



UNITED
NATIONS

EP

UNEP/MED CC.14/Inf.3



UNITED NATIONS
ENVIRONMENT PROGRAMME
MEDITERRANEAN ACTION PLAN

16 May 2018
Original: English

14th Meeting of the Compliance Committee of the Barcelona Convention and its Protocols

Athens, Greece, 27-29 June 2018

Agenda item 2: Adoption of the Agenda and Organization of Work

**Report of the 13th Meeting of the Compliance Committee of the Barcelona Convention and its Protocols
(Athens, Greece, 26-27 September 2017)**

Note by the Secretariat:

This document contains the Report of the 13th Meeting of the Compliance Committee of the Barcelona Convention and its Protocols (Athens, Greece, 26-27 September 2017) (UNEP(DEPI)/MED CC.13/12), as adopted intersessionally by the 13th Meeting of the Compliance Committee.

For environmental and cost-saving reasons, this document is printed in a limited number. Delegates are kindly requested to bring their copies to meetings and not to request additional copies.

UNEP/MAP
Athens, 2018



**UNITED
NATIONS**

EP

UNEP(DEPI)/MED CC.13/12



**UNITED NATIONS
ENVIRONMENT PROGRAMME
MEDITERRANEAN ACTION PLAN**

24 October 2017
Original: English

13th Meeting of the Compliance Committee of the Barcelona Convention
and its Protocols

Athens, Greece, 26-27 September 2017

Report of the Meeting

For environmental and cost-saving reasons, this document is printed in a limited number. Delegates are kindly requested to bring their copies to meetings and not to request additional copies.

UNEP/MAP
Athens, 2017

Table of Contents

| | Pages |
|------------------|---|
| Report | 1-10 |
| Annexes | |
| Annex I | List of Participants |
| Annex II | Agenda |
| Annex III | Admissibility Criteria of Relevant Information Sources and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols |
| Annex IV | Programme of Work of the Compliance Committee for the biennium 2018-2019 |
| Annex V | Activity Report of the Compliance Committee for the biennium 2016-2017 |
| Annex VI | Draft Decision IG. 23/2 Compliance Committee: biennium 2016-2017 |

Agenda item 1: Opening of the Meeting

1. The 13th Meeting of the Compliance Committee of the Barcelona Convention and its Protocols was held on 26-27 September 2017, in Athens, Greece at the premises of the UN Environment /Mediterranean Action Plan (UN Environment/MAP) Coordinating Unit.
2. The meeting was attended by the following Members and Alternate Members of the Compliance Committee: Milena Batakovic, Bernard Brillet, Odeta Cato, Selma Cengic, Nicos Georgiades, Samira Hamidi, José Juste Ruiz, Orr Karassin, Larbi Sbai, Aysin Turpanci and Joseph Edward Mekhael Zaki; and the Secretariat. The list of participants is at **Annex I** to this report.
3. After ascertaining the existence of the required quorum under Paragraph 15 of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols (Decision IG.17/2, as amended), the Chairperson of the Compliance Committee, Milena Batakovic, opened the meeting by emphasising the importance of keeping up the momentum and progress in order to successfully deliver in time for the 20th Meeting of the Contracting Parties (COP 20) (Tirana, Albania, 17-20 December 2017) and provide a solid basis of work for the upcoming biennium.
4. Deputy Coordinator, Tatjana Hema, welcomed the participants. She updated the meeting on the key issues addressed at the Meeting of the MAP Focal Points (Athens, Greece, 12-15 September 2017) relevant to the work of the Compliance Committee. These referred to the two draft COP 20 Decisions containing the Revised Reporting Format for the Implementation of the Barcelona Convention and its Protocols and the Outcome of the Work of the Compliance Committee 2016-2017, respectively, as well as the arrangements in place for the partial renewal of membership of the Compliance Committee.
5. The Chairperson and the Deputy Coordinator stressed the need to finalise ongoing work, by giving priority to the following elements: (1) the draft Activity Report of the Compliance Committee for the biennium 2016-2017, (2) the draft Guidance on Admissibility Criteria and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, and (3) the draft Programme of Work of the Compliance Committee for the biennium 2018-2019.

Agenda item 2: Adoption of the Agenda and Organization of Work

6. The Compliance Committee adopted the Provisional Agenda (UNEP(DEPI)/MED CC.13/1) and the Provisional Annotated Agenda (UNEP(DEPI)/MED CC.13/2) without amendment, and agreed to re-structure the proposed timetable (UNEP(DEPI)/MED CC.12/3) to meet the identified priorities. A copy of the Provisional Agenda submitted to the meeting is at **Annex II** to this report.
7. In line with the Rules of Procedure of the Compliance Committee (Decision IG. 19/1, as amended), the Committee formally adopted the report of the 12th Meeting of the Compliance Committee of the Barcelona Convention and its Protocols (Athens, Greece, 24-25 January 2017), (UNEP(DEPI)/MED CC.13/Inf.3). The report had already been adopted by the Compliance Committee intersessionally.

Agenda item 3: Follow-up of the implementation of Decisions IG.22/15 and IG.22/16 of the 19th Meeting of Contracting Parties (COP19)*Follow-up of the Implementation of COP19 Decisions IG. 22/15 and IG. 22/16*

8. The Secretariat introduced document UNEP(DEPI)/MED CC.13/4, which provided an overview of the status of reporting under Article 26 of the Barcelona Convention for the biennia 2012-2013 and 2014-2015, and of progress made in implementing the Programme of Work of the Compliance Committee for the biennium 2016-2017, since the 12th Meeting of the Compliance Committee (Athens, Greece, 24-25 January 2017).

9. In its presentation the Secretariat updated the meeting on the steps taken to increase the submission rate of national implementation reports, such as letters from the Coordinator to MAP Focal Points emphasising that by reporting on national implementation, Contracting Parties not only meet their obligations pursuant to Article 26 of the Barcelona Convention and relevant articles of its Protocols addressing reporting obligations: they also provide to the Meetings of the Contracting Parties an essential tool for keeping the implementation of the Barcelona Convention and its Protocols under review, thus contributing to the credibility of the UN Environment/MAP system.

10. The Secretariat further updated the meeting on changes to the status of reporting as regards Monaco from “non-submission” to “working draft” for the reporting periods 2012-2013 and 2014-2015, and on the document tabled at the Meeting of the MAP Focal Points (Athens, Greece, 12-15 September 2017) on the General Status of the Progress in the Implementation of the Barcelona Convention and its Protocols (UNEP(DEPI)/MED WG.443/Inf.11).

11. The General Status of Progress had been prepared by the Secretariat and MAP components, namely MED POL, REMPEC, SPA/RAC and PAP/RAC, drawing on the information contained in the implementation reports submitted by Contracting Parties for the biennium 2014-2015. It fed into activity ten of the Programme of Work of the Compliance Committee for the biennium 2016-2017 (COP 19, Decision IG. 22/15): “Examination, in close coordination with the MAP components, of possible difficulties in the interpretation of the provisions of the Protocols, for consideration at the Meeting of the Contracting Parties”.

12. In the ensuing discussion the following key points were made:

- a. for the sake of clarity, in presenting the overview of the status of reporting per biennium no distinction should be made between national implementation reports submitted under the Integrated Coastal Zone Management (ICZM) Protocol and those reports submitted under the Barcelona Convention and the remaining Protocols. The different online platforms for reporting through INFO/RAC, i.e. the ICZM Protocol/Reporting Questionnaire and Barcelona Convention Reporting System (BCRS), respectively, do not justify such a distinction, which moreover may lead to confusion;
- b. furthermore, in order to avoid any misunderstanding due to the use of different terminology, the term “submission” should be used to reflect the status of reporting of those Contracting Parties which have submitted their national implementation reports and the term “non-submission” to reflect the status of reporting of the ones which have not yet done so. The term “working draft” is very vague and does not amount to submission. As regards Algeria, which sent its national implementation report to the Secretariat, this should be accurately reflected as “submission”;
- c. under Article 26.1 of the Barcelona Convention: “The Contracting Parties shall transmit to the Organization reports on: (a) the legal, administrative or other measures taken by them for the implementation of this Convention, the Protocols and of the recommendations adopted by their meetings; (b) the effectiveness of the measures referred to in subparagraph (a) and problems encountered in the implementation of the instruments as mentioned above”;
- d. Article 26.1 establishes a mandatory obligation of reporting. This is a basic obligation, which sets the basis for the meetings of the Contracting Parties to keep under review the implementation of the Barcelona Convention and its Protocols (Article 18 of the Barcelona Convention), and to assess the compliance with the Barcelona Convention and its Protocols as well as the measures and recommendations (Article 27 of the Barcelona Convention);
- e. the Compliance Committee, as established in the Procedures and Mechanisms on Compliance, has an advisory and exerting pressure role, with no enforcement capacity. Information, advice and facilitation of assistance rather than sanctions are critical tools for the Compliance Committee to meet the objective of facilitating and promoting compliance with the Barcelona Convention and its Protocols. The non-adversarial, non-judicial nature of the Compliance Committee shapes the measures that the Committee may take with a view to promoting compliance among Contracting Parties;

- f. information-based approaches, such as public awareness and publicity, could be very effective in promoting compliance at the international as well as the national level. Encouraging public involvement in observing compliance, for instance through the media, could be an avenue to promote compliance, as well as awareness-raising among Contracting Parties;
 - g. highlighting a particular instance of potential or actual non-compliance by a party not only applies pressure to that party, but it also serves as an incentive to other parties to come into compliance or to take actions to stay in compliance;
 - h. to categorize the levels of compliance may help determine the most appropriate measures that the Compliance Committee may take with a view to addressing potential or actual cases of non-compliance. In this context, a first tier of compliance would be represented by the submission of the reports requested in Article 26 of the Barcelona Convention. A second one would address the quality of submissions, and the third tier of compliance would refer to the extent to which measures reported are conducive to the protection of the marine environment in the Mediterranean Sea Area, thus meeting the ultimate objective of the Barcelona Convention and its Protocols. The submission of national implementation reports is at the heart of this three-tier approach;
 - i. at the time of writing, out of the 22 Contracting Parties 16 have submitted their national implementation reports for the biennium 2012-2013 and 15 for the biennium 2014-2015. It is encouraging to note the efforts being made by Contracting Parties to submit their national implementation reports. However, there is room for progress in increasing the submission rate of national implementation reports;
 - j. within the terms of its mandate, as established in the Procedures and Mechanisms on Compliance, the time has come for the Compliance Committee to take a clear stance on the non-submission of reports under Article 26 of the Barcelona Convention;
 - k. non-submission of reports should be treated as a potential situation of non-compliance. From this point forward, within the framework of Paragraph 23.bis of the Procedures and Mechanisms of Compliance, the Compliance Committee will be asking the Parties concerned for an explanation of the non-submission of their reports. This exchange between the Compliance Committee and the Parties concerned should not be interpreted as a declaration of non-compliance, but the opening of a “name and explain” procedure to verify compliance and invite the Parties concerned to provide an explanation;
 - l. for some Contracting Parties the limited availability of resources is a constraint to prepare their reports timely and in due form. For other Contracting Parties their difficult political landscape is a challenge when it comes to the submission of their reports. Efforts should be intensified as much as possible to ensure that these Contracting Parties submit their national implementation reports;
 - m. the objective of the Compliance Committee is clearly established in Paragraph 1 of the Procedures and Mechanisms of Compliance: “to facilitate and promote compliance with the obligations under the Barcelona Convention and its Protocols”. The Committee emphasised that its remit does not involve dealing with political issues.
13. Based on discussion, the Compliance Committee agreed as below:

Conclusions and Recommendations

- a. with a view to achieving the ultimate objectives of the Barcelona Convention and its Protocols as regards to the improvement of the state of the environment in the Mediterranean Sea Area, the submission of reports by Contracting Parties under Article 26 of the Barcelona Convention is a basic and legally binding requirement; and**
- b. according to Paragraph 17(a) of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols (Decision IG. 17/2, as amended), the Compliance Committee considers the non-submission of reports for the reporting period(s) 2012-2013 and/or 2014-2015 according to Article 26 of the Convention by the Contracting Parties shown in Table 1 as a potential situation of non-compliance and will take action under Paragraph 23.bis of the Procedures and Mechanisms on Compliance. The Compliance**

Committee will ask, through the Secretariat, the abovementioned Parties to provide an explanation of the non-submission of their reports and they shall have a period of two months to respond.

Table 1

| Contracting Party | Reporting Period 2012-2013 | Reporting Period 2014-2015 |
|-------------------|-------------------------------|-------------------------------|
| Egypt | Non submission | Non submission |
| Libya | Non submission | Non submission |
| Monaco | Non submission | Non submission |
| Slovenia | Submission | Non submission |
| Spain | Non submission | Non submission |
| Syria | Non submission | Non submission |
| Tunisia | Non submission | Non submission |

Results of the Questionnaire Survey on Methods to Enhance Compliance Mechanisms' and Procedures' Effectiveness

14. The Chairperson of the Compliance Committee, Milena Batakovic, presented document UNEP(DEPI)/MED CC.13/5. The document summarised the results of the Questionnaire Survey on Methods to Enhance Compliance Mechanisms' and Procedures' Effectiveness, which was circulated among MAP Focal Points following the 12th Meeting of the Compliance Committee. The Questionnaire had been prepared by Nicos Georgiades, Milena Batakovic and Samira Hamidi, who worked in coordination with the Secretariat, intersessionally.

15. The Questionnaire was devised to: (1) identify measures for raising awareness about the Compliance Committee and enhancing its role, (2) identify how the Compliance Committee could best support countries in implementing the Barcelona Convention and its Protocols, (3) seek whether the Compliance Committee could further reinforce its role in facilitating and promoting compliance with the Barcelona Convention and its Protocols, and (4) ascertain whether the review of the Procedures and Mechanisms on Compliance could be a possible avenue to improve effectiveness and strengthen the Compliance Committee's role. Six MAP Focal Points (Albania, Bosnia and Herzegovina, Greece, Libya, Malta and Spain) responded to the Questionnaire. Responses were compiled in document UNEP(DEPI)/MED CC. 13/Inf.4.

16. In the discussion, the following main points were raised:
- the percentage of responses to the Questionnaire is unexpectedly low (6 out of 22 MAP Focal Points). This should be brought to the attention of COP 20. The low rate of responses prevented the Compliance Committee from drawing up general conclusions and recommendations on concrete activities to take forward;
 - avenues to enhance the interplay between the Compliance Committee and the MAP Focal Points should be explored. This should include, for instance, holding the Compliance Committee Meetings back-to-back with the MAP Focal Points Meetings;
 - the result of this exercise is a good opportunity to reflect on the visibility of the Compliance Committee. Raising awareness among Contracting Parties and the public of the Compliance Committee's role and work could be very effective in promoting and facilitating compliance. In identifying ways and means to do so, media tools, such as the Internet, should be given a significant role, together with more traditional channels of communication (e.g. brochure, guidance materials, etc.).

17. Following discussion, the Compliance Committee agreed as follows:

Conclusions and Recommendations

a. to include in the Programme of Work of the Compliance Committee for the biennium 2018-2019 the following activity: “To continue to work in order to enhance Compliance Mechanisms’ and Procedures’ effectiveness, with a focus on awareness raising activities”;
and

b. Milena Batakovic, Orr Karassin and Aysin Turpanci, in coordination with the Secretariat: (i) to revisit the text on the Compliance Committee as currently appearing on the UN Environment/MAP website, and redraft it, as appropriate; and (ii) to identify key elements for future communication materials (e.g. brochure) targeting mainly the general public, MAP components and MAP Focal Points.

Preliminary Scoping Paper on the Legal Nature and Main Obligations of COP Decisions

18. José Juste Ruiz introduced document UNEP (DEPI)/MED CC.13/6, which had been prepared by the Secretariat, together with Bernard Brillet and José Juste Ruiz. The document identified specific legal elements to build on when analysing the type and nature of main obligations contained in COP thematic Decisions for compliance purposes.

19. In the discussion, it was emphasised that the initial standing point for any further analysis on the subject matter is that all acts adopted by the Meetings of the Contracting Parties (COP Decisions) have a normative nature and as such are mandatory. From this point forward, the legal nature of the main obligations contained in COP thematic Decisions, such as the Decisions on Regional Actions Plans, should be analysed. In so doing, the concept of “soft law” is of key importance, as “soft law” could be instrumental to the implementation of “hard law”. It was further emphasised that such analysis should be undertaken within the framework of the Revised Reporting Format, under which the implementation of the Regional Action Plans adopted by COP Decisions is of particular relevance.

20. Based on discussion, the Compliance Committee agreed as below:

Conclusions and Recommendations

a. to include in the Programme of Work of the Compliance Committee for the biennium 2018-2019 the following activity: “Within the framework of the Revised Reporting Format, to analyse the legal nature of the main obligations of COP thematic Decisions for the purpose of assessing compliance” and;

b. Bernard Brillet and José Juste Ruiz, in coordination with the Secretariat, to analyse the legal nature of the main obligations contained in the Land-Based Sources related Regional Actions Plans adopted by COP.

Agenda item 4: Evaluation of National Implementation Reports following Section IV of the Procedures and Mechanisms of Compliance

21. The Secretariat introduced document UNEP(DEPI)/MED CC.13/7, which presented a Synthesis Analysis of the information provided in the national implementation reports submitted by Contracting Parties for the biennium 2014-2015. In its presentation, the Secretariat highlighted that the synthesis analysis was purely factual, focused on the legal and policy implementation aspects and described what has been reported.

22. The Secretariat also referred to the document tabled at the Meeting of the MAP Focal Points (Athens, Greece, 12-15 September 2017) on the General Status of the Progress in the Implementation of the Barcelona Convention and its Protocols (UNEP(DEPI)/MED WG.443/Inf.11). The document had been prepared by the Secretariat in conjunction with MAP components, and transmitted to the Compliance Committee following the Meeting of the MAP Focal Points.

23. The meeting welcomed the Synthesis Analysis and the General Status of Progress as a solid basis for assessing compliance with the Barcelona Convention and its Protocols. The meeting pointed out that whether considering compliance by topic or country, assessment should be focused and be made after careful consideration of all aspects. The thorough and comprehensive nature of the two documents merited their in-depth analysis, before making any decision on the most appropriate course of action. Tight time constraints prevented the meeting from doing so, and made it advisable to undertake such analysis at the 14th Meeting of the Compliance Committee, based on an updated version of both the Synthesis Analysis and the General Status of Progress and involving MAP components, as deemed necessary.

24. Based on the general discussion, the Compliance Committee agreed as follows:

Conclusions and Recommendations

- a. to include in the Programme of Work of the Compliance Committee for the biennium 2018-2019 the following activity: “Examination, in close coordination with the MAP components, of possible difficulties in the interpretation of the provisions of the Barcelona Convention and its Protocols, for consideration at the Meeting of the Contracting Parties, taking into account the findings of the General Status of Progress in the Implementation of the Barcelona Convention and its Protocols”;**
- b. the Secretariat to update the Synthesis Analysis (UNEP(DEPI)/MED CC.13/7) and the General Status of Progress (UNEP(DEPI)/MED WG.443/Inf.11) for consideration and action to take by the 14th Meeting of the Compliance Committee;**
- c. the Secretariat to contact MAP components for any clarification required, especially regarding the technical analysis of the information submitted in the national implementation reports, and provide the relevant information as appropriate.**

Agenda item 5: Admissibility Criteria and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols

25. Orr Karassin introduced in detail document UNEP (DEPI)/MED CC.13/8, which provided admissibility criteria and set a procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance. The document aimed to facilitate the processing of communications to the Compliance Committee of “any other relevant information”, in accordance with Paragraph 23.bis of the Procedures and Mechanisms on Compliance.

26. Following-up on the conclusions and recommendations of the 12th Meeting of the Compliance Committee, the document had been jointly prepared by Orr Karassin and the Secretariat. It moves forward work provided for in activity seven of the Programme of Work of the Compliance Committee for the biennium 2016-2017 (COP 19, Decision IG. 22/15): “Follow-up of the determination criteria of admissibility of relevant information sources (Article 23.bis of Decision IG. 17/2 related to the Initiative Power of the Compliance Committee)”.

27. In the ensuing discussion, the following points were made:

General considerations

- a. the meeting welcomed the document, which provided a well-articulated step-by-step approach to facilitate the flow of information from the public and observers to the Compliance Committee under Paragraph 23.bis of the Procedures and Mechanisms on Compliance;
- b. the framework articulated in the document facilitates members of the public and observers, as defined by the Rules of Procedure of the Compliance Committee, to communicate their concerns about a Party’s compliance with the Barcelona Convention and its Protocols to the Compliance Committee under Paragraph 23.bis of the Procedures and Mechanisms on Compliance;

- c. the admissibility criteria and procedure presented in the document provide an efficient and rational way for handling the communications from the public and observers by the Compliance Committee, thus enhancing public participation and access to information without overloading the agenda of the Compliance Committee;
- d. the document itself is not binding and provides an internal tool for the Compliance Committee to use to its best convenience when processing the information from the public and observers under Paragraph 23.bis of the Procedures and Mechanisms on Compliance. To open in this context a procedure to revise the Procedures and Mechanisms on Compliance and the associated Rules of Procedure of the Compliance Committee is not advisable;
- e. the *modus operandi* described in the document takes inspiration from similar mechanisms which have been put in place by other Multilateral Environmental Agreements (MEAs), such as the United Nations Economic Commission for Europe (UNECE) MEAs, including the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters;

Specific considerations

- f. regarding the form of the communications as addressed in paragraphs 11 to 13 of the document, diverging views were expressed. In the view of some members, a more flexible approach should be taken by, for instance, not limiting the length of the communications or not including as a minimum requirement for communicants indication of whether domestic or international remedies have been taken;
- g. other members pointed out that as worded, paragraphs 11 to 13 struck the right balance between facilitating the public and observers to approach the Compliance Committee and the need to avoid overloading the agenda of the Compliance Committee by a flood of cases. In particular, these members referred to the value of having information whether domestic or international remedies have been taken, to avoid any potential conflict between the work of the Compliance Committee and ongoing domestic or international remedies;
- h. other points such as the need to keep the confidentiality of the communicant, if so requested, and the role of the rapporteur should be also addressed;
- i. further refinement in language is required. The document should be drafted in layperson's language to allow straightforward information of the public and observers. In terms of refining the current drafting, plain and ordinary language should be used where practical and appropriate, for best readability;
- j. furthermore, the title of the document should be adjusted along these lines "Admissibility Criteria of Relevant Information Sources and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols" to better reflect the fact that it is a deliverable of activity 7 of the Programme of Work of the Compliance Committee for the biennium 2016-2017 (COP 19, Decision IG. 22/15);
- k. the document should be revisited in light of the discussion to reach a common conclusion, including the most appropriate way to present it to COP 20.

28. To facilitate and advance work, the Member of the Compliance Committee, Larbi Sbai, revised the meeting document UNEP (DEPI)/MED CC.13/8 in light of the discussion above. The revised version was the basis for the intense deliberations which led to a consensual version of the document for COP 20.

29. Following discussion, the Compliance Committee:

Conclusions and Recommendations

- a. agreed on the Admissibility Criteria of Relevant Information Sources and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols as presented in Annex III to this report. The**

Admissibility Criteria should be annexed to the Activity Report of the Compliance Committee for the biennium 2016-2017, as presented in Annex V to this report, for COP 20 to take note of them;

b. agreed that the draft Admissibility Criteria should be made available at the MAP website, Compliance Committee section, with a view to ensure its accessibility by the general public and MAP components.

30. The Compliance Committee noted the communication from Ecologistas en Acción de la Región Murciana, Spain, regarding the implementation of the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean by Spain.

31. The Compliance Committee agreed on the following steps to take:

Conclusions and Recommendations

a. the Secretariat, on behalf of the Compliance Committee, to address Ecologistas en Acción de la Región Murciana, Spain, in order for them to possibly provide a translation and summary of twelve pages at maximum of its communication in English or French;

b. following the Admissibility Criteria of Relevant Information Sources and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance, to designate Orr Karassin as Rapporteur for the case in order to provide a summary for consideration at the 14th Meeting of the Compliance Committee.

Agenda item 6: Draft Guidelines for the Preliminary Assessment of Reports submitted under Article 26 of the Barcelona Convention and relevant Articles of its Protocols

32. The Secretariat introduced document UNEP(DEPI)/MED CC.13/9, which summarised the results of the testing of the draft Guidelines for the Preliminary Assessment of Reports to Identify Actual or Potential Cases of Non-Compliance. The testing exercise had been conducted intersessionally, following on the conclusions and recommendations of the 12th Meeting of the Compliance Committee, which agreed on arrangements among its members for testing the Guidelines against three national implementation reports. The tests conducted were presented in documents UNEP(DEPI)/MED CC.13/Inf.5 and UNEP(DEPI)/MED CC.13/Inf.5 Add.1

33. The meeting highlighted that setting criteria for assessing compliance is crucial for the Compliance Committee to fulfil its mandate objectively. The analysis of the results of the testing exercise should be factored into further work in that direction. This requires a thorough examination of the outcomes of the testing exercise, which due to tight time constraints the meeting was not in a position to carry out. In light of it, the Compliance Committee agreed:

Conclusions and Recommendations

a. to include in the Programme of Work of the Compliance Committee for the biennium 2018-2019 the following activity: “In the context of the draft Guidelines for the Preliminary Assessment of Reports to Identify Actual or Potential Cases of Non-Compliance, to establish a set of criteria for assessing compliance”;

b. to analyse the results of the testing of the draft Guidelines for the Preliminary Assessment of Reports to Identify Actual or Potential Cases of Non-Compliance as presented in documents UNEP(DEPI)/MED CC.13/9, UNEP(DEPI)/MED CC.13/Inf.5 and UNEP(DEPI)/MED CC.13/Inf.5 Add.1 at its 14th Meeting.

Agenda item 7: Draft Compliance Committee Activity Report for the biennium 2016-2017

34. The Secretariat presented document UNEP(DEPI)/MED CC.13/10, which provided a draft of the Activity Report of the Compliance Committee for the biennium 2016-2017. The draft Activity Report presented the deliverables from the 12th Meeting of the Compliance Committee under each activity of the Programme of Work of the Compliance Committee for the biennium 2016-2017. The

draft was prepared by the Secretariat and the Chairperson of the Compliance Committee, Milena Batakovic, as the meeting went through its Agenda. This allowed the Compliance Committee having a revised version of the draft Activity Report, including the Programme of Work of the Compliance Committee for the biennium 2018-2019, at the end of the meeting, for finalization in preparation for COP 20.

35. The Secretariat introduced the draft Decision IG. 23/2 on the Outcome of the work of the Compliance Committee for the biennium 2016-2017. The draft Decision had been tabled at the Meeting of the MAP Focal Points (Athens, Greece, 12-15 September 2017) (UNEP(DEPI)/MED WG.443/5) and transmitted to the Compliance Committee following the Meeting of the MAP Focal Points. The meeting discussed the draft Decision and in light of its conclusions and recommendations produced a revised version for finalization in preparation for COP 20.

36. The Compliance Committee agreed:

Conclusions and Recommendations

a. on the Programme of Work of the Compliance Committee for the biennium 2018-2019, as presented in Annex IV to this report;

b. on the Activity Report of the Compliance Committee for the biennium 2016-2017, as presented in Annex V to this report. The Activity Report should include as an annex the Admissibility Criteria of Relevant Information Sources and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, as presented in Annex III to this report, for COP20 to take note of them;

c. on the draft Decision IG. 23/2 Compliance Committee: biennium 2016-2017, as presented in Annex VI to this report.

Agenda item 8: Election of Chair for the biennium 2018-2019

37. The Secretariat noted that the Chairperson of the Compliance Committee, Milena Batakovic, as well as the two Vice-Chairs of the Compliance Committee, José Juste Ruiz and Samira Hamidi had been elected by the 12th Meeting of the Compliance Committee for the biennium 2016-2017, which ends by COP 20. To ensure continuity in the work of the Compliance Committee, and provided that they continue to be members of the Compliance Committee after COP 20, the Committee elected for the biennium 2018-2019:

Conclusions and Recommendations

- **Milena Batakovic (Group III) as Chairperson of the Compliance Committee;**
- **José Juste Ruiz (Group II) as Vice-Chairperson of the Compliance Committee, and**
- **Samira Hamidi (Group I) as Vice-Chairperson of the Compliance Committee.**

Agenda item 9: Other Matters

38. Under this Agenda item, Nicos Georgiades referred to document UNEP(DEPI)/MED CC.13/11, which presented a proposal to amend the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols. Tight time constraints prevented Nicos Georgiades from introducing his proposal, including the rationale behind the proposed amendments, which had been incorporated in the form of “comments” in his original submission. In this context, and in order to study the proposal in-depth, the meeting suggested to consider it at the next meeting of the Compliance Committee under a specific Agenda item addressing the amendment of the Procedures and Mechanisms on Compliance. This should be reflected in the Programme of Work of the Compliance Committee for the biennium 2018-2019.

39. The Compliance Committee agreed as follows:

Conclusions and Recommendations

a. to include in the Agenda for the 14th Meeting of the Compliance Committee Meeting, the item “Amendment of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols” and consider under this specific item a revised version of the document UNEP(DEPI)/MED CC.13/11, which will include the rationale behind the proposed amendments;

b. to include in the Programme of Work of the Compliance Committee for the biennium 2018-2019 the following activity: “To consider proposals to amend the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols”.

Agenda Item 10: Place, dates and duration of the 14th Meeting of the Compliance Committee

40. Taking into account its Programme of Work for the biennium 2018-2019, the Compliance Committee discussed the place, dates and duration for its next meeting. The second quarter of 2017 (May or June) was seen as a feasible timeframe, within which to fix exactly the dates intersessionally and when the new members of the Committee will be known.

41. In addition, noting its growing workload, the Compliance Committee discussed the possibility of holding 3-day meetings subject to workload requirements and the availability of funds. In this context, the Compliance Committee agreed to forward the following recommendation to COP 20, as part of the Activity Report of the Compliance Committee for the biennium 2016-2017, as presented in Annex V to this report:

Conclusions and Recommendations

Given the intensive Programme of Work and the long hours that Committee members have to invest during the meetings and intersessionally, the Compliance Committee stresses the need to be allocated additional time for its meetings.

Agenda Item 11: Closing of the Meeting

42. The Compliance Committee expressed deep and warm thanks to Selma Cengic, Nicos Georgiades and Larbi Sbai for their excellent work at the Compliance Committee. Their support to the work of the Committee since its establishment has been crucial in steadily strengthening its role, thus contributing to the reinforcement of the governance of the Barcelona Convention and the MAP system. The Compliance Committee wished them all the best for their future endeavours.

43. The Meeting was closed by the Chairperson of the Compliance Committee, Milena Batakovic, at 17:30 on 27 September 2017.

Annex I
List of Participants

List of Participants / Liste des participants

| Members / Membres titulaires | Alternate Members / Membres suppléants |
|---|--|
| <p>Ms. CATO Odeta National Project Manager UNDP Abequir Luga, Tirana Tirana, Albania Email: odeta.cato@undp.org</p> | <p>Ms. BATAKOVIC Milena Senior adviser Department for nature protection, monitoring, analysis and reporting Environmental Protection Agency of Montenegro Podgorica, Montenegro Tel: +382 2061 8256 Email: milena.batakovic@epa.org.me</p> |
| <p>Ms. CENGIC Selma Executive Director Hydro-Engineering Institute Sarajevo, Bosnia and Herzegovina Tel: +387 3320 7949 Email: selma.cengic@heis.ba</p> | <p>Mr. BRILLET Bernard Inspecteur général de l'administration du développement durable honoraire Paris, France Tel: +336 2372 0515 Email: bernard.brillet@developpement- durable.gouv.fr</p> |
| <p>Mr. GEORGIADES Nicos Environmental Adviser Nicosia, Cyprus Tel: +357 9947 9028 Email: nicosgeorgiades@cytanet.com.cy</p> | <p>Ms. HAMIDI Samira Inspectrice Centrale de l'Environnement Ministère des Ressources en Eau et de l'Environnement Direction Générale de l'Environnement et du Développement Durable Algiers, Algeria Tel: +213 0 2143 2847 Mob: +213 5 5901 3340; +213 5 5091 9596 Email: natechesamira@yahoo.fr</p> |
| <p>Mr. JUSTE RUIZ José Catedrático de Derecho Internacional Universidad de Valencia Valencia, Spain Tel: +34963828553 Mob: +34606985454 Email: jose.juste@uv.es</p> | <p>Ms. KARASSIN Orr Head of Public Law Program the Department of Sociology and Political Science- the Open University of Israel Rannana, Israel Tel: +972 9778 0698 Mob: +9725 4422 9181 Email: karassin@gmail.com, karassin@openu.ac.il</p> |
| <p>M. SBAI Larbi Conseiller du Secrétaire Général Département de la Pêche Maritime Ave. Belhassan El Ouazzani Rabat, Morocco Tel : +2125 3768 8260 Mob : +2126 6189 5656 Email : sbai@mpm.gov.ma</p> | |
| <p>Ms. TURPANJI Aysin Legal Expert Ankara, Turkey Tel: +9 050 5432 0961 Fax: +9 0312 418 7386</p> | |

| | |
|---|--|
| <p>Email: aysin.turpanci@csb.gov.tr; aysinturpanci@gmail.com</p> | |
| <p>Mr. ZAKI Joseph Edward Mekhael Advisor to the minister of communication and information technology for legal affairs & economical Cairo, Egypt Tel: +2010 0140 7774 Email: sb_joseph@hotmail.co.uk; sb_Joseph@hotmail.com</p> | |

**SECRETARIAT TO THE BARCELONA CONVENTION
COORDINATING UNIT OF THE MEDITERRANEAN ACTION PLAN**

Ms. Tatjana Hema
Deputy Coordinator
Tel: +3021 0727 3115
Email: tatjana.hema@unep.org

Ms. Luisa Rodriguez-Lucas
Legal Officer
Tel: +3021 0727 3142
Email: luisa.rodriguez-lucas@unep.org

Annex II
Provisional Agenda

Provisional Agenda

- Agenda item 1** Opening of the Meeting
- Agenda item 2** Adoption of the Agenda and Organization of Work
- Agenda item 3** Follow-up of the implementation of Decisions IG. 22/15 and IG. 22/16 of the 19th Meeting of Contracting Parties (COP 19)
- Agenda item 4** Evaluation of National Implementation Reports following Section IV of the Procedures and Mechanisms of Compliance
- Agenda item 5** Admissibility Criteria and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols
- Agenda item 6** Draft Guidelines for the Preliminary Assessment of Reports submitted under Article 26 of the Barcelona Convention and relevant Articles of its Protocols
- Agenda item 7** Draft Compliance Committee Activity Report for the biennium 2016-2017
- Agenda item 8** Election of Chair for the biennium 2018-2019
- Agenda item 9** Other Matters
- Agenda item 10** Place, dates and duration of the 14th Meeting of the Compliance Committee
- Agenda item 11** Closing of the Meeting

Annex III

Admissibility Criteria of Relevant Information Sources and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols

Admissibility Criteria of Relevant Information Sources and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols

1. By Decision IG.21/1, the 18th Meeting of the Contracting Parties (COP 18) (Istanbul, Turkey, 3-6 December 2013) amended the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols (Decision IG. 17/2, as amended) by including a new Paragraph 23.bis under which:

“The Committee may examine, on the basis of the biennial activity reports or in the light of any other relevant information, any difficulties encountered by a Contracting Party in the implementation of the Convention and its Protocols. The Committee may ask the Party concerned to provide all additional information. The Party concerned shall have a period of two months to respond.

Paragraphs 24 to 30 and 32 to 34 shall apply, *mutatis mutandis*, in the case of referral to the Committee on its own initiative”.

2. *Source of communications.* The term “any other relevant information” in Paragraph 23.bis of the Procedures and Mechanisms on Compliance is intended to be comprehensive in its coverage so as to include all sources of information.

3. Concerning public and observers, any member of the public and observers, as defined in Rule 3.12¹ and Rule 3.14² of the Rules of Procedure of the Compliance Committee (Decision IG. 19/1 as amended) respectively, may submit a communication to the Compliance Committee in the context of Paragraph 23.bis of the Procedures and Mechanisms on Compliance.

4. *Form of the communication.* Communications addressed to the Compliance Committee should be in writing or in electronic form through the Secretariat and as concise and concrete as possible. It is preferable that the communication should not be more than twelve pages in total. Visual means are also welcomed.

5. The following minimum requirements should be included in any communication addressed to the Compliance Committee

- (a) name and contact details of the communicant, whether this is a natural or legal person; the communication should be signed and be accompanied by a brief statement of the purpose of the communication. The Compliance Committee will not consider anonymous submission, but it will however respect any request of confidentiality by the communicant;
- (b) clear identification of the Party or Parties concerned;
- (c) it is advisable a one to two-page summary with the main facts of the case;

¹ Rule 3.12 of the Rules of Procedure of the Compliance Committee defines the term “The Public” as: “one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organizations or groups”.

² Rule 3.14 of the Rules of Procedure of the Compliance Committee defines the term “Observers” as: “the organizations referred to in article 20 of the Convention and those included in the list of MAP partners as approved by the Meeting of the Contracting Parties”.

Article 20.1 “Observers” of the Barcelona Convention reads: “ The Contracting Parties may decide to admit as observers at their meetings and conferences:

- (a) any State which is not a Contracting Party to the Convention;
- (b) any international governmental organization or any non-governmental organization the activities of which are related to the Convention”.

See COP19 Decision IG. 22/18 “Cooperation and Partners” for the List of new MAP Partners.

- (d) a document presenting the facts of the alleged non-compliance, and clearly stating how the facts presented constitute a case of non-compliance with the Barcelona Convention and/or its Protocols;
 - (e) indication of whether steps have been taken to use the remedies available at national and/or international level.
6. Translation into one other working language of the Compliance Committee will be provided by the Secretariat up to a maximum of twelve pages as described above.
7. *Sending of communications:* Communications should be addressed to the Compliance Committee through the UNEP/MAP Coordinating Unit. Communications should not be sent to the individual members of the Compliance Committee or to its Chairperson.
8. *Processing of communications:* Upon receipt of a communication the Secretariat will send an acknowledgement of the receipt and transmit the communication to the Party concerned and to the Compliance Committee within two weeks from the receipt clarifying that, at the present stage it has not been deemed admissible by the Compliance Committee.
9. Communications forwarded by the Secretariat will be considered by the Committee at its next meeting for the Committee to take a decision whether to enter into their preliminary admissibility
10. *Criteria of admissibility:* The Compliance Committee will consider the admissibility of communications addressed to it. To that end the Chair of the Compliance Committee in consultation with the Compliance Committee will appoint from among its members a Rapporteur for each communication.
11. *Determination of admissibility:* For determining admissibility of the communication the Compliance Committee after a brief introduction by the designated Rapporteur will deliberate on its admissibility.
12. When determining admissibility the Compliance Committee will consider whether the communication is:
- (a) anonymous;
 - (b) *de minimis*;
 - (c) manifestly ill founded
13. In addition, the Compliance Committee will consider whether domestic remedies have been exhausted.
14. If the Compliance Committee determines that the communication is inadmissible, it will inform the Party concerned and the communicant accordingly, through the Secretariat.
15. If the Compliance Committee determines that the communication is admissible, it will notify the Party concerned and the communicant accordingly, through the Secretariat.
16. The Compliance Committee may after making a positive decision on admissibility present the questions raised with the Party concerned, if any, when forwarding the communication. Such questions will be transmitted to the Party concerned by letter from the Secretariat, together with the confirmation of preliminary admissibility.
17. The Compliance Committee may also address any questions to the communicant it might find necessary to clarify the facts of the communication. Such questions will be transmitted to the communicant by letter from the Secretariat, together with the confirmation of preliminary admissibility.

18. The Party concerned should, as soon as possible but no later than two months from the date of the Secretariat's letter, submit written explanations or statements on the matter.
19. If the Party concerned contests the admissibility of the communication, the Compliance Committee will consider this and the communicant will be given an opportunity to comment and/ or provide additional information.
20. If the Compliance Committee confirms the admissibility of the communication, it will proceed to the examination of the substance of it. Otherwise, the Compliance Committee will reverse its preliminary decision. The non-admissibility of the communication by the Committee is final. The Compliance Committee will inform the Party concerned and the communicant through the Secretariat.
21. The Compliance Committee should start the formal discussion on all particular communications at the first meeting that takes place following either the receipt of a response to the communication from the Party concerned or within the deadline of two months if no response has been received by then.
22. When the Compliance Committee discuss the substance of any communication at a particular meeting, the Secretariat will notify the Party concerned and the communicant that the communication will be discussed following *mutatis mutandis* the proceedings established in paragraphs 24 to 30 of the Procedures and Mechanisms on Compliance³.

³ Article 23.bis *in fine* of the Procedures and Mechanisms on Compliance states that: "Paragraphs 24 to 30 [Proceedings] and 32 to 34 [Measures] shall apply *mutatis mutandis*, in the case of referral to the Committee on its own initiative".

Annex IV

Programme of Work of the Compliance Committee for the biennium 2018-2019

| Programme of Work of the Compliance Committee for the biennium 2018-2019 | | |
|--|----------------------|---|
| Activity | Lead/Who | Timetable/When |
| Specific submissions under Section V of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocol | | |
| 1. To consider any submissions and/or referrals in accordance with Section V of the Procedures and Mechanisms on Compliance | Compliance Committee | 14 th and 15 th Compliance Committee Meetings |
| General issues of Compliance and Implementation under the Barcelona Convention and its Protocols | | |
| 2. To consider specific situations of actual or potential non-compliance by individual Parties in accordance with Section IV, Paragraph 17(a) of the Procedures and Mechanisms on Compliance | Compliance Committee | 14 th and 15 th Compliance Committee Meetings |
| 3. At the request of the Meeting of the Contracting Parties, to consider general compliance issues in accordance with Section IV, Paragraph 17(b) of the Procedures and Mechanisms on Compliance | Compliance Committee | 14 th and 15 th Compliance Committee Meetings |
| 4. To consider any other issues as requested by the Meeting of the Contracting Parties in accordance with Section IV, Paragraph 17(c) of the Procedures and Mechanisms on Compliance | Compliance Committee | 14 th and 15 th Compliance Committee Meetings |
| 5. Within the framework of the Revised Reporting Format, to analyse the legal nature of the main obligations of COP thematic Decisions for the purpose of assessing compliance | Compliance Committee | 14 th and 15 th Compliance Committee Meetings |
| 6. In the context of the Draft Guidelines for the preliminary assessment of reports to identify actual or potential cases of non-compliance, to establish a set of criteria for assessing compliance | Compliance Committee | 14 th and 15 th Compliance Committee Meetings |
| 7. Development of an Explanatory Note for the Revised Reporting Format of the Barcelona Convention and its Protocols (subject to adoption of the Revised Reporting Format by COP 20) | Compliance Committee | 14 th and 15 th Compliance Committee Meetings |
| 8. To continue work in order to enhance Compliance Mechanisms' and Procedures' effectiveness, with focus on awareness raising activities | Compliance Committee | 14 th and 15 th Compliance Committee Meetings |
| 9. Examination, in close coordination with the MAP Components, of possible difficulties in the interpretation of the provisions of the Barcelona Convention and its Protocols, for consideration at the Meeting of the Contracting Parties, taking into account the findings of the General Status of Progress in the Implementation of the Barcelona Convention and its Protocols | Compliance Committee | 14 th and 15 th Compliance Committee Meetings |
| 10. To consider proposals to amend the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols | Compliance Committee | 14 th and 15 th Compliance Committee Meetings |

Annex V

Activity Report of the Compliance Committee for the biennium 2016-2017

Activity Report of the Compliance Committee for the biennium 2016-2017

Section 1: Introduction

1. The role and functioning of the Compliance Committee is governed by Decision IG.17/2 on Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, as amended by Decisions IG. 20/1 and IG. 21/1 and Decision IG. 19/1 on the Rules of Procedure of the Compliance Committee, as amended by Decision IG. 21/1.
2. The Compliance Committee met twice for the biennium 2016-2017. The 12th and 13th Meetings of the Compliance Committee were held on 24-25 January 2017 and 26-27 September 2017 respectively, in Athens, Greece at the premises of the UN Environment/Mediterranean Action Plan (UN Environment/MAP) Coordinating Unit.
3. At its 12th Meeting, pursuant to Paragraph 10 of the Procedures and Mechanisms on Compliance and Rule 6 of the Rules of Procedure of the Compliance Committee, the Compliance Committee elected for the biennium 2016-2017: (1) Milena Batakovic (Group III) as Chairperson of the Compliance Committee; (2) José Juste Ruiz (Group II) as Vice-Chairperson of the Compliance Committee, and (3) Samira Hamidi (Group I) as Vice-Chairperson of the Compliance Committee.
4. The 13th Meeting of the Compliance Committee elected the same Chairperson and two Vice-Chairs for the biennium 2018-2019, provided that they continue to be members of the Compliance Committee after the 20th Meeting of the Contracting Parties (COP 20) (Tirana, Albania, 17-20 December 2017).
5. The paragraphs below highlight the main points raised and deliverables at the 12th and 13th meetings of the Compliance Committee for each of the activities of the Programme of Work of the Compliance Committee for the biennium 2016-2017 (COP 19, Decision IG. 22/15).

Section 2: General issues of Compliance and Implementation under the Barcelona Convention and its Protocols

2016-2017 Programme of Work, Activity 9: "Elaboration of an explanatory note for the revised reporting format of the Barcelona Convention and its Protocols"

Draft Revised Reporting Format

6. At its 12th Meeting, the Compliance Committee examined a draft Revised Reporting Format for the Implementation of the Barcelona Convention and its Protocols. The draft was prepared by the Secretariat in close coordination with MAP components following Decisions 22/16 and 22/20 of COP 19, by which the Meeting of the Contracting Parties requested a simplified and practical draft of the reporting format for the Barcelona Convention and its Protocols.
7. The Revised Reporting Format triggered a number of questions, such as the possibility to simplify the quantitative sections of the Revised Reporting Format, the importance to give Contracting Parties further room to explain difficulties and challenges faced when implementing the Barcelona Convention and its Protocols and the need to distinguish between mandatory reporting and optional reporting when assessing compliance.
8. Based on discussion, and keeping in mind the scheduled exercise test of the Revised Reporting Format among MAP Focal Points, arrangements were made for the Compliance Committee to provide comments intersessionally. As a result, a further refined version of the Revised Reporting Format was produced for MAP Focal Points to test.

9. At its 13th Meeting, at the time of preparing its Programme of Work for the biennium 2018-2019, the Compliance Committee agreed to include among its activities the development of an Explanatory Note for the Revised Reporting Format of the Barcelona Convention and its Protocols. This should be taken forward once the Revised Reporting Format for the implementation of the Barcelona Convention and its Protocols is adopted by COP 20.

2016-2017 Programme of Work, Activity 3: "Analysis in accordance with paragraphs 17 (b) and (c) of the Procedures and Mechanisms on Compliance, of general issues of non-compliance arising out of the reports submitted by the Contracting Parties for the periods 2012-2013 and 2014-2015"

2016-2017 Programme of Work, Activity 10: "Examination, in close coordination with the MAP Components, of possible difficulties in the interpretation of the provisions of the Protocols, for consideration at the Meeting of the Contracting Parties"

Draft Guidelines for the Preliminary Assessment of Reports submitted under Article 26 of the Barcelona Convention and relevant Articles of its Protocols

10. At its 12th Meeting, the Compliance Committee examined the draft Guidelines for the Evaluation of Reports to Identify Actual or Potential Cases of Non-Compliance and made arrangements for the draft Guidelines to be tested intersessionally by the Committee against three national implementation reports for the reporting period 2014-2015.

11. The results of the testing exercise were tabled at the 13th Meeting of the Compliance Committee, which highlighted the importance of setting criteria for assessing compliance. The Committee noted that work in that direction requires a thorough examination of the results of the testing exercise and that under the given tight time constraints, it would not be prudent to do so at this stage.

12. In light of the above, the Compliance Committee agreed to analyse the results of the testing of the draft Guidelines for the Preliminary Assessment of Reports to Identify Actual or Potential Cases of Non-Compliance at its 14th Meeting, and include among the activities of its Programme of Work for the biennium 2018-2019 the establishment of a set of criteria for assessing compliance, within the context of the Draft Guidelines.

Evaluation of National Implementation Reports following Section IV of the Procedures and Mechanisms of Compliance

13. At its 12th Meeting, the Compliance Committee examined the Synthesis Analysis of the information provided in the national implementation reports submitted following the 11th Compliance Committee Meeting for the period 2012-2013 and agreed, in preparation for its next meeting, to instruct the Secretariat to prepare an analysis of the information submitted by Contracting Parties for the reporting period 2014-2015.

14. At its 13th Meeting, the Compliance Committee held a general discussion on the most effective way to address the Synthesis Analysis of the information provided in the national implementation reports submitted by Contracting Parties for the biennium 2014-2015, as well as the General Status of the Progress in the Implementation of the Barcelona Convention and its Protocols, which had been presented at the Meeting of the MAP Focal Points (Athens, Greece, 12-15 September 2017) as information document UNEP(DEPI)/MED WG. 443/Info. 11 and then transmitted to the Committee.

15. The Compliance Committee noted that the thorough and comprehensive nature of the two documents deserved them to be analysed in-depth. Tight time constraints prevented the Committee from doing so and made it advisable to undertake such analysis at the next meeting of the Compliance Committee, based on an updated version of both the Synthesis Analysis and the General Status of Progress and involving MAP components, as deemed necessary.

16. In light of the above, the Compliance Committee agreed to request the Secretariat to update the Synthesis Analysis and the General Status of Progress documents for consideration and action to take by the 14th Meeting of the Compliance Committee. In addition, should further clarification be required, especially regarding the technical analysis of the information submitted in the national implementation reports, the Secretariat will contact MAP Components and provide the relevant information as appropriate.

2016-2017 Programme of Work, Activity 7: "Follow up of determination of criteria of admissibility of relevant information sources (Article 23.bis of Decision IG. 17/2 related to the Initiative Power of the Compliance Committee)"

Admissibility criteria and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols

17. At its 12th Meeting, the Compliance Committee discussed how to operationalise Paragraph 23.bis of the Procedures and Mechanisms on Compliance, under which the Committee may examine, on the basis of the biennial activity reports or in the light of any other relevant information, any difficulties encountered by a Contracting Party in the implementation of the Convention and its Protocols. The Compliance Committee made arrangements for work to be taken forward intersessionally by the Committee in order to prepare a document on admissibility criteria addressing the source and quality of information.

18. The 13th Meeting of the Compliance Committee welcomed and examined the results of this work in the form of draft Admissibility Criteria and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance and raised the following key points as regards the draft Admissibility Criteria and Procedure: 1) they provide a well articulate step-by-step approach to facilitate the flow of information from the public and observers to the Compliance Committee; 2) they articulate a framework to facilitate members of the public and observers to address the Compliance Committee; 3) they provide an efficient and rational way of handling the communications from the public and observers by the Compliance Committee, thus enhancing public participation and access to information, without overloading the agenda of the Compliance Committee; 4) they are not binding, providing an internal tool for the Compliance Committee to use when processing communications from the public and observers under Paragraph 23.bis of the Procedures and Mechanisms on Compliance. The Compliance Committee also discussed the most appropriate way to present the draft Admissibility Criteria and Procedure to COP 20.

19. Based on intense deliberations and work carried out during the meeting to produce a consensual version of the document, the Compliance Committee agreed on the Admissibility Criteria of Relevant Information Sources and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, as annexed to this report for COP 20 to take note of them.

20. The Compliance Committee further agreed that the Admissibility Criteria should be made available at the UN Environment/MAP website, Compliance Committee section, with a view to ensure their accessibility by the general public and MAP components.

2016-2017 Programme of Work, Activity 9: "Analysis of the effectiveness of the application of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, taking into account the feedback from the Parties on the conditions under which the supporting role of the Committee could be improved"

2016-2017 Programme of Work, Activity 6: "Continuation of the examination of the proposals aimed at strengthening the Committee under the Barcelona Convention and its Protocols"

Methods to enhance the Compliance Mechanisms' and Procedures' effectiveness

21. At its 12th Meeting, the Compliance Committee discussed how to strengthen the Compliance Committee's role and arrangements were put in place for collecting input from MAP Focal Points through a questionnaire devised to identify practical ways and means for the Compliance Committee to best support Contracting Parties in implementing the Barcelona Convention and its Protocols, thus reinforcing its own role in facilitating and promoting compliance.
22. The Compliance Committee noted with disappointment the low level of responses, as inputs were only made by six of the 22 MAP Focal Points.
23. In the ensuing discussion, the Committee further noted that the results of this exercise were a good opportunity to reflect on the visibility of the Compliance Committee. Raising awareness among Contracting Parties and the public of the Compliance Committee's role and work could be very effective in promoting and facilitating compliance.
24. The Compliance Committee agreed to include among the activities of its Programme of Work for the biennium 2018-2019, to continue to work in order to enhance Compliance Mechanisms' and Procedures' effectiveness, with focus on awareness raising activities. In this context, the Committee put in place arrangements for a small group of its members, in coordination with the Secretariat, to revisit the text on the Compliance Committee, as currently appearing on the MAP webpage, and redraft it as appropriate; as well as to identify key elements for future communication materials (i.e. brochure) targeting mainly the general public, MAP Components and MAP Focal Points.

Proposal to amend the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols

25. Under the Agenda item "Other Matters" of its 13th Meeting, a proposal to amend the Procedures and Mechanisms on Compliance was tabled. Tight time constraints prevented the meeting from analysing the proposal in-depth and the Compliance Committee agreed to consider it at its next meeting under a specific Agenda item addressing the amendment of Procedures and Mechanisms on Compliance and include this activity in the Programme of Work of the Compliance Committee for the biennium 2018-2019.

2016-2017 Programme of Work, Activity 11: "Provision of opinion on the assessment to be carried out by the Secretariat with the help of appropriate legal expertise, on the extent of the legally binding nature for the Contracting Parties of programmes of measures and their implementation timetables as adopted in the framework of the Protocols of the Barcelona Convention"

Legal nature of the main obligations of COP Decisions

26. At its 12th Meeting, the Compliance Committee discussed how to take forward the following activity of its programme of work: "Provision of opinion on the assessment to be carried out by the Secretariat with the help of appropriate legal expertise, on the extent of the legally binding nature for the Contracting Parties of programmes of measures and their implementation timetables as adopted in the framework of the Protocols of the Barcelona Convention". The Compliance Committee made arrangements to work intersessionally with the aim of developing a preliminary scoping paper addressing the legal nature and the main obligations of thematic decisions.
27. At its 13th Meeting, the Compliance Committee considered the main elements that should frame further work on the legal nature of the main obligations of COP thematic decisions for the purposes of compliance, highlighting that the initial standing point for any further analysis on this subject is that all acts adopted by the Meetings of the Contracting Parties (COP Decisions) have a normative nature and as such are mandatory.

28. From this point forward, the legal nature of the main obligations contained in COP thematic Decisions, such as the Decisions on Regional Actions Plans, should be analysed, being this exercise of particular relevance within the framework of the Revised Reporting Format, under which the implementation of the Regional Action Plans adopted by COP Decisions plays a key role.

29. The Compliance Committee agreed to include among the activities of its Programme of Work for the biennium 2018-2019 the analysis, within the framework of the Revised Reporting Format, of the legal nature of the main obligations of COP thematic decisions for the purpose of assessing compliance. The Committee further agreed on arrangements for a small group of its members, in coordination with the Secretariat, to take this work forward, starting with the analysis of the legal nature of the main obligations contained in the Land Based Sources Protocol related Regional Plans adopted by COP.

2016-2017 Programme of Work, Activity 5: "Analysis of broader issues requested by the meeting of the Contracting parties in accordance with paragraph 17 (c) of the procedures and mechanisms on compliance, including a detailed examination of the issues raised by MAP Components on the application of the Protocols"

30. At its 13th Meeting, the Compliance Committee noted the General Status of the Progress in the Implementation of the Barcelona Convention and its Protocols, which had been presented at the Meeting of the MAP Focal Points (Athens, Greece, 12-15 September 2017) and then transmitted to the Committee following the MAP Focal Points Meeting. The Committee agreed to proceed as detailed in paragraph 16 above.

Section 3: Specific submissions under Section V of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols

2016-2017 Programme of Work, Activity 1: "Examination of any referrals by the Contracting Parties in accordance with Paragraphs 18 and 19 of the Procedures and Mechanisms on Compliance"
2016-2017 Programme of Work, Activity 2: "Examination of any referrals by the Secretariat in accordance with Paragraph 23 of the Procedures and Mechanisms on Compliance"

31. No submissions were received under Section V of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols neither at the 12th nor the 13th Compliance Committee meetings.

2016-2017 Programme of Work, Activity 4: "Consideration at the Committee's initiative, of any difficulties encountered by a Contracting Party in applying the Convention and its Protocols in accordance with Paragraph 23.bis of the Procedures and Mechanisms on Compliance"

32. At its 13th Meeting, the Compliance Committee considered the status of reporting for the reporting periods 2012-2013 and 2014-2015, and concluded that the submission of reports by Contracting Parties under Article 26 of the Barcelona Convention is a basic and legally binding requirement. Therefore, the Compliance Committee considers the non-submission of reports for the reporting period(s) 2012-2013 and/or 2014-2015 according to Article 26 of the Convention by the Contracting Parties shown in Table 1 as a potential situation of non-compliance and will take action under Article 23.bis of the Procedures and Mechanisms on Compliance. The Compliance Committee will ask, through the Secretariat, the abovementioned Parties to provide an explanation of the non-submission of their reports and the Parties concerned shall have a period of two months to respond.

| Contracting Party | Reporting Period 2012-2013 | Reporting Period 2014-2015 |
|--------------------------|---------------------------------------|---------------------------------------|
| Egypt | Non submission | Non submission |
| Libya | Non submission | Non submission |
| Monaco | Non submission | Non submission |
| Slovenia | Submission | Non submission |
| Spain | Non submission | Non submission |
| Syria | Non submission | Non submission |
| Tunisia | Non submission | Non submission |

33. Noting the communication from Ecologistas en Acción de la Región de Murciana, Spain, regarding the implementation of the Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean by Spain, the 13th Meeting of the Compliance Committee, requested the Secretariat to address the organization in order for them to possibly provide a translation and summary, of twelve pages at maximum, of its communication in English or French.

34. Following the Admissibility Criteria of Relevant Information Sources and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, the Compliance Committee, designated Dr. Orr Karassin as Rapporteur for the case, in order to provide a summary for consideration at the 14th Meeting of the Compliance Committee.

Section 4: Recommendations to COP from the Compliance Committee

35. Given the intensive Programme of Work and long hours that committee members invest during the meetings and intersessionally, the Compliance Committee stresses the need to be allocated additional time for its meetings.

Annex: Admissibility Criteria of Relevant Information Sources and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, as presented in Annex III to the Report of the 13th Meeting of the Compliance Committee (Athens, Greece, 26-27 September 2017)

Annex VI

Draft Decision IG. 23/2 Compliance Committee: biennium 2016-2017

Draft decision IG.23/2

Compliance Committee: biennium 2016–2017

The Contracting Parties to the Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols at their twentieth meeting,

Having regard to the Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols, in particular article 27 thereof on compliance,

Recalling decision IG.17/2 of the fifteenth meeting of the Contracting Parties on procedures and mechanisms on compliance under the Barcelona Convention and its Protocols, as amended by decision IG. 20/1 of the seventeenth meeting of the Contracting Parties and decision IG. 21/1 of the eighteenth meeting of the Contracting Parties,

Recalling also decision IG. 19/1 of the sixteenth meeting of the Contracting Parties on the rules of procedure of the Compliance Committee, as amended by decision IG. 21/1 of the eighteenth meeting of the Contracting Parties,

Emphasizing the role of the Compliance Committee in assessing specific situations of actual or potential non-compliance by individual Contracting Parties and general compliance issues, and in providing advice and assisting Contracting Parties in facilitating and promoting compliance with their obligations under the Barcelona Convention and its Protocols,

Reminding Contracting Parties of the importance of timely providing nomination to the Compliance Committee to ensure its renewal and proper functioning and in this respect strongly emphasizing the obligation of the Contracting Parties to ensure the active and consistent participation of their approved nominees to the work of the Compliance Committee.

Noting with appreciation the work undertaken by the Compliance Committee during the biennium 2016–2017,

Seeking to promote identification, as early as possible, of the challenges faced by Contracting Parties in implementing the Barcelona Convention and its Protocols, and ensuring that the most appropriate and effective measures are taken to address those challenges,

Conscious of the need to further enhance the effectiveness of compliance mechanisms and procedures, thus strengthening the role of the Compliance Committee in facilitating and promoting compliance with the Barcelona Convention and its Protocols,

Having considered the meeting reports of the biennium 2016–2017 submitted by the Compliance Committee to the Contracting Parties at their twentieth meeting,⁴

1. *Take note of the Activity Report of the Compliance Committee for the biennium 2016-2017, including the Admissibility Criteria of Relevant Information Sources and Procedure under Paragraph 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, as contained in Annex I to the present Decision;*
2. *Adopt the Programme of Work of the Compliance Committee for the biennium 2018-2019, as contained in Annex II to the present Decision;*
3. *Elect and/or renew, in accordance with the Procedures and Mechanisms on Compliance, the membership of the Compliance Committee, as set out in Annex III to the present Decision;*
4. *Request the Compliance Committee to report to the Contracting Parties at their twenty-first meeting on the work it has carried out to fulfil its functions in accordance with Paragraph 31 of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols.*

⁴ UNEP (DEPI)/MED IG 23/Inf.4.

Annex I: Activity Report of the Compliance Committee for the biennium 2016-2017, as presented in Annex V to the Report of the 13th Meeting of the Compliance Committee (Athens, Greece, 26-27 September 2017);

Annex II: Programme of Work of the Compliance Committee for the biennium 2018-2019, as presented in Annex IV to the Report of the 13th Meeting of the Compliance Committee (Athens, Greece, 26-27 September 2017)