



# Economic and Social Council

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## Economic Commission for Europe

Meeting of the Parties to the Convention on  
the Protection and Use of Transboundary  
Watercourses and International Lakes

### Implementation Committee

Sixth meeting  
Geneva, 3 and 4 May 2016

## Report of the Implementation Committee on its sixth meeting

### I. Attendance and organizational matters

1. The sixth meeting of the Implementation Committee under the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) was held on 3 and 4 May 2016 at the Palais des Nations in Geneva, Switzerland.
2. All members of the Implementation Committee took part in the meeting: Vanya Grigorova; Kari Kinnunen; Johan Lammers; Stephen McCaffrey; Anne Schulte-Wülwer-Leidig; Aliaksandr Stankevich; Attila Tanzi; Ivan Zavadsky; and Dinara Ziganshina.
3. In accordance with the core rules of procedure for the Implementation Committee,<sup>1</sup> the Implementation Committee elected Mr. Tanzi as its Chair for the period 2016–2018 and Ms. Grigorova as Vice-Chair. Subsequently, the Committee adopted the agenda for its sixth meeting as set out in document ECE/MP.WAT/IC/2016/1.

### II. Relevant outcomes of the seventh session of the Meeting of the Parties

4. The secretariat reported on the outcomes of the seventh session of the Meeting of the Parties to the Convention (Budapest, 17–19 November 2015), in particular the decisions and texts adopted, including the programme of work for 2016–2018

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<sup>1</sup> See ECE/MP.WAT/37/Add.2, decision VI/1, annex II, para. 7.



(ECE/MP.WAT/49.Add.1) and the Principles for Effective Joint Bodies for Transboundary Water Cooperation (see ECE/MP.WAT/49.Add.2).

5. The Committee particularly welcomed decision VII/1 on general issues of implementation (ibid.), which corresponded to the Committee's proposal, and decision VII/2 on reporting under the Convention (ibid.), which, among others, underlined the important role of reporting for the Committee to carry out its functions. The latter decision also included a mandate for the Committee to contribute to the possible revision of the reporting template after the pilot reporting exercise, if needed. The Committee reiterated that the future reports to be submitted by the Parties would be a key basis for its work.

6. The Committee was also informed about the work of the Compliance Committee under the Protocol on Water and Health, which had since 2011 introduced an advisory procedure, similar to that of the Implementation Committee. At its previous meeting, in October 2015, the Committee had provided its first assistance under that procedure to Albania, Azerbaijan and Bosnia and Herzegovina, in a number of areas linked to the implementation of the Protocol (e.g., in relation to intersectoral cooperation and public consultation).

7. The secretariat then reported on the latest developments regarding the Convention's global opening: following the deposit by Ukraine of its instrument of acceptance of the amendment, as of 1 March 2016, countries from outside the United Nations Economic Commission for Europe region (ECE) can accede to the Convention.

8. In that regard, the Committee discussed its possible role in the Convention's opening and took note that in several events — such as the side event on the Committee at the seventh session of the Meeting of the Parties and the workshop on “Promoting transboundary water cooperation in the Middle East and Northern Africa region on the basis of the Water Convention” (Budapest, 16 November 2015) — countries from outside the ECE region had shown significant interest in the Committee. The secretariat invited Committee members to participate in and contribute to events that it was planning to organize at the request of countries interested in accession to promote and build capacity on the Convention in countries outside the ECE region. The Committee members agreed to support the Convention's promotion at the global level, as appropriate and where possible.

9. The secretariat also noted that it was receiving a growing number of questions from non-ECE countries interested in acceding to the Convention about the provisions and implementation of the Convention. For some of those questions, especially those on legal issues not covered in the *Guide to Implementing the Water Convention* (ECE/MP.WAT/39) (Implementation Guide), the secretariat lacked expertise and would appreciate receiving support from the Implementation Committee. A relevant example was the list of questions received in April 2016 from Lebanon, following the national workshop on the Water Convention organized in Beirut in February 2015.

10. The Committee discussed its role in assisting the secretariat in answering such queries. It considered that its involvement would be within its general mandate of promoting implementation of the Convention. However, as this kind of tasks was not explicit in the decision establishing the Committee, it felt it would be preferable to receive a specific mandate in that regard from the Bureau. Following an electronic consultation during the Committee meeting, the Water Convention Bureau mandated the Implementation Committee to assist the secretariat in answering specific questions on the Convention formulated by countries considering accession.

11. Subsequently, the Committee discussed some of the replies to the questions received from Lebanon, on the understanding that those answers would be without prejudice to the interpretation of the Convention, which was beyond the Committee's mandate. The

Committee also suggested that, in the long term, such questions should be considered in future revisions of the Implementation Guide.

### III. Requests for advice, submissions and Committee initiative

12. The Committee noted that no request for advice or submission had been received from any of the Parties since its fifth meeting.

13. The Committee then resumed the discussions it had started at its first and second meetings<sup>2</sup> on procedures and criteria for dealing with submissions, in particular for Party-to-Party submissions by European Union member States. The Committee had become aware that Parties to the Convention that were members of the European Union considered that they could be prevented from having recourse to the Implementation Committee on the basis of article 344 of the Treaty on the Functioning of the European Union. That article according to the case law of the Court of Justice of the European Union stipulated that European Union member States could not submit a dispute concerning the interpretation or application of international agreements to which the European Union and its member States were Parties to any method of settlement other than those provided under the Treaty on the Functioning of the European Union. The Committee considered that the provision in article 344 did not involve non-binding dispute settlement procedures. The mechanism established through the Implementation Committee was “simple, non-confrontational, non-adversarial, transparent, supportive and cooperative in nature”, therefore distinct from the dispute settlement procedure envisaged in article 22 of the Convention. The mechanism was by its nature intended to be an alternative to the dispute settlement procedure, and might also often serve as a means to prevent situations from evolving into a dispute. Therefore, the Committee was of the view that a Party-to-Party submission by European Union member States would not infringe on European Union competence.

### IV. Information gathering

14. Within its competence under section VIII of annex I (mechanism to support implementation and compliance) to decision VI/1 of the Meeting of the Parties to the Convention (see ECE/MP.WAT/37/Add.2), and further to its deliberations at its third, fourth and fifth meetings,<sup>3</sup> the Committee continued to discuss its gathering of information regarding the Irtysh and Ili River Basins in relation to development activities in the upstream part of the basins.

15. The Committee appreciated the additional information received from the Russian Federation regarding transboundary water cooperation in the Irtysh and Ili River Basins, and noted with concern that Kazakhstan had still not replied to the Committee’s letters.

16. The Committee recalled decision VII/1 on general issues of implementation adopted by the Meeting of the Parties at its seventh session, restating that cooperation with the Committee was a good-faith obligation for Parties. The Committee decided to continue to gather information through its own means, inter alia, by requesting the original submitter and other recognized, authoritative non-governmental organizations active in the area to supply authoritative information on: water status (quantity, quality and related ecosystems); planned developments and measures taken or planned to be taken which that are of

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<sup>2</sup> See ECE/MP.WAT/IC/2013/2 and ECE/MP.WAT/IC/2013/4, respectively.

<sup>3</sup> See ECE/MP.WAT/IC/2014/2, paras. 5–9, ECE/MP.WAT/IC/2014/4, paras. 5–9, and ECE/MP.WAT/IC/2015/2, paras. 5–8.

transboundary relevance in terms of their impacts; and any plans or measures of the different riparian countries to prevent, control and reduce transboundary impacts. At the same time, it decided to inform Kazakhstan of that step and to enquire about plans and measures taken by that Party to prevent, control and reduce the transboundary impacts.

## **V. Promotion of the mechanism to facilitate and support implementation and compliance**

17. Committee members reported on their efforts to present the Committee at various forums and events, and discussed future opportunities. It was suggested to promote the Committee's work at the eleventh meeting of the Working Group on Integrated Water Resources Management (Geneva, 18–19 October 2016), the World Water Congress (Cancun, Mexico, 29 May–2 June 2017), the Budapest Water Summit (Budapest, 28–30 November 2016), regional events and river basin commission sessions.

18. The Committee considered that multilateral river basin commissions might be interested in requesting advisory support from the Committee. It also felt that bilateral or multilateral donors could be important partners for the work of the Committee as well as the Global Environment Facility, in particular through its International Waters Learning Exchange and Resource Network (IW:LEARN) 4 project. It was also important to build the awareness of non-governmental organizations (NGOs) on the work of the Committee and always to emphasize the facilitative and non-confrontational nature of the Committee when promoting it.

19. The Committee decided to reinforce cooperation with similar Committees under other ECE Conventions. In that regard, it asked Mr. Lammers to represent the Committee at the fourth meeting of the informal network of chairs of the ECE multilateral environmental agreements to be held on 20 June 2016 in Geneva.

20. The Implementation Committee then had an exchange with representatives of the Geneva Water Hub and the Global High-Level Panel on Water and Peace, which had been launched in November 2015 by 15 co-convening countries. By 2017, the Panel would develop a set of proposals aimed at strengthening the global architecture to prevent and resolve water-related conflicts, and facilitate the use of water as an important factor of in building peace. Promotion of the two global water conventions — the Water Convention and the Convention on the Law of the Non-navigational Uses of International Watercourses — was also among the tasks of the High-Level Panel.

21. Committee members suggested the following issues for the Panel's consideration: the role of indigenous and local knowledge in global processes on water; the importance of the two global water Conventions and how to support their implementation; the role of the two global water Conventions in the resolution of conflicts and the promotion of good cooperation practices; and the importance of additional financing for transboundary water cooperation, including from external sources such as climate funds. Discussions also focused on the role of the private sector in fostering or hampering cooperation. It was suggested that guidelines for private investments in transboundary basins would be useful to ensure compliance with the Convention and international law in general, as well as to promote cooperation and reduce the risks of conflicts. The Guiding Principles on Sustainable Hydropower Development in the Danube Basin, developed by the countries of the Danube Basin in cooperation with NGOs, the hydropower sector and academia, were an inspiring example of such tools.

22. The Panel and Committee members present also noted with concern that in recent years only very few transboundary agreements had been signed worldwide, and discussed possible ways forward. They noted the role of NGOs, and especially coalitions of such

organizations, across a basin, as well as third party support. Other solutions suggested for restarting cooperation included assessing the benefits of cooperation, as well as multipurpose investments and using less formal types of arrangements.

23. Finally, it was suggested that the Convention could be presented or even represented at one of the future Panel meetings. Participants agreed to continue exchanges between the Committee and the Panel.

## **VI. Programme of work and calendar for the next meetings**

24. The Committee agreed to hold its seventh meeting on 1 and 2 December 2016 in Budapest, combined with an event to promote the Committee and the Convention. The eighth meeting would be held in May 2017 in Haparanda, Sweden.

## **VII. Adoption of the report**

25. The Committee entrusted the secretariat to prepare and circulate the draft report on its sixth meeting, which the Committee subsequently approved through electronic communication means.

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