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Eight meeting of the Compliance Committee

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AMENDMENTS TO RULES OF PROCEDURE OF THE COMPLIANCE COMMITTEE.

DRAFT RULES OF PROCEDURE OF THE COMPLIANCE COMMITTEE

Proposed amended rules of procedure of the Compliance Committee under the Barcelona Convention and its protocols

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.

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 subject to availability of funds.

2. The Committee shall meet at the seat of the Coordinating Unit. ***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

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.

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

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.

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 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.

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, seven **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

The working languages of the Committee shall be the official languages of the meetings or 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.

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.

