

## **Minutes of the Fourth meeting of the Group on Legal Aspects under Task Force for Interlinking of Rivers held at New Delhi on 04<sup>th</sup> November, 2016**

Fourth meeting of the Group on Legal Aspects under Task Force for Interlinking of Rivers was held on 04.11.2016 at 15.00 Hr in the Conference Hall of CWC, Sewa Bhawan, R.K. Puram, New Delhi. The meeting was chaired by Shri A.D. Mohile, Former Chairman, CWC and Chairman of the Group. He welcomed all the Members, Invitees and other participants. Later, Shri K.P. Gupta, Superintending Engineer-I took up the agenda items. List of participants is enclosed as **Annex-I**.

### **Item 4.1: Confirmation of the Minutes of the 3<sup>rd</sup> meeting of ‘Group on legal aspects under Task Force for Interlinking of Rivers’ held on 28<sup>th</sup> October, 2016 at New Delhi**

The minutes of the 3<sup>rd</sup> meeting of ‘Group on legal aspects under Task Force for Interlinking of Rivers’ held on 28.10.2016 at New Delhi were circulated to all the members vide letter No. SCILR/Tech/400/11/2016 dated 4<sup>th</sup> November, 2016, just before the start of the 4<sup>th</sup> meeting. As such members could not offer any comment on the minutes of the third meeting of the Group on legal aspects and it was decided that the minutes of the third meeting of the Group would be confirmed in the next meeting, alongwith minutes of the fourth meeting.

### **Item 4.2: Discussion on preparation of Draft Report of the Group on legal aspects**

- (i) **General Structure of the Proposed Report:** In the meeting, Members discussed the general structure of the proposed draft report and decided that it could have following Sections:
  - (a) **Section 1- Introduction** - Here describe briefly the national water perspective and the background in which it was prepared (Material already available in the intra state group report may come handy) Give tables listing the states and indicating water surplus basins and recipient basins, states of the donor basins and states of the recipient basins.
  - (b) **Section 2- inter-state issues involved in ILR program** - Here describe type of issues and objections raised by the States in regard to ILR. Mention efforts made to achieve consensus and results obtained so far.

- (c) **Section 3-Law on water allocation and water transfers-** In this section describe the laws and conventions for deciding allocation of waters among political units. Deal with both international and national legal positions. Describe the relevant case law and the relevant positions of water dispute tribunals in regard to transfer to non basin states.
- (d) **Section 4- The work done by the group** – Here describe the meetings of the group. Describe the initial position of the members of the group. Briefly the discussions in the group and the consensus that emerged from the discussion.
- (e) **Section 5 Recommendations of the Group** - Recommendations about legal interventions. For each recommendation include some background material justifying the recommendation.
- (f) **Section 6- Acknowledgement**

While writing the Report, some changes may be required in this format. In this meeting, draft of legal intervention of the Group which will find place in Section-5 was also prepared and is given in next para.

**(ii) Draft of the recommendation of the Group regarding main features of the proposed legislation:**

“The Group on Legal aspects recommends that one or more Central legislation may be passed for the purpose of facilitating inter-basin transfer to non basin states.

The RBA Act 1956 had been reviewed critically by a Committee chaired by Justice Doabia in 2013 which had proposed a complete revision and the need for a enacting a new River Basin Act. The procedure to follow preceding such an enactment by way of presenting a white paper to Parliament justifying the new Act which empowers the Union to initiate and proceed with several positive actions for water governance. This step of creation of River Basin Authorities with a 2 tier system of governing and managing the Basins could help in the implementation of ILR. The Group recommends that follow up action on Doabia Committee Report be done expeditiously.

One or more resolutions under the entry 56 are desirable. While the drafting of such legislation may require considerable effort, the essential features could be as follows:

- a) It may be declared that for inter State rivers and river valleys, it is in public interest that the following guidelines may be adopted and implemented by all concerned including the States:
- “National Water Policy, 2012”
  - “National Guidelines for Allocation of Waters of Inter-state Rivers Amongst States” (these guidelines have not yet been approved by the National Water Resources Council, and may have to be either approved by the Council or may have to be included in the Legislation without going through the NWRC route).
- b) The legislation may encourage the adoption of a National Water Code.
- c) The legislation for establishing River Basin Authorities (RBAs), the background of which is already explained in the above Para.
- d) It may create an agency (or empower an existing agency) and authorize it to lay down methodologies required for planning such transfers, and in particular, those required for deciding the demands and availability of surplus waters, and their transfer and use by non-basin States.
- e) It may create a standing National Tribunal for River linking (Inter-basin transfers to non-basin states, under the Article 262 of the Constitution to judiciously decide and approve, with modifications as may be required, the standards and methodologies as prepared by the said agency as also the individual schemes for transfer of waters of interstate rivers and river valleys to non basin states. The matter will go to this tribunal if any State is aggrieved by the decision of the said agency mentioned above. Concerned or interested States, shall be a party to these proceedings.
- f) If any basin is found to have surplus water through the studies of the agency or the appellate decision of the said Tribunal, the River Basin Authority would be bound to allow this surplus to being transferred to Non Basin States. Similarly if required, any existing inter-State agreement or water dispute tribunal award would have to be reworked in light of this finding.

- g) It may provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of disputes or complaints of issues arising out of such complaints in regard to the proposals as prepared by the said agency, to the extent they are approved by the said Tribunal.
- h) It would provide for creation of machinery for execution and subsequent operation of the schemes of inter-basin transfers in consultation with the concerned states, the process of allocation of the cost of the scheme amongst states as also decisions about the recoveries to be made from the states of the users.

#### **Item No. 4.3 Tenure of the Group**

Tenure of the Group has been extended upto 20<sup>th</sup> November, 2016. However it was felt by the Members of the Group that it would not be possible to submit report by extended date as some of the Members are busy with other assignments while some more meetings would be required to finalise the report. General view was that report could be submitted by the end of January, 2017.

#### **Item No. 4.4 Further work to be done**

Tentative dates of forthcoming meetings and schedule of work as decided in the meeting and items to be discussed in these meetings are as under:

NWDA will draft Chapters 1 & 2, and send it to all members by 16<sup>th</sup> Nov, 2016.

The initial draft of Chapter 4 will be circulated by NWDA to members by 20<sup>th</sup> Nov, 2016.

**5<sup>th</sup> Meeting on 21<sup>st</sup> November, 2016-** To finalize draft Section-1&2 of the proposed report and briefly suggest changes in Section- 4 in the meeting.

NWDA will circulate the drafts of Chapters 3 and 5 by 28<sup>th</sup> Nov, 2016.

**6<sup>th</sup> Meeting on 2<sup>nd</sup> December, 2016 -** To finalize draft Section-3, 4 & 5 of the proposed report.

(It was decided that after 6<sup>th</sup> meeting, NWDA would draft the complete preliminary report by 10<sup>th</sup> December, 2016 and circulate among the Members of the Group on legal aspects)

**7th Meeting on 16<sup>th</sup> December, 2016-** To consider preliminary draft report of the Group.

**Item No. 4.5 Any other item with permission of the Chair**

Shri Mohile while concluding mentioned that above meetings are mainly for preparing draft of the report. Though all members are invited to join in the meetings, if any member finds it difficult to join the meeting due to some unavoidable circumstances, he is requested to contribute through e-mail.

Meeting ended with vote of thanks to the chair.

**Annex-I**

**List of Participants of 4<sup>th</sup> Meeting of Group on Legal Aspects under Task Force for Interlinking of Rivers held on 4<sup>th</sup> November, 2016**

1.	Shri A.D. Mohile, Former Chairman, CWC	Chairman
2.	Shri Virag Gupta, Constitutional & Environment Law Expert	Member
3.	Prof. Avdhesh Pratap, Water Law and Management Expert	Member
4.	Shri M. Gopalakrishnan Former Member, CWC	Member
5.	Shri Navin Kumar, Chief Engineer (IMO), CWC	Special Invitee
6.	Shri B. P. Pandey, Director (ISM), CWC	Special Invitee
<b>Officers from NWDA</b>		
7.	Shri S Masood Husain, Director General	
8.	Shri R.K. Jain Chief Engineer (HQ)	
9.	Shri K.P. Gupta, Superintending Engineer	
10.	Shri M.K. Sinha Sr. Consultant	
11.	Shri Nagesh Mahajan, Deputy Director	