



## Convention on Biological Diversity

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### COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY

Ninth meeting

Montreal, 31 May - 1 June 2012

Item 4 of the provisional agenda\*

### REVIEW OF GENERAL ISSUES OF COMPLIANCE BASED ON THE ANALYSIS OF INFORMATION CONTAINED IN THE SECOND NATIONAL REPORTS

#### 1. INTRODUCTION

1. The ninth meeting of the Compliance Committee is expected, as stated in the annotations to the provisional agenda, to address, among other things, general issues of compliance that may be identified from the second national reports.

2. The second national reports on the implementation of obligations under the Cartagena Protocol on Biosafety were due, in accordance with the four-year reporting cycle decided by the Parties at their first meeting, in September 2011.

3. As of 31 December 2011<sup>1</sup>, the Secretariat had received second national reports from 143 of the 161 Parties to the Protocol that had, at the time, the obligation to submit a national report. That means 89 percent of the Parties have submitted their reports.

4. The format for the second national report was adopted by the Parties to the Protocol through decision BS-V/14 of their fifth meeting. The format included some questions regarding matters that are relevant but not necessarily concerned with obligations under the Protocol. Information regarding such matters was considered important to establish a broader picture and a baseline on the implementation of the Protocol and also to measure progress made in the achievement of the strategic plan. However, compliance issues in the context of the present review would, obviously, concentrate only on gaps or shortfalls in the state of implementation of specific obligations under the Protocol.

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\* UNEP/CBD/BS/CC/9/1

<sup>1</sup> Although the due date for the submission of the second national reports would have normally been 11 September 2011 (coinciding with the anniversary of the entry into force of the Protocol), this time, the deadline initially set was 30 September 2011. This was extended later to 31 December 2011 following an announcement by the Global Environment Facility of the availability of funding for national report preparation in order to allow eligible Parties adequate time to access the funds, and prepare and submit their national report.

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## II. GENERAL ISSUES OF COMPLIANCE

5. The Secretariat has analyzed the information contained in the second national reports it received and prepared document UNEP/CBD/BS/COP-MOP/6/16 on “Monitoring and reporting (Article 33): analysis of information contained in the second national reports” for consideration by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its sixth meeting in October 2012. The document is made available for the present meeting of the Compliance Committee with a view to facilitating the review of general issues of compliance by the Committee (item 4) as well as the review on the state of compliance of Parties with their reporting obligation (item 3).

6. The full text of each national report is available through the web site of the Secretariat at: [http://bch.cbd.int/protocol/cpb\\_natreports.shtml#natrep2](http://bch.cbd.int/protocol/cpb_natreports.shtml#natrep2).

7. From the analysis of the second national reports, some major issues of a general nature affecting several Parties with respect to their compliance with the Protocol have been identified. The Compliance Committee may wish to review the following issues and make recommendations, as appropriate, to the sixth meeting of the Parties to the Protocol. Furthermore, the issues outlined below are not intended to be exhaustive. The Committee may identify more issues based on the information in the analysis document UNEP/CBD/BS/COP-MOP/6/16 or the review of individual reports.

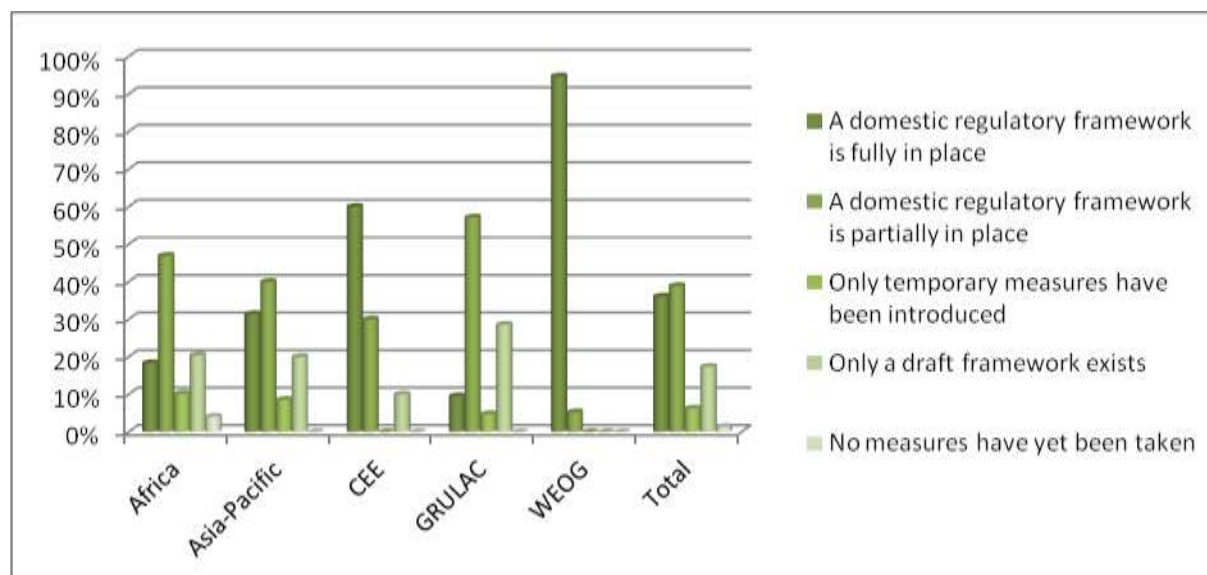
8. It should be noted that almost all of the general issues of compliance highlighted below were identified as such following the similar exercises that were carried out in the context of the interim and the first national reports. The Committee had earlier recognized these gaps as general issues of compliance and made recommendations to the Parties. The persistence of these issues almost a decade since the Protocol entered into force seems to indicate the existence of some serious difficulties that hinder effective implementation. The Compliance Committee may, in that regard, wish to explore measures or suggestions that could facilitate further concerted action and cooperation among Parties.

### ***(a) The obligation to put in place legal, administrative and other measures necessary for the implementation of the Protocol***

9. As can be seen from Figure 1 herein below, a number of Parties reported that they have not yet fully put in place a domestic regulatory framework. Only 52 Parties out of the 143 (36%) that submitted their second national report by 31 December 2011 indicated that they have a domestic regulatory framework fully in place for the implementation of the Protocol. 56 Parties reported that they have partially put these measures in place; 9 Parties have only temporary measures in place; 25 Parties have only a draft framework; and 2 Parties – both from the African region – stated that they have nothing in place. These numbers indicate the existence of significant gaps regarding the introduction of the necessary legal, administrative and other measures required to implement the Protocol.

10. In considering this issue based on information from the interim national reports of 2005, the Compliance Committee had expressed its concern on how the lack of domestic legal and administrative frameworks could undermine the effective implementation of the Protocol and the achievement of its objective. It recommended to the meeting of the Parties to: (a) call upon Parties to: (i) give appropriate attention to the development of national biosafety frameworks; (ii) take measures, where frameworks are duly completed, necessary to make these frameworks effective; (iii) allocate the resources necessary to make the frameworks operational; (b) request the Global Environment Facility to expedite support to eligible Parties for the implementation of their national biosafety frameworks; and (c) invite those with well developed and functional biosafety frameworks or systems to cooperate and share their practical experiences with those Parties that have a demand in this regard.<sup>2</sup>

**Fig. 1: Regional distribution of the percentage of Parties according to levels (scenarios) in the implementation of the obligation to introduce the necessary legal, administrative and other measures for the implementation of the Protocol**



***(b) The obligation to share information by making it available through the Biosafety Clearing-House***

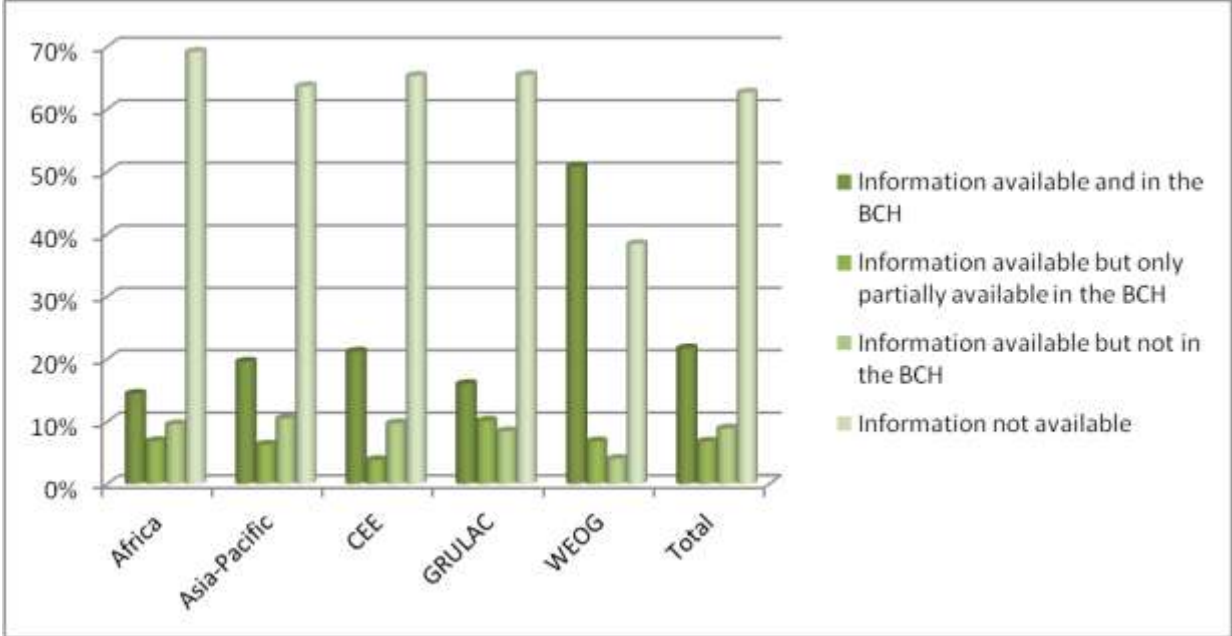
11. The analysis of information from the second national reports further shows the long-standing weakness in fulfilling the obligation to make available to the Biosafety Clearing House (BCH) information required by the Protocol. Under the different categories of information, the number of Parties reporting that information is available but has not been made available to the BCH or has been made available only partially, is still significant. Figure 2 below presents the aggregate situation with respect to making mandatory information available to the BCH.

12. The lack of complete and timely information in the BCH such as information on laws, decisions, living modified organisms approved for commercialization, contact details of relevant institutions and personnel, and other sets of information required by the Protocol, has previously been identified by the Compliance Committee as one of the general issues of compliance.

13. Between 2004 and 2009, a project, known as “Building Capacity for participation in the Biosafety Clearing-House” was designed and executed by the United Nations Environment Programme (UNEP). It was designed with the objective of strengthening the capacities of eligible countries to access and use the Biosafety Clearing-House in order to meet their obligations under the Protocol. The project termination evaluation report<sup>3</sup> indicates that the absence of operational biosafety frameworks in many countries has weakened the potential impact and the sustainability of capacity improvements in particular. The knowledge generated by the project has not fed into an operating system and there are few opportunities or incentives to apply new capacities. This further shows how functioning biosafety frameworks supported by the introduction of appropriate legal and administrative measures as indicated (a) above is a fundamental prerequisite in achieving the other components and requirements of the Cartagena Protocol on Biosafety.

<sup>3</sup> UNEP, Terminal Evaluation of project GF/6010-04-02 (4771) GFL/2328-2716-4771 – “Building Capacity for Participation in the Biosafety Clearing-House (BCH)” - Phase I, Evaluation and Oversight Unit, July 2009  
[http://www.unep.org/biosafety/Documents/Workshop\\_Documents/Reports/BCH%20Final%20Evaluation%20Report.doc](http://www.unep.org/biosafety/Documents/Workshop_Documents/Reports/BCH%20Final%20Evaluation%20Report.doc)

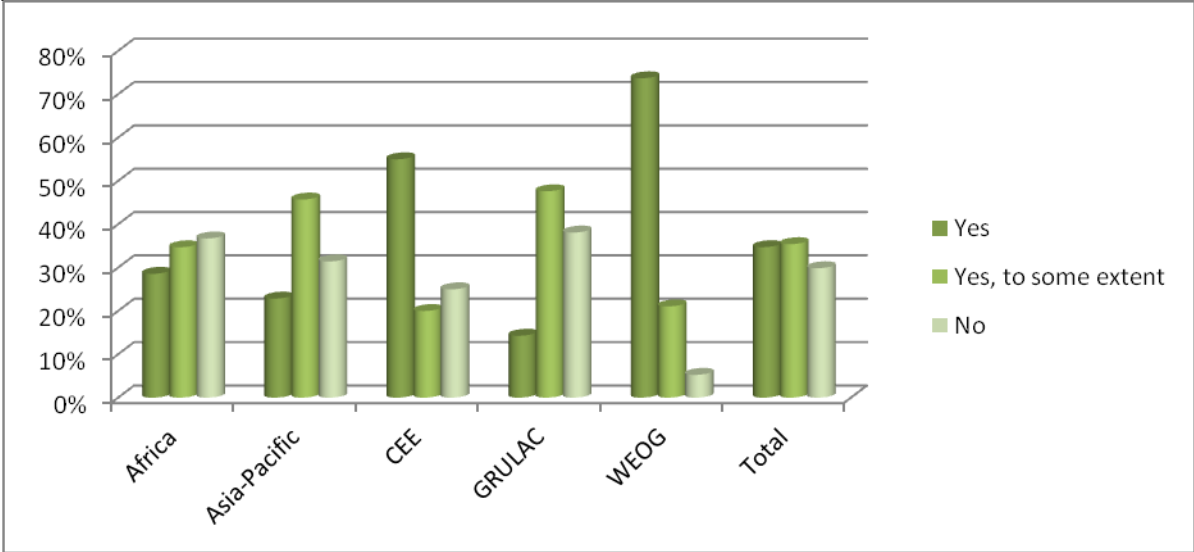
**Fig. 2 – Regional distribution of the percentage of Parties based on four situations in the submission of mandatory information to the BCH**



**(c) The obligation to promote public awareness and participation**

14. A large number of developing countries are still behind in taking the necessary steps towards promoting awareness and participation, in accordance with their respective laws and regulations, (i) of their public in the safe transfer, handling and use of living modified organisms, (ii) of the decision-making process regarding living modified organisms, and (iii) in making available to the public the decisions taken concerning living modified organism. Figure 3 below shows the percentage of Parties at different levels in creating the environment necessary for promoting public awareness and participation in biosafety. A number of Parties responded “No”, indicating that they still need to take action in this respect.

**Fig. 3 – Regional distribution of the percentage of Parties based on their response to the question whether they have established a strategy or legislation to promote public awareness, education and participation**



### III. SUGGESTIONS FOR THE CONSIDERATION OF THE COMMITTEE

15. In light of the above, the Committee may wish to:

(a) Consider making recommendations to the COP-MOP to:

- (i) Provide particular attention to the fulfilment of the obligation to introduce legal, administrative and other measures necessary for the implementation of the Protocol consistent with the Strategic Plan adopted under decision BS-V/16, which identifies the task of putting operational biosafety frameworks in place as the top most priority area;
- (ii) Request Parties that have not yet put in place operational biosafety frameworks to submit information on the difficulties they are faced with in this regard, and the plans and timelines they envisage, as appropriate, for the purpose of taking the necessary measures;
- (iii) Request the Executive Secretary to compile the information submitted by the concerned Parties as stated in paragraph (ii) above and submit it to the Compliance Committee for its consideration and appropriate action;
- (iii) Urge Parties to make use of the programme of work on public awareness, education and participation concerning the safe transfer, handling and use of living modified organisms, as contained in the annex to decision BS-V/13, to facilitate the implementation of their obligations to promote public awareness and participation as specified in Article 23 of the Protocol;

(b) Agree to have an in-depth consideration of the status of compliance with the obligation to introduce legal, administrative and other measures necessary for the implementation of the Protocol at its next meetings in accordance with its organization of work and taking into account the information that may be submitted by the Parties concerned as specified in paragraph (a) (iii) above;

(c) Request the Secretariat to continue liaising with the Parties concerned and to encourage them to update and complete information which they have an obligation to make available through the Biosafety Clearing-House and to report on the outcome of its efforts to the Committee.

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