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Meeting of the MAP Focal Points

Istanbul, Türkiye, 12-15 September 2023

Agenda Item 5: Specific Matters for Consideration and Action by the Meeting, including Draft Decisions

**Report of the Consultation meeting on possible amendments of Compliance Procedures and Mechanisms
(Teleconference, 31 January 2023)**

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UNEP/MAP
Athens, 2023

**UNITED
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Consultation meeting on possible amendments of Compliance Procedures and Mechanisms

Teleconference, 31 January 2023

Report

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UNEP/MAP
Athens, 2023

Table of contents

	Pages
Report	1
ANNEXES	
Annex I List of Participants	4
Annex II Agenda	8
Annex III Amended Version of the Procedures and Mechanisms on Compliance	10

Introduction

1. In accordance with Decision IG 25/2 (Antalya, Türkiye, 7-10 December 2021), a consultation process with the Contracting Parties to review the proposed amendments to the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols (Procedures and Mechanisms) and to the Rules of Procedure of the Compliance Committee (Rules of Procedure) was held on 31st January 2023 through teleconference.
2. The main amendments to the Procedures and Mechanisms, as proposed by the Compliance Committee, relate to the following aspects: (1) membership of the Compliance Committee, including the opportunity to have alternate members; (2) nomination and election of candidates to the compliance Committee, including criteria for the nomination and avoidance of conflict of interest; (3) enhancement of synergies with similar bodies under other multilateral environmental agreements, as well as with other bodies established under MAP and the Barcelona Convention and its Protocols.

Participation

3. The meeting was attended by Montenegro, Spain, Tunisia, European Union, Egypt, Morocco, Malta, Greece, Türkiye, Lebanon, Cyprus, Israel, Albania, Bosnia and Herzegovina, Syria, Slovenia, France. Members of the Compliance Committee were also present as observers. The Secretariat was represented by the Coordinating Unit. The list of participants is attached as Annex I to this report.

I. Agenda Item 1: Opening of the Meeting

4. The meeting was opened at 09:30 (UTC+2) on Tuesday 31st January 2023 by Ms. Tatjana Hema, Coordinator of the UNEP/MAP – Barcelona Convention Secretariat, who welcomed the participants. She highlighted that this was the first meeting of the Contracting Parties for 2023, a year that would close with the COP, and that this meeting was instrumental in preparation of COP 23..
5. The Coordinator then mentioned that the meeting should elect its Chair, Vice-chair and Rapporteur. Following consultations, the meeting elected Ms. Nassira Rheyati (Morocco) as Chair, Ms. Klodiana Marika (Albania) as Vice-Chair, and Ms. Evmorfía Alexopoulou (Greece) as Rapporteur.
6. Ms Nassira Rheyati, the Chair, took the floor, welcomed participants and thanked the Secretariat for conveying the meeting.

II. Agenda Item 2: Adoption of the Provisional Agenda and Organization of Work

7. The meeting reviewed and adopted the Provisional Agenda as contained in document UNEP/MED WG.551/1. The Agenda is presented in Annex II of the present document.

III. Agenda Item 3: Amendment of Procedures and Mechanisms on Compliance

8. The Chair reminded participants that the task of the present meeting was to hold a discussion concerning proposed amendments to the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, as mandated by COP Decision IG.25/2 (Antalya, Türkiye, 7-10 December 2021), and to report on the outcome at COP 23. She then asked the Secretariat to introduce the proposed amendments to the participants.
9. The Coordinator introduced the proposed amendments as contained in document UNEP/MAP WG.551/3. She recalled that the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols had first been adopted in 2008 by the 15th Meeting of the Contracting Parties (Almeria, Spain, 15-18 January 2008) through Decision IG 17/2, and had successively been amended twice, in 2012 (Decision IG 20/1) and in 2013 (Decision IG 21/1). She further recalled that the 22nd Meeting of Contracting Parties, through Decision IG.25/2, had taken note of the proposed

amendments and had requested the Secretariat to undertake a consultation process as soon as possible and not later than January 2023 with the Contracting Parties to review the proposed amendments and report on the outcome at COP 23. The Secretariat had accordingly prepared document UNEP/MAP WG.551/3, introduced by a note which explained how amendments came to the attention of the Contracting Parties and summarised the main proposed amendments. The main text of the document presented in track changes the proposed amendments, as proposed by the Compliance Committee. In order to facilitate decision by the Contracting Parties, the Secretariat had prepared informative footnotes with information and explanations concerning the proposed amendments.

10. Thanking the Secretariat for the work undertaken in preparing an informative working document, the Chair opened the floor for any general comments or general discussions on the proposed amendments to be followed by the examination of each proposed amendment.

11. The Coordinator introduced each proposed amendment which addressed the principles guiding the procedure; membership of the Compliance Committee, including quorum; the necessity of having alternate members; the requirements for nomination, including the fact that members of the Compliance Committee should act in their personal capacity; procedural issues within the Compliance Committee; enhancement of synergies with similar bodies created under other multilateral environmental agreements; the relationship between the Compliance Committee and other bodies created under UNEPP//MAP Barcelona Convention and its Protocols and the fact that the Committee as an independent body reports directly and only to the COP.

12. It was agreed that the revised option of membership of the Compliance Committee should be left for the COP to decide. In this respect, participants agreed to submit to the COP three options: (1) maintain the composition of the Compliance Committee as it currently is, that is with 7 members and 7 alternates; the quorum would be 7 members; (2) increase the membership of the Committee to 9 members, with no alternate members; the quorum would be 7 members; (3) increase the membership of the Committee to 9 members and providing for 3 alternates; the quorum would be 7 members. Participants furthermore decided to defer to the COP the final decision on whether specific reference to developing states should be retained throughout the Procedures and Mechanisms. Finally, participants asked the Secretariat to provide further reflections on the necessity of maintaining the reference to “due process” also in paragraph 28. The revised version of the Compliance procedures and mechanisms is attached as Annex X to this report and includes a number of paragraphs in square brackets for further consideration by the MAP Focal Points meeting to be held in September 2023.

13. Following agreement on the revised text of the Procedures and Mechanisms, and considering that the provisions addressing the Committee membership are still pending and based on three possible options, the Coordinator explained that the Secretariat will prepare another document for the MAP Focal Points Meeting to explain actions and steps to be taken for each option. This would help to get more clarifications on the added value of each proposed option equally considering the need to avoid distorting the delivery of Compliance Committee due to the expected changes of its membership. participants discussed the next steps in preparation for COP 23. The meeting agreed on this proposal highlighting the need to be clear about any possible interim measures required to ensure a smooth transition in case the number of members and/or alternates should be changed, as well as the status of the current members and or alternate members of the Committee for the duration of the interim period.

IV. Agenda Item 4: Rules of Procedure of the Compliance Committee

14. The Chair reminded participants that the Compliance Committee had also proceeded to propose amendments to its Rules of Procedure, based on its proposed amendments to the Procedures and Mechanisms and invited the Secretariat to briefly illustrate them. The Coordinator introduced document UNEP/MED WG.511/4, reminding participants that, according to Rule 32 of the Rules of Procedure, any amendments to the Rules of Procedure should be adopted by consensus by the Compliance Committee and should then be submitted for consideration and adoption by the Bureau, subject to endorsement by the Meeting of the Contracting Parties.

15. Participants agreed that, following the revision of the proposed amendments to the Procedures and Mechanisms by the meeting, it had become necessary to also revise the Rules of Procedure, in

order to align them with the new proposed amendments to the Procedures and Mechanisms. The Secretariat was accordingly asked to prepare a revised text, to be submitted as working document to the Compliance Committee in its 19th meeting. The revised Rules of Procedure, as adopted by the 19th meeting of the Compliance Committee, would then be submitted, together with the revised Procedures and Mechanisms, to the next COP.

V. Agenda Item 5: Any Other Matters

16. The Chair invited participants to raise any other matter. No other matters were raised.

VI. Agenda Item 6: Closure of the Meeting

17. The Chair thanked all participants for having contributed to the meeting and having effectively and efficiently contributed to the revision of the Procedures and Mechanisms, in accordance with the mandate of Decision IG.25/2. The Coordinator added her thanks to the Chair and all participants and thanked the Compliance Committee and its members for their proposal and the broader reflection that had led to the present meeting. She underscored that the discussions had led to important changes in the Procedures and Mechanisms that would make the Compliance Committee more effective, would enhance its functions and would further assist the Committee in fulfilling its noble mandate. The meeting was closed by the Chair at 17:00 (UTC+2) on Tuesday, 31st January 2023.

Annex I
List of participants

CONTRACTING PARTIES

**ALBANIA
(VICE-CHAIR)**

Ms. Klodiana Marika
Director
Department of Development Programmes of
Environment
Ministry of Tourism and Environment Albania

**BOSNIA AND HERZEGOVINA /
BOSNIE ET HERZEGOVINE**

Mr. Senad Oprasic
Head Environmental Protection Department
Ministry of Foreign Trade and Economic Relations

Ms. Selma Osmanagic Klico

CYPRUS

Ms. Marina Argyrou
Director
Department of Fisheries and Marine Research
Ministry of Agriculture, Rural Development and
Environment

EGYPT

Ms. Heba Sharawy
General Director
Studies & International Environmental Policies
Egyptian Environmental Affairs Agency (EEAA)

**EUROPEAN UNION / UNION
EUROPÉENNE**

Ms. Anna Bobo Remijn
Senior Policy Officer
Directorate-General for the Environment
European Commission

FRANCE

Mr. David Elkaim
Chargé de mission Négociations internationales
Biodiversité marine Conventions de Barcelone et
de Carthagène Direction de l'Action européenne et
internationale
Ministère de la transition écologique et solidaire

**GREECE
(RAPPORTEUR)**

Ms. Evmorfia Alexopoulou
Expert
Ministry of Environment and Energy

ISRAEL

Ms. Shannon Kisch
Legal Department
Ministry of Environmental Protection

LEBANON

Ms. Nancy Houry
Public and International Relations
Ministry of Environment

MALTA

Ms. Angela Bartolo

MONTENEGRO

Milica Rudic

Head of the Department for marine and coastal ecosystems
Ministry of ecology, spatial planning and urbanism

**MOROCCO
(CHAIR)**

Ms. Nassira Rheyati

Chef de la Division de la Coopération Internationale
Direction du Partenariat, de la Communication et de la Coopération Département de l'Environnement

SLOVENIA / SLOVENIE

Mr. Mitja Bricelj

Secretary
Ministry of Environment and Spatial Planning

SPAIN / ESPAGNE

Mr. Jorge Ureta Maeso

Head of the International Unit for the Protection of the Sea
Ministry for Ecological Transition

SYRIA

Mr. Muhammad Daher

Director of Water Safety Directorate
Ministry of Local Administration and Environment

**TUNISIA / TUNISIE
(VICE-PRESIDENT)**

Mr. Mohamed Sghaier Ben Jeddou

Administrateur de l'Unité Changement Climatique
Office National de l'Assainissement
Ministère de l'Environnement

TURKIYE / TURKIYE

Ms. Özlem Örne

Branch manager
Ministry of Environment, Urbanization and Climate Change

Mr. Mehmet Tamer Çobanoğlu

Expert
Ministry of Environment, Urbanization and Climate Change

OBSERVERS

Ms. Daniela Addis

Member of the Compliance Committee

Ms. Rula Jabboour

Member of the Compliance Committee

Mr. Evangelos Raftopoulos

Member of the Compliance Committee

Ms. Aysin Turpanci
Member of the Compliance Committee

**SECRETARIAT TO THE BARCELONA CONVENTION AND COMPONENTS OF THE
MEDITERRANEAN ACTION PLAN / SECRÉTARIAT DE LA CONVENTION DE
BARCELONE ET COMPOSANTES DU PLAN D'ACTION POUR LA MÉDITERRANÉE**

Ms. Tatjana Hema
Coordinator

Mr. Gabino Gonzalez Deogracia
Deputy Coordinator

Mr. Ilias Mavroeidis
Programme Management Officer-Governance

Mr. Ihab Tarek
Legal Officer

Mr. Stavros Antoniadis
Associate Administrative Officer

Ms. Irimi Papanicolopulu
Legal Advisor

Annex II

Agenda

Agenda

- Agenda Item 1:** Opening of the Meeting
- Agenda Item 2:** Adoption of the Provisional Agenda and Organization of Work
- Agenda Item 3:** Amendment of Procedures and Mechanisms on Compliance
- Agenda Item 4:** Rules of Procedure of the Compliance Committee
- Agenda Item 5:** Any other business
- Agenda Item 6:** Closure of the Meeting

Annex III

Amended Version of the Procedures and Mechanisms on Compliance

I. Objective 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]** 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.]¹**
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.]²**
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.
8. Nominated candidates shall be persons of recognized competence in the matters dealt with by the Barcelona Convention and its Protocols and in relevant scientific, 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. While nominating their candidates Contracting Parties shall also give due consideration to avoid every possible conflict of interest.

¹ Note by the Secretariat: This will only apply to the option of 7 members.

² Note by the Secretariat: Other compliance procedures do not regulate this aspect. This is usually regulated through the Rules of Procedure of the Compliance Committee. Within the UNEP/MAP system, this amendment reflects the current practice.

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.

11. Members of the Committee **[and their alternates]** shall serve in their individual capacities and shall act objectively 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

14. **[In the absence of a member from a meeting, the respective alternate shall serve as the member]**³

15. For each meeting, a quorum of **[seven] [nine]** members is required.⁴

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;

³ Note by the Secretariat: The final text would depend on the outcome of paragraph 3.

⁴ Note by the Secretariat: The original text is better placed to avoid any interference in the direct relationship between the Compliance Committee and the Conference of Parties which is the ultimate body assigning tasks and responsibilities to the Compliance Committee.

[(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 may be assisted by the Secretariat including MAP components.

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 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.

3. 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.

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 principle of “due process” in order to ensure fairness and transparency.]⁵**

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.

⁵ Note by the Secretariat: In the view of the Secretariat this paragraph is not redundant but complementary since it addresses the due process while in paragraph 1 addresses the objective of the procedures and mechanisms, therefore.

- (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.

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. Enhancement of synergies

37. In order to enhance synergies with mechanisms of compliance under other relevant multilateral environmental agreements, the Committee may consult with those mechanisms and invite them to attend its meetings. The Committee shall 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.