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**WORLD HEALTH ORGANIZATION
REGIONAL OFFICE FOR EUROPE**

MEETING OF THE PARTIES TO THE
PROTOCOL ON WATER AND HEALTH
TO THE CONVENTION ON THE PROTECTION
AND USE OF TRANSBOUNDARY
WATERCOURSES AND INTERNATIONAL
LAKES

Compliance Committee

Fourth meeting
Geneva, 26–27 January 2010

REPORT OF THE FOURTH MEETING OF THE COMPLIANCE COMMITTEE

INTRODUCTION

1. The fourth meeting of the Compliance Committee was held on 26–27 January 2010 in Geneva. The following members of the Committee attended: Ms. Diana Iskrevva-Idigo (Bulgaria), Mr. Pierre Chantrel (France), Ms. Phani Daskalopoulou-Livada (Greece), Mr. Attila Tanzi (Italy), Ms. Ilona Drulyte (Lithuania), Mr. Truls Krogh (Norway), Ms. Magdalena Bar (Poland) and Mr. Serhiy Vykhryst (Ukraine). Ms. Catarina de Albuquerque, the Independent Expert on the issue of human rights obligations related to safe drinking water and sanitation appointed by the Human Rights Council, attended the discussion under agenda item 6. A representative of the non-governmental organization (NGO) Earthjustice participated in the meeting as an observer. The meeting was chaired by Mr. Tanzi and serviced by the United Nations Economic Commission for Europe (UNECE) secretariat.

I. ADOPTION OF THE AGENDA

2. The Committee adopted the agenda as contained in document ECE/MP.WH/C.1/2010/1–EUR/09/5086338/7/7.

II. RELEVANT DEVELOPMENTS SINCE THE PREVIOUS MEETING OF THE COMPLIANCE COMMITTEE

3. The secretariat informed the Committee members about the additional ratification of the Protocol on Water and Health. Since the third Compliance Committee meeting, the Protocol had been ratified by three States, namely Belarus, the Netherlands and Spain, bringing the overall number of Parties to 24.

4. In addition the secretariat informed the Committee about the ongoing pilot-reporting cycle under the Protocol, explaining the process of reporting and informing the Committee members about the dissemination of the template together with the guidelines for reporting. In November 2009, the documents had been sent by traditional mail and electronic format to the Ministers of Environment and of Health in all countries across the UNECE region and copied to the focal points of the Protocol. The deadline for submission of national summary reports was 31 March 2010.

III. REVIEW OF COMPLIANCE WITH REPORTING REQUIREMENTS UNDER THE PROTOCOL

5. On the basis of a discussion paper prepared by the secretariat, the Committee considered the relationship between the compliance mechanism and the reporting requirements arising from article 7 of the Protocol. The Chair of the Committee recalled decision I/2 of the Meeting of the Parties mandating the Committee to oversee compliance with the reporting requirements under the Protocol, in particular to “monitor, assess and facilitate the implementation of and compliance with the reporting requirements under article 7, paragraph 5, of the Protocol.”

6. The Committee started the discussion by assessing the legal grounds for its actions with regard to the pilot-reporting cycle. The guidelines for reporting under the Protocol had not been officially adopted by the Meeting of the Parties, thus the pilot-reporting exercise could not be considered as formal reporting in accordance with article 7. At the same time, the Committee noted that the delay in the adoption of the guidelines did not derogate from the general obligation to report. Thus, in a spirit of good faith Parties should comply with article 7 and collect, evaluate, and report data. The Chair of the Committee asked the secretariat to forward the message to the third meeting of the Task Force on Indicators and Reporting.

7. The Committee examined its role in overseeing compliance with the reporting requirements under the Protocol, and the role and action that could be taken by the Committee on

the basis of information provided in the summary reports. The reports could be of great value for both identifying problems with compliance as well as understanding better the context in which such problems appeared. Factors to be considered by the Committee when reviewing the summary reports would include timeliness of submission, completeness and quality of information, as well as transparency and the process of preparation.

8. The Committee discussed how it would handle the information received in the summary reports. It was underlined again that the main task of the Committee was the facilitation of implementation and compliance. Consequently, the actions to be taken on the basis of summary reports should be well balanced, in order not to discourage the Parties to address in their reports difficulties in implementation encountered.

9. The Committee discussed the following measures to facilitate the implementation of and compliance with the reporting requirements:

(a) A proposal for the development of additional guidance material, should common problems in preparing the reports be identified by a number of Parties;

(b) Recommendations to the Meeting of the Parties to call on the Party or Parties concerned to provide missing, or more complete or accurate information to the secretariat and, through it, to the Compliance Committee, if data were missing in one or more summary reports, or if the data submitted were of poor quality;

(c) Following the meeting of the Parties, a review of additional information received and deciding whether further steps were needed;

(d) If a Party failed to provide further information despite the recommendation of the Compliance Committee or the request of the Meeting of the Parties, the Compliance Committee could in any case investigate the situation and take such further steps within its mandate as deemed necessary;

(e) Possible referrals by the secretariat to the Compliance Committee if no additional information was received or if the information received demonstrated problems of compliance.

10. The Committee agreed that it would review the reports submitted within the framework of the pilot-reporting exercise and deliver its report to the second session of the Meeting of the Parties, taking into account all the special characteristics of the first pilot round of reporting.

IV. REPORT FROM THE COMMITTEE TO THE SECOND SESSION OF THE MEETING OF THE PARTIES

11. To facilitate discussion under this item, the secretariat prepared a discussion paper containing an outline of the Committee report. The paper was drawn up on the basis of experience in reporting gathered by the Convention on Access to Information, Public

Participation in Decision-making and Access to Justice in Environmental Matters,¹ the Convention on Environmental Impact Assessment in a Transboundary Context² and the Convention on the Transboundary Effects of Industrial Accidents.^{3,4}

12. The Committee discussed and agreed on the outline of the report, which would include the following chapters:

(a) Issues related to the functioning of the compliance mechanism and the Committee;

(b) Submissions, referrals and communications concerning non-compliance with the Convention on the Protection and Use of Transboundary Watercourses and International Lakes;

(c) Cooperation with the Office of the High Commissioner for Human Rights and the Independent Expert on issue of human rights obligations related to safe drinking water and sanitation;

(d) Reporting requirements – evaluation of the national summary reports, covering among others:

(i) Completeness of the summary reports in accordance with requirements set out in article 7 and in the draft guidelines and template for summary reports;

(ii) Quality and accuracy of data in the reports;

(iii) Procedural aspects of the reporting process, including transparency and public involvement and timeliness in reporting;

(iv) Recommendations to the Meeting of the Parties and to specific Parties;

(v) Possible decision on further work on the national summary reports;

(e) General compliance issues;

(f) Future work;

(g) Draft decision on general issues of compliance.

13. The Committee discussed how its report to the second session of the Meeting of the Parties would be related to the work on the regional implementation report prepared by the secretariat. Although both reports would be based on the same source of information, they would focus on different aspects. The Compliance Committee report should address the issues of implementation and compliance with the reporting requirements, as well as issues of non-compliance general or related to specific countries, with the requirements of the Protocol raised in the national summary reports.

¹ See reports of the Compliance Committee at the second and third sessions of the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, ECE/MP.PP/2005/13 and ECE/MP.PP/2008/5, respectively, available online at <http://www.unece.org/env/documents/2005/pp/ece/ece.mp.pp.2005.13.e.pdf> and http://www.unece.org/env/documents/2008/pp/mop3/ece_mp_pp_2008_5_e.pdf.

² See the report of the Implementation Committee on the fourth session of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context, ECE/MP.EIA/2008/5, available online at <http://www.unece.org/env/documents/2008/eia/ece.mp.eia.2008.5.e.pdf>.

³ See report of the Working Group on Implementation submitted to the fifth meeting of the Conference of the Parties, ECE/CP.TEIA/2008/3, available online at http://www.unece.org/env/documents/2008/TEIA/ECE_CP_TEIA_2008_3E.pdf.

⁴ The reports of the Implementation Committee of the Convention on Long-range Transboundary Air Pollution were considered too specific and not appropriate for the work under the Protocol.

14. It was agreed that once the secretariat received the summary reports, the documents would be forwarded for examination by the Committee members. The Committee agreed on how to share the responsibilities for the preparation of its report to the second session of the Meeting of the Parties: Committee members would divide work related to the analysis of the national summary reports, according to their expertise and scientific or legal backgrounds.

V. FUTURE STEPS TO STIMULATE COMPLIANCE AMONG THE PROTOCOL'S PARTIES

15. The Committee reflected on its work to date, and on its future role and steps to be taken in relation to the (non)-compliance of the Parties with their obligations under the Protocol, including publicizing the compliance mechanism and facilitating capacity-building measures.

16. The Committee had not received any communications from the public or submissions from Parties, even though the available information implied that several Parties were not in compliance with their obligations under the Protocol. The Committee deliberated on the possible reasons for that situation. The fact that the guidelines on the setting of targets, evaluation of progress and reporting and the guidance on water-related disease surveillance had not been formally adopted by the Meeting of the Parties was mentioned as a possible factor contributing to the situation of alleged non-compliance.

17. One of the main reasons for which the Committee had not been seized was the relatively low awareness among the general public of the Protocol, its provisions, and in particular of the compliance mechanism and the possibilities for communications from the public.

18. The Committee considered its future approach: Should it be proactive and engage in activities as soon as possible or should it wait for communications, referrals or submissions before taking any further action?

19. After considering the pros and cons of the two approaches, the Committee decided to wait and examine the summary reports submitted during the pilot-reporting exercise, consider the issue further in its future meetings, and, if needed, reflect on its future approach and plans in its report to the Meeting of the Parties.

20. At the same time, the Committee members felt that some steps should be taken to promote the compliance mechanism. It was suggested that informative material should be developed and published, and that joint missions be carried out in selected countries with the Independent Expert on the issue of human rights obligations related to safe drinking water and sanitation.

21. It was also suggested that a training session for NGOs be organized to explain the compliance mechanism as well as the guidelines for communication from the public. The Committee should be not directly responsible for the practical organization of the event, only for delivering the training course, whereas an NGO or a network of NGOs, such as European Eco-

Forum or the European Environmental Bureau, could be invited to lead that activity. However, there would not be enough time to act on that suggestion before the second session of the Meeting of the Parties.

22. The secretariat informed the Committee members about the upcoming workshop on information and public participation in water and health-related issues to take place in Bucharest on 15–16 June 2010. The workshop, which targeted NGOs, in particular those working in water, health and the environment, would provide a good opportunity to present the compliance mechanism and disseminate the guidelines for communication from the public. It was agreed that the secretariat would ensure a time slot for an appropriate presentation in the workshop agenda.

23. The Water and Health Protocol Day to be held as a pre-event of the Fifth Ministerial Conference on the Environment and Health in Parma, Italy, provided another opportunity to promote and inform the public about the compliance mechanism. It was agreed that a presentation on the compliance mechanism would be delivered during the event.⁵

24. The Committee decided to prepare a short information leaflet on the compliance mechanism, outlining its main features and the role of the public in strengthening the implementation of the Protocol.

25. It was agreed that the Chair would present, at the third meeting of the Working Group on Water and Health to be held in Geneva on 27–28 May 2010, the work carried out, the main results thereof and an indication on future directions for the Committee.

VI. COOPERATION WITH THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

26. The Chair introduced the activities conducted by the Compliance Committee, underlining the close relationship between the Committee's work and issues related to the human rights to water and sanitation. He recalled the main obligations of the Protocol and briefly explained the key features of the Committee's rules of procedure and the guidelines for communication from the public. He stressed that an applicant did not have to be directly affected by the situation of non-compliance in order to make a communication.

27. Ms. Catarina de Albuquerque, the Independent Expert on the issue of human rights obligations related to safe drinking water and sanitation described her mandate and areas of work which, inter alia, included (a) the development of criteria for good practices related to access to safe drinking water and sanitation, and in this regard, the preparation of a compendium of best practices; (b) the preparation of a study to clarify the content of human rights obligations relating to access to safe drinking water and sanitation; and (c) the development of recommendations that could help realize the Millennium Development Goals, in particular Goal 7.

⁵ Ms. Bar presented the compliance review procedure and the role of the Compliance Committee during the Water and Health Protocol Day.

28. During the first year of her mandate, the Independent Expert had focused on the human rights obligations related to sanitation. In 2009, she had also conducted three country missions (Costa Rica, Bangladesh and Egypt) examining the situation of water and sanitation at the national level, identifying good practices and making recommendations to the governments on steps to improve access and ensure the protection of human rights associated with water and sanitation. The reports from the country missions are available online at <http://www2.ohchr.org/english/issues/water/iexpert/visits.htm>.

29. The main focus in 2010 was the participation of the private sector in the provision of water and sanitation services. Currently there was a big debate concerning government decisions to outsource water services to private companies. While the human rights obligations of States were well documented, the responsibilities of private actors were not as clear. The work to be carried out would make clear and identify the measures and regulatory frameworks that would need to be put in place for such schemes.

30. The Committee discussed the possible areas for cooperation, recognizing the close linkages between the work conducted under the Protocol and water and sanitation issues tackled by the Independent Expert and the Office of the High Commissioner for Human Rights. The Committee members agreed that there was room for reinforcing each other's work and made a number of proposals, which included joint country missions, a recommendation made by the Independent Expert to a country to ratify the Protocol, exchange of information or findings from the missions and promotion of each other's work.

31. In addition, the Committee members provided information on the activities related to equitable access to water and sanitation and the plan to develop a document on good practices in that area. Indeed, that work could contribute to the compendium of good practices related to access to safe drinking water and sanitation planned by the Independent Expert.

VII. PROGRAMME OF WORK AND CALENDAR OF FUTURE MEETINGS

32. The Committee discussed the steps to be taken for timely preparation of its report for the second session of the Meeting of the Parties.

33. The following steps were agreed:

(a) The summary reports submitted to the secretariat by Parties, signatories and interested countries would be sent to the Committee members;

(b) Committee members would review the different sections of the national summary reports and circulate their findings among themselves and copy to the secretariat the initial outcomes of their analysis by 15 May 2010;

(c) Committee members responsible for preparing summaries of different parts of the national reports and chapters of the Committee report to the Meeting of the Parties should circulate their contributions by 1 June;

(d) The secretariat would compile the information received and send to the Committee members the first draft of the report by 14 June 2010.

34. In the upcoming weeks, the Chair of the Committee would make a proposal for a draft of the promotional leaflet and circulate it among the Committee members for comments.

35. The Committee agreed that its next meeting would be held on 22–23 June 2010.

VIII. OTHER BUSINESS

36. The Committee members discussed the composition of the Compliance Committee after the second session of the Meeting of the Parties. It was recalled that at their first meeting, the Parties elected the nine Committee members without specifying which of them had been elected for a full term of office and which had been elected for a half term. On an exceptional basis, the Meeting of the Parties requested the Committee members to reach an agreement on the above issue. According to decision I/2 on review of compliance, Parties should proceed with the election of four committee members at the second session.

37. All Committee members except Ms. Daskalopoulou-Livada expressed their willingness to remain and serve on the Compliance Committee for at least the next three years. Many stressed the importance of ensuring continuation of the existing composition of the Committee. In accordance with decision I/2, the outgoing Committee members were eligible for re-election for a full term of office. It was agreed that the final consultations and proposals for possible solutions to the issue would be addressed at the fifth Committee meeting. Committee members also agreed to consult within their network to facilitate the identification of a candidate to replace Ms. Daskalopoulou-Livada.
