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and its Protocols

Split, Croatia, 27-28 November 2014

**Agenda Item 5: Recommendation on non-compliance with obligations regarding submission of reports provided for in Article 26 of the Barcelona Convention adopted by the Eighteenth Meeting of the Contracting Parties**

**Recommendation on non-compliance with obligations regarding submission of reports provided for in Article 26 of the Barcelona Convention adopted by the Eighteenth Meeting of the Contracting Parties**

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**Annex 1 of COP 18 Working document UNEP (DEPI) MED IG.21/8  
Activities Report of the Compliance Committee (Biennium 2012-2013)**

**Recommendation of the Compliance Committee on non-compliance with obligations regarding  
submission of reports provided for in Article 26  
of the Barcelona Convention**

**I. Legal basis of proceedings before the Compliance Committee**

1. At its 17th meeting in Paris in February 2012, the Contracting Parties to the Barcelona Convention on the protection of the marine environment and coastal region of the Mediterranean and its protocols, in Decision IG.20 / 1, brought to the attention of the Compliance Committee established by Decision IG 17/2, the examination of the general issues related to fulfillment of obligations, "in particular the recurring problems of non-fulfillment of these obligations". On this basis, the Compliance Committee, at its 6th session in January 2013, its 7th session in June 2013 and its 8th session in October 2013, became aware of the Party States' situation in the light of the obligation to submit reports to the Organization in accordance with Article 26 of the Convention.
2. As regards the issue of the reports, the Compliance Committee has been specially instructed by the 17th meeting of the Contracting Parties to analyze the issues of non-compliance with obligations on the basis of the national reports submitted for the biennial periods 2008-2009 and 2010-2011 as formulated in the work programme of the Compliance Committee for the biennial period 2012-2013 (Annex II paragraph 2(b) of Decision IG 20/1). In examining the question of non-submission of the reports, at the request of the meeting of the Contracting Parties, the Compliance Committee is involved on the basis of the Article 17(b) of Decision IG 17/2 as was precisely indicated in the mandate given to the Compliance Committee by Decision IG.20 / 1 of the 17th meeting of the Contracting Parties.
3. It is on this basis that the Compliance Committee continued the examination of the question of non-submission of reports during its 6th, 7th and 8th session, and decided to take one of the measures provided for in Article 32 (d) of Decision IG 17/2 in order to settle the case of non-compliance, by making this recommendation addressed to the next meeting of the Contracting Parties to be held in Istanbul in December 2013.
4. Although these conclusions and recommendations are not in paragraph V "Procedure" of Decision IG.17/2, since it is not a referral made by the Contracting Parties, the Compliance Committee has nevertheless decided that the parties concerned by these draft conclusions and recommendations should be able to acquaint themselves with them prior to the Decision of the Meeting of the Contracting Parties. Therefore, the Compliance Committee requests the Secretariat to notify in writing the present conclusions and recommendations to the parties concerned. They shall have the opportunity to submit their comments in writing, to the Committee for the Fulfillment of Obligations and via the Secretariat, not later than one month before 3 December 2013, the date of the 18th meeting of the Contracting Parties in Istanbul.

**II. Summary of the facts:**

5. The submission of reports to the Secretariat has been compulsory since the entry into force of the initial Convention of 16 February 1976 (Article 20) on 12 February 1978. In other words, for the original States Party to the Convention, the submission of reports has been required for 35 years. In reality, this obligation was only implemented by the Meeting of the Contracting Parties later on.

6. In accordance with Article 26-2 of the Convention, the Meetings of the Contracting Parties decide on the format and frequency of reports. A model background report on marine pollution was adopted by the Contracting Parties at their Eleventh Ordinary Meeting in 1999 (Recommendation II A a) b) 4) under the emergency protocol (pollution reporter system or POLREP), but it was the Twelfth Meeting of the Contracting Parties (Monaco 14-17 November 2001) which adopted reporting formats for the Convention and its Protocols and instituted a pilot phase, inviting the voluntary participation of the Contracting Parties which agreed to prepare these reports. At the time there were seven volunteers: Algeria, Croatia, The State of The State of Libya, Monaco, Spain, Tunisia and Turkey. It was only after this exercise that the Thirteenth Meeting of the Contracting Parties in Catania in November 2003 implemented regular reporting. The application of the compulsory phase of the reporting system therefore only began with the 2002-2003 Biennium, with the decision to begin to apply Article 26 of the Barcelona Convention from the 2002-2003 Biennium onwards, based on the updated reporting forms indicated in document UNEP(DEC)/MED WG.228/9 (Decision I.A.1.4 in UNEP(DEC)MED IG.15/11, Annex must also be considered that the Contracting Parties have had plenty of time to become used to this process. In light of this, the Compliance Committee considers that the strict respect of this obligation should now be reaffirmed clearly in the interests of the Mediterranean environment. At stake are the reputation and credibility of the Barcelona Convention, which is justly considered a model and pioneer in regional marine issues.
7. The Secretariat, the recipient of these national reports, observed that several Contracting Parties had not sent their report at all and that others had submitted it late. In the latter case, the Secretariat most often issued reminders.
8. Concerning the 2006-2007 biennium, the 15th meeting of the Contracting Parties, in its Decision IG. 17/3 had set the sending deadline as the end of November 2008. Seven States have not sent reports (Algeria, Cyprus, Egypt, Italy, Lebanon, Malta, Tunisia).III, page 2). Thereafter, the Fifteenth Meeting of the Contracting Parties in 2008 requested reports for the 2006-2007 Biennium. Based on Decision IG. 17/3 of the Fifteenth Meeting of the Contracting Parties in Almeria, a new reporting form was adopted and was imposed for the 2006-2007, 2008-2009 and 2010-2011 reports. It
9. Concerning the 2008-2009 biennium, the 16th meeting of the Contracting Parties had set a deadline for sending at 31 December 2010. During its 5th session on 5 July 2011, the Compliance Committee requested the Secretariat to send a reminder letter to the late senders. This letter, dated 13 July 2011, was followed by a further reminder letter dated 9 May 2012. In the absence of reply, the 6th session of the Compliance Committee, on 30 January 2013, requested its President to intervene. The latter, in a letter dated 6 March 2013, asked the interested parties (Albania, Lebanon, The State of The State of Libya, Montenegro and Slovenia) the reasons for their failure to submit their report for the 2008-2009 biennium, requesting a response before 30 April 2013. For the 7th session of the Compliance Committee, the Secretariat compiled a table of national reports submitted by the Contracting Parties under Article 26 of the Barcelona Convention (UNEP(DEPI)/MED CC.7/inf3). On 26 June 2013, in the absence of a reply to all the previous letters, including that of the President of the Compliance Committee, there are still six cases of non-submission of reports for 2008-2009, that is, 3 years after the deadline and despite sending three successive reminders in 2011, 2012 and 2013 (Albania, Lebanon, The State of Libya, Malta, Montenegro, Slovenia). However, The State of The State of Libya, which did not accept the 1995 Barcelona convention amendments until 12 January 2009, does not have the obligation to report for 2008-2009.
10. Concerning the biennium 2010-2011, the 17th meeting of the Contracting Parties, in its decision IG.20 / 3, had set a deadline for sending "by December 2012 at the latest". The Compliance Committee, during its 6th session, invited the Secretariat to reiterate their

obligations to the Contracting Parties who had not yet sent their report, and granted an extension until 31 March 2013. In a letter of 15 February 2013 sent to the focal points of the Contracting Parties, the Secretariat recalls that non-submission of the reports “will be considered to be a case of non-compliance” by the Compliance Committee. On 26 June 2013 the Table of the Secretariat, cited in 5 above, identified 11 cases of non-submission of reports for 2010-2011, that is, seven months after the deadline and four months after the February 2013 reminder (Albania, Algeria, Croatia, Lebanon, The State of Libya, Malta, Monaco, Slovenia, Syria, Tunisia and Turkey). Turkey has since submitted its report for the 2010-2011 biennium, on 12 July 2013. Croatia and Lebanon have also done so. By the Committee’s Eighth Meeting on 22 October 2013, only 14 reports had been sent to the Secretariat, with 8 reports still outstanding.

11. The Compliance Committee, at its 6th session in January 2013, observed that 5 Contracting Parties have repeatedly failed to send their national reports for two successive biennia: both for 2008-2009 and for 2010-2011 (Albania, Lebanon, The State of Libya, Malta and Slovenia). The same observation was made at the 7th session of the Compliance Committee in June 2013. There were only 4 Parties at the time of the Committee’s Eighth Meeting in October 2013: Albania, The State of Libya, Malta and Slovenia.
12. Finally, the Compliance Committee observes that the manifest and repeated non-fulfillment of Article 26 of the Convention concerns one State, which for three successive biennia, did not send any of the reports required for 2006-2007, 2008-2009 and 2010-2011 (Malta).

### **III. Legal basis for non-compliance**

13. The Compliance Committee notes that the submission of national reports is a direct obligation of the Contracting Parties clearly imposed by Article 26 of the Barcelona Convention. It requires a report on the measures taken in application of the Convention and also under the protocols and recommendations adopted by the meeting of the Contracting Parties. Certain Protocols reiterated the obligation to submit reports, specifying their content (Art. 13 of Protocol on protection of the Mediterranean Sea against pollution from sources and activities located on land and Art. 23 of Protocol on specially protected areas and biological diversity of the Mediterranean). The reporting obligation is subject to form and frequency requirements as decided by the meetings of the Contracting Parties. The Compliance Committee notes, in this respect, that the missing reporting were actually required and programmed by the 16th and 17th meetings of the Contracting Parties.
14. The Contracting Parties implemented in paragraphs 5, 6, 7 and 8 above all deposited their instruments of ratification and became parties after its entry into force. Article 26 of the Convention is applicable and enforceable against them (Albania, Algeria, Cyprus, Egypt, Italy, Lebanon, The State of Libya, Malta, Monaco, Slovenia, Syria and Tunisia).

### **IV. General remarks**

15. Non-respect of Article 26 of the Barcelona Convention constitutes a major obstacle to the implementation of the Convention and its protocols, since, despite its aspect of purely formal obligation, it gives rise to a whole series of consequences that impede the effectiveness of the Convention and the MAP. For this reason, several meetings of the Contracting Parties have particularly stressed the need for a Member State to fulfill the requirement to provide the national reports in due time.
16. The reports of the Contracting Parties shall be the key element of the implementation of the Barcelona Convention and its protocols. In the eyes of the Compliance Committee they are initially essential to be able to legally exercise the following functions:

- allow the meeting of the Contracting Parties to “study” the reports in accordance with Article 18-2-(ii) of the Convention. In the absence of reports, the meeting of the Parties cannot fulfill its mission,
  - assess the conformity of the measures taken at national level with the Convention and its protocols, and allow application of Article 27 of the Convention,
  - measure the effectiveness of the measures taken and the problems encountered in application of the Convention and its protocols in accordance with Article 26 of the Convention,
  - enable the Committee to fulfill the obligations to fulfill the mandate entrusted to it by the Contracting Parties to “facilitate and promote compliance with the obligations in the context of the Barcelona Convention and its Protocols” (1. Objective, Decision IG.17/2),
  - allow the Secretariat to send the Contracting Parties the reports under Article 17 (II) of the Convention,
  - allow the Secretariat to report to the Contracting Parties on the implementation of the Convention and Protocols under Article 17 (VI) as pointed out in decision IG.20 /3 which itself refers to Decision IG.17/3.
17. In addition, the Compliance Committee considers that the reports also play an important political and technical role, by :
- facilitating the monitoring over time of the progress made in the implementation of the Convention and its protocols, at both national and regional level,
  - providing regular information to facilitate the effective application of the Convention and its protocols,
  - allowing the Secretariat to make a credible summary, in the possession of all the relevant information available,
  - allowing the condition of the Mediterranean to be assessed,
  - identifying the challenges faced by all the residents in the Mediterranean area,
  - sharing between the Contracting Parties and MAP partners the information contained in the reports and the experience concerning the efforts made for the implementation,
  - contributing to higher visibility and transparency of the MAP in the region through publication of the reports on websites or other channels as recommended by Decision IG.17/3,
  - formulating the general obligations of the Contracting Parties with regards to their regional cooperation,
  - preventing the introduction of difference of treatment and obligations between those making the effort to complete the reports, and the others.

## V. The importance to satisfy to the obligation relating to the submission of reports

18. The Compliance Committee underlines that, beyond the formal obligation to submit reports in due time as formulated specifically by Art. 26 of the Convention, the Contracting Parties have repeatedly stressed the urgent need to fulfill this obligation in the common interest of the Contracting Parties and in order to meet the objectives of the Convention and its protocols.
19. The Compliance Committee, confining itself to involvement in the meetings of the Parties concerning the reports for the 2008-2009 and 2010-2011 biennia, reiterates the following decisions:
  - Decision IG. 17 / 2: the 15th meeting of the Contracting Parties, in 2008, asked the Compliance Committee to examine 'the problems of non-compliance with reporting obligations',
  - Decision IG. 19 / 17, appendix 1, paragraph 4, page 9: the 16th meeting of the Contracting Parties in 2009, in approving the MAP work programme for 2010-2014 with regard to the entry into force of legal instruments considers '... it a priority to contribute and to ensure that the new texts are implemented at the Parties' level. The system of reports and the mechanism of surveillance and the fulfillment of obligations shall expand rapidly and allow greater transparency'. Regarding governance, one of the three priorities identified deals with implementation of the Convention and its protocols in respect of which the "search for effectiveness will be a priority (...) the reputation of the Barcelona Convention is partly linked to the attention to be paid to its effective enforcement'. For the Compliance Committee, there can be no effective application if not all Contracting Parties submit their national reports within the time limits.
  - Decision IG.19 / 17, appendix 2, page 27: the 16th meeting of the Contracting Parties in 2009, in approving the work programme and 2010-2011 budget, reaffirms: "an effective system of reporting and a mechanism for fulfillment of obligations are essential to promote the effective implementation of the Convention and its protocols and the effectiveness and overall visibility of the MAP".
  - Decision IG. 19/1, Preamble: the 16th meeting of the Contracting Parties in 2009, in approving the rules of procedure of the Compliance Committee, stressed "the fact that it is important for the contracting parties to respect the time limits for their requested report obligations," urged "the Contracting Parties who have not done so to submit their reports as soon as possible", and called on 'the Compliance Committee (...) to discuss repeated problems of fulfillment of obligations in general.
  - Decision IG. 19/1, Annex II, Para. 2 (e): the 16th meeting of the Contracting Parties in 2009, in approving the work Programme of the Compliance Committee for 2010-2011, considered that the focus should be "placed in particular on the reasons for the Contracting Parties not respecting their obligations to report '.
  - Decision IG. 20/1: the 17th meeting of the Contracting Parties in 2012, by amending the procedures and mechanisms for fulfillment of obligations, set out the following considerations: "forcefully pointing out the need for the Contracting Parties to discharge their submission obligations within the deadlines of the reports on the measures taken in application of the Barcelona Convention and of the Protocols"; "urges the Contracting Parties which have not yet done so to submit their reports as soon as possible"; "requests the Compliance Committee, in accordance with paragraph 17 (b) of the Procedures and mechanisms for fulfillment of obligations, to examine general questions related to

fulfillment of obligations, including the recurring problems of non-compliance with those obligations”.

- Decision IG. 20/3: the 17th meeting of the Contracting Parties, in a decision specially devoted to the problem of reports, clearly indicated in 2012 its concern at the number of Contracting Parties which still had not submitted their reports: “showing its concern that seven Contracting Parties have not submitted their biennial reports on the measures taken in application of the Convention and its protocols and that some of the reports were not received in time”.

## **VI. Conclusions**

20. In the light of the foregoing, the Compliance Committee shall adopt the following conclusions in order to bring to the attention of the meeting of the Contracting Parties, with a view to official adoption, under paragraphs 31, 32, 33 and 34 of the Decision IG. 17/2.

21. The Compliance Committee considers that the submission of reports as provided for in Article 26 of the Convention is a fundamental requirement, with no possible exceptions. It represents the procedural minimum which must be required. It is a precondition for:

- the effectiveness of the whole MAP and its legal instruments,

- it allows all contracting parties to regularly assess legal, administrative or other measures taken by them and problems encountered in their application.

- it is essential for the functioning of the obligations’ fulfillment mechanisms. The reports are therefore beneficial for those which compile them and also for all the Contracting Parties who can find examples of good or bad practices within them.

22. However the Compliance Committee is anxious to point out that, in its opinion, the submission of reports does not ensure their quality and constitutes a formal obligation independent of any subsequent evaluation of the substance of and compliance with the Convention and its protocols.

23. The Compliance Committee is well aware of the heavy burden on the Contracting Parties, who are often required to respond to several questionnaires concerning their participation in several international conventions on the environment. The ability of the parties concerned, and the limited means often devoted to the environment in many countries, and exceptional political circumstances, may explain some delays.

24. However, the Compliance Committee considers that as this is a formal obligation, the minimum which can be expected of the Contracting Parties is to return the questionnaire with brief replies. This task is usually facilitated in the said Questionnaire by simply requiring the ticking of boxes. Admittedly, summary responses are not satisfactory because they do not allow the Secretariat, or the Compliance Committee, to fulfill the tasks entrusted to them of checking that the obligations have been respected. Therefore, the Compliance Committee wishes to clearly distinguish two separate cases of non-compliance with regards to reporting:

- non-compliance resulting from non-transmission or late transmission of reports, which is a formal requirement.

- non-compliance resulting from reports that are inadequate or incomplete or reveal a breach of the Convention or its protocols or of recommendations adopted by the meeting of the Contracting Parties, which is a substantial requirement.



25. In view of all these considerations, and given that a deadline had been set by the meeting of the Contracting Parties, that further time had been granted and that the Secretariat had clearly offered assistance and advice to Contracting Parties in difficulties (see in this respect decision IG.20/3 and Secretariat's letter of 15 February 2013), the Compliance Committee generally considers that non-submission of reports constitutes a manifest case of non-compliance with the Convention and its protocols.
26. For the Compliance Committee, this case of non-compliance is in itself particularly serious because of its consequences on the proper functioning of the whole WFP and its conventions. The Compliance Committee notes, in addition, a real and continuous deterioration resulting from the reduced number of reports submitted since the 2002-2003 biennium. Indeed, the table of national reports submitted by the Contracting Parties (UNEP (DEPI)/MED Compliance committee 7/INF 3, 26-28 June 2013) indicates that the number of reports submitted decreased from 19 in 2003 to 17 in 2005, 15 in 2007, 16 in 2009 and 12 in 2011. It is essential to end this decrease of the reports in contravention of the repeated exhortations of the meeting of the Contracting Parties. Therefore, the Compliance Committee decides to alert the Contracting Parties to ensure express recognition of non-compliance, aiming at the defaulting parties.
27. For the application of paragraph 32 of Decision IG.17/2 concerning the measures that the Compliance Committee may take, the Committee considers that, in view of the formal non-compliance found, it is not, in this case and in the immediate, appropriate or useful to provide advice and assistance, it having already been offered without success by the Secretariat. Therefore, the Compliance Committee decides to apply (d) of paragraph 32 of Decision IG.17/2, considering that non-fulfillment due to absence of reports must be addressed by the meeting of the Contracting Parties and by submitting this recommendation to the meeting of the Contracting Parties.
28. The Compliance Committee, wanting to facilitate compliance with the obligations, and taking into account the capacity of the Contracting Party concerned and factors such as the cause, nature, degree and the frequency of non-compliance as provided for in paragraph 32 of Decision IG.17 / 2, decided not to treat in the same way the different Contracting Parties concerned by the non-compliance arising through non-submission of reports as referred to in paragraphs 6, 7, 8 and 9 above.
29. Situations of non-compliance prior to the 2008-2009 biennium, although declared, will be considered exceptionally by the Compliance Committee as no longer justifying intervention of the meeting of the Contracting Parties in the light of the age of the information that these reports should contain.
30. For the 2008-2009 biennium, despite reminders from the Secretariat and e-mail from the President of the Compliance Committee, no report was sent to the Secretariat by the Albania, Lebanon, Malta, Montenegro and Slovenia. The Compliance Committee considers that such behavior constitutes a case of non-compliance. The Compliance Committee invites the meeting of the Contracting Parties, under paragraphs 33 (a) and 33 (b) of Decision IG. 17 / 2 to recommend that these parties submit their reports 2008-2009 within a time limit of one month and at their request, provide the necessary assistance where required.
31. For the 2010-2011 biennium, despite reminders from the Secretariat, no report was sent by Albania, Algeria, The State of Libya, Malta, Slovenia, Syria or Tunisia. The Compliance Committee considers that such behavior constitutes a case of non-compliance.
32. Although the non-transmission of a single report may occasionally be explained by the special circumstances of the case, provided however that the party concerned explains in

good time to the Secretariat and Compliance Committee, the non-transmission of several successive reports is aggravated and therefore a case of non-compliance. For this reason, Decision IG. 17/2 on the procedures and mechanisms for fulfillment of obligations expressly stipulates the hypotheses of “repeated” non-compliance (paragraph 17 (b)) and cases of “persistent, serious or repeated situations of non-compliance” (paragraph 34). Non-compliance can thus lead to a special scheme at the discretion of the meeting of the Contracting Parties, in application of paragraph 34 of the decision IG. 17/2/.

33. The Compliance Committee considers that the fact of not sending reports for several successive biennia without providing any explanation and without replying to the various reminder letters constitutes persistent, serious and repeated non-compliance. This is the case for the 2008-2009 and 2010-2011 biennia for Albania, The State of Libya, Malta and Slovenia,. The Compliance Committee notes that for Malta, the non-compliance is aggravated because of the absence of reports for three successive biennia since 2006-2007. The Compliance Committee considers that such behavior constitutes a case of serious and repeated non-compliance and invites the meeting of the Contracting Parties:

- to state non-compliance of article 26 of the Convention;
- to issue a warning under (a) of paragraph 34 of Decision IG. 17/2

34. The Compliance Committee invites the Meeting of the Contracting Parties, under paragraphs 33 (a) and 33 (b) of Decision IG. 17/2, to ask Albania, Algeria, The State of Libya, Malta, Slovenia, Syria and Tunisia to submit their 2010-2011 reports within two months from the closure of the Eighteenth Meeting of the Contracting Parties.

The Compliance Committee:

- Noting that to date the Secretariat has not applied paragraph 23 of Decision IG. 17/2 and that the Contracting Parties have not referred the matter to the Committee under Article 18.a;
- considering the debates of the 17th meeting of the Contracting Parties concerning Decision IG.20/1, according to which “in future the parties should receive information on the reasons why the countries have not submitted reports” (paragraph 48, UNEP (DEPI) MED IG 20/8);
- wanting to facilitate compliance with the obligations in view of the specific situation of each contracting party, especially those of developing countries,
- wishing to help resolve the difficulties encountered by the Contracting Parties who have not submitted a report,

strongly wishes that the Governments of Albania, Algeria, The State of Libya, Malta, Monaco, Slovenia, Syria and Tunisia be invited by the Meeting of the Contracting Parties to make an official referral to the Compliance Committee regarding their own actual situation of non-compliance under paragraph 18 (a) of Decision IG. 17/2 so that the Committee may, where necessary, help them satisfy their obligation to submit their reports.

## VII. Recommendations

35. The Compliance Committee recommends that the meeting of the Contracting Parties:

A. Approves the conclusions of the Compliance Committee according to which:

- Albania, Algeria, The State of Libya, Malta, Monaco, Slovenia, Syria and Tunisia, by not submitting their 2010-2011 Reports, have not complied with their obligations under Article 26 of the Convention;

- Albania, the State of Libya, Malta and Slovenia, by not submitting their 2008-2009 and 2010-2011 reports, have demonstrated serious and repeated non-compliance with their obligations under Article 26 of the Convention. As such, they will receive a warning under paragraph 34 (a) of Decision IG. 17/2.

B. Requests the Governments of Albania, Algeria, The State of Libya, Malta, Monaco, Slovenia, Syria and Tunisia to submit their 2010-2011 report within two months of the final day of the Eighteenth Meeting of the Contracting Parties, and invites them, where necessary, to request assistance in drafting the reports.

C. Earnestly invites the Governments of Albania, The State of Libya, Malta and Slovenia to submit to the Committee within two months of the final day of the Eighteenth Meeting of the Contracting Parties, a note explaining how they will proceed in the future to prepare their reports and detailing the means and resources they have mobilized to submit their reports.

D. Invites the Governments of Albania, Algeria, The State of Libya, Malta, Monaco, Slovenia, Syria and Tunisia to make a referral to the Compliance Committee under paragraph 18 (a) of Decision IG. 17/2 so that the Committee may examine the difficulties and obstacles encountered by these Parties and can assist them in meeting their obligations to submit reports under Article 26 of the Barcelona Convention.

E. requests the addition to the 8th Consideration of the draft Decision IG. 21/1 submitted for examination at the Eighteenth Meeting of the Contracting Parties of the following text “(...) and noting the cases of non-submission of reports which have been subject to a special and reasoned recommendation by the Compliance Committee”.

36. The Compliance Committee requests the Meeting of Contracting Parties to approve the conclusions as follows:

- Albania, Algeria, The State of Libya, Malta, Monaco, Slovenia, Syria and Tunisia, by not submitting their 2010-2011 Reports, have not complied with their obligations under Article 26 of the Convention;

- Albania, The State of Libya, Malta and Slovenia, by not submitting their 2008-2009 and 2010-2011 reports, have demonstrated serious and repeated non-compliance with their obligations under Article 26 of the Convention. As such, they will receive a warning under paragraph 34 (a) of Decision IG. 17/2.

- The Governments of Albania, Algeria, The State of Libya, Malta, Monaco, Slovenia, Syria and Tunisia to submit their 2010-2011 report within two months of the final day of the Eighteenth Meeting of the Contracting Parties, and are invited, where necessary, to request assistance in drafting the reports.

- The Governments of Albania, The State of Libya, Malta and Slovenia to submit to the Committee within two months of the final day of the Eighteenth Meeting of the Contracting

Parties, a note explaining how they will proceed in the future to prepare their reports and detailing the means and resources they have mobilized to submit their reports.

- Governments of Albania, Algeria, The State of The State of The State of Libya, Malta, Monaco, Slovenia, Syria and Tunisia have to make a referral to the Compliance Committee under paragraph 18 (a) of Decision IG. 17/2 so that the Committee may examine the difficulties and obstacles encountered by these Parties and can assist them in meeting their obligations to submit reports under

**Annex 2 of COP 18 working document UNEP(DEPI) MED IG.21/8  
Activities Report of the Compliance Committee (Biennium 2012-2013)**

**Explanatory note on how to prepare national reports (or Guidelines for preparing national reports)**

Article 26 of the Barcelona Convention requires States Parties to submit reports to the Organization regularly. Upon examining the 2010-2011 Biennium reports, the Compliance Committee noted that many of the reports were difficult for the Secretariat and the Committee to work with due to the way the Contracting Parties had drafted their responses. For this reason, at its seventh session in June 2013 the Compliance Committee decided to prepare an explanatory note with a view to facilitating the drafting of reports based on the objectives of these reports.

**1. Report objectives**

It is important for those writing the reports to understand the objectives the reports are meant to achieve so that they can adapt their responses to meet these objectives. It follows both from Article 26 of the Convention and from practice that the reports are not simply a formality, nor are they a run-of-the-mill survey. They must cover:

- the measures taken to apply the Convention and its Protocols;
- the measures taken to apply the recommendations adopted by the meetings of the Contracting Parties;
- an evaluation of the efficacy of these measures;
- any problems encountered in the application of the Convention, Protocols and recommendations.

Satisfying these requirements makes it possible to monitor the correct application of the Convention and its Protocols. These requirements are best explained by setting out the legal and technical functions fulfilled by the reports:

- 1.1. To allow the meeting of the Contracting Parties to “consider” the reports (Art. 18-2-(ii) of the Convention), thus enabling the Parties to be informed of the activities undertaken by the Parties.
- 1.2. To allow the meeting of the Contracting Parties to “assess compliance” with the commitments (Art. 27 of the Convention).
- 1.3. To allow the meeting of the Contracting Parties to make recommendations (Art. 27 of the Convention).
- 1.4. To evaluate the compliance of national legal, administrative and other measures with the Convention and its Protocols.
- 1.5. To measure the efficacy of the measures taken and the problems encountered.
- 1.6. To allow the Compliance Committee to fulfill its mandate to “facilitate and promote compliance with obligations” (1. Objectives, Decision IG.17/2).
- 1.7. To allow the Secretariat to transmit the reports to the Parties (Art. 17 (ii)).
- 1.8. To allow the Secretariat to report to the Contracting Parties on the implementation of the Convention (Art. 17 (vi)).

- 1.9. To allow the monitoring of progress in the implementation of the Convention at national and regional level.
- 1.10. To provide regular up-to-date information.
- 1.11. To allow the Secretariat to produce a credible review using all relevant information.
- 1.12. To facilitate the evaluation of the state of the Mediterranean (Art. 18-2-(i) of the Convention).
- 1.13. To facilitate the implementation of the Mediterranean Action Plan (Art. 4-2 of the Convention).
- 1.14. To share with Contracting Parties and MAP partners the information contained in the reports and the best environmental practices (Art. 4-4-(b) of the Convention).

## **2. Recommendations for drafting reports**

Reports must respond to the formal requirements imposed by the “Form”, as adopted by the Contracting Parties. It is however essential that the person or persons responsible for producing the report keep in mind at all times the spirit of the objectives listed in Section 1.

- 2.1 Institutions which have produced a report should not neglect to state the relevant Protocol for each institution mentioned.
- 2.2 Where a box must be ticked, it is important not simply to tick the box. The “Remarks and Observations” section should always be completed - it is through these that the evaluators can obtain a clear idea of the situation.
- 2.3 Where “No” is ticked, it is necessary to give an explanation to indicate whether there are legal (which ones?), technical, political or other difficulties.
- 2.4 Where “Yes” is ticked, it is also necessary to give an explanation, perhaps about any difficulties or good practices.
- 2.5 The “Remarks and Observations” section should be seen as a space to provide both “explanations” and “difficulties encountered”. Legal, technical or other difficulties should be explained.
- 2.6 The section “Title, reference, date of enactment of the legal instrument” should be completed with care and precision, and should always indicate the date of the instrument, its number and the date of publication. A reference should be given to the Official Journal and the exact website of the relevant administration.
- 2.7 It is essential not only to quote exactly the applicable texts, but also to give the number of the relevant article(s), along with a brief overview of their content in relation to the application of the Convention and its Protocols.
- 2.8 The sections on administrative measures should be completed carefully and all the boxes should be filled.

- 2.9 Where no measures have been taken, this should be indicated in order to show that it is not simply an omission, and where possible an explanation should be given.
- 2.10 Where there is an “effectiveness” section, this should include comments as well as figures. For this, it is imperative that the report author has had in advance one or more meetings with the central competent authorities and that they receive information and reports from local services on the ground.
- 2.11 The “allocation of resources” section provides an opportunity to detail the available resources: staff, budget, institutions.
- 2.12 The “coercive measures” section should be completed with a view to giving precise information on inspections, checks and sanctions.
- 2.13 The production of the report should be preceded by a meeting with the relevant local and national services and, as far as possible, involve the participation of the public in order to improve the quality and accuracy of the reports.
- 2.14 Once completed, the report should be made available to the public on the internet.

### **3 Proposals**

- 3.1 The Secretariat is invited to organise a capacity building workshop to explain more clearly to report authors the method which should be used to address the objectives of the reports; to discuss the Questionnaire, its usefulness and operation. This training, carried out with the support of the Compliance Committee, should be aimed at the Focal points, the contact points authoring certain parts of the report, the Mediterranean Action Plan partners and any other relevant actors.
- 3.2 It could be suggested to the Contracting Parties that they adopt a “strategy for national reporting” in order to develop the method used, detailing in particular the planning of the report preparation, the planned consultations with relevant local and national administrative bodies, public information and participation in the preparation of reports and the publicizing of reports.
- 3.3 The Secretariat is invited to prepare a note for the Meeting of the Contracting Parties on the online Questionnaire, its adaptation to needs and on the manner in which the Mediterranean Action Plan components use the information in the questionnaire.
- 3.4 The Compliance Committee has decided to include these matters in the programme for its upcoming meetings.