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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

Seventieth meeting
Geneva, 12–16 April 2021

Report of the Compliance Committee on its seventieth meeting

Contents

| | <i>Page</i> |
|--|-------------|
| Introduction..... | 2 |
| A. Attendance..... | 2 |
| B. Organizational matters..... | 2 |
| I. Submissions, referrals and requests under the Convention..... | 3 |
| II. Communications from members of the public..... | 3 |
| III. Reporting requirements..... | 7 |
| IV. Follow-up on specific cases of non-compliance..... | 7 |
| V. Programme of work and calendar of meetings..... | 8 |
| VI. Other business..... | 8 |
| A. Modus operandi..... | 8 |
| B. Other matters..... | 8 |
| VII. Report and closure of the meeting..... | 9 |

Introduction

1. The seventieth 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 12–16 April 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. Three of the nine Committee members were present throughout the entire meeting: Mr. Jonas Ebbesson (Chair); Mr. Marc Clément; and Mr. Dmytro Skrylnikov. Mr. Peter Oliver was unable to attend the afternoon session on 13 April but was present for the rest of the meeting; Mr. Alexander Kodjabashev (Vice-Chair) was unable to attend the morning session of 15 April but was present for the rest of the meeting. Ms. Heghine Grigoryan was unable to attend the meeting on 14 and 16 April. Ms. Fruzsina Bögös was present at the afternoon sessions of 12 and 14 April and the whole session on 16 April. Mr. Jerzy Jendroška was able to attend the afternoon sessions of 13–14 and 16 April. Ms. Áine Ryall (Vice-Chair) was unable to participate in the meeting apart from the afternoon session of 16 April. Members having declared a conflict of interest with respect to particular cases did not participate in closed sessions deliberating on those cases.

3. Representatives of the Party concerned and the communicant of communications PRE/ACCC/C/2020/185 (United Kingdom) took part in the open sessions on 12 and 16 April 2021.

4. Representatives of Romania, the European Union, and Portugal, the latter on behalf of the presidency of the Council of the European Union, participated in the open session on 12 April 2021. Representatives of Belarus participated in all open sessions.

5. ClientEarth and OEKOBUERO, as well as the communicant of communication ACCC/C/2017/147, participated as observers in the open session on 12 April 2021.

6. Members of the public Ms. Emily Kel and Ms. Gabbie Asher participated in the open session on 16 April 2021.

7. Earthjustice, which attended on behalf of the European ECO Forum, participated as an observer in all open sessions.

B. Organizational matters

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

9. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2021/4.

10. The Chair reported that, since its sixty-ninth meeting (Geneva, 25–29 January 2021), the Committee had held four virtual meetings, on 9 February, 17 and 31 March, and 6 April 2021, which had been dedicated to the preparation of advice with respect to request ACCC/M/2017/3 (European Union) and deliberations on its draft findings on communications ACCC/C/2015/128 (European Union), ACCC/C/2015/130 (Italy), ACCC/C/2016/143 (Czechia), ACCC/C/2017/147 (Republic of Moldova), ACCC/C/2017/156 (United Kingdom) and submission ACCC/S/2015/2 (Belarus).

11. Regarding communications received before 1 March 2021 (the deadline for receipt of communications for the seventieth meeting), the Chair reported that he and Vice-Chairs Mr. Kodjabashev and Ms. Ryall had held a virtual meeting on 15 March 2021 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/2021/185 (United Kingdom) should be forwarded to the Committee for consideration of preliminary admissibility at its seventieth 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

12. The Committee noted that it had not received any new submissions, referrals or requests since its sixty-ninth meeting.

13. Concerning submission ACCC/S/2015/2 (Belarus), the Committee had continued its deliberations on its draft findings in closed session at its virtual meetings on 31 March and 6 April 2021. At the current meeting, the Committee continued its deliberations on its draft findings and agreed to continue those deliberations at an upcoming meeting.

14. Regarding request ACCC/M/2017/2 (Turkmenistan), the final progress report of the Party concerned, due on 1 October 2020, had not to date been received and, on 12 April 2021, the secretariat had sent a reminder to the Party concerned requesting it to provide its final progress report as soon as possible, and at the latest by 30 April 2021.

15. With respect to request ACCC/M/2017/3 (European Union), comments on the Committee's draft advice had been received from the communicant of communication ACCC/C/2010/54, on 31 January 2021, and, on 1 February 2021 from, respectively, the Party concerned, the communicant of communication ACCC/C/2008/32 and the observer European Environmental Bureau. The Committee had finalized its advice in closed session at its virtual meeting on 9 February 2021, taking into account the comments received, and had adopted its advice through its electronic decision-making procedure on 12 February 2021. On 5 March 2021, the observer Justice and Environment had submitted a statement regarding the Committee's advice.

16. Concerning request for advice ACCC/A/2020/2 (Kazakhstan), on 24 March 2021, the observer Socio-Ecological Fund had provided an update in relation to the Committee's advice adopted on 1 July 2020.

II. Communications from members of the public

17. The Committee agreed that the deadline for the receipt of new communications to be considered for preliminary admissibility at its seventy-first meeting (Geneva (online), 7–9 July 2021) would be 4 May 2021.

18. With respect to communication ACCC/C/2013/90 (United Kingdom), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.

19. Regarding communication ACCC/C/2013/98 (Lithuania), the Committee agreed to continue its deliberations on the finalization of its findings at an upcoming meeting, taking into account the comments received from the Party concerned and the communicant on the Committee's draft findings.

20. Concerning communication ACCC/C/2014/105 (Hungary), the Committee had sent questions to the parties on 11 March 2021 for their written replies by 8 April 2021. On 7 April 2021, the Party concerned had provided a partial reply to the Committee's questions and requested an extension until 8 May 2021 for its reply to the remaining questions. On 12 April 2021, the communicant had sent its reply to the Committee's questions. The Committee continued its deliberations on its draft findings in closed session at the meeting and agreed to continue those deliberations at an upcoming meeting, taking into account the information received.

21. With respect to communication ACCC/C/2014/112 (Ireland), the Committee agreed to defer the deliberations on its draft findings to an upcoming meeting.

22. 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.

23. Concerning communication ACCC/C/2014/118 (Ukraine), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.

24. With respect to communication ACCC/C/2014/119 (Poland), the Committee had sent questions to the parties on 11 March 2021 for their written reply. Both parties had replied on

8 April 2021. The Committee continued its deliberations on its draft findings in closed session at the current meeting taking into account the replies received and agreed to continue its deliberations at an upcoming meeting.

25. 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, taking into account the replies received.

26. Concerning communication ACCC/C/2014/122 (Spain), the Committee confirmed the edited version of its findings (ECE/MP.PP/C.1/2021/7).

27. With respect to communication ACCC/C/2014/124 (Netherlands), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.

28. Regarding communication ACCC/C/2015/126 (Poland), the Committee continued its deliberations on its draft findings in closed session at the current meeting and agreed to continue those deliberations at an upcoming meeting.

29. Concerning communication ACCC/C/2015/128 (European Union), the Committee had adopted its draft findings through its electronic decision-making procedure on 18 January 2021. In accordance with paragraph 34 of the annex to decision I/7 (ECE/MP.PP/2/Add.8), the draft findings had then been forwarded on the same day to the Party concerned and the communicant with an invitation to provide any comments thereon by 1 March 2021. On 24 February 2021, the Party concerned had provided its comments on the Committee's draft findings. On 1 March 2021, the communicant OEKOBUERO and the observer ClientEarth had each provided their comments on the Committee's draft findings. After taking into account the information received, the Committee had finalized and adopted its findings at its virtual meeting on 17 March 2021.

30. With respect to communication ACCC/C/2015/130 (Italy), the Committee reported that, on 20 January 2021, it had sent questions to the parties for their reply. On 2 and 4 February 2021, respectively, the communicant and the Party concerned had replied to the Committee's questions and, on 10 March 2021, the communicant had submitted comments on the reply of the Party concerned. The Committee had continued its deliberations on its draft findings in closed session at its virtual meetings on 31 March and 6 April 2021 and at the current meeting, taking into account the replies received. The Committee agreed to continue its deliberations through its electronic decision-making procedure.

31. Regarding communication ACCC/C/2015/131 (United Kingdom), on 9 December 2020, the Committee had sent questions to the Party concerned for its written reply and, on 23 December 2020, the Party concerned had submitted its reply. On 13 January 2021, the communicant had sent comments on the reply of the Party concerned. The Committee continued deliberations on its draft findings at the meeting and agreed to continue its deliberations at an upcoming meeting.

32. Concerning communication ACCC/C/2015/132 (Ireland), the Committee had sent questions to the parties on 19 March 2021 for their written reply and on 16 April 2021, the Party concerned had replied to the Committee's questions. The Committee continued its deliberations on its draft findings at the meeting and agreed to continue those deliberations at an upcoming meeting.

33. With respect to communication ACCC/C/2015/133 (Netherlands), the Committee continued its deliberations on its draft findings at the meeting and agreed to continue those deliberations at an upcoming meeting.

34. Regarding communication ACCC/C/2015/134 (Belgium), on 11 February 2021, the Committee had received comments from the Party concerned on the communicant's update of 9 November 2020. The Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.

35. Concerning communication ACCC/C/2016/137 (Germany), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.

36. With respect to communication ACCC/C/2016/138 (Armenia), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting with a view to completing its draft findings.
37. Regarding communication ACCC/C/2016/139 (Ireland), the Committee had sent questions to the parties on 26 March 2021 for their written reply. On 16 April 2021, the Party concerned had submitted its reply to the Committee's questions. The Committee continued its deliberations on its draft findings at the meeting and agreed to continue those deliberations at an upcoming meeting taking into account the replies received.
38. Concerning communication ACCC/C/2016/140 (Romania), on 22 February 2021, the Committee had sent questions to the parties for their written reply. On 22 March and 9 April 2021, respectively, the Party concerned and the communicant had sent their replies to the Committee's questions. The Committee continued its deliberations on its draft findings in closed session at the meeting, taking into account the replies received. It further agreed that it would send additional questions to the parties and continue its deliberations on its draft findings at an upcoming meeting.
39. Regarding communication ACCC/C/2016/142 (United Kingdom), the Committee continued the deliberations on its draft findings at the meeting and agreed to continue those deliberations at an upcoming meeting.
40. Concerning communication ACCC/C/2016/143 (Czechia), on 24 December 2020, the Committee had sent questions to the Party concerned. On 20 January 2021, the Party concerned had requested an extension of the deadline for replying to the Committee's questions, which had been granted by the Chair. On 21 January 2021, the Committee had received a number of documents from the Party concerned, which, on 8 February 2021, had submitted its reply to the Committee's questions. On 1 March 2021, the communicant had submitted comments on the reply of the Party concerned to the Committee's questions. The Committee had continued its deliberations on its draft findings in closed session at its virtual meeting on 17 March 2021, taking into account the replies received. The Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.
41. With respect to communication ACCC/C/2016/144 (Bulgaria), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.
42. 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.
43. Concerning communication ACCC/C/2017/147 (Republic of Moldova), the Committee had continued its deliberations on its draft findings in closed session at its virtual meeting on 17 March 2021. The Committee agreed to continue its deliberations on its draft findings through its electronic decision-making procedure.
44. Regarding 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.
45. With respect to communication ACCC/C/2017/149 (Greece), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
46. 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.
47. Regarding communication ACCC/C/2016/151 (Poland), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
48. Concerning 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.

49. Regarding communication ACCC/C/2017/154 (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/2017/156 (United Kingdom), the Committee had continued its deliberations on its draft findings in closed session at its virtual meetings on 9 February and 31 March 2021. The Committee continued the deliberations on its draft findings at the current meeting and agreed to continue those deliberations at an upcoming meeting.

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

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

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

54. Regarding communication ACCC/C/2019/162 (Denmark), the Committee noted that it had requested the secretariat to ask the Party concerned to submit the texts of relevant case law referred to in its response to the communication.

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

56. 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 and to decide how to proceed with the communication at an upcoming meeting, taking into account the information received from both parties.

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

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

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

60. With respect to communication ACCC/C/2020/177 (Bosnia and Herzegovina), the Committee noted that it had agreed to ask the Party concerned to expand its response of 23 November 2020 and to clarify whether it challenged the admissibility of the communication and thereafter to invite the communicant to comment on the reply of the Party concerned. The Committee agreed that it would decide how to proceed with the communication at an upcoming meeting, taking into account the information received from both parties.

61. Concerning 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 and to decide how to proceed with the communication at an upcoming meeting, taking into account the information received from both parties.

62. With respect to communication ACCC/C/2020/179 (Serbia), on 10 November 2020, the Party concerned had submitted its response to the communication. The Committee agreed to decide how to proceed with the communication at an upcoming meeting.

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

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

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

66. With respect to communication ACCC/C/2020/184 (United Kingdom and European Union), at its sixty-ninth meeting, the Committee had determined the communication to be inadmissible. On 4 February 2021, the communicant had been informed about the Committee's decision and, on 11 March 2021, the communicant had requested a reconsideration of the determination of inadmissibility. On 15 March 2021, the Chair and Vice-Chairs had decided that the request for reconsideration did not identify a manifest error and that the determination of inadmissibility would stand.

67. Communication ACCC/C/2020/185 (United Kingdom) had been submitted on 28 February 2021 by Mr. Bradley Blitz, a member of the public. The communication alleged non-compliance with articles 6 and 7 of the Convention with respect to public participation in the decision-making on the proposed development of the Hendon Hub. On 1 April 2021, the Party concerned had provided comments on the preliminary admissibility of the communication. On 5 April 2021, the communicant had submitted a statement on the preliminary admissibility of the communication and, on 7 April 2021, a revised statement thereon. At its meeting, the Committee considered the preliminary admissibility of the communication. During the meeting, the Committee heard the views of the communicant on the preliminary admissibility of the communication, as well as those of the Party concerned. After considering in closed session the information received, the Committee noted that in none of the cases presented in the communication had the decision-making yet ended. For that reason, the Committee determined the communication to be inadmissible in accordance with paragraph 20 (d) of the annex to decision I/7 of the Meeting of the Parties to the Convention for being incompatible with the provisions of decision I/7 or with the Convention.

III. Reporting requirements

68. The Committee noted that the Meeting of the Parties, at its sixth session (Budva, Montenegro, 11–13 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.¹ Notwithstanding the above, none of the above-mentioned Parties had submitted their national implementation reports to the secretariat by 1 November 2017. The secretariat reported that Armenia, Bosnia and Herzegovina, the Netherlands, North Macedonia, Ukraine and the United Kingdom of Great Britain and Northern Ireland had since submitted their reports. The Republic of Moldova had not yet submitted its report.

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

69. The Chair provided an update on any developments that had taken place since the Committee's sixty-ninth meeting with respect to decisions VI/8a–e and g–k of the Meeting of the Parties,² as well as the follow-up procedure concerning the Committee's findings and recommendations on communications ACCC/C/2014/104 (Netherlands) and ACCC/C/2014/107 (Ireland).

¹ ECE/MP.PP/2017/2, para. 46.

² ECE/MP.PP/2017/2/Add.1.

70. In that regard, concerning decision VI/8j (Spain), the Committee noted that, on 4 and 12 February 2021, respectively, the communicant of communication ACCC/C/2009/36 and the Party concerned had submitted further comments.

71. With respect to the follow-up on its findings on communication ACCC/C/2014/104 (Netherlands), the Committee noted that, on 17 February and 29 March 2021, respectively, the communicant and the Party concerned had each submitted an update with respect to the implementation of the Committee's findings and recommendations.

V. Programme of work and calendar of meetings

72. The Committee noted that, in the light of the ongoing COVID-19 pandemic, its seventy-first 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 might be transmitted to the seventh session of the Meeting of the Parties (Geneva (hybrid), 18–20 October 2021) for its endorsement.

VI. Other business

A. Modus operandi

73. 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 ongoing pandemic.

B. Other matters

74. The Chair reported that, on 18 March 2021, he had given a keynote speech entitled "Environmental Rule of Law, Justice and Peace" in the opening session of a conference on environmental governance for peace in Colombia (online, 18–19 March 2021).

75. The secretariat updated the Committee on the thirteenth meeting of the Task Force on Access to Justice (Geneva (hybrid), 15–16 February 2021), which had been focused on promoting public interest litigation in environmental matters and promoting effective access to justice in cases relating to air quality and the review of environmental information requests. The secretariat further reported on the ninth meeting of the Task Force on Public Participation in Decision-making (Geneva (online), 1–2 March 2021). The meeting had focused on vulnerable and marginalized groups, their participation in decision-making and different methods and approaches to increase the effectiveness of public participation in decision-making without entailing significant resources on the part of public authorities. The thematic sessions of the meeting had addressed decision-making in the extractive industries sector, on energy and climate, as well as regarding emerging technologies.

76. The secretariat also informed participants about arrangements for the twenty-fifth meeting of the Working Group of the Parties, which would be held in two slots (respectively, Geneva (online), 3 May, and Geneva (hybrid), 7–8 June 2021). The first slot would be dedicated to the presentation of briefs by the chairs of the task forces on relevant developments and to a thematic session on promoting the Convention's principles in international forums, including regarding issues of biosafety and geoengineering. The second slot would focus on preparation for the seventh session of the Meeting of the Parties. At that session, the Chair of the Compliance Committee was expected to report on the progress achieved by the Committee in its work and in its preparations to the Meeting of the Parties.

77. The secretariat further reported that, on 11 May 2021, the twelfth meeting of the Aarhus Convention Capacity-building Coordination would take place, online, with the aim of promoting synergies in implementing the Convention among different partners working to build capacity on the ground. One of the topics to be discussed would be the promotion of

implementation of the Committee's decisions on compliance. Partners would be informed of the major issues of non-compliance with the Convention per country and would be invited to encourage Aarhus Centres, regional environmental centres and other organizations to provide assistance in the implementation of the above-mentioned decisions.

78. The secretariat also reported that, in order to facilitate and raise awareness about the nomination process for new Committee members, it would issue a notification to all national focal points bringing to their attention the note issued in April 2020 on the membership of the Committee, describing the procedure based on decision 1/7 and also the requirements with respect to the nomination of new members.

79. Lastly, the secretariat reported that, on 15 March 2021, it had provided written comments to the European Investment Bank on its proposed revised transparency policy and that, on 22 March 2021, the secretariat had taken part in a side event at the Asia-Pacific Forum on Sustainable Development 2021 (Bangkok, 23–26 March 2021) organized by the Economic and Social Commission for Asia and the Pacific and the United Nations Environment Programme on enabling sustainable recovery from the pandemic through the promotion of access to information, public participation and access to justice in environmental decision-making. The event had been attended by countries from Asia and the Pacific region and had explored the possibility of an instrument similar to the Aarhus Convention in that region.

80. Earthjustice reported on recent developments of the forty-sixth regular session of the Human Rights Council (Geneva, 22 February–24 March 2021), including the renewal of the mandate of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment,³ and the possible creation of a new mandate on human rights and climate change at the next regular session (Geneva, 21 June–14 July 2021). Moreover, a statement supported by 69 States calling for the Human Rights Council to recognize the human right to a healthy and sustainable environment had been presented to the session.

VII. Report and closure of the meeting

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

³ Human Rights Council resolution 46/7 on human rights and the environment, para. 5 (A/HRC/RES/46/7).