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Athens, Greece, 13-16 October 2015

Agenda item 5.15: Draft Decision on Compliance Committee and Mechanism

Reports of the Ninth and Tenth Compliance Committee Meetings

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UNEP/MAP
Athens, 2015

**Report of the Ninth Meeting of the Compliance Committee, Split, Croatia, 27-28
November 2014**

Introduction

1. The Compliance Committee held its ninth meeting on 27-28 November 2014 at the premises of the Priority Action Programs/Regional Activity Center in Split, Croatia).

Participation

2. Members and alternate members of the Committee, mentioned below, took part in the meeting: Mrs Rachelle Adam, Mrs Daniela Addis, Mrs Milena Batakovic, Mrs Selma Cengic, Mr Tarzan Legovic, Mr Larbi Sbaï, Mr Michel Prieur and Mr José Juste Ruiz.
3. The Coordination Unit was represented by Mr. Gaetano Leone, Coordinator of the Barcelona Convention, Mr. Atila Uras, Programme Officer, and Mr. Didier Guiffault, MAP Legal Adviser.
4. The list of participants is attached in **Annex I** of the present report.

Agenda item 1: Opening of the meeting

5. The President of the Committee thanked the Secretariat for replying to the wish of the Compliance Committee to meet outside the premises of the Coordinating Unit in Athens. He pointed out the importance for the Committee to move on the field and hopes that this experience will be renewed for a next meeting of the Committee. He thanked, in this regard, the Coordinator for the organization of this 9th meeting at Split, in the premises of the Priority Action Programme/Regional Activity Center (PAP/RAC), particularly Mrs. Zeljka Skaricic, Director of PAP/RAC for her hospitality. The President underlined the importance of the Committee's work following the eighteenth meeting of the Conference of the Parties, held in December 2013, in Istanbul.
6. The MAP Coordinator pointed out that it was an honor for him to attend for the first time this meeting of the Committee. He welcomed the election of two new members of the Committee, Mrs. Milena Batakovic and Mr. Thomas Paris, elected at the eighteenth Conference of the Parties. He informed the Committee that two of its members were excused (Mr. Nicos Georgiades and Mr. Joseph Edward Zaki). The Coordinator thanked the PAP/RAC Director who has largely contributed to the organization of this meeting. He also underlined the fruitful collaboration between the Secretariat and the PAP/RAC regarding the implementation of the Barcelona Convention and its Protocols, more particularly the Coastal Zones Integration Management Protocol in the Mediterranean Sea. He expressed his full gratitude to the President who showed high competence in her mandate and significantly contributed to the success of the Committee's action. The Coordinator informed the Committee that, on October 6, 2014, the date on which the documents were sent, the Secretariat received three reports for the Biennium 2012-2013 respectively submitted by Turkey, Bosnia & Herzegovina and the European Union. Since that date, the Secretariat received five other reports (Croatia, Greece, Cyprus, Morocco and Lebanon). These documents being sent are an encouraging sign for the mobilization of Contracting Parties to comply with their reporting obligations as stated in Article 26 of the Barcelona Convention. He recalled, in this regard, the different letters sent to the Contracting Parties to raise their awareness regarding the necessity to submit their reports online within the requested deadlines. The Coordinator underlined the aspect that the legal framework of the Committee's action is henceforth in place with the adoption by the Meeting of the Contracting Parties of Decisions IG. 17/2 and IG.19/2, and finally, the last decision IG. 21/1 which reinforced the powers of the Committee, acknowledging the fact that it has a power of initiative regarding the Contracting Parties encountering difficulties to submit their reports. Finally, he pointed out the importance of the items on the meeting's agenda, i.e. the election of the new Bureau of the Compliance Committee, the

definition of criteria for the assessment of reports to identify the current or potential situations of non-compliance, the evaluation of the reports submitted by the Contracting Parties, the review of the current reporting format to be submitted by Contracting Parties.

7. The PAP/RAC Director welcomed the members of the Compliance Committee expressing her satisfaction to host them at the PAP/RAC premises in Split. She indicated that this meeting was held in a particular context at a moment where the PAP/RAC in cooperation with the Secretariat works on the project of the reporting format of the ICZM Protocol. She underlined all the importance of the implementation of the present Protocol and the necessity to reach to its execution. She pointed out that some Parties (Croatia, Spain, Morocco) have already filled, whether fully or partially, the reporting Format. Moreover, the Protocol's Action Plans are currently implemented; coastal management programs and projects were launched. The Director expects from the Compliance Committee, as well as from the Coordination Unit some assistance to identify the progress to achieve in such a complex field.
8. The President renewed his thanks to the Director, as well as to the Coordination Unit with which dynamic and fruitful relationships were established. He insisted on the fact that the Compliance Committee shall not be considered as a "recording room", but as a reactive and dynamic organ, called upon to provide informed opinion to the Conference of the Parties to which it shall report. He recalled that the Committee members do not represent the Contracting Parties, which is a landmark of independence. He estimated that it was appropriate to give the Committee its entire rightful place within the Barcelona system. The President recalled that the Committee has never been seized to date of a case of non-respect neither by the Contracting Parties nor by the Secretariat and that it is necessary to react in the face of this "technical unemployment". He evoked the very promising alternative of the power of initiative acknowledged to the Committee by the eighteenth Conference of the Parties. He considered this adoption as a significant progress which will allow the Committee not to remain in uncertainty. To conclude its intervention, the President wishes good luck to all the members of the Committee as well as to the new Bureau.

Agenda item 2: Election of the Bureau of the Compliance Committee

9. Upon the proposal of the former President, the Compliance Committee, in accordance with Article 6 of its Rules of Procedures, unanimously elected Mrs. Daniela Addis as a President, Mrs. Selma Cengic and Mr. Michel Prieur as Vice-presidents. The new President thanked the Committee for its trust by electing her at this position of heavy responsibility that she is ready to assume with great enthusiasm. She pointed out the importance of the constant support of the Secretariat to the Committee in dealing the great amount of work waiting for it. The two new Vice-presidents also thanked the Committee for its support and trust, by underlining the necessity of a team work of all the members of the Committee.
10. The Coordinator expressed all his gratitude to the outgoing Bureau and congratulated the new members of the Bureau to which the Secretariat would bring all its support. In response to a question of a member, the Coordinator pointed out that to this date, no definitive date was set for the nineteenth Conference of the Parties which might be held, either at the end of 2015 or at the beginning of 2016 in Athens, with a Greek Presidency of the Bureau for the next Biennium. He hoped that a final answer will be given by the Bureau of the Convention which would convene at the beginning of February 2015.

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

11. The members of the Committee examined the draft Agenda. A member proposed to add two item regarding a presentation of PAP/RAC activities and, on the other, a study of the implementation of the reform of the power of initiative granted to the Committee and of the best manner to implement this new competence. The Secretariat called to link the examination of the power of initiative to Agenda item 7 for the submission of reports to the Contracting Parties for the Biennium 2012-2013. Two members supported this proposition regarding the examination of the power of initiative of the Committee, as well as that of the Secretariat, by underlining the limited experience of the Committee regarding the exercise of this new prerogative.
12. The meeting adopted the provisional agenda in the document UNEP(DEPI)/MED CC. 9/1. The provisional agenda is attached in Annex II of the present report.

Agenda item 4: Adoption of the draft report of the Eighth Meeting of the Compliance Committee (Athens, October 21-22, 2013)

13. One member evoked the question of the delayed submission of the report of the eighth meeting of the Committee by underlining the difficulty to bring comments to a project which was submitted too late. A member, supported by another one, noted that it was appropriate to make a distinction between the activity report of a Committee meeting, on the one hand, and the activity report of the whole Biennium which included all the reports of the different meetings of the Committee and which was submitted for information to the Conference of the Parties, on the other. He underlined that what is more important is the activity report on the Biennium. The President drew attention to the importance also of the reports of the Committee meetings, that follow and describe discussion and conclusions that have been reached and the decision taken, as the basis of their task. One member pointed out that some points of the draft report should be corrected, also which reference to the name of the intervening Parties. The President called upon the members of the Committee to communicate to the Secretariat, without any delay, the formal corrections to this project. Regarding the issue to determine whether it is appropriate to mention the names of the intervening parties, the Committee decided, after discussion, to make the intervention of its members anonymous.

DECISION:

- After examination, the Committee decided to approve the draft report including the editorial amendments brought in by its members. It called upon the Secretariat to convey, in the future, the draft report of its meetings within six weeks at the latest following the meeting in Word format. The Committee asked the Secretariat to report, within the reports of its meetings, the interventions of the members and the alternate members anonymously.

Agenda item 5: Implementation of the Compliance Committee recommendation on non-compliance with obligations regarding submission of reports provided for in Article 26 of the Barcelona Convention

14. The Secretariat submitted a presentation of the Recommendation which was adopted by the eighteenth Conference of the Parties in its Decision IG. 21/1. A member was surprised of the limited impact of this Recommendation for the Contracting Parties which haven't received any echo of the present text. The member called to approach the Contracting Parties which did not draft any report to know the reasons. Another member underlined the lack of visibility of the present text which was annexed to the Committee activity report, which made its content invisible. Two other members considered that this Recommendation should have been directly annexed to the draft decision itself. A member

asked if the Bureau was informed of the draft decision; another member considered essential to understand the reasons behind the delay in submitting reports within the framework of the questionnaire to improve the situation. A third member regretted that this Recommendation was not implemented by the Contracting Parties and that, because of its informative character, its legal impact is *de facto* limited.

A member, however, noted that the Conference of the Parties adopted the conclusions of the present Recommendation in its Decision IG. 21/1 and that the Committee is perfectly legitimate to intervene. A member estimated, along the same lines, that the Committee is duly authorized by the Contracting Parties to ensure the implementation of this Recommendation, even if it was presented under the form of an information document. Henceforth, when the Contracting Parties concerned with the present Recommendation do not abide by their “reporting” obligations, the Presidency of the Committee as well as the Secretariat have to address letters to these Contracting Parties. The Coordinator came back to the legal impact of this Recommendation by indicating that the conclusions of the present document were well adopted by Decision IG.21/1 and that it was a very clear and unambiguous approbation of the content of this Recommendation. The President shared this point of view by considering that Decision IG.21/1 constitutes the legal basis of this Recommendation and provides visibility to the works of the Committee. In the light of the provisions of the CC rules of procedures as well as procedures and mechanisms on compliance, she recalled the possibility for the Committee, with the consent of the Party concerned, to gather information in the territory of that Party, including on-site appraisals; therefore underlining the necessity to decide, case by case, of the process to follow, the fundamental objective being, in fact, to understand more clearly why a Contracting Party hasn’t abided by this reporting obligation.

15. A member noted that the reference to paragraphs 35 and 36 does not appear in the English version and proposed that, in the future, the procedures be clearer by adopting a specific decision regarding this type of document. A member pointed out that no one could tell that this issue concerning the implementation of the Recommendation was hidden. It deemed necessary to show seriousness, to choose one or two countries and to take action by sending a Committee member to understand the reasons behind the absence of a response regarding the non-compliance with this obligation. The President was open to this option to ask the concerned Contracting Party to come before the Committee to explain itself. This suggestion was supported by a member who considered that sending a letter to a Contracting Party may lead nowhere if the Committee does not receive a response in return. The most efficient way to obtain responses, according to this member, was to invite the Contracting Party before the Committee. This position was shared by another member who also estimated that addressing a letter to a Minister does not generate any result and would be lost in the sands. He called to take stronger measures, particularly by inviting the Contracting Parties to the meeting of the Committee. It deemed essential to identify the person in charge of reporting in each country and the reasons for which the report was not submitted. In this case, he specified that the Committee may exert stronger pressure electronically when the person in charge of the report is identified.
16. Echoing these interventions, a member underlined that two propositions were on the table: whether the Committee moves to clear out the point with the concerned Party or the Committee asks to hear the said Party. If this second option would be chosen, the risk is as follows; according to him, it was about “shooting blanks”: Indeed, the Committee would have the Focal Point in front of it, but that would be the maximum; however, the latter is limited in its competences and most often is a mere “mailing box”. Therefore, the member called to hold visits the Committee may organize to the Contracting Parties. In addition, a member pointed out the drafting difference between the French version and the English version of Decision IG.21/1 by asking to add a missing reference to Articles 35 and 36 in the French version of the present decision. Regarding the two options concerning the

hearing of the Contracting Parties or the organization of visits in the concerned countries, he estimated that, in both cases, it is necessary to respect the principle of equality and that if eight Contracting Parties are concerned, we should proceed to hearings or visit these eight Parties, not two or three only. He added that it was essential to distinguish, within the Recommendation, both situations regarding the eight Contracting Parties, on the one hand, and the four others which repeatedly failed to abide by their reporting obligation and who should receive a warning addressed by the Conference of the Parties in accordance with Article 35 of the non-compliance mechanisms and procedures (Decision IG. 17/2), on the other.

17. A member suggested to refer the matter to the Bureau of the Convention, in particular to alert it about the situation related to the non-application of the Recommendation and to call upon it to take initiatives regarding the concerned Contracting Parties before the next Conference of the Parties. The Coordinator underlined that this procedure may reveal useful. The President, for her part, estimated that it is necessary to be more specific for the Bureau when dealing with this issue and to provide a more detailed explanation of the Committee's requests.
18. A member came back to the issue of addressing a warning to a Contracting Party which has failed repeatedly to abide by its reporting obligation. She did not deny the potential impact of this type of sanction, but recalls that the Committee is first and foremost a facilitation body. It was important to well assess everything that could be done to compel a country to submit its report, everything that could be envisaged to help the countries to respect their commitment. She proposed that the Committee might work with the countries, one after the other. The President was well-aware of the necessity to define, in the future, the appropriate means of action regarding the implementation of the Recommendation at the heart of a decision and that the concerned parties did not implement. A member considered that the Bureau is here to implement the decisions of the Conference of the Parties and that it is incumbent upon it to take the necessary measures in this regard. He estimated that it is necessary to set priorities because we cannot see everybody. Between moving and hearing the Contracting Parties, it was necessary to opt for the most appropriate formula and that if a discussion was to be opened with the concerned Contracting Parties, it should be engaged with at least the four Parties which have repeatedly failed to abide by their reporting obligation. In view of these two options, a member estimated that, whatever the adopted solution would be, the Committee doesn't have much time to start this "mechanics" before the next Conference of the Parties. The President shared this concern by calling to define a more concrete procedure with deadlines.
19. The Committee took note of the timetable of the next meetings, respectively, of the Bureau in February 2015, of the MAP Focal Points in March 2015 and the Conference of the Parties in December 2015 with reservation. A member suggested three propositions: he recalled, first, that the implementation of the Recommendation was incumbent upon the Committee and the Contracting Parties alike, and underlined that the Bureau itself represented the Contracting Parties. Consequently, he considered that it is definitely necessary to mobilize the Bureau to contribute to the implementation of the Recommendation. He suggested that the Committee should address to the Bureau a letter to explain what the Committee wishes in order to implement the Recommendation. He called, secondly, that the Committee should hear, within the framework of the Recommendation, the defaulting Parties in order to launch a discussion to help them. It could be envisaged hearing four or eight concerned Contracting Parties during the next meeting of the Committee. Finally, he suggested moving to a new phase of the functioning of the Committee, allowing it to get directly in touch with the Bureau of the Convention. He called for a draft amendment to the Rules of Procedure to be drafted to allow the President of the Committee to officially take part in the meetings of the Bureau. He

insisted on establishing a close link between both bodies in order to better explain the problems and to reach altogether appropriate solutions.

20. A member estimated that it is necessary to rely, as a starting point, on Chapter VII of non-compliance mechanisms and procedures (Decision IG.17/2), particularly on Article 32 (a), (b) and (c). The Committee may use, as an immediate measure, this article by calling upon the concerned Contracting Parties to establish an action plan in anticipation of the next meeting of the Bureau of the Barcelona Convention to be held at the beginning of February 2015. Another member came back to the issue of the Bureau referral by the Committee. In this case, it was first incumbent upon the Secretariat to seize the Presidency of the Bureau by asking it about what it intends to do about Decision IG. 21/1. Failing a reply, the Committee may then ask the Bureau to activate the procedure. This member wished to privilege three ways of action: first, favoring the role of the Secretariat, then that of the hearing of concerned Parties, then the participation of the Committee to the meetings of the Bureau. Regarding this last point, he proposed to amend the Rules of Procedure of the Committee in order to submit it an opinion and approval by the nineteenth Conference of the Parties.
21. A member considered that the Bureau, once seized by the Committee, should assume its responsibilities regarding the follow up of the implementation of the decisions adopted at the Eighteenth Meeting of the Conference of the Parties, particularly Decision IG.21/1. He estimated that the Bureau has the necessary authority to allow the implementation of the Recommendation. Another member considered that the Committee should use its proper role and that it is up to the Committee to turn to the Convention Bureau if the concerned Contracting Parties do not react. Another member recalled that the Committee is not under the authority of the Convention Bureau. The latter is not a body higher than the Committee. Both bodies exercise each particular competences. Regarding the referral by the Secretariat, this member estimated that it is a procedure which is internal to the mechanism of the Barcelona Convention and that it is first up to the Secretariat to ask the Bureau about what it intends to do following this decision.
22. A member reiterated his request to implement an action plan. Regarding the respective responsibilities of the Secretariat and the Bureau, a member estimated that it is necessary to challenge any exclusivism: the Secretariat, just like the Convention Bureau, may accomplish its work upon the request of the Committee. However, he estimated that it is very irregular to ask a concerned Contracting Party to provide a plan to respect commitments.
23. A member estimated that if the Committee does not obtain any response from the concerned Contracting Party, a political deadlock may occur. It is about mobilizing the Contracting Parties and addressing a clear message according to which the Committee is faced with a serious political problem and that if this problem is not solved, it will be necessary to take more binding measures. Within this context, it is necessary to mobilize the Convention Bureau to find a solution. A member considered that, by all means, the letter should be issued by the Committee in conformity with Article 32 of the non-compliance mechanisms and procedures.
24. The Coordinator provided further explanation about the competences of the Convention Bureau in intersessional periods: it was up to the Coordinator himself to validate the progress of the implementation of the Barcelona Convention and its Protocols. The President asked the Secretariat to send to the Bureau a letter to this end. A member estimated that if the Committee opts for the hearing of MAP Focal Points, it would be appropriate that the Secretariat organizes a Committee meeting "back-to-back" with that of Focal Points. The President estimated, however, that it is up to the Contracting Party to decide if the Focal Point or a more senior staff member will be heard by the Committee.

This position was shared by another member who sees that the States themselves identify the person to represent them at the meeting of the Committee to be heard. The President estimated that the whole process should be transparent and that the Contracting Parties should be informed of the different actions engaged by the Committee and the Secretariat. She asked that a letter be addressed by the Secretariat to the President of the Bureau, calling, on the one hand, for putting the follow-up of Decision IG.21/1 on the agenda of its meeting, and, on the other, for the participation of one of its members as an observer to obtain further information about the follow-up of the Committee decisions. This letter should first recall the content of Decision IG.21/1, then recall what was done in the past, and signals the next phases the Committee may launch in case of no reaction from the concerned Contracting Parties; finally, proposing the possibility of Committee meeting “back-to-back” with the meeting of the national Focal Points. The President proposed to address this letter immediately.

25. A member considered that it should be appropriate, first, to write to the Contracting Parties to better identify the problems it encounters, then to the Convention of the Bureau to determine the adequate follow-up. This position was shared by another member who estimated that it is necessary to understand, first, why the Contracting Parties do not respect their reporting obligations. This is a pre-requisite for any assistance action. It is important to ask them, very concretely about the responses the Committee expects from their side. There are two possible options: either no responses or a response that is too general. Within this context, he considered that it is definitely preferable to have direct contacts with the concerned Contracting Parties because this will help to understand the reality of their problems and identify the best way to help them. A member identified several reasons which may prevent a Contracting Party from responding; either a deliberate will not to submit the report, a proof of neglect, a lack of human resources, the difficulty to fill a too complicate questionnaire, an administrative internal bureaucratic dysfunction, or, finally, an internal situation of civil war.
26. The President, on the basis of the different interventions, proposed to address a letter to the President of the Bureau of the Barcelona Convention, asking to implement and follow-up on Decision IG. 21/1 and inform the Committee of the initiatives he wished to undertake to ensure the respect and implementation of the measures stipulated in the said decision. She clarified that this letter would also inform him of the actions the Committee would take, including the organization of hearings for the representatives of the concerned Contracting Parties at the occasion of the next meeting of the Committee, “back-to-back” with the meeting of the MAP Focal Points, scheduled in March 2015, and ask them about the initiatives they envisage to undertake to abide by their commitment up to the Nineteenth Meeting of the Conference of the Parties and the assistance they may need to fulfill their reporting obligations. In addition, to better fulfill the CC tasks, the President proposed to the Committee to ask the Secretariat to have a supporting tool, i.e. that a “Groupware” accessible only to its members and alternate members be provided as soon as possible on the official site of the MAP in order to share the working documents of the Committee. The President requested to the Secretariat that these letters be addressed by December 2014 at the latest and to be duly informed.

DECISIONS:

- The Committee, realizing that both versions of Decision IG.21/1 in English and in French are not matching, asked the Secretariat to modify the French version in such a way that references to paragraphs 35 and 36 are mentioned.
- The Committee regretted that the conclusions of the Recommendation annexed to its activity report submitted to the Eighteenth Conference of the Parties for the Biennium

2012-2013 did not lead to any impact, although they were approved by the Eighteenth Conference of the Parties in Decision IG.21/1; consequently, the Committee decided that a letter will be address by the Secretariat to the President of the Bureau of the Barcelona, requesting to put on the agenda of the next meeting the application and the follow-up on Decision IG. 21/1, in accordance with Article IX of the Terms of Reference of the Bureau of the Contracting Parties.

- Moreover, the Committee mandated the Secretariat to ask the President of the Bureau of the Barcelona Convention to invite the representative of the Compliance Committee to take part as an observer in the next meeting of the Bureau regarding the issues pertaining to the Committee.
- The Committee decided to address a letter to the President of the Bureau of the Barcelona Convention, asking him to implement and follow up on Decision IG. 21/1 and inform the Committee of the actions he envisages to undertake to ensure the respect and execution of measures stipulated in the said Decision; informing him also of the actions the Committee will undertake including the organization of hearings of representatives of the concerned Contracting Parties at the occasion of the next meeting of the Committee «back-to-back» with the meeting of MAP Focal Points, scheduled in March 2015.
- The Committee decided to address a letter to the concerned Contracting Parties informing them of the measures the Committee will undertake with a view to promoting compliance in accordance with the provisions laid down in the Decision IG.21/1 and addressing these cases of non-compliance. These measures may include the organization of hearings of the representatives of these Parties at the occasion of the next meeting of the Committee «back-to-back» with the meeting of PAM Focal Points scheduled in March 2015 and ask them about the initiatives they envisage to undertake to respect their commitment up to the nineteenth Conference of the Parties, and the assistance they may need to fulfill their reporting obligations.
- The Committee asked the Secretariat that a «Groupware» which is uniquely accessible to its members and alternate members be provided as quickly as possible on the MAP official website in order to share the working documents of the Committee.

Agenda item 6: Criteria for the evaluation of reports to identify the current or potential situations of non-compliance

27. The Secretariat presented the document which has been the subject of an initial discussion during the previous meeting of the Committee. The President underlined the importance of having a definition of criteria and indicators or guidelines for the evaluation of reports. She asked the Secretariat to update the document (also by deleting paragraph c) and address it to the MAP Components to obtain their comments and their contribution to the development of criteria/indicators for the assessment of these Reports in the future.
28. A member did not share the distinction done in the document between assessment criteria, to be defined by the Secretariat, and those to be defined by the Committee. He estimated that both the Secretariat and the Committee have a joint responsibility to undertake the assessment of reports. He underlined that the main issue at stake is the definition of indicators to verify the effectiveness of the implementation of the Barcelona Convention and its Protocols. The objective was to set the specific indicators to identify for each Protocol, whether technical, economic, social or legal indicators. He raised questions, in this regard, about the opportunity to distinguish between the general assessment criteria of the Barcelona Convention and the specific assessment criteria of each Protocol. Moreover, he deemed necessary to distinguish between the reports assessment and the assessment of

non-compliance obligations. Another member noted that the assessment criteria constitute a specific tool for the Committee only.

29. The President deemed necessary to rapidly finalize and implement guidelines for the evaluation of Reports to identify actual or potential cases of non-compliance, based on common criteria/indicators establishing a common set of requirements for the evaluation of compliance by Contracting Parties with the provisions of the Barcelona Convention and its related Protocols, as well as Decisions, Recommendations, measures, Programs and Action Plans adopted by the Contracting Parties, aiming to standardize the evaluation of Reports submitted by the Contracting Parties. The Guidelines are intended to assist the Compliance Committee and the Secretariat in carrying out the evaluations and in elaborating the evaluation reports; they should contain explanations of the process to be used for conducting such evaluation. She calls upon the importance of having support by the MAP Components and consultants to finalize this document. In order to move forward in this process, the President asked volunteers to proceed with the identification of criteria/indicators on the basis of the relevant working document, previously updated by the Secretariat, as well as on the basis of any other assessment work (i.e. the assessment of the three Reports by the Committee), by the end of January 2015 at the latest. .
30. A member noted that the analysis of reports would allow the rapid identification of applicable criteria. It was necessary to remain pragmatic and not to have an approach that it too scientific. Another member pointed out that the identification of criteria will require a lot of work. It was a priority task which requires support. This analysis was shared by another member who underlined the necessity to have an external assistance in terms of consultants. This point of view was taken up by another member who indicated that this identification work may be undertaken by the Committee. Two other members estimated that it was appropriate to set up a very simple list of indicators.

DECISIONS:

- The Committee asked the Secretariat to proceed, as quickly as possible, with an update of the draft note UNEP (DEPI)/ MED CC.9/4 and to approach the MAP Components to obtain their comments, as well as their contribution for the development of criteria/indicators in the future.
- The Committee asked one of its members to identify the criteria/indicators before the end of January 2015 on the basis of the working document UNEP(DEPI)/ MED CC.9/4 regarding this point, updated by the Secretariat, and any other assessment work in this field.

Agenda item 7: Submission of reports by Contracting Parties (Biennium 2012-2013)

31. The Secretariat presented its preliminary observations about the three reports submitted on October 20, 2014, by Turkey, Bosnia and Herzegovina and the European Union. It indicated that, since that date, five new online reports were received by the Secretariat (Cyprus, Croatia, Greece, Lebanon and Morocco). It underlined that, regarding Turkey and Bosnia and Herzegovina specifically, the reports recurrently listed the implementation difficulties related, in particular, to the limitation of technical and financial capacities, the insufficiency of human and administrative resources and the lack of inter-sectorial coordination.
32. The President estimated that the additional information regarding the implementation of Barcelona Convention and its Protocols should be provided by Turkey, Bosnia and Herzegovina and the European Union and asked the Secretariat to address to these three

Contracting Parties a letter to this end, with a copy to the Presidency of the Committee, expressing the deepest thanks of the Secretariat for their sending within the deadlines.

33. A member highlighted the need to refocus the debate. He considered that it was no more about “reporting”, but about the submission of reports. It was necessary to avoid passing the buck between the Secretariat and the Committee. The analysis of the Secretariat about the three reports should lead to a result: the member asked if these three countries respected or haven’t respected the legal instruments of the Barcelona system. It was up to the Secretariat to pronounce itself and in case the latter deems that it is confronted to a non-compliance case, it should refer to the Committee.
34. A member formulated several suggestions: first, that the Secretariat acknowledges receipt of these three reports, then that it addresses a reminding letter to the Contracting Parties which haven’t submitted their report by making reference to the present meeting of the Committee. Finally, regarding the follow-up on the reports which were already sent, it is necessary to set a *modus operandi* between the Committee and the Secretariat to ensure this follow-up. It is appropriate that the Committee organizes itself and undertakes its assessment following that of the Secretariat. This implied that all members are in charge of this assessment, included the absentees. Another member was open to this last suggestion while recommending that the Secretariat undertakes a general technical assessment regarding the reports and points out to the Committee the real and potential cases of non-compliance which may justify a specific assessment from its side.
35. The Coordinator underlined that the letters were already sent to the Contracting Parties to remind them of their reporting obligation. He agreed to send, again, such letters to the Contracting Parties by reminding them that the report submission deadline has expired. He pointed out that the Secretariat started the assessment of other received reports. The President considered that it is necessary to rely on the Secretariat’s assessment of the three reports, then of the following reports, and that it is appropriate to implement Section V of Decision IG. 17/2 enabling the Secretariat to identify, on the basis of reports, the eventual cases of non-compliance. She proposed to use, to this end, a practical and informal format to collect such information. A member, following the proposal expressed by the President, proposed to specify in the letter that the Committee is a last resort body to assess the cases of non-compliance and that it needs complementary explanations regarding points which may be considered as non-compliance cases.
36. A member insisted on the fact that the Secretariat is here to provide support to a Committee, but the latter remains sovereign. He estimated that everyone should assume his responsibilities: if the Secretariat deems that there is a chance to refer to the Committee a non-compliance case, this should be done and the Committee should pronounce itself regarding this case. A member was not convinced that a formatted letter will be efficient. She proposed that the Secretariat continues to work on an initial assessment of reports and that the Committee also undertakes these assessments by completing the Secretariat’s comments.
37. A member underlined that it is necessary to coordinate the organization between the Committee and the Secretariat. The Committee should rely on the assessment of the Secretariat and, on the basis of these conclusions, set if it is a case of non-compliance or not. The Coordinator agreed so that the Secretariat, within the framework of the application of Article 23 of the Procedures and Mechanisms on compliance, sends to the concerned Contracting Parties a request for complementary information.
38. A member estimated that it was necessary to immediately start the assessment of submitted reports. Three members volunteered to examine these reports.. The President wished to have these assessments finished by January 15, 2015 at the latest. The

Coordinator drew to the attention of the Committee members that the reports of the Contracting Parties they would look at are confidential and, for this reason, should strictly abide by the statement of confidentiality.

DECISIONS:

- The Committee asked the Secretariat, in accordance with Point 2 bis of Section V of Decision IG. 17/2 modified by Decision IG.21/1, to put at the disposal of its members and alternate members the reports submitted by Contracting Parties.
- The Committee, informed by the Secretariat that it will address a letter, in accordance with Article 23 of Section V of Decision IG.17/2, to the three Contracting Parties (Bosnia and Herzegovina, Turkey and European Union) which submitted their periodical reports aimed at in Article 26 of the Convention within the Biennium 2012-2013 to ask them for complementary information about the implementation of the provisions of the Barcelona Convention and its Protocols; asked the Secretariat that the said letters specify that we thank them for sending the report within the deadline and addressing a copy to the Presidency of the Committee.
- The Committee asked three of its members to assess, before January 15, 2015, the three received reports, taking into consideration the assessment undertaken by the Secretariat (see the note of the Secretariat about the Reports submitted by the Contracting Parties for the Biennium 2012- 2013, UNEP(DEPI)/MED CC.9/5) and presenting the criteria used for the assessment of these reports.
- The Committee asked the Secretariat to address a letter to the Contracting Parties which haven't, to date, submitted their report for the Biennium 2012-2013.
- The Committee called upon the Secretariat to examine the possibility to obtain assistance to define the indicators/criteria for the assessment of Reports.

Agenda item 8: Draft revised report format of the Barcelona Convention and its Protocols

39. The Secretariat recalled that, following the proposition of the Committee mentioned in its activity report for the Biennium 2010-2011, the Eighteenth Meeting of the Conference of the Parties, by virtue of its Decision IG.21/2, asked the Secretariat to prepare, in consultation with the Compliance Committee, a simplified and practical draft report format of the Barcelona Convention and its Protocols to be submitted for review and adoption by the Nineteenth meeting of the Contracting Parties. The Secretariat presented the recommendations of the explanatory note regarding the draft revised report format.
40. A member raised a question about knowing if it is appropriate to separate the report format concerning the Integrated Coastal Zone Management in the Mediterranean (ICZM) Protocol to the Barcelona Convention and its six other Protocols. A member considered that the transversal character of this Protocol justifies the fact that it is not taken into consideration. A member mentioned comments and corrections the Secretariat would integrate in the updated version of the present note. The President asked the Secretariat to continue the preparation for the revision of the report format, taking into consideration the comments of the Committee members to be examined during its next meeting.
41. A member underlined the necessity to organize a workshop open to the Contracting Parties in order to familiarize them with the use of the revised report format online. The Coordinator was in favor of this suggestion subject to availability of resources.

DECISIONS:

- The Committee asked the Secretariat to continue the preparation of the revised report format, taking into consideration the comments given by its members during the present meeting.
- The Committee reiterated its request to the Secretariat to organize a workshop that is open to the Contracting Parties, aiming at getting familiar with the use of the revised report format online.

Agenda item 9: Any Other Business

- Application of the ICZM Protocol
42. A representative of PAP/RAC delivered a presentation of the issues related to the implementation of the Integrated Coastal Zones Management Protocol (ICZM). He reminded the national strategies and plans about ICZM, as well as the ambitious Action Plan for the implementation of this Protocol. He also recalled that the PAP/RAC, within the limit of its human and financial resources, had the mandate to provide technical assistance to the countries. He also mentioned the “reporting” experience within the framework of the exercise of stocktake on this Protocol. He pointed out several constraints which could slow down the implementation of the Protocol, especially the spread of the applicable national legislation, the responsibilities in ICZM which are barely clear and transparent, a staff that is insufficiently trained to implement this Protocol. Finally, he indicated that the PAP/RAC was contacted to provide legal advice to Non-Governmental Organizations, to individuals or to other bodies about non-compliance cases and asking for the intervention of the Center. The representative of the PAP/RAC has asked if such questions stem from the competence of the Compliance Committee.
 43. A member has wished that the Secretariat, upon the request of the Committee, addresses a note to the Regional Activity Centers in order to address to the Committee interpretation requests that they receive about non-compliance issues. The Coordinator considered that the relevant legal issues raised at the occasion of the implementation of this Protocol should be done directly before the Secretariat.
 - Absences of members at the meetings of the Compliance Committee
 44. The President drew the attention of the Committee to the fact that six of its members were not present at the meeting and underlined the risks related to the absence of quorum if too many members were absent. A member asked the President of the Committee to address a letter to non-excused members to remind them of their commitment to attend which is determining for the constitution of the quorum. Another member deplored that some members haven’t provided any justification for their absence. Upon the proposal of the Committee, the President decided to address a letter to the members who haven’t repeatedly and without any justification attended its latest meetings in order to ensure their presence to the meetings to come of the Committee. Moreover, the Committee asked that the letter of the Secretariat inviting the members of the Committee to its next meeting recalls the importance of the participation of all Committee members to this meeting.
 - Date of the next meeting of the Compliance Committee.
 45. Taking note of the decision aiming at organizing a meeting of the Committee “back-to-back” with the next meeting of the MAP Focal Points, the Coordinator informed the Committee that the next meeting may be held at the end of March 2015.

DECISIONS:

- The Committee requested that a letter is addressed by the President to the Committee's members who haven't repeatedly attended the latest meetings without any justification in order to make sure that they attend in the coming meetings of the Committee.
- The Committee asked the Secretariat to specify, in its invitation letter to the next meeting of the Committee, the importance of participation of the overall members to this meeting.

Agenda item 10: Adoption of conclusions and decisions

46. The Committee examined the draft decisions and conclusions prepared by the Secretariat in agreement with the President, regarding the ninth session. Several amendments and complements were brought in to this project. The Secretariat indicates that a finalized version of the draft will be addressed to the members of the Committee for final validation to be reproduced in the present report.

Agenda item 11: Closure of the meeting

The President, after thanking the members of the Committee for the honor conferred in electing her as the Chair and for their constructive participation to this session, as well as the

**Draft Report of the Tenth Meeting of the Compliance Committee, Athens, Greece, 21-22
May 2015**

**TO BE REPLACED BY FINAL REPORT ONCE IT IS CLEARED BY THE 11TH
MEETING OF COMPLIANCE COMMITTEE, 22-23 OCTOBER 2015**

Introduction

1. The Compliance Committee held its tenth meeting on May 21 and 22, 2015, in the headquarters of the Coordination Unit of the Secretariat of the Barcelona Convention in Athens, Greece.

Participation

2. The following Members and alternate members of the Committee had taken part in the meeting: Mrs. Daniela Addis, Mrs. Milena Batakovic, Mrs. Selma Cengic, Mr. Nicos Georgiades, Ms. Ekaterini Skouria, Mr. Tarzan Legovic, Mr. Larbi Sbaï, Mr. Michel Prieur, Mr. José Juste Ruiz and Mr. Hawash Shahin.

3. The Coordination Unit was represented by Mr. Gaetano Leone, Coordinator of the Barcelona Convention, Mr. Habib El Habr, Deputy Coordinator, Mr. Atila Uras, Program Officer, and Mr. Didier Guiffault, MAP Legal advisor.

4. The list of participants is available in **Annex I** of the present report.

Agenda Item 1: Opening of the meeting

5. On behalf of Mr. Gaetano, MAP Coordinator, Mr. Habib El Habr, Deputy Coordinator, welcomed the members of the Committee. He underlined the importance of the work of the Committee for the Barcelona Convention and for the Secretariat. He underscores, in this regard, the participation of the President of the Committee to the last meeting of the Convention Bureau and to the meeting of MAP Focal Points, on May 20, 2015, to present the work of the Compliance Committee. He wished to all the members of the Committee a fruitful meeting.

Agenda Item 2: Adoption of the Provisional Agenda and organization of work.

6. Two members of the Committee have called for the addition of three points to the Agenda Item 9 (Other matters) regarding, respectively, placing the Committee archives at the disposal of the Committee's members; the access of the Committee's members to the national reports submitted by the Contracting Parties for each Biennium; and the issuance of air plane tickets for the Committee's members.

7. The meeting adopted, with the above three points, the provisional agenda mentioned in Document UNEP(DEPI)/MED CC. 9/1. The provisional agenda is available in **Annex II** of the present report.

Agenda item 3: Preparation of the informal session for the audition of contracting parties on compliance with their reporting obligation.

8. The Chairperson recalled that this session aims at allowing the members of the Compliance Committee to understand the reasons of the delay in the implementation of the Decision IG.21/1 and in the submission of reports by Contracting Parties, and, consequently, give their advice to initiatives to be taken by Contracting Parties to ensure full implementation within the deadlines of Decision IG. 21/1 to fulfill their reporting obligations regarding the Barcelona Convention and its Protocols. This session also aims at supporting them to abide by these obligations. She mentioned the letter co-signed by the President of the Bureau and by herself addressed to four Contracting Parties (Albania, Libya, Malta, Slovenia) which haven't submitted their reports for the Biennium 2008-2009 and 2010-2011. She indicated that only Slovenia has responded to the invitation. One member expressed his discontent that the three other Contracting Parties haven't taken part in this informal session without providing any reasons.

9. Regarding the progress of the informal session, the President highlighted the importance of reminding Slovenia of the objective of this session, i.e. to determine the modalities for the implementation of Decision IG. 21/1. She mentioned that Slovenia comes with a spirit of collaboration

and that the Committee welcomed this approach. The Committee looks forward to engaging in a dialogue of assent with Slovenia in a friendly spirit. One member, supported by another, shared this opinion by insisting on the fact of not launching the discussion with Slovenia in a conflicting manner. The Committee is not a tribunal and Slovenia is not accused. On the contrary it is well appreciated that the country has a good track record. It is important for the Committee to show diplomacy by striving to understand the reasons which prevented this Contracting Party from abiding by its reporting obligation. The Chairperson considered that the Committee expects from Slovenia to provide all the necessary information about the difficulties it has encountered to respect its reporting obligations and that the Committee is fully open to any request for assistance to help Slovenia in submitting its report.

DECISION:

1. The Compliance Committee agreed on the procedure to be followed during the informal hearing.

Informal session: Auditions of representatives of Contracting Parties about compliance with the reporting obligation

10. The Chairperson of the Committee welcomed to the session Dr. Mitja Bricelj, Representative of Slovenia. She informed him that the present Session aims at determining how Slovenia is envisaging to abide by its obligations for the last two biennial exercises and in what conditions the Committee could help Slovenia and define together with Slovenia the way forward.

11. The Representative of Slovenia thanked the Committee for its invitation and expressed his satisfaction regarding the steps taken by the Committee to ensure a more effective implementation of the Barcelona Convention and its Protocols. He went on to say that administrative and technical reasons are behind the difficulties encountered by his country to fulfill its reporting obligation: in the administrative field, three successive changes of government and the separation of the Ministries of Environment and Agriculture; on the technical level, he mentioned that his country does not have sufficient technical capacities to fulfill its reporting obligations. Regarding the assistance proposed by the Committee, Mr. Bricelj welcomed this proposition, but considered that, for the time being, Slovenia did not need additional assistance. Slovenia mainly needs clear rules. The actual reporting problem is linked to the complexity of the reporting format. He underlined the difficulty for Ministries and agencies to access the Internet website to provide the necessary information for the report since they do not have well servers. He also mentioned the problem of human resources management. Moreover, he raised some doubts about the management of the data required by the European Commission and also those requested by UNEP/MAP as they refer to similar issues, but are requested on different ways and norms, sometimes being misleading and also causing duplications. The Slovenian administration has neither the necessary time nor sufficient resources to submit its reports. He considered that there is no need for multiple formats and that efficiency can be ensured with the same financial resources and common reporting. It is not about inventing parameters which are already obsolete and do not correspond to the different requests. The stake does not lie in having additional agents or resources to respond to the reporting obligation, but first to streamline and simplify the procedures.

12. The Chairperson mentioned that, regarding the submission of online reports, Slovenia may seek the technical support of INFO/RAC; furthermore, the Secretariat will provide Slovenia with all necessary information about this point. The Committee is also ready to help in this field. Regarding the reporting formats, she recalled that the Committee was not responsible for the reporting format which was adopted by a meeting of the Contracting Parties. The Secretariat shall implement this reporting format and the Committee has no competence to modify it. It is necessary for the Committee to obtain from the Contracting Parties information about the implementation of the Barcelona Convention and its Protocols. The Committee is also ready to help Slovenia to provide it with such information. She insisted on the necessity for the Committee to establish a solid system of written information to determine how it is appropriate to act in the future. Finally, regarding the improvement

of the reporting quality, the Committee is ready to formulate recommendations to the Secretariat on the basis of comments it would have received, provided that the Committee receives such comments.

13. The Representative of Slovenia thanked the Secretariat and the Regional Activity Centers for their proposal to provide technical assistance, but underlined, once more, that his country does not need such an additional support. He mentioned that Slovenia will submit its report for the biennium 2012-2013 in December 2015, at the latest.

14. One member said that he was convinced that Slovenia will respect its reporting commitments as soon as its administration is put in place. Another member considered that it was urgent to simplify the reporting format. In this regard, it is necessary to take into account the other reporting obligations assumed by countries. He underscored that, within the European Union, reporting obligations are more easily respected than within the Barcelona Convention, due to the role of the Commission as a watchdog and the potential sanctions for non-compliance. Moreover, he noted that if a Contracting Party does not abide by its reporting obligation, that does not mean, in any case, that it remains inactive on the field. Finally, he suggested that the Ministries of the Environment also benefit from assistance to abide by their reporting obligations.

15. One member noted that, in terms of reporting, obligations are heavy and several Contracting Parties to the Barcelona Convention, such as Slovenia, have to report, similarly, to UNEP/MAP, to other MEAs, but also to the European Union. In the face of such a situation, he insisted on the necessity to improve coherence and synergies between such exercises, justified by the need for financial savings, especially taking into account that human resources are usually limited. He also indicated that his country has witnessed three changes of administration and that it is not always easy to follow these evolutions. Finally, he considered that the non-compliance with the reporting obligation by a Contracting Party did not mean that the latter did not abide by the objectives of the Barcelona Convention and its Protocols.

16. One member indicated that he has taken note that Slovenia will send its report in December 2015 and expressed his agreement regarding the fact that governmental changes may generate difficulties in the management of the reporting process.

17. The Representative of Slovenia came back to the issue of coexistence of different legal frameworks which generate different but often similar reporting obligations. He underlined that the report was not an end by itself, but what was important is what we put "on the table" to improve the region's environment. The fact that decision-makers receive numerous reports within the UNEP, the FAO or the EU may be a source of incoherence and confusion. The lack of harmonization and synergies make things more complicated and tends to worsen with the constant increase of the number of indicators. It is all about integration, but in fact, the opposite happens, particularly on the technical level. In the light of such an observation, it is recommended to intervene towards a better data management. He also insisted on the necessity to simplify the reporting process as much as possible. He considered too that the reporting procedure within the Barcelona Convention was essential, but that the paradox comes from the difficulty to provide actual information in these reports. He then called for the rapid design of a simpler data management system to overcome this handicap. He raised a central question, to know if it was necessary to privilege the quality of reports or compliance with obligations. He considered that his country had difficulty to find its way between the data provided by the PAP/RAC and those provided by MED POL and asked who deals with what. He also indicated that Slovenia hasn't asked for explicit support from the Regional Activity Center for the drafting of its report.

18. One member acknowledged the importance of collecting data and information, but observed an increasing uncertainty regarding the use of this information. He called for a simplification of data and information that is useful to the Contracting Parties. He also noted, supported by another member that Regional Activity Centers were working independently according to their own priorities without

coordination between them. Within this context, he couldn't see how these Centers can support the Contracting Parties.

Deliberations of the Committee's members in the absence of the Representative of Slovenia:

19. The Chairperson recalled that the Committee didn't have any mandate to modify the reporting format, but had the mandate to ensure that the Contracting Parties comply with their reporting obligation within the framework of Decision IG. 21/1. One member considered this decision as obsolete and that it was enough to have a written document by Slovenia specifying what it has committed itself to do.

20. Several members considered that there is no need to limit the matter only in the case of Slovenia, but that it was appropriate to find a solution for the four concerned Contracting Parties. They were surprised by the necessity to exert pressure on this country before December 2015, the maturity date to submit its report. Another member considered that it was necessary to separate Slovenia from the three other cases. It was appropriate to send it a letter repeating its argumentation and calling it to confirm its commitment to submit its report in December 2015, so that Slovenia has the chance to submit its comments in writing.

21. Other members considered that the absence of the three other Contracting Parties at the information session should be taken into account in the comments of the Committee. What shall the Committee say to these three countries, even if the case of Slovenia shall be dissociated from them? It will also be difficult for a Slovenian civil servant to draft in writing what he has said about the dysfunction of his administration. However, the Committee letter should reiterate the commitment of Slovenia to submit its report in December 2015.

22. One member noted that the Committee still doesn't know why the three other Contracting Parties were absent from this informal Session. He asked why Slovenia should be officially treated differently and proposed to have an overall approach for these four countries. It was necessary to treat the three countries on equal footing by asking them to keep the Committee informed of their will to send their report during the coming months.

23. The Chairperson concluded these exchanges by indicating that the Committee will send to Slovenia a note in which it expresses its thanks for participating in this informal Session and in which it asks Slovenia to confirm its commitment to submit its report for the biennium 2012-2013 by December 2015.

24. Back in session, the Representative of Slovenia indicated to the Committee members that he was very happy to explain the reasons which have prevented his country from fulfilling its reporting obligation and to also describe the initiatives which will help his country to find the appropriate remedy.

25. One member requested the Secretariat to send to the Committee members a copy of the mails sent by Albania and Malta. Another member proposed to send it to MAP Focal Points, to the Prime Minister and to the Presidents of these three countries, highlighting the participation of Slovenia to this informal session and asking them to abide by their reporting obligations as soon as possible on the basis of a timetable. The representative of the Secretariat indicated that he didn't have the mandate to write to a President or a Prime Minister.

26. One member insisted on the necessity to act within the perspective of the implementation of Decision IG. 21/1. He recalled that the mission of the Committee was to follow up on the implementation of Paragraph 36 of the Recommendation adopted by the Eighteenth Meeting of the Contracting Parties. He considered that if the Committee was to send letters to the four concerned Contracting Parties, it shouldn't limit itself to these since other Contracting Parties are also in a non-compliance situation. For this reason, he also recommended to address a letter to these Parties.

Otherwise, the action of the Committee will be discredited. Another member supported this proposition to address a letter to the twenty-two Contracting Parties which are in a non-compliance situation. The objective is to exercise pressure on them to abide by their obligations and to ask those which have submitted their report to fill the gaps. The Committee itself shall help them, not penalize them.

27. The Chairperson called for the use of the power of initiative acknowledged for the Committee in conformity with Article 23 bis of Decision IG. 17/2 by addressing a mail to the concerned Contracting Parties, also indicating to them the consequences of a no-reply to this mail.

28. One member expressed skepticism about the implications of such a procedure. If the Contracting Parties consider that non-compliance situations are not important, nothing will change and everything will remain ambiguous. The same applies to the proposition submitted to the Regional Activity Centers to assist the Committee in its activities. It has been years that this proposition was formulated without really having concrete results.

29. The Chairperson summarized the exchange of views and proposed that the Secretariat addresses a letter to the Regional Activity Centers to ask them to provide an active support to the process of report assessment. She also proposed that the Committee addresses a letter to eight Contracting Parties: a letter to Slovenia; a letter to three other Contracting Parties (Albania, Malta and Libya) which haven't attended the informal Session; and a letter to four other Contracting Parties (Algeria, Monaco, Syria and Tunisia). Finally, a draft recommendation about this point will be proposed by the Committee and annexed to its biennial activity report 2012-2013 to be submitted to the Nineteenth Meeting of the Contracting Parties for consideration and adoption.

DECISIONS:

2. The Compliance Committee took note with concern that three Contracting Parties (Albania, Libya, Malta) of the four invited to participate in an informal session, held during the 10th Meeting and back- to – back with the meeting of the MAP FPs, did not respond to the invitation.
3. The Compliance Committee welcomed and thanked Mr Mitja Bricelj, Representative of Slovenia, for his participation to this session of the Committee related to the assessment of the reasons for the delay, for more than a biennium, in submitting the Country's Reports for the implementation of the Barcelona Convention and its Protocols.
4. The Compliance Committee took note of the information and explanations provided by the Representative of the Government of Slovenia, to clarify the difficulties faced by his country in its reporting obligations, referring to the content of the Decision IG.21/1 adopted by COP 18, and to understand the reasons of the delay in the implementation of the abovementioned Decision.
5. The Compliance Committee agreed about the initiatives to be undertaken to ensure the implementation of such a Decision by the concerned Contracting Parties and therefore, to send letters of formal notice, based on drafts prepared by an ad- hoc working group, to the relevant competent Ministers (copying to their respective MAP Focal Points) of the concerned Contracting Parties of the abovementioned Decision:
 - to the Government of Slovenia, recalling the Decision IG.21/1 and the co-signed letter by both Presidents of the Bureau and the Compliance Committee (Annex XX); thanking for the participation to the informal session and asking to confirm their commitment and to fully comply with the obligations concerning submission of Reports by the end of December 2015, indicating to them that if this obligation will not be fully complied with, the Compliance Committee will consider starting the procedure under Article 23 bis of Decision IG.17/2;
 - to the Governments of Malta and Libya, recalling the Decision IG.21/1 and the co-signed letter by both Presidents of the Bureau and the Compliance Committee (Annex XX); noting with concern that they did not participate nor reply to the invitation to participate in the informal session; asking them to implement its content and to fully

comply with the obligations concerning submission of reports within two months of the date that the letter would be issued; indicating to them that if this obligation will not be fully complied with, the Compliance Committee will consider starting the procedure under Article 23 bis of Decision IG.17/2;

- to the Government of Albania, thanking for the submission of their 2010-2011 report, noting that they did not participate to the informal session and recalling their responsibility to fully comply with the obligation under Article 26 of the Barcelona Convention concerning submission of reports;
- to the Governments of Algeria, Monaco, Syria and Tunisia, recalling the Decision IG.21/1, asking them to implement its content and to fully comply with the obligations concerning submission of reports within two months of the date that the letter would be issued; indicating to them that if this obligation will not be fully complied with, the Compliance Committee will consider starting the procedure under Article 23 bis of Decision IG.17/2.

Agenda Item 4: Adoption of the draft report of the Ninth Meeting of the Compliance Committee (Split/ Croatia – 27-28 November 2014)

30. Several members of the Committee addressed to the Secretariat their remarks regarding some points of the text. The report was adopted by the Committee, taking into account the proposed corrections and modifications.

DECISION:

6. The Compliance Committee reviewed the draft Report of its Ninth Meeting. After minor corrections in the French version and the correct numbering in the English version, the final report was adopted by the Committee.

Agenda Item 5: Participation of the President of the Compliance Committee as an observer to the 79th meeting of the Bureau of the Barcelona Convention

31. The Chairperson drafted a report of her participation to the 79th meeting of the Bureau of the Contracting Parties. She recalled the three propositions she submitted for this occasion to the members of the Bureau. The three propositions were as follows : presence of a representative of the Committee as an observer to the next meeting of the Bureau regarding non-compliance issues; modification of Article II, paragraph 3, of the Terms of Reference of the Barcelona Convention by the addition of a compliance criterion to the election of the Bureau members ; a regular support that is specific to the Committee's activities to help in exercising its mandate in the best possible way, with the support of appropriate financial and human resources.

32. One member noted that it is up to the Bureau to indicate the sessions the representative of the Committee can attend. Another member asked if the invitations to the Committee meetings have been sent to the Contracting Parties. The Secretariat answered negatively.

33. In brief, the Chairperson proposed to draft a recommendation aiming at amending the Bureau's Terms of Reference, encouraging the participation of a Committee representative to all the Bureau meetings as well as to those of the Regional Activity Centers in which it can provide an added value. Finally, she called for an approach favoring the opportunity for Contracting Parties to participate, on the basis of Rule 5 of the Rules of the Procedures of the Committee, to some of these meetings.

34. Mr. Gaetano Leone, MAP Coordinator, underscored the significant role of the presence of the Compliance Committee's President during the second day of the meeting of MAP Focal Points, on May 20, 2015. He noted the renewed interest of MAP Focal Points on non-compliance issues and firmly recalled that the success of the Barcelona Convention was related to the Contracting Parties' compliance with their obligations. He also indicated that the draft decisions to be presented to the

nineteenth meeting of the Contracting Parties shall be submitted in advance to the next MAP Focal Points meeting, scheduled mid-October 2015. Regarding the timetable of the upcoming meetings of the Committee, he noted that the Budget shall be able to finance the holding of another meeting by the end of 2015, underlining that part of the work can be done electronically. He concluded by saying that the Secretariat will spare no effort to facilitate the work of the Committee and thanked its members once again for their constructive commitment to the service of the Barcelona Convention.

DECISIONS:

7. Based on the relevant conclusions regarding the participation to the 79th Meeting of the Bureau of the Barcelona Convention, the Compliance Committee decided that a list of recommendations should be drafted to be submitted for consideration and adoption to the 19th Meeting of the Contracting Parties. The following proposals were adopted:
 - The regular participation of a representative of the Compliance Committee with the status of observer to the Meetings of the Bureau of the Barcelona Convention to strengthen cooperation and collaboration between the Compliance Committee, the Bureau and the Secretariat;
 - The amendment of Article II, paragraph 3, of the Terms of Reference of the Bureau of the Contracting Parties, adding compliance criteria in electing the members of the Bureau;
 - The provision of a specific and dedicated regular support to the Compliance Committee, to help it carrying out its mandate at the best possible manner and the related need for appropriate financial and human resources.
 - The regular participation of a representative of the Compliance Committee in relevant meetings of the MAP Components and of the Executive Coordination Panel (ECP) or in any other meetings or instances where the Compliance Committee could provide added value.
8. The Compliance Committee, made aware by the UNEP/MAP Coordinator on the deadlines for advancing Recommendations to be submitted for consideration and adoption by the 19th Meeting of the Contracting Parties, decided to propose a list of Recommendations, based on drafts prepared by an ad hoc working group. These Recommendations, taking into account the list of Recommendations adopted under Agenda Item 5, referred to the following issues:
 - The follow-up on the implementation of Decision IG. 21/1 of the Eighteen Ordinary Meeting of the Contracting Parties regarding the Parties that have not submitted Reports;
 - The reporting obligation under Article 26 of the Barcelona Convention;
 - Functioning of the Compliance Committee.

Agenda Item 6: Submission of reports by the Contracting Parties (Biennium 2012-2013)

35. The Secretariat presented a working document (UNEP(DEPI) MED CC.10/3 related to the assessment of eight reports submitted by the Contracting Parties (Cyprus, Croatia, France, Greece, Italy, Lebanon, Morocco and Montenegro). It underlined, first, that all Contracting Parties have used the online reporting format to complete their report, which represents a significant progress in comparison with the previous biennium. It also indicated that several Contracting Parties haven't submitted any report regarding all legal instruments and that some reports do not provide information about technical and implementation aspects of the Protocols. Finally, it underscored the fact that several reports highlighted recurrent difficulties encountered by the Contracting Parties in the implementation of Protocols related, in particular, to the absence of a governance framework, limited technical and financial capacities, insufficient human resources, an often inappropriate administrative management and, finally, a deficient interministerial cooperation.

36. Several members congratulated the Secretariat for this assessment, but proposed that the Secretariat drafts a summary of the eleven reports submitted to date by the Contracting Parties in order to reach common denominators and identify cross-cutting issues. This note may then facilitate the

work of the Committee in its assessment of the substance of reports. In fact, reports have shown that the countries are confronted with similar problems, for example insufficient financial, human and technical resources, and considered that it is up to these countries to deal with these problems and settle them, most being inherently internal. If the Meeting of the Contracting Parties considers that the Regional Activity Centers can help these countries, it is up to the latter to formulate an appropriate request.

37. One member talked about a true reporting crisis. He underlined the rapidly decreasing trend on the number of reports submitted by the Contracting Parties. According to the Secretariat, it is too easy to say that this is due to the reporting format. The Contracting Parties are always lagging behind. The administrative and technical difficulties they evoke may be one explanation, but they are definitely not an excuse. However, an improvement and a simplification of the reporting format may improve the situation. However, the diagnosis may go further and even question the necessity or the usefulness of the reports. The Secretariat underlined the valorization created by these reports, at the same time, for the MAP and for the Contracting Parties which may find in them issues of their own interest, at least within the framework of their own self-assessments. The Secretariat also suggested that a recommendation be drafted to re-emphasize the usefulness of reports. A line of thought may be to give up the biennial format (two-year basis) of the reports. In support of this proposition, it was proposed that the Contracting Parties be subject to strict requirements and that a slower reporting pace will allow them to be under less pressure. Finally, it was suggested to alternate the timing of reports submission, with due consideration to the legal instruments (Barcelona Convention and its seven Protocols).

38. The MAP Coordinator underlined that the Compliance Committee has a consultative role over the functioning of the system as a whole. The absence of reports or substantial gaps in them is a sign of a lack of interest and visibility of Contracting Parties. Not submitting reports may be perceived by countries as a serious matter on the political level. This reaction causes a problem because the absence of reports may have implications on the non-implementation of the Barcelona Convention and its Protocols. The Coordinator supported the proposition aiming at identifying in a note the horizontal issues raised by the reports in order to analyze common denominators. Out of the exchanges he had during his visits in countries, the Coordinator received one consistent response: the management of reporting is too complicated and cumbersome. A revision of the reports frequency should not be a taboo and should be further considered.

39. One member asked if the countries of the South have benefited from financial assistance from MAP. Regarding periodicity, he considered that the debate is open and that the Conference of the Contracting Parties, on the basis of Article 26 of the Barcelona Convention, has the power to modify the reporting frequency. Finally, regarding the issue of the reporting format, he suggested to make it more concise and easier to provide information. Another member underlined that, in most cases, the same persons represent their country at all levels, committees and meetings. Regarding the issue of MAP Focal Points vetting the Committee's reports and recommendations, he recalled that the Committee has decided that these reports will not be submitted to the veto of the MAP Focal Points but only for their information.

40. The Coordinator informed the Committee that, within the framework of the Biennium 2002-2013, Morocco has benefited from a financial aid from MAP.

41. The Chairperson summarized the overall propositions expressed during the discussion: she requested the Secretariat to go on with and verify Country reports assessments by utilizing the expertise of the MAP Components. Moreover; to send to the concerned Contracting Parties, if needed, requests for complementary information regarding some report points they have raised; to draft a transversal note for the assessment of reports submitted to date in order to identify potential issues of non-compliance. Furthermore, she raised the issue of the participation of Committee representatives to meetings of the Regional Activity Centers and of the CEC in order to be able to intervene in a more

efficient way. Finally, she considered that it was appropriate to remind the Contracting Parties of the possibility to receive financial aid from the Secretariat for the drafting of their reports.

Examination of three draft letters to the attention of the Contracting Parties targeted by Decision IG. 21/1

42. The Chairperson recalled that the Contracting Parties must respond to the letter within a two-month deadline. On the hypothesis that letters will be sent in June and that no answer will be received by September, the non-compliance proceedings shall be initiated in October 2015. The Committee may draft conclusions electronically, but shall hold a meeting to allow Contracting Parties to react during this meeting.

43. Several members recalled that all the decisions of the Committee shall be only submitted before the Meeting of the Contracting Parties, not before the meeting of MAP Focal Points. The MAP Deputy Coordinator indicated that every decision to be submitted to the Meeting of the Contracting Parties shall pass in advance from the meeting of the MAP Focal Points for approval. One member once again raised his disagreement for the meeting of Focal Points approving a decision of the Committee. Another member also said that the Committee's activity report should be submitted directly for consideration and adoption to the Meeting of the Contracting Parties.

44. Regarding the future meetings of the Committee, the Chairperson, supported by several members, estimated that one meeting at least seems necessary before the next Meeting of the Contracting Parties subject to corresponding funding. The Coordinator responded that we will definitely find the possibility to organize a third meeting and recommended to the Committee to draft a provisional program of its meetings for the next biennium.

DECISIONS:

9. The Compliance Committee, having welcomed the updates on the reports submitted by the Contracting Parties, requested the Secretariat to continue the assessments with the active and operative involvement and cooperation of the competent MAP Components, asking the Contracting Parties for more information as needed, and to prepare a synthesis note on the status of implementation of the obligations under article 26 of the Barcelona Convention and on the reports received for the 2012-2013 biennium, i.e. undertaking an analysis of information provided in the national reports in order to draw up a report describing the overall situation underlining and referring the matter of actual or potential situations of non-compliance to be considered by the Compliance Committee.
10. The Committee requested the Secretariat to remind all Contracting Parties of the opportunity to request financial support to facilitate them in their obligations to timely and properly submit their reports.

Agenda Item 7: Implementation of the reform of the power of initiative granted to the Compliance Committee (Article 23 bis of Decision IG. 17/2)

45. The Secretariat presented the information document (UNEP(DEPI)/MED CC.10/Inf.10) related to the power of initiative of the Compliance Committee. This new prerogative has been granted to the Committee by the Eighteenth Meeting of the Contracting Parties by adding paragraph 2a to Section V of Decision IG.17/2. It enables the Committee to examine, on the basis of biennial activity reports or in the light of all other relevant information, the difficulties encountered by a Contracting Party in the implementation of the Barcelona Convention and its Protocols and to ask it to provide any complementary information. It underlined that this new competence reinforces the action of the Committee and facilitates a direct link between the Committee itself and the Contracting Party concerned by the non-compliance case. The Secretariat underlined that this new power of referral granted to the Committee was independent from that of the Secretariat. However, it invited the

members of the Committee to assess the conditions of implementation of this power of initiative in coordination with the power of referral of the Secretariat.

46. One member said that it is up to the Committee to assess and make use of the opportunity to engage a Contracting Party by relying on any relevant information at its disposal. Another member pointed out that it was preferable to reflect on how to implement the formula « in the light of any relevant information ». Regarding this point, he deemed it necessary to set up criteria to determine the admissibility of pertinent information. It may be appropriate not to focus on purely procedural referral cases related only to compliance with the reporting obligation, but to introduce referrals about substantive cases for the implementation of the Barcelona Convention and its Protocols. The Chairperson proposed that the Secretariat submits to the next meeting of the Committee a note on the adoption of criteria for the admissibility of relevant information to initiate a referral proceeding by the Committee.

DECISIONS:

11. The Committee, based on the previous discussion and decisions, examined the modalities of the implementation of its power of initiative granted to it by Decision IG.21/1.
12. The Committee requested the Secretariat to draft a note regarding the adoption of criteria for the admissibility of relevant information to be presented for consideration during the 11th Meeting of the Compliance Committee.

Presentation of draft recommendations to submit for adoption to the Nineteenth Meeting of the Contracting Parties

47. The Chairperson of the ad hoc working group proposed to the Committee the adoption of four draft recommendations. The first is about the follow-up on the implementation of Decision IG.21/1. This recommendation aims at reminding the Contracting Parties of their obligation to implement the decisions of the Meeting of the Contracting Parties. The second draft recommendation is about the reports submitted by the Contracting Parties. This Recommendation proposes the adoption of measures to convince the Contracting Parties that the reporting exercise is not only useful for all the partners to the Barcelona Convention, but also for themselves. It also proposes the downloading of national reports on the MAP Internet website which are freely accessible. Moreover, the Recommendation proposes to associate, in a more operational manner, the Regional Activity Centers in the reporting process. The third draft recommendation calls for a more flexible revision of the frequency of reports by extending the submission deadlines in order to avoid overloading the Contracting Parties. Finally, the fourth draft recommendation is about the functioning of the Compliance Committee. It proposes that the Committee plays the role of an active observer to the meetings of the Bureau of the Barcelona Convention and that it is more systematically associated to the works of the working groups, such as the one related to MAP efficiency indicators, particularly legal indicators.

48. The Coordinator considered that the Regional Activity Centers have an effective role to play in the assessment of reports. However, he underlined that their involvement shall be through the Coordination Unit.

49. The Chairperson thanked the working group for its contribution. She proposed to submit these four recommendations for final consideration and approval by the members of the Committee and to send a brief summary of the content of these draft recommendations to the members of the Bureau.

Agenda Item 8: Guidelines for the assessment of reports to identify the current or potential situations of non-compliance

50. One member presented to the Committee a Methodology aimed to allow the identification of non-compliance situations in the implementation of provisions which are specific to the Convention of Barcelona and its Protocols. She submitted for the consideration of the Committee qualitative and quantitative criteria for the assessment of each issue within the reporting format.

51. The Chairperson thanked the member for her highly relevant contribution. She asked her to try to harmonize the table of indicators with the working document UNEP (DEPI)/MED CC.10/4 related to the revised draft guidelines. This consolidated document will be addressed by the Secretariat to the MAP components to survey their opinion. She requested the Secretariat to test these criteria to verify their relevance in order to prepare a draft final document to be submitted to the next meeting of the Committee for discussion and approval.

DECISIONS:

13. The Compliance Committee requested that a harmonization should be secured between the working document CC.10/4 on Draft Guidelines to identify current or potential cases of non-compliance and the presentation made by one of its members on the methodology to enable identification of non compliance cases related to specific provisions of the Barcelona Convention and its Protocols, where descriptive qualitative/quantitative criteria have been proposed for evaluation of each question of the Questionnaire.
14. The Compliance Committee requested the Secretariat to send this consolidated document to the MAP Components for their comments and contributions.

Agenda Item 9: Any other matters.

- Availability of archive documents of the Compliance Committee

52. One member underlined the necessity to form, at the MAP Secretariat, an archiving system, grouping all official documents related to the activities of the Compliance Committee. The Chairperson called upon the Secretariat to have such a documentation system quickly set up.

- Access of the members of the Compliance Committee to the national reports submitted by the Contracting Parties

53. One member asked if the modalities of access of the Committee members to the biennial reports submitted by the Contracting Parties are operational. The Secretariat indicated that the «credentials» have been sent to each member of the Committee. Several members said that they had not so far received any access codes. The Chairperson requested the Secretariat to ensure that the codes are transmitted (or retransmitted) to all the members of the Committee.

- Report of the workshop on Espoo Convention (Rabat /14 & 15 April 2015)

54. One member commented on a workshop held in Rabat (Morocco) about the compliance mechanisms within the framework of the Espoo Convention in the Mediterranean. He proposed that the Committee enters in contact with the Compliance Committee of this Convention to follow up on the implementation of Article 37 of Decision IG. 17/2.

- Participation of the Compliance Committee to the meetings of the MAP Committees and working Groups

55. One member insisted on the necessity of for the participation of Committee members in the activities of other MAP Committees and working Groups in order to improve the efficiency of the Committee's mission and secure better synergies. He suggested to add this proposition to the draft recommendation about the functioning of the Compliance Committee.

- Logistics

56. Two members indicated that the air tickets issued to take part in this meeting have imposed uncomfortable flight schedules. Therefore, they requested the Secretariat to, in the future, take the specificities of each member of the Committee more into account, to allow them to benefit from appropriate and “humane” flight schedules. The Coordinator took note of this request and said he will consider the issue with the Departments concerned.

DECISIONS:

15. The Compliance Committee requested that the archives be collected at the Secretariat Office and made available to its members.
16. The Compliance Committee requested the Secretariat to make the point on the modalities of accessibility of its members on the unepmap.org website to the Reports submitted on line by Contracting Parties.
17. The Compliance Committee requested the Secretariat to pay attention to the resolution of logistical problems related to the organization of the meetings of the Committee in particular in the area of issuing airline tickets to its members with appropriate flight schedules.

Agenda Item 10: Adoption of conclusions and decisions.

57. The Committee examined the partial draft conclusions and decisions of the Tenth Session of the Compliance Committee prepared by the Secretariat in consultation with the Chairperson. Several amendments and additions were introduced to this document. The Secretariat indicated that a finalized version of the text will be addressed to the Committee members for a final approval, which will be reproduced in the present report.

Agenda Item 11: Date, venue, duration and draft agenda for the 11th meeting of the Compliance Committee.

58. The Chairperson, in agreement with the Secretariat, proposed to hold the 11th meeting of the Compliance Committee in Athens, at the end of the month of September and/or the beginning of the month of October 2015, for two days at least. She indicated that a draft provisional agenda will be sent to the members of the Committee at a later stage.

DECISION:

18. The Compliance Committee decided that its eleventh meeting will be held in the headquarter of a MAP Component, depending on availability of funding, or in Athens, likely between the end of September and the beginning of October 2015, for at least two (2) days. A draft provisional Agenda of the meeting will be sent to its members for consideration at a later stage.

Agenda Item 12: Closing of the meeting.

59. After thanking the Committee members for their active participation in this session as well as the Secretariat for its precious support, the Chairperson closed the meeting at 17 h 45.