



**United Nations  
Environment  
Programme**



UNEP(DEPI)/MED Compliance Committee.2/7  
6 April 2009

ENGLISH

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**MEDITERRANEAN ACTION PLAN**

Second meeting of the Compliance Committee

Athens, Greece, 26-27 March 2009

**REPORT  
OF THE SECOND MEETING OF THE COMPLIANCE COMMITTEE**



## **Introduction**

1. In accordance with the decision taken at its first meeting, the second meeting of the Compliance Committee was held at the premises of the Coordinating Unit in Athens, Greece, on 26 and 27 March 2009.

## **Participation**

2. The following members and alternate members of the Committee attended the meeting: Mr Abdelaali Beghoura, A.M. (Algeria), Ms Martina Sorsa, A.M. (Croatia), Mr Ahmed Elanwer, M. (Egypt), Mr Didier Guiffault, M. (France), Ms Angeliki Tsachali-Kalogirou, M. (Greece), Ms Daniela Addis, A.M. (Italy), Mr Robert Kojc, A.M. (Slovenia), Mr Hawash Shahin, M. (Syrian Arab Republic) and Mr Osman Atilla Arikan, M. (Turkey). The meeting was also attended by the following observer: Mr Hédi Amamou (Tunisia).

3. The Coordinating Unit was represented by Mr Paul Mifsud, MAP Coordinator, and Ms Tatjana Hema, MAP Programme Officer.

4. The list of participants is attached as **Annex I** to this report.

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

5. Mr Paul Mifsud, MAP Coordinator, welcomed the participants and hoped that the second meeting of the Compliance Committee would be as productive as its first meeting in July 2008. He recalled that the first meeting had referred a number of issues relating to the Committee's draft rules of procedure, including the question of its quorum, to the Bureau of the Contracting Parties for consideration. The 67<sup>th</sup> meeting of the Bureau, held in Madrid in September 2008, had given its views on each of the issues raised, which were before the present meeting for consideration. He added that at its present meeting the Compliance Committee would have to prepare its first report for submission to the meeting of MAP Focal Points in July and the meeting of the Contracting Parties in November.

6. Mr Didier Guiffault, Chairperson of the Committee, said that the Committee was now learning its functions. At its first meeting in July 2008 it had developed a draft text of its rules of procedure, which it would have to examine further at its present meeting.

## **Agenda item 2: Adoption of the Provisional Agenda and organization of work**

7. The meeting adopted the agenda and annotated agenda contained respectively in documents UNEP(DEPI)/MED Compliance Committee.2/1 and 2/2. The agenda is attached as **Annex II** to the present report.

8. The meeting also agreed that the Rules of Procedure for Meetings and Conferences of the Contracting Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols would apply *mutatis mutandis* to the present meeting (UNEP/IG.43/6, Annex XI).

**Agenda item 3: Adoption of the report of the first meeting of the Compliance Committee**

9. The meeting formally adopted the report of the first meeting of the Compliance Committee (document UNEP(DEPI)/MED Compliance Committee.1/5), which had been circulated to the members following the closure of the first meeting.

**Agenda item 4: Rules of procedure of the Compliance Committee**

10. Ms Tatjana Hema, MAP Programme Officer, indicated that document UNEP(DEPI)/MED Compliance Committee.2/3, in addition to the draft rules of procedure of the Compliance Committee, as developed at the Committee's first meeting, also contained the Bureau's recommendations on the issues relating to the rules of procedure that had been referred to it. These concerned, in particular, the question of the quorum, the status of persons other than members and alternates who attended meetings, the replacement of members who resigned or were incapacitated, and the procedure relating to amendments to the Committee's rules of procedure.

Draft rules of procedure: chapter-by-chapter discussion

11. Rules 1, 2 and 3 on purposes and definitions were approved without discussion.

*Place, dates and notice of meetings*

12. It was agreed that, in accordance with Decision IG 17/2, adopted by the 15<sup>th</sup> Meeting of the Contracting Parties, the Compliance Committee would normally meet once a year, although it would have discretion to convene additional meetings taking into account the workload arising from submissions from concerned Contracting Parties and referrals by the Secretariat (rule 4). It was further agreed that notice of Committee meetings should be sent out to those concerned at least three months before the opening of the meeting (rule 5).

13. Rules 6, 7, 8 and 9 on officers and agenda were approved without further discussion.

*Members and alternate members*

14. The Secretariat recalled that the discussion during the first meeting had focussed on the question of the status of persons appointed by Contracting Parties to replace a member or alternate who was unable to attend a meeting of the Committee. She recalled that a procedure existed, as set out in rule 10(2) and (3), for the replacement of members or alternates who resigned or were otherwise unable to complete their term of office, subject to endorsement by the Bureau of the Contracting Parties. The difficulty arose concerning the status of persons appointed to replace members or alternates when they had not yet been endorsed by the Bureau. The issue had been referred to the Bureau, which had indicated that "Only the individuals elected by the Meeting of the Contracting Parties as members and alternate members of the Compliance Committee shall attend its meetings in such a capacity". The Bureau had added that "any other participant in the meetings of the Compliance Committee shall have the status of observer." It was therefore agreed to add a paragraph to rule 11 providing that "Any other participant in the Committee's meetings shall attend as an observer". It was also specified that rule 11 referred to members and alternate members, and that other rules applied to the participation in meetings by the Secretariat, experts and Contracting Parties concerned by specific cases. It was further recalled that, in accordance with rule 15 and decision IG 17/2, the meetings of the Committee were normally open to other Contracting Parties not represented on the Committee, whose representatives would participate as observers. The meetings of the Committee could also be attended by

other observers, in accordance with Article 20 of the Convention and the Rules of Procedure for the meetings and conferences of the Contracting Parties.

15. Pursuant to the discussions during the first meeting concerning the need for all members and alternates to be invited to all meetings, particularly with a view to ensuring that the quorum was achieved, a paragraph was also added to rule 11 indicating that “In accordance with these rules of procedure, members and alternate members shall be invited to attend Committee meetings.” However, it was specified that alternate members would only have the right to vote when they were replacing members.

*Recommended time for submissions*

16. The Secretariat noted that, in view of the need to provide guidance on the timeframe for the submission of cases, a new rule 12ter had been proposed by the Secretariat to indicate the deadlines following which cases could no longer be considered by the following meeting of the Committee. As cases that were submitted by a Contracting Party in respect of its own actual or potential situation of non-compliance were by definition less controversial, the timeframe could be shorter for their submission and a period of six weeks had been proposed. However, for cases submitted by other Contracting Parties concerning a case of non-compliance by another Party or through referral by the Secretariat, which would be more adversarial in nature, a longer period would be required and four months had therefore been proposed. It should be noted, as indicated in rule 12ter, paragraph 4, that the timeframes proposed were only indicative and could be extended at the discretion of the Committee.

17. During the discussion of proposed new rule 12ter by the Secretariat several issues were raised concerning the procedure that would be followed when submissions were made. While it was generally agreed that it was beneficial to give an indication of the applicable timeframes, it was also emphasized that sufficient flexibility needed to be available for the Committee to plan its work in accordance with the nature and circumstances of each case. Moreover, if timeframes relating to the meetings of the Committee were to be applied, it would be necessary to ensure that all those concerned had ample notice of the dates of the Committee’s meetings. It might be advisable to specify a period each year when the Committee would hold its ordinary meetings. It was also noted that the timeframes proposed in rule 12ter related to the ordinary meetings of the Committee, which could then plan any additional meetings in accordance with its workload.

18. It was further emphasized that, where necessary and in order to guarantee due process, the Committee should allow such additional time as might be needed for the various parties concerned by a non-compliance situation to present additional documentation, comments and observations, where they had good reason for so doing. Proposals were discussed for allowing a period of one additional year, up to the next ordinary meeting of the Committee, for the presentation of such additional documentation, comments and written observations, although it was observed that care also needed to be taken not to prolong the examination of cases unduly, as there might be valid reasons for concluding their examination more rapidly. It was therefore agreed that paragraph 4 of rule 12ter should be amended to read “In order to guarantee the principle of due process, particularly in respect of the presentation of additional documentation, comments and written observations, all the above timeframes 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.” It was also agreed that the amended rule 12ter should be moved to the section on “General procedures for submissions”.

19. Rules 13 and 14 on distribution and consideration of information and public access to documents and information were approved without amendment.

*Participation in proceedings of the Committee*

20. During the discussion of rule 15, it was emphasized that the principle of due process meant that the Party concerned had the right to participate in the Committee's proceedings during the discussion of the respective case of non-compliance. It was also entirely appropriate that the Party should be given an opportunity to comment on the Committee's findings and recommendations. However, it was also in accordance with the principles of due process that the Party concerned would not normally be involved in the preparation of the Committee's findings, measures and recommendations, and in particular their adoption. Nevertheless, it was noted that there could be times when participation by the Party concerned in the preparation of findings, measures and recommendations could be helpful, but that such participation should be strictly at the request of the Committee and in accordance with its own criteria. It was therefore agreed that paragraph 2 of rule 15 should be reformulated to take the latter considerations into account.

21. With regard to paragraph 3 of rule 15, there was a discussion of the role of experts in the work of the Committee. It was agreed that technical experts in particular had a valuable contribution to make to the work of the Committee in helping it decide on cases of non-compliance and that, as indicated in rule 29, it was important for the Committee to be able to call upon the assistance of experts, in accordance with the practice in other compliance mechanisms, such as that under the Aarhus Convention. Such experts might, for example, include technical personnel from the Regional Activity Centres. Rule 29 specified that, when calling upon experts to provide assistance, the Committee should define the question upon which expert opinion was being sought and lay down the procedures to be followed. It was further noted that, while the contribution that experts could make to the discussion of cases was clear, the question of their possible participation in the formulation of the Committee's findings, measures and recommendations was much more delicate. If they were invited by the Committee to do so, their expertise could be valuable, for example, in drawing up technical conclusions on which the members of the Committee might lack specific competence. However, it was clear that experts should not be involved in the actual adoption of such findings, measures or recommendations, and particularly in any votes, which were solely within the competence of the members of the Committee.

22. It was accordingly agreed that rule 29, concerning the capacity of the Committee to seek expertise, should be moved to become paragraph 3 of rule 15, and that paragraph 3, renumbered as paragraph 4, would read as follows: "Experts may also be invited by the Committee to be present during the formulation of its findings, measures or recommendations." It was noted in that respect that the term "formulation" implied the drafting of a text, but not involvement in substantive input in relation to its content.

23. The original wording of paragraph 3 of rule 15 also raised the issue of the role of the Secretariat in relation to "the elaboration and adoption of the Committee's findings, decisions or recommendations." In that regard, and in relation to the provisions relating to the Secretariat contained in rule 21, it was noted that the role of the Secretariat in such procedures was well known and valuable in the work of the Committee as a whole, including the drafting of its conclusions. Moreover, the members of the Secretariat provided many types of support, including legal advice and interpretation. While such support was welcomed by the Committee, it should nevertheless be possible for the Committee to hold private sessions at its own discretion and to decide on the type of support, if any, that it might need in such sessions. It was accordingly agreed that a fifth paragraph would be added to rule 15 to read as follows: "Secretariat officials may also be invited by the Committee to be present to assist in the drafting of its findings, measures or recommendations."

*Conduct of business*

24. The Secretariat, with regard to the issue of the quorum, recalled that it had already been decided that all members and all alternate members would be invited to attend all the meetings of the Committee, which should help to ensure that the specified quorum of seven members of the Committee was reached. The issue that had been raised with the Bureau concerned the manner in which alternate members replacing members were to be counted for the purposes of achieving the quorum. In reply to a request for clarification, she confirmed that if all the members were present, the alternate members participated in the meeting but did not have the right to vote. If a member was not present, that member was replaced by the alternate member on an individual basis as elected by the meeting of the Contracting Parties. However, the problem arose in cases where both a member and the designated alternate member were absent, as it would then be impossible to achieve a quorum, even if further alternate members were present other than the designated replacement for the absent member. It had therefore been proposed that other alternate members from the same group could in such cases be counted for the purposes of the quorum, an approach that had been approved by the Bureau. It was therefore agreed to add a second sentence to rule 16, paragraph 1, which read as follows: "For the purposes of the quorum, any alternate members replacing members shall be counted on the basis of the group to which they belong." It was specified in that regard that an absent member would be replaced in the first place by the designated alternate member as elected by the Contracting Parties, and only if the designated alternate member was also absent, by another alternate member from the same group, with precedence being given to alternate members with full mandates over those elected for half mandates.

25. Rules 19 and 20 on voting were approved without amendment. Rule 21 on the Secretariat was also approved without amendment, although reference was made to the discussion on the role of the Secretariat in relation to rule 15.

*Languages*

26. The Chairperson recalled that the proposal made at the Committee's first meeting that Arabic should be used as a third working language in the work of the Committee had been referred to the Bureau, which had decided that a precedent should not be set, nor costs added, by providing for three working languages in a technical body such as the Committee, unless otherwise decided by the 16<sup>th</sup> Meeting of the Contracting Parties. It was therefore decided to leave the word "Arabic" in square brackets in rule 22 for the matter to be decided by the Meeting of the Contracting Parties.

27. Mr Mifsud added that it was the policy of the Secretariat to endeavour to make as many documents as possible available in all the languages of the Contracting Parties. He noted that part of the MAP website was in Arabic. Although it was not easy to find Arabic translators, the Secretariat would consider all requests for the translation of documents, within the context of the available financial and human resources and without obligation.

*General procedures for submissions*

28. During the course of a general discussion of the general procedures for submissions, it was emphasized that the procedures followed needed to be in accordance with adversarial practice and fully transparent to all the parties. It was clear that the deadlines set in rule 12ter, which it had been agreed would be moved to form part of the section on general procedures for submissions, were of an indicative nature. While it was emphasized that the supporting documentation for submissions needed to provide all the relevant substantive information, it was also clear that further documentation would be received after the initial submission. An important part of the examination of submissions was likely to involve

requesting experts to prepare expert reports. Expert reports would clearly have to be made available to the Party concerned, which should have the right to comment on the findings of such expert reports and even, where necessary, to commission reports by further experts as part of its right of defence. However, the Committee would also be responsible for setting a timeframe for the presentation of further documentation, comments and observations, possibly on a case-by-case basis, with a view to the management of the respective cases. Although it would be very convenient to complete the examination of a submission at a single meeting of the Committee, it had to be envisaged that a case might be examined at more than one ordinary and/or additional meetings of the Committee. In accordance with the discussion, it was decided to include the words "including any expert reports" in rule 26. Moreover, the square brackets were removed from rule 28, paragraph 2.

#### *Amendments to the rules of procedure*

29. Two variants had been proposed for the text of rule 31, the first envisaging that amendments to the rules of procedure were to be prepared and adopted by at least five members of the Committee and the other requiring consensus. In accordance with the opinion of the Bureau, the Committee agreed that amendments to the rules of procedure "shall be 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."

30. The Committee approved the text of the draft rules of procedure, amended as indicated above, which would be submitted to the meeting of the MAP Focal Points and to the Meeting of the Contracting Parties for approval.

#### **Agenda item 5 : Implementation of the Working Plan of the Compliance Committee for 2008-2009** (documents UNEP(DEPI)/MED Compliance Committee 2/4, 2/Inf.3 and 2/Inf.4)

##### *Review of general compliance issues, general analysis of national reports and effectiveness indicators*

31. Introducing the item, the Secretariat recalled the programme of work approved by the Committee at its first meeting. After informing the Committee that no submissions on non-compliance situations had been received from individual Contracting Parties to date, she drew attention to the question of the review of general issues of compliance to be conducted by the Committee, largely on the basis of the Secretariat's analysis of national reports submitted in accordance with article 26 of the Convention. As could be seen from documents UNEP (DEPI)/MED Compliance Committee 2/4 and Inf. 3, the Secretariat's analysis had enabled some general conclusions to be drawn, but on the whole had proved somewhat inconclusive for a number of reasons. First, since only five reports had been submitted so far for the 2006-2007 biennium, the analysis had been carried out on the basis of the 2004-2005 reports, not all of which had been received either. Another difficulty lay in the substantial differences in the format of the reports and in the type, quantity and presentation of the data provided.. A third, major problem which had come to light was the sensitive matter of determining where to draw the line between various difficulties that might be encountered by Parties in fulfilling their obligations, and actual or potential non-compliance situations which warranted approaching the Contracting Party concerned and ultimately referring intractable cases to the Committee. To that end, the Secretariat would welcome criteria on which to base its assessment and also guidance on the vocabulary to be used.. The Secretariat's role might also be further clarified with regard to the use of MAP component expertise in addition to independent expertise, where required.



32. Two important tools to ensure improved reporting and hence comparability of data and subsequent assessment were the new reporting format and, in the future, the use of effectiveness indicators, which were now available in draft form, as proposed in document UNEP(DEPI)/MED Compliance Committee/Inf.4.

33. In the ensuing discussion, the Committee stressed the importance for Contracting Parties to comply with their reporting obligations, to report on time and, in doing so, to use the new standardized reporting format, now available on line. Members pointed out that not only was reporting crucial to assessment, but failure to report could indeed place Parties in a situation of non-compliance. In due course, the effectiveness indicators would certainly help focus the reports and facilitate compliance monitoring.

34. The question of the role of the Secretariat in providing back-up to the Compliance Committee gave rise to a wide-ranging exchange of views. It was noted that paragraph 23 of decision IG 17/2 on compliance procedures and mechanisms gave the Secretariat a pivotal role in identifying difficulties related to the implementation of the Convention and its Protocols, experienced by Contracting Parties in complying with their obligations and seeking ways of helping the Parties concerned to overcome such difficulties before taking any steps to refer unresolved difficulties to the Committee. It was agreed that, during that early stage, the Committee might provide guidance to the Secretariat, if needed, without being systematically informed of every potentially worrying situation, as one member had suggested. At later stages in the proceedings, the Secretariat would provide support to the Committee, as required by the latter.

35. The Committee made it clear that there was no confusion between the respective roles of the Committee and the Secretariat, even if, now that the Committee was operational, it was necessary to clarify matters of liaison between the two bodies. The Compliance Committee alone was competent to determine whether a situation was one of actual or potential non-compliance, while the Secretariat had a screening function in identifying possible difficulties. In so doing, it should adhere to the terminology used in paragraph 23 of decision IG 17/2.

36. It was agreed that the best way to determine the borderline between difficulties and non-compliance and to facilitate the Secretariat's identification task upstream would be to draw up a set of criteria or – bearing in mind Contracting Parties' respective capacities, as provided for in paragraph 32 of decision IG 17/2 – minimum measures to ensure conformity with legally binding obligations under the Convention and its Protocols. For that purpose the Committee authorized the Secretariat to recruit an independent expert to draft an initial paper for consideration by the Committee. The terms of reference for that assignment would be prepared as soon as possible by the Secretariat on the basis of the Committee's discussions at its second meeting and be circulated to Committee members and alternate members for feedback.

37. In this context, it was further agreed that a small informal working group composed of five members and alternate members, participating on a voluntary basis, would be established. It would work mainly through electronic means of communication, but would also hold a meeting without interpretation, in late September or early October with a view to review the draft paper prepared by the independent expert. Copies of all documents and information relating to the work of the group would be sent to all Committee members and alternate members.

38. Further discussing the role of the Committee in relation to that of the Secretariat, members recalled that the overriding concern of the Compliance Committee was to facilitate compliance and not to sit in judgement. By identifying difficulties as they arose and helping to overcome them through cooperation with the Contracting Parties concerned, the Secretariat

would play a valuable early warning as well as screening role on the basis of the Contracting Parties reports.

*Draft guide brochure on compliance procedures and mechanisms* (document UNEP (DEPI)/MED Compliance Committee 2/5)

39. The presentation by the Secretariat of the draft guide brochure on compliance procedures and mechanisms prompted a number of comments. Members considered that the brochure should be simple, user-friendly and attractive and were therefore in favour of its being shorter than the initial draft, with the use of bullet-points to sharpen its focus. They agreed that it should be illustrated and that there should be a general introduction about the Barcelona Convention and its Protocols, and a brief presentation of its members, with an annex containing such information as the texts of the decision setting up the Compliance Committee and of its rules of procedure. Readers seeking more information could be referred to the relevant page on the MAP website, with related links.

40. Noting that the intended users were both the authorities in Contracting Parties and the general public, the Committee agreed after an exchange of views that two separate brochures should be produced, with the version designed for the Contracting Parties containing more procedural information. Given time constraints, it was decided that the new draft version intended for authorities in the Contracting Parties would be produced as a matter of priority, bearing in mind the Committee's comments and following consultations with Committee members and alternate members through electronic means of communication. The final draft should be validated by the Committee and, it was hoped, might be ready for dissemination at the 16th Meeting of the Contracting Parties. The version intended for the general public could be issued subsequently, likewise with the Committee's endorsement.

*Compliance page on the MAP website*

41. The Committee considered the table of contents of the page on compliance proposed in document UNEP(DEPI)/MED Compliance Committee 2/5 for inclusion in the MAP website, and recommended that the Secretariat proceed with work on that very important task and submit the text of the draft to Committee members and alternate members before the 16<sup>th</sup> Meeting of the Contracting Parties.

**Agenda item 6: Draft programme of work of the Compliance Committee 2010-2011** (document UNEP(DEPI)/MED Compliance Committee 2/6)

42. Following the presentation of the draft programme of work, Committee members expressed the view that it afforded a sound roadmap for the Committee's activities in the forthcoming biennium and proposed a number of adjustments, including the prioritization of activities to make it clear that consideration of submissions was the Committee's prime task. It agreed that the Committee should hold at least one ordinary meeting a year, allowing for the possibility of holding additional meetings should the circumstances so warrant, notably in the event of submissions by individual Contracting Parties. At the suggestion of Mr Mifsud, it agreed to replace the proposed budget figure for the implementation of the programme of work by the wording "the budget necessary for its implementation".

43. Members considered that the provision of assistance to Contracting Parties should not be linked to "non-compliance", but should be intended more broadly to facilitate compliance in the event of difficulties faced in complying with obligations under the

Convention and its Protocols; it agreed to amend the wording of the relevant paragraphs accordingly, taking guidance from that of paragraph 32 of decision IG 17/2.

44. Some concern was expressed about the legal accuracy of the reference to the Committee as a “formal subsidiary body” of the Convention and its Protocols in the chapeau to the draft programme of work. Although members considered that that was de facto the case, they agreed that legal advice should be sought and the wording amended if necessary, possibly on the basis of paragraph 27 of decision IG 17/2.

45. In conclusion, it was agreed that the approved text and accompanying table, as amended in the light of the Committee’s comments, would be submitted to the meeting of the MAP Focal Points.

**Agenda item 7: Next steps until the 16<sup>th</sup> Meeting of the Contracting Parties**

46. The Secretariat outlined the work ahead, in particular with respect to preparing the documents for submission to the Contracting Parties at their 16<sup>th</sup> Meeting, and a tentative timetable for the sequence of those tasks. She pointed out that normally all documents for the Contracting Parties should first be submitted to the meeting of the MAP Focal Points, particularly in view of the decision taken for the Contracting Parties not to re-open the debate on matters agreed by the meeting of the Focal Points but only on issues pending from that meeting. Submission to the Focal Points would be possible for the Compliance Committee’s reports of its first two meetings, its draft rules of procedure and various other recommendations, including its recommendations on general compliance issues.

47. The question of the submission of documents containing the measures decided by the Compliance Committee or proposed to the Meeting of the Contracting Parties to address non-compliance situations in individual Contracting Parties needed further consideration and reflection by the Committee. In the past, only documents relating to the Mediterranean Commission on Sustainable Development (MCS D) had been submitted directly to the Meeting of the Contracting Parties, but the latter had decided to abolish that practice and had requested the MCS D to submit its documents first to the MAP Focal Points’ meeting for information and discussion, as appropriate. In the Secretariat’s view, there was a need for further clarification of the procedure to be followed with regard to the role of the meetings of the MAP Focal Points in respect of the Committee’s recommendations and/or measures to address non-compliance situations in individual Contracting Parties as provided for in section VII of the compliance procedures and mechanisms. The Secretariat’s intention was to bring that matter also to the attention of the forthcoming meeting of the Bureau of the Contracting Parties for its consideration and advice.

48. Members agreed that a third meeting of the Committee would be required ahead of the 16<sup>th</sup> Meeting of the Contracting Parties, at a date proposed by the Secretariat, so that the Committee could formally adopt its statutory report to that Meeting, which should include the Committee’s activities since its inception, its findings on general compliance issues arising from reporting for the 2006-2007 biennium and information on any submissions or referrals received. The draft report should be prepared by the Secretariat well in advance of the third meeting, in four languages, under the guidance of the Chairperson of the Committee and in close consultation with the Committee members and alternate members.

49. Meanwhile, in order to enable the Committee, at its third meeting, to address general compliance issues, which it had been unable to do to date on account of the few Contracting Party reports submitted, it requested the Secretariat to prepare a synthesis and/or an assessment report of all Contracting Party reports submitted by the time of the forthcoming meeting of the MAP Focal Points. The Committee would then review that document through

electronic means of communication and prepare any draft recommendations thereon for consideration and inclusion in the Committee's report to the 16<sup>th</sup> Meeting of the Contracting Parties.

50. At the suggestion of Mr Mifsud, the Committee decided after an exchange of views that its third meeting should be held in October 2009, bearing in mind the time needed for consultations and preparation of the relevant documents. It concluded, with regard to the submission of documents to the meetings of, respectively, the MAP Focal Points and the Contracting Parties, that, given the circumstances, its full final report, containing inter alia its review of general compliance issues, would inevitably have to be submitted directly to the latter.

51. It therefore proposed that the report of its activities on measures proposed by the Committee in accordance with section VII of the compliance procedures and mechanisms (decision IG 17/2) should be submitted by the President of the Committee to the Meeting of the Contracting Parties. Any other outcome of the work of the Committee should be submitted to the Meeting of the Contracting Parties through the meeting of MAP Focal Points. The Chairperson of the Compliance Committee or, in his absence, one of the Vice-Chairpersons or the member designated by him/her should be invited to attend the meeting of the MAP Focal Points to brief the meeting, for information purposes, on the Committee's work. At the suggestion of the Secretariat, the Committee requested that all the above mentioned proposals are submitted to the Bureau of the Contracting Parties at its forthcoming meeting for their consideration and advice.

52. It was further noted that the MAP Focal Points' meeting would provide a good platform for calling upon Contracting Parties which had not yet done so to comply with their reporting obligations, observing that the more reports received, the more reliable the assessment would be.

53. The question of the renewal of the Committee's membership was also raised by the Secretariat under agenda item 7 and, there again, it was agreed that the meeting of the MAP Focal Points would provide a good opportunity to bring the matter to the attention of the Contracting Parties. It was recalled that the mandates of all current members and alternate members ran until the Meeting of the Contracting Parties, whereafter those of the new members and alternate members elected for a full term would begin. It was agreed that a note from the Secretariat recalling the procedure for replacement should be circulated in time for the 16<sup>th</sup> Meeting of the Contracting Parties.

**Agenda item 8: Other matters**

54. Noting the substantial differences in reporting practice and the need for standardized Contracting Party reports, the Committee proposed, at the suggestion of one of its members, that provision should be made for a training course for reporting authorities, of one or two days' duration, in order to brief them on methods of responding to the new reporting format and on the use of the effectiveness indicators. The Secretariat took note of the proposal and assured the Committee that it would look into the best way of meeting the Committee's concerns.

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

55. The Committee considered the draft conclusions of the meeting prepared by the Secretariat. The conclusions, as amended, were adopted, and are attached as Annex III to this report.

56. After the customary exchange of courtesies, the Chairperson declared the meeting closed on Friday, 27 March, at 5.30 p.m.



**ANNEX I**

**LIST OF PARTICIPANTS**

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## AGENDA

1. Opening of the Meeting
2. Adoption of the Provisional Agenda and organization of work
3. Adoption of the report of the first meeting of the Compliance Committee
4. Rules of procedure for the Compliance Committee
  - a) *Review of comments and suggestions by the Bureau of the Contracting Parties on Rules of procedures for the Compliance committee*
  - b) *Finalization of the draft of Rules of procedure for submission to the meeting of the Contracting Parties*
5. Implementation of the Working Plan of the Compliance committee for 2008-2009
  - a) *Review of general issues of compliance with reporting requirements; General analysis of the national reports submitted by the Contracting Parties on measures taken to implement the Convention and its Protocols during 2004-2005*
  - b) *Effectiveness Implementation indicators*
  - c) *Draft Guide Brochure on compliance procedures and mechanisms*
  - d) *Proposed structure for the Compliance committee page in the website of MAP*
6. Draft Programme of work of the Compliance Committee 2010-2011
7. Next steps until the 16th meeting of the Contracting parties meeting
  - *Preparation of the report of the Committee for submission to the 16th meeting of the Contracting Parties*
  - *Next meeting of the Compliance committee*
  - *End of term of office for four Compliance Committee members in November 2009*
8. Other matters
9. Adoption of the conclusions and decisions
10. Closure of the meeting



## **ANNEX III**

### **CONCLUSIONS**

#### **Rules of procedure**

The meeting adopted the draft rules of procedure for the Compliance Committee as appear in Annex III to this report and recommended their consideration and adoption by the meeting of the MAP Focal Points and the 16<sup>th</sup> Meeting of the Contracting Parties.

#### **Implementation of paragraph 23 of the compliance procedures and mechanism**

The meeting confirmed that the Secretariat is entitled only to identify possible difficulties by the concerned Contracting Parties in complying with obligations under the Convention and the Protocols. The Secretariat should use only the terminology employed in paragraph 23 of the compliance procedures and mechanisms.

#### **General issues of non-compliance**

- The meeting agreed on the need to establish criteria or minimum measures to ensure conformity with legally binding obligations under the Convention and the Protocols, in order to facilitate the identification by the Secretariat of cases where a Contracting Party may encounter difficulties in complying with those obligations. For this purpose, the Committee authorized the Secretariat to recruit an independent expert to draft a draft document for the consideration of Committee members and alternate members.
- The terms of reference for this assignment will be prepared as soon as possible by the Secretariat on the basis of the discussions held during the second meeting of the Committee on this topic and will be disseminated to the members and alternate members of the Committee for their feedback.
- A working group composed of five members and alternate members of the Compliance Committee, participating on a voluntary basis, shall be established, working without interpretation mainly through electronic tools of communication. This group will hold a meeting in late September/early October 2009 with a view to further refining the above mentioned draft document on the establishment of criteria or minimum measures prepared by the independent expert. Copies of all the documents and information related to the work of the group shall be sent to all members and alternate members of the Committee.

#### **Programme of work for the biennium 2009-2010**

The Committee agreed to carry out the following activities during the biennium:

- a) convening of at least one ordinary meeting per year of the Compliance Committee;
- b) participation of the members of the Compliance Committee and its alternate members, of the representatives of the concerned Contracting Parties and of observers, as appropriate, in the meetings of the Compliance Committee according to the Rules of Procedure;
- c) participation of members and alternate members, concerned Contracting Parties and experts, as appropriate, in missions related to the accomplishment by the Committee of its functions as described in Decision IG 17/2 of the 15<sup>th</sup> Meeting of the Contracting Parties and the draft rules of procedure for the Compliance committee;

- d) assistance to the concerned Contracting Parties to implement the recommendations of the Committee and/or the meetings of the Contracting Parties, in order to facilitate the compliance;
- e) preparation of studies, assessments, criteria, analysis and any other working and/or information documents for the purpose of enabling the Committee to carry out its functions and to suggest recommendations and means to the concerned Contracting Parties and the Meetings of the Contracting Parties;
- f) awareness activities.

The Committee agreed on the following working and information documents for Committee meetings:

- a) Specific submissions by the Contracting Parties, if any.
- b) Referrals by the Secretariat on unresolved difficulties in complying with obligations under the Convention and its Protocols on the basis of the 2006-2007 national reports.
- c) Preparation and adoption of the report and the recommendations of the Compliance committee for submission to the 17<sup>th</sup> Meeting of the Contracting Parties.
- d) Preparation of the criteria or minimum measures to identify possible difficulties faced by the Contracting Parties in complying with obligations under the Convention and the Protocols, as provided for in paragraph 23 of the compliance procedures and mechanisms under the Barcelona Convention and its Protocols.
- e) Analysis of the effectiveness of the implementation of the Barcelona Convention compliance procedure and mechanisms taking into consideration the feedback by the Parties on how the supportive role of the Compliance Committee could be improved.
- f) Analysis of general issues of compliance on the basis of the reports submitted by the Contracting Parties during the [2006 2007 and] 2008-2009 biennium.
- g) Publication of the draft guide brochure on compliance procedures in Arabic, English and French.
- h) Preparation of criteria and procedures provided for in the draft rules of procedure for the Compliance Committee meetings and the Committee's work.

The meeting recommended that the above programme of work as well as the necessary budget for its implementation should be submitted for approval by the meeting of the MAP Focal points.

### **Draft guide brochure**

The meeting reviewed the draft guide brochure and agreed on the following:

- The draft should be less detailed and presented in the form of bullet points.
- There is a need to add an introductory paragraph on the Barcelona Convention and its Protocols, its objectives and effectiveness.
- The Secretariat could work on two drafts, one more formal for the attention of the Contracting Parties and the other largely public-oriented. The first, more formal draft of the brochure will be further refined by the members and alternate members of the Committee through electronic tools of communication with a view to finalizing it and publishing it by the next Meeting of the Contracting Parties. The version addressed to the general public will be prepared by the Secretariat during the next biennium, with content to be approved by the Committee.

- More detailed suggestions on the content and the layout of the brochure are described in the report of the meeting.

### **MAP Webpage on compliance and implementation**

The meeting agreed on the proposed table of contents for the MAP webpage on compliance and implementation and agreed to provide feedback on the text to be prepared by the Secretariat together with the information office of the Coordinating Unit.

### **Relationship between the Compliance Committee meetings and work and the Meetings of the MAP Focal Points and the Contracting Parties**

- The meeting proposed that the report on the activities of the Committee on measures proposed by the Committee in accordance with section VII of the compliance procedures and mechanism shall be directly submitted to the 16<sup>th</sup> Meeting of the Contracting Parties.
- The meeting proposed that any other outcome of the work of the Committee shall be submitted to the Meeting of the Contracting Parties through the meeting of MAP Focal Points. The meeting proposed also that the Chairperson of the Compliance Committee or, in his/her absence, one of the Vice-chairpersons, or in their absence any other member of the Committee, designated by him/her shall be invited to attend the meeting of MAP Focal Points to brief the meeting, for information purposes, on the programme of work of the Committee for the biennium 2009-2010.
- The Committee requested the Secretariat to submit the above proposals to the Bureau of the Contracting Parties at its forthcoming meeting for its consideration and advice.

### **Preparation of the reports on activities carried out by the Committee for the Meeting of the Contracting Parties**

- The meeting decided that another meeting of the Committee shall be held in October at a date to be proposed by the Secretariat, in order for the Committee to formally adopt its report prior to the 16<sup>th</sup> Meeting of the Contracting Parties.
- This report will be prepared well in advance in four languages under the guidance of the Chairperson of the Compliance Committee, in close consultation with the members and alternate members of the Compliance Committee.
- On account of the limited number of reports submitted by the Contracting Parties pursuant to article 26 of the Barcelona Convention, the Committee is not in a position to address any general compliance issue with regard to reporting for the biennium 2006-2007.
- However, it requested the Secretariat to prepare a synthesis and/or an assessment report of all reports submitted prior the MAP Focal Points meeting, for the consideration of the third Committee's meeting.
- The Committee decided to review this document (synthesis and/or assessment report of the national reports 2006-2007 submitted by the Contracting Parties) through electronic means of communication and agree well in advance of the October meeting of the Committee on possible relevant recommendations, thus allowing the Secretariat to prepare them in four languages for consideration and adoption by the Committee before their submission to the 16<sup>th</sup> Meeting of the Contracting Parties.