



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

Sixty-ninth meeting
25 – 29 January 2021

Report of the Compliance Committee on its sixty-ninth meeting

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Introduction

1. The sixty-ninth 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 25-29 January 2021. In the light of the exceptional situation related to the ongoing coronavirus disease (COVID-19) pandemic, both the Committee and participants participated in the meeting virtually.

A. Attendance

2. Four of the nine Committee members were present throughout the entire meeting: Mr. Jonas Ebbesson (Chair); Mr. Peter Oliver; Mr. Dmytro Skrylnikov and Mr. Alexander Kodjabashev (Vice-Chair). Mr. Jerzy Jendroška was unable to attend the open session on 25 January, and the meeting on 29 January but was present for the rest of the meeting; Mr. Marc Clément was unable to attend the afternoon sessions on 26 January and on 29 January, but was present for the rest of the meeting. Ms. Áine Ryall (Vice-Chair) was unable to attend the open session on 25 January and the afternoon session on 26 January but was present for the rest of the meeting. Ms. Heghine Grigoryan was unable to attend the meeting on 28 and 29 January. Ms. Fruzsina Bögös was present only at the afternoon session on 26 January. Members having declared a conflict of interest with respect to particular cases did not participate in closed sessions deliberating on those cases.

3. The communicant and representatives of the Parties concerned of communication PRE/ACCC/C/2020/184 (United Kingdom and European Union) took part in the open sessions on preliminary admissibility on 25 and 29 January.

4. Representatives of Belarus, Ireland, Italy and Slovenia took part in the open sessions on the review of any developments in relation to communications and submissions and on the review of any developments in relation to decisions of the Meeting of the Parties on compliance. Representatives of Belarus, and representatives of Portugal on behalf of the Presidency of the Council of the European Union, participated in all open sessions.

5. Representatives of Earthjustice, on behalf of the European ECO-Forum, and ClientEarth participated in all or most of the open sessions. Mr. Rikard Andersson, a member of the public, also participated in the open session on 25 January 2021.

B. Organizational matters

6. The Chair of the Compliance Committee, Mr. Ebbesson, opened the meeting.

7. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2021/1.

8. The Chair reported that, since its sixty-eighth meeting (23-27 November 2020), the Committee had held four virtual meetings, on 3 and 17 December 2020 and on 8 and 12 January 2021..

9. Regarding communications received before 14 December 2020 (the deadline for receipt of communications for the sixty-ninth meeting), the Chair reported that he and Vice-Chairs Mr. Kodjabashev and Ms. Ryall had held a virtual meeting on 22 December 2020 to determine which of the communications received by the deadline sufficiently met the required format to be forwarded to the Committee for consideration as to their preliminary admissibility. The Chair and Vice-Chairs had decided that communication PRE/ACCC/C/2020/184 (United Kingdom and European Union) should be forwarded to the Committee for consideration of preliminary admissibility at its sixty-ninth meeting and had requested the secretariat to post that communication on the Committee's website in advance of the meeting.

I. Submissions, referrals and requests under the Convention

10. The Committee noted that it had not received any new submissions, referrals or requests since its last meeting.

11. Concerning submission ACCC/S/2015/2 (Belarus), the Committee noted that it would continue its deliberations on its draft findings at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

12. Regarding request ACCC/M/2017/2 (Turkmenistan), the Committee noted that the Party concerned had not yet submitted its final progress report due on 1 October 2020 and requested the secretariat to send a reminder to the Party concerned in this regard.

13. With respect to request ACCC/M/2017/3 (European Union), the Committee noted that on 29 and 30 November 2020, respectively, the communicants of communications ACCC/C/2010/54 and ACCC/C/2008/32 had sent comments on the practical examples provided by the Party concerned on 26 November 2020. Also on 30 November 2020, the Party concerned had submitted comments on the information provided by the communicant of communication ACCC/C/2008/32 on 25 November 2020. On 19 December 2020, the Party concerned had provided an update on the general approach of the Council of the European Union on the European Commission's legislative proposal to amend the Aarhus Regulation. The Committee had continued its deliberations on its draft advice at its virtual meetings on 3 and 17 December 2020 and 8 and 12 January 2021. On 18 January 2021, the Committee completed its draft advice through its electronic decision-making procedure. In accordance with paragraph 34 of the annex to decision I/7, the draft advice was then forwarded on that date to the Party concerned and the communicant with an invitation to provide any comments on the draft advice by 1 February 2021.

II. Communications from members of the public

14. The Committee agreed that the deadline for the receipt of new communications to be considered for preliminary admissibility at its seventieth meeting would be 1 March 2021.

15. With respect to communication ACCC/C/2013/90 (United Kingdom), the Committee noted that it would continue its deliberations on its draft findings at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

16. Regarding communication ACCC/C/2013/98 (Lithuania), the Committee reported that at its virtual meeting on 17 December 2020 it had deliberated on its findings in closed session, taking into account the comments received on its draft findings from the Party concerned and the communicant on 20 and 22 October 2020. The Committee agreed to continue its deliberations at an upcoming meeting, taking into account the comments received, with a view to finalizing and adopting its findings and, as appropriate, recommendations.

17. Concerning communication ACCC/C/2014/105 (Hungary), the Committee agreed to send questions to the Party concerned and the communicants for their reply and to continue its deliberations on its draft findings at an upcoming meeting, taking into account the comments received, with a view to finalizing its findings and, as appropriate, recommendations.

18. With respect to communication ACCC/C/2014/112 (Ireland), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.

19. Regarding communication ACCC/C/2014/113 (Ireland), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations

at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.

20. Concerning communication ACCC/C/2014/118 (Ukraine), the Committee noted that it had agreed to prepare questions to the Party concerned and the communicant, and that it would continue its deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.

21. With respect to communication ACCC/C/2014/119 (Poland), the Committee noted that it had agreed to prepare questions to the Party concerned and the communicant, and that it would continue its deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.

22. Regarding communication ACCC/C/2014/120 (Slovakia), the Committee noted that it had agreed to prepare questions to the Party concerned and the communicant, and that it would continue its deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.

23. Concerning communication ACCC/C/2014/122 (Spain), the Committee reported that at its virtual meeting on 17 December 2020 it had finalized and adopted its findings in closed session, taking into account the comments received on its draft findings from the Party concerned and the communicant on 6 and 8 October 2020 respectively. The Committee agreed that the findings should be published as a pre-session document for its seventieth meeting (Geneva (online), 12-16 April 2021).

24. With respect to communication ACCC/C/2014/124 (Netherlands), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations through its electronic decision-making procedure, with a view to completing its draft findings and, as appropriate, recommendations.

25. Regarding communication ACCC/C/2015/126 (Poland), the Committee noted that it had agreed to defer its deliberations on its draft findings to an upcoming meeting in order to review the voluminous information received from both the Party concerned and the communicant in the case.

26. Concerning communication ACCC/C/2015/128 (European Union), the Committee noted that, in response to the Committee's request of 23 November 2020, on 7 December 2020, the Party concerned had submitted comments on the implications of the judgment for the Court of Justice of the European Union for the Committee's deliberations on the substance of the communication. The Committee had continued its deliberations on its draft findings in closed session at its virtual meetings on 3 and 17 December 2020 and, on 18 January 2021, had completed its draft findings through its electronic decision-making procedure. In accordance with paragraph 34 of the annex to decision I/7, the draft findings were forwarded on that date to the Party concerned and the communicant with an invitation to provide any comments thereon by 1 March 2021.

27. With respect to communication ACCC/C/2015/130 (Italy), the Committee noted that on 4 December 2020 it had sent questions to the Party concerned and the communicant for their written reply and that on 18 December 2020 the communicant and Party concerned had each submitted their replies. The Committee had continued its deliberations on its draft findings in closed session at its virtual meeting on 12 January 2021 and had sent further questions to the parties on 20 January 2021 for their written reply. The Committee continued its deliberations at the present meeting and agreed to continue its deliberations at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.

28. Regarding communication ACCC/C/2015/131 (United Kingdom), the Committee noted that it had sent questions to the Party concerned on 9 December 2020 for its written reply and that, on 23 December 2020, the Party concerned had provided its reply. On 13 January 2021, the communicant had sent comments on the Party concerned's reply. The Committee continued its deliberations on its draft findings in closed session at the present meeting and agreed to continue its deliberations at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.

29. Concerning communication ACCC/C/2015/132 (Ireland), the Committee noted that on 11 January 2021 the communicant had submitted its final written submissions. The Committee agreed to send questions to the Party concerned and the communicant for their reply and to continue its deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.

30. With respect to communication ACCC/C/2015/133 (Netherlands), the Committee noted that it had agreed to send questions to the Party concerned and the communicant, and that it would continue its deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.

31. Regarding communication ACCC/C/2015/134 (Belgium), the Committee reported that it had continued its deliberations on its draft findings at its virtual meeting on 12 January 2021. The Committee continued its deliberations at the present meeting and agreed to continue those deliberations through its electronic decision-making procedure, with a view to completing its draft findings and, as appropriate, recommendations.

32. Concerning communication ACCC/C/2016/137 (Germany), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations through its electronic decision-making procedure, with a view to completing its draft findings and, as appropriate, recommendations.

33. With respect to communication ACCC/C/2016/138 (Armenia), the Committee noted that, on 23 January 2021 the communicant had, with delay, submitted a partial reply to the Committee's questions dated 16 November 2020. The Committee continued its deliberations on its draft findings in closed session, taking into account the information received, and agreed to continue its deliberations at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.

34. Regarding communication ACCC/C/2016/139 (Ireland), the Committee agreed to send questions to the Party concerned and the communicant for their reply and to continue its deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.

35. Concerning communication ACCC/C/2016/140 (Romania), the Committee noted that on 22 December 2020, it had sent questions to the Party concerned and the communicant for their written reply. On 19 January 2021, the communicant had sent its partial reply to the Committee's questions and the Party concerned had submitted its reply to the Committee's questions on the same date. The Committee continued its deliberations on its draft findings in closed session at the present meeting. It agreed that it would send further questions to the parties for their reply and to thereafter continue its deliberations at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.

36. Regarding communication ACCC/C/2016/142 (United Kingdom), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations through its electronic decision-making procedure, with a view to completing its draft findings and, as appropriate, recommendations.

37. Concerning communication ACCC/C/2016/143 (Czechia), the Committee noted that it had sent questions to the Party concerned on 24 December 2020 for its written reply. On 20 January 2021, the Party concerned had requested an extension of the deadline for replying to the Committee's questions, which was granted by the Chair on the same date. On 21 January 2021, the Party concerned provided part of its reply to the Committee's questions of 24 December 2020, indicating that it would provide the remaining parts by the extended deadline of 8 February 2021. The Committee continued its deliberations on its draft findings in closed session at the present meeting and agreed that it would continue its deliberations at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.
38. With respect to communication ACCC/C/2016/144 (Bulgaria), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations through its electronic decision-making procedure, with a view to completing its draft findings and, as appropriate, recommendations.
39. Regarding communication ACCC/C/2017/146 (Poland), the Committee noted that it had agreed to ask the Party concerned to provide translations of relevant legislation and to thereafter send questions to the parties for their written reply. The Committee agreed that it would decide how to proceed with the communication at an upcoming meeting, taking into account the information received.
40. Concerning communication ACCC/C/2017/147 (Republic of Moldova), the Committee noted that it had continued its deliberations on its draft findings at its virtual meetings on 17 December 2020 and 8 January 2021. At the present meeting, it continued its deliberations on its draft findings in closed session and agreed to continue those deliberations through its electronic decision-making procedure, with a view to completing its draft findings and, as appropriate, recommendations.
41. With respect to communication ACCC/C/2017/148 (Greece), the Committee noted that it had agreed to send questions to the parties for their written reply and that it would decide how to proceed with the communication at an upcoming meeting, taking into account the information received.
42. Regarding communication ACCC/C/2017/149 (Greece), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
43. Concerning communication ACCC/C/2017/150 (United Kingdom), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
44. With respect to communication ACCC/C/2016/151 (Poland), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
45. Regarding communication ACCC/C/2017/153 (Spain), the Committee noted that, in the light of the voluminous information received, it had agreed to send questions to the communicants to clarify various aspects of their claims and to decide how to proceed with the communication at an upcoming meeting taking into account their reply and any comments received thereon.
46. Concerning communication ACCC/C/2017/154 (Poland), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
47. With respect to communication ACCC/C/2017/156 (United Kingdom), the Committee continued its deliberations on its draft findings in closed session at the present meeting and agreed to continue those deliberations through its electronic decision-making procedure, with a view to completing its draft findings and, as appropriate, recommendations.
48. Regarding communication ACCC/C/2017/157 (United Kingdom), the Committee recalled that on 22 November 2020, the communicant had indicated that he was satisfied that such claims would benefit from the environmental cost protection rules as amended. In the light of the communicant's reply, the Committee agreed at the present meeting to apply its

summary proceedings procedure to this case and to invite the communicant to participate in the follow-up on decision VI/8k of the Meeting of the Parties concerning the compliance of the United Kingdom and any decision that may supersede it.

49. Concerning communication ACCC/C/2018/158 (Poland), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

50. With respect to communication ACCC/C/2017/159 (Spain), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

51. Regarding communication ACCC/C/2018/161 (Bulgaria), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

52. Concerning communication ACCC/C/2019/162 (Denmark), the Committee noted that it had agreed to ask the Party concerned to submit the texts of the relevant case-law referred to in Party concerned's response dated 20 August 2019 and that the Committee would decide how to proceed with the communication at an upcoming meeting, taking into account the information received.

53. With respect to communication ACCC/C/2019/163 (Austria), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

54. Regarding communication ACCC/C/2019/164 (Ireland), the Committee noted that it had agreed to invite the communicant to comment on the submissions on admissibility made by the Party concerned in its response to the communication dated 22 August 2019 and to decide how to proceed with the communication at an upcoming meeting, taking into account the information received.

55. Concerning communication ACCC/C/2019/168 (Iceland), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

56. With respect to communication ACCC/C/2019/173 (Sweden), the Committee noted that it had agreed to send questions to the Party concerned and to decide how to proceed with the communication at an upcoming meeting taking into account the information received.

57. Regarding communication ACCC/C/2019/174 (Sweden), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

58. Concerning communication ACCC/C/2020/177 (Bosnia and Herzegovina), the Committee noted that it had agreed to ask the Party concerned to expand its response to the communication and to clarify whether it challenged the admissibility of the communication and to thereafter invite the communicant to comment on the reply of the Party concerned.

59. With respect to communication ACCC/C/2020/178 (Germany), the Committee noted that it had agreed to invite the communicant to comment on the submissions on admissibility made by the Party concerned in its response to the communication dated 13 August 2020 and to decide how to proceed with the communication at an upcoming meeting, taking into account the information received from both parties.

60. Regarding communication ACCC/C/2020/179 (Serbia), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

61. Concerning communication ACCC/C/2020/181 (Netherlands), the secretariat had forwarded the communication to the Party concerned on 4 December 2020 for its response. The deadline of 4 May 2021 for its response had not yet expired and the Party's response had not yet been received.

62. With respect to communication ACCC/C/2020/182 (Belarus), the secretariat had forwarded the communication to the Party concerned on 4 December 2020 for its response. The deadline of 4 May 2021 for its response had not yet expired and the Party's response had not yet been received.

63. Regarding communication ACCC/C/2020/183 (Spain), the secretariat had forwarded the communication to the Party concerned on 3 December 2020 for its response. The deadline of 3 May 2021 for its response had not yet expired and the Party's response had not yet been received.

64. Communication ACCC/C/2020/184 (United Kingdom and European Union) had been submitted on 30 October 2020 by Ms. Christine Gibson, a member of the public. The communication alleged violation of the Convention by the United Kingdom and the European Union with respect to access to information, public participation in decision-making and access to justice in environmental matters in Northern Ireland, as part of the United Kingdom. On 12 January 2021, the communicant submitted the written version of her oral statement for the open session on preliminary admissibility to be held during the Committee's sixty ninth meeting. On 22 January 2021, the United Kingdom submitted a statement commenting on the preliminary admissibility of the communication. On 24 January 2021, the communicant submitted an update to her communication and also comments on the statement of the Party concerned. On 25 January 2021, the European Union submitted its comments on the preliminary admissibility of the communication. On 26 January 2021, the communicant submitted her comments on the European Union's comments. During the meeting, the Committee heard the views of the United Kingdom, the European Union and the communicant. After considering in closed session the information received, the Committee determined the communication to be inadmissible. In delivering its determination of inadmissibility in open session during the final session of its sixty-ninth meeting, the Committee noted that the communication made more than 25 allegations, most of them very sweeping and unsubstantiated, with respect to access to information, public participation in decision-making and access to justice in environmental matters in Northern Ireland. The Committee determined the allegations contained in the communication to be inadmissible on the following grounds:

(a) Allegations A, B, C, D, E, F, G, H, I, J, K, L, M, N, Q, T-U, Y, Z and AA were not supported by corroborating information as required by paragraph 19 of the annex to decision I/7. These allegations were accordingly inadmissible under paragraph 20(d) of the annex to decision I/7 for being incompatible with the provisions of decision I/7.

(b) Allegations O, P, R, S, V, W, X were inadmissible under paragraph 20(d) of the annex to decision I/7 for being incompatible with the provisions of the Convention.

III. Reporting requirements

65. The Committee noted that the Meeting of the Parties, at its sixth session (Budva, Montenegro, 11–14 September 2017), had urged Parties that had not yet submitted their national implementation reports — i.e., Armenia, Bosnia and Herzegovina, the Netherlands, North Macedonia, the Republic of Moldova, Ukraine and the United Kingdom of Great Britain and Northern Ireland— to do so in the required format by 1 November 2017 at the latest (ECE/MP.PP/2017/2, para. 46). Notwithstanding that, none of the above-mentioned Parties had submitted their national implementation reports to the secretariat by 1 November 2017. The secretariat reported that the Republic of Moldova was the only Party that had not submitted its report.

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

66. The Committee took note of the developments since its sixty-eighth meeting with respect to decisions VI/8a–e and g–k of the Meeting of the Parties, as well as regarding the follow-up procedure concerning the Committee's findings and recommendations on communications ACCC/C/2014/104 (Netherlands) and ACCC/C/2014/107 (Ireland).

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67. With respect to decision VI/8a (Armenia), the Committee noted that there had been no developments since the Committee's sixty-eighth meeting.
68. Regarding decision VI/8b (Austria), the Committee noted that there had been no developments since the Committee's sixty-eighth meeting.
69. Concerning decision VI/8c (Belarus), the Committee noted that there had been no developments since the Committee's sixty-eighth meeting.
70. With respect to decision VI/8d (Bulgaria), the Committee noted that there had been no developments since the Committee's sixty-eighth meeting.
71. Regarding decision VI/8e (Czechia), the Committee noted that there had been no developments since the Committee's sixty-eighth meeting.
72. Concerning decision VI/8g (Kazakhstan), the Committee noted that there had been no developments since the Committee's sixty-eighth meeting.
73. With respect to decision VI/8h (Romania), noted that there had been no developments since the Committee's sixty-eighth meeting.
74. Regarding decision VI/8i (Slovakia), the Committee noted that on 1 January 2021, the Party concerned had provided an update on recent legislative developments.
75. Concerning decision VI/8j (Spain), the Committee noted that on 2 December 2020 the Party concerned had submitted comments on the comments of the communicant of communication ACCC/C/2009/36 dated 5 November 2020. On 4 December 2020, the communicant of communication ACCC/C/2009/36 had in turn submitted its comments on the Party concerned's comments. On 21 December 2020, the Party concerned had submitted additional comments on the comments of the communicant of communication ACCC/C/2009/36. The Committee agreed that it would take into account the comments received in the preparation of its report to the seventh session of the Meeting of the Parties on the implementation of decision IV/8j.
76. With respect to decision VI/8k (United Kingdom), the Committee noted that there had been no developments since the Committee's sixty-eighth meeting.
77. Concerning the follow-up on its findings on communication ACCC/C/2014/104 (Netherlands), the Committee noted that there had been no developments since the Committee's sixty-eighth meeting.
78. With respect to the follow-up on its findings on communication ACCC/C/2014/107 (Ireland), the Committee noted that there had been no developments since its sixty-eighth meeting.

V. Programme of work and calendar of meetings

79. The Committee noted that it had agreed to hold its seventieth meeting from 12 to 16 April 2021 and that, in the light of the ongoing pandemic, the meeting would be held virtually. The Committee also agreed to schedule virtual meetings at an increased frequency in the coming months in order to hasten the completion of findings on pending cases in order that the findings may be transmitted to the seventh session of the Meeting of the Parties for endorsement.

VI. Other business

A. Modus operandi

80. The Chair expressed his appreciation for the proactive efforts made by the secretariat both before and throughout the meeting to enable the meeting to proceed smoothly despite the logistical challenges caused by the on-going pandemic.

B. Other matters

81. The Chair reported that on 10 December 2020 he had participated in the Second Meeting of the Signatory Countries to the Regional Agreement on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazu Agreement) (online, 9-10 December 2020). His participation had included speaking in a panel on the establishment of a compliance and implementation mechanism for the Escazu Agreement, which was to enter into force on Earth Day, 22 April 2021.

82. The Chair further reported that on 15 January 2021 he had participated in a panel on the Aarhus Convention and Nuclear (ACN) European Roundtable on Radioactive Waste Management (online, 13-15 January 2021) organized by the European Commission and Nuclear Transparency Watch.

VII. Report and closure of the meeting

83. The Committee agreed to adopt its report through its electronic decision-making procedure after the meeting. The Chair then officially closed the sixty-ninth meeting.
