



Athens, Greece, 23-24 October 2009

DRAFT REPORT OF THE FIRST MEETING OF THE COMPLIANCE COMMITTEE

Introduction

1. Following the adoption of the procedures and mechanisms on compliance under the Barcelona Convention and its Protocols and the election of the Compliance Committee by the 15th Meeting of the Contracting Parties in its decision IG 17/2, the first meeting of the Compliance Committee was held at the premises of the Coordinating Unit in Athens, Greece, on 3 and 4 July 2008.

Participation

2. The following members and alternate members of the Committee attended the meeting: Mr Perparim Zaimi (Albania), Ms Martina Sorsa (Croatia), Mr Ahmed Elanwar (Egypt), Mr Didier Guiffault (France), Ms Angeliki Tsachali-Kalogirou (Greece), Ms Daniela Addis (Italy), Mr Abdulgader A. Abufayed (Libyan Arab Jamahiriya), Mr Robert Kojc (Slovenia), Mr Hawash Shahin (Syrian Arab Republic), Mr Osman Atilla Arikan (Turkey). The meeting was also attended by the following observers: Mr Abdelaâli Beghoura (Algeria), 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 the present report.

Agenda item 1: Opening of the meeting

5. Mr Paul Mifsud, MAP Coordinator, welcomed participants, recalling that members and alternate members had been elected in their personal capacity. The establishment of a formal compliance monitoring mechanism represented an important step forward for MAP, was intended to assist Contracting Parties in complying with the Convention and would enhance the credibility of the Convention in the eyes of the international community. He wished the Committee success in the task ahead at its first meeting, namely to develop draft rules of procedure, on the basis of decision IG 17/2, for submission to the 16th Meeting of the Contracting Parties.

Agenda item 2: Election of officers

6. The Committee elected Mr Didier Guiffault (France) as Chairperson and Mr .Osman Atilla Arikan (Turkey) and Mr Ahmed Elanwar (Egypt) as Vice-Chairpersons.

7. The Chairperson said that the compliance procedures and mechanisms, developed over a series of working group meetings, provided the Committee with a clear road map for drafting its rules of procedure. He stressed the importance of the compliance monitoring process, of the Committee's responsibility therein and of the members' independence, serving as they did in their personal capacity.

Agenda item 3: Adoption of the provisional agenda and organization of work

8. The meeting 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).

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

Agenda item 4: Development of rules of procedure for the Compliance Committee

10. The meeting had before it document UNEP(DEPI)/MED Compliance Committee 1/3 containing draft rules of procedure prepared by the Secretariat on the basis of the Rules of Procedure for Meetings and Conferences of the Contracting Parties to the Barcelona Convention and its Protocols, the text of the compliance procedures and mechanisms approved in decision IG 17/2 adopted by the 15th Meeting of the Contracting Parties and the provisions of compliance mechanisms under other similar instruments.

Draft rules of procedure: General discussion

11. Members were appreciative of the Secretariat's efforts in preparing the draft rules of procedure, which provided a sound basis for their work. Aware as they were of their responsibility in monitoring compliance with the Convention and its Protocols and assisting Contracting Parties in fulfilling their obligations, they stressed the importance of working together in a constructive, cooperative spirit. The draft rules of procedure should provide a clear framework to facilitate the Committee's work, building on the approved compliance procedures and mechanisms and refining them where necessary.

12. Among the points requiring further clarification from the outset was the question of the Committee's membership and the status of participants in the Committee's meeting. The Secretariat recalled the Committee's composition as specified in decision IG 17/2, observing that, under section II, paragraph 13, representatives of Contracting Parties who were neither members nor alternate members, while entitled to participate actively in the Committee's discussions, would be treated as observers, and could not replace a member or alternate member. Another matter raised was that of the required quorum of seven members, which might give rise to difficulties in the future. The question of the holding of public or private meetings, also raised in section II, paragraph 13, likewise needed to be further specified in the draft rules of procedure. Those matters would be more fully debated in the course of the discussion.

Draft rules of procedure: chapter-by-chapter discussion

13. Rules 1 and 2 were approved subject to editorial changes.

Definitions

14. Several suggestions were made for additions to the list of terms under rule 3, "Definitions", notably "public", "representative", "Bureau" and "observer", in order to leave no room for ambiguity in the text. It was agreed that note would be taken of any such suggestions in the course of the discussion and that the chapter would be finalized when the drafting was complete. Names of instruments should be spelled out in full.

Dates and notice of meetings

15. Alternative wording was agreed for the title and rule 4 in order to include the venue of meetings.

16. Under rule 5, it was agreed that the words "and alternate members" should be added after "members. After some discussion it was agreed that such wording should be consistent throughout the text to avoid any confusion. It was decided that the notification deadline for meetings should be two months.

Officers

17. Regarding the term of office of the Chairperson and Vice-Chairpersons (rule 6), some members were in favour of limiting their term to two years in the interests of rotation. However, it was agreed for reasons of continuity, flexibility and efficiency to leave it to the discretion of the Committee to re-elect an officer for a maximum of one additional term.

18. Some members considered the functions of the Chairperson as set out in rule 7 to be too detailed and prescriptive, although it was noted that it was always preferable to lay down certain rules for keeping order. The chapeau of the second paragraph was changed to: "The Chairperson may also propose" as being more appropriate for a small technical body working in a cooperative spirit.

Agenda

19. In the discussion on rule 8, the point was made that Contracting Parties should have the opportunity to submit items for inclusion in the agenda and otherwise comment on the proposed agenda prior to Committee meetings. It was observed that the rules provided that members would receive the documentation for the meeting and the provisional agenda well before the meeting and would have ample time to react, in consultation with the Chairperson, whose role was to work constructively with the other members of the Committee. The provisional agenda was a flexible working document, which could be amended before or at the meeting. It was agreed under rule 9 that the other relevant documents for the meeting should be circulated to members and alternate members at least six weeks before the opening of the meeting. It was noted that experience would prove whether the agreed deadlines for the dispatch of documents under that and other rules needed re-examining.

20. In the course of the discussion on rule 9 the question of the participation in Committee meetings of alternate members as well as full members was raised. The current assumption was that alternate members would be invited only if full members were unable to attend. However, it was considered advisable in the future for all members and alternate members to be invited in the interests, in particular, of securing a quorum, and also to ensure a broad range of views, continuity and commitment. As provided for in the compliance procedures and mechanisms, alternate members not serving as members, while being entitled to participate in the proceedings, would not enjoy the right to vote.

Members

21. The Committee agreed that "members" should read "members and alternate members", and that rule 3 should include a definition of "members".

22. The rationale behind the Bureau endorsement procedure provided for in rule 10, paragraph 2, was explained by the Secretariat, namely to avoid a hiatus in Committee membership, given that the Contracting Parties met only every two years.

23. Following an exchange of views, the Committee agreed that rules 10 and 11 should be partly merged, in order to bring all provisions relating to replacement procedures under the same heading.

24. The wording of rule 12 was considered to be a duplication of the relevant provisions of the compliance procedures and mechanisms and was therefore deleted, although the importance of members and alternate members serving in their personal capacity was again stressed. The oath of service contained in rule 13, paragraph 2, was replaced by a more concise version proposed by one participant.

Distribution and consideration of information

25. The title of the chapter was changed to: "Public access to documents and information".

26. The Committee stressed the importance of striking a balance between the requirements of transparency and confidentiality. While openness to the public was highly desirable, the need to protect the confidentiality of some information provided by a Party concerned was emphasized, and the term "non-confidential" was accordingly inserted before "information documents". It was pointed out that the confidentiality issue was covered by section V, paragraph 30, of the compliance procedures and mechanisms.

Participation in proceedings of the Committee

27. The Committee was informed that participation in the proceedings of the Committee was largely covered by the provisions of the compliance procedures and mechanisms; the new element, contained in rule 16, was the opportunity afforded to the Party concerned to submit written comments on the Committee's findings, measures and recommendations and for such comments to be included in the Committee's report to the Contracting Parties. The Committee agreed that such comments should be authorized on both preliminary and final findings.

28. The question of the participation of a Party whose compliance was in question in various stages of the Committee's proceedings gave rise to a broad exchange of views. It was agreed that a Party concerned should be invited to participate in the Committee's discussions on the non-compliance situation in question subject to the provisions of paragraphs 18, 27 and 29 of the compliance procedures and mechanisms and, at the Committee's discretion, in the preparation of the Committee's findings, measures and recommendations. It was further agreed that the Committee would need to develop criteria to enable it to identify specific situations in which the Committee would require such a Party's participation in the preparation of its findings, decisions and recommendations.

Conduct of business

29. Three options were proposed for consideration under rule 17, which concerned public and private meetings and attendance at Committee meetings. The Committee considered that the third option was preferable to the first two since it was based on the principle that Committee meetings should normally be open to other Contracting Parties not represented on the Committee and to observers, with closed meetings being the exception. The circumstances under which meetings could be held in private were discussed, and overriding consideration, provided for in section III, paragraph 13 of the compliance procedures and mechanisms, being that the Party whose compliance was in question so decided, in order to protect the confidentiality of information (section V, paragraph 30). It was understood that the other Contracting Parties had observer status. It was agreed that criteria would need to be developed to enable the Committee to take any decisions related to participation in Committee meetings by other Contracting Parties not represented on the Committee and by observers. The paragraphs under "Conduct of business" that related to

participation in meetings were subsequently included in the chapter "Participation in the proceedings of the Committee".

30. Some concern was expressed about the timeframe for determining whether a meeting was to be held in private or in public, *inter alia* because practical considerations regarding, for example, notification and invitations needed to be borne in mind. That question was unlikely to arise in the immediate future since no cases of non-compliance were as yet on the table, and it was agreed that, pending the development of criteria, a decision on the public or private nature of the Committee's second meeting would be taken when the dates were set and the agenda prepared.

31. In respect of the quorum (rule 18), a reference to rule 11 was deemed useful in order to make it clear that the rule applied also to alternate members serving as members. With regard to the use of electronic means of communication (rule 20) members felt it necessary to clarify the term "matters of substance" and reworded the rule accordingly.

Voting

32. It was recalled that, in the event of recourse to a vote on the Committee's findings, measures and recommendations, a three-fourths majority was required and that at the MAP Focal Points Meeting in October 2007 it had been agreed that a three-fourths majority of the seven-member Committee was six.

Secretariat

33. The Committee agreed to the wording of rule 23 with a minor editorial amendment.

Languages

34. Several participants made out a strong case for Arabic to be included as a working language of the Committee in the interests of efficient performance and participation, pointing out that the Committee was a critically important body, that one-third of its membership was Arabic-speaking, that the general public and decision-makers in the Contracting Parties on the southern rim of the Mediterranean were all too often denied the privilege of literature on the environment, that the benefits to those countries, and particularly to the upcoming generations, who were overwhelmingly Arabic-speaking, far outweighed the translation costs involved and that an important message would be sent out by such a decision. Mr Mifsud pointed out in response that the Secretariat sympathized with those concerns and that every effort was being made to introduce Arabic into MAP's operations, notably through the translation of documents and on the MAP website. All Committee documents for submission to the Contracting Parties would be translated into Arabic. However, the working languages of technical bodies such as the Committee were English and French – a practice that had always proved workable – and the financial and technical consequences of such a decision should be borne in mind.

35. Concluding the debate, the Committee agreed to include Arabic in square brackets in rule 24 and advised the Secretariat to report on the matter to the Bureau at its next meeting.

General procedures for submissions

36. A number of drafting changes were introduced for reasons of consistency and clarity and to bring the text into line with the compliance procedures and mechanisms. In response to a question about the term "representative", it was explained that in a non-compliance

case, the Party whose compliance was in question designated a representative for liaison with the Committee and the Secretariat, as would be specified under "Definitions".

37. Regarding rule 30, it was noted that, although the compliance procedures and mechanisms did not provide for recourse to experts, such recourse might prove useful in certain situations of a highly technical nature. Following a discussion, it was agreed that the Committee would determine the question on which expert opinion was sought and identify the expert(s) to be consulted on the basis of a roster of experts prepared and regularly updated by the Secretariat, it being understood that a Party concerned was entitled to invite an expert or experts of its own choosing.

38. A new introductory part to rule 29 referring to rules 26 and 27 of the draft rules of procedure was inserted to meet the concerns of a member who wished it to be quite clear that there were two stages in the proceedings – a preliminary and a final stage.

Amendments to the rules of procedure

39. Although members agreed, as was specified in rule 22, that the principle of consensus should prevail, concern was expressed about the possible blocking of proceedings if the consensus rule (rule 33) was applied to the exclusion of voting on amendments.

40. In the interest of flexibility it was accordingly decided to introduce a two-thirds majority rule (5 members), with a three-fourths majority (6 members) in square brackets. The proposed amendments would then be submitted to the Meeting of the Contracting Parties, as the sovereign body, for consideration and adoption, as was the case for the rules of procedure themselves – a position strongly defended by several speakers. However, in order to meet a concern expressed about possible long delays in securing adoption by the Contracting Parties, a second option was introduced referring to consensus only and proposing that amendments should be submitted for subsequent endorsement or validation by the Contracting Parties. It was agreed that Bureau advice would be sought on those proposals, and that the Committee would further reflect on the issue at its second meeting.

41. At a subsequent meeting the Committee considered a revised version of the draft rules of procedure incorporating changes made during the discussion. In addition to several editorial changes, it emerged that there were still some doubts about the rules for replacement of a full member by an alternate member, in particular in view of the seven-member quorum, and it was agreed that the matter should be taken up again for further clarification. The Committee agreed on the text of the draft rules of procedure, stressing, however that the drafting process was still ongoing and that proposals for further refinement were welcome for consideration at the Committee's second meeting. The draft rules would now be edited and circulated to members and alternate members within two weeks and they would be presented to the forthcoming Bureau meeting for information.

Agenda item 5: Adoption of the work plan of the Compliance Committee for 2008-2009

42. The Secretariat introduced the draft work plan, contained in document UNEP(DEPI)/MED Compliance Committee.1/4, under four major headings: addressing individual cases of non-compliance, reviewing general issues of compliance, drafting rules of procedure for the Committee, including operating procedures, and promoting compliance and implementation. No specific cases of non-compliance had as yet been submitted, but the Secretariat might identify from national reports submitted under the 2002-2003, 2004-2005

and ongoing reporting exercises potential non-compliance situations and refer them to the Committee for consideration under section V, paragraph 23 of the compliance procedures. In addition, the Secretariat, from its analysis of reports, could draw the Committee's attention to general shortcomings in compliance with reporting obligations. Failure to comply with reporting obligations, either through non-submission of reports or through inadequate information supplied, was in itself an instance of non-compliance. It should be borne in mind that only the information provided in the periodic reports or submissions by Contracting Parties could trigger the compliance mechanism. Attention was also drawn to the measures proposed to ensure the visibility of the Committee and its work.

43. Members stressed that a prime consideration in compliance monitoring should be to help Contracting Parties in difficulty to overcome their problems. The Committee's role was one of cooperation, not policing.

44. The Committee approved the proposed programme of work 2008-2009 and authorized the Secretariat to prepare the first draft of the leaflet on the compliance mechanism and the draft materials for publication on the MAP website, to prepare a general analysis of reports submitted by the Contracting Parties on measures taken to implement the Convention and its Protocols, as from the 2004-2005 reporting exercise, for consideration by the Committee, to prepare a general analysis of shortcomings in compliance with reporting obligations and ways and means of assisting the Parties concerned, and to refer to the Committee any potential non-compliance cases, as provided for under paragraph 23 of the compliance procedures and mechanisms. It was further agreed that the Committee's work might include reflection on ways and means of improving the implementation of the compliance mechanism.

Agenda item 6: Date and place of the second meeting of the Compliance Committee

45. Following consultations with the Secretariat, the Committee decided to hold its second meeting in February 2009.

Agenda item 7: Other matters

46. There were no matters for discussion under this item.

Agenda item 8: Adoption of the report

47. Noting that the full report of the meeting would be circulated by electronic means, the Chairperson invited participants to consider a draft text containing conclusions of the meeting, which summed up the main points that had emerged from the discussion and would be annexed to the report. The text, as amended, was adopted.

Agenda item 9: Closure of the meeting

48. Following the customary exchange of courtesies, the Chairperson declared the meeting closed on Friday, 4 July 2008, at 4.30 p.m.

ANNEX I

LIST OF PARTICIPANTS

ALBANIA ALBANIE	Mr Perparim Zaimi Director Lagja Nr.4 Rruga " Skenderbeg " P.773 Apt. 1 Durrës, Albania Tel : + 355 686017373 Mobile: + 355 69 24 05 993 Email: pzaimi2004@yahoo.com
ALGERIA ALGÉRIE	M. Abdelaâli Beghoura Directeur Général Commissariat National du Littoral algérien 30, Ave. Mohamed Fellah Kouba 16050 Alger Algérie Tel: +213 21 289 018 Fax: +213 21 285516 E-mail: beghouraali@hotmail.com commissariatnationallittoral@yahoo.fr
CROATIA CROATIE	Ms Martina Sorsa Junior Legal Advisor International Relations Department Ministry of Environmental Protection, Physical Planning and Construction Republike Austrije 14 10000 Zagreb Croatia Tel: +385-1 3782186 Fax: +385-1 3717149 E-mail: martina.sorsa@mzopu.hr
EGYPT ÉGYPTE	Mr Ahmed Elanwer Counselor Egyptian Environmental Affairs Agency (EEAA) 30 Kornish Elnil Street P.O.Box 955 El Maadi Cairo Egypt Tel: 202 1 3779595 Fax: 202 1 5247235 Email: Ahmed_elanwer@hotmail.com

FRANCE	M. Didier Guiffault Adjoint au Chef de Bureau Secrétariat Général, Service des Affaires internationales Ministère de l'Ecologie, de l'Énergie, du Développement durable et de l'Aménagement du territoire 20, avenue de Ségur 75007 - Paris 07 SP France Tel : +331 40817856 Fax: +331 42191792 E-mail: didier.guiffault@developpement-durable.gouv.fr
GREECE GRÈCE	Ms Angeliki Tsachali-Kalogirou Lawyer Department of International Relations and EU Affairs Ministry for the Environment, Physical Planning and Public Works 15 Amaliados Street 11523 Athens Greece Tel:+30-210-6465762 Mobile: +30-6932221467 Fax:+30-210-6434470 E-mail: ang.tsachali@tmeok.minenv.gr
ITALY ITALIE	Ms Daniela Addis Legal Adviser Ministry of Environment Via C. Colombo 44 00147 Rome Italy Tel: +39 0 .572 23 404 Mob: +39 349 7191278 E-mail: Addis.Daniela@minambiente.it
LIBYAN ARAB JAMAHIRIYA JAMAHIRIYA ARABE LIBYENNE	Mr Abdulgader A. Abufayed Professor Environment General Authority (EGA) P.O Box 83618 Tripoli Libya Tel: +218 92 5024906 Email: aabufayed@hotmail.com
SLOVENIA SLOVÉNIE	Mr Robert Kojc Under Secretary Ministry of the Environment and Spatial Planning Dunajska Cesta 48 Ljubljana 1000 Slovenia Tel: + 386 1 4787337 Fax: + 386 1 4787425 E-mail: Robert.Kojc@gov.si

SYRIAN ARAB REPUBLIC RÉPUBLIQUE ARABE SYRIENNE	Mr Hawash Shahin Professeur à la Faculté de Droit Département de Droit International Université de Damas Damascus Syrie Tel.: +963 11 323 4655 Tel/Fax: +963 11 321 3939 Mob.: +963 944 270142 E-mail: hawash@scs-net.org
TURKEY TURQUIE	Mr Osman Atilla Arikan Assistant Professor Istanbul Technical University Environmental Engineering Department Istanbul 34469 Turkey Tel: +90 212 285 3787 Fax: +90 212 2853781 Email: arikan@itu.edu.tr
TUNISIA TUNISIE	Mr Hédi Amamou Conseiller juridique Directeur Général des Affaires Juridiques Ministère de l'Environnement et du Développement Durable Centre Urbain Nord, Boulevard de la Terre 1080, Tunis Tunisie Tel : 216 70728650 Fax : 216 70728655 Mob.: 216 22 560141 E-mail: DLEAJ@mineat.gov.tn
UNEP/COORDINATING UNIT FOR THE MEDITERRANEAN ACTION PLAN (MAP) PNUE/UNITE DE COORDINATION DU PLAN D'ACTION POUR LA MEDITERRANEE (PAM)	Mr Paul Mifsud MAP Coordinator Tel: +30-210-7273100 (switchboard) Tel: +30-210-7273101 (direct) Fax: +30-210-7253196/7 E-mail: paul.mifsud@unepmap.gr Ms Tatjana Hema MEDU Programme Officer Tel: +30-210-7273115 Fax: +30-210-7253196/7 E-mail: thema@unepmap.gr P.O. Box 18019 48, Vassileos Konstantinou Av. 116 10 Athens Greece

ANNEX II

AGENDA

1. Opening of the Meeting
2. Election of officers
3. Adoption of the Provisional Agenda and organization of work
4. Development of Rules of procedure for the Compliance Committee
5. Adoption of the Working Plan of the Compliance committee for 2008-2009
6. Date and place of the second meeting of the Compliance committee
7. Other matters
8. Adoption of the report
9. Closure of the meeting

ANNEX III

CONCLUSIONS

Development of rules of procedure

- The Committee agreed on the approach that, in principle, the Rules of Procedure for Meetings and Conferences of the Contracting Parties would apply *mutatis mutandis* to the meetings of the Committee except in cases in respect of which the Committee needs to develop its own rules in order to comply with the specific requirements of the compliance procedures and mechanisms.
- Under the rule on “Definitions” the full name of the Convention and its Protocols, including their amendments, should be spelled out.
- There is a need to add a number of additional definitions to explain the meaning of “public”, “representative”, “Bureau” and “observer”.
- The members and alternate members of the Committee are elected in their personal capacity. Any person other than the elected members and alternate members who is designated by a Contracting Party to attend the meetings of the Committee will be entitled to participate actively in the meeting discussions but will not enjoy the attributes of the members and/or alternate members who are replacing members.
- All alternate members will be invited to attend the Committee meetings and participate in its proceedings without the right to vote, unless they are serving as members.
- Criteria should be developed by the Committee in order for it to be in a position to identify specific situations when the Committee needs the participation of the Party concerned in the elaboration of Committee findings, decisions and recommendations.
- The Party concerned shall be given the opportunity to comment, if it so wishes, on preliminary and final findings, measures and decisions of the Committee.
- Criteria should be developed by the Committee with a view to enabling it to take any decision related to participation in the Committee meetings of the other Contracting Parties not represented in the Committee and of observers.
- Electronic means of communication may be used for making decisions on matters of procedure. They shall not be used for making decisions on matters of substance, in particular related to findings, measures and recommendations.
- The Committee proposed to add the Arabic language as the third working language of the Committee.
- Recruitment of experts by the Secretariat will be Committee needs-driven. For this purpose a roster of experts will be prepared and regularly updated by the Secretariat on the basis of which the Committee will recommend any selection.

- The Committee will further reflect on the proposed options for the adoption of amendments to the Committee's rules of procedure. It was suggested that the issue be reconsidered at its second meeting, while the Secretariat should seek Bureau advice.
- The meeting agreed on the text of the rules of procedure, subject to editing and to validation by the second meeting of the Committee.

Programme of work for the Committee 2008-2009

The Committee approved the programme of work 2008-2009 proposed by the Secretariat and attached as an annex to these conclusions.

In preparation for the second meeting of the Committee, the following actions shall be undertaken by the Secretariat:

- to prepare the first draft of the leaflet on the compliance mechanism and the draft materials for publication on the MAP website in the section on compliance;
- to prepare a general analysis of reports submitted by the Contracting Parties on measures taken for the implementation of the Convention and its Protocols for consideration by the Committee;
- to prepare an analysis of gaps related to compliance with reporting obligations by the Contracting Parties and ways and means of providing assistance to the concerned parties;
- to submit to the Committee any non-compliance referrals as provided for under paragraph 23 of the compliance procedures and mechanisms; and
- to consider submissions, if any, by the Parties, as provided for under paragraphs 18 and 19 of the compliance procedures and mechanisms.

Dates of the second meeting of the Committee

The Committee decided to hold its second meeting in February 2009.

ANNEX IV

DRAFT

RULES OF PROCEDURE FOR THE COMPLIANCE COMMITTEE UNDER THE BARCELONA CONVENTION AND ITS RELATED 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. "*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;
10. "*Representative*" means a person designated by the Party concerned to represent it during the consideration of a question of non-compliance;
11. "*The public*" means one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organizations or groups;
12. "*Bureau*" means the Bureau of the Contracting Parties referred to in article 19 of the Convention;
13. "*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. Unless it decides otherwise, the Committee shall normally meet at the seat of the Coordinating Unit.
2. At each meeting, the Committee shall decide 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 two 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 meeting.

MEMBERS AND ALTERNATE MEMBERS

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. Subject to these rules, alternate members are entitled to participate in the proceedings of the Committee without the right to vote. An alternate member may cast a vote only if serving as the member.
2. During the absence of a member from all or part of a meeting, his or her alternate shall serve as the member.
3. 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.

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 disclosed as soon as possible to 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 12bis

Each member or 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 13

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. A 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 referrals 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 timeframes 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 14

The provisional agenda, reports of meetings, official documents and, subject to rule 13 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 15

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 not represented on the Committee and to observers as provided for under paragraph 13 of the compliance procedures and mechanisms.
2. In addition to the provisions of paragraphs 18, 27 and 29 of the compliance procedures and mechanisms that address participation of the concerned Party in the Committee's discussions and, if it is considered necessary by the Committee, in the preparation of its findings, measures and recommendations, the Party concerned shall be given an opportunity to comment in writing on any 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. Secretariat officials and experts invited by the Committee may be present during the elaboration and adoption of Committee findings, decisions or recommendations.

CONDUCT OF BUSINESS

RULE 16

In conformity with Rule 11, seven members of the Committee shall constitute a quorum.

RULE 17

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 18

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 for transmission, distribution and storage of documentation, without prejudice to normal means of circulation of the documentation, as the case may be.

VOTING

RULE 19

Each member of the Committee shall have one vote.

RULE 20

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 abstaining from voting shall be considered as not voting.

SECRETARIAT

RULE 21

1. The Secretariat shall make arrangements for meetings of the Committee and provide it with services as required.

2. In addition, the Secretariat shall perform other functions assigned to it by the Committee with respect to the work of the Committee.

LANGUAGES

RULE 22

The working languages of the Committee shall be English, French and [Arabic].

RULE 23

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 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. A representative taking part in the Committee proceedings/meetings may speak in a language other than the working languages of the Committee if the Party provides for interpretation.

3. Findings, measures and recommendations that are final 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 24

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 should also set out a list of all documents annexed to the submission.

RULE 25

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 set out a list of all documents annexed to the submission.

RULE 26

The Secretariat shall make the submission and any supporting information submitted under rule 14 available to the representative designated by the concerned Party.

RULE 27

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 should 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 28

1. Any submission, comment and/or written observations under rules 13 and 29 shall be signed by the MAP Focal Point or the representative of the Party and be delivered to the Secretariat in hard copy and by electronic means.

[2. Any relevant documents in support of the submission, comment or written observations shall be annexed to it.]

RULE 29

If the Committee decides to seek expertise through the Secretariat, 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.

RULE 30

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 the Party concerned was given 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) 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. Comments in writing 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 biannual report to the Meeting of the Contracting Parties.

AMENDMENTS TO THE RULES OF PROCEDURE

RULE 31

Option one

Any amendments to these rules of procedure shall be prepared by the Committee and agreed by at least five Committee members present and voting and submitted for consideration and adoption by the Meeting of the Contracting Parties.

Option two

Any amendments to these rules of procedure shall be adopted by consensus by the Committee and submitted for consideration and adoption by the Bureau, subject to endorsement/validation by the Meeting of the Contracting Parties.

OVERRIDING AUTHORITY OF THE CONVENTION AND ITS RELATED PROTOCOLS AND DECISION IG 17/2

RULE 32

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.