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Economic Commission for Europe

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

Compliance Committee

Thirteenth meeting

Geneva, 27 and 28 June 2016

Report of the Compliance Committee on its thirteenth meeting

I. Organizational matters

1. The thirteenth meeting of the Compliance Committee under the Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) was held on 27 and 28 June 2016 in Geneva, Switzerland. The following members of the Committee attended: Pierre Chantrel; Ilona Drulyte; Zsuzsanna Kocsis-Kupper; Veit Koester (Chair); Oddvar Georg Lindholm; Vadim Ni; Ilya Trombitsky; and Serhiy Vykhryst. The meeting was serviced by the United Nations Economic Commission for Europe (ECE) secretariat.

II. Adoption of the agenda

2. The Compliance Committee adopted its agenda as set out in document ECE/MP.WH/C.1/2016/1-EUPCR/1611921/2.1/2016/CC/03.¹

¹ Information and documentation on the meeting, including informal documents and a list of participants, is available on a dedicated web page of the ECE website (<http://www.unece.org/index.php?id=41701>).



III. Consideration of submissions, referrals and communications

3. The Committee noted that no submissions, referrals or communications had been received prior to the meeting.

IV. Relevant developments since the twelfth meeting

4. The secretariat informed the Committee about the outcomes of the eighth meeting of the Task Force on Target Setting and Reporting (Geneva, 2 July 2015) and the workshop on collecting good practices on target setting and reporting (Geneva, 8–9 March 2016), in particular regarding the preparation of the publication, *Collection of Good Practices and Lessons Learned on Target Setting and Reporting under the Protocol on Water and Health* (ECE/MP.WH/14), to be submitted to the Meeting of the Parties to the Protocol for adoption at its fourth session (Geneva, 14–16 November 2016). The Committee expressed its readiness to be involved in the preparations, as needed.

5. The Chair briefly reported on the outcomes of the fourth meeting of the informal network of the chairs of compliance and implementation bodies under the ECE multilateral environmental agreements (Geneva, 20 June 2016).

6. The Committee also discussed the analysis of the provisions of the Protocol related to transboundary waters, which had been prepared by the Committee members that had legal expertise. The secretariat was entrusted to finalize the analysis, taking into account the Committee's comments, and to make it available on the meeting website as an unofficial document.² The Committee decided to invite the Meeting of the Parties to take note of the analysis and recommended Parties and other States to take its conclusions into account. It also decided that, once finalized, the note would be shared with the Implementation Committee of the Water Convention.

V. Implementation of and compliance with the reporting requirements

7. At its tenth and eleventh meetings the Committee had considered its competence to take action in cases of possible non-compliance by specific Parties with their obligations under the Protocol. The Committee had concluded that, based on paragraph 11 (c) read in conjunction with paragraph 12 of the Compliance Procedure (ECE/MP.WH/2/Add.3–EUR/06/5069385/1/Add.3, decision I/2, annex), it had the competence not only to examine general issues of compliance, but also to take appropriate action in case of possible non-compliance by a specific Party with the obligation to report under the Protocol and also to examine, if appropriate, other clear and important compliance issues.³

8. At its thirteenth meeting, the Committee discussed the analysis of the links between the obligation to set targets under article 6 and the obligation to report under article 7 of the Protocol prepared by a Committee member. The Committee endorsed the findings in the analysis as establishing the legal basis for its competence to take action as outlined in paragraph 7 above. In particular, the analysis concluded that, based on paragraph 12 of the Compliance Procedure, the Committee had the competence to examine, if it considered it appropriate, other clear and important compliance issues, i.e., non-compliance cases

² The informal document is also available on the web page for the meeting.

³ See report of the Compliance Committee to the Meeting of the Parties (ECE/MP.WH/2016/5–EUPCR/1611921/2.1/2016/MOP-4/11), paras 27–35.

regarding grave failures or inadequacies relating to the contents of summary reports with regard to their consistency, transparency, accuracy and completeness. However, that mechanism should not be seen as competing with the ordinary mechanisms established in paragraph 11 (a) of the Compliance Procedure, and should only be used in cases related to individual Parties that involved important compliance issues where there was a clear indication of non-compliance, and when there was no expectation that the ordinary mechanism would be used. The Committee, furthermore, considered that its competence to examine compliance issues under paragraph 12 of the Compliance Procedure did not extend, *inter alia*, to the examination of the target areas selected and the nature of targets set by Parties.

9. The Committee decided to prepare a draft decision on the competence of the Committee to address cases of non-compliance by specific Parties for possible adoption by the Meeting of the Parties at its fourth session, outlining the rationale for such decision and the procedure to be followed in the event of the initiation by the Committee of a specific case of possible non-compliance by a Party. The draft decision would also support the Committee's competence to examine other clear and important compliance issues.

10. With regard to case ECE/MP.WH/CC/CI/1 initiated by the Committee, it decided to prepare a draft decision on compliance by Portugal with its obligation to report under article 7 for possible adoption by the Meeting of the Parties. The decision issued a caution to the Party concerned, including a warning that the Committee would recommend to the Meeting of the Parties that it issue a declaration of non-compliance pursuant to paragraph 35 (d) of the Compliance Procedure if Portugal had not submitted its summary report within the second reporting exercise, in good faith and in accordance with the guidelines and template for summary reports, prior to the fourth session of the Meeting of the Parties. The Chair agreed to review the summary report of Portugal, with participation of other Committee members, if submitted prior to the fourth session.

VI. Compliance with the obligation to set targets and target dates

11. The Committee agreed that a draft decision on general issues of compliance would be prepared for consideration by the Meeting of the Parties at its fourth session. Compliance by Parties with their obligation to set targets would be addressed in the draft decision on general issues of compliance and in the report of the Committee to the Meeting of the Parties at its fourth session.

VII. Report of the Committee to the Meeting of the Parties at its fourth session

12. The Committee discussed in detail the contents of its report to be submitted to the fourth session of the Meeting of the Parties, based on the inputs provided by all Committee members. In particular, the Committee discussed the recommendations to be included in the report with regard to the Consultation Process under the Committee, general issues of compliance and Parties' compliance with reporting requirements under the Protocol, including the timeline for submission and the content of summary reports.

13. The Committee agreed that its report to the fourth session of the Meeting of the Parties would also include a draft decision on general issues of compliance, a draft decision on the competence of the Committee to address cases of non-compliance by specific Parties and a draft decision on non-compliance by Portugal with its obligation to report under article 7.

14. Based on the discussion, the Committee agreed on the procedure and timeline for the finalization of its report to the Meeting of the Parties at its fourth session.

VIII. Consultation with Parties to facilitate implementation of the Protocol

15. The Committee discussed the possible follow-up to the consultations that had taken place in 2015 with Albania and Azerbaijan as parties and Bosnia and Herzegovina as an observer. It had decided that, owing to a lack of resources, it would not monitor the implementation of its recommendations. Nevertheless, when reviewing the summary reports submitted by the countries involved within the third reporting cycle, the Committee had noted that its advice had been reflected to a certain extent in their reports. Most of the Committee recommendations had, however, not yet been implemented, possibly owing to the mid- and long-term nature of the recommendations and the limited time between the consultations and the reporting process.

16. The Committee also decided that at its first meeting after the fourth session of the Meeting of the Parties it would consider whether to invite another small group of Parties to engage in a consultation under the Consultation Process. Such a decision would be based on the consideration of the Committee's criteria established at its tenth meeting (Geneva, 25 November 2014), and would also take into account the outcome of the third reporting cycle and the availability of funds.

IX. Composition of the Compliance Committee

17. The Committee members discussed the composition of the Compliance Committee after the fourth session of the Meeting of the Parties. It was recalled that, at its third session, the Meeting of the Parties had elected five Committee members for a full term comprising two intersessional periods. According to decision I/2 on review of compliance, at the fourth session, Parties should proceed with the election of four Committee members.

18. Ms. Drulyte and Diana Iskrevva-Idigo were to complete their second consecutive term at the fourth session, and therefore were not eligible for re-election.

19. Ms. Kocsis-Kupper was eager to continue serving on the Committee and was ready to be nominated for re-election at the fourth session of the Meeting of the Parties.

20. Mr. Koester decided to limit his mandate to one term and was not available for re-election.

X. Calendar of future meetings

21. The Committee provisionally agreed to hold its fourteenth meeting in Geneva on 13 and 14 March and its fifteenth meeting on 13 and 14 November 2017, with the understanding that the meetings might be reduced to one day depending on the expected workload.

XI. Adoption of the report

22. The Committee adopted its report by electronic means after the meeting.
