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Draft guide brochure on the procedures and mechanisms on compliance under the Barcelona Convention and its Protocols

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1. **Note by the Secretariat**

The draft guide brochure prepared by the Secretariat is a shortened version of the official text of the Compliance procedures and mechanisms adopted as Decision IG 17/2 by the 15th Meeting of the Contracting Parties held in Almeria in January 2008.

The main issues presented in this draft guide brochure are:

- why establishing compliance procedures and mechanisms for Barcelona Convention and its Protocols?
- overview of the Barcelona Convention compliance procedures and mechanisms
- who are the members of the Compliance committee?
- how to use the mechanism?
- measures by the Compliance Committee to address cases of non-compliance
- measures by the meeting of the Contracting Parties to address cases of non-compliance
- decision-making processes
- contact details.

In the view of the Secretariat the draft guide brochure should be intended for the Contracting Parties and the public in order to increase awareness and knowledge as well as enhance a better use of Compliance procedures and mechanisms to facilitate and ensure the effective implementation of the Convention and its Protocols.

However, it is important that before summarizing the text, the Compliance committee agrees on who should be the target groups for this draft guide brochure, who they want to address it to. With this in mind, the drafting of the text would be more coherent.

In the view of the Secretariat, the draft guide brochure should also incorporate images that would make it more attractive. For this purpose, one or two pictures of the Committee meeting, or a plenary from the meeting of the Contracting Parties could be used. Images to illustrate each one of the Barcelona Convention Protocols in order to bring it into the context can be also published (for example: one image about protected areas and endangered species; one image about LBS pollution and so on).

It is also recommended that the text go to the essential. The procedural details could be shown on the website, because inserting them in a leaflet might make it too wordy and complex. Whenever possible, it would also be good to use bullet points lists. According to the practice for such publications, it is recommended that the text should be a minimum of 1100 and a maximum of 1500 words if possible.

Recommendations by the Secretariat

1. *The Committee is invited to discuss the above considerations presented by the Secretariat and make its recommendations and decisions.*
2. *The Committee is also invited to establish a small group that would work during the meeting on the text of the draft guide brochure in view of making it to the point and friendly.*

2. Draft Guide Brochure

Why Barcelona Convention and its Protocols need Compliance procedures and mechanisms?

In order to promote the understanding and implementation of the procedures and mechanisms on compliance with the obligations set out under the Barcelona Convention and its Protocols, the Compliance Committee that is entrusted with their administering decided that it would prepare the present publication- a brief guide for the Contracting Parties to explain, in clear terms, the procedures and mechanisms of the Compliance Committee.

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Chapter I Overview of the Barcelona Convention compliance procedures and mechanisms

To assist the Contracting Parties to comply with their obligations under the Convention and its Protocols, the Barcelona Convention Compliance Procedures and Mechanisms:

- Establish a committee dedicated to facilitate and promote implementation and compliance;
- Establish a procedure that is non confrontational, transparent, cost effective and preventive;
- Take into account the specific situation of each Contracting Party in particular those which are developing countries;
- Promote cooperation between all Contracting Parties;
- Provide advice, information and facilitate assistance to Contracting Parties facing compliance difficulties;
- Review, as decided by the meetings of the Contracting Parties, general issues of compliance with and implementation of the Convention and its Protocols.

Who are the members of the Compliance Committee?

The committee is comprised of 7 members and 7 alternate members representing geographically all the region (two members and two alternates from the southern and eastern Mediterranean countries; two members and two alternates members from the 7 EU member states which are parties to the Barcelona Convention and its Protocols; two members and two alternates from the other remaining Contracting Parties; one member and one alternate member on a rotation basis every four years from each group).

Although the members are nominated by the Governments, they are elected by the meetings of the Contracting Parties on their individual capacity and they serve objectively in the best interest of the Barcelona Convention and its Protocols.

The members and the alternate members have recognized competence in matters dealt with by the Barcelona Convention and its Protocols including scientific, technical, socio economic, legal or other related fields.

Chapter II How to use the compliance procedures and mechanisms

The committee initiates its work by four procedures

- (a) submissions by Contracting Parties
- (b) referrals by the Secretariat
- (c) review of general compliance and implementation issues
- (d) any other issue requested by the meetings of the Contracting Parties

Submissions can be made by:

- (a) a Contracting Party in respect of its own actual or potential situation of non compliance (self-submission)
- (b) a Contracting Party in respect of another Contracting Party's situation of non compliance (Contracting Party to Contracting Party submission)

General review and any other issues can be initiated by a decision of the meetings of the Contracting Parties.

Chapter III Submission procedure

What types of situations of non-compliance may a submission address?

- In case of self submissions: if a Contracting Party concludes that despite its best endeavors, is or will be unable to fully implement or comply with its obligations under the Convention and its Protocols;
- In case of Contracting Party to Contracting Party submission: if a Contracting Party has concerns or is affected by a non compliance situation with the obligations under the Convention and its Protocols by another Contracting Party;
- In case of referrals by the Secretariat: if the Secretariat becomes aware of possible difficulties of any Contracting Party in complying with its obligations under the Convention and its Protocols.

Content and form of the submission

Submissions shall be addressed in writing through the Secretariat in any of the official languages of the Convention.

What information the submission should set out?

Option 1

Each submission should detail

- *The matter of concern*
- *The relevant provisions of the convention and its protocols*
- *Substantiating information*

Option 2 (more detailed)

A self-submission shall set out:

- *The name of the Contracting Party making the submission;*

- *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*
- *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;*
- *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.*

A Contracting Party to Contracting Party submission shall set out:

- *The name of the Contracting Party making the submission;*
- *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;*
- *The name of the Contracting Party concerned;*
- *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;*
- *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.*

The committee may not decide to proceed with a submission that it considers to be

- anonymous
- de minimis
- manifestly ill founded

Notification and consultation prior to the submissions

In the case of Contracting Party to Contracting Party submissions, a Contracting Party intending to make a submission must first have undertaken consultation through the Secretariat with the Contracting Party whose compliance is in question and when the matter is not resolved within three or six months at the latest.

If the Secretariat becomes aware from the periodic reports referred to in Article 26 of the Convention and any other reports submitted by the Contracting Parties that a Contracting Party is facing difficulties in complying with its obligations under the Convention and its Protocols, the Secretariat shall notify the Contracting 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 concerned Contracting Party shall make a submission on the matter to the Compliance Committee. 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.

Distribution and consideration of information

The Secretariat shall forward the submission:

- (a) to the Committee as soon as possible but no later than thirty days of receipt of the submission;
- (b) in cases of Contracting Party-to-Contracting Party and Secretariat referrals, to the Contracting Party whose compliance is in question, as soon as possible but no later than two weeks after its receipt, and to the Committee, within 30 to 60 days after six months of the notification date.

Participation of Contracting Parties during the consideration of submissions

The Contracting Party whose compliance is at issue shall be invited to participate in the consideration of the submission by the Committee. However, this Contracting Party shall not take part in the elaboration and adoption of the conclusions or recommendations by the Committee.

The Contracting Party whose compliance is in question may present responses and/or comments at every step of the proceedings. The Contracting Party whose compliance is in question is given opportunity to comment on the conclusions and recommendations formulated by the Committee.

Unless the Committee and the Contracting Party whose compliance is in question agree otherwise, meetings dealing with specific submissions will be open to the Contracting Parties other than the Contracting Party whose compliance is in question and to observers.

Measures by the Committee

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 Contracting 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 Contracting Party concerned to develop an action plan to achieve compliance within a time frame to be agreed upon between the Committee and the Contracting Party concerned;
- (c) invite the Contracting 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.

Measures by the meetings of the Contracting Parties

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 Contracting 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, to an individual Contracting Party;
- (b) make recommendations to the Contracting Party concerned;
- (c) request the Contracting 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.

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

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

Decision making

As is the normal practice of Barcelona Convention, every effort is made to reach decisions on matters of substance by consensus. Where consensus cannot be reached, decisions are adopted by a three-fourth majority of the members present and voting.

Decisions will only be adopted if there are at least **XXX** members or alternate members of the Committee present.

Chapter IV The general compliance issues review procedure

What general issues of compliance and implementation can be subject to the review?

The Committee may, under the direction of the Meeting of the Contracting Parties, review:

- 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 Contracting Parties; and
- Any other issues as requested by the Meeting of the Contracting Parties.

What does the committee do once it has conducted a general compliance issue review?

Once the Committee has undertaken a review, it reports to the next ordinary meeting of the Contracting Parties on any conclusions and/or recommendations it has developed and on its suggestions for any future work that facilitates implementation of, and compliance with, the Barcelona Convention and its Protocols. The Meeting of the Contracting Parties will consider such recommendations and may approve them.

For further information on the Barcelona Convention and compliance procedures and mechanism visit the MAP website at www.unepmap.org

or

contact the Coordinating Unit for the Mediterranean Action Plan at:

P.O. Box 18019

48, Vassileos Konstantinou Av.

116 10 Athens, Greece

Tel: +30-210-7273100 (switchboard) - Fax: +30-210-7253196/7 –

E-mail: unepmedu@unepmap.gr

3. Draft table of contents of Compliance page in the MAP website

General information

- Text of the Barcelona Convention Compliance procedures and mechanisms
- Rules of procedure for compliance committee meetings
- Brochure on the Barcelona Convention Compliance procedures and mechanisms

Meeting's reports

Meeting number and date

Summary of the main meeting outcomes

(Direct link to the to the entire content of the Report of the meeting)

Current composition

Members and alternate members of the Compliance Committee elected by the 15th meeting of the Contracting Parties (direct link to a document that describe a short version (5-6 lines) of the CV of the members

Programme of work for each biennium

Relevant Decisions

Link to the respective meeting documents that negotiated the mechanism and decisions of the Contracting Parties meeting that established the mechanism and other related decisions

Member and alternate member area

Information for members of the committee
login