

Convention on Biological Diversity

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COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY

Fourteenth meeting
Montreal, Canada, 16-18 May 2017

REVIEW OF GENERAL ISSUES OF COMPLIANCE

Note by the Executive Secretary

I. INTRODUCTION

1. One of the functions of the Compliance Committee is to review general issues of compliance by Parties with their obligations under the Protocol, taking into account the information provided in the national reports and through the Biosafety Clearing-House and to make recommendations to the Conference of the Parties serving as the meeting of the Parties to the Protocol.¹

2. At its fifth meeting, the Committee agreed to have a standing agenda item on review of general issues of compliance at its subsequent meetings. In this context, the Committee has considered compliance of Parties with a number of obligations, in particular: (a) the obligation to report on measures taken to implement the Protocol, in accordance with Article 33 of the Protocol; (b) the obligation to make information available to the Biosafety Clearing-House; (c) the obligation to introduce legal, administrative and other measures to implement the obligations under the Protocol, in accordance with Article 2 of the Protocol; and (d) the obligation to promote public awareness, education and participation, in accordance with Article 23 of the Protocol.

3. At its thirteenth meeting, the Committee reviewed compliance with the obligation to submit national reports and whether information in the reports is complete. The Committee decided to review any updates in the rate of reporting at its fourteenth meeting in the context of its review of general issues of compliance. Furthermore, in its decision CP-VIII/14, the Conference of the Parties serving as the meeting of the Parties requested the Committee to explore the reasons for the lower rate of submission of the third national reports, as compared to the previous reporting cycle.

4. Against this background, the present note is intended to serve as a basis for the review by the Committee of compliance with Article 33 of the Protocol. An update on the rate of reporting and access to funds from the Global Environment Facility (GEF) for the completion of the third national reports since the Committee's thirteenth meeting is provided in section II. Considerations on contributing factors to the rate of submission of third national reports are presented in section III. Section IV provides suggestions for the consideration of the Committee.

¹ Procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety, as adopted in decision BS-I/7, section IV(1)(d) and (e).

II. THIRD NATIONAL REPORTS SUBMITTED FOLLOWING THE COMMITTEE'S THIRTEENTH MEETING

5. Article 33 of the Protocol requires each Party to monitor the implementation of its obligations and to report at intervals to Conference of the Parties serving as the meeting of the Parties on measures taken to implement the Protocol. In its decision BS-I/9, Conference of the Parties serving as the meeting of the Parties requested Parties to submit their national report every four years, twelve months prior to the meeting of the Conference of the Parties serving as the meeting of the Parties that will consider the report. The deadline for submission of third national reports was initially set for 31 October 2015 and was later extended to 30 November 2015.² In accordance with the Committee's organization of work, the Committee considered compliance with the obligation to submit a third national report and whether reports were complete at its thirteenth meeting.

6. In this section, an overview of the number of third national reports received since the Committee's thirteenth meeting is provided, as well as an update on the number of Parties having accessed GEF funds for the completion of the third national reports.

A. Third national reports submitted since the Committee's thirteenth meeting

7. When reviewing compliance with the obligation to submit national reports at its thirteenth meeting, the Committee had information before it indicating that 112 third national reports had been submitted by 24 February 2016.³ This represented a submission rate of 66 per cent of the 170 Parties to the Protocol.

8. At its eighth meeting, the Conference of the Parties serving as the meeting of the Parties considered monitoring and reporting and had information before it indicating that 131 third national reports had been submitted prior to the eighth meeting of the Conference of the Parties serving as the meeting of the Parties.⁴ This represented a submission rate of 77 per cent of the 170 Parties to the Protocol.

9. During and following the eighth meeting of the Conference of the Parties serving as the meeting of the Parties, five Parties submitted their third national reports, bringing the total number of third national reports received to 136. This represents a submission rate of 80 per cent of the 170 Parties to the Protocol who had an obligation to submit a third national report.

10. One Party has submitted an incomplete third national report. The Secretariat has contacted this Party to request the missing information but the information has not been received to date. This report has not been included in the totals of the number of third national reports submitted.

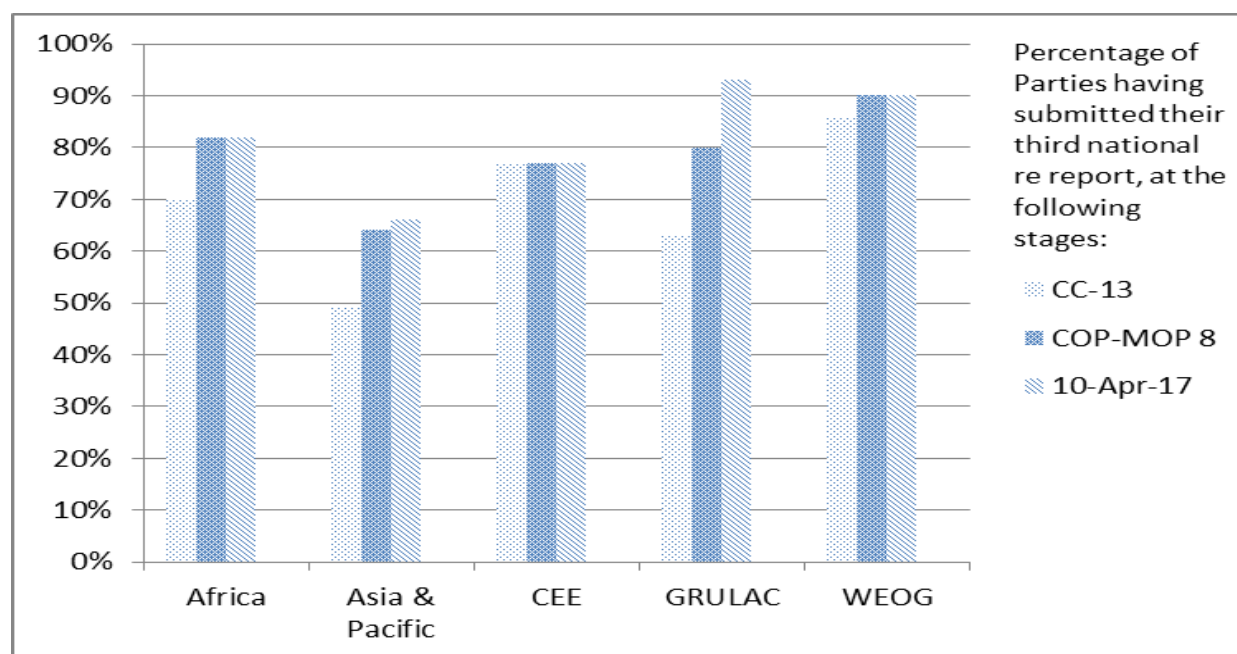
11. Submission percentages vary considerably per region and have progressed at different rates since the Committee's thirteenth meeting. The progression of the submission rate of third national reports by region since the Committee's thirteenth meeting is provided in figure 1.

² As announced in: <https://www.cbd.int/doc/notifications/2015/ntf-2015-001-bs-nr-en.pdf> and <https://www.cbd.int/doc/notifications/2015/ntf-2015-125-bs-en.pdf>

³ The note prepared by the Executive Secretary providing an overview of reporting rates (UNEP/CBD/BS/CC/13/2) indicated that 105 third national reports had been submitted by 31 December 2015. An additional seven reports were received between 31 December 2015 and the Committee's meeting in February 2016.

⁴ The note prepared by the Executive Secretary on this matter (UNEP/CBD/BS/COP-MOP/8/11) provided an overview of the information in the 124 third national reports that had been submitted by 31 August 2016. When this item was taken up during the eighth meeting of the Conference of the Parties serving as the meeting of the Parties, the Secretariat indicated that an additional 7 Parties had submitted their third national reports.

Figure 1. Progression of submission rate of third national reports by region since the thirteenth meeting of the Committee



12. The Secretariat has continued to communicate with Parties that have not yet submitted a third national report, both through letters from the Executive Secretary and by e-mail. Most recently, in e-mails sent on 8 February 2017, the Secretariat reminded each Party that had not submitted its third national report of its obligation to do so and urged them to submit their report by 30 April 2017. The Secretariat also reminded eligible Parties of the extended possibility to access GEF funds for the completion of their third national report (see below). In these communications, reference was made to the fourteenth meeting of the Compliance Committee, whereat an update on the rate of submission of third national reports would be considered.

B. Update on access to GEF funds for the completion of third national reports

13. At its thirteenth meeting, the Committee had before it a note by the Executive Secretary providing an overview of the number of Parties having accessed GEF funds for the completion of their third national report.⁵ The note indicated that, as of 19 January 2016, 82 Parties had received or were in the process of accessing GEF funds for the preparation of their third national reports, of which 16 had not yet submitted their report.⁶

14. The Committee requested the Secretariat to contact the United Nations Environment Programme (UNEP)-GEF and explore the possibility of extending the deadline for eligible Parties to apply for GEF funds to support them in completing their third national reports.

15. Following consultations with UNEP-GEF, the Secretariat informed the members of the Committee that eligible Parties could still access GEF funds for the completion of their third national

⁵ UNEP/CBD/BS/CC/13/2, para. 13.

⁶ The data concerning access to GEF funds are based on information provided by UNEP-GEF.

reports until 30 June 2016.⁷ A few members of the Committee had indicated during the thirteenth meeting that they would use this information to informally contact Parties in their region that had not yet submitted a third national report.

16. In January 2017, the Secretariat was informed by UNEP-GEF that funding for the completion of third national reports would continue to be available for eligible Parties until the end of 2017.⁸

17. At the time of preparation of the present document, UNEP-GEF confirmed that 68 Parties had accessed GEF funds for the preparation of their third national reports. These Parties have since all submitted their third national report. Eight additional Parties have accessed the GEF funds in part and final payment is pending the submission of the required documentation. Six of these Parties have already submitted their third national report.

III. CONSIDERATIONS ON CONTRIBUTING FACTORS TO THE RATE OF SUBMISSION OF THIRD NATIONAL REPORTS

A. Factors that may have contributed positively to the submission rate of third national reports

18. As outlined in document CBD/CP/CC/14/INF/1, the Committee has extensively reviewed compliance by Parties with the obligation to submit national reports and undertaken a number of activities through which it has sought to facilitate the completion and timely submission of national reports. In this context, the Committee requested the Executive Secretary and the Chair of the Committee to follow up with Parties concerned on various occasions, urging them to submit their reports, inquiring about the difficulties they might have encountered, and offering assistance. The activities undertaken by the Committee in this regard have had a positive effect on the reporting rate, as recognized by the Conference of the Parties serving as the meeting of the Parties.⁹

19. The communications with Parties also included letters from the Chair of the Committee to Luxembourg, the Marshall Islands and Nicaragua informing them of the Committee's recommendation to the Conference of the Parties serving as the meeting of the Parties at its eighth meeting that it issue a caution to these Parties unless they submitted a report before the eighth meeting. Following this communication, Nicaragua and Luxembourg submitted their third national report.

20. Another factor that may have contributed positively to the submission rate of third national reports is the availability of funding from GEF to assist eligible Parties in completing their national reports. At its thirteenth meeting, the Committee had before it a note by the Executive Secretary providing a comparative overview of the reporting rates per reporting cycle and suggesting a link between the high rate of submission of second national reports (95 per cent of Parties) and the availability of GEF funds that had been made available to 86 Parties for the completion of those reports.¹⁰ In addition, the Committee recognized the effect of the availability of GEF funds on the submission rate of third national reports.¹¹

⁷ The Secretariat informed the Committee members through the Collaborative Portal of the Compliance Committee on 31 March 2016 of the extension of the application deadline for funding. According to the information received, UNEP-GEF required that Parties concerned should finalize their report and submit a signed copy of it to UNEP-GEF together with the required documentation for the conclusion of a small scale funding agreement, before the end of June 2016. The Secretariat also confirmed that UNEP-GEF had indicated that it would continue following up with eligible Parties that had not accessed the available funds.

⁸ On 8 February 2017, the Secretariat informed eligible Parties of the continued availability of these funds, including for those that had already submitted their third national report.

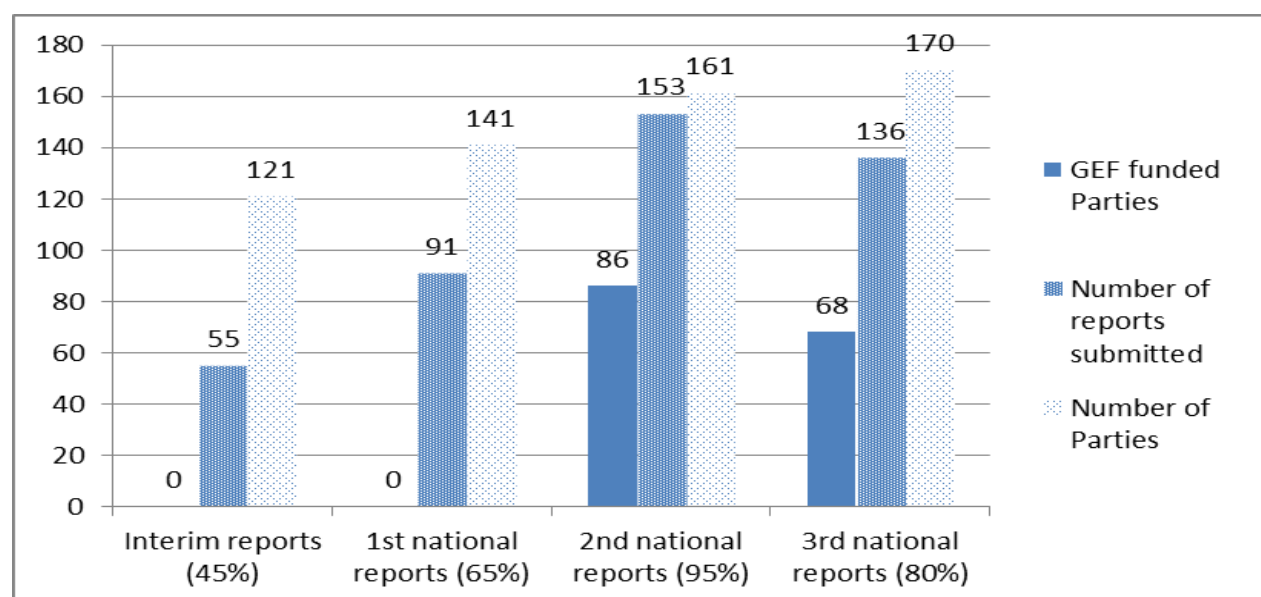
⁹ Decision CP-VIII/15, para. 4 and as recognized by the Committee in UNEP/CBD/BS/CC/13/6, para. 10(e).

¹⁰ UNEP/CBD/BS/CC/13/2, para. 13.

¹¹ UNEP/CBD/BS/CC/13/6, para. 10(b) and 10(c).

21. An updated comparative overview of Parties having accessed GEF funds and having submitted a national report per reporting cycle is provided in figure 2. The figure shows a 30 per cent increase in the reporting rate when GEF funds were made available for the preparation of the second national reports. While the reporting rate for the third national reports has declined despite the availability of GEF funds, it is still higher than it was for the interim and first national reports, for which no GEF funding was available. Possible reasons why the availability of GEF funds may not have played as significant a role in contributing to compliance with the reporting obligation for the third national reports are explored below.

Figure 2. Number of Parties to the Protocol having submitted national reports and having accessed GEF funds; per reporting cycle, including reporting rate percentages



B. Possible reasons for the lower rate of submission of third national reports

22. Parties have continued to submit third national reports following the Committee's thirteenth meeting. In view of the continued possibility for eligible Parties to access GEF funds for the completion of third national reports, the number of third national reports may further increase. Nevertheless, at the time of writing of the present note, the rate of submission of third national reports continues to be lower in comparison with the previous reporting cycle. The Committee at its thirteenth meeting had already observed this tendency. While it is challenging to determine what has caused the rate of submission of third national reports to drop vis-à-vis the submission rate of second national reports, some possibilities are covered in this section.

23. At its thirteenth meeting, the Committee noted that the introduction of the new Enterprise Resource Planning system (Umoja) by UNEP had created challenges that had resulted in delays for a number of eligible Parties in accessing funding. It also noted that this had caused difficulties for a number of Parties in fulfilling their obligations under the Protocol, for example as regards submission of their third national reports.

24. Certain Parties seem to experience difficulties completing the application process for funding, as eight Parties that started arrangements to access funds have not submitted the complete set of documents required for the conclusion of the small-scale funding agreement with UNEP-GEF.¹²

25. At the time of writing of the present note, 68 Parties had accessed GEF funds for the completion of their national report. The number of Parties that accessed such funds in the previous reporting cycle was 86. This represents a decrease of 18 Parties despite an increase in the number of Parties to the Protocol, including 6 Parties eligible for GEF funding.

26. At its thirteenth meeting, the Committee noted with concern that 39 Parties that had not yet submitted their third national report and were eligible for GEF funding either had not applied for those funds or were unable to access them.¹³ As at the date of the present document, third national reports are due from 26 eligible Parties that have not accessed GEF funds, of which 2 Parties are in the process of accessing these funds.

27. It is possible, therefore, that the administrative requirements for accessing the GEF funds along with the delays caused by Umoja have discouraged some Parties from seeking access to the funds that would assist them in completing their national report.

28. Nonetheless, while there may be a correlation between the lower number of Parties accessing GEF funds and the lower number of third national reports submitted, it is important to note that a number of eligible Parties submitted their third national report despite not having accessed GEF funding. By the time of the thirteenth meeting of the Compliance Committee, 19 eligible Parties that had not accessed funding had submitted their third national report, whereas, following the Committee meeting, a further 17 eligible Parties that had not accessed GEF funds submitted their third national report.

29. It might also be noted that of the 42 Parties to the Protocol that are not eligible for GEF funding, 9 had not submitted their third national report by the time of the thirteenth meeting of the Committee. At the time of writing, 8 of these Parties have not yet submitted their third national reports.¹⁴

30. In their written contributions concerning challenges with the reporting format,¹⁵ some Parties raised issues that may have negatively affected the reporting rate, in particular the length of the reporting format. It must be noted, however, that many Parties indicated that the reporting format was adequate and user-friendly, and a few Parties indicated that the format of the third national report was an improvement over the format of the second reporting cycle.

31. While it may be difficult to link the lower submission rate of third national reports to the format of the report, it is likely that Parties face difficulties in complying with multiple reporting requests. The latter concern gave rise to the request by the Conference of the Parties to the Convention that the Executive Secretary develop proposals for the alignment of national reporting under the Convention and its Protocols (decision XIII/27), and to explore options for enhancing synergy on national reporting relating to the biodiversity and Rio conventions, among others.

¹² At the time of writing of the present note, 8 Parties were still in the process of completing missing documentation, of which 6 had already submitted their third national report. At the time of the Committee's thirteenth meeting, data from UNEP-GEF were presented that showed that 82 Parties had received or were in the process of accessing GEF funding. Of these Parties, 8 Parties are no longer considered by UNEP-GEF to be actively seeking to complete their small scale funding agreement, while 6 of these Parties are considered to be in the process of finalizing the agreement and its annexes.

¹³ Based on more recent data provided by UNEP-GEF, it appeared that 43 eligible Parties had not yet submitted their third national report at the time of the Committee's 13th meeting.

¹⁴ Following the submission of its third national report by Luxembourg. Of these remaining 8 Parties, 4 are developed country Parties.

¹⁵ Question 208 of the reporting format.

32. The lower reporting rate could also be linked to a lack of priority accorded to biosafety at the national level and lack of awareness of the importance of national reports and the role they play both nationally and internationally, for example, in assessing the progress of implementation and in identifying areas where further efforts are needed.

IV. SUGGESTIONS FOR THE CONSIDERATION OF THE COMMITTEE

33. The Committee may wish to take the following actions:

(a) Express appreciation to the additional Parties that have submitted their third national report following the eighth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

(b) Welcome the extended availability of funds provided by GEF for the completion of third national reports for eligible Parties;

(c) Agree that the Chair of the Committee should send a follow-up letter to those Parties that have not submitted a third national report reminding these Parties of their obligation to do so as soon as possible and offering assistance in this regard, and reminding eligible Parties of the extended possibility to access GEF funds for the completion of their third national report;

(d) Request the Executive Secretary to continue following up with those Parties that have not submitted their third national report, and offering any assistance required, as a follow-up to the letter from the Chair of the Committee referred to in paragraph (c) above;

(e) Request the Executive Secretary to provide a brief update on the status of submission of third national reports at the Committee's fifteenth meeting.
