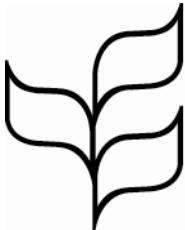




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REPORT OF THE COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY ON THE WORK OF ITS FOURTEENTH MEETING MONTREAL, CANADA, 16-18 MAY 2017

INTRODUCTION

1. The fourteenth meeting of the Compliance Committee was held on the premises of the Secretariat in Montreal, Canada, from 16 to 18 May 2017.
2. The following members of the Committee were present:

Africa

Ms. Martha Kandawa-Schulz
Mr. Rigobert Ntep
Mr. Dorington O. Ogoyi

Latin America and the Caribbean
Ms. Jimena Nieto Carrasco
Ms. Sol Ortiz García

Asia and the Pacific

Mr. Seung-Hwan Choi

Western Europe and Others

Ms. Clare Hamilton
Mr. Andreas Heissenberger
Mr. Casper Linnestad

Central and Eastern Europe

Mr. Martin Batic
Ms. Shirin Karryyeva
Ms. Dubravka Stepic

ITEM 1. OPENING OF THE MEETING

3. The outgoing Chair of the Compliance Committee, Ms. Jimena Nieto Carrasco, opened the meeting at 9.30 a.m. on 16 May 2017. She explained that, in accordance with rule 12 of the rules of procedure for meetings of the Committee (decision BS-II/1, annex), she would continue to serve as Chair until her successor took office. She gave a brief overview of some of the recent activities of the Committee and highlighted some of the outcomes of the eighth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, with relevance to compliance. She welcomed all members, in particular the new members of the Committee, to the meeting and thanked the outgoing Vice-Chair, Mr. Ruben Dekker, for his contribution to the work of the Committee. She invited the Executive Secretary of the Convention on Biological Diversity to address the Committee.

4. The Executive Secretary welcomed members to the offices of the Secretariat. She praised the progress made by Parties since the entry into force of the Cartagena Protocol on Biosafety in adopting measures to implement the Protocol at the national level, but noted that, according to the third national

reports, more than half of the Parties were still facing implementation-related challenges. She emphasized the important role of the Compliance Committee in supporting Parties regarding compliance with their obligations under the Protocol and pointed out how the Compliance Committee's supportive role had been welcomed by Parties at their latest meeting, in Cancun.¹ She said that the Committee's contribution would be vital in assisting Parties towards achieving the objectives they had set out in their Strategic Plan.

5. Members were invited to introduce themselves.

6. A representative of the Secretariat confirmed that, with more than 10 members present, there was a quorum for the meeting to proceed in accordance with rule 16 of the Committee's rules of procedure. She also reminded members that useful documentation on the previous work of the Committee was available to them through the collaborative portal of the Compliance Committee² on the Biosafety Clearing-House (BCH). She also recalled some of the compliance procedures and mechanisms, as contained in decision BS-I/7 and further specified in decision BS-V/1.

ITEM 2. ORGANIZATIONAL MATTERS

2.1. Election of officers

7. The Committee elected Ms. Clare Hamilton as Chair and Ms. Sol Ortiz García as Vice-Chair in accordance with rule 12 of the rules of procedure for meetings of the Committee.

2.2. Adoption of the agenda

8. On the basis of the provisional agenda (CBD/CP/CC/14/1) prepared by the Secretariat, the Committee adopted the following agenda:

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. Assessment of the outcomes of the eighth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety regarding items relevant to compliance.

4. Review of compliance on the basis of the third national reports, with a focus on the priority issues identified by the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety at its eighth meeting.

5. Review of general issues of compliance.

6. Other matters.

7. Adoption of the report.

8. Closure of the meeting.

¹ See CBD/CP/MOP/8/17, decision VIII/1 on compliance.

² http://bch.cbd.int/onlineconferences/portal_art34/cc_main.shtml

2.3. Organization of work

9. The Committee agreed on the organization of its work proposed by the Secretariat, as specified in annex I to the annotations to the provisional agenda (CBD/CP/CC/14/1/Add.1).

ITEM 3. ASSESSMENT OF THE OUTCOMES OF THE EIGHTH MEETING OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE CARTAGENA PROTOCOL ON BIOSAFETY WITH REGARD TO ITEMS RELEVANT TO COMPLIANCE

10. The representative of the Secretariat introduced the document relevant to the item (CBD/CP/CC/14/2) and highlighted certain decisions adopted by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its eighth meeting, including requests to the Committee by the meeting of the Parties that were not based on recommendations of the Committee.

11. The Committee welcomed the positive consideration of its recommendations by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its eighth meeting and reviewed some specific outcomes that were relevant to the future work of the Committee.

A. Operation and activities of the Biosafety Clearing-House

12. The Committee noted that its recommendation on the BCH had been adopted in paragraph 4 of decision CP-VIII/2, urging Parties that had not done so to make certain types of information available to the BCH and to keep their records up to date. The Committee recalled that a review of the consistency between the information in national reports and the Biosafety Clearing-House was already scheduled for its next meeting.

13. The Secretariat informed the Committee that it routinely followed up with Parties with a view to ensuring that the information in the BCH was up to date and complete, including by comparing decisions on living modified organisms (LMOs) available in the BCH with those available in external databases. A member of the Committee noted that receiving such communications from the Secretariat was useful for taking the necessary steps at the national level to resolve those issues. Another member mentioned the usefulness of the BCH III project entitled “Sustainable capacity building for effective participation in the BCH” for assisting Parties in maintaining complete and updated information in the BCH.

B. Financial mechanism and resources

14. The Committee reviewed decision CP-VIII/5 on the financial mechanism and resources and took note of the guidance to the financial mechanism that was included in decision XIII/21 of the Conference of the Parties to the Convention on Biological Diversity. The Committee noted that the Conference of the Parties serving as the meeting of the Parties to the Protocol had introduced changes to the Committee’s recommendation on the financial mechanism but recognized that the spirit of the recommendation of the Committee had been largely maintained.

15. The Committee noted that the concurrent meetings allowed for better and more integrated discussions on matters common to the Convention and its Protocols, including on the guidance to the Global Environment Facility.

C. Monitoring and reporting under the Protocol (Article 33)

16. The Committee noted that, in considering its recommendation on monitoring and reporting, the Conference of the Parties serving as the meeting of the Parties to the Protocol had added a request that the

Committee explore the reasons for the lower rate of submission of the third national reports. The Committee decided to consider that issue under its review of general issues of compliance.

17. The Committee reiterated the importance of funds for the preparation of national reports being made available in a timely manner and agreed to make a recommendation on the matter to the Conference of the Parties serving as the meeting of the Parties to the Protocol at its ninth meeting with respect to the fourth national reporting cycle.

18. The Committee took note of decision XIII/27 on national reporting, specifically the work envisaged on proposals for aligning national reporting under the Convention and the Protocols. In that context, it stressed the importance of retaining questions that enable the Committee to obtain necessary information on compliance with obligations under the Protocol and the importance of the free-text fields in understanding the challenges faced by Parties.

D. Transit and contained use of living modified organisms (Article 6)

19. The Committee reviewed decision CP-VIII/17, in which it was requested to assess if information that had been submitted to the Biosafety Clearing-House under contained use was in accordance with Article 6 of the Cartagena Protocol and to make a recommendation in that regard to the Conference of the Parties serving as the meeting of the Parties to the Protocol at its ninth meeting.

20. The Committee requested the Secretariat to circulate the relevant information from document UNEP/CBD/BS/COP-MOP/8/10 through the online collaborative portal of the Compliance Committee in order to undertake informal discussions on this issue in preparation for the Committee's next meeting. It also requested the Secretariat to explore whether the issue could be included in the agenda for the twenty-second meeting of the Subsidiary Body on Scientific, Technical and Technological Advice or the second meeting of the Subsidiary Body on Implementation.

E. Compliance

21. The representative of the Secretariat recalled that, at its thirteenth meeting, the Committee had recommended that the Conference of the Parties serving as the meeting of the Parties to the Protocol at its eighth meeting caution Luxembourg, the Marshall Islands and Nicaragua for not having submitted any national report despite having been Parties to the Protocol since its entry into force. He informed the Committee that, following its thirteenth meeting, two of the three Parties had submitted their third national reports and that consequently, the recommendation considered by the Conference of the Parties serving as the meeting of the Parties to the Protocol only concerned the cautioning of one remaining Party: the Marshall Islands. The Conference of the Parties serving as the meeting of the Parties to the Protocol urged the one remaining Party to submit its third national report, but did not issue the caution.

22. The Chair recalled all the previous efforts of the Committee to encourage and assist Parties that had not complied with their reporting obligations, as presented in the note on consideration by the Compliance Committee of the obligation to submit national reports in the context of decision BS-V/1 (CBD/CP/CC/14/INF/1).

23. The Committee decided that the recommendation to issue a caution, although not taken up by the Conference of the Parties serving as the meeting of the Parties to the Protocol, was nevertheless very useful and likely encouraged two of the Parties concerned to submit their third national reports. It agreed that any caution recommended in the future should be accompanied by an explanation of the steps taken by the Committee leading up to such a recommendation, for example in the form of an information document.

24. The Committee was of the opinion that informal discussions could take place in the margins of the twenty-first meeting of the Subsidiary Body on Scientific, Technical and Technological Advice between members of the Committee and representatives of the Marshall Islands attending the meeting to discuss the preparation and submission of their third national report. The Committee was also of the opinion that a videoconference with a representative of the Marshall Islands could be set up during the next meeting of the Compliance Committee, if necessary. In addition, the Committee noted that other informal follow-up with the Marshall Islands could be beneficial.

25. The Committee decided to include a standing item in the agenda of future meetings in order to facilitate consideration of ongoing individual cases of non-compliance. A report on any informal discussions with the Marshall Islands could be addressed under that agenda item at the Committee's fifteenth meeting.

F. Workplan

26. The Committee agreed on a workplan for its fifteenth meeting, as contained in annex I.

ITEM 4. REVIEW OF COMPLIANCE ON THE BASIS OF THE THIRD NATIONAL REPORTS, WITH A FOCUS ON THE PRIORITY ISSUES IDENTIFIED BY THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE CARTAGENA PROTOCOL ON BIOSAFETY

27. A representative of the Secretariat introduced the document relevant to the item (CBD/CP/CC/14/3), which reviews compliance on the basis of third national reports and additional sources, focusing on priority issues as identified by the Conference of the Parties serving as the meeting of the Parties to the Protocol, namely the development of biosafety legislation, risk assessment and risk management, detection and identification of living modified organisms, and public awareness, education and training.

28. The Committee noted the four priority areas identified by the Conference of the Parties serving as the meeting of the Parties to the Protocol and decided that, at the current stage, it would focus its activities on supporting Parties in complying with their obligation to introduce the necessary and appropriate legal, administrative and other measures to implement the Protocol, in accordance with Article 2(1) of the Protocol, making linkages with other priority areas where possible. In that context, the Committee decided to review compliance with the obligation for Parties to monitor the implementation of their obligations under the Protocol at the national level, as set out in Article 33 of the Protocol.

29. The Committee considered the list of types of assistance it could offer and decided to make some amendments on bilateral and regional cooperation and information sharing on monitoring and reporting.

30. The Committee decided to continue reviewing compliance with the obligation to submit summaries of risk assessment reports to the Biosafety Clearing-House as follow-up within the priority area on risk assessment and risk management.

31. The Committee requested the Secretariat:

(a) To contact Parties that reported:

- (i) Having only draft, temporary or partial national biosafety frameworks in place, or not to have introduced any legal, administrative and other measures for the implementation of the Protocol and collect information on the challenges they are facing in this regard;

- (ii) Having in place a monitoring system and collect information on the challenges they are facing in this regard;

and to report back to the Committee at its fifteenth meeting;

(b) To review, in particular, the consistency of information regarding legal, administrative and other measures in national reports and the Biosafety Clearing-House, in accordance with the workplan for the Committee's fifteenth meeting;

- (c) To follow up:

- (i) With Parties that have not designated a competent national authority or a national focal point;
- (ii) With Parties that have not made available to the Biosafety Clearing-House summaries of risk assessment reports for decisions, where they are required to do so;

and to report back to the Committee at its sixteenth meeting, in accordance with the organization of work of the Committee;

(d) To ensure that appropriate questions are added to the revised format for the fourth national reports that address whether domestic regulatory frameworks require risk assessments to be conducted, in accordance with the Protocol;

(e) To update, in accordance with the list in annex II, the types of assistance contained in the "Information note on the role of the Compliance Committee in assisting Parties", available on the Biosafety Clearing-House.

32. The Committee decided to recommend to the Conference of the Parties serving as the meeting of the Parties at its ninth meeting that it:

(a) Recall that Parties facing difficulties complying with one or more obligations under the Protocol are encouraged to seek assistance from the Committee;

(b) Request Parties to collaborate fully when requested to provide information in relation to their compliance with obligations under the Protocol;

(c) Invite Parties that have made progress in complying with certain obligations to share relevant information in the free-text fields in the fourth national reports or through bilateral or regional cooperation on the circumstances that may have contributed to their progress;

(d) Also invite Parties that are facing challenges in complying with certain obligations to share information on the challenges encountered in the free-text fields in the fourth national reports.

33. The Committee also encouraged its members to liaise with the Parties in their region, as appropriate, with a view to facilitating support for Parties facing challenges complying with their obligations in these areas.

ITEM 5. REVIEW OF GENERAL ISSUES OF COMPLIANCE

34. The representative of the Secretariat introduced the document relevant to the item (CBD/CP/CC/14/4), providing an update on the number of third national reports submitted following the thirteenth meeting of the Committee and summarized some possible factors contributing to the rate of submission of third national reports.

35. The Committee discussed document CBD/CP/CC/14/4 and information document CBD/CP/CC/14/INF/1 and expressed its appreciation to the additional Parties that had 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. The Committee found the current reporting rate encouraging, even though it continued to be lower than the reporting rate of the second national reports. The Committee then explored possible reasons for the lower rate of reporting for the current cycle, as requested by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its eighth meeting, and decided to consider the issue further at the next meeting. The Committee identified general reasons for the lower rate of submission that could include:

- (a) Difficulties in accessing funds from Global Environment Facility (GEF);
- (b) Challenges with the length of the reporting format;
- (c) Difficulties in complying with multiple reporting requests under different international agreements;
- (d) Lack of priority accorded to biosafety at the national level;
- (e) Lack of awareness of the importance of national reporting.

36. The Committee noted that 30 Parties had not yet submitted their third national report, including 4 Parties that had also not submitted their second national report.

37. The Committee also discussed whether internal issues, including conflicts, could make it more difficult for Parties to meet their reporting obligations.

38. The Committee recognized that reporting was beneficial to Parties as it provided an opportunity to review the extent to which they were successfully implementing the provisions of the Protocol and to identify gaps. It was recognized that national reporting might also catalyse action at the national level and could contribute to strengthening awareness and capacities.

39. The Committee welcomed the extended availability of funds provided by GEF for the completion of third national reports for eligible Parties.

40. The Committee decided that its Chair would send a letter to the national focal points of those Parties that had not submitted a third national report reminding those Parties of their obligation to do so as soon as possible, briefly explaining the benefits of reporting and offering assistance in that regard, and reminding eligible Parties of the extended possibility to access funds from GEF for the completion of their third national report.

41. The Committee also decided that its Chair would send a similar letter to the Ministries of Foreign Affairs of Greece, Montenegro and Turkmenistan on their not having submitted their second and third national reports, as a follow-up to previous communications addressed to the national focal points of those three Parties.

ITEM 6. OTHER MATTERS

42. The Committee reiterated its concern regarding the lack of funds set aside for biosafety and decided to recommend that the Conference of the Parties, in adopting its guidance to the financial mechanism, with respect to support for the implementation of the Cartagena Protocol on Biosafety, invite GEF to make specific funding available to eligible Parties to establish their national biosafety frameworks.

43. The Committee recommended that the Conference of the Parties serving as the meeting of the Parties to the Protocol at its ninth meeting urge eligible Parties to prioritize biosafety projects during the programming of their GEF-7 national allocations under the System for Transparent Allocation of Resources (STAR), taking into account their obligations under the Cartagena Protocol on Biosafety, the

Strategic Plan for the Cartagena Protocol on Biosafety for the period 2011-2020, and the guidance of the Conference of the Parties to the financial mechanism.

44. The Committee noted that the reporting format for the fourth national report would be prepared for the consideration of the Subsidiary Body on Implementation and agreed that the Committee may contribute views through the online collaborative portal, as necessary.

45. The Committee agreed to hold its fifteenth meeting in the same period in 2018, bearing in mind the schedule of other meetings under the Convention on Biological Diversity foreseen around that time.

ITEM 7. ADOPTION OF THE REPORT

46. The Chair introduced the draft report of the meeting, which was adopted as orally amended.

ITEM 8. CLOSURE OF THE MEETING

47. The Chair expressed thanks to the members for their valuable contributions.

48. The meeting closed at 11.30 a.m. on 18 May 2017.

Annex I

WORKPLAN FOR THE FIFTEENTH MEETING OF THE COMPLIANCE COMMITTEE

1. Review of consistency between information in national reports and the Biosafety Clearing-House.
2. Assessment of whether information submitted to the BCH under contained use is in accordance with Article 6 of the Protocol (decision CP-VIII/17, para. 5).
3. Review and follow-up of general issues of compliance.
4. Review of individual cases of non-compliance under consideration by the Committee.
5. Any other matter.
6. Preparation and adoption of the report and the recommendations of the Committee for submission to the Conference of the Parties serving as the meeting of the Parties at its ninth meeting.

Annex II

TYPES OF ASSISTANCE THE COMMITTEE CAN OFFER

1. Identifying opportunities for bilateral and regional cooperation.
 2. Identifying capacity-building opportunities, training courses and available tools on the Biosafety Clearing-House.
 3. Assisting with the identification of organizations and projects that can help.
 4. Sharing information on lessons learned and best practices in implementation, including in monitoring and reporting.
 5. Providing information on possible sources of funding.
 6. Recommending to the Conference of the Parties serving as the meeting of the Parties that it provide assistance to individual or groups of Parties.
 7. Recommending priority areas for funding by the Global Environment Facility.
 8. Advising on the availability of the roster of experts and the possible use of experts from that roster.
 9. Clarifying use of terms and procedures.
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