



CONVENTION ON BIOLOGICAL DIVERSITY

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COMPLIANCE COMMITTEE UNDER THE
CARTAGENA PROTOCOL ON BIOSAFETY
Third meeting
Kuala Lumpur, 5-7 March 2007

ANNOTATIONS TO THE PROVISIONAL AGENDA

Note by the Executive Secretary

INTRODUCTION

1. At its second meeting, held in Montreal from 6 to 8 February 2006, the Compliance Committee considered issues related to the implementation of some of the rules of procedure that were approved by the second meeting of the Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Protocol (COP-MOP). It also reviewed general issues of compliance on the basis of an analysis made of the interim national reports, and information obtained through the Biosafety Clearing-House (BCH). The Committee submitted its report and recommendations to the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, held in Curitiba, Brazil, from 13 to 17 March 2006.

2. At that meeting, the Parties to the Protocol adopted decision BS-III/1, on compliance. Elements of other decisions intended to contribute to improving compliance with the Protocol have also been adopted, on the basis of the recommendations of the Compliance Committee.

3. A review of the outcome of the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol was conducted by the Chair of the Committee with the assistance of the Secretariat, and circulated to members. The review also includes a proposal on the work plan of the Committee for the biennium. The work plan was prepared taking into account the outcome of the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, including the change in the frequency of its meetings, and the items that were left open by the last meeting of the Committee to be addressed by its subsequent meetings.

4. The provisional agenda of the present meeting is developed taking into account the work plan for the current biennium as proposed by the Chair of the Committee and within the framework of the overall functions of the Committee as specified in section III of the Compliance Procedures adopted by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

5. As indicated during the last meeting of the Committee to have its third meeting in the last quarter of 2006 or the first quarter of 2007, the third meeting of the Committee is scheduled to take place from 5 to 7 March 2007. Following the gracious offer by the Government of Malaysia, the meeting will be held in

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Kuala Lumpur. As per prior consultations and agreement among Committee members, this third meeting of the Committee will be an open meeting in accordance with rule 14.1 of its rules of procedure.

ITEM 1. OPENING OF THE MEETING

6. Mr. Veit Koester, Chair of the Compliance Committee will open the third meeting of the Committee at 9.30 a.m. on Monday, 5 March 2007.

ITEM 2. ORGANIZATIONAL MATTERS

2.1. Election of officers

7. On 14 March 2005, Mr. Veit Koester and Ms. Mary Fosi Mbantenkhu were elected Chair and Vice-Chair, respectively, during the first meeting of the Compliance Committee. According to rule 12.1 of the Committee's rules of procedure, they were elected for a two-year term. Their term will thus come to an end on 14 March 2007. The Committee may, therefore, wish to elect a Chairperson and a Vice-Chairperson for the next two-year term.

2.2. Adoption of the agenda

8. The Committee may wish to adopt its agenda on the basis of the provisional agenda proposed by its Chair (UNEP/CBD/BS/CC/3/1).

2.3. Organization of work

9. The Committee may wish to consider the proposed organization and programme of its work as contained in annex I below.

10. The language of the meeting will be English.

11. A list of documents for the meeting is contained in annex II below. The documents are also available on the Secretariat's website at, <http://www.biodiv.org> as well as the Compliance Committee collaborative portal in the Biosafety Clearing-House.

12. An information note will also be made available for members of the Compliance Committee containing details of registration and logistical arrangements for the meeting, including information on travel, visa requirements, accommodation and other matters.

ITEM 3. INFORMATION AND EXPERIENCE REGARDING REPEATED CASES OF NON-COMPLIANCE UNDER THE COMPLIANCE MECHANISMS OF OTHER MULTILATERAL ENVIRONMENTAL AGREEMENTS

13. Under this item, members of the Committee are invited to consider the available information and experiences regarding repeated cases of non-compliance under the compliance mechanisms of other multilateral environmental agreements (MEAs). Paragraph 2 of section VI of the procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety as contained in the annex to decision BS-I/7 states that the Conference of the Parties serving as the meeting of the Parties to the Protocol may decide upon measures including:

“In cases of repeated non-compliance, take such measures as may be decided by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its third meeting, and thereafter in accordance with Article 35 of the Protocol, within the

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framework of the review process provided for in section VII [of the procedures and mechanisms on compliance].”

14. To this end, the Executive Secretary prepared a note (UNEP/CBD/BS/COP-MOP/3/2/Add.1), on measures in cases of repeated non-compliance, which was considered at the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. In decision BS-III/1, the Parties decided to address, *inter alia*, the issue of measures concerning repeated cases of non-compliance at their fourth meeting within the framework of the overall evaluation of the Protocol in accordance with Article 35, and requested the Compliance Committee to compile further information on this matter.

15. To assist the Committee in considering the issue, the Executive Secretary has compiled information and experiences from other multilateral environmental agreements regarding repeated cases of non-compliance under their compliance mechanisms (UNEP/CBD/BS/CC/3/2). In essence, this document updates and elaborates upon the note by the Executive Secretary referred to in paragraph 14 above. In the last section of the document few elements of observations are included for consideration by the Committee. The Committee may, therefore, wish to consider the experiences from other multilateral environmental agreements regarding repeated cases of non-compliance, as well as the elements of observations, with a view to making recommendations to the Conference of the Parties at its fourth meeting serving as the meeting of the Parties to the Protocol on measures that the latter may wish to adopt to address repeated cases of non-compliance under the Protocol.

ITEM 4. FOLLOW-UP ON ISSUES ARISING FROM THE SECOND MEETING OF THE COMMITTEE

4.1. Rule 11 of the rules of procedure, on conflict of interest

16. At its second meeting, the Compliance Committee agreed to consider the invitation from the Conference of the Parties at its second meeting serving as the meeting of the Parties to the Protocol to give “further consideration to the issue of conflicts of interest as set out in rule 11 of the rules of procedure for the meetings of the Compliance Committee” at its next meeting with a view to providing a final response. The Committee may, therefore, wish to consider whether it wishes to make any recommendations to the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol concerning rule 11 of the rules of procedure.

4.2. Reviewing general issues of compliance and possible lessons learnt from analysing the interim national reports

17. The Compliance Committee at its first meeting adopted a work plan in which it agreed to review general issues of compliance including through consideration of information from the interim national reports and information provided through the Biosafety Clearing-House (BCH). At its second meeting, the Committee considered an analysis of the interim national reports and reviews of the information available in the Biosafety Clearing-House. In the report of its second meeting, the Committee raised a number of general issues of compliance related to both the interim national reports and the information available in the Biosafety Clearing-House.

18. The Committee may wish to consider its experience in reviewing general issues of compliance through the use of the analysis of the interim national reports conducted by the Secretariat and to draw some possible lessons learnt which it may apply upon considering the first national reports at its next meeting.

4.3. *Attendance of members of the Committee at meetings of the Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Protocol*

19. At its second meeting the Committee had noted the importance of participation of members of the Committee (who would not be part of their respective national delegations) in meetings of the Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Cartagena Protocol so that they could have first hand experience of the process. Members of the Committee have exchanged views on possible sources of funding to cover the cost of such participation, and agreed to discuss this issue further at their third meeting. Thus, the Committee may wish to discuss in more detail the attendance of members of the Committee at meetings of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

ITEM 5. OTHER MATTERS

20. Under this item, the members of the Compliance Committee may wish to raise and discuss other relevant matters.

ITEM 6. ADOPTION OF THE REPORT

21. The Compliance Committee will consider and adopt its report, which will eventually be submitted to the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol for its consideration and appropriate action.

ITEM 7. CLOSURE OF THE MEETING

22. It is expected that the meeting will be closed at 5 p.m. on Wednesday, 7 March 2007.

Annex I

**PROPOSED ORGANIZATION OF WORK FOR THE THIRD MEETING OF THE
COMPLIANCE COMMITTEE UNDER THE BIOSAFETY PROTOCOL**

| <i>Date and time</i> | <i>Agenda item</i> |
|---|---|
| 5 March 2007 9.30 a.m. to 9.45 a.m. | 1. Opening of the meeting. |
| 9.45 a.m. to 10 a.m. | 2. Organizational matters: 2.1. Election of officers; 2.2. Adoption of the agenda 2.3. Organization of work. |
| 10 a.m. to 12.30 p.m. | 3. Information and experience regarding repeated cases of non-compliance under the compliance mechanisms of other multilateral environmental agreements |
| 2.30 p.m. to 5.30 p.m. | 4. Follow-up of issues arising from the second meeting of the Committee: 4.1. Rule 11 of the Rules of Procedure on conflict of interest |
| 6 March 2007 9.30 a.m. to 12.30 p.m. | 4.2. Review of general issues of compliance and possible lessons learned from analysing the interim national reports |
| 2.30 p.m. to 5.30 p.m. | Continuation of agenda item 4.2 |
| 7 March 2007 9.30 a.m. to 12.30 p.m. | 4.3. Attendance of members of the Committee at meetings of the Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Cartagena Protocol on Biosafety |
| | 5. Other matters |
| 2.30 p.m. to 5 p.m. | 6. Adoption of the report. 7. Closure of the meeting |

Annex II

**LIST OF DOCUMENTS FOR THE THIRD MEETING OF THE COMPLIANCE COMMITTEE
UNDER THE BIOSAFETY PROTOCOL**

| <i>Symbol</i> | <i>Title</i> |
|--------------------------|--|
| UNEP/CBD/BS/CC/3/1 | Provisional agenda |
| UNEP/CBD/BS/CC/3/1/Add.1 | Annotations to the provisional agenda |
| UNEP/CBD/BS/CC/3/2 | Information and experience regarding repeated cases of non-compliance under the compliance mechanisms of other multilateral environmental agreements |
