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22nd Meeting of the Contracting Parties to the
Convention for the Protection of the Marine Environment
and the Coastal Region of the Mediterranean and its Protocols

Antalya, Turkey, 7-10 December 2021

Agenda Item 3: Thematic Decisions

Draft Decision IG.25/2: Compliance Committee

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Note by the Secretariat

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.

The Compliance Committee met three times during the biennium 2020-2021 by teleconference, responding to the extraordinary circumstances dictated by the COVID-19 pandemic. The 16th Meeting of the Compliance Committee was held on 16-18 June 2020 by teleconference and then a resumed session of it was held on 27-28 January 2021: (1) to follow-up on the communication brought up to the Compliance Committee under paragraph 23.bis of its Procedures and Mechanisms, by building proceedings with the Party concerned in preparation for its 17th meeting and, (2) in order to improve its effectiveness, to identify core areas of its Procedures and Mechanisms and Rules of Procedure to amend, on the basis of a mandate from COP 22 for the biennium 2022-2023. The 17th Meeting of the Compliance Committee was held on 10-11 June 2021 and included the holding of proceedings with the Party concerned regarding the said communication.

At its 16th and 17th meetings, the Compliance Committee went through its Programme of Work for the biennium 2020-2021, as adopted by Decision IG.24/1 of the 21st Meeting of the Contracting Parties (COP 21) (Naples, Italy, 2-5 December 2019) and worked on its delivery to the 22nd Meeting of the Contracting Parties (COP 22) (Antalya, Turkey, 7-10 December 2021). The outcome of the work of the Compliance Committee is presented in this document, containing the COP Draft Decision about the Compliance Committee, which is structured as follows.

Activity Report of the Compliance Committee for the biennium 2020-2021: The activity report is annexed to the present Draft Decision. The activity report builds on the reports of the 16th and 17th meetings of the Compliance Committee, as adopted by the Committee.

Following-up on the conclusions of the 17th Meeting of the Compliance Committee, as agreed at the meeting, the activity report includes an annex presenting amended Procedures and Mechanisms and Rules of Procedure for COP 22 to review their pertinence and take appropriate action, including adoption. The proposed amendments to the Procedures and Mechanisms and Rules of Procedure are presented in Annex I to this document and are exclusively the result of the intersessional work carried out by the Sub-groups on Procedures and Mechanisms and Rules of Procedure.

In considering the proposed amendments and the request from the Compliance Committee to COP 22 to review their pertinence and take appropriate action, including adoption,⁷ the attention is drawn to the following points made by the Secretariat at the 17th Meeting of the Compliance Committee.

(1) Under the 2020-2021 Programme of Work of the Compliance Committee (COP 21 Decision IG.24/1), the Committee was requested: *“To review the Rules of Procedure of the Compliance Committee in order to further clarify a number of outstanding issues and make a proposal as appropriate for adjusting accordingly the Procedures and Mechanisms on Compliance for consideration by COP 22”*.

(2) The outstanding issues were: (a) whether under paragraph 10 of the Procedures and Mechanisms, Alternate Members of the Compliance Committee can be elected as Committee officers (i.e. a Chairperson and two Vice-Chairpersons), and (b) whether under paragraph 7 of the Procedures and Mechanisms, the criterium of not to include more than one national of the same State applied equally to Members and Alternate Members of the Compliance Committee. Advice from the UNEP Principal Legal Officer was that officers are elected from the membership of the Compliance Committee, i.e. the seven Members; and that paragraph 7 of the Procedures and Mechanisms applies to both Members of the Compliance Committee and their Alternate Members. The scope of the exercise was to determine whether and how to reflect the said advice in the Rules of Procedure and then in the Procedures and Mechanisms for COP 22 to consider.

(3) The work undertaken by the Sub-groups of the Compliance Committee in amending the Procedures and Mechanisms and the Rules of Procedures is well beyond the request in the 2020-2021 Programme of Work of the Compliance Committee, as agreed by COP 21. It should be taken as solid

ground for future work on the basis of a mandate from COP 22, if COP so decides. The constitutive nature of the Procedures and Mechanisms and the nature of some of the proposed amendments affecting the core functioning of the Compliance Committee merit further in-depth discussion in a participatory process involving all Contracting Parties. In addition, the proposed amendments to membership require discussion of the associated transitional arrangements.

The Programme of Work of the Compliance Committee for the Biennium 2022-2023: The Programme of Work annexed to the present Draft Decision was agreed by the 17th Meeting of the Compliance Committee, and contains a set of activities for the Compliance Committee to carry out within the 2022-2023 timeline.

Renewal or Election of the Membership of the Compliance Committee. The list of Members and Alternate Members of the Compliance Committee to be renewed or elected by CO 22 will be provided once Contracting Parties proceed with the nomination of candidates following the corresponding procedure to be launched by the Secretariat.

This draft decision and its Annexes were submitted to and reviewed by the Meeting of the Mediterranean Action Plan (MAP) Focal Points 2021 (Teleconference, 10-17 September 2021) that decided to transmit it to the 22nd Meeting of the Contracting Parties (COP 22) (Antalya, Turkey, 7-10 December 2021) with two first bullets of the operational part of the draft decision, Annex I in its entirety, Point 6 of Annex II and two sections of Annex III in square brackets

The implementation of this Decision is linked to the Outcomes of the Foundational Programme on “Governance” of the proposed Programme of Work 2022-2023, and especially outcomes 5.1, 5.2 and 5.3. It has budgetary implications on MTF and external resources, reflected in the proposed budget.

Draft Decision IG.25/2
Compliance Committee

The Contracting Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) and its Protocols at their 22nd Meeting,

Recalling the Environment Assembly resolution UNEP/EA.4/Res.20, of 15 March 2019, entitled “Fifth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme V): delivering for people and the planet”,

Having regard to the Barcelona Convention, in particular Articles 26 and 27 thereof, about reports and compliance control, respectively, and the relevant articles of its Protocols,

Recalling Decision IG.17/2 of the 15th Meeting of the Contracting Parties (COP 15) (Almeria, Spain, 15-18 January 2008) on Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, as amended by Decision IG.20/1 of the 17th Meeting of the Contracting Parties (COP 17) (Paris, France, 8-10 February 2012) and Decision IG.21/1 of the 18th Meeting of the Contracting Parties (COP 18) (Istanbul, Turkey, 3-6 December 2013),

Recalling also Decision IG.19/1 of the 16th Meeting of the Contracting Parties (COP 16) (Marrakesh, Morocco, 3-5 November 2009) on the Rules of Procedure of the Compliance Committee, as amended by Decision IG.21/1 of the 18th Meeting of the Contracting Parties (COP 18) (Istanbul, Turkey, 3-6 December 2013),

Emphasizing the objective of the Compliance Committee in facilitating and promoting compliance with the obligations under the Barcelona Convention and its Protocols as well as its role in considering specific situations of actual or potential non-compliance by individual Contracting Parties and, at the request of the Meeting of the Contracting Parties, general compliance issues and any other issues,

Stressing the importance of the submission of national implementation reports by Contracting Parties, for the Compliance Committee to perform its role effectively and for the meeting of the Contracting Parties to keep under review the implementation of the Barcelona Convention and its Protocols,

Welcoming the submission of the national implementation reports for the biennium 2018-2019, using the online Barcelona Convention Reporting System (BCRS), and the progress made by Contracting Parties in implementing the Barcelona Convention and its Protocols,

Noting with appreciation the work carried out by the Compliance Committee during the biennium 2020-2021 to improve the timeliness and completeness of national implementation reports and the need to continue in that direction to enhance compliance with the obligation to submit national implementation reports under Article 26 of the Barcelona Convention and the relevant articles of its Protocols,

Aware of the challenges faced by the Contracting Parties in implementation, and the need to ensure that, in coordination with MAP components, where appropriate, adequate action is taken to facilitate and promote compliance through capacity building activities, as resources allow,

Bearing in mind the importance of enhancing the effectiveness of the compliance mechanisms and procedures by further strengthening the capacity of the Compliance Committee in meeting its role in facilitating and promoting compliance with the Barcelona Convention and its Protocols,

Having considered the Compliance Committee meeting reports of the biennium 2020–2021,

1. *[Take note]* of the Activity Report of the Compliance Committee for the Biennium 2020-2021, set out in Annex I to the present Decision, that contains proposed amendments to the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols and the

Rules of Procedure of the Compliance Committee;

2. [Request the Secretariat, the Contracting Parties and the Compliance Committee to work on a revised version of the Compliance Procedures and Mechanisms with a view to strengthening its effective functioning in addressing and facilitating full compliance with the Barcelona Convention and its Protocols, taking into account the draft presented by the Compliance Committee for the work already undertaken during 2020-2021 biennium, for consideration by CoP 23];
3. Adopt the Programme of Work of the Compliance Committee for the Biennium 2022-2023, set out in Annex II to the present Decision;
4. Urge those Contracting Parties who have not yet submitted their national implementation reports for the biennium 2018-2019 to do so, as soon as possible;
5. Invite the Contracting Parties to submit their national implementation reports for the biennium 2020-2021 using the online Barcelona Convention Reporting System by December 2022;
6. [Elect and/or renew, in accordance with the Procedures and Mechanisms on Compliance, the membership of the Compliance Committee, set out in Annex IV to the present Decision;]
7. Request the Compliance Committee to report to the Contracting Parties at COP 23 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.

[Annex I

Activity Report of the Compliance Committee for the Biennium 2020-2021

Activity Report of the Compliance Committee for the biennium 2020-2021

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 three times during the biennium 2020-2021 by teleconference, responding to the circumstances dictated by COVID-19 pandemic. The 16th Meeting of the Compliance Committee was held on 16-18 June 2020 by teleconference and then a resumed session of it was held on 27-28 January 2021. The 17th Meeting of the Compliance Committee was held on 10-11 June 2021.
3. At its 16th and 17th Meetings, the Compliance Committee went through its Programme of Work for the biennium 2020-2021, as adopted by Decision IG. 24/1 of the 21st Meeting of the Contracting Parties (COP 21) (Naples, Italy, 2-5 December 2019) and worked on its delivery to the 22nd Meeting of the Contracting Parties (COP 22) (Antalya, Turkey, 7-10 December 2021). The key outcomes of the work of the Compliance Committee are presented in this report in accordance with paragraph 31 of the Procedures and Mechanisms on Compliance, based on the conclusions and recommendations of the meetings. Further information is provided in the full report of the 16th and 17th Meetings of the Compliance Committee (documents UNEP/MED CC.16/11 and UNEP/MED CC.17/8).

Section 2: Specific Submissions under Section V of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols

Communication to the Compliance Committee under paragraph 23.bis of the Procedures and Mechanisms on Compliance

4. This section summarizes the discussions held at the 16th and 17th meetings of the Compliance Committee on the communication submitted by the Ecologistas en Accion de la Region Murciana (Spain) to the Committee under paragraph 23.bis of its Procedures and Mechanisms and conclusions reached based on discussions. No other submissions were received under Section V of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols neither at the 16th nor the 17th Compliance Committee meetings.
 - (A) 16th Meeting of the Compliance Committee (session 16-18 June 2020). The discussions held at the meeting on whether to confirm the admissibility of the communication, with specific reference to the matter of the exhaustion of domestic remedies concluded as follows.

The Compliance Committee:

- a. agreed that the reference to domestic remedies that have been exhausted under Paragraph 13 of the Admissibility Criteria of Relevant Information Sources and Procedures under Paragraph 23.bis of the Procedures and Mechanisms on Compliance should be understood as exhausted by the communicant;
- b. agreed that from the information submitted by Ecologistas en Accion de la Region Murciana (Spain) it can be concluded that domestic remedies have been exhausted;
- c. agreed in line with Paragraph 20 of the Admissibility Criteria to confirm the admissibility of the communication of Ecologistas en Accion de la Region Murciana (Spain) and in line with Paragraph 22 of the Admissibility Criteria to proceed with the examination of the substance of it following *mutatis mutandis* the proceedings established in paragraphs 24 to 30 of the Procedures and Mechanisms on Compliance;

- d. agreed to inform Spain and Ecologistas en Accion de la Region Murciana (Spain) of the outcomes of the decision of admissibility of the 16th Meeting of the Compliance Committee following the resumed session of the 16th Meeting of the Compliance Committee to take place on November or December 2020;
- e. asked the Secretariat to work with the Compliance Committee, following a resumed session of the 16th Compliance Committee meeting, in order to prepare a letter to Spain and Ecologistas en Accion de la Region Murciana (Spain) notifying the procedures to follow for the substantive discussion and if there is any need to provide additional information in preparation for the 17th Compliance Committee Meeting.

(B) 16th Meeting of the Compliance Committee (session 27-28 January 2021). The discussions held at the meeting on both the substantive and procedural aspects of the proceedings laid down in paragraphs 24 to 30 of the Procedures and Mechanisms on Compliance concluded as follows.

The Compliance Committee agreed:

(1) In order to facilitate further consideration of the facts and findings on the current status of the Lagoon of Mar Menor, including contributing factors and causes:

(a) to invite Spain, as the Party concerned, to submit further details related to some of the matters raised in its response to the communication from Ecologistas en Acción de la Región Murciana, Spain (EARM) addressing the following questions:

(i) Which prevention measures at source have been adopted to prevent or minimize the flow of nutrients into the Lagoon of Mar Menor? Please add documentation with regards to the flow of nutrients into the Lagoon of Mar Menor that would enable the Compliance Committee to assess whether there has been a reduction in such flows. This question refers to article 10 of the Barcelona Convention and articles 3.1 and 3.4, 6(b) and 11.1 and 11.2 of the SPA/BD Protocol.

(ii) How successful are the storm water collection or water treatment projects in preventing or reducing run-off water into Mar Menor? This question refers to article 10 of the Barcelona Convention and articles 3.1 and 3.4, 6(b), and 11.1 and 11.2 of the SPA/BD Protocol.

(iii) What type of implementation and management measures have been taken by the competent authorities with regards to the integrated management plan for Mar Menor and the Mediterranean coastal margins of the Region of Murcia (Decree no. 259/2019 of 10 October)? This question refers to article 7.2 (a) and section D, annex I to the SPA/BD Protocol.

(iv) Please specify efforts that have been taken to enhance the coordination mechanisms between the various competent public authorities in the different administrative services of the national, regional and local levels with regards to the effective management of Mar Menor. This question refers to article 7.2 (a) and section D, annex I to the SPA/BD Protocol and article 7 of the ICZM Protocol.

(v) Which measures, if any, have been taken following the audit of the periodic review of the SPAMI conducted in March 2019? This question refers to article 10 of the Barcelona Convention and articles 3.1 and 3.4, 6(b), 7.2(a) 11.1 and 11.2 and section D, annex I to the SPA/BD Protocol.

(vi) Please provide at your discretion, any other additional information on the efficacy of measures taken with regards to articles 6 and 7 and annex I to the SPA/BD Protocol, if not covered by the specific questions above.

(b) to invite Spain, as the Party concerned, to submit to the Secretariat, as soon as possible but at least within two months of the date of the letter from the Secretariat, the above listed information in one of the working languages of the Compliance Committee, but preferably in

English and not exceeding twelve pages in total. Please only submit additional technical information when it deems necessary and preferably in English, and

(c) to invite Spain, as the Party concerned, to participate in the proceedings on the subject matter of the communication to be held at 17th Meeting of the Compliance Committee (Teleconference, 10-11 June 2021).

(2) To establish a working group, composed of Daniela Addis, Orr Karassin, Xenia Loizidou, and the Chair and supported and facilitated by the Secretariat, to work intersessionally for building the proceedings at the 17th Meeting of the Compliance Committee by:

(i) consolidating a document detailing the facts and findings on the current state of Mar Menor, the contributing factors and causes, and

(ii) gathering and consolidating the questions to be addressed to Spain during proceedings under the lead of the Chair of the Compliance Committee, possibly supported by the Rapporteur, on the understanding that flexibility should be allowed for the Compliance Committee to address through the Chair additional related questions to Spain, if need be, during the holding of proceedings at the 17th Meeting of the Compliance Committee.

(3) To the question whether Ecologistas en Accion de la Region Murciana, Spain (EARM) should be invited to participate in the proceedings to be held at the 17th Meeting of the Compliance Committee (Teleconference, 10-11 June 2021), the Committee was not able to reach a decision by consensus. As a result, the Committee resorted to a voting procedure on this issue and by 5 votes against, 2 in favour and none abstentions, decided that, at this stage, it should not extend an invitation to Ecologistas en Accion de la Region Murciana, Spain (EARM) to participate in the proceedings to be scheduled at the 17th Meeting of the Compliance Committee.

(4) To write a letter to Ecologistas en Accion de la Region Murciana, Spain (EARM) communicating the outcome of the 16th Meeting of the Compliance Committee and its resumed session.

(5) On the following organizational arrangements for the proceedings to be held at 17th Meeting of the Compliance Committee (Teleconference, 10-11 June 2021):

a) Opening segment: Introduction and opening of the discussion by the Chair of the Compliance Committee,

b) Presentation by the Rapporteur of the non-disputed facts and findings on the state of the Lagoon of Mar Menor (Murcia) and causes and contributing factors,

c) Presentation segment: Presentation by the Party concerned (Spain)

d) Discussion segment: Discussion with the Party concerned (Spain), and

e) Closure of the proceedings by the Chair of the Compliance Committee.

(C) 17th Meeting of the Compliance Committee (10-11 June 2021). The Compliance Committee, having held proceedings with the Party concerned as per the Procedures and Mechanism on Compliance under the Barcelona Convention and its Protocols, concluded as follows.

a. to commend the Party concerned for its active collaboration in holding constructive proceedings by bringing and presenting the requested information in due time and form for the consideration of the Compliance Committee;

b. that more time is needed to deliberate on the comprehensive information provided by the Party concerned to reach an outcome;

c. the Secretariat to make every effort to enable a resumed session of this meeting, for the Compliance Committee to reach the final conclusions on this matter before COP 22; and

d. that the Party concerned should be informed of the outcome of the present meeting, as soon as possible.

Section 3: General Issues of Compliance under the Barcelona Convention and its Protocols

Status of submission and criteria for the assessment of national implementation reports under Article 26 of the Barcelona Convention

5. This section summarizes the discussions held at the 16th and 17th meetings of the Compliance Committee on the results of the testing of the criteria of submission, timelines, completeness and implementation against a set of 2016-2017 national implementation reports and the 2018-2019 national implementation reports submitted by Contracting Parties as of 20 April 2021. This section also includes the conclusions of the discussions held at the 16th and 17th meetings of the Compliance Committee on the status of submission of national implementation reports.

(A) 16th Meeting of the Compliance Committee (session 16-18 June 2020). The Compliance Committee agreed as follows.

The Compliance Committee:

- a. welcomed the submission of 2016-2017 national implementation reports, and urged those Contracting Parties who have not yet done to submit their national implementation reports using the on-line Barcelona Convention Reporting System (BCRS) as a matter of priority;
- b. encouraged Contracting Parties to submit their national implementation reports for the biennium 2018-2019 using the BCRS within the deadline of December 2020, as agreed in COP 21 Decision IG.24/1;
- c. urged Libya and Syria to continue their efforts towards the submission of their national implementation reports for the reporting periods 2012-2013 and 2014-2015 as a matter of priority; and
- d. agreed on the recommendations to promote compliance with the Barcelona Convention and its Protocols as contained in document UNEP/MAP CC.16/5 and asked the Secretariat to update them in preparation for the 17th Compliance Committee Meeting as new national implementation reports for the biennium 2016-2017 are received from Contracting Parties.

The Compliance Committee also:

- a. agreed for the criteria of completeness to set a threshold of over 80% of responses provided for considering a national implementation report as complete; though a 100% of completeness is the target for Contracting Parties;
- b. agreed on the criteria of submission, timeliness, completeness and implementation to be applied by the Secretariat together with MAP Components for the 2018-2017 national implementation reports in preparation for the 17th Compliance Committee Meeting; and
- c. asked the Secretariat to explore classification of Contracting Parties' performance as on the basis of the following categories: (i) complete report submitted on time, (ii) complete report submitted late, (iii) incomplete report submitted on time, (iv) incomplete report submitted late and (v) not reported.

(B) 17th Meeting of the Compliance Committee (10-11 June 2021). The Compliance Committee agreed as follows.

- a. The Compliance Committee agreed to adopt the tested and living criteria of submission, timeliness, completeness and implementation as a screening tool for the preliminary assessment of national implementation reports.
- b. The Compliance Committee welcomed the submission of national implementation reports for the biennium 2018-2019 using the online Barcelona Convention Reporting System (BCRS), and urged those Contracting Parties who have not yet done so to submit their national implementation reports before the MAP Focal Points Meeting.

Section 4: Functioning of the Compliance Committee

Election of the officers of the Compliance Committee for the biennium 2020-2021

6. The Compliance Committee elected for the biennium 2020-2021 the following officers: Odeta CATO (Group III) as Chairperson of the Compliance Committee; Samira Hamidi (Group I) as Vice-Chairperson of the Compliance Committee and Bernard BRILLET (Group II) as Vice-Chairperson of the Compliance Committee.

Procedures and Mechanisms on Compliance and Rules of Procedure of the Compliance Committee

7. This section summarizes the discussions held at the 16th and 17th meetings of the Compliance Committee on its effective functioning.

(A) 16th Meeting of the Compliance Committee (session 16-18 June 2020). The discussions held at the meeting on the identification of the core areas of the Procedures and Mechanisms and Rules of Procedure for improvement in order to enhance Compliance Mechanism's and Procedures' effectiveness concluded as follows.

1. The Compliance Committee agreed to establish the two sub-groups below to work intersessionally with Daniela Addis as facilitator, as follows:

a. Sub-group: Rules of Procedure. It is composed of Odeta Cato, Samira Hamidi, Evangelos Raftopoulos, Selma Osmanagic-Klico, Orr Karassin, Milena Batakovic and Daniela Addis and will work on the Rules of Procedure by addressing outstanding issues as already identified by the Bureau, the discussions that have taken place in the meetings of the Compliance Committee and any other issues that may merit consideration in order to strengthening the effectiveness of the Compliance Committee; and

b. Sub-group: Procedures and Mechanisms. It is composed of Odeta Cato, Xenia Loizidou, Selma Osmanagic-Klico, Orr Karassin, Daniela Addis, Evangelos Raftopoulos and will produce a set of recommendations identifying which points of the Procedures may need improvement for COP 22 to consider.

c. As a point of departure, the Chair of the Compliance Committee supported by the Secretariat will work on the ToR for the two sub-groups to conduct their work.

2. The Compliance Committee also concluded to establish a channel of communication with the Bureau and MAP Focal Points for the Compliance Committee to gather feedback on the follow-up of their recommendations and the modalities to be defined by the Working Group.

(B) 16th Meeting of the Compliance Committee (session 27-28 January 2021). The discussions held at the meeting, following the work carried out intersessionally by the Sub-Groups on the Rules of Procedure and Procedures and Mechanisms which were established after the Compliance Committee meeting session on 16-18 June 2020, concluded as follows.

The Compliance Committee agreed:

(1) In order to facilitate in-depth discussion and rapid adoption of decisions, to send by email comments and proposals in track changes on the document UNEP/MED CC.16/12 to the Secretariat and the Facilitator, at least 4 weeks before the 17th Meeting of the Compliance Committee (Teleconference, 10-11 June 2021);

(2) In particular, to confirm the identified key areas (a. Membership to the Compliance Committee, b. Nomination and election of candidates to the Compliance Committee, c. Criteria for the selection of candidates to the Compliance Committee, d. Enhancement of synergies) or to include more/other areas;

(3) Due to time constraints, to defer discussion and decisions to further enhancing Compliance Mechanisms' and Procedures' effectiveness to the first day of the 17th Meeting of the Compliance Committee (Teleconference, 10-11 June 2021).

(C) 17th Meeting of the Compliance Committee (10-11 June 2021). The discussions held at the meeting on the subject matter concluded as follows.

The Compliance Committee agreed to invite the Meeting of the Contracting Parties to review the pertinence of the proposed amendments to the Procedures and Mechanisms and to the Rules of Procedure of the Compliance Committee (document UNEP/MED CC.17/5) as presented in the annex to the Activity Report of the Compliance Committee for the biennium 2020-2021, and take appropriate action, including adoption.

Programme of Work of the Compliance Committee for the Biennium 2022-2023

8. The Compliance Committee at its 17th Meeting agreed on its Programme of Work for the biennium 2022-2023. The Committee also agreed for the Programme of Work to be annexed to the draft COP 22 Decision about the Compliance Committee (Annex II).

Section 5: Cooperation with other Compliance Procedures and Mechanisms of Multilateral Environmental Agreements (MEAs)

9. This section summarizes action taken to strengthen cooperation with the Compliance Procedures and Mechanisms established under other MEAs, with reference to the participation in the 16th Meeting of the Compliance Committee (session 16-18 June 2020) of a representative of the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) Compliance Committee and of a representative of the Centre International de Droit Comparé de l'Environnement (CIDCE).

The Compliance Committee:

Welcomed the initiative of inviting representatives from other MEAs Compliance Procedures and Mechanisms to participate in its meetings as a way of building synergies on compliance and recommend the Secretariat to continue this practice, potentially exploring online means, as the Agenda permits.

Appendix I to the Activity Report of the Compliance Committee for the Biennium 2020-2021

Proposed amendments to the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols

Decision IG.17/2: Procedures and mechanisms on compliance under the Barcelona Convention and its Protocols
(Consolidated text)¹

Amended by:

Decision IG.20/1, Annex I. (Source: UNEP (DEPI)/MED IG.20/8, Annex II)

Decision IG.21/1, Annex IV. (Source: UNEP (DEPI)/MED IG.21/9, Annex II)

I Objective, Nature and Principles

1. The objective of the compliance mechanism is to facilitate and promote compliance with the obligations under the Barcelona Convention and its Protocols, taking into account the specific situation of each Contracting Party. ~~in particular those, which are developing countries.~~

1.bis. The compliance procedure shall be facilitative, non-adversarial, dispute-preventing and cooperative in nature and its operation be guided by the principles of transparency, fairness, expedition as well as by equitable principles.

1ter. The compliance procedure shall be conducted by the principles of “due process” and “due diligence” in order to ensure fairness and transparency.

II Compliance Committee

2. A compliance committee, hereinafter referred to as “the Committee”, is hereby established.

3. The Committee shall consist of [seven] [nine] [fourteen] members elected by the Meeting of the Contracting Parties before the end of each Ordinary Meeting of the Contracting Parties from a list of candidates nominated by the Contracting Parties. ~~For each member of the Committee, the Meeting of the Contracting Parties shall also elect an alternate member from the above-mentioned list.~~

4. A full term of office commences at the end of an Ordinary Meeting of the Contracting Parties and runs until the end of the second Ordinary Meeting of the Contracting Parties thereafter. For the principle of continuity of functions, the term of office of the Chair and two Vice-Chairs of the Compliance Committee is extended as appropriate until their successors are elected at an Ordinary Meeting of the Compliance Committee.

5. At the Meeting of the Contracting Parties at which the decision establishing the mechanism is adopted, the Meeting shall elect three members and their alternates for half a term and four members and their alternates for a full term. At each ordinary meeting thereafter, the Contracting Parties shall elect for a full-term new members ~~and alternates~~ to replace those whose period of office is about to expire.

6. Members ~~and alternates members~~ shall not serve on the Committee for more than two consecutive terms.

7. The members of the Committee shall be nationals of Parties to the Barcelona Convention. The Committee shall not include more than one national of the same State.

¹ The consolidated text integrates the text of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols as contained in the Annex to Decision IG 17/2 adopted by the 15th Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 15), with the subsequent amendments adopted by COP 17 Decision IG.20/1 and COP 18 Decision IG. 21/1 for ease of reference only.

8. Nominated candidates shall be persons of high moral character and recognized competence in the matters dealt with by the Barcelona Convention and its Protocols ~~and~~ in relevant legal, scientific, and technical, socioeconomic, legal or other fields. Each nomination shall be accompanied by the curriculum vitae of the candidate. Contracting Parties ~~may consider the nominations of candidates from civil society and academia~~ are encouraged to avoid any conflict of interest by nominating government officials operating in the framework of the Barcelona Convention.

9. In electing members of the Committee ~~and their alternates~~, the Meeting of the Contracting Parties shall take into consideration equitable geographical representation, shall ensure rotation in order to secure the participation of nominated individuals from all Contracting Parties as members of the Committee within a reasonable period of time. To the extent possible, they shall also take into consideration a balance of scientific, legal and technical expertise.

10. The Committee shall elect its officers – a Chairperson and two Vice-Chairpersons – on the basis of equitable geographic representation and rotation to the extent possible and approve its Rules of Procedure.

11. Members of the Committee ~~and their alternates~~ shall serve in their individual personal capacities and shall act with independence and objectively impartially in the interests of the Barcelona Convention and its Protocols for the protection of the Mediterranean Sea and its coastal area avoiding any conflict of interest.

III Meetings of the Committee

12. The Committee shall meet at least once a year. The Committee may decide to hold additional meetings, in particular in conjunction with those of other Convention bodies.

13. The Secretariat shall inform all Contracting Parties of the date and venue of the meetings of the Committee. Unless the Committee or the Party whose compliance is in question (hereinafter “the Party concerned”) decides otherwise, the meetings of the Committee will be open to:

(a) Parties to the Convention, which shall be treated as observers in accordance with the Rules of Procedure for meetings and conferences of the Contracting Parties for the purpose of their participation in the Committee; ~~and~~

(b) observers, in accordance with Article 20 of the Convention and the Rules of Procedure for the meetings and conferences of the Contracting Parties; and

(c) on a case-by-case basis, the Committee may grant observer status to members of the civil society.

14. ~~In the absence of a member from a meeting, the respective alternate shall serve as the member~~

15. For each meeting, a quorum of [five] ~~[seven]~~ [ten] members is required.

16. The Committee shall make every effort to reach agreement by consensus on its findings, measures and recommendations. If all efforts to reach consensus have been exhausted, the Committee shall as a last resort adopt its findings, measures and recommendations by at least a three-fourths majority of the members present and voting. “Members present and voting” means members present and casting an affirmative or a negative vote.

IV Role of the Compliance Committee

17. The role of the Committee shall be to consider:

(a) specific situations of actual or potential non-compliance by individual Parties with the provisions of the Convention and its Protocols;

(b) ~~at the request of the Meeting of the Contracting Parties~~, general compliance issues, such as recurrent non-compliance problems, including in relation to reporting, taking into account the reports referred to in Article 26 of the Convention and any other report submitted by the Parties; and

(c) any other issues as requested by the Meeting of the Contracting Parties or a Contracting Party or the Secretariat if related to the Compliance Committee mandate and its Programme of Work as adopted by the Ordinary Meeting of the Contracting Parties.

17.bis In assessing and verifying information provided and the actual situation on the ground, the Committee is assisted by the MAP components responsible for the Barcelona Convention and its Protocols.

V Procedure

1. Submissions by Parties

18. The Committee shall consider submissions by:

(a) a Party in respect of its own actual or potential situation of non-compliance, despite its best endeavours; and

(b) a Party in respect of another Party's situation of non-compliance, after it has undertaken consultations through the Secretariat with the Party concerned and the matter has not been resolved within three months at the latest, or a longer period as the circumstances of a particular case may require, but not later than six months.

19. Submissions as referred to in paragraph 18 concerning the alleged non-compliance of a Party shall be addressed in writing to the Committee through the Secretariat, supported by substantiating information setting out the matter of concern and the relevant provisions of the Barcelona Convention and its Protocols.

20. The Secretariat shall, within two weeks of receiving a submission in accordance with paragraph 18 (b), send a copy of that submission to the Party concerned.

21. The Committee may decide not to proceed with a submission that it considers to be

- anonymous,
- de minimis or
- manifestly ill founded.

22. The Secretariat shall inform both the Party concerned and the Party indicated in paragraph 18(b) about the Committee's findings under paragraph 21 within two weeks of the date of the findings.

2. Referrals by the Secretariat

23. If the Secretariat becomes aware ~~from the periodic reports referred to in Article 26 of the Convention and any other reports submitted by the Parties~~ that a Party is facing difficulties in complying with its obligations under the Convention and its Protocols, the Secretariat shall notify the Party concerned and discuss with it ways of overcoming the difficulties. If the difficulties cannot be overcome within a maximum period of three months, the Party concerned shall make a submission on the matter to the Compliance Committee in accordance with paragraph 18 (a). In the absence of such a submission within six months of the date of the above-mentioned notification, the Secretariat shall refer the matter to the Committee.

2.bis Referral to the Committee on its own initiative

23.bis 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 through the Secretariat 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 Committees on its own initiative.

2. Proceedings

24. The Party concerned may present information on the issue in question and present responses and/or comments at every stage of the proceedings. At the invitation of the Party concerned, the Committee may undertake on-site appraisals at the Party's own cost.

25. The Committee may:

- (a) ask the Party concerned to provide further information, including an assessment of the reasons
- (b) why the Party may be unable to fulfil its obligations; and with the consent of the Party concerned, gather information in the territory of that Party, including on-site appraisals.

26. In its deliberations, the Committee shall take into account all the available information concerning the issue in question, which shall also be made equally available to the Party concerned.

27. The Party concerned shall be entitled to participate in the discussions of the Committee and present its observations. The Committee may, if it considers it necessary in a particular case of non-compliance, ask the Party concerned to participate in the preparation of its findings, measures and recommendations.

28. ~~The Committee shall be guided by the principles of “due process” and “due diligence” in order to ensure fairness and transparency.~~

29. The Committee shall, through the Secretariat, notify the Party concerned of its draft findings, measures and recommendations in writing within two weeks from the date of their completion. The Party concerned may comment in writing on the draft findings, measures and recommendations of the Committee within a period of time determined by the Committee.

30. The Committee, any Party or others involved in its deliberations shall protect the confidentiality of information transmitted in confidence by the Party concerned.

VI Committee reports to the Meetings of the Contracting Parties

31. The Committee shall prepare a report on its activities.

- (a) The report shall be adopted in accordance with paragraph 16. Where it is not possible to reach agreement on findings, measures and recommendations by consensus, the report shall reflect the views of all Committee members and provide the reasoning for its findings, measures and recommendations.
- (b) As soon as it is adopted, the Committee shall submit the report through the Secretariat, ~~including such recommendations on individual and general issues of non-compliance as it considers appropriate to the Parties for consideration at their next meeting to the Meeting of the Contracting Parties.~~

VII Measures

32. The Committee may take one or more of the following measures with a view to promoting compliance and addressing cases of non-compliance, taking into account the capacity of the Party concerned, in particular if it is a developing country, and also factors such as the cause, type, degree and frequency of non-compliance:

- (a) provide advice and, as appropriate, facilitate assistance;
- (b) request or assist, as appropriate, the Party concerned to develop an action plan to achieve compliance within a time frame to be agreed upon between the Committee and the Party concerned;
- (c) invite the Party concerned to submit progress reports to the Committee within the time frame referred to in subparagraph (b) above on the efforts it is making to comply with its obligations under the Barcelona Convention and its Protocols; and

- (d) make recommendations to the Meeting of the Contracting Parties on cases of non-compliance, if it finds that such cases should be handled by the Meeting of the Contracting Parties.

33. The Meeting of the Contracting Parties may decide, upon consideration of the report and any recommendations of the Committee, taking into account the capacity of the Party concerned, **in particular if it is a developing country**, and also factors such as the cause, type and degree of non-compliance, appropriate measures to bring about full compliance with the Convention and its Protocols, such as:

- (a) facilitate implementation of the advice from the Committee and facilitate assistance, including, where appropriate, capacity-building **measures**, to an individual Party;
- (b) make recommendations to the Party concerned;
- (c) request the Party concerned to submit progress reports on achievement of compliance with the obligations under the Convention and its Protocols; and
- (d) publish cases of non-compliance.

34. In the event of a serious, ongoing or repeated situation of non-compliance by a Party, the Meeting of the Contracting Parties, where appropriate, may:

- (a) issue a caution;
- (b) issue a report of non-compliance regarding that Party; or
- (c) consider and undertake any additional action that may be required for achievement of the purposes of the Convention and the Protocols.

VIII Review of procedures and mechanisms

35. The Meeting of the Contracting Parties shall regularly review the implementation and effectiveness of the compliance mechanism and take appropriate action.

IX Relationship with Article 28 of the Convention (Settlement of Disputes)

36. These procedures and mechanisms shall operate without prejudice to the settlement of disputes provisions of Article 28 of the Convention.

~~X Sharing of information with other relevant multilateral environmental agreements~~ Enhancement of synergies

~~37. Where relevant, the Committee may solicit specific information, upon request by the Meeting of the Contracting Parties, or directly, from compliance committees dealing with comparable matters, and shall report on its consultations to the Meeting of the Contracting Parties.~~

37. In order to enhance synergies with mechanisms of compliance under other agreements, the Compliance Committee may consult with those mechanisms and invite them to attend its meetings, and report back to the Meeting of the Contracting Parties, including with recommendations as appropriate.

37.bis In order to ensure further improved coordination and cooperation between the Compliance Committee and the governing bodies of the Barcelona Convention and MAP components, a representative of the Compliance Committee shall participate in the meetings of the Bureau, the MAP Focal Points and MAP Components as appropriate, and report back to the Meeting of the Contracting Parties, including with recommendations as appropriate.

XI Secretariat

38. The Coordinating Unit shall serve as the Secretariat of the Committee. It shall, inter alia, arrange and service the meetings of the Committee.

Appendix II to the Activity Report of the Compliance Committee for the Biennium 2020-2021

Proposed amendments to the Rules of Procedure of the Compliance Committee

Rules of Procedure of the Compliance Committee

(COP 18, Decision IG.21/1)

Purposes

Rule 1

Within the framework of the implementation of the procedures and mechanisms on compliance under the Barcelona Convention and its Protocols, hereinafter called "compliance procedures and mechanisms", contained in the annex to decision IG 17/2 on compliance procedures and mechanisms, hereinafter called decision IG 17/2, as adopted by the 15th Meeting of the Contracting Parties, these rules of procedure shall apply to any meeting of the Compliance Committee, hereinafter called "the Committee", under the Convention and its related Protocols.

Rule 2

The Rules of Procedure for Meetings and Conferences of the Contracting Parties to the Barcelona Convention and its related Protocols shall apply mutatis mutandis to any meeting of the Committee unless otherwise stipulated in the rules set out herein and in decision IG 17/2, and provided that rules 18 and 19 on representation and credentials of the Rules of Procedure for Meetings and Conferences of the Contracting Parties do not apply.

Definitions

Rule 3

For the purposes of these rules:

1. "Convention and its related Protocols" means the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) adopted in 1976 and amended in 1995 and its related Protocols: Protocol Concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emergency (Emergency Protocol), Barcelona, 1976; Protocol Concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea (Prevention and Emergency Protocol), Malta, 2002; Protocol for the Prevention of Pollution in the Mediterranean Sea by Dumping from Ships and Aircraft (Dumping Protocol), Barcelona, 1976; amendments to the Dumping Protocol, recorded as Protocol for the Prevention and Elimination of Pollution in the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea, Barcelona, 1995; Protocol for the Protection of the Mediterranean Sea against Pollution from Land- Based Sources (LBS Protocol), Athens, 1980; amendments to the LBS Protocol, recorded as Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities, Syracuse, 1996; Protocol concerning Mediterranean Specially Protected Areas (SPA Protocol), Geneva, 1982; Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean (SPA and Biodiversity Protocol), Barcelona, 1995; Protocol for the Protection of the Mediterranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil (Offshore Protocol), Madrid, 1994; Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal (Hazardous Wastes Protocol), Izmir, 1996;

Protocol on Integrated Coastal Zone Management in the Mediterranean (ICZM Protocol), Madrid, 2008.

2. “Compliance procedures and mechanisms” means the procedures and mechanisms on compliance under the Barcelona Convention and its related Protocols adopted by the 15th Meeting of the Contracting Parties and set out in the annex to decision IG 17/2.

3. “Contracting Parties” means Contracting Parties to the Convention and its related Protocols, including the amended versions, if any, for which the Convention and the related Protocols and their respective amendments are in force.

4. “Party concerned” means a Party in respect of which a question of compliance is raised as set out in section V of the compliance procedures and mechanisms.

5. “Committee” means the Compliance Committee established by section II, paragraph 2, of the compliance procedures and mechanisms and by decision IG 17/2 of the 15th Meeting of the Contracting Parties.

6. “Member” means a member of the Committee elected under section II, paragraph 3, of the compliance procedures and mechanisms.

7. ~~“Alternate member” means an alternate member elected under section II, paragraph 3, of the compliance procedures and mechanisms.~~

8. “Chairperson” means the Chairperson of the Committee elected in accordance with rule 6 of the present rules of procedure.

9. “Vice-Chairpersons” means the Vice-Chairpersons of the Committee elected in accordance with rule 6 of the present rules of procedure.

10. “Secretariat” means the Coordinating Unit that is designated by the Executive Director of the United Nations Environment Programme (UNEP) as responsible *for* the administration of the Mediterranean Action Plan (MAP), referred to in paragraph 38 of the compliance procedures and mechanisms.

11. “Representative” means a person designated by the Party concerned to represent it during the consideration of a question of non-compliance.

12. “The public” means one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organizations or groups.

13. “Bureau” means the Bureau of the Contracting Parties referred to in article 19 of the Convention.

14. “Observers” means 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 and members of the civil society which have been granted the status of observers by the Compliance Committee on a case-by-case basis as per the compliance procedures and mechanisms.

Membership of the Committee

Rule 3bis

1. Each member of the Committee shall serve in his or her personal capacity and act in an independent and impartial manner in the interest of the Barcelona Convention and its Protocols for the Protection of the Mediterranean Sea and its coastal area and avoid any conflicts of

interest.

2. The term of office of a member shall commence at the end of an ordinary Meeting of the Contracting Parties immediately following his or her election and run until the end of the Meeting of the Contracting Parties two or four years thereafter, as applicable.²

3. Every member serving the Committee shall, before taking up his or her duties, make a solemn declaration in a meeting of the Committee that he or she will perform his or her functions objectively, independently, impartially and conscientiously as provided in Rule 13.

4. Since the Committee members are elected in a strictly personal capacity, an absent Committee member is not entitled to designate a substitute

5. When a member of the Committee resigns or is otherwise unable to complete the assigned term of office, the Committee shall immediately request the Secretariat to start the replacement procedures. Therefore, the Bureau of the Meeting of the Parties shall appoint a new member from the list of candidates nominated by the Contracting Parties or, subsidiarily, shall request the Party which nominated that member to nominate a replacement to serve for the remainder of the term.³

6. Any other participant in the Committee's meetings shall attend as observer in accordance with paragraph 13 of the Procedures and Mechanisms.⁴

Place, dates and notice of meetings

Rule 4

1. The committee shall normally meet twice per biennium preferably once a year. It may recommend the Secretariat to hold additional meetings subject to workload requirements arising from submissions by concerned Contracting Parties, ~~and~~ referrals by the Secretariat and referrals by the Committee on its own initiative, subject to availability of funds.
2. Unless it decides otherwise, the Committee shall meet at the seat of the Secretariat. Any additional costs that may rise by changing of the place of the meeting shall be met by the host country.
3. At each meeting, the Committee shall decide in consultation with the Secretariat on the place, dates and duration of its next meeting.

Rule 5

Notice of Committee meetings shall be sent by the Secretariat to the members and alternate members and any representative, as the case may be, with a copy to the MAP Focal Points of all Contracting Parties, at least three months before the opening of the meeting.

Officers

² Note by the Secretariat: proposed Rule 3bis.2 reproduces Rule 10.1 of the Rules of Procedure and amends it by deleting the reference to "alternate members"

³ Note by the Secretariat: proposed Rule 3bis.5 replaces Rules 10.2 and 10.3 of the Rules of Procedure

⁴ Note by the Secretariat: proposed Rule 3bis.6 reproduces Rule 11.5 of the Rules of Procedure and amends it by adding the text "in accordance with paragraph 13 of the Procedures and Mechanisms".

Rule 6

The Committee shall elect a Chairperson and two Vice-Chairpersons for a term of two years. No officers shall serve for more than two consecutive terms.

Rule 7

1. In addition to exercising the powers conferred upon him or her elsewhere in these rules, the Chairperson shall:

- (a) Preside over the meeting;
- (b) Declare the opening and closure of the meeting;
- (c) Ensure the observance of these rules;
- (d) Accord the right to speak;
- (e) Put questions to the vote and announce decisions;
- (f) Rule on any points of order;
- (g) Subject to these rules, have complete control over the proceedings and maintain order.

2. The Chairperson may also propose:

- (a) The closure of the list of speakers;
- (b) A limitation on the time to be allowed to speakers and on the number of interventions on an issue;
- (c) The adjournment or closure of debate on an issue;
- (d) The suspension or adjournment of the meeting.

Agenda

Rule 8

1. In agreement with the Chairperson, the Secretariat shall draft the provisional agenda for each meeting of the Committee. The agenda of the Committee shall include items arising from its functions as specified in section IV of the compliance procedures and mechanisms and other matters related thereto.

2. The Committee, when adopting its agenda, may decide to add urgent and important items and to delete, defer or amend items.

Rule 9

The provisional agenda and the annotated agenda for each meeting, the draft report of the previous meeting and other working and supporting documents shall be circulated by the Secretariat to members ~~and alternate members~~ at least six weeks before the opening of the Committee's meeting.

Rule 10

~~1. The term of office of a member or alternate member shall commence at the end of an ordinary Meeting of the Contracting Parties immediately following his or her election and run until the end of the Meeting of the Contracting Parties two or four years thereafter, as applicable.⁵~~

~~2. If a member or alternate member of the Committee resigns or is otherwise unable to~~

⁵ Note by the Secretariat: Rule 10.1 has been moved up as Rule 3bis.2 and amended by deleting the reference to "alternate member".

~~complete his or her term of office, the Party which nominated that member or alternate member shall nominate a replacement to serve for the remainder of that member's or alternate member's mandate, subject to endorsement by the Bureau of the Contracting Parties.~~

~~3. When a member or alternate member resigns or is otherwise unable to complete the assigned term, the Committee shall request the Secretariat to start the replacement procedures in order to ensure, in accordance with paragraph 2 above, the election of a new member or alternate member for the remainder of the term⁶.~~

Rule 11

~~1. In accordance with these rules of procedure, members and alternate members shall be invited to attend Committee meetings.~~

~~2. Alternate members are entitled to take part in the proceedings of the Committee without the right to vote. An alternate member may cast a vote only if serving as a member.~~

~~3. During the absence of a member from all or part of a meeting, his or her alternate shall serve as the member.~~

~~4. When a member resigns or is otherwise unable to complete the assigned term or the functions of a member, his or her alternate shall serve as a member ad interim.~~

~~5. Any other participant in the Committee's meetings shall attend as an observer.⁷~~

When a member is absent for two consecutive meetings without providing any reasonable grounds, the term of office of the member concerned expires and new election proceeds, according to the provisions of Rule 3bis.5

Rule 12

1. Each member of the Committee shall, with respect to any matter that is under consideration by the Committee, avoid direct or indirect conflicts of interest. Any matter that may constitute a conflict of interest shall be brought as soon as possible to the attention of the Secretariat, which shall forthwith notify the members of the Committee. The concerned member shall not participate in the elaboration and adoption of findings, measures and recommendations of the Committee in relation to such a matter.

2. If the Committee considers that a material violation of the requirements of independence and impartiality expected of a member ~~or alternate member~~ of the Committee has occurred, it may decide to recommend, through the Secretariat to the Bureau of the Meeting of the Contracting Parties, to revoke the membership of any member ~~or alternate member~~ concerned, after having given the member ~~or alternate member~~ the opportunity to be heard.

3. All decisions of the Committee taken under this rule shall be noted in the annual report of the Committee to the Meeting of the Contracting Parties.

Rule 13

Each member ~~and alternate member~~ of the Committee shall take the following written

⁶ Note by the Secretariat: Rules 10.2 and 10.3 have been replaced with Rule 3bis.5.

⁷ Note by the Secretariat: Rule 11.5 has been moved up as Rule 3bis. 6 and amended by adding the text "in accordance with paragraph 13 of the Procedures and Mechanisms".

oath:

“I solemnly declare that I shall perform my duties as member of the Committee objectively, independently and impartially, acting in the interest of the Barcelona Convention, and shall not disclose any confidential information coming to my knowledge by reason of my duties in the Committee, and I shall disclose to the Committee any personal interest in any matter submitted to the Committee for consideration which may constitute a conflict of interest.”

Distribution and consideration of information

Rule 14

1. The information received in accordance with paragraphs 18-19 of section V on Procedure shall be distributed by the Secretariat to the members ~~and alternate members~~ of the Committee.
2. Any submission received in accordance with paragraph 18(a) of section V of the compliance procedures and mechanisms shall be transmitted by the Secretariat to the members of the Committee ~~and their alternates~~ as soon as possible but no later than thirty days of receipt of the submission.
3. A submission received in accordance with paragraph 18(b) of the compliance procedures and mechanisms and any issues raised by the Secretariat as provided for in paragraph 23 of the compliance procedures and mechanisms shall be transmitted by the Secretariat to the members of the Committee ~~and their alternates~~ as soon as possible but no later than 30 days after the six-month time frames provided for in the above-mentioned paragraphs have expired.
4. Any information to be considered by the Committee shall, as soon as possible but no later than two weeks after receipt, be made available to the Party concerned.

Public access to documents and information

Rule 15

The provisional agenda, reports of meetings, official documents and, subject to rule 14 above and paragraph 30 of section V of the compliance procedures and mechanisms, any other non-confidential information documents shall be made available to the public.

Participation in proceedings of the Committee

Rule 16

1. Unless the Committee or the Party whose compliance is in question decides otherwise, the meetings of the Committee will be open to other Contracting Parties and to observers as provided for under paragraph 13 of the compliance procedures and mechanisms. **The Committee may grant the observer status on a case-by-case basis to members of the civil society. Observers shall be entitled to receive copies of publicly distributed documents, submit written comments and make oral statements at meetings. The Committee reserves the right to give the floor to the attending public, upon request, if it deems useful.**
2. In accordance with the provisions of paragraphs 18, 27 and 29 of the compliance procedures and mechanisms, the Party concerned is entitled to participate in the Committee's proceedings and make comments thereon. It may furthermore, in accordance with the criteria adopted by the Committee and at the request of the latter, take part in the preparation of its findings, measures and

recommendations. The Party concerned shall be given an opportunity to comment in writing on the findings, measures and recommendations of the Committee. Any such comments shall be forwarded with the report of the Committee -to the Meeting of the Contracting Parties.

3. The Committee may invite experts to provide expert advice through the Secretariat. In that case it shall:

- (a) Define the question on which expert opinion is sought;
- (b) Identify the expert(s) to be consulted, on the basis of a roster of experts prepared and regularly updated by the Secretariat;
- (c) Lay down the procedures to be followed.

4. Experts may also be invited by the Committee to be present during the formulation of its findings, measures or recommendations.

5. Secretariat officials may be also invited by the Committee to attend the Committee's deliberations in order to assist in the drafting of its findings, measures or recommendations.

Conduct of business

Rule 17

In conformity with rule 11, ~~[five] [seven] [ten]~~-members of the Committee shall constitute a quorum. ~~For the purpose of the quorum, the replacement of members by alternates shall take into consideration equitable geographical representation, consistently with the composition of the Committee as set out in the third paragraph of decision IG 17/2.~~

Rule 18

1. With respect to a notification or document sent by the Secretariat to a Contracting Party, the date of receipt shall be deemed to be the date indicated in a written confirmation from the Party or the date indicated in a written confirmation of receipt by the expedited delivery courier, whichever comes first.

2. With respect to a submission, request or other document intended for the Committee, the date of receipt by the Committee shall be deemed to be the first business day after receipt by the Secretariat.

Rule 19

1. Electronic means of communication may be used by the members of the Committee for the purpose of conducting informal consultations on issues under consideration and decision-making on matters of procedure. Electronic means of communication shall not be used for making decisions on matters of substance related in particular to the preparation of findings, measures and recommendations by the Committee.

2. The Committee may use electronic means of communication for the transmission, dissemination and storage of documentation, without prejudice to normal means of circulation of the documentation, as the case may be.

Voting

Rule 20

Each member of the Committee shall have one vote.

Rule 21

1. The Committee shall make every effort to reach agreement by consensus on its findings, measures and recommendations. If all efforts to reach consensus have been exhausted, the Committee shall as a last resort adopt its findings, measures and recommendations by at least six members present and voting.
2. For the purpose of these rules, “members present and voting” means members present at the session at which voting takes place and casting an affirmative or negative vote. Members who abstain from voting shall be considered as not voting.

Secretariat

Rule 22

1. The Secretariat shall make all necessary arrangements for meetings of the Committee and provide it with services as required.
2. In addition, and subject to availability of technical and financial means, the Secretariat shall perform any other function assigned to it by the Committee with respect to the work of the Committee.

Languages

Rule 23

English and French shall be the working languages of the Committee ~~shall be the official languages of the meetings or conferences of the Contracting Parties.~~ However, the Committee will accept communications or submissions, as well as corroborating information in any of the four official languages of the meetings and conferences of the Contracting Parties.

Rule 24

1. The submissions from the Party concerned, the response and the information -referred to in section V of the compliance procedures and mechanisms shall be provided in one of the four official languages of the Meetings of the Conference of the Contracting Parties to the Convention and its related Protocols. The Secretariat shall make arrangements to translate them into English and/or French if they are submitted in the other official languages of the Meeting of the Contracting Parties to the Convention and its related Protocols.
2. Any representative taking part in the Committee proceedings and/or meetings may speak in a language other than the working languages of the Committee if the Party provides for interpretation.
3. Final findings, measures and recommendations shall be made available in all official languages of the Meetings of the Contracting Parties to the Convention and its related Protocols.\

General procedures for submissions

Rule 25

The time frame for submissions is as follows:

1. For cases concerning a submission by a Contracting Party in respect of its own actual or

potential situation of non-compliance: at the latest six (6) weeks before the opening of the ordinary meeting of the Committee.

2. For cases concerning a submission by a Contracting Party in respect of another Party's situation of non-compliance: at the latest four (4) months before the opening of the ordinary meeting of the Committee allowing the Contracting Party whose compliance is in question at least three months to consider and prepare its response.

3. The time frames for cases concerning a submission by a Contracting Party in respect of another Contracting Party's situation of non-compliance also apply to issues raised by the Secretariat.

4. All the above time frames are indicative and may be extended according to the necessities warranted by the circumstances of the matter at hand and in accordance with the Committee's rules of procedure and due process. In this respect, Contracting Parties may submit additional documentation, comments and written observations to be considered by the Committee.

Rule 26

1. A submission by any Contracting Party raising a question of non-compliance with respect to itself shall set out:

- (a) The name of the Contracting Party making the submission;
- (b) A statement identifying the question of non-compliance, supported by substantiating information setting out the matter of concern relating to the question of non-compliance;
- (c) Its legal basis and the relevant provisions of the Barcelona Convention and its related Protocols and decision IG 17/2 that form the basis for raising the question of non-compliance;
- (d) Any provisions of the decisions of the Meeting of the Contracting Parties and the reports of the Secretariat that are applicable to the question of non-compliance.

2. The submission shall also include the list of all documents annexed to the submission.

Rule 27

1. A submission by any Contracting Party raising a question of non-compliance with respect to another Party shall set out:

- (a) The name of the Contracting Party making the submission;
- (b) A statement identifying the question of non-compliance, supported by substantiating information setting out the matter of concern relating to the question of non-compliance;
- (c) The name of the Party concerned;
- (d) Its legal basis and the relevant provisions of the Barcelona Convention and its related Protocols and decision IG 17/2 that form the basis for raising the question of non-compliance;
- (e) Any provisions of the decisions of the meetings of the Contracting Parties and the reports of the Secretariat that are applicable to the question of non-compliance.

2. The submission should also include the list of all documents annexed to the submission.

Rule 28

The Secretariat shall make the submission and any supporting information, submitted under

rule 15 above, including any expertise reports, available to the representative designated by the concerned Party.

Rule 29

Within the framework of general procedures for submissions as provided for under rule 26 above, comments and written observations by the Party concerned in accordance with the provisions of section V of the compliance procedures and mechanisms on the Committee's preliminary and final findings, measures and recommendations shall include:

- (a) A statement of the position of the Party concerned on the information, findings, measures and recommendations or question of non-compliance under consideration;
- (b) An identification of any information provided by the Party that it requests should not be made available to the public in accordance with paragraph 30 of section V of the compliance procedures and mechanisms;
- (c) A list of all documents annexed to the submission or comment.

Rule 30

1. Any submission, comment and/or written observations under rules 13 and 29 above shall be signed by the MAP Focal Point or the representative of the Contracting Party and be delivered to the Secretariat in hard copy and by electronic means of communication.
2. Any relevant documents in support of the submission, comment or written observations shall be annexed to it.

Rule 31

1. Findings, measures or recommendations shall contain, *mutatis mutandis*:
 - (a) The name of the Party concerned;
 - (b) A statement identifying the question of non-compliance addressed;
 - (c) The legal basis and the relevant provisions of the Barcelona Convention and its related Protocols and decision IG 17/2 and other relevant decisions of the Meetings of the Contracting Parties that form the basis of the preliminary findings, measures and recommendations and their final versions;
 - (d) A description of the information considered in the deliberations and confirmation that gives the Party concerned an opportunity to comment in writing on all information considered;
 - (e) A summary of the proceedings, including an indication of whether its preliminary finding or any part of it as specified is confirmed;
 - (f) The substantive decision on the question of non-compliance, including the consequences applied, if any;
 - (g) The background, conclusions and reasons for the findings, measures and recommendations;
 - (h) The place and date of the findings, measures and recommendations;
 - (i) The names of the members who participated in the consideration of the question of non-compliance and in the elaboration and adoption of the findings, measures and recommendations.
2. Written comments on the findings, measures and recommendations submitted within 45 days of their receipt by the Party concerned shall be circulated by the Secretariat to the members and alternate members of Committee and shall be included in the Committee's biennial report to the Meeting of the Contracting Parties.

Rule 31 bis: Procedures for handling communications⁸

A. Admissibility criteria under paragraph 23 bis of the Procedures and Mechanisms

1. Communications addressed to the Committee under paragraph 23 bis of the Procedures and Mechanisms shall be in writing or electronic form through the Secretariat. The communications shall be supported by substantiating documentation.
2. When determining admissibility the Compliance Committee shall consider whether the communication is:
 - (a) anonymous;
 - (b) de minimis;
 - (c) manifestly ill founded;
 - (d) incompatible with the provisions of this compliance procedure or with the Barcelona Convention and its Protocols
3. The Committee should, at all relevant stages, take into account any available domestic remedy unless the application of the remedy is unreasonable prolonged or obviously does not provide an effective and sufficient means of redress.
4. With respect to communications by any member of the public and observers submitted to the Compliance in the context of paragraph 23.bis of the Procedures and Mechanisms on Compliance, the following procedures shall apply:

B. Handling and Circulation of Communications

1. Communications shall be in writing or in electronic form through the Secretariat and as concise and concrete as possible. It is preferable that the communication shall not be more than twelve pages in total. Visual means are also welcomed.
2. The minimum requirements to be included in any such communication are:
 - (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) one to two-page summary with the main facts of the case;
 - (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.
3. Communications shall be addressed to the Compliance Committee through the UNEP/MAP Coordinating Unit. Upon receipt of a communication the Secretariat shall register it, 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. 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.

⁸ Note by the Secretariat: Proposed Rule 31 bis integrates the Admissibility Criteria (COP17 Decision IG. 23/2) into the Rules of Procedure and proposes a set of amendments to the Admissibility Criteria as highlighted in grey.

C. Preliminary Determination of Admissibility

4. Upon circulation of a communication, the Compliance Committee shall consider the preliminary admissibility of communications addressed to it. To that end the Chair of the Compliance Committee in consultation with the Compliance Committee shall appoint from among its members a Rapporteur for each communication. The Rapporteur shall not be a citizen of the Party concerned.

5. If translation of substantiating material is required, the Committee shall decide on the extent to which more material, other than that which is already available in English, should be translated, taking into account both the costs of translation and the delay involved. The Committee may also request the communicant to provide an English translation of certain materials

6. If the Compliance Committee determines that the communication is inadmissible, it shall inform the Party concerned and the communicant accordingly, through the Secretariat and close the file. Such determination shall be final.

7. If the Compliance Committee determines that the communication is admissible on a preliminary basis, it opens a file, and shall notify the Party concerned and the communicant accordingly, through the Secretariat. The Committee should in principle consider preliminary determination of a communication not later than at its second meeting following the receipt of the communication.

8. 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.

9. 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.

10. 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.

11. When forwarding a communication to the Party concerned on behalf of the Committee, the Secretariat will prepare a cover letter with: (a) a request to the Party concerned to acknowledge receipt of the communication; (b) a reminder of its obligation under paragraph 12 to submit as soon as possible, but not later than two months after the communication has been brought to its attention, written explanations or statements clarifying the matter and describing any response that it may have made; (c) a reference to the determination of preliminary admissibility with the request to inform the Committee as soon as possible if it intends to comment on admissibility issues; (d) specific points of discussion and questions to be addressed in the response, as identified by the Committee.

12. 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.

13. 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.

14. 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.

15. 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 Compliance.

Amendments to the rules of procedure

Rule 32

Any amendment to these rules of procedure is adopted by consensus by the Committee and submitted for consideration and adoption by the Bureau, subject to endorsement by the Meeting of the Contracting Parties.

Overriding authority of the Convention and its related protocols and decision IG 17/2

Rule 33

In the event of a conflict between any provision in these rules and any provision in the Convention and its related Protocols or decision IG 17/2, the provisions of the Convention and its Protocols or, as the case may be, decision IG 17/2 shall prevail.

Annex II

Programme of Work of the Compliance Committee for the Biennium 2022-2023

Programme of Work of the Compliance Committee for the Biennium 2022-2023		
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	18 th and 19 th Compliance Committee Meetings
General issues of compliance 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 of the Procedures and Mechanisms on Compliance	Compliance Committee	18 th and 19 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 of the Procedures and Mechanisms on Compliance	Compliance Committee	18 th and 19 th Compliance Committee Meetings
4. To consider any other issues as requested by the Meeting of the Contracting Parties in accordance with Section IV of the Procedures and Mechanisms on Compliance	Compliance Committee	18 th and 19 th Compliance Committee Meetings
Enhanced effectiveness of the compliance mechanism		
5. To facilitate assistance, in coordination with MAP components, to address reported implementation difficulties and/or potential non-compliance situations	CU, MAP Components, Compliance Committee	18 th and 19 th Compliance Committee Meetings
6. [Following the possible COP 22 Decision on the presented Procedures and Mechanisms on Compliance and the related procedures on the Compliance Committee, further work to consider aspects related to public participation and enforcement, for their consideration by COP 23]	[Compliance Committee]	[18 th and 19 th Compliance Committee Meetings]
7. To continue to build and strengthen synergies, with other Compliance Committee's Multilateral Environmental Agreements (MEAs), including holding joint sessions	Compliance Committee	18 th and 19 th Compliance Committee Meetings

Annex III

Renewal or Election of the Membership of the Compliance Committee

(To be completed for the 22nd Meeting of the Contracting Parties (COP 22) (Antalya, Turkey, December 2021)

**Members and Alternate Members of the Compliance Committee renewed or elected by the
22nd Meeting of the Contracting Parties**

Group I: Algeria, Egypt, Lebanon, Libya, Morocco, Syria and Tunisia

[XXX] as a Member of the Compliance Committee for a term of four years, until COP 24

[XXX] as an Alternate Member of the Compliance Committee for a term of four years, until COP 24

Group II: Croatia, Cyprus, France, Greece, Italy, Malta, Slovenia, Spain and the European Union

Mr. José Juste Ruiz, a national of Spain, as a Member of the Compliance Committee for a term of four years, until COP 24

[XXX] as an Alternate Member of the Compliance Committee for a term of four years, until COP 24

Group III: Albania, Bosnia and Herzegovina, Israel, Monaco, Montenegro and Turkey

[XXX] as a Member of the Compliance Committee for a term of four years, until COP 24

[XXX] as an Alternate Member of the Compliance Committee for a term of four years, until COP 24