



UNITED
NATIONS

EP

UNEP(DEPI)/MED CC.10/4



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UNITED NATIONS
ENVIRONMENT PROGRAMME
MEDITERRANEAN ACTION PLAN

29 April 2015
English (only)

10th Meeting of the Compliance Committee of the Barcelona Convention
and its Protocols

Athens, Greece, 21-22 May 2015

**Item 8 of the Agenda: Guidelines for the evaluation of reports to identify
current or potential situations of non-compliance.**

Revised Draft Guidelines to Identify Current or Potential Situations of non-Compliance

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

Draft Guidelines for the evaluation of Reports

to -(NG: deletion of italic wording and replacement by *establish*) compliance

The present guidelines for the evaluation of Reports are based on common criteria/indicators establishing¹ a common set of requirements for the evaluation of compliance by Contracting Parties with the provisions of the Barcelona Convention and its related Protocols, as well as Decisions, Recommendations, measures, Programs and Action Plans adopted by the Contracting Parties, and attempt to standardize the evaluation of Reports submitted by the Contracting Parties.

The Guidelines contain explanations of the process and methodologies to be used for conducting such evaluation.

The Guidelines are intended to assist the Compliance Committee and the Secretariat in carrying out the evaluation and in elaborating the evaluation report.

In general terms, Evaluation Reports are logically structured; they contain evidence-based findings, conclusions, and recommendations, *based on the information submitted to the Evaluator*²(SC: italic wording added) They³(SC: deletion of italic wording) are presented in a way that makes the information accessible⁴(SC: deletion of italic word) comprehensible *and credible*⁵(SC: italic wording added) Evaluation Reports serve to verify, on the basis of the review of reports, if one Party is having difficulties to comply with its obligations and as a basis for decisions concerning the object of the evaluation and other areas of work related to it.

Although the structure of the Evaluation Report may be adapted to the particular circumstances of an evaluation exercise, the Evaluator should use the format given. Major headings should be retained but sub-headings may be added, as applicable.

Attached is the standard format for Evaluation Reports, starting with a sample cover page and contents. The layout and order of contents should follow those in the guidelines. It should be typed in 1 1/2 spacing, using Arial font 11 and in the A-4 format. The report should be submitted in electronic format. Pages should be numbered consecutively with Arabic numerals. Paragraphs should be numbered.

Definitions

For the purpose of the present guidelines:

1. "In due time" means the submission of the Report by the Contracting Party in a date not later than [2/]⁶(SC deletion of 4)months after the formal date;
2. "Partial information" means an information that does not allow the drawing of logical conclusions on the situation which the information in question is meant to provide light to.

¹ DA: Such criteria and indicators are to be finalized and implemented

² SC: word *evaluator* added

³ SC: deletion of the member of sentence italic

⁴ SC: deletion of *and*

⁵ SC: word *credible* added

⁶ SC: deletion of 4

1. Formal cases of non-compliance to be⁷ (SC: replacement of considerate by *considered*) in the implementation of the **Convention and its related Protocols (formal obligation)**.

- a. Non submission of the Report by the Contracting Party in due time. The non-compliance with obligations regarding submission of reports provided for in Article 26 of the Barcelona Convention results from non-transmission or late transmission of reports, which is a formal requirement.
- b. Specify how it has been taken into account the cause, type, degree, duration and frequency of compliance difficulties,⁸(SC: deletion of the wording in italic) and the extent to which financial and technical assistance has previously been provided.

2. Formal cases of non-compliance to be considerate in the implementation of the **Convention (formal obligation)**.

- a. The legal basis and the relevant provisions of the Barcelona Convention that form the basis for raising the question of non-compliance [vis a vis the respective legal measures taken by the CP].

3. Formal cases of non-compliance to be considerate in the implementation of the **Protocols (formal obligation)**:

- a. The legal basis and the relevant provisions of the Barcelona Convention and its related Protocols that form the basis for raising the question of non-compliance [vis a vis the respective legal measures taken by the CP].
- b. Partial or no information on procedural issues.
- c. (Spa-Rac): Partial or non information on measures taken to address concrete cases of non compliance communicated to the Party by UNEP/MAP system components and/ or partner organisations.⁹

4. Difficulties faced by the Contracting Parties in **procedural or substantive areas** in the implementation of the **Convention (substantial obligation)**:

- a. a. The legal basis and the relevant provisions of the Barcelona Convention that form the basis for raising the question of non-compliance.
- b. Specific situations of actual or potential non-compliance with the provisions of the Convention resulting from the Report that is inadequate or incomplete or reveal a breach of the Convention and/or of Recommendations and/or of Decisions adopted by the meeting of the Contracting Parties, which is a substantial requirement.
- c. The recurrent non submission of the Report as a general compliance issues.
- d. Partial or no information on administrative, technical and enforcement issues.
- e. Problems of interpretation concerning implementation of the provisions of the Convention:
 - (i)
 - (ii)
 - (iii)

⁷ SC: replacement by *considered*

⁸ SC: deletion of th member of sentence in italic

⁹ SPA-RAC: new paragraph c

- f. Specify how it has been taken into account the cause, type, degree, duration and frequency of compliance difficulties, ¹⁰(SC: deletion of wording in italic) and the extent to which financial and technical assistance has previously been provided.

5. Difficulties faced by the Contracting Parties in procedural or substantive areas in the implementation of Protocols (substantial obligation), taking into account the date of ratification of the relevant Protocol by the concerned Party [6 month - 1 year?]:

- a. The legal basis and the relevant provisions of the Barcelona Convention and its related Protocols that form the basis for raising the question of non-compliance.
- b. Specific situations of actual or potential non-compliance with the provisions of the Protocols resulting from the Report that is inadequate or incomplete or reveal a breach of the Protocols and/or of related Recommendations and/or Decisions adopted by the meeting of the Contracting Parties, which is a substantial requirement.
- c. Partial information on administrative, technical and enforcement issues.
- d. Problems of interpretation concerning implementation of the provisions of Protocols:

(i) (SPA-RAC): *Unclear mainstreaming of compliance obligation into national legislation and related enforcement procedures with regard to species listed in the SPA/ BD Protocol*¹¹

(ii)(SPA-RAC): *Unclear mainstreaming of compliance obligation into national legislation with regard to areas listed as SPAMI within or beyond Party national legislation*¹²

(iii)

d. Consideration of issues raised by the MAP components on the implementation of the Protocols for which each ¹³ (deletion proposed by SPA/RAC, replacement by *components*) is responsible:

(i)

(ii)

(iii) (i) Unfilled mainstreaming of compliance obligation into national legislations and related enforcement procedures with regard to species listed in the SPA/BD Protocol¹⁴

(ii) Unfilled mainstreaming of compliance obligation into national legislation with regard to areas listed as SPAMI within or beyond Party national jurisdictions or where the limits of national sovereignty or jurisdiction have not yet been defined¹⁵

(iii) Unfilled implementation of Party tasks within Regional Action Plans calendar activities¹⁶

¹⁷ (Spa-Rac: replacement of regional activity centre by component)

- e. Specify how it has been taken into account the cause, type, degree, duration and frequency of compliance difficulties, including the financial and technical capacities of the Party whose

¹⁰ SC: deletion of the member of sentence in italic

¹¹ Spa-Rac: new sub paragraph (i)

¹² Spa-Rac: new subparagraph (ii)

¹³ Spa-Rac: Regional activity centre deleted and replaced by Components

¹⁴ Spa-Rac: new sub paragraph (i)

¹⁵ Spa-Rac: new sub paragraph (ii)

¹⁶ SPA-RAC: new sub paragraph (iii)

¹⁷ SPA-RAC: replacement of regional activity centre by Components

compliance is in question and the extent to which financial and technical assistance has previously been provided.

- f. (NG): The Committee also agreed to recommend that the Conference of the Parties, at its 18th meeting, include in the Committee's work programme for 2014-2015 the request to finalize the development of a Guidelines and common criteria for the evaluation of reports to identify actual or potential situation of non-compliance, for consideration and possible adoption by the 18th/ 19th meeting of the Conference of the Parties.¹⁸

¹⁸ NG: new paragraph f

Date:

EVALUATION REPORT

Country

Report of the Evaluation team (CC/Secretariat)

Names, titles

CONTENTS

Paragraphs Page

CONTENTS

LIST OF ACRONYMS

EXECUTIVE SUMMARY

1.1. Background and Context

1.2. Methodologies used in the Evaluation

2. ANALYSIS & FINDINGS

2.1. Barcelona Convention

2.1.1 Status of ratification

2.1.2 Bilateral, subregional, and regional agreements

2.1.3 Multilateral instruments

2.1.4 Legal measures

2.1.5 Policy measures: Integrating the protection and conservation of the marine and coastal environment into development policies

a. Domestic strategy for sustainable development

b. Regional strategies adopted in the framework of MAP

c. ICZM and physical planning

d. Economic instruments

2.1.6 Allocation of resources for:

a. Establishment of institutions

b. Establishment of monitoring Programme

c. Public access to information

2.1.7 Other measures

2.2. Dumping Protocol

2.2.1 Legal measures

2.2.2 Allocation of resources for the establishment of institutions and monitoring programmes

2.2.3 Administrative measures and related technical data

2.2.4 Enforcement measures

2.2.5 Implementation of Guidelines

2.2.6 Effectiveness

2.3. Prevention and Emergency Protocol

2.3.1 Status of ratification of the international legal instruments related to the Prevention and Emergency Protocol

2.3.2 Legal and administrative measures taken to implement the provisions of the Prevention and Emergency Protocol

- 2.3.3 Technical and operational measures taken to prevent and combat marine pollution incidents
- 2.3.4 Spill incidents
- 2.3.5 Effectiveness

- 2.4. LBS and Activities Protocol
 - 2.4.1 Legal measures
 - 2.4.2 Allocation of resources for the establishment of institutions and monitoring programmes
 - 2.4.3 Administrative measures and related technical data
 - 2.4.4 Implementation of the NAPs and their effectiveness
 - 2.4.5 Monitoring
 - 2.4.6 Effectiveness

- 2.5. SPA and Biodiversity Protocol
 - 2.5.1 Legal measures related to the implementation of the SPA and Biological Diversity Protocol
 - 2.5.2 Establishment and management of specially protected areas
 - 2.5.3 Specially Protected Areas of Mediterranean Importance (SPAMIs)
 - 2.5.4 Measures for the protection and conservation of species
 - 2.5.5 Effectiveness
 - 2.5.6 Implementation of Action Plans:
 - i. Action Plan on Cartilaginous Fishes in the Mediterranean Sea
 - ii. Action Plan on Introduction of Species and Invasive Species in the Mediterranean Sea
 - iii. Action Plan for the Conservation of Cetaceans in the Mediterranean Sea
 - iv. Action Plan for the Conservation of Marine Vegetation in the Mediterranean Sea
 - v. Action Plan for the Conservation of Bird Species inventoried in Annex II of the SPA Protocol
 - vi. Action Plan for the Management of the Mediterranean Monk Seal
 - vii. Action Plan for the Conservation of Mediterranean Marine Turtles

- 2.6. Offshore Protocol
 - 2.6.1 Legal measures
 - 2.6.2 Allocation of resources for the establishment of Institutions and monitoring programmes
 - 2.6.3 Administrative measures and technical data
 - 2.6.4 Enforcement measures
 - 2.6.5 Effectiveness

- 2.7. Hazardous Waste Protocol
 - 2.7.1 Legal measures
 - 2.7.2 Allocation of resources
 - 2.7.3 Administrative measures and technical data
 - 2.7.4 Enforcement measures
 - 2.7.5 Effectiveness
 - 2.7.6 Regional plan on Hazardous Waste reduction

2.8 Assessment of Implementation and Delivery

2.8.1 Implementation of Activities

2.8.2 Achievement of Results

2.8.3 Attainment of Objectives

3. RECOMMENDATIONS

3.1. Issues resolved during evaluation

3.2. Measures to promote compliance/Decisions recommended

4. CONCLUSIONS

Annexes

1. Terms of reference

2. Organizations and places visited and persons met

3. Summary assessment questionnaire

4. Relevant Materials