



Economic and Social Council

Distr.: General
21 November 2011

Original: English

Economic Commission for Europe

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

Legal Board

Tenth meeting

Geneva, 31 January–1 February 2012

Item 2 (b)

**Mechanism to facilitate and support implementation
and compliance: rules of procedure of the proposed
body in charge of the mechanism to facilitate and
support implementation and compliance**

Possible drafting language for the core rules of procedure of the Implementation Committee

Proposal by the Chair of the Legal Board

Summary

The Meeting of the Parties to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, at its fifth session (Geneva, 10–12 November 2009), agreed on the need to establish a mechanism under the Convention through which problems related to implementation and possible differences in the Convention's interpretation could be addressed. To that end, it entrusted the Legal Board to prepare a proposal on the objectives, structure, tasks, functions, measures and procedures of an institutional and procedural mechanism to facilitate and support implementation and compliance, for possible adoption at the sixth session of the Meeting of the Parties in 2012 (ECE/MP.WAT/29, para. 33 (b)).

At its ninth meeting, the Legal Board entrusted the Chair to prepare a proposal containing the drafting language for the core rules of procedure, for consideration at the tenth meeting of the Legal Board.

The Legal Board is expected to discuss the present document, prepared by the Chair, at its tenth meeting and to further elaborate the text by taking decisions and making suggestions on the relevant drafting language.

I. Scope of the core rules

1. In accordance with decision ... of the Meeting of the Parties, the activities of the Implementation Committee will be governed by these core rules of procedure until the adoption by the Meeting of the Parties, at its next session or at a following session thereafter, of the rules of procedure, upon proposal by the Committee. The Committee may submit a proposal for adoption of its rules of procedure on the basis of decision ... of the Meeting of the Parties, the rules of procedure of the Meeting of the Parties and these core rules of procedure, taking into account the experience in the application of the latter.
2. These core rules of procedure apply to any meeting and to any other business of the Committee and should be read together with and in furtherance of its structure, functions and procedures as set out in decision ... of the Meeting of the Parties.
3. In the event of a conflict between any provision in these core rules and any provision in the Convention on the Protection and Use of Transboundary Watercourses and International Lakes or decision ... of the Meeting of the Parties, the provisions of the Convention or decision ... of the Meeting of the Parties shall prevail.

II. Membership of the Committee

4. Each member of the Committee shall serve in his or her personal capacity and, with respect to any matter that is under consideration by the Committee, act in an independent and impartial manner and avoid any real or apparent conflict of interest.
5. A member of the Committee that is unable to attend one of its meetings is not entitled to designate a substitute.
6. When a member resigns or is otherwise unable to complete the assigned term or to fulfil his or her duties, the Committee may make proposals to the Bureau for the appointment of a new member for the remainder of the term.
7. The Committee shall elect its own chair and vice-chair for one term. They should serve in those capacities until their successors are elected. The chair and the vice-chair are eligible for re-election. If an officer resigns during, or is unable to complete, his or her term of office, the Committee should elect a successor until the end of the term. No officer should serve for more than two consecutive terms, unless the Meeting of the Parties decides otherwise.

III. Conflict of interest

8. In accordance with paragraph ...¹ of decision ..., each member of the Committee should, with respect to any matter that is under consideration by the Committee, avoid a direct or indirect conflict of interest. Where a member finds himself or herself faced with a direct or indirect conflict of interest, that member shall bring the conflict of interest to the attention of the Committee before consideration of that particular matter or as soon as he or she becomes aware of it.

¹ Reference to the paragraph currently placed as paragraph 13 in ECE/MP.WAT/AC.4/2012/3.

9. If the Committee becomes otherwise aware of a possible conflict of interest of one of its members, it will take the matter up for decision. Being a citizen of the State whose implementation is to be discussed is not in itself to be considered as a conflict of interest.

10. Where a member has been found by the Committee to have a conflict of interest, he or she may only participate as an observer for that particular case. Consequently, any such member will not attend the parts of meetings when findings, measures and recommendations related to that particular case are prepared or adopted.

11. Members of the Committee may not represent Governments or organizations in meetings of other bodies of the Convention, except for technical expert meetings, such as task forces.

12. The members of the Committee may accept invitations to present the implementation mechanism at appropriate events, such as conferences and workshops.

IV. Holding of a meeting and decision-making

13. The Chair may declare a meeting of the Committee open, permit debate to take place and decisions to be taken when at least five of the Committee members are present.

14. Given the size of the Committee, the aim should be for all members to be present at every meeting of the Committee.

15. In accordance with paragraph ...² of decision ... , the Committee shall make every effort to adopt its decisions and recommendations by consensus. If all efforts at reaching consensus have been exhausted and no agreement has been reached, decisions and recommendations shall be adopted by a three-quarter majority of the members present and voting or by five members, whichever is the greater number.

16. In accordance with paragraph ...³ of decision... , the Committee may, when appropriate, undertake some of its activities through electronic communications. In particular, decisions and recommendations of the Committee may be taken by e-mail. E-mail decision-making should not be overused, in order to maintain the balance between flexibility and credibility. All decisions taken by e-mail between Committee meetings should be reflected in the report of the following meeting.

17. At the end of each meeting, the Committee will set tentative dates for its next two meetings, to be publicized on the Convention website and reflected in the report.

V. Presence of the public and participation of observers

18. In accordance with paragraph ...⁴ of decision ... , the meetings of the Committee shall be held in public unless the Committee decides otherwise.

19. The parts of the meeting when decisions and recommendations are prepared and adopted should be limited to the participation of the Committee members, subject to paragraph ...⁵ of these rules.

² Reference to the paragraph currently placed as paragraph 12 in ECE/MP.WAT/AC.4/2012/3.

³ Reference to the paragraph currently placed as paragraph 11 in ECE/MP.WAT/AC.4/2012/3.

⁴ Reference to the paragraph currently placed as paragraph 34 in ECE/MP.WAT/AC.4/2012/3.

⁵ Reference to the paragraph about conflict of interest (para. 10) in these core rules.

20. A meeting, or a part of a meeting, will be held in private when the Committee finds it necessary to ensure the confidentiality of information in accordance with paragraphs ...⁶ of decision

21. The meetings of the Committee should be open to observers, unless the Committee decides otherwise. Observers should register with the secretariat in advance of the meeting, but no later than two weeks before the meeting.

VI. Publication of meetings and documentation

22. The provisional agenda and meeting report, together with related official documents of a meeting of the Committee, should be publicly available on the Convention website, without prejudice to the rules on confidentiality set out in paragraphs ...⁷ of decision

23. Discussion papers prepared by the secretariat or by members of the Committee should not be publicly available unless the Committee decides otherwise.

24. Without prejudice to the rules on confidentiality set out in paragraphs ...⁸ of decision ..., essential information concerning any request for advice, submission, or a Committee initiative will be made available to the public through the website.

25. Decisions and recommendations of the Committee and any decisions of the Meeting of the Parties relating thereto will be made available on the website.

VII. Information gathering

26. The acquisition of accurate and more detailed information, under paragraphs ...⁹ of decision ..., as needed, shall be conducted through a pragmatic and cost-effective approach, taking into account time and budget constraints. Accordingly, the Committee shall resort to easily accessible and free-of-cost or low-cost means of information gathering before resorting to more complex and costly means.

27. The Committee may decide to delegate information-gathering activities to the secretariat, through easily accessible and no-cost or low-cost means. Such means may include the use of technical literature, the Internet, and information from international organizations with a field presence in the Party concerned.

28. The Committee may seek and request information:

- (a) Available in the public domain;
- (b) In the knowledge of Committee's members or the secretariat;
- (c) From the Party in respect of which a request for advice, a submission, or a Committee initiative is made or which makes a request for advice or a submission, as well as from a member of the public who submits information to the Committee under paragraph ...¹⁰ of decision ...;
- (d) From another Party;

⁶ Reference to the paragraphs currently placed as paragraphs 31–34 in ECE/MP.WAT/AC.4/2012/3.

⁷ Reference to the paragraph currently placed as paragraph 31–33 in ECE/MP.WAT/AC.4/2012/3.

⁸ Reference to the paragraph currently placed as paragraph 31–33 in ECE/MP.WAT/AC.4/2012/3.

⁹ Reference to the paragraph currently placed as paragraph 29–30 in ECE/MP.WAT/AC.4/2012/3.

¹⁰ Reference to the paragraph currently placed as paragraph 27 in ECE/MP.WAT/AC.4/2012/3.

(e) From experts and advisers, Governments, academia and intergovernmental and non-governmental organizations.

29. Unsolicited information from the same sources may be considered by the Committee as it deems appropriate. In conformity with paragraph ...¹¹ of decision ..., the Committee, with the assistance of the secretariat, shall keep a record of information submitted to it, with the exception of information that is manifestly irrelevant.

30. In using the information gathered, the Committee shall take into account the reliability of the source and the interests and motivations of its provider.

¹¹ Reference to the paragraph currently placed as paragraph 43 in ECE/MP.WAT/AC.4/2012/3.