

**Convention on
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**CONFERENCE OF THE PARTIES TO THE CONVENTION
ON BIOLOGICAL DIVERSITY SERVING AS THE
MEETING OF THE PARTIES TO THE CARTAGENA
PROTOCOL ON BIOSAFETY**

Sixth meeting

Hyderabad, India, 1-5 October 2012

Item 11 of the provisional agenda*

NOTIFICATION REQUIREMENTS (ARTICLE 8)*Note by the Executive Secretary***I. INTRODUCTION**

1. The Conference of the Parties serving as the meeting of the Parties considered, at its second meeting, the item on the implementation of the requirements of notification as provided for under Article 8 of the Cartagena Protocol on Biosafety. It decided to keep the item “under review with a view to elaborating and developing, if appropriate, at its fourth meeting, modalities of implementation” of the requirements, taking into account national implementation and experiences that may be communicated through national reports and the Biosafety Clearing-House (decision BS-II/8).

2. At their fourth meeting, the Parties further considered the item on the basis of information obtained through the first national reports submitted by Parties with respect to the implementation of their obligations under the Protocol. At the meeting, Parties were invited to consider some elements and options that facilitate the implementation of the requirements associated with notification of the intentional transboundary movement of living modified organisms. It also decided to further review the item at its sixth meeting based on national implementation experiences that may be communicated through the second national reports.

3. The Executive Secretary has therefore prepared this note to assist the Parties to the Protocol in their current review of the item. Section II of the note presents information regarding the implementation of the requirements under Article 8 of the Protocol on notification, as synthesized from the second national reports, and section III suggests some elements for a draft decision for consideration by the Parties to the Protocol at their sixth meeting.

II. IMPLEMENTATION OF THE NOTIFICATION REQUIREMENTS UNDER ARTICLE 8 OF THE PROTOCOL

4. Questions 35 and 36 in the format for the second national reports adopted in decision BS-V/14 are directly relevant to the notification requirements under Article 8¹ of the Cartagena Protocol on Biosafety. Furthermore, question 50 of the reporting format invited Parties to provide further details on the implementation of Articles 7-10 in their country, including measures in case of lack of scientific certainty on potential adverse effects of living modified organisms for intentional introduction to the environment.²

5. Question 35 asked each Party whether it has established legal requirements for exporters under their jurisdiction to notify in writing the competent national authority of the Party of import prior to the intentional transboundary movement of a living modified organism that falls within the scope of the advance informed agreement procedure. In response:

- 76 Parties (53% of the 143 respondents) indicated that they have established such requirements; and
- 67 Parties (47% of the respondents) reported that they have not done so.

6. The percentages of responding Parties within the different regions/economic groups that reported that they have not yet established such requirements are: 53% of the respondents within Africa, 54% in Asia and the Pacific, 32% in Central and Eastern Europe (CEE), 71% in the Group of Latin America and the Caribbean (GRULAC), 5% in the Western Europe and Others Group (WEOG), 56% from least developed countries (LDCs) and 86% of the respondents from small island developing States (SIDS).

7. Question 36 asked each Party whether it has established legal requirements for the accuracy of information contained in the notification. The response was as follows:

- 84 Parties (59% of the 143 respondents) reported that they have established legal requirements for the accuracy of information contained in the notification; and
- 59 Parties (41% of the respondents) reported that they have not done so.³

8. The percentages of respondents within the different regions/economic groups which reported that they have not established these requirements are: 47% of respondents within Africa, 54% in Asia and the

¹ Article 8 (“Notification”), reads:

“1. The Party of export shall notify, or require the exporter to ensure notification to, in writing, the competent national authority of the Party of import prior to the intentional transboundary movement of a living modified organism that falls within the scope of Article 7, paragraph 1. The notification shall contain, at a minimum, the information specified in Annex I.

“2. The Party of export shall ensure that there is a legal requirement for the accuracy of information provided by the exporter.”

² See the analysis of the second national reports (UNEP/CBD/COP-MOP/6/16) available online at: <http://www.cbd.int/doc/meetings/bs/mop-06/official/mop-06-16-en.doc> or the online analyser at: <http://bch.cbd.int/database/reports/results/?searchid=545609>.

³ There seems to be some inconsistency between the responses to questions 35 and 36. If a Party reported that it has not established legal requirements for notification, then it follows that that Party has no requirement for the accuracy of information in a notification. However, for some reason, some Parties that have indicated under question 35 that they have not established legal requirements for notification in the context of Article 8 have reported under question 36 that they have a legal requirement in place as regards the accuracy of information contained in a notification.

Pacific, 26% in CEE, 57% in GRULAC, 51% from LDCs and 82% of the respondents from small island developing States.

9. Question 50 asked each Party to provide further details on the implementation of Articles 7-10 under its jurisdiction. In response, 120 Parties provided some details in relation to the context of their domestic implementation of the requirements of Articles 7-10 of the Protocol. Most respondents described their legal frameworks and institutional arrangements relevant to the handling of applications or notifications to import or release living modified organisms. Some provided information on their actual experience regarding applications that they have received during the reporting period; the number of applications they received and the nature of the decisions taken by their national competent authorities. A few others indicated that they still lack the necessary legal requirements, and that they are working towards addressing that gap.

10. On the other hand, no respondent provided any details as such as regards any experience in the implementation of the notification requirements under Article 8. Also, no particular concern was raised in relation to the application of these requirements.

11. The absence of domestic requirements on notification in a number of Parties as indicated by the responses to questions 35 and 36 is obviously related with the fact that these Parties are still struggling to put in place legal or administrative arrangements necessary for the implementation of the Protocol. The Compliance Committee has once again identified this lack of necessary and appropriate legal and administrative measures to implement the Protocol as a general issue of compliance. The Committee noted that the fulfilment of the obligation to introduce legal, administrative and other measures necessary for the implementation of the Protocol should be taken as a top most priority⁴ as it also affects the implementation of other obligations under the Protocol.

III. SUGGESTED ELEMENTS FOR A DRAFT DECISION

12. The Conference of the Parties serving as the meeting of the Parties to the Protocol may wish to:

(a) Request Parties to address any gaps that may exist in their domestic implementation of the notification requirements under Article 8 of the Protocol, including in the context of their general obligation to take necessary and appropriate legal, administrative and other measures to implement their obligations under the Protocol as provided under paragraph 1 of Article 2 of the Protocol;

(b) Decide to further review this item on the basis of specific information that may be provided by a Party through its national report demonstrating difficulties in implementing the obligations under Article 8 or suggesting actions intended to facilitate implementation of these obligations.

* UNEP/CBD/BS/COP-MOP/61.

⁴ Paragraphs 14 (a), 16 (a) and (b) of the report of the ninth meeting of the Compliance Committee under the Cartagena Protocol on Biosafety (UNEP/CBD/BS/CC/9/4) and paragraphs 1-4 of the recommendations of the Compliance Committee to the sixth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, (UNEP/CBD/COP-MOP/6/2, annex)