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Agenda Item 5: Specific Matters for Consideration and Action by the Meeting, including Draft Decisions

Draft Decision: Compliance Committee

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UNEP/MAP
Athens, 2019

Note by the Secretariat

The Compliance Committee met twice during the biennium 2018-2019. The 14th Meeting of the Compliance Committee was held on 25-26 June 2018 in Athens, Greece, at the premises of the United Nations Environment Programme/Mediterranean Action Plan (UNEP/MAP) Coordinating Unit, and then a resumed session of it was held through electronic means (teleconference) on 30 October 2018 for the election of the officers of the Compliance Committee for the current biennium. The 15th Meeting of the Compliance Committee was held on 25-26 June 2019, in Athens, Greece at the premises of the UNEP/MAP Coordinating Unit.

At its 14th and 15th Meetings, the Compliance Committee went through its Programme of Work for the biennium 2018-2019 and worked on its delivery to the 21st Meeting of the Contracting Parties (COP 21) (Naples, Italy, 2-5 December 2019). The outcome of the work of the Compliance Committee is presented in this document in the present Draft Decision, which is structured as follows:

- (a) *Activity Report of the Compliance Committee for the biennium 2018-2019*: The Activity Report is under finalization by the Compliance Committee and will be annexed to the present Draft Decision at the time of submission to COP 21.
- (b) *The Programme of Work of the Compliance Committee for the Biennium 2020-2021*: The Programme of Work annexed to the present Draft Decision was agreed by the 15th Meeting of the Compliance Committee, and contains a set of activities for the Compliance Committee to carry out within the 2020-2021 timeline;
- (c) *Recommendations to Promote Compliance with the Barcelona Convention and its Protocols and Improve their Implementation*. The proposed recommendations are annexed to the present draft decision and were agreed by the 15th Meeting of the Compliance Committee. They are the result of the work carried out by the Compliance Committee during the biennium 2018-2019 on the basis of the information contained in the national implementation reports for the biennium 2014-2015, as presented by the Secretariat in the Updated Synthesis Analysis (UNEP/MED CC.15/Inf.3) and Updated General Status of Progress (UNEP/MED CC.15/Inf.4);
- (d) *Renewal or Election of the Membership of the Compliance Committee*. The list of Members and Alternate Members of the Compliance Committee to be renewed or elected by the 21st Meeting of the Contracting Parties (COP 21) (Naples, Italy, 2-5 December 2019) will be provided once Contracting Parties proceed with the nomination of candidates following the corresponding procedure to be launched by the Secretariat.

The work of the Compliance Committee should be framed within the broader context of UNEP/MAP work in achieving Sustainable Development Goals.

The implementation of this decision is linked to Output 1.1.2: Effective legal, policy, and logistic support provided to MAP decision-making process including advisory bodies meetings, of the proposed MAP Programme of Work. It has budgetary implications on the Mediterranean Trust Fund (MTF), reflected in the proposed budget.

Draft Decision IG.24/1**Compliance Committee**

The Contracting Parties to the Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols at their twenty-first Meeting,

Recalling the General Assembly resolution 70/1 of 25 September 2015, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”,

Recalling also the Environment Assembly resolution UNEP/EA.4/Res.20, of 15 March 2019, entitled “Fifth Programme for the Development and Periodic Review of Environmental Law (Montevideo Programme V): delivering for people and the planet”,

Having considered Articles 26 and 27 of the Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and the relevant provisions of its Protocols,

Recalling Decision IG.17/2 of the 15th Meeting of the Contracting Parties (COP 15) (Almeria, Spain, 15-18 January 2008) on Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, as amended by Decision IG.20/1 of the 17th Meeting of the Contracting Parties (COP 17) (Paris, France, 8-10 February 2012) and Decision IG.21/1 of the 18th Meeting of the Contracting Parties (COP 18) (Istanbul, Turkey, 3-6 December 2013),

Recalling also Decision IG.19/1 of the 16th Meeting of the Contracting Parties (COP 16) (Marrakesh, Morocco, 3-5 November 2009) on the Rules of Procedure of the Compliance Committee, as amended by Decision IG.21/1 of the 18th Meeting of the Contracting Parties (COP 18) (Istanbul, Turkey, 3-6 December 2013),

Emphasizing the facilitative nature of the Compliance Committee in promoting compliance with the Barcelona Convention and its Protocols by providing advice and assisting Contracting Parties, as well as the role of the Compliance Committee in considering specific situations of actual or potential non-compliance by individual Contracting Parties and, at the request of the Meeting of the Contracting Parties, general compliance issues and any other issues,

Noting with appreciation the work undertaken by the Compliance Committee during the biennium 2018–2019, in particular ground-breaking work in providing specific and targeted key findings and draft recommendations on the basis of the national implementation reports for the biennium 2014–2015 submitted by the Contracting Parties, with the aim of delivering targeted action to promote compliance with the Barcelona Convention and its Protocols,

Seeking to promote the identification, as early as possible, of implementation challenges encountered by Contracting Parties, and the adoption of and recommendations on the most appropriate and effective measures addressing those challenges,

Stressing that the submission of national implementation reports by Contracting Parties, as per Article 26 of the Barcelona Convention, is instrumental in providing the Compliance Committee with the resources needed to perform its role in considering specific and general compliance issues,

Welcoming the submission of the national implementation reports for the biennium 2016–2017, using the new online Barcelona Convention Reporting System (BCRS), and the progress made by Contracting Parties in implementing the Barcelona Convention and its Protocols,

Recognizing the challenges faced by the Contracting Parties in reporting and implementing, and the need to ensure that legal and technical advice is delivered to facilitate their reporting process and that, as resources allow and in collaboration with other Multilateral Environmental Agreements, capacity building initiatives should be explored to enhance implementation of the Barcelona Convention and its Protocols,

Conscious of the need to continue enhancing the effectiveness of the compliance mechanisms and procedures, thus strengthening the role of the Compliance Committee in facilitating and promoting compliance with the Barcelona Convention and its Protocols,

Having considered the Compliance Committee meeting reports of the biennium 2018–2019,

1. *[Take note* of the Activity Report of the Compliance Committee for the Biennium 2018-2019, set out in Annex I to the present Decision;]
2. *Adopt* the Programme of Work of the Compliance Committee for the Biennium 2020-2021, set out in Annex II to the present Decision;
3. *[Adopt* the Recommendations to Promote Compliance with the Barcelona Convention and its Protocols and Improve their Implementation, set out in Annex III to the present Decision;]
4. *Urge* those Contracting Parties who have not yet submitted their national implementation reports for the biennium 2016-2017 to do so as soon as possible but before December 2019;
5. *Invite* the Contracting Parties to submit their national implementation reports for the biennium 2018-2019 using the new online Barcelona Convention Reporting System by December 2020;
6. *[Elect and/or renew*, in accordance with the Procedures and Mechanisms on Compliance, the membership of the Compliance Committee, set out in Annex IV to the present Decision;]
7. *Request* the Compliance Committee to report to the Contracting Parties at the 22nd Meeting of the Contracting Parties (COP 22) on the work it has carried out to fulfil its functions in accordance with paragraph 31 of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols.

Annex I

Activity Report of the Compliance Committee for the Biennium 2018-2019

(To be added for the 21st Meeting of the Contracting Parties (COP 21) (Naples, Italy, 2-5 December 2019))

Annex II

Programme of Work of the Compliance Committee for the Biennium 2020-2021

Draft Programme of Work of the Compliance Committee for the biennium 2020-2021		
Activity	Lead/Who	Timetable/When
Specific submissions under Section V of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocol		
1. To consider any submissions and/or referrals in accordance with Section V of the Procedures and Mechanisms on Compliance	Compliance Committee	16 th and 17 th Compliance Committee Meetings
General issues of compliance under the Barcelona Convention and its Protocols		
2. To consider specific situations of actual or potential non-compliance by individual Parties in accordance with Section IV of the Procedures and Mechanisms on Compliance	Compliance Committee	16 th and 17 th Compliance Committee Meetings
3. At the request of the Meeting of the Contracting Parties, to consider general compliance issues in accordance with Section IV of the Procedures and Mechanisms on Compliance	Compliance Committee	16 th and 17 th Compliance Committee Meetings
4. To consider any other issues as requested by the Meeting of the Contracting Parties in accordance with Section IV of the Procedures and Mechanisms on Compliance	Compliance Committee	16 th and 17 th Compliance Committee Meetings
Enhancement activities		
5. To continue work in order to enhance Compliance Mechanisms' and Procedures' effectiveness	Compliance Committee	16 th and 17 th Compliance Committee Meetings
6. To continue to identify, promote and strengthen synergies, where appropriate, with other Compliance Committee's Multilateral Environmental Agreements (MEAs)	Compliance Committee	16 th and 17 th Compliance Committee Meetings
Functioning of the Compliance Committee		
7. To review the Rules of Procedure of the Compliance Committee in order to further clarify a number of outstanding issues and make a proposal as appropriate for adjusting accordingly the Procedures and Mechanism on Compliance for consideration by COP 22.	Compliance Committee	16 th and 17 th Compliance Committee Meetings

Annex III

Recommendations to Promote Compliance with the Barcelona Convention and its Protocols and Improve their Implementation

RECOMMENDATIONS TO PROMOTE COMPLIANCE WITH THE BARCELONA CONVENTION AND ITS PROTOCOLS AND IMPROVE THEIR IMPLEMENTATION

1. In order to implement the Barcelona Convention and its Protocols, Contracting Parties need to put the necessary legislative and policy measures in place, and to establish the corresponding institutional structures to implement them and follow-up and assess the effectiveness of these measures towards a good ecological status of the Mediterranean Sea. Establishing the necessary governance structures and institutions is key for the implementation of the Barcelona Convention and its Protocols. These core institutions have been examined by the Compliance Committee intersessionally, on the basis of the Updated Synthesis Analysis (UNEP/MED CC. 15/Inf.3) and the Updated General Status of Progress (UNEP/MED CC.15/Inf.4) prepared by the Secretariat, as well as on the basis of the national implementation reports for the 2014-2015 biennium, as deemed necessary. As a result, presented hereinafter, are the proposed recommendations to promote compliance with the Barcelona Convention and its Protocols.
2. The proposed recommendations listed below were deemed as high priority issues and therefore the Compliance Committee urges Contracting Parties to direct efforts and take significant action as detailed. They form part of a comprehensive package of key findings and additional recommendations, which is annexed to the Activity Report of the Compliance Committee for the biennium 2018-2019 to COP 21.
3. The proposed recommendations presented below should be understood within the limitations which arise from the fact that not all Contracting Parties have submitted their national implementation reports for the 2014-2015 biennium; the limited number of Contracting Parties to some Protocols, and additionally, the difference in the amount of information submitted by Contracting Parties in their national implementation reports.

Cross-cutting recommendations to promote compliance with the Barcelona Convention and its Protocols

1. To remind the Contracting Parties concerned that the non-submission of national implementation reports under Article 26 of the Barcelona Convention leads the Compliance Committee on a case-by-case basis and within its mandate to trigger the compliance mechanism leading to the consideration of the measures laid down in Section VII of the Procedures and Mechanisms of Compliance;
2. To ask the Secretariat to explore the commitment of adequate resources (both financial and other available) and actions to implement measures of capacity building within the Barcelona Convention framework that would also allow the Compliance Committee to take forward a programme of work for designing and implementing capacity-building measures to improve compliance and especially reporting by the Contracting Parties;
3. In order to increase the submission rate of national implementation reports under Article 26 of the Barcelona Convention and their completeness, to invite the Compliance Committee Chairperson or other appointed representative to participate, having an active role, at the main Governance meetings of the Barcelona Convention;
4. To enhance data collection through the existing INFO/MAP system and its further development, and explore the means and ways to support Contracting Parties in terms of capacity building aiming to ensure coherence at national level and to secure availability and accessibility to necessary infrastructure for providing consistent data management for reporting purposes;
5. To urge the Contracting Parties concerned to report on enforcement measures;

Recommendations to promote compliance with the Barcelona Convention

To urge and recommend the Contracting Parties concerned:

6. To establish and improve Environmental Assessment, in particular Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) in the coastal zone as well as in the transboundary context, and to establish cooperation mechanisms in cases of transboundary EIAs by adopting the required legal framework and setting the corresponding institutional arrangements;
7. To integrate Integrated Coastal Zone Management (ICZM) into the physical planning of their coastal zone; and invite the Priority Actions Programme/Regional Activity Centre (PAP/RAC) to explore how best Contracting Parties could be assisted in this field;
8. To establish the legal framework and institutional structures for monitoring marine pollution, and to consider these as high priority task including the allocation of sufficient resources by those countries to achieve these goals;

Recommendations to promote compliance with the Dumping Protocol

9. The Secretariat is requested to explore in collaboration with other Multilateral Environmental Agreements (MEAs) activities to build up enforcement capacities to ensure the effective implementation of the Dumping Protocol. This could take the form of workshops, seminars or training activities;

Recommendations to promote compliance with the Prevention and Emergency Protocol

10. To ensure that Contracting Parties have an effective system of mechanisms and procedures to manage communication between countries and with REMPEC in case of pollution incidents, action in that regard should be taken within the REMPEC Regional Strategy for Prevention of and Response to Marine Pollution from Ships (2016-2021) (COP 19 Decision IG.22/4);

Recommendations to promote compliance with the LBS Protocol

11. To enhance the submission of data and avoid any uncertainty when interpreting data submitted, the Secretariat is requested to continue the work in assisting Contracting Parties to report reliable data on pollutants loads discharged directly and indirectly to the Mediterranean Sea through the existing on-line INFO MAP system (National Baseline Budget -NBB and Pollutant Release and Transfer Register-PRTR) and the work in strengthening the Contracting Parties' capacities for the efficient use of the INFO MAP system;
12. To request the Secretariat to continue to support the conception and follow-up of updated (National Action Plans) NAPs and to get ownership from other institutions including International Financial Institutions (IFIs) on depollution projects;
13. MED POL should invite Contracting Parties to provide their existing list of depollution investment projects as well as to define their pollution hot spots, in line with the Secretariat terms of reference for (National Action Plans) NAPs. The Secretariat should provide a map for priority projects and pollution hot spots for the Mediterranean region;

Recommendations to promote compliance with the SPA/BD Protocol

To urge and recommend the Contracting Parties concerned:

14. To continue with the identification and establishment of Specially Protected Areas (SPAs) and candidate Specially Protected Areas of Mediterranean Importance (SPAMIs), further embracing open sea areas, including deep seas, which are much underrepresented within the Mediterranean protected areas and SPAMIs, as well as to adopt the necessary measures for the full implementation of article 7.2 of the SPA/BD Protocol;
15. To proceed with the inventory of the components of marine and coastal biodiversity as per article 3.3 of the SPA/BD Protocol;

Recommendations to promote compliance with the Hazardous Wastes Protocol

16. In collaboration with other relevant Multilateral Environmental Agreements (MEAs), with particular focus on the Basel Convention, the Secretariat to explore how to promote coordination and cooperation among Contracting Parties concerning the notification procedure for the transboundary movement of wastes and to strengthen institutional arrangements to ensure transparency, enforcement and public participation;

Recommendations to promote compliance with the Offshore Protocol

17. To give a strong warning to the concerned Contracting Parties with regards to the obligation to provide data on authorizations and permits for offshore activities, the removal of disused installations, inspections and enforcement measures eventually adopted;

Recommendations to promote compliance with the ICZM Protocol

To urge and recommend the Contracting Parties concerned:

18. To integrate ICZM into the physical planning of their coastal zone and to enforce the provision on the setback zones as non-building zones may exceeding the Protocol's 100 metres, in particular as regard as factors such as natural risk and climate change, and the need to protect natural and landscape heritage;
19. To take measures to protect the coastal and marine landscape as well as the characteristics of certain specific coastal ecosystems, in particular to restore and reactivate the positive role in coastal environmental processes of coastal wetlands, estuaries, and islands.
20. To adopt national strategies for ICZM to be implemented at appropriate territorial level through coastal plans and programmes, and to develop indicators for evaluating the effectiveness of these strategies, plans and programmes.

Annex IV

Renewal or Election of the Membership of the Compliance Committee

(To be added for the 21st Meeting of the Contracting Parties (COP 21) (Naples, Italy, 2-5 December 2019))