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1. Note by the Secretariat

This new text of the draft guide brochure is a slimmed-down version of the original draft and takes into account the comments made by members of the Committee at its second meeting. It includes comments on the principal provisions in Decision IG 17/2 on Compliance procedures and mechanisms adopted at the 15th Meeting of the Contracting Parties, held in Almeria in January 2008.

The Secretariat considers that the draft guide brochure should also include illustrations so as to make it more attractive. One or two photographs of the Committee's meeting or of a plenary meeting of the Contracting Parties could be used for this purpose. Some pictures could also be included to illustrate each of the Barcelona Convention's Protocols in order to situate the draft within its context (for example, a picture of a protected area or a threatened species, a picture of land-based pollution, etc.).

It is also recommended that the text confine itself to essentials. Procedural details could be explained on the web site, which could also include a list of the Committee's members and photographs of its meetings.

Recommendations of the Secretariat

1. *The Committee is invited to discuss the considerations set out above by the Secretariat and to make its recommendations and decisions.*
2. *The Committee is also invited to set up a small group to work on the draft text of the guide brochure during the meeting with a view to finalizing it and making it user-friendly.*

Draft guide brochure

- **Why a Compliance Committee?**

First and foremost, to assist the Contracting Parties and to help them to implement the provisions in the Barcelona Convention and its Protocols. The Compliance Committee plays a facilitating role.

- **Main features of the compliance mechanism**

- a. The procedure is non-conflictual, transparent, effective in comparison with its cost and preventive in nature;
- b. The procedure has a facilitating role; the Committee provides advice and helps Contracting Parties facing problems in implementing the Barcelona Convention and its Protocols;
- c. The procedure takes into account the specific situation of each Contracting Party, particularly developing countries.

- **Who are the members of the Compliance Committee?**

An independent committee: The members of the Compliance Committee are elected in their individual capacities by meetings of the Contracting Parties and act quite independently in order to serve the interests of the Barcelona Convention and its Protocols.

A limited Committee: The Committee is composed of seven members and seven alternate members representing geographical distribution in the region.

A competent Committee: Members and alternates are persons with recognized competence regarding the issues covered in the Barcelona Convention and its Protocols, particularly in scientific, technical, socio-economic, legal expertise or other spheres.

- **How does the Committee intervene?**

The Committee may take action after a matter has been referred to it by the Contracting Parties or may rule on an issue brought before it by the Secretariat. It may examine all general questions of non-compliance or any problems in implementing the Barcelona Convention on the basis of the reports submitted by the Contracting Parties under Article 26 of the Barcelona Convention. It may also address any other non-compliance issues transmitted to it by meetings of the Contracting Parties.

The Committee works by consensus. Its guiding rule is to spare no effort to reach decisions on substantive issues by consensus. However, if consensus is not possible, the Committee's conclusions, measures and recommendations may be adopted by at least six members present and voting.

- **Why refer a matter to the Committee?**

1st case: A Contracting Party may bring its own actual or potential situation of non-compliance to the Committee's attention (self-trigger) if it considers that,

despite all its efforts, it is or will be unable to comply fully or to meet its obligations under the Convention and its Protocols.

2nd case: A Contracting Party may refer to the Committee any situation of non-compliance by another Contracting Party (Party to Party trigger). Such a case may be envisaged when a Contracting Party is concerned or affected by a situation in which another Party fails to comply with its obligations under the Convention and its Protocols.

3rd case: The Secretariat, after contacting the Contracting Party concerned, may refer to the Committee any problem encountered by the Contracting Party in complying with its obligations under the Barcelona Convention and its Protocols.

- **A transparent and participatory procedure**

- a. Unless the Committee and the Contracting Party whose compliance is at issue decide otherwise, meetings to examine matters referred to the Committee are open to Contracting Parties other than the Party concerned and to observers.
- b. The Contracting Party whose compliance is at issue is invited to take part in the Committee's consideration of the matter. The Party does not, however, participate in the preparation and adoption of the Committee's findings, measures and recommendations.
- c. The Contracting Party whose compliance is at issue may submit replies and/or comments at any stage of the proceedings. It may also submit comments on the Committee's findings, measures and recommendations.

- **What measures can the Committee take?**

The purpose of any measure that may be taken by the Committee is to help the Contracting Party concerned to comply with its commitments under the Barcelona Convention and its Protocols and to examine any potential cases of non-compliance, taking into account the capacity of the Party concerned, particularly if it is a developing country, and the cause, nature, level and frequency of the non-compliance.

These measures are of an incentive and gradual nature:

- a. The Committee may give advice and, if necessary, provide assistance;
- b. Depending on the case, the Committee may invite or assist the Contracting Party concerned to draw up a plan of action to bring it into compliance within a period to be agreed between the Committee and the Party concerned;
- c. The Committee may invite the Contracting Party concerned to submit reports on its efforts to comply with its obligations under the Barcelona Convention and its Protocols;
- d. The Committee may make recommendations on cases of non-compliance to meetings of the Contracting Parties if it considers that such cases should be dealt with by the meeting of Contracting Parties.

- **What measures can the meetings of the Contracting Parties take?**

The meeting of Contracting Parties may act in cases of non-compliance, basing itself on the recommendations set out in the report submitted to it by the Committee:

- a. The meeting of Contracting Parties may assist a particular Party to comply with the Committee's recommendations and provide assistance, including capacity-building, where appropriate;
- b. The meeting of Contracting Parties may make recommendations to the Contracting Party concerned;
- c. The meeting of Contracting Parties may request the Party concerned to submit progress reports on compliance with its obligations under the Barcelona Convention and its Protocols; and
- d. As a last resort, the meeting of Contracting Parties may publish cases of non-compliance.

In serious, ongoing or repeated situations of non-compliance by a Party, the meeting of Contracting Parties may either issue a caution or publish a report on non-compliance by the Party concerned or, lastly, take any additional action necessary in order to achieve the objectives of the Convention and its Protocols.

Measures taken by meetings of Contracting Parties must in any event take into account the capacity of the Contracting Party concerned, particularly in the case of a developing country, as well as other factors such as the cause, type and degree of non-compliance.

- **The Compliance Committee: making proposals for improvement**

The Committee transmits to each meeting of the Contracting Parties a report in which it makes the necessary recommendations to facilitate and improve the implementation of the Barcelona Convention and its Protocols. It is up to the meeting of the Parties, based on these proposals, to examine the effectiveness of the compliance mechanism and to take any appropriate measures needed.

For further information on the Barcelona Convention and its Protocols and on compliance procedures and mechanisms, see the MAP web site: www.unepmap.org or contact the Coordinating Unit of the Mediterranean Action Plan:

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Draft content for the page on compliance on the MAP web site

General information

- Text of Compliance procedures and mechanisms under the Barcelona Convention;
- Rules of procedure for meetings of the Compliance Committee;
- Guide brochure on Compliance procedures and mechanisms under the Barcelona Convention.

Meeting reports

Symbol and date of the meeting

Summary of the meeting's main findings (direct link to the full meeting report)

Current composition of the Committee

Members and alternate members of the Compliance Committee elected by the 15th Meeting of Contracting Parties (direct link to a document giving a brief biography (5 or 6 lines) of each member.

Programme of work for each biennium

Relevant decisions

Link to documents for the respective meetings that negotiated the mechanism and the decision of the meeting of Contracting Parties which introduced the mechanism, together with other related decisions

Area reserved for members and alternate members

Information intended for members of the Committee

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