

## ANNEX 5

### REVISED 2017 COMPLIANCE PROCEDURES AND MECHANISMS

#### REVISED 2017 COMPLIANCE PROCEDURES AND MECHANISMS PURSUANT TO ARTICLE 11 OF THE 1996 PROTOCOL TO THE LONDON CONVENTION 1972 (Adopted in 2007: LC 29/17, annex 7)

## 1 GENERAL GUIDANCE

1.1 The objective of the compliance procedures and mechanisms is to assess and promote compliance with the 1996 Protocol to the London Convention 1972 (the Protocol) with a view to allowing for the full and open exchange of information, in a constructive manner.

1.2 The Meeting of Contracting Parties shall retain overall responsibility for compliance matters.

1.3 Any work on compliance shall be in accordance with these procedures or as otherwise authorized by the Meeting of Contracting Parties.

1.4 A Compliance Group (CG) is hereby established by the Meeting of Contracting Parties.

## 2 FUNCTIONS OF BODIES RELATED TO COMPLIANCE

2.1 The Meeting of Contracting Parties may:

- .1 refer, as appropriate, compliance matters (individual situations of possible non-compliance, systemic issues and other compliance matters) to the Compliance Group and/or the LP Scientific Group;
- .2 offer advice, assistance or co-operation to Contracting Parties and non-Contracting Parties, after full consideration of any information submitted pursuant to this Protocol and any recommendations made through these procedures and mechanisms;
- .3 periodically review the effectiveness of the compliance procedures and mechanisms, including the roles of the Compliance Group, the LP Scientific Group and itself;
- .4 review reports under Articles 9.4.1, 9.4.2, 9.4.3, 10.3, 26.5 and 26.6 pursuant to section 6 below and consider advice on these reports from the Compliance Group and/or the LP Scientific Group, as appropriate; and
- .5 undertake other activities, as appropriate, to promote compliance.

2.2 The Compliance Group may:

- .1 consider and assess an individual situation of a Party's possible non-compliance referred to it in accordance with section 4, with a view to identifying the facts, possible causes and specific circumstances;

- .2 make recommendations to the Meeting of Contracting Parties on systemic compliance issues referred to it or that it proposes to pursue;
- .3 make recommendations to the Meeting of Contracting Parties on individual situations of possible non-compliance as described in section 5;
- .4 make recommendations to the Meeting of Contracting Parties on other activities to promote compliance;
- .5 review the implementation of Meeting of Contracting Parties' recommendations and decisions on compliance;
- .6 review and provide advice to the Meeting of Contracting Parties on reports and records submitted as described in section 6 below;
- .7 with a view to addressing compliance issues without delay provide advice and guidance to a Party pending consideration by the Meeting of Contracting Parties;
- .8 upon request of a non-Party, provide advice and guidance to facilitate its becoming a Party to the Protocol; and
- .9 request advice and information from the LP Scientific Group.

2.3 The LP Scientific Group may, within its terms of reference, contribute to the work of the Compliance Group.

### **3 CHARACTERISTICS AND OPERATIONS OF THE COMPLIANCE GROUP**

3.1 The Compliance Group shall be limited in size to fifteen members.

3.2 The Compliance Group shall be composed of individuals selected on the basis of their scientific, technical or legal expertise.

3.3 Members shall serve objectively and in the interest of promoting compliance with the Protocol.

3.4 Members shall be nominated by Contracting Parties, based on equitable and balanced geographic representation of the five Regional Groups of the United Nations, and elected by the Meeting of Contracting Parties.

3.5 The Meeting of Contracting Parties shall, at each ordinary meeting thereafter, elect for three full terms new members to replace those members whose period of office has expired, or is about to expire. Members that have served three consecutive terms may subsequently be re-elected for up to three additional, consecutive terms. Upon completion of these six terms, a member from a region with a vacant seat and no nominations to fill that seat may be re-elected for a further term, or terms, at the discretion of the MCP, on an annual basis, and if the vacancy remains. For the purpose of this decision, "term" means the period that begins at the end of one ordinary Meeting of Contracting Parties and ends at the next ordinary session of the Meeting of Contracting Parties.

3.6 Contracting Parties may nominate Compliance Group members that have served previously.

3.7 The Compliance Group shall elect its own Chair and Vice-Chair.

3.8 The Compliance Group shall meet as necessary at least once a year and when specifically requested to do so by the Meeting of Contracting Parties. In determining the dates of the meetings, due consideration should be given to the meeting schedules of the Meeting of Contracting Parties and other relevant bodies under the Protocol.

3.9 Any Party or any non-Party observer may attend meetings of the Compliance Group, except that when individual situations of compliance are under consideration by the Compliance Group, the meeting shall be closed if the Party whose compliance is in question so requests.

3.10 The members of the Compliance Group shall make every effort to reach agreement on all matters by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, the Compliance Group shall act, as a last resort, by a three-quarters majority vote of the members present and voting. Where consensus cannot be reached, the report shall reflect the views of all members of the Compliance Group.

3.11 Two-thirds of the members of the Compliance Group shall constitute a quorum.

3.12 In carrying out its functions, the Compliance Group may seek, or receive, and consider relevant information from any source it considers to be reliable.

#### **4 SUBMISSIONS AND PROCEDURES**

4.1 An issue regarding individual situations of possible non-compliance may be raised by:

- .1 the Meeting of Contracting Parties;
- .2 a Party regarding itself; and
- .3 a Party that has reservations about another Party's compliance with the obligations under the Protocol when it has an interest that is affected or likely to be affected by the possible non-compliance. A Party intending to make a submission under this subparagraph should before so doing undertake meaningful consultations with the Party whose compliance is in question with the aim of resolving the matter.

4.2 The Compliance Group may recommend the rejection of any submission which it considers is *de minimis*, manifestly ill-founded, or anonymous.

4.3 A submission pursuant to paragraph 4.1 shall be addressed in writing to the Secretariat, and shall set out:

- .1 the matter of concern;
- .2 the relevant provisions of the Protocol; and
- .3 information substantiating the submission.

4.4 The Secretariat shall forward all submissions within two weeks upon their receipt to the Compliance Group for consideration at its next meeting. In cases of submissions other than by a Party with respect to its own compliance, the Secretariat shall send within two weeks upon their receipt a copy to the Party whose compliance is in question. Notice of all submissions shall be sent to all Parties for their information. A copy of any full submission would be available to any Party upon request.

4.5 Comments or information provided in response by the Party whose compliance is in question should be forwarded to the Secretariat within three months upon receipt of the submission by the Party in question, unless the party requests an extension. Such extension may be provided by the Chair for a period of up to 90 days, with a reasonable justification. Such comments or information shall immediately be forwarded by the Secretariat to the Compliance Group for consideration at its next meeting.

4.6 The International Atomic Energy Agency (IAEA) is the competent international body for all issues involving radioactive wastes and other radioactive matter and radiation protection of humans and the marine environment. Where a submission raises compliance matters involving radioactive wastes and other radioactive matter, the Secretariat, on behalf of the Compliance Group, shall refer the matter to the IAEA for technical evaluation and review. The Compliance Group shall take into account the IAEA's evaluation in its consideration of the matter.

## **5 MEASURES**

5.1 Following consideration and assessment of an issue regarding a Party's possible non-compliance, and taking into account the capacity of the Party concerned, and the comments or information provided under 4.5, and such factors as the cause, type, degree and frequency of any non-compliance, the Compliance Group may recommend to the Meeting of Contracting Parties that one or more of the following measures be taken:

- .1 the provision of advice and recommendations, with a view to assisting the Party concerned to implement the Protocol;
- .2 the facilitation of co-operation and assistance;
- .3 the elaboration, with the co-operation of the Party or Parties concerned, of compliance action plans, including targets and timelines; and
- .4 the issuing of a formal statement of concern regarding a Party's compliance situation.

5.2 Where the Meeting of Contracting Parties has agreed to measures referred to in subparagraphs 5.1.1, 5.1.2, 5.1.3, or 5.1.4 regarding a Party's compliance situation, that Party may make a statement to the Meeting of Contracting Parties on its situation.

5.3 Prior to submitting recommendations to the Meeting of Contracting Parties, the Compliance Group shall share its conclusions and recommendations with the Party concerned for consideration and an opportunity to comment by the Party concerned. The nature of the opportunity to comment and any comments provided by the Party shall be annexed to the report of the Compliance Group to the Meeting of Contracting Parties.

5.4 The Meeting of Contracting Parties shall make the final decision regarding any measures proposed by the Compliance Group to be taken in response to a Party's possible non-compliance. The Meeting of Contracting Parties may also consider additional measures within its mandate, as appropriate, to facilitate compliance by the Party concerned.

## **6 REPORTS AND RECORDS**

6.1 Reports and Records made pursuant to Articles 9.4.1, 9.4.2 and 9.4.3, 10.3, 26.5 and 26.6 shall be handled as described in the following paragraphs.

6.2 Parties shall maintain their own records under Article 9.4.1 and submit these to the Secretariat, which then transmits them to the LP Scientific Group and the Compliance Group. The LP Scientific Group will, in accordance with its terms of reference, evaluate this information and advise the Compliance Group, as appropriate, as well as the Meeting of Contracting Parties.

6.3 Once Parties' reports under Articles 9.4.2 and 9.4.3, (regarding administrative and legislative measures taken to implement the provisions of the Protocol, including a summary of enforcement measures, the effectiveness of such measures and any other problems encountered in their application) are submitted to the Secretariat, it shall refer them to the Compliance Group for evaluation. The Compliance Group will report its conclusions to an appropriate Meeting or Special Meeting of Contracting Parties.

6.4 The Secretariat shall compile the "Incident Information Forms" it receives under Article 10.3 and present a compilation of them to each Meeting of Contracting Parties for consideration, and, if appropriate, referral to the Compliance Group or the LP Scientific Group.

6.5 Parties that have made a notification under Article 26.1 regarding the need for a transitional period shall submit reports pursuant to Articles 26.5 and 26.6 to the Secretariat prior to each Meeting of Contracting Parties held during their transitional period. The Meeting of Contracting Parties shall take action on the reports, including, if appropriate, referral to the Compliance Group or the LP Scientific Group.

6.6 The Compliance Group shall submit a report to each Meeting of Contracting Parties presenting:

- .1 the work that the Compliance Group has undertaken in fulfilling its functions concerning the compliance of individual Parties, including any recommendations to the Meeting of Contracting Parties;
- .2 the work that the Compliance Group has undertaken in fulfilling its functions concerning systemic compliance issues, including recommendations, to the Meeting of Contracting Parties; and
- .3 the Compliance Group's future work programme for the consideration and approval by the Meeting of Contracting Parties.

## **7 RELATIONSHIP WITH OTHER PROVISIONS OF THE PROTOCOL**

This mechanism shall be without prejudice to the provisions of Article 16 of the Protocol on settlement of disputes.

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