



Convention on Biological Diversity

Distr.
GENERAL

UNEP/CBD/BS/CC/6/4
27 November 2009

ORIGINAL: ENGLISH

COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY

Sixth meeting

4-6 November 2009, Montreal

Item 6 of the provisional agenda*

REPORT OF THE COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY ON THE WORK OF ITS SIXTH MEETING

INTRODUCTION

A. *Background*

1. The Compliance Committee under the Cartagena Protocol on Biosafety held its fifth meeting from 19 to 21 November 2008, in Kuala Lumpur. Among other things, it reviewed the outcomes of the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety as they relate to the Compliance Committee (UNEP/CBD/BS/CC/5/INF/2). It also further reviewed general issues of compliance based on the revised analysis of the first national reports and agreed to have a standing agenda item on ‘review of general issues of compliance’ at its subsequent meetings.

2. The Committee adopted a work plan for the coming biennium (2009-2010). It took note of the new composition of the Committee for this period following the elections held during the fourth meeting of the Parties to the Protocol.

3. The Committee had agreed to hold its next meeting in the last quarter of 2009. Accordingly, the Secretariat made the necessary arrangements. The sixth meeting of the Compliance Committee under the Cartagena Protocol on Biosafety took place in Montreal, from 4 to 6 November 2009, in the offices of the Commission for Environmental Cooperation (CEC).

* UNEP/CBD/BS/CC/6/1.

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B. Attendance

4. The following members of the Committee were present at the meeting:

Africa:

Mr. Bather Kone
Ms. Mary Fosi Mbantenkhu

Asia and the Pacific:

Mr. Banpot Napompeth
Mr. Rai S. Rana

Central and Eastern Europe

Ms. Liina Eek
Mr. Sergiy Gubar
Ms. Angela Lozan

Latin America and Caribbean

Mr. Raymundo S.R. Magno
Mr. Lionel Michael

Western Europe and Others Group

Mr. Jürg Bally
Mr. Ruben Dekker
Mrs. Clare Hamilton

5. The Committee held its sixth meeting in an open session in line with its decision in paragraph 26 of the report of the fourth meeting of the Compliance Committee under the Cartagena Protocol on Biosafety (UNEP/CBD/BS/COP-MOP/4/2) “to conduct, as a general practice, its upcoming meetings in open session unless specific circumstances require otherwise”. The Secretariat informed the Committee that it had received requests from the Government of Brazil to send observers to the meeting. Accordingly, there was one observer from Brazil.

ITEM 1. OPENING OF THE MEETING

6. Mr. Ahmed Djoghlaif, Executive Secretary of the Convention on Biological Diversity, opened the meeting at 9.30 a.m. on 4 November 2009. He welcomed participants and thanked the CEC for providing the meeting facilities. He welcomed the new members to the Committee.

ITEM 2. ORGANIZATIONAL MATTERS

2.1. Election of officers

7. The Executive Secretary noted the need for the election of a new chair and vice-chair for the Committee as the terms of the previous officers were completed. Accordingly the Committee elected by acclamation Mr. Jürg Bally and Ms. Liina Eek as Chair and Vice-Chair respectively, for a two year term, in accordance with paragraph 2 of rule 12 of the rules of procedure for meetings of the Committee (decision BS-II/1).

2.2. Adoption of the agenda

8. The Committee adopted the following agenda on the basis of the provisional agenda (UNEP/CBD/BS/CC/6/1) prepared by the Secretariat:

1. Opening of the meeting.
2. Organizational matters:
 - 2.1 Election of officers;
 - 2.2 Adoption of the agenda;
 - 2.3 Organization of work.

3. Review of information on reporting rates under other multilateral environmental agreements.
4. Review of general issues of compliance.
5. Other matters.
6. Adoption of the report.
7. Closure of the meeting.

2.3. Organization of work

9. The Committee agreed on the organization of its work as proposed by the Secretariat, including the schedule of its sessions, as specified in annex I to the annotations to the provisional agenda (UNEP/CBD/BS/CC/6/1/Add.1).

ITEM 3. REVIEW OF INFORMATION ON REPORTING RATES UNDER OTHER MULTILATERAL ENVIRONMENTAL AGREEMENTS

10. Introducing the item, the representative of the Secretariat recalled the request of the Committee to the Secretariat to compile information and experience regarding reporting rates under other multilateral environmental agreements with a view to drawing lessons, if any. Accordingly, the Committee had before it document UNEP/CBD/BS/CC/6/2 which summarized the experience of fourteen multilateral environmental agreements (MEAs) with national reporting. He noted the limitations of the data in the document which were mainly due to the limitations in the information available from the different MEAs. He also mentioned that the Secretariat has sought informally information from certain Parties about their reasons for not having submitted their first national reports, further to the request of the Committee at its last meeting (paragraph 20, UNEP/CBD/BS/CC/5/4). Most of the responses received referred to the difficulty in gathering and synthesizing the necessary information from all national agencies involved in the implementation of the Biosafety Protocol.

11. The members of the Committee thanked the Secretariat for its work in preparing the document and noted that the information contained in the document was very useful to form a good basis for the development of recommendations on this matter.

12. The Committee began by discussing the information contained in the document. The following questions and points were raised:

- Why are reporting rates high in some MEAs and not others?
- Is the difficulty in fulfilling the reporting obligation universal or are there differences between developing and developed country Parties?
- Equal emphasis should be given to the quality and timeliness of the reports as is given to the rate of their submission.
- Only comparing reporting rates may not be sufficient. The content and requirements of each reporting format and the level of consultation that is required in order to complete the report are also relevant factors in understanding the problem and making appropriate recommendations.
- Does the reporting format under the Protocol create any difficulties for the preparation and submission of national reports?
- The complexity of the subject matter addressed by the Biosafety Protocol could play a role in the rate and quality of the reports.

- Lack of legal and administrative framework for biosafety or having no or little activity related to biosafety could hold back some Parties from fulfilling their reporting obligation.
- National priorities and capacity could impact a Party's fulfilment of its obligation to report.
- While the format for the first national reports under the Protocol asked for comments on the format itself, only those countries submitting first national reports could respond to this question. There may be a need for a mechanism to seek information on difficulties faced by countries who are not submitting national reports and on proposals for amendments to the format.

13. In its second session, the Committee continued its discussion on the basis of section III of the working document (UNEP/CBD/BS/CC/6/2). It examined the suitability and relevance of the approaches used by other MEAs to improve the rate and quality of national reports to the situation under the Cartagena Protocol on Biosafety.

14. After extensive discussion, the Committee agreed on a preliminary basis on the following points and recommendations, with a view to finalising them at its seventh meeting:

- (i) The guidelines accompanying the existing reporting format may be revised for the purpose of the second national reports with more elements aimed at facilitating the preparation of the report;
- (ii) Parties should be encouraged to seek assistance from the Secretariat if they are having difficulties preparing their national reports or submitting their national reports in a timely manner. Assistance from the Secretariat may include requesting that the Secretariat fill out portions of the report on the basis of the information available in the Biosafety Clearing-House or information from previous reports (if available), subject to verification by the requesting Party;
- (iii) The Secretariat should send reminders to the National Focal Points of the individual Parties who have not submitted their national reports;
- (iv) Committee members could also play a facilitative role within their respective regions by providing information on the national reporting process and by gathering information on the problems being faced;
- (v) The Secretariat should be requested to provide an online reporting facility as an option for the completion and submission of national reports, subject to the availability of funds;
- (vi) Reiterate the guidance provided to the Global Environment Facility to make funds available for eligible Parties requesting financial assistance for the preparation of their national reports under the Protocol, including costs of engaging experts from the Roster of Experts; and
- (vii) Regional information meetings or workshops regarding national reporting could be useful vehicles for building capacity in the preparation of national reports and sharing best practices in the fulfilment of the national reporting obligation.

15. The Committee noted that some elements of these recommendations are already contained in decision BS-IV/14.

ITEM 4. REVIEW OF GENERAL ISSUES OF COMPLIANCE

16. Following the agreement at its fifth meeting to have a standing agenda item on “review of general issues of compliance” at its future meetings (UNEP/CBD/BS/CC/5/4, para. 23), the Committee took up item 4 of its agenda at its third session. The Secretariat introduced the background document that it prepared on the fulfilment of the obligation to provide information to the Biosafety Clearing-House (BCH) (UNEP/CBD/BS/CC/6/3). The representative of the Secretariat mentioned that the document presented the state of records in the BCH up to September 2009. The document also contained a sample of the gaps and inaccuracies observed by users of the BCH from the private sector.

17. A representative of the Secretariat made a presentation on the BCH and on monitoring and reporting. This included an overview of the revamping of the BCH in line with the recommendations of the Parties and the BCH Informal Advisory Committee and how this has affected the number of records and the location of records in the BCH as well as the quality and user-friendliness of search results. He highlighted the fact that, of the approximately 700 decisions requiring risk assessments and contained in the BCH, approximately half lack a reference to this necessary risk assessment report. He also mentioned the possibility of developing both an online and offline facility for the submission of national reports and, if Parties request, part of the information required by the report could be provided by the Secretariat based on the information that each Party has supplied through the BCH.

18. The Committee thanked the Secretariat for the presentation and the background document before it. It discussed and agreed on a preliminary basis that the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety may:

(a) Request Parties and encourage other Governments to provide to the BCH timely information on their domestic decisions approving living modified organisms and the risk assessment reports associated with such decisions;

(b) Call upon Parties as well as other Governments to take the necessary measures to ensure the accuracy and completeness of information that they make available to the BCH;

(c) Invite Parties and relevant international organizations to develop initiatives and provide funding to overcome obstacles encountered by developing countries in meeting their obligations under Article 20 of the Protocol, including capacity-building and the development of infrastructure necessary for facilitating access to and participation in the BCH by each Party; and

(d) Welcome the initiative of UNEP-GEF to follow-up its Biosafety Clearing-House capacity-building project in order to support eligible Parties and ensure sustainability in the development and implementation of national biosafety information nodes.

19. The Committee agreed to finalize these recommendations during its seventh meeting, noting that some of the elements are already contained in decision BS-IV/2.

ITEM 5. OTHER MATTERS

20. Under this item, the Committee met in a closed session in order to consider the submission received from a non-governmental organization (NGO) alleging non-compliance of a Party with its obligations under the Protocol. The Committee considered whether it had a mandate to receive and consider the submission. It recalled paragraph 1 of section IV of decision BS-I/7 which mandates the Committee to receive and consider submissions relating to compliance only from Parties. In that regard, the Committee concluded that it was unable to consider the submission.

21. It also noted that the submission was made on the basis of paragraph 25 of the report of its fifth meeting, which stated that the Committee may invite a Party to indicate, if it so wishes, to the Committee

to consider the information received from a non-Party source alleging non-compliance. However, the Committee decided not to invite the Party concerned to indicate whether it wished the Committee to consider the submission. The Committee accordingly agreed to a written reply to the NGO. It agreed to the content of the letter and asked the Chair to communicate it to the NGO on the Committee's behalf.

22. The Committee requested the Secretariat to compile the Committee's previous discussions, as noted in the relevant reports of the Committee, regarding the trigger mechanism under the compliance procedures for consideration at its next meeting. The Committee noted that it will consider this matter in the context of the submissions that may be received by the Secretariat from Parties as regards to how the supportive role of the Committee could be improved, as specified in paragraph 6 of decision BS-IV/1.

23. The Chair invited members of the Committee to raise any other items that they wished the Committee to consider. In that context, the Committee agreed to hold its next meeting in the second quarter of 2010 as envisaged in its work plan adopted at its fifth meeting. Members have expressed their preference to hold the meeting in June 2010.

ITEM 6. ADOPTION OF THE REPORT

24. At the 4th session of the meeting, the Chair introduced the draft report of the meeting, which was adopted as orally amended.

ITEM 7. CLOSURE OF THE MEETING

25. In closing, the Chair expressed his gratitude, once again for the trust placed in him by the members of the Committee and thanked them for their valuable contributions to the meeting. He also thanked the Secretariat for the documentation and for the overall facilitation of the work of the Committee.

26. The meeting was declared closed at 12 p.m. on Friday, 6 November 2009.
