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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

Fifth session

Maastricht, the Netherlands, 30 June and 1 July 2014

Item 5 (b) of the provisional agenda

Procedures and mechanisms facilitating the implementation of the Convention: compliance mechanism

Draft decision V/9h concerning compliance by Germany with its obligations under the Convention

Prepared by the Bureau

The Meeting of the Parties,

Acting under paragraph 37 of the annex to its decision I/7 on the review of compliance,

Taking note of the report of the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (ECE/MP.PP/2014/9), as well as the findings of the Committee on communication ACCC/C/2008/31 (ECE/MP.PP/C.1/2014/8, forthcoming) concerning access to justice for environmental non-governmental organizations (NGOs),

Encouraged by Germany's willingness to discuss in a constructive manner the compliance issues in question with the Committee,

1. *Endorses* the following findings of the Committee with regard to communication ACCC/C/2008/31:

(a) By imposing a requirement that to be able to file an appeal under the Environmental Appeals Act an environmental NGO must assert that the challenged decision contravenes a legal provision "serving the environment", the Party concerned fails to comply with article 9, paragraph 2, of the Convention;

(b) By not ensuring the standing of environmental NGOs in many of its sectoral laws to challenge acts or omissions of public authorities or private persons which

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contravene provisions of national law relating to the environment, the Party concerned fails to comply with article 9, paragraph 3, of the Convention;

2. *Recommends* to the Party concerned that it take the necessary legislative, regulatory and administrative measures and practical arrangements to ensure that:

(a) NGOs promoting environmental protection can challenge both the substantive and procedural legality of any decision, act or omission subject to article 6 of the Convention, without having to assert that the challenged decision contravenes a legal provision “serving the environment”;

(b) Criteria for the standing of NGOs promoting environmental protection to challenge acts or omissions by private persons or public authorities which contravene national law relating to the environment under article 9, paragraph 3, of the Convention are revised and specifically laid down in sectoral environmental laws, in addition to any existing criteria for NGO standing in the Environmental Appeals Act, the Federal Nature Conservation Act and the Environmental Damage Act;

3. *Invites* the Party concerned to submit to the Committee periodically (on 31 December 2014, 31 October 2015 and 31 October 2016) detailed information on further progress in implementing the recommendation set out above;

4. *Undertakes* to review the situation at its sixth session.
