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ECONOMIC COMMISSION FOR EUROPE

**MEETING OF THE PARTIES TO THE CONVENTION ON
THE PROTECTION AND USE OF TRANSBOUNDARY
WATERCOURSES AND INTERNATIONAL LAKES**

Legal Board

Sixth meeting
Geneva, 29–30 April 2009

REPORT OF THE LEGAL BOARD ON ITS SIXTH MEETING

I. ATTENDANCE AND ORGANIZATIONAL MATTERS

1. The sixth meeting of the Legal Board was held on 29 and 30 April 2009 in Geneva.
2. It was attended by representatives of the following countries: Azerbaijan, Czech Republic, Finland, Georgia, Greece, Hungary, Italy, Kyrgyzstan, Netherlands, Slovakia and Turkey.
3. The meeting was also attended by representatives of the following non-governmental organizations and academic institutions: European ECO-Forum and the University of Dundee (United Kingdom).
4. The Legal Board adopted its agenda as contained in the document ECE/MP.WAT/AC.4/2009/1.

II. GUIDE TO IMPLEMENTING THE CONVENTION

5. Mr. Attila Tanzi, the Chairperson of the Legal Board, introduced a draft guide (informal document LB-Inf.1).

6. The Legal Board welcomed the progress made in developing of the Guide. It acknowledged that the document fully met expectations expressed by Parties and non-Parties regarding this activity. In particular, the Legal Board was satisfied that the document provided a clear explanation of rather complex legal and technical aspects and at the same time illustrated this commentary with practical examples. The representative of Kyrgyzstan informed the meeting that thanks to the Guide the country had a better understanding of the Convention and was considering the possibility of accession to it. A representative of Georgia underlined the fact that the Guide had helped to alleviate certain concerns in his country about the Convention, and that it had highlighted the Convention's strongly cooperative nature.

7. The Legal Board discussed the draft text of the Guide. Major outcomes of the discussion included the following:

(a) Participants agreed not to include a commentary to the precautionary principle, as the issue had been highly debated within other forums, and therefore the Guide could only reflect differing points of view and thus such commentary would not be of much added value;

(b) Participants noted that although the Guide repeated concepts, its approach had didactic value, as the document was addressed not only to lawyers and commentary to specific articles should to a certain extent be able to be read independently;

(c) It was considered not advisable to include a commentary to a principle of force majeure in the Guide as this principle applies to all treaties as a general rule of customary law;

(d) Some delegates considered that developing an executive summary would be useful for the Guide users, while other felt that all material contained in the Guide was needed and that shortening the document could even be counterproductive as it would weaken the Guide and thereby the Convention itself. In any case, concern for the time available to carry out this exercise in time for the fifth session of the Meeting of the Parties (10-12 November 2009) was shared;

(e) Participants underlined the fact that some of the examples needed to be carefully revised as they seemed to be badly placed or not relevant to the texts they illustrated. The text should also be cut down to eliminate information not strictly relevant to the articles it illustrated. Precise references to the examples in the text also needed to be included.

8. The Legal Board also provided a number of editorial suggestions on the text and agreed on the steps needed to finalize the draft Guide so to ensure its submission to the fifth session of the Meeting of the Parties through the Working Group on Integrated Water Resources Management at its fourth meeting (8-9 July 2009), where activities of the Board would be discussed.. In this regard, it entrusted the Chairperson, supported by the drafting group and by the secretariat, to prepare the revised text.

III. AMENDMENTS TO ARTICLES 25 AND 26 OF THE CONVENTION

9. The Legal Board stressed that more efforts should be made by Parties to ratify the amendments to articles 25 and 26 of the Convention, which opened the Convention for accession

to countries outside the United Nations Economic Commission for Europe (UNECE) region. To this aim, it agreed to include in the Guide commentary advising countries acceding to the Convention to ratify, at the same time, the amendments. The Legal Board also agreed that this approach should be promoted widely.

10. The secretariat informed the Legal Board that the Chairperson of the Working Group on Integrated Water Resources Management would prepare a note on promoting ratification of the amendments for the upcoming fourth meeting of the Working Group.

IV. FUTURE ACTIVITIES OF THE LEGAL BOARD AND WORKPLAN FOR 2010-2012

11. The Legal Board agreed that the Guide should be promoted widely as a tool for fostering practical implementation of the Convention across the region and beyond, and that the follow-up to a possible Guide's adoption by the Meeting of the Parties should be included in the workplan for 2010-2012.

12. The Chairperson introduced a note on reviewing and promoting implementation and compliance (informal document LB/2009/2) that underlined the need to establish a mechanism under the Convention to review and support compliance and implementation.

13. The Legal Board discussed the note and acknowledged the soundness of the arguments presented by the Chairperson. The Board was very supportive of establishing a mechanism under the Convention to review and support compliance and implementation. The Board agreed to submit the proposal for further discussion to the Working Group on Integrated Water Resources Management and stressed that the Guide should serve as an important reference for this activity.
