



Economic and Social Council

Distr.: General
8 October 2012

Original: English

Economic Commission for Europe

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

Compliance Committee

Thirty-eighth meeting

Geneva, 25–28 September 2012

Report of the Compliance Committee on its thirty-eighth meeting

Contents

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1–4	2
A. Attendance	2	2
B. Organizational matters	3–4	2
I. New submissions and referrals under the Convention	5–7	2
II. Communications from members of the public	8–39	2
III. Reporting requirements	40	7
IV. Follow-up on specific cases of non-compliance.....	41–56	7
V. Programme of work and calendar of meetings	57	9
VI. Other business	58–67	10
VII. Adoption of the report and closure of the meeting	68	11

Introduction

1. The thirty-eighth meeting of the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was held from 25 to 28 September 2012 in Geneva, Switzerland.

A. Attendance

2. All members were present during the meeting. Members having declared a conflict of interest with respect to particular cases did not participate in closed sessions deliberating on those cases. Representatives of the Governments of Armenia, Austria and Germany and representatives of the non-governmental organizations (NGOs) EcoEra (Armenia), Vier Pfoten — Stiftung für Tierschutz gemeinnützige Privatstiftung (Austria), ClientEarth (Belgium), the Center for International Environmental Law (CIEL) (United States of America), Earthjustice (Switzerland) and the International Council of Environmental Law (Switzerland), as well as representatives of the European ECO Forum and other members of the public, participated as observers during the open sessions. Representatives of the Office of the United Nations High Commissioner for Human Rights (OHCHR) also participated. In addition, representatives of the Government of Kazakhstan and the NGO Green Salvation (Kazakhstan) participated in relevant sessions by videoconference.

B. Organizational matters

3. The Chair of the Compliance Committee, Mr. Jonas Ebbesson, opened the meeting.
4. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2012/6.

I. New submissions and referrals under the Convention

5. The secretariat informed the Committee that no new submissions had been made by Parties concerning compliance by other Parties.
6. The secretariat informed the Committee that no submissions had been made by Parties concerning problems with their own compliance since the Committee's last meeting.
7. No referrals had been made by the secretariat since the Committee's last meeting.

II. Communications from members of the public

8. The Committee confirmed the adoption of the edited version of its findings and recommendations in English, as well as their translation into French and Russian, with regard to communication ACCC/C/2011/57 (Denmark), as set out in document ECE/MP.PP/C.1/2012/7.
9. The Committee then entered into discussion in open session of communication ACCC/C/2008/31 (Germany), with the participation of representatives of the Party concerned and the communicant. The communication had been submitted by ClientEarth and contained allegations of non-compliance by Germany with the access to justice provisions of the Convention with respect to the established criteria for NGO standing and

the possibility of NGOs to challenge the procedural legality of decisions that fell under article 6 of the Convention, as well as to challenge acts and omissions of private persons that contravened environmental law, when their rights were not impaired. The Committee confirmed that communication ACCC/C/2008/31 was admissible. At the end of the discussion, parties were invited to address some additional questions in writing.

10. The Committee then deliberated upon the communication in closed session. It agreed to continue its deliberations on the matter at its thirty-ninth meeting (11–14 December 2012), taking into account the ongoing legislative developments in Germany. The draft findings would then be sent for comment to the Party concerned and to the communicant.

11. With regard to communication ACCC/C/2008/32 (European Union (EU)), the Committee took note of the Commission decision of 18 July 2012 on the submission of an appeal before the Court of Justice of the EU¹ and of the additional information submitted by the communicant on 23 July 2012. The Committee, decided to suspend consideration of whether the Aarhus Regulation² or any other relevant internal administrative review procedure of the EU met the requirements of access to justice in the Convention until the EU court issued the final ruling on the case.

12. Concerning communication ACCC/C/2010/45 (United Kingdom of Great Britain and Northern Ireland), the Committee agreed to continue its deliberations on the matter at its thirty-ninth meeting with a view to completing its draft findings and, as appropriate, recommendations, which would then be sent for comment to the Party concerned and the communicant.

13. With regard to communication ACCC/C/2010/51 (Romania), the Committee agreed to continue its deliberations on the matter at its thirty-ninth meeting with a view to completing its draft findings and, as appropriate, recommendations, which would then be sent for comment to the Party concerned and the communicant.

14. At its thirty-seventh meeting (26–29 June 2012), the Committee had completed its draft findings on communication ACCC/C/2010/53 (United Kingdom) in closed session, with the exception of a few minor points, which had been finalized by using the electronic decision-making procedure. The findings had then been sent for comments to the Party concerned and the communicant on 13 August 2012. The Party concerned and the communicant had provided comments on 10 September 2012. The Committee then finalized its findings, taking into account the comments received. It adopted its findings and instructed the secretariat to prepare official versions of its adopted findings on ACCC/C/2010/53 as a formal pre-session document to its fortieth meeting (25–28 March 2013) and to ensure its availability in the three official ECE languages. It requested the secretariat to send the finalized findings to the Party concerned and the communicant.

15. With regard to communication ACCC/C/2010/55 (United Kingdom), the secretariat informed the Committee that no additional information had been received.

16. Concerning communication ACCC/C/2011/58 (Bulgaria), at its thirty-seventh meeting the Committee had completed its draft findings in closed session, with the exception of a few minor points, which had been finalized by using the electronic decision-

¹ *Council v. Stichting Natuur en Milieu and Pesticide Action Network Europe*, case C-404/12 P and *Commission v. Stichting Natuur en Milieu and Pesticide Action Network Europe*, case C-405/12 P.

² Regulation (EC) No. 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies.

making procedure. The findings had then been sent for comments to the Party concerned and the communicant on 24 August 2012. The communicant had provided comments on 21 September 2012. The Committee then finalized its findings, taking into account the comments received. It adopted its findings and instructed the secretariat to prepare official versions of its adopted findings on ACCC/C/2011/58 as a formal pre-session document to its fortieth meeting and to ensure its availability in the three official ECE languages. It requested the secretariat to send the finalized findings to the Party concerned and the communicant.

17. With regard to communication ACCC/C/2011/59 (Kazakhstan), the Committee agreed to continue its deliberations on the matter at its thirty-ninth meeting with a view to completing its draft findings and, as appropriate, recommendations, which would then be sent for comment to the Party concerned and the communicant.

18. With regard to communication ACCC/C/2011/60 (United Kingdom), the Committee took note of the information submitted by the communicant on 15 and 28 September 2012 and agreed to continue its deliberations on the matter at its thirty-ninth meeting with a view to completing its draft findings and, as appropriate, recommendations, which would then be sent for comment to the Party concerned and the communicant.

19. Concerning communication ACCC/C/2011/61 (United Kingdom), the Committee agreed to continue its deliberations on the matter at its thirty-ninth meeting with a view to completing its draft findings and, as appropriate, recommendations, which would then be sent for comment to the Party concerned and the communicant.

20. The Committee then entered into discussion in open session of communication ACCC/C/2011/62 (Armenia), with the participation of representatives of the Party concerned and the communicant. The communication related to subsequent developments on matters addressed by the Committee in its findings on communication ACCC/C/2009/43 (ECE/MP.PP/2011/11/Add.1), which had been endorsed by the Meeting of the Parties to the Convention at its fourth session (ECE/MP.PP/2011/2/Add.1, decision IV/9a). The communication had been submitted by EcoEra and contained allegations of non-compliance by Armenia with the access to justice provisions of the Convention, because recent jurisprudence of the Armenian Cassation Court had reversed its earlier jurisprudence with respect to the standing of NGOs in environmental matters. The Committee confirmed that communication ACCC/C/2011/62 was admissible. At the end of the discussion, parties were invited to address some additional questions in writing.

21. The Committee then deliberated upon the communication in closed session. It agreed to continue its deliberations on the matter at its thirty-ninth meeting with a view to finalizing the draft findings and, if appropriate, recommendations, at that meeting. The draft findings would then be sent for comment to the Party concerned and to the communicant.

22. The Committee then entered into discussion in open session of communication ACCC/C/2011/63 (Austria), with the participation of representatives of the Party concerned and the communicant. At the beginning of the discussion, Mr. Gerhard Loibl declared a conflict of interest with respect to the case, due to his relationship with the Party concerned that could reasonably be considered as leading to a conflict of interest or which might reasonably be perceived by the Parties or by members of the public as giving rise to such a conflict. The Committee agreed that Mr. Loibl would participate in the proceedings of the communication as an observer only and would thus not take part in any deliberations on the communication in closed sessions.

23. Communication ACCC/C/2011/63 had been submitted by Vier Pfoten — Stiftung für Tierschutz gemeinnützige Privatstiftung and contained allegations of non-compliance by Austria with the access to justice provisions of the Convention. Specifically, the communication alleged that the Party concerned failed to provide for access to justice for

members of the public, including NGOs, in administrative penal and judicial criminal proceedings regarding contraventions of national law relating to the environment. The Committee confirmed that communication ACCC/C/2011/63 was admissible. At the end of the discussion, parties were invited to address some additional questions in writing.

24. The Committee then deliberated upon the communication in closed session. It agreed to continue its deliberations on the matter at its thirty-ninth meeting with a view to finalizing the draft findings and, if appropriate, recommendations, at that meeting. The draft findings would then be sent for comment to the Party concerned and to the communicant.

25. On communication ACCC/C/2012/66 (Croatia) the Committee noted that the deadline of 8 October 2012 for the Party to respond had not elapsed and that the communicant had replied on 21 September 2012. The Committee then confirmed that it would discuss the substance of the communication at its thirty-ninth meeting

26. On communication ACCC/C/2012/67 (Denmark), the Committee noted that the deadline of 8 October 2012 for the Party to respond had not elapsed and that neither the Party concerned nor the communicant had replied. The Committee then confirmed that it would discuss the substance of the communication at its thirty-ninth meeting.

27. Regarding communication ACCC/C/2012/68 (EU and United Kingdom), the Committee noted that the deadline of 8 October 2012 for the Party to respond had not elapsed and that the communicant had replied on 24 September 2012. The Committee then decided that it would discuss the substance of the communication at its thirty-ninth meeting.

28. Regarding communication and ACCC/C/2012/69 (Romania), the Committee noted that, similarly, the deadline of 8 October 2012 for the Party to respond had not elapsed and that neither the Party concerned nor the communicant had replied. The Committee then decided that it would discuss the substance of communication ACCC/C/2012/69 at its fortieth meeting.

29. On communication ACCC/C/2012/70 (Czech Republic), the Committee noted that the deadline of 16 January 2013 for the Party to respond had not elapsed and that the Party had not yet replied. It provisionally scheduled to discuss the substance of the communication at its fortieth meeting.

30. Concerning communication ACCC/C/2012/71 (Czech Republic), the Committee noted that the deadline of 16 January 2013 for the Party to respond had not elapsed and that the Party had not yet replied. It provisionally scheduled to discuss the substance of the communication at its fortieth meeting.

31. At its thirty-seventh meeting the Committee had deferred the determination on the preliminary admissibility of the following three communications to its thirty-eighth meeting.

32. Communication ACCC/C/2012/73 (United Kingdom), submitted by Save Penwith Moors, alleged non-compliance by the Party concerned with the provisions of the Convention on public participation regarding the management of Cornish moorland, under the North West European Heathland-Environment-Agriculture-Tourism-Heritage (HEATH) Project. The Committee determined that the communication was not admissible on the basis of paragraph 20 (d), in conjunction with paragraph 19, of the annex to decision I/7 of the Meeting of the Parties, because the communicant had failed to provide information that the main events of the decision-making had taken place after the Convention had entered into force for the Party concerned. The Committee instructed the secretariat to inform the communicant of its decision.

33. Communication ACCC/C/2012/74 (United Kingdom), submitted by Ms. Frances McCartney, Patrick Campbell & Co, representing Mr. Marco McGinty and the NGO Planning Democracy, alleged non-compliance by the Party concerned with the provisions of the Convention on public participation in relation to supplementary strategic environmental assessment of the National Planning Framework 2 for Scotland, and access to justice provisions in respect of the failure of the Government to provide a system of challenging environmental decision-making in a way that was timely and not prohibitively expensive. The Committee determined that the communication was not admissible on the basis of paragraph 20 (d) and 19 of the annex to decision I/7, because the communicant had failed to provide corroborating information in support of its allegations, despite the repeated requests of the Committee. The Committee instructed the secretariat to inform the communicant of its decision.

34. Communication ACCC/C/2012/75 (United Kingdom), submitted by a member of the public, Mr. Patrick T. Ewing, alleged non-compliance by the Party concerned with the provisions of the Convention on public participation and access to justice in relation to the proposed construction of the London-Birmingham fast rail link. The Committee determined that the communication was manifestly unreasonable on the basis of paragraph 20 (c) of the annex to decision I/7, because the proceedings on the adoption of the plan were still ongoing and the content of the communication was very close to the content of communication ACCC/C/2011/61, which was currently under consideration by the Committee. The Committee instructed the secretariat to inform the communicant of its decision.

35. The Committee had received seven new communications since its previous meeting, as set out below.

36. Communication ACCC/C/2012/76 (Bulgaria), submitted by the Balkani Wildlife Society, alleged non-compliance by the Party concerned with the provisions of the Convention on access to justice, in particular those relating to injunctive relief, in relation to permits issued under EU laws on environmental impact assessment (EIA Directive),³ strategic environmental assessment (SEA Directive)⁴ and conservation of habitats (Habitats Directive).⁵ At the beginning of the discussion, Mr. Alexander Kodjabashev declared a conflict of interest with respect to the case, due to his relationship with the communicant that could reasonably be considered as leading to a conflict of interest or which might reasonably be perceived by the Parties or by members of the public as giving rise to such a conflict. The Committee agreed that Mr. Kodjabashev would participate in the proceedings of the communication as an observer only and would thus not participate in any deliberations on the communication in closed sessions. The Committee then determined on a preliminary basis that the communication was admissible. It requested the secretariat to forward the communication to the Party concerned. It was also agreed that questions would be sent to the parties. Mr. Jerzy Jendroška was designated as curator for the case.

37. Communication ACCC/C/2012/77 (United Kingdom), submitted by Greenpeace Limited, alleged non-compliance by the Party concerned with provisions of the Convention on access to justice, in relation to costs inflicted in case of refusal to grant judicial review.

³ A new, consolidated version of earlier EIA directives came into force in February 2012: Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification).

⁴ Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment.

⁵ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora.

The Committee considered that, while it had already extensively dealt with the issue of costs in general in its findings on communications ACCC/C/2008/23 and ACCC/C/2008/33, subsequently also considered by the Meeting of the Parties in decision IV/9i, the present communication raised a different aspect, which had not been considered by the Committee in its previous deliberations and findings. The Committee then determined on a preliminary basis that the communication was admissible. It requested the secretariat to forward the communication to the Party concerned. Ms. Ellen Hey was designated as curator for the case.

38. For two other new communications alleging non-compliance by Parties with provisions of the Convention, the Committee decided to ask the communicants, through the secretariat, to further clarify some of their allegations and to defer its decision on preliminary admissibility to its thirty-ninth meeting.

39. The Committee also decided to defer the determination on the preliminary admissibility of three further communications, which had arrived shortly before the start of the meeting, to the Committee's thirty-ninth meeting.

III. Reporting requirements

40. The secretariat informed the Committee that the former Yugoslav Republic of Macedonia was the only Party to the Convention that had still failed to submit its implementation report, initially due in December 2010. In that connection, the Working Group of the Parties, at its fifteenth meeting (Geneva, 3–5 September 2012), had urged the country to submit its report without further delay. The Committee took note of the information and expressed its concern.

IV. Follow-up on specific cases of non-compliance

41. The Committee reviewed progress in the implementation of decisions IV/9 and IV/9a–i adopted at the fourth session of the Meeting of the Parties (see ECE/MP.PP/2011/2/Add.1).

42. With respect to decision IV/9a (Armenia), the Committee recalled that the Party concerned was expected to report on the progress of the legislative process as soon as possible, but not later than November 2012. In its report, the Party should also describe how the elements of paragraph 4 of decision IV/9a were addressed in the draft law. The Committee confirmed its decision of the previous meeting that it would review the materials received in greater detail at its thirty-ninth meeting. It instructed the secretariat to remind the Party to submit the report by the deadline.

43. With respect to decision IV/9b (Belarus), the Committee noted that the Party concerned had provided its response within the deadline of 15 September 2012. The Committee took note of the information. The Committee recalled that the Party concerned still had to inform the Committee about the progress on the legislative amendments and how those addressed the specific elements of paragraph 4 of decision IV/9b by 1 February 2013.

44. The Committee was informed by observers that members of the public, including those involved in communication ACCC/C/2009/44 and expressing their concern over the construction and operation of the Ostrovets nuclear power plant, had been arrested and detained in July 2012. In that regard, the Committee recalled that in its findings on communication ACCC/C/2009/44 it had already considered allegations of non-compliance by Belarus with its obligations under article 3, paragraph 8, of the Convention in relation to

the Ostrovets nuclear power plant, because of alleged pressure on members of the public trying to promote their views on that project. In that case, the Committee had found that the allegations concerning harassment were serious and that the alleged facts, if sufficiently substantiated, would amount to harassment in the sense of article 3, paragraph 8, of the Convention, and would therefore constitute non-compliance with that provision. However, on the basis of the information received at that time, the Committee had not been able to assess with sufficient certainty exactly what had happened and therefore it had refrained from making findings on that issue (see ECE/MP.PP/C.1/2011/6/Add.1).

45. The Committee decided to remind the Party of its obligation to report by 1 February 2013, and further to the information received from the observers, to invite it to also comment on the recent arrest and detention referred to in the previous paragraph. It agreed that it would review those materials received in greater detail at its fortieth meeting.

46. With respect to decision IV/9c (Kazakhstan), the Committee took note of the additional information submitted by the Party concerned and the NGO Green Salvation on 20 August 2012 and 11 September 2012, respectively. The Committee deliberated on the matter in closed session. After considering the effort undertaken by the Party concerned to fulfil the condition set out in decision IV/9c and the comments provided by members of the public, the Committee concluded that Kazakhstan had fulfilled the condition set out in paragraph 4 of decision IV/9c to the extent that the caution imposed by the Meeting of the Parties should not become effective. The Committee stressed that the fact that the caution was not to become effective did not imply that the Party concerned had complied with the remaining part of Decision IV/9c. In particular, while noting with appreciation the measures taken, the Committee was nevertheless concerned by the slow progress demonstrated by the Party concerned in taking the legislative and other measures needed to comply with article 9, paragraph 4, in conjunction with paragraph 3 of the Convention. It also decided to ask the Party to provide a list of relevant case law. At its forty-first meeting, the Committee would consider whether the Party concerned had adopted all necessary legislation to comply with decision III/6c of the Meeting of the Parties and whether it would recommend the Meeting of the Parties to issue a caution at its fifth session.

47. The Committee then announced its decision to the representatives of the Government of Kazakhstan and Green Salvation, both of which had participated in the session by videoconference and made statements. The Committee would ask the ECE Executive Secretary to convey the Committee's findings to the Party concerned. It then instructed the secretariat to remind the Party to submit detailed information on further progress by November 2012, taking into account, to the extent possible, the above suggestions, and agreed to review the situation at its next meeting.

48. With respect to decision IV/9d (Republic of Moldova), the Committee agreed that it would review the situation at its thirty-ninth meeting, after it had received the progress report due by the Party concerned in November 2012. It instructed the secretariat to remind the Party to submit the report by that deadline.

49. With regard to decision IV/9e (Slovakia), the Committee agreed that it would review the situation at its thirty-ninth meeting, after it had received the implementation report due by the Party concerned on 1 December 2012. It instructed the secretariat to remind the Party to submit the report by that deadline.

50. With respect to decision IV/9f (Spain), the Committee recalled that the Party concerned would have to report six months before the fifth session of the Meeting of the Parties.

51. Concerning decision IV/9g (Turkmenistan), the Committee recalled that the Party was expected to inform the secretariat about the successful fulfilment of the condition set out in paragraph 3 of decision IV/9g by 1 October 2012. It confirmed that at its thirty-ninth

meeting it would consider the material expected by the Party and would establish whether the caution should re-enter into effect on 1 January 2013.

52. With regard to decision IV/9h (Ukraine), the Committee recalled that the Party was expected to provide detailed information on the progress achieved with the legislative process, including the translation of the new law “On amending certain laws of Ukraine in connection to implementation of the Convention on Environmental Impact Assessment in a Transboundary Context” into English by 30 November 2012. It confirmed that it would evaluate the progress undertaken and consider further steps to be taken at its thirty-ninth meeting.

53. With respect to decision IV/9i (United Kingdom), the Committee noted that ClientEarth (the communicant for communication ACCC/C/2008/33) had submitted additional information to the Committee on 14 August 2012; the Party concerned had submitted additional information at the request of the Committee on 17 September 2012; and the NGO Coalition for Access to Justice for the Environment, which had submitted information to the Committee as an observer with regard to the original communication, had responded to the Committee on 19 September 2012.

54. On the basis of the information received, the Committee considered that there were concerns with respect to manner in which the Party concerned was proposing to implement the findings in communication ACCC/C/2008/33. Those concerns pertained to the time frame within which the Party concerned was seeking to implement changes, the costs of judicial proceedings, the time limits and the review of the substantive legality. With respect to the cost of judicial proceedings, the Committee observed that the Party concerned appeared to be taking a piecemeal rather than a holistic approach. In addition, the Committee observed that judicial discretion continued to play a significant role in the proposed changes.

55. With respect to substantive legality, the Committee recalled that, while in considering communication ACCC/C/2008/33 it had not found that the Party concerned was in non-compliance in that regard, it had nevertheless not been convinced that the Party concerned met the standards of review required by the Convention and had expressed concern. Furthermore, the Committee had considered that the proportionality principle would provide an adequate standard of review for Aarhus-related cases. The Party concerned, in its letter of 17 September 2012, stated that proportionality was available in EU and human rights cases, while in Aarhus-related cases substantive legality was considered in terms of irrationality or unreasonableness, as originally formulated in the *Wednesbury* case.⁶ As the same statement had also been submitted to the Committee during the consideration of ACCC/C/2008/33, the Committee remained unconvinced and continued to be concerned.

56. The Committee then agreed that additional questions would be sent to the Party. It would review the situation at its fortieth meeting, after it had received the report due from the Party concerned in February 2013.

V. Programme of work and calendar of meetings

57. The Committee confirmed that it would hold its thirty-ninth meeting from 11 to 14 December 2012. It also recalled that it had confirmed that it would hold its fortieth meeting from 25 to 28 March, its forty-first meeting from 25 to 28 June, its forty-second meeting from 24 to 27 September and its forty-third meeting from 17 to 20 December 2013.

⁶ *Associated Provincial Picture Houses Limited v. Wednesbury Corporation* [1948] 1 K.B. 223.

VI. Other business

58. The secretariat informed the Committee that Ireland had become a Party to the Convention on 18 September 2012. The secretariat also provided a brief update on the ongoing internal proceedings in Mongolia with regard to possible accession to the Convention before the fifth session of the Meeting of the Parties. According to the information, the President of the country remained committed to promoting accession and there were strong indications that the issue would be discussed in the Mongolian parliament in autumn 2012.

59. The secretariat reported on the outcomes of the fifteenth meeting of the Working Group of the Parties and the twenty-ninth meeting of the Bureau (Geneva, 5 September 2012), which had been held back to back. The meeting of the Working Group of the Parties included a thematic session on public participation in international forums. During that session, Parties discussed actions by Parties before, during and after the United Nations Conference on Sustainable Development (Rio+20 Conference) (Rio de Janeiro, 20–22 June 2012); actions by Parties at the national level across different sectors to promote activities in the context of article 3, paragraph 7, of the Convention; and how public participation was reflected in activities of the international financial institutions, with interventions of representatives of the World Bank Inspection Panel, the European Investment Bank and the European Bank for Reconstruction and Development.

60. In addition, during the meeting of the Working Group of the Parties, NGO representatives reported on incidents that might imply non-compliance by some Parties with article 3, paragraph 8, of the Convention. In reaction to the reported incidents, the Bureau had subsequently discussed the seriousness of the allegations and had decided that, in situations that might indicate non-compliance with article 3, paragraph 8, of the Convention, the Chair of the Bureau, after consultation with other Bureau members, would send a letter to the Party concerned expressing concern and soliciting information clarifying the matter. The procedure was intended as a prompt reaction to any severe incidents that might imply non-compliance with the Convention. It was agreed that the correspondence between the Bureau and the Party would be posted on the Convention's website.

61. The secretariat informed the Committee of the participation of the Secretary of the Convention and the Protocol on Pollutant Release and Transfer Registers (PRTRs) in the International PRTR Coordinating Group⁷ in Paris on 12 September 2012. The secretariat noted that experts had commented on the developing trend in some countries for raw data to be released as soon as they were available and then replaced by verified data once the data process had been completed. As a result of the changing policy, reporting by polluters had improved, while complaints from the public had been reduced.

62. The secretariat reported that there were ongoing discussions with the European ECO Forum to hold a follow-up session on the outcomes of a workshop organized by the European ECO Forum in Vienna on 14 and 15 May 2012, which had evaluated the efficiency of the compliance mechanism under the Convention. The session would possibly take place on 10 December 2012.

63. The Chair also informed Committee members that, further to his initiative to launch an informal network for the chairs of the compliance and implementation bodies of the ECE multilateral environmental agreements (MEAs), a first meeting had preliminarily been scheduled to take place on 25 March 2013 and that two chairs had already confirmed their

⁷ See <http://www.unece.org/env/pp/prtr/intlcfgimages/about.html>.

participation, while it was expected that bodies of two other ECE MEAs would have a new composition in the next three months.

64. Mr Jendroška informed the Committee of two studies currently being carried out by the European Commission on access to justice in environmental matters.

65. The Committee took note of the all the information provided.

66. A representative of CIEL made a presentation on the background and political implications of the “Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development”, tabled by the Government of Chile and signed by 10 States of the Latin American and Caribbean region at the Rio+20 Conference. In that Declaration, the Governments of Chile, Costa Rica, the Dominican Republic, Ecuador, Jamaica, Mexico, Panama, Paraguay, Peru and Uruguay had urged increased commitments to Principle 10 on access to information, public participation and access to justice, and had committed to drafting and implementing a Plan of Action 2012–2014 with the support of the Economic Commission for Latin America and the Caribbean (ECLAC), which would act as the technical secretariat. Civil society would be involved in the process. While the nature and legal effects of the anticipated new instrument were uncertain, it was hoped that it would recast the meaning of sustainable development and that more Governments would join the process. The first meeting of the focal points appointed by Governments of the signatory countries of the Declaration would take place in Santiago from 6 to 8 November 2012. The advisory support of the ECE Aarhus Convention would be critical in that endeavour. The secretariat confirmed that there was an ongoing dialogue between ECE and ECLAC and that a staff member would participate in the meeting.

67. OHCHR representatives then reported on the recently created mandate of Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment by the Human Rights Council, and the subsequent appointment of John Knox to the mandate in July 2012. They explained that previous mandates, such as that of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, were not as comprehensive and ambitious as the present one. The mandate under Human Rights Council resolution 19/10 had three dimensions: to study the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment in consultation with a number of stakeholders; to compile and promote best practices; and to make recommendations that would promote the millennium development goals (MDG) and in particular MDG 7, to ensure environmental sustainability. Presently, the Independent Expert was preparing scoping study on his mandate. It was recognized that the lessons learned from the Aarhus Convention activities, and in particular from the compliance review mechanism, would be a significant element of the work during the next three years.

VII. Adoption of the report and closure of the meeting

68. The Committee adopted the report of the meeting. The Chair then officially closed the thirty-seventh meeting.
