

Elements for a possible compliance mechanism for the Convention

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Background

- CoP 7 (2012) mandate
- WGD's discussions (2013-2014) and recommendations to CoP 8 (2014)
- CoP 8 (2014) decision and mandate
- WGD 5 (May 2015) discussion and mandate

Considerations by the WGI

Informal network of the Chairs of UNECE compliance and implementation bodies

- (Geneva, 29 June 2015), special session dedicated to a possible compliance mechanism for the Convention. Exchange of views with other Chairs on:
 - Criteria for compliance
 - how to ensure that compliance has a supportive role for Parties
 - Need to identify reason for non-compliance – systemic or incidental
- The Chairs agreed that:
 - the key role of compliance is to assist Parties in the implementation treaties
 - A compliance body should consider the causes of non-compliance and support Parties in reaching compliance.

Current compliance-related functions by the WGI

Mostly on an ad hoc basis, the WGI carries out the following tasks by compliance bodies:

1. Reviewing compliance with reporting obligations;
2. Providing information on the implementation of the Convention;
3. Communicating with Parties and committed countries;
4. Assisting in implementing the Convention's provisions

Benefits of introducing a compliance mechanism

Mostly on an ad hoc basis, the WGI carries out the following tasks by compliance bodies:

- Reviewing Parties' compliance with Convention obligations
- Providing a vehicle for Parties to highlight non-compliance and request assistance
- Enhancing assistance functions for Parties and committed countries

Possible characteristics of compliance for the Convention

WGI → Main emphasis of compliance to be assisting Parties in meeting their obligations → need for a non-adversarial, assistance-oriented, supportive and cooperative mechanism

Possible characteristics of compliance for the Convention

Possible means to initiate compliance procedure:

- Self-submission
- Submission by a Party concerning another Party's compliance
- Committee initiatives – using information from national reports, self-assessments etc.
(Information from the public may also be considered as part of a Committee initiative, as another source of information)

Considerations

- new mandate for the WGI to refocus its workload → WGI will recommend to the CoP a change of reporting cycle from 2 to 4 years
- On this basis, the WGI would maintain its 10 members (no more needed) elected every 4 years (i.e. every 2 CoPs)
- Membership of WGI could remain as present (attention could be put on having a balance of expertise in the group)

Next steps towards the establishment of a compliance mechanism

- The WGD could request the small group of legal experts to prepare a draft decision for review at its 7th meeting (April 2016), then submitting the draft decision to the CoP 9 in 2016.
- The draft decision could include :
 - (a) Objective(s);
 - (b) Size and composition of membership;
 - (c) Functions and mandate;
 - (d) Actors entitled to raise compliance issues in the procedures (triggers);
 - (e) Potential measures;
 - (f) Sources of information;
 - (g) Procedural safeguards.