



UNITED  
NATIONS

EP

UNEP(DEPI)/MED CC.9/7



UNITED NATIONS  
ENVIRONMENT PROGRAMME  
MEDITERRANEAN ACTION PLAN

17 October 2014  
English  
Original: French

9<sup>th</sup> Meeting of the Compliance Committee of Barcelona Convention  
and its Protocols

Split, Croatia, 27-28 November 2014

**Agenda Item 4: Adoption of the draft report of the Eighth Meeting of the Compliance Committee**

**Draft Report of the Eighth Meeting of the Compliance Committee**

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## **Introduction**

1. The Eighth Meeting of the Compliance Committee was held at the offices of the UNEP/MAP Secretariat, in Athens (Greece), from 21 to 22 October 2013.

## **Participation**

2. The following full and alternate members of the Committee took part in this meeting: Mr. Joseph Edward Zaki, Mrs. Daniela Addis, Mr. Nicos Georgiades, Mr. Louis Vella, Mr. Larbi Sbai, Mr. Novak Cadjenovic, Mrs. Ekaterina Skouria, Mrs. Selma Cengic, Mr. Michel Prieur and Mr. José Juste Ruiz.

3. The UNEP/MAP Secretariat was represented by Mrs. Maria Luisa Silva Meijas, Executive Secretary and Coordinator of Barcelona Convention, and by Mr. Didier Guiffault, Legal Advisor of MAP.

4. The list of participants is available in **Annex I** of the present rapport.

## **Agenda item 1: Opening of the Meeting**

5. The President, Mr. Larbi SBAI, opened the meeting and welcomed the members of the Compliance Committee. He thanked the Secretariat for allowing the Committee to convene right before the Eighteenth Meeting of the Contracting Parties, in December 2013.

6. Mrs. Maria Luisa Silva Meijas highlighted that this meeting will be the last before the Eighteenth Meeting of the Contracting Parties in December 2013. She recalled the meeting of the National Focal Points last September, which dealt with two draft resolutions regarding the Compliance Committee and regarding the new report format for Barcelona Convention and its Protocols. She mentioned two files (amendments to the Rules of Procedure and recognition of a power of initiative for the Committee) which would be submitted for adoption to the Meeting of the Contracting Parties. Regarding the Rules of Procedure, she indicated that the members of the Bureau of the Convention found the amendment propositions submitted by the Committee interesting and submitted, in return, amendments which are justified by the context of financial difficulties MAP is currently confronted with. Regarding the submission of reports, she recalled that the Secretariat addressed several reminder letters to concerned contracting Parties to remind them of their obligation to submit reports. She considered that these reminders were positive because other reports should have reached the Secretariat within the coming weeks. She underscored the importance of submitting the Activity Report of the Commission for the Biennium 2012-2013, thus informing the Contracting Parties about the Committee's positions and propositions. It was, indeed, a significant prerogative the Committee should make use of. The Coordinator also emphasized that, beyond the issue of compliance, other more concrete objectives would be taken into consideration thanks to the Ecosystem Approach taken into account. This approach would require more time because it would motivate the Secretariat to work on technical information to be included in the report submission system. She indicated, regarding this point that one of the workshops of the Secretariat for the coming Biennium would be to review the reporting system in concertation with the Compliance Committee.

7. In keeping with the intervention of the Coordinator, the President considered that the desire of the Contracting Parties was to give an important place to the Compliance Committee in the Barcelona system and the mission of its members was to give substance to its role and its activities.

**Agenda item 2: Adoption of the provisional agenda and organization of work**

8. The meeting adopted the provisional agenda and the annotated agenda mentioned in documents UNEP(DEPI)/MED CC. 8/1 and 8/2. The provisional agenda is available in **Annex II** of the present report.

**Agenda item 3: Propositions of amendment to the Rules of Procedures of the Compliance Committee**

9. The Chair recalled that, during the Seventh Meeting, the Committee approved the amendments given to its Rules of Procedure, submitted to the 77th session of the Bureau of the Contracting Parties to Barcelona Convention (Ankara (Turkey – 1/3 July 2013.) for examination and adoption in conformity with Article 32 of the Rules of Procedure. He indicated that the Bureau examined the amendments proposed by the Committee and drafted to his attention a paper in Annex III of his report, setting his propositions of modification exclusively regarding paragraphs 1 and 2 of Article 4 of the Rules of Procedure and requesting, among others, a clarification over the voting process mentioned in Article 7, paragraph 1.e. Moreover, he asserted that the meeting of the National Focal Points (Athens, 10-12 September 2013) adopted the amendments of the Bureau proposed in Article 4 of the Rules of Procedure, as well as those proposed by the Committee to other articles of the present Rules of Procedure.

10. The members of the Committee have given their approval over the amendments proposed by the Bureau of the Convention, provided that the term *minimum* is kept in the first sentence of Article 4.1 of the Rules of Procedure. Regarding the voting process set in Article 7, paragraph 1.e; the Committee considered that it is useful to refer to the Voting Section of the Rules of Procedure, which stipulates, in Article 21.1, that if all efforts to reach a consensus remain vain, the Committee adopts, as a last resort, its conclusions, measures and recommendations by 6 present and voting members at least. The President proposed to respond by mail to the Bureau of the Convention by providing it with the requested elements of information.

**Agenda item 4: Draft recommendation regarding the non-compliance with the report submission obligation, set in Article 26 of the Barcelona Convention**

11. Mr. Michel Prieur presented the draft recommendation, underlining that it was, for the first time, a document pertaining to the non-application of Article 26 of the Barcelona Convention related to the submission of reports in accordance with Barcelona Convention and its Protocols. He mentioned that the length of the draft recommendation was attributed to the accuracy requirement as much as possible while providing justifications. He presented the different chapters of the draft recommendation related respectively to the legal basis, to the summary of facts, to general observations, to the necessity for Contracting Parties to abide by their obligations regarding reports, and finally, to conclusions proposed by the Recommendation.

12. The President thanked Mr. Prieur for his presentation. He considered, in fact, that the length of the project might have been justified by the need to draw on all initiatives taken by the Secretariat vis-à-vis the Contracting Parties which did not accept their report obligation. One member considered that it was appropriate to focus on the last paragraph pertaining to conclusions and recommendations. Regarding the chapter pertaining to the legal basis, one member considered that it would be appropriate to strengthen the text and determine that the Compliance Committee has intervened because the Contracting Parties asked it to do that. Regarding the chapter about the summary of facts, a member requested these deadlines to be set in the Recommendation. Regarding the chapter related to the insistence for Contracting Parties to satisfy the report submission obligation, a member proposed to replace the term "*insistence*" by "*importance*". Regarding the chapter related to conclusions, a member proposed to replace paragraph 21 in the Section related to the Summary of Facts. Another member supported by another one considers that the two-page conclusions were too long and that it was more appropriate to shorten them by half. He requested to make this part more concise by avoiding analyses which are too elaborate. Mr. Prieur proposed to strike out the last sentence of

paragraph 31; another member proposed to replace in paragraph 33 of the verb *wish* by *strongly encourage*. A member, supported by another one, underlined a contradiction between paragraph 28 and the recommendations concerning the biennium 2008-2009. He hence proposed to delete the reference to this biennium. One member considered that it is appropriate to show equity towards Contracting Parties by distinguishing those which did not submit but one report and those which submitted many. Mr. Prieur indicated that the Recommendation did not aim at reviewing report submission since 2002. It was first about verifying if the Contracting Parties sent their reports within the last biennium 2010-2011. He recalled, in this regard, that all reminder letters concern indeed the non-submission of the report within this last biennium. To go back so far in the past might have been a complicated maneuver. In fact, the serious problems of the non-submission of reports started from the beginning of the last period, i.e. starting from 2009. He admitted that an amnesty intervenes implicitly for the previous period.

12. A member estimated, for his part, that reports prior to 2009 should have been taken into consideration. Regarding the repeated cases of non-compliance, he would have preferred that the number of reports from one Biennium to another would be determined. Another member considered that it was necessary to make the distinction between the Contracting Parties which did not submit reports within the Biennium 2010-2011 and those which have repeatedly failed to achieve their reporting obligation, namely Lebanon, Libya and Malta. Another member stated that the Committee would have, without entering into the details of the different reports, defined whether the Contracting Parties submitted them regularly. One member wanted to remind that the non-submission of reports clearly constitutes a non-compliance case.

13. A member indicated that it was noteworthy, in the Recommendation, that 8 Contracting Parties have perfectly respected their obligations regarding the submission of reports over the last biennia. The President proposed the creation of a Working Group to draft an amended version of the Recommendation project to be annexed to the 2012-2013 Biennial activity of the Compliance Committee for its submission for examination and adoption by the Eighteenth Meeting of the Contracting Parties.

#### **Agenda item 5: Draft explanatory note on the ways of use of the report**

14. Mr. Prieur presented the explanatory note project related to the drafting modalities of national reports by Contracting Parties. He recalled that the Committee noticed that several reports submitted to the Committee and to the Secretariat were difficult to make use of because of the manner in which the Contracting Parties drafted their responses. He detailed, first, the objectives of reports which should have translated the measures to apply the Convention and its Protocols; second, undertakes an assessment of the efficiency of these measures, and, finally, identified the problems encountered in the application of the Convention and its Protocols. Mr. Prieur detailed, at a later stage, some recommendations to the attention of Contracting Parties regarding the information about the different sections of the Questionnaire. Finally, on the level of propositions; he called, through the Secretariat and with the contribution of the Committee, to hold capacity building workshops targeting, particularly, Focal Points in order to better explain to report drafters the used method depending on the objectives for the reports to achieve.

15. A member noted that the objective of reports consists, first, of allowing for the assessment of performances and underlined that this draft note opened the way to a reflection over the qualitative assessment of the implementation, by the Contracting Parties, of their obligations under Barcelona Convention and its Protocols. Another member considered that the objective behind the present note was to help the Contracting Parties to understand the objectives of the report.

16 Regarding the technical reporting modalities, a member considered that the online reporting system should have been privileged and that Contracting Parties should have resorted to systematically. Another member underlined, however, that the online report presented a technical difficulty since the Contracting Party did not have the possibility to send back the information part of the Questionnaire by mail. She also regretted the fact that the Contracting Parties could not have

online access but to their own report. Another member raised questions about the reasons for which reports were not accessible to Contracting Parties and called upon the Secretariat to undertake an online reporting system assessment.

17. Regarding propositions, a member considered himself in favor of the creation of workshops, which should have been able to assess the usefulness of the Questionnaire and the means to improve it. He called upon the Secretariat to prepare, for the upcoming meeting of the Committee, a report analyzing the usefulness of the Questionnaire and determining the role of Regional Activity Centers within the MAP reporting system.

18. The Secretariat proposed to the Committee to add to the work program this proposition related to the assessment of the Questionnaire and to the means to put into execution to improve it. It indicated that the note of the Committee related to the ways of use of the report Form would be annexed to the biennial activity report and would be also accessible on the website.

**Agenda item Point 6: Adoption of the activity report of the Compliance Committee (Biennium 2012-2013)**

19. The Secretariat presented the draft activity report of the Committee within the biennium 2012-2013. The project highlighted the referrals of the Committee, the questions sent back by the Secretariat and the general questions of non-compliance. It also highlighted the status of the submission of national reports within the Biennium 2010-2011. It detailed the proposition of amendment of Decision IG. 17/2 regarding the recognition of the Committee power of initiative, as well as the propositions of amendment of Decision IG. 19/1 related to its Rules of Procedure. Finally, it detailed a proposition for the Committee work program for the Biennium 2014-2015 and set the modalities for the partial renewal of its members. This draft of the activity report contained a recommendation to the attention of the Conference of the Contracting Parties related to cases of non-compliance regarding the reports submission obligation in conformity with Article 26 of the Barcelona Convention.

20. A member noted that this draft report did not set clear trends for the upcoming activities of the Committee and that its contents revealed more a retrospective work. He underlined that it contained important elements, but that other points were purely informative. He suggested that the report set a list of specific propositions. The Coordinator stated that the report might have been more streamlined and suggested that the Bureau propositions regarding the Rules of Procedure might remain between brackets.

21. The Secretariat took note of all modifications and complementary input into the draft of the activity report of the Committee. The final version would be annexed to the minutes of the present meeting.

**Agenda item 7: Any other business**

22. Two members of the Committee thanked the Committee for the excellent atmosphere of cooperation which prevailed over the working sessions and expressed their wish to pursue with this cooperation with a new mandate.

**Agenda item 8: Adoption of conclusions and decisions**

23. The Committee examined the draft conclusions and decisions prepared by the Secretariat regarding its Eighth Meeting. Several amendments and complementary input were introduced to this draft. The Secretariat indicated that a finalized version of the project will be addressed to the members of the Committee for final validation, available in Annex I of the present report.

**Agenda item 9: Closing of the meeting**

24. The President closed the meeting at 17h50.

**Annex I**  
**Draft Conclusions & Decisions**





## **Draft conclusions and decisions**

### **I – Note of the Bureau of Barcelona Convention to the Non-Compliance Committee**

The Compliance Committee took note of the note of the Bureau which was addressed to it and wishes to provide the following answers to the two below-mentioned points:

- **Amendments to the Rules of Procedure of the Non-Compliance Committee**

The Committee took note of the amendments proposed by the Bureau of the Barcelona Convention to Article 4 of the Rules of Procedure of the Committee. Following the discussion, it approves these propositions of amendment provided that the term *minimum* is kept in sub-paragraph 1 of Article 4 related to the periodicity of two meetings for the Committee by Biennium.

- **Modalities of the voting process set in Article 7, paragraph 1, sub-paragraph e) of the Rules of Procedure.**

The Committee considered that for the interpretation of Article 7.1 e) of the Rules of Procedure, it is appropriate to refer to Section V (Voting) of the Rules of Procedure which raises, in Article 21.1, the principle for the adoption of measures, conclusions and recommendations by six present and voting members at least.

### **II – Examination of the draft Recommendation regarding the cases of non-compliance in the field of reports submission obligation.**

The Committee examined the draft Recommendation regarding the cases of non-compliance to reports submission obligation in conformity with Article 26 of the Barcelona Convention. The Committee introduced amendments to this draft which was adopted. The Recommendation will be annexed to the Biennial Activity Report 2012-2013 of the Committee for its submission for examination and adoption by the eighteenth meeting of the Contracting Parties.

### **III – Draft explanatory note on the ways of use of the report format**

The Committee examined the draft explanatory note addressed to the attention of the Contracting Parties about the ways of use of the report format of Barcelona Convention and its Protocols. The Committee revised and adopted this draft to be annexed to its Activity Report 2012-2013. The Committee also asked for the note to be accessible on the Internet website of the MAP.

### **IV – Adoption of the activity report of the Compliance Committee (Biennium 2012-2013)**

The Committee examined the draft of its biennial activity report 2012-2013 and brought amendments to the overall structure of the report and its contents. The draft report is approved by the Committee and will be presented by its President before the eighteenth meeting of the Contracting Parties.



**Annex II**  
**Provisional Agenda**



### **Provisional Agenda**

1. Opening of the meeting;
2. Adoption of the provisional agenda and organisation of work;
3. Submission of reports by the Contracting Parties (Biennium 2010-2011)
4. Draft explanatory note for fulfilling the Questionnaire on Report
5. Amendments to the rules of procedure of the Compliance Committee;
6. Adoption of the report on activities of the Compliance Committee (Biennium 2012-2013)
7. Any other business;
8. Adoption of the findings and decisions;
9. Closure of the meeting.



**Annex III**  
**List of Participants**





## List of Participants

Members	Alternate Members
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