



Convention on Biological Diversity

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COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY

Tenth meeting
Montreal, 29 – 31 May 2013
Item 4 of the provisional agenda*

SYNTHESIS OF SUBMISSIONS FROM PARTIES REGARDING OBLIGATION TO TAKE LEGAL, ADMINISTRATIVE AND OTHER MEASURES NECESSARY FOR THE IMPLEMENTATION OF THE PROTOCOL

Note by the Executive Secretary

INTRODUCTION

1. The Strategic Plan adopted in decision BS-V/16 has identified the task of putting operational biosafety frameworks in place as the top most priority area. The sixth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP-MOP), in its decision BS-VI/1, has, based on recommendation from the Compliance Committee, reiterated this prioritization and called upon Parties that have not yet done so, to expedite their efforts and put in place the legal and administrative frameworks necessary to meet their obligations under the Protocol.¹

2. The decision requests 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. It further requests the Executive Secretary to compile the information submitted by the Parties concerned and to submit it to the Compliance Committee for consideration and appropriate action.

3. Section I of this document describes the criteria or the information used by the Secretariat to determine the Parties to which decision BS-VI/1 might apply as it concerns the obligation to put in place legal and administrative frameworks. Section II provides a synthesis of responses received from some of these Parties; and submits, in section III, some suggestions on the way forward for consideration by the Committee.

* UNEP/CBD/BS/CC/10/1.

¹ Paragraph 1 of Article 2 of the Cartagena Protocol on Biosafety requires each Party to “take necessary and appropriate legal, administrative and other measures to implement its obligations under this Protocol”.

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I. PARTIES CONCERNED

4. The Secretariat used the information received through the second national reports to identify the Parties concerned. The response of each Party to Question 15 of the second national report was determined to be relevant in this regard.

5. Question 15 poses the following to each Party:

Has your country introduced the necessary legal, administrative and other measures for the implementation of the Protocol?

The choices for answers were:

- *A domestic regulatory framework is fully in place*
- *A domestic regulatory framework is partially in place*
- *Only temporary measures have been introduced*
- *Only a draft framework exists*
- *No measures have yet been taken*

6. Parties that responded to Question 15 by indicating one of the last three bullets i.e. only temporary measures have been introduced; only a draft framework exists; or no measures have yet been taken, have been considered as “Parties concerned” for the purpose of follow up and implementation of the first four paragraphs of decision BS-VI/1. Accordingly, 38 Parties have been identified.

7. The Secretariat sent letters² to each of the 38 Parties through their national focal points. The letter requested Parties, consistent with decision BS-VI/14, to submit a report or an update on the efforts they have made towards putting in place the legal and administrative measures necessary to implement the Cartagena Protocol on Biosafety in the form of a national biosafety framework or any other appropriate instrument and to indicate any challenges they are faced with in this regard, as well as the plans and timelines that they envisage to take these measures.

8. The Secretariat received responses from 13 Parties. Three of the responses were mere acknowledgement of receipt of the letter from the Secretariat.

II. SYNTHESIS OF RESPONSES

9. The responses of the 13 Parties are summarized in the following table. The Parties are categorized in accordance with their response to Question 15 of the second national report format.

Party	Summary of response	Notes
<i>Response to Q 15 = only temporary measures have been introduced</i>		
Dominican Republic	<p>The Biosafety Law has been approved by the Senate at the beginning of the year. It is now before the Chamber of Deputies (Congress) for approval. Congress appears to have significant interest in having this law approved.</p> <p>In the meantime, it is important to continue with the development of specific regulations, strengthening of institutional framework, and other capacity-building activities necessary for the implementation</p>	

² See the sample letter attached in the annex to this document. The annex includes also the list of Parties to which the letter was addressed.

	of the Biosafety Law.	
Mauritania	<p>They have initiated implementation of legal and administrative measures immediately following the submission of their second national report. They developed a National Law on Biosafety and it was endorsed by a national workshop that took place from 15 to 17 August 2011 at Nouakchott.</p> <p>It is presently in the process of being reviewed by the Government before it is approved and submitted to the two chambers of parliament and promulgated by the President of Mauritania.</p> <p>The difficulty they said they are facing is lack of resources to carry out campaigns to promote awareness about potential risks of modern biotechnology among the different stakeholders. In this regard, they say, assistance for awareness-raising activity would be welcome.</p> <p>In response to further enquiry by the Secretariat concerning their plan with regard to promoting awareness, they submitted an outline of “Awareness Programme” which they hope to implement with the support of the Secretariat. It includes workshops and publications with an estimated cost of US\$ 70 000.</p>	
Morocco	Acknowledged receipt	
Seychelles	Promised to work on the matter and to report back within the deadline	Nothing was received by the deadline
Solomon Islands	Their national biosafety framework has been finalized.	Secretariat has received what was said to be the final version of the National Biosafety Framework
<i>Response to Q 15 = only a draft framework exists</i>		
Burundi	<p>There is a national biosafety framework (2007), a national BCH and a draft biosafety law developed with the assistance of the UNEP/GEF project. The draft has been revised by the Council of Ministers and is still under review.</p> <p>They indicated that they face a number of difficulties. In spite of having organized information sessions regarding biotechnology and biosafety when the national framework was being developed some years back, the matter still remains controversial and there is a lot of hesitation. That is why there is a need to make a case to decision makers (parliamentarians, ministers) in order for the law to be passed. Some activities are being undertaken in this regard with the target of getting the law adopted in 2013.</p>	

Fiji	Promised to look into the matter immediately involving their Biodiversity Unit.	
Kyrgyzstan	<p>The draft law “On biological safety” was developed under the UNEP/GEF project in 2005 and approved by the government in 2007. It was sent to Parliament, but it did not receive enough votes and was not adopted. The draft was revised in 2008/2009 and was sent for consideration of the government. In 2010 a “political situation” postponed consideration of the draft law. The draft was again revised in 2012, in coordination with the Committee on Agricultural Policy, Water resources and Ecology of the Parliament.</p> <p>An interagency expert group is currently working to finalize the draft law in accordance with the provisions of the Cartagena Protocol. This process is expected to be finalized in May-June 2013 and the draft will, subsequently, be sent to the Parliament. Parallel to this, subsidiary acts are being adjusted in accordance with the draft law on biological safety.</p> <p>Furthermore, they have created a Centre for Environmental Regulation and Ecological Security (including biological safety) to work with ministries and agencies on these issues.</p> <p>Some of the difficulties mentioned in terms of capacity include lack of equipment and skilled personnel necessary to establish laboratory for the sampling and detection of living modified organisms. It is indicated that there are bilateral negotiations with Switzerland and Germany for possible assistance in this regard. According to the response, a project proposal, namely “Increasing of potential on biosafety in Kyrgyzstan” is under preparation.</p> <p>The need for training of officers on the development and application of biosafety policy and legislation has also been identified as one of the bottlenecks.</p> <p>They expect to develop and adopt a National Implementation Plan of the Cartagena Protocol between 2013 and 2015.</p>	
Liberia	<p>It is indicated that there has been a UNEP-GEF funded project to support implementation as well as work towards the completion of the draft Biosafety Policy and Act.</p> <p>The instruments are expected to get cabinet approval in the first half 2013 and be submitted to the legislature for enactment into law.</p>	
Libya	<p>The country was once cleared by the GEF to receive funds for a medium-size project (MSP). However the MSP was rejected due to late submission of proposal. Lack of political will and stability has also been mentioned as a reason for the delay in adopting the necessary measures.</p> <p>The response outlines the major processes and needs that were identified in order to fulfil the obligation of putting in place the</p>	Copy of the MSP that was cancelled by the GEF and letters that show the correspondence between the Government and

	<p>national biosafety instruments. These include adopting legislation; training human resources and provision of reference laboratories capable of backing proper implementation of the legislation.</p> <p>It is, however, indicated that the Government is not in a position to fully implement the requirements without support from the GEF. In their view biosafety capacity development cannot be sustained without external support, in particular over the medium term.</p>	the GEF have been submitted.
Samoa	<p>There is a national biosafety framework. A bill to implement the Protocol is under consideration. It will be presented to Parliament in mid-2013. Once the legislation enters into force they will be in a position to establish the further administrative measures necessary.</p> <p>They foresee challenges in establishing these further administrative measures such as forms and procedures. They also foresee a huge challenge in building the capacity of the staff to implement the new measures, particularly in conducting or reviewing risk assessments in accordance with the Protocol, in particular Annex III. They welcome any assistance that may be made available to them in this regard.</p>	
<i>Response to Q 15 = no measures have yet been taken</i>		
Congo	<p>A draft Biosafety law is in the process of being promulgated. The national commission on biosafety is multi-sectoral and under the responsibility of the Ministère de l'Economie Forestière et du Développement Durable.</p> <p>Incorporating the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress is underway. The workshop in Bangalore recommended the integration of the obligations under the Supplementary Protocol into the elaboration of national biosafety laws that are under development.</p> <p>It is indicated that the consultation and adoption process for every new law takes at least one year.</p> <p>They experience financial and logistical difficulties for the implementation of all these actions.</p>	
Suriname	<p>They have indicated that their response to question 15 might have been misunderstood. They, accordingly, described the situation as follows:</p> <p>In 2005 a National Biosafety Framework has been developed with legal, technical and administrative instruments which have been set in place to address safety for the environment, including the safety of humans, in the field of modern biotechnology. The National Biosafety Framework is designed to provide a realistic approach towards addressing the management of genetically modified organisms. This NBF has been submitted to the CBD.</p>	

	<p>A National Biosafety Steering Committee had been installed to assist the Ministry of Environment in the implementation process of the Cartagena Protocol on Biosafety, but its mandate has expired in 2010. A draft Biosafety law is one of the main deliverables of the Committee. The National Biosafety Steering Committee is currently being reinstated.</p> <p>The challenges that are faced are that nationally there are other key priorities and that therefore the finances are not made available to fulfil certain actions for implementation.</p> <p>They are participating, as of 2010, in the Regional project for Implementing National Biosafety Frameworks in the Caribbean sub-region. The main objective of the project is to put in place a fully updated national biosafety framework, including laws and regulations on biosafety, for the effective implementation of the Cartagena Protocol.</p>	
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10. The list in the annex and the summary of responses in the foregoing table show that a number of developing country Parties, in particular the least developed and small island developing States among them are having difficulties putting in place legal and administrative measures necessary to implement the obligations under the Protocol. Although draft biosafety frameworks exist in almost all of these countries, the continued lack of capacity to further develop specific regulations, conduct national consultations, and put in place the necessary infrastructure and administrative facilities, hinder further progress.

11. After the completion of the UNEP/GEF project for the development of national biosafety frameworks, funding has become increasingly scarce for biosafety in general and for the implementation of national biosafety frameworks in particular. However, it should be noted that the Parties concerned that have responded to the Secretariat's enquiry seem to be committed, despite their limitations in capacity, to adopt the necessary legal and administrative measures, within the shortest possible time, and thereby fulfil their obligations under the Protocol.

III. SUGGESTION

12. The Committee may wish to:

(a) Request the Executive Secretary to:

- (i) Make further efforts to get feedback from the Parties concerned that have not responded yet to the letter sent out earlier;
- (ii) Continue to follow up on the progress that each of the Parties is making and report to the Committee;
- (iii) Liaise with the Global Environment Facility and seek its cooperation in facilitating the availability of funding, in accordance with existing guidance to the financial mechanism, to support Parties that submitted proposals of activities with the aim to update and implement their national biosafety frameworks.

(b) Invite its members to consider what role they can play in supporting Parties within their region to fulfil their obligation of taking legal and administrative measures that are necessary to implement the Protocol.

Annex

**Subject: Legal and administrative measures to implement the
Cartagena Protocol on Biosafety**

Dear XXX,

As you may know, each Party to the Cartagena Protocol on Biosafety is required, as specified in paragraph 1, Article 2 of the Protocol, to take necessary and appropriate legal, administrative and other measures to implement its obligations under the Protocol. The Conference of the Parties serving as the meeting of the Parties to the Protocol (COP-MOP) has been repeatedly calling upon Parties to fulfil this obligation.

In this regard, you may recall the project on the 'Development of National Biosafety Frameworks' implemented by the United Nations Environment Programme and the Global Environment Facility, which assisted over 100 countries to develop their National Biosafety Frameworks with a view to help them to comply with obligations under the Protocol.

At its sixth meeting held in Hyderabad, India, last month, the COP-MOP has further called upon, in its decision BS-VI/1, Parties to take the task of putting operational biosafety frameworks in place as the topmost priority area, to expedite their efforts and to put in place the legal and administrative frameworks necessary to meet their obligations under the Protocol. It also requested Parties that have not yet put in place operational biosafety frameworks, to submit information on the challenges they are faced with in this regard, and the plans and timelines that they envisage to take these measures. Parties are reminded to put forward their difficulties to the attention of the Compliance Committee for possible assistance.

According to the information that was officially made available in the second national report you submitted, your country is one of those that have still not put in place a national biosafety framework. The response, in your national report, to Question 15, namely "has your country introduced the necessary legal, administrative and other measures for the implementation of the Protocol?" was that only a *draft framework exists/ that only temporary measures have been introduced/ that no measures have yet been taken*.

We would appreciate it, therefore, if you, in accordance with decision BS-VI/1, could submit a report or an update on:

- (i) The efforts your country has been making towards putting in place the legal and administrative measures necessary to implement the Cartagena Protocol on Biosafety in the form of a national biosafety framework or any other appropriate instrument;
- (ii) The challenges and difficulties, if any, that your country has been faced with in putting in place these measures/framework, or the reasons why you have not taken the legal and administrative measures necessary to implement your obligations under the Protocol;
- (iii) Any specific plans and activities, including timelines that your country has already put or anticipates to put in place for the purpose of adopting the necessary legal and administrative measures.

We kindly urge you to submit this information as soon as possible, but not later than 28 February 2013 so that we can proceed to the subsequent steps in response to decision BS-VI/1 of the sixth meeting of the COP-MOP with a view to facilitate the adoption of an operational biosafety framework in your country.

Please accept the assurances of my highest consideration.

Braulio Ferreira de Souza Dias
Executive Secretary

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List of Parties the letter was sent to:

1. Angola
2. Antigua and Barbuda
3. Azerbaijan
4. Botswana
5. Burundi
6. Cape Verde
7. Congo
8. Djibouti
9. Dominica
10. Dominican Republic
11. Eritrea
12. Fiji
13. Gabon
14. Gambia
15. Guatemala
16. Kyrgyzstan
17. Liberia
18. Libya
19. Maldives
20. Mauritania
21. Morocco
22. Myanmar
23. Nauru
24. Niger
25. Papua New Guinea
26. Qatar
27. Samoa
28. Saint Vincent and Grenadines
29. Saudi Arabia
30. Serbia
31. Somalia
32. Solomon Islands
33. Seychelles
34. St. Kitts and Nevis
35. St. Lucia
36. Surinam
37. Tunisia
38. Yemen
