures and institutional mechanisms have been developed in accordance with Article 17 of the Stockholm Convention, hereinafter referred to as the “Convention”].¹

Objective, nature and underlying principles

1. The objective of the procedures is to assist Parties to comply with their obligations under the Convention and to facilitate, promote, monitor, assist in, advise on and aim to secure the implementation of and compliance with the obligations under the Convention.
2. The procedures are intended to be simple, effective, non-confrontational and non-adversarial, forward-looking, flexible and cooperative in nature. The procedures shall be applied in an expeditious manner in order to ensure that the threat to human health and the environment caused by a Party’s failure to comply with provisions of the Convention is minimized.
3. The operation of the procedures shall be guided by the principles of transparency, fairness and predictability. Special needs of developing country Parties and Parties with economies in transition shall be taken into account.
4. The Conference of the Parties will act as the supreme authority in all matters related to compliance with the Convention. The procedures shall complement the work performed by other Convention bodies and the financial mechanism established under Article 13 of the Convention.
5. All obligations under the Convention are subject to the present non-compliance procedures and mechanisms. The non-compliance procedure, while respecting widely accepted principles of international law, takes into account the specific characteristics of the Convention, such as technical assistance under Article 12, financial mechanisms under Article 13 and implementation plans under Article 7 of the Convention.]²

The Compliance Committee

Establishment

6. A Compliance Committee, hereinafter referred to as the “Committee”, is hereby established [as a subsidiary body of the Conference of the Parties pursuant to paragraph 5 (a) of Article 19 of the Convention].

Composition

7. The Committee shall consist of [10] [15] [19] members. Members shall be [experts, drawn from a list of individuals] nominated by Parties and elected by the Conference of the Parties. In electing members, due consideration shall be given to [the principle of equitable geographical representation [of the regional groups of the United Nations]] [a balance between developed and developing country Parties and Parties with economies in transition] and gender balance.
8. [Members shall have expertise and specific qualifications in the subject matter covered by the Convention, including in the scientific, technical or legal fields]. [Members shall serve in their personal capacity.] [They shall act objectively and in the best interests of the Convention.]

¹ This text will be moved to a decision adopting these procedures

² The Working Group agreed to return to paragraphs 2–5 after a first reading of the entire text. After that first reading, the first issue to be discussed will be the principle of common but differentiated responsibilities.

Election of members

9. At the meeting at which the present decision is adopted, the Conference of the Parties shall elect half the members for one term and half the members for two terms. The Conference of the Parties shall, at each ordinary meeting thereafter, elect for two full terms new members to replace those members whose period of office has expired or is about to expire. Members shall not serve for more than two consecutive terms. For the purpose of the present procedures and mechanisms, "term" shall mean the period that begins at the end of one ordinary meeting of the Conference of the Parties and ends at the end of the next ordinary meeting of the Conference of the Parties.

10. If a member of the Committee resigns or is otherwise unable to complete her or his term of office or to perform her or his functions, the Party who nominated that member shall nominate an alternate to serve for the remainder of the term.

Officers

11. The Committee shall elect its own Chair [and any other officers it deems appropriate taking into account the principle of equitable geographical representation of the regional groups of the United Nations].

Meetings

12. [The Committee shall hold meetings as necessary [, at least once [a year] [[between]] and whenever possible in conjunction with meetings of the Conference of the Parties or other Convention bodies].

13. [XX]³ members of the Committee shall constitute a quorum.

14. [Subject to paragraph 15 below] the meetings of the Committee shall be [open] [closed] [closed unless the Party whose compliance is in question agrees otherwise].

[15. Subject to paragraph 16 below, meetings of the Committee dealing with specific submissions relating to the compliance of a Party shall be closed to [Parties and] observers and the public unless the Committee and the Party whose compliance is in question agree otherwise.]

16. Where a submission is made with respect to the possible non-compliance of a Party, that Party shall be entitled to participate in the consideration of the submission by the Committee. For this purpose the Committee shall invite such a Party to participate in the discussions on the submission no later than sixty days before the start of the discussions. That Party may also be invited to take part in the elaboration of a recommendation of the Committee.^{4,5}

[16 bis. The Committee shall undertake its work in the six languages of the United Nations.]

Decision-making

[17. The Committee shall [make every effort to] reach agreement on all matters of substance by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, any decision shall, as a last resort, be taken by a [two-thirds][three-quarters] majority of the members present and voting [or by six members, whichever is greater]. The report of any meeting of the Committee at which consensus is not reached shall reflect the views of all the Committee members.]

[18. In the event that a member of the Committee is a citizen of a Party whose compliance is question, that member shall recuse herself or himself from proceedings on the case.] [Each member of the Committee shall, with respect to any matter that is under consideration by the Committee, avoid direct or indirect conflicts of interest. Where a member finds himself or herself faced with a direct or indirect conflict of interest, that member shall bring the issue to the attention of the Committee before

³ This number will be decided once the number of members in the committee is decided. Representatives suggested a range of options including two-thirds or three-quarters of the size of the committee or, if the committee consists of 10 members, a quorum of 8.

⁴ This is related to and dependent on the outcome of discussions on paragraph 33.

⁵ One representative considered that this paragraph referred to a Party-to-Party trigger, the inclusion of which has not yet been agreed.

consideration of that particular matter. The concerned member shall not participate in the elaboration and adoption of a recommendation of the Committee in relation to that matter.]

[Decisions

19. The Committee may adopt decisions [, binding upon the Party concerned,] and recommendations.

20. Subject to paragraphs 21 and 22 below, conclusions of the Committee on particular cases of non-compliance shall be deemed final decisions. These decisions shall be forwarded to the Party concerned for consideration and comments forthwith upon their adoption. Any such comments by the Party shall be forwarded with the report submitted by the Committee under paragraph 45 below to the Conference of the Parties.

21. If, within a month upon adoption of a decision by the Committee, the Party concerned presents arguments or additional information demonstrating that the decision of the Committee is incorrect, the Committee may, should it so decide, reconsider its decision.

22. If a Party concerned by a decision of the Committee disagrees with the decision and the Committee decides not to reconsider it in accordance with paragraph 21 above or the Committee maintains its conclusions upon reconsideration of the decision, the matter may be submitted by the Party to the Conference of the Parties for consideration at its next ordinary meeting. Any such submission to the Conference of the Parties shall be considered a matter of substance for the purposes of the rules of procedure of the Conference.

23. The Conference of the Parties may, pending completion of proceedings initiated by the Committee, issue interim conclusions and recommendations on particular cases of alleged non-compliance.^{6]}

Procedures for submissions

Submissions

24. Submissions to the Committee may be made by:

(a) A Party which decides that, despite its best endeavours, it is, or will be, unable to comply with its obligations under the Convention. Any submission under this subparagraph shall be made in writing, through the Secretariat, and should include details as to which specific obligations are concerned and an assessment of the reason why the Party may be unable to meet those obligations. Where possible, substantiating information, or advice as to where such substantiating information may be found, shall be provided. Any such submission may include suggestions for solutions which the Party considers may be most appropriate to its particular needs;

[(b) A Party that has concerns about or is affected or likely to be affected by an alleged failure to comply with the Convention's obligations by another Party. Any Party intending to make a submission under this subparagraph should before so doing undertake consultations with the Party whose compliance is in question. Any submission made under this subparagraph shall be made in writing, through the Secretariat, and [should][shall] include details as to which specific obligations are concerned, and information substantiating the submission.];

[(c) The Secretariat, if, while acting pursuant to its functions under the Convention, it becomes aware that a Party may face difficulties in complying with its obligations under the Convention, in particular on the basis of reports received pursuant to Article 15, provided that the matter has not been resolved within ninety days by consultation with the Party concerned. [In such cases, the Secretariat may also consider information received from bodies or agencies having observer status under paragraph 8 of Article 19 of the Convention.] Any submission made under this subparagraph

⁶ A number of representatives requested the deletion of paragraphs 19–23 on the basis that they duplicate elements covered elsewhere in the procedures. Other representatives were prepared to delete, as a minimum, paragraphs 19 and 23. Representatives wanted to ensure that if the entire section was deleted, important elements would not be lost; they wanted to read the text in conjunction with paragraphs 33, 35, 36 and 45.

shall be made in writing and shall set out the matter of concern, the relevant provisions of the Convention and the information substantiating the matter of concern.]⁷

[25. In addition, the Committee may initiate a procedure if in the course of its functions it becomes aware that a Party may face difficulties in complying with its obligations under the Convention.]

26. The Secretariat shall forward submissions made under subparagraph 24 (a) above, within fifteen days of receipt of such submissions, to the members of the Committee for consideration at the Committee's next meeting.

[27. The Secretariat shall, within fifteen days of receipt of any submission made under subparagraph 24 (b) above, send a copy to the Party whose compliance with the Convention is in question and to the members of the Committee for consideration at the Committee's next meeting.]

[28. The Secretariat shall send any submission it makes in accordance with paragraph 24 (c) above directly to the Committee and the Party whose compliance is in question within fifteen days of the conclusion of the ninety-day period referred to in paragraph 24 (c) above;]

[29. If the Secretariat, while acting pursuant to its functions under the Convention, becomes aware that a Party may face difficulties by a Party in complying with its obligations to submit national implementation plans and reports under Articles 7 and 15, respectively, of the Convention, it may request the Party concerned to furnish necessary information about the matter. If there is no response from the Party concerned within ninety days or such longer period as the circumstances of the matter may require, or the matter is not resolved through administrative action or through diplomatic contacts, the Secretariat shall report to the Parties pursuant to Article 20 of the Convention and shall inform the members of the Committee, which shall consider the matter at its next meeting.]

30. Parties whose compliance is in question may present responses or comments at every step of the proceedings described in the present procedures and mechanisms. The Party whose compliance is in question may comment on the submission within ninety days of its receipt, unless the circumstances of a particular case require an extended period of time, but in any event not later than six months of receipt. The Party shall send such comments to the Secretariat, which shall immediately forward them to the members of the Committee for consideration at the Committee's next meeting. When a submission is made under paragraph 24 (b) above, the information shall also be forwarded by the Secretariat to the Party that made the submission.

31. The Committee shall consider any submission made to it, as well as any other relevant information, with a view to determining the facts, specific circumstances and possible causes of the matter of concern and the resolution of it. The Committee may request further information from the Party concerned and draw on relevant expertise.

32. Without prejudice to paragraph 30 above, additional information, provided by a Party whose compliance is in question in response to a submission, should be forwarded to the Secretariat within ninety days of the date of receipt of the submission by that Party, unless the Party requests an extension of no more than ninety days with a reasonable justification. Such information shall be immediately transmitted to the members of the Committee for consideration at the Committee's next meeting. Where a submission has been made pursuant to subparagraph 24 (b) above, the information shall be forwarded by the Secretariat to the Party that made the submission.

33. The Committee shall share its draft conclusions and recommendations with the Party concerned for consideration and an opportunity to comment within ninety days upon receipt of the draft by the Party concerned. Any such comments may be included in the report of the Committee.

34. The Committee shall reject submissions which it considers to be:

- (a) De minimis;
- (b) Manifestly ill-founded.

Facilitation

35. The Committee shall consider submissions made to it in accordance with paragraph 24 above [or any matter referred to it in accordance with paragraph 29 above] [taking into account the type, degree, duration and frequency of compliance difficulties] with a view to establishing the facts and the root causes of the matter of concern and to assisting in its resolution. To that end, the Committee may

⁷ Paragraphs 24 (c) and 29 may be considered as alternatives for possible action by the Secretariat.

take the following measures after [coordination] [consultation] with the Party whose compliance is in question:

- (a) Providing advice;
- (b) Issuing [non-binding] recommendations[, including on establishing and strengthening domestic regulatory regimes and on steps to remedy the non-compliance situation such as safe disposal at the expense of the non-compliant Party or re-import/re-export of the chemical at issue];
- (c) Facilitating the provision and obtaining of technical and financial assistance, including technology transfer, training and other capacity-building measures;
- (d) Requesting the Party concerned to develop a [voluntary] compliance action plan, including timelines, targets and indicators and submission of progress reports within a timeframe to be agreed upon by the Committee and the Party concerned, and providing any further [information] [assistance] required to [assist] the Party in developing such a plan;
- (e) Pursuant to paragraph (d) above, providing help, on request, in the review of the implementation of the action plan and inviting the Party concerned to submit progress reports to the Committee on the efforts it is making to comply with its obligations under the Convention;
- (f) Pursuant to paragraph (d) above, reporting to the Conference of the Parties on efforts made by the Party concerned to return to compliance, including through national reporting under Article 15 of the Convention, and maintaining the case as an agenda item of the Committee until the matter is [adequately] resolved;⁸

Additional measures

36. If, after undertaking the facilitation procedure set forth in paragraph 35 above [and taking into account the cause, type, degree, duration and frequency of compliance difficulties, including the financial and technical capacities of a Party whose compliance is in question], [the Committee considers it necessary to pursue further measures to] [address a Party's compliance problems, it may recommend to the Conference of the Parties that it consider appropriate measures[, to be taken in accordance with international law,] to attain compliance] [promote compliance][, including]:

- (a) Providing further support under the Convention for the Party concerned, including further advice and facilitation, as appropriate, of [efficient provision of and] access to financial resources, technical assistance and capacity-building;
 - (a) bis Providing financial and technical assistance, technology transfer, training and other capacity building measures;
 - (b) Providing advice regarding future compliance in order to help Parties to implement the provisions of the Convention and to promote cooperation between all Parties⁹;
 - [(c) Issuing a statement of concern regarding possible future non-compliance;]
 - [(d) [Issuing a declaration of] [Determining] non-compliance;]
 - [(e) Issuing a caution;]¹⁰
 - [(f) Requesting the Executive Secretary to publish cases of non-compliance on the Stockholm Convention website; and]
 - [(g) In cases of repeated or persistent non-compliance, [as a last resort,] [suspending rights and privileges under the Convention, in particular rights under Articles 3 and 4 of the Convention][the committee may make recommendations to the Conference of the Parties regarding alternative courses of action] [the Conference of the Parties shall consider the case and undertake any final action that may be required to achieve of the objective of the Convention].]

⁸ Although there was support for subparagraphs 35 (c)–(f) several representatives questioned whether those subparagraphs belonged more appropriately in paragraph 36. Other representatives requested their retention but indicated that redrafting to clarify better that facilitative nature would be appropriate.

⁹ Although there was substantial support for sub-paragraphs 36 (a) and (b), several representatives questioned whether they belonged more appropriately in paragraph 35. One representative proposed a subparagraph 36 (a) bis, recognizing that, in the redrafting of paragraphs 36 (a) and (b) subparagraph 36 (a) bis could be taken into account.

¹⁰ A number of representatives suggested combining subparagraphs 36 (c), (d) and (e) into a single provision.

[36 bis. In case a developing country is found to be non-compliant because of a lack of technical and financial assistance, sub-paragraphs (c)–(g) shall not be applicable.]

Monitoring

37. The Committee should monitor the consequences of action taken in pursuance of paragraphs 35 and 36 above.

Information

Consultation and information

38. As regards submissions made under paragraphs 24 and 29, the Committee may consider information:

- (a) Submitted by the Secretariat from Parties pursuant to paragraphs 24, 30, and 31;
- (b) Obtained by the Secretariat from Parties while acting pursuant to its functions under the Convention;
- (c) Obtained from observers to the Convention identified in paragraph 8 of Article 19 of the Convention;
- (d) As requested by the Committee from any other source.

39. In carrying out its functions, the Committee may:

- (a) Request further information from all Parties, through the Secretariat, on issues of general compliance under its consideration;
- (b) Consult with other bodies of the Convention, in particular the Conference of the Parties and the Persistent Organic Pollutants Review Committee;
- (c) Request further information from any source and draw upon outside expertise, as it considers necessary and appropriate, either with the consent of the Party concerned or as directed by the Conference of the Parties;
- (d) Undertake, with the agreement of any Party, information gathering in that Party's territory for the purpose of fulfilling the functions of the Convention;
- (e) Consult with the Secretariat and draw upon its expertise and knowledge base and request through the Secretariat information, where appropriate in the form of a report, on matters under the Committee's consideration;
- (f) Review any national reports of Parties required or encouraged by the provisions of the Convention, in particular reports received pursuant to Article 15 of the Convention or decisions of the Conference of the Parties;
- (g) Request information from all other sources it considers relevant.

Handling of information

40. Subject to paragraphs 42 and 43 below, the Committee shall ensure openness and transparency in handling information received under this paragraph;

[41. Information considered in deliberations on specific submissions relating to the compliance of a Party shall not be open to other Parties, observers and public unless the Committee and the Party whose compliance is in question agree to its dissemination.]

42. Subject to paragraph 5 of Article 9 of the Convention, the Committee, any Party and any person involved in the deliberations of the Committee shall protect the confidentiality of information received in confidence.

43. Decisions of the Committee shall not contain confidential information and shall be publicly available. All information exchanged by or with the Committee that is related to any recommendation by the Committee to the Conference of the Parties shall be available to Parties upon request. Each Party shall protect the confidentiality of information it has received in confidence.

General procedures

General compliance issues

44. The Committee may examine systemic issues of general compliance and implementation of interest to all Parties when:

(a) The Conference of the Parties so requests;

(b) The Secretariat, while acting pursuant to its functions under the Convention, obtains information from Parties on the basis of which the Committee decides that there is a need for an issue of general non-compliance to be examined and for a report thereon to be made to the Conference of the Parties;

(c) The Secretariat draws the attention of the Committee to relevant information it has obtained through reports by Parties under the Convention and other sources.

Reports to the Conference of the Parties

45. The Committee shall submit a report to each ordinary meeting of the Conference of the Parties reflecting:

(a) The work that the Committee has undertaken;

(b) The conclusions and recommendations of the Committee on general issues of compliance and implementation developed under paragraph 44 above;

(c) The recommendations to the Conference of the Parties on interpretation of and possible measures to improve compliance with the Convention;

(d) The future programme of work of the Committee, including the schedule of expected meetings which it considers necessary for the fulfilment of its programme of work, for the consideration and approval of the Conference of the Parties.

Other subsidiary bodies

46. Where the activities of the Committee with respect to particular issues overlap with the responsibilities of another Stockholm Convention body, the Conference of the Parties may direct the Committee to consult with that body.

Other multilateral environmental agreements

47. Where there is a clear and direct relationship with other multilateral environmental agreements, [the Conference of the Parties may request] the Committee [to] [may] communicate and exchange experience with similar types of committees of those other agreements and [to] report to the Conference of the Parties.

Review of the compliance mechanism

48. The Conference of the Parties shall regularly review the implementation and effectiveness of the procedures and mechanisms set forth in the present decision.

Relationship with other provisions of the Convention

49. These procedures and mechanisms shall be without prejudice to Article 18 of the Convention.

50. These procedures shall be implemented in close relationship with Article 15 of the Convention.

Secretariat

51. The Secretariat referred to in Article 20 of the Convention shall be the Secretariat of the Committee.

Rules of Procedure

52. The rules of procedure of the Conference of the Parties shall apply *mutatis mutandis* to the meetings of the Committee except as otherwise provided for in these procedures.

53. The Committee may develop any additional rules that may be required and shall submit them to the Conference of the Parties for its consideration and approval.]