



Convention on Biological Diversity

Distr.
GENERAL

UNEP/CBD/SBI/1/10
7 March 2016

ORIGINAL: ENGLISH

SUBSIDIARY BODY ON IMPLEMENTATION

First meeting

Montreal, Canada, 2-6 May 2016

Item 11 of the provisional agenda*

MODUS OPERANDI OF THE SUBSIDIARY BODY ON IMPLEMENTATION AND MECHANISMS TO SUPPORT REVIEW OF IMPLEMENTATION

Note by the Executive Secretary

INTRODUCTION

1. In paragraph 1 of decision XII/26, the Conference of the Parties established the Subsidiary Body on Implementation (SBI) to replace the Ad Hoc Open-ended Working Group on Review of Implementation of the Convention. The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol, in paragraph 1 of decision BS-VII/9, and the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, in paragraph 1 of decision NP-1/11, designated SBI to also serve the respective Protocols.

2. In paragraph 6 of decision XII/26, the Executive Secretary was requested, among other things, to prepare a draft modus operandi on the organization and operation of SBI for consideration by SBI at its first meeting. As specified in the decision, the modus operandi should be prepared in line with the terms of reference of SBI and take into account the consolidated modus operandi of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA),¹ and any views expressed, in this regard, as reflected in the reports of the twelfth meeting of the Conference of the Parties, the seventh meeting of the Parties to the Cartagena Protocol and the first meeting of the Parties to the Nagoya Protocol.

3. Accordingly, the Executive Secretary prepared a draft modus operandi of SBI, as contained in annex I to the present note. The terms of reference of SBI are contained in the annex to decision XII/26 and are reproduced in annex II herewith. Section I of the present note considers further procedural elements suggested for inclusion in the modus operandi. Section II describes substantive elements of the modus operandi based on the functions of SBI, as set out in its terms of reference. Section III outlines options to strengthen the review of progress in implementation. Section IV provides draft recommendations for the consideration of SBI.

I. PROCEDURAL ELEMENTS OF THE MODUS OPERANDI

4. A number of procedural issues important for the effective functioning of SBI have already been addressed by the Conference of the Parties in its decision XII/26 establishing SBI. The modus operandi could include additional elements to further elaborate the procedures for SBI where necessary.

* UNEP/CBD/SBI/1/1/Rev.1.

¹ Annex III to decision VIII/10.

A. Rules of procedure and frequency of meetings

5. In decision XII/26, paragraph 2(b), the Conference of the Parties decided that, in line with paragraph 5 of rule 26 of the rules of procedure for meetings of the Conference of the Parties, the rules of procedure for meetings of the Conference of the Parties apply, *mutatis mutandis*, to the meetings of SBI with the exception of rule 18 (credentials), which will not apply.

6. In that regard, the proceedings of SBI will be carried out in the official and working languages of the Conference of the Parties, which, in accordance with rule 52, are those of the United Nations Organization.

7. The application of the rules of procedure for meetings of the Conference of the Parties to meetings of the Subsidiary Body on Implementation also means that the requirements set out in rule 10 of the rules of procedure regarding documentation would apply: The provisional agenda, together with supporting documents, for each ordinary meeting shall be distributed in the official languages by the Secretariat to the Parties at least six weeks before the opening of the meeting.

8. With regard to the frequency of meetings, the Conference of the Parties, in decision XII/26, paragraph 2(c), decided that SBI should meet in each intersessional period.

B. Suggested additional elements

9. The application of the rules of procedure for meetings of the Conference of the Parties to meetings of the Subsidiary Body on Implementation suggests that, unless decided otherwise, the President of the Conference of the Parties or his representative would serve as the chair of SBI.

10. Considering the intended status of SBI as a permanent body under the Convention, and its specific focus in keeping under review the implementation of the Convention, the Conference of the Parties may wish to elect a dedicated Chair for SBI. The *modus operandi* could, therefore, include a provision for the election of a dedicated Chair for SBI.

11. In order to allow for effective preparations for its meetings, and to enable SBI to make appropriate recommendations, the *modus operandi* could also contain a provision to allow SBI, within the available budgetary resources for matters related to its mandate, to make requests to the Executive Secretary and utilize mechanisms under the Convention or its Protocols, as appropriate. A similar provision is contained in the *modus operandi* of SBSTTA.

12. With regard to the organization of work during the meetings of SBI, the *modus operandi* could include a provision that allows SBI to establish two open-ended sessional working groups that operate simultaneously during meetings of SBI in order to enhance its efficiency in case SBI is faced with a heavy agenda. In order to ensure transparency, the working groups should be established on the basis of well-defined terms of reference and be open to all Parties and observers. As the operation of parallel working groups has financial implications, these would need to be reflected in the budget of the Convention.

13. Considering the central role of implementation in the work under the Convention, it is suggested that the primary national focal points of the Convention serve as focal points for the Subsidiary Body on Implementation and related procedural matters. In cases where the national focal point of the Convention is not directly responsible for national implementation, the preparation of national reports and the revision of national biodiversity strategies and action plans, it may be useful for Parties to nominate the expert responsible for these areas as an additional focal point who may also liaise with the Secretariat regarding the preparation of national reports and the revision of national biodiversity strategies and action plans.

II. SUBSTANTIVE ELEMENTS OF THE MODUS OPERANDI

A. Functions and core areas of work of SBI

14. The functions of SBI have already been agreed by the Conference of the Parties and are listed in paragraph 1 of its terms of reference.² Based on the functions set out in the terms of reference, four areas of work for SBI can be identified:

(a) *Review of progress in implementation:* Under this area of work, SBI reviews relevant information on progress in the implementation, in accordance with paragraph 1(a) of its terms of reference. For the current decade, SBI primarily focuses on reviewing the implementation of the Strategic Plan for Biodiversity 2011-2020 and the efforts towards the achievement of the Aichi Biodiversity targets, in line with decision XII/26, paragraph 5. Results of the review inform the work of the SBI under the other areas;

(b) *Strategic actions to enhance implementation:* Under this area of work, SBI assists the Conference of the Parties in preparing decisions on enhancing implementation; and identifies and develops recommendations to overcome obstacles encountered in implementation, in accordance with paragraphs 1(b) and (c) of its terms of reference. The outcome of the review of progress in implementation, as well as relevant information from SBSTTA and Protocols, informs the development of these strategic actions;

(c) *Strengthening means of implementation:* Under this area of work, SBI assists the Conference of the Parties in developing recommendations on how to strengthen mechanisms to support implementation, including in areas such as resource mobilization, guidance to the financial mechanism, capacity-building, national reporting, technical and scientific cooperation and the clearing-house mechanism, and communication, education and public awareness (paragraphs 1(d) and (e) of the terms of reference). This area of work is interrelated and mutually reinforcing with the development of strategic actions to enhance implementation;

(d) *Operations of the Convention and the Protocols: Improving processes and activities:* Under this area of work, SBI reviews the impacts and effectiveness of existing processes under the Convention and identifies ways and means that increase efficiencies, including an integrated approach to the implementation of the Convention and its Protocols, in accordance with paragraph 1(e) of the terms of reference. SBI also develops recommendations regarding the development and functioning of mechanisms that support the other areas of work.

15. The relationships among the four areas of work are illustrated in figure 1 below. In particular, it should be noted that development of further strategic actions to enhance implementation should consider matching with the means for implementation. In this context, paragraph 10 of decision X/2 noted that the extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the fulfilment by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology, while decision XII/3 adopted targets for resource mobilization, including domestic resource mobilization, under Aichi Target 20 of the Strategic Plan for Biodiversity 2011-2020.

² The SBI should undertake the functions detailed below at the request of the Conference of the Parties to the respective Protocols in reviewing their respective implementation as per decision XII/26, annex, paragraph 5.

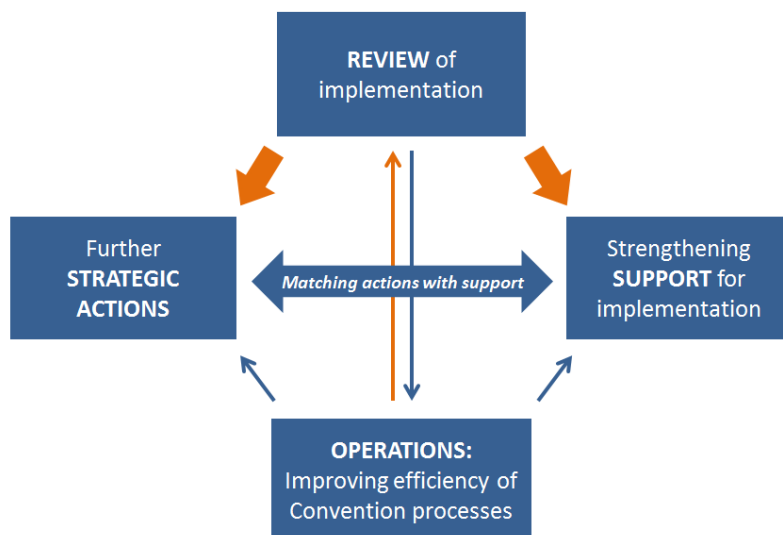


Figure 1: **The core areas of work of SBI and their relationship**

16. The structure of the agendas for meetings of SBI would be developed to reflect, as appropriate, these four areas of work, noting also that SBI is required to perform other functions as may be determined by the Conference of the Parties (para. 1(f) of the terms of reference). The four areas of work are further elaborated in the sections below.

B. Review of progress in implementation

17. As described in the foregoing section, SBI reviews under this area of work relevant information on progress in the implementation of the Convention, including progress in the provision of support for the implementation of the Convention, as well as of any strategic plans and other relevant decisions adopted by the Conference of the Parties, and on progress in the achievement of targets established under the Convention.

18. In accordance with Article 23 of the Convention, the overarching function of the Conference of the Parties is to keep under review the implementation of the Convention. For this purpose, the Conference of the Parties considers information submitted by Parties in accordance with Article 26 of the Convention. Periodic reports required from each Party under Article 26 of the Convention present information on measures the Party has taken for the implementation of the provisions of the Convention and their effectiveness in meeting the objectives of the Convention. This information is the primary basis for reviewing progress in the implementation of the Convention.

19. The Conference of the Parties decided to specifically review progress in the implementation of the Strategic Plan and to share experiences relevant for implementation, at each of its meetings up to 2020, including an assessment of the contribution of national and regional targets, established in accordance with the Strategic Plan, towards the global targets (decision X/2, para. 14 and 17 (b) and decision XII/31, annex).

20. The subsidiary bodies support the Conference of the Parties in keeping under review progress in implementation of the Convention, in accordance with their terms of reference (Article 25 of the Convention for SBSTTA and decision XII/26, annex for SBI). The Strategic Plan 2011-2020 also notes, in paragraph 19, the role of the subsidiary bodies in supporting the Conference of the Parties in keeping under review the implementation of the Strategic Plan. In that regard, SBSTTA and SBI play important roles. Figure 2 below illustrates the matters under review by these bodies.

21. SBSTTA provides scientific and technical assessments of the status of biological diversity and prepares scientific and technical assessments of the effects of types of measures taken in accordance with its mandate and modus operandi (decision VII/10, Appendix A). In this context SBSTTA considers drafts

of the Global Biodiversity Outlook and the implications of its conclusions as well as assessments prepared under the Intergovernmental Platform on Biodiversity and Ecosystem Services. In general terms, SBSTTA reviews, at the global aggregate level, the outcomes of actions taken to achieve global targets, thereby also looking at the outcomes of the aggregate of actions taken by Parties.

22. SBI could specifically, focus on the review of progress in implementation at national level by each Party through the setting and achievement of national targets and actions as well as the associated outcomes. SBI could also review the aggregate progress of individual Parties, taking into consideration the contribution of the aggregate of national targets communicated by Parties towards the global targets.

23. Some areas of review, such as the global progress towards the global targets, the aggregate progress of individual actions as well as the outcomes of the actions of individual Parties will, to some degree, inform the work of both SBI and SBSTTA. An indicative table distinguishing the separate tasks between SBSTTA and SBI is provided as an information document.

	Global aggregate	Synthesis/ Analysis of national level	National level (Individual Parties)
TARGETS (commitments)			Focus of SBI
ACTIONS (implemented)			
OUTCOMES	Focus of SBSTTA		

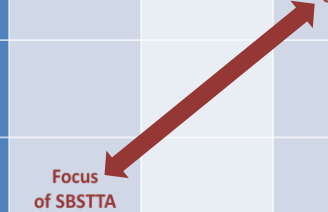


Figure 2: Matters under review by SBI versus matters under review by SBSTTA

24. At its meetings, SBI will be invited to consider an analysis/synthesis of national, regional and other measures, including targets as appropriate, established in accordance with the Strategic Plan, and to assess the contribution of such national and regional targets towards the global targets, in line with decision X/2, paragraph 17(b). The Executive Secretary was requested to make such analysis/synthesis available in preparation for each meeting of the Conference of the Parties up to 2020.

25. In order to fulfil its mandate regarding review of and support for Parties in their efforts to implement the Convention and the Strategic Plan for Biodiversity 2011-2020 as well as future plans under the Convention in an effective and efficient manner, SBI may wish to take the opportunity to further elaborate an additional, party-focussed process for such review, as further described in section III of this note and in document UNEP/CBD/SBI/1/10/Add.3. The elaboration and implementation of any additional review process would complement and build upon existing review processes under the Convention and not exclude or pre-empt the consideration of other review processes or mechanisms.

26. Review of implementation may also be further facilitated by two initiatives launched by the Conference of Parties at its twelfth meeting:

(a) In decision XII/29, paragraph 3, the Executive Secretary was requested to develop a methodology for a voluntary peer-review process. Further information on the voluntary peer-review mechanism is contained in document UNEP/CBD/SBI/1/10/Add.1;

(b) In decision XII/28, the Conference of the Parties requested the Executive Secretary to develop an online decision tracking tool in the clearing-house mechanism with a view to supporting the review of existing decisions and improving the development and adoption of new decisions. Further information on the decision-tracking tool is contained in document UNEP/CBD/SBI/1/10/Add.2.

C. Strategic actions to enhance implementation

27. As described above, under this area of work, SBI assists the Conference of the Parties in preparing decisions on enhancing implementation, and identifies and develops recommendations to overcome obstacles encountered in implementation.

28. One of the specific tasks of the Conference of the Parties according to Article 23 of the Convention is to consider and undertake any additional action that may be required for the achievement of the purposes of the Convention in the light of experience gained in its operation.

29. With regard to the Strategic Plan for Biodiversity, the Conference of the Parties decided, among other things, to provide guidance on means to address obstacles encountered, at each of its meetings up to 2020 (decision X/2, para. 14). The Conference of the Parties decided to address specifically, at its thirteenth meeting, strategic actions to enhance national implementation, in particular through mainstreaming and the integration of biodiversity across relevant sectors (decision XII/31, annex).

30. In line with its terms of reference, and the description of the role of the subsidiary bodies in the Strategic Plan, SBI is expected to continuously recommend, as appropriate, strategic actions to enhance implementation and to overcome obstacles encountered to the Conference of the Parties.

31. SBI will be able to use the outcomes of its work in the area of reviewing progress in implementation as a key input for the development of further strategic actions. This would be in line with paragraph 19 of the Strategic Plan for Biodiversity, which, among other things, asked that new guidance be informed by the experience of Parties in implementing the Convention, in line with the principle of adaptive management through active learning.

32. Both SBSTTA and SBI, within their mandates, prepare conclusions and recommendations to the Conference of the Parties containing further actions regarding the implementation of the Convention. SBSTTA prepares evidence-based, global actions, including those that emerge from the global review of progress towards the Aichi Biodiversity Targets or their successors. SBSTTA also prepares generic guidance that emerges from scientific reports, from both natural and social sciences. SBI, in turn, would focus on further strategic actions and guidance aimed at national implementation. It would also prepare further strategic actions on cross-cutting matters, such as the coherence and effectiveness of legal and policy measures and institutional frameworks, the engagement of the various relevant sectors, especially the private sector and subnational and local governments in implementation, as well as matters related to communication, education and public awareness.

D. Strengthening means of implementation

33. Under this area of work, SBI assists the Conference of the Parties in developing recommendations on how to strengthen mechanisms to support implementation including in areas such as resource mobilization, guidance to the financial mechanism, capacity-building and technology transfer for effective national action, national reporting, technical and scientific cooperation, the clearing-house mechanism, and communication, education and public awareness.

34. In the Strategic Plan for Biodiversity it is stated that the Plan will be implemented primarily through activities at the national or subnational level, with supporting action at the regional and global levels. The means of implementation for the Strategic Plan would include provision of financial resources in accordance with respective obligations under the Convention, taking into account Article 20 of the Convention. It is also stated in decision X/2, annex, paragraph 14, that the means for implementation may vary from country to country, according to national needs and circumstances, while countries should learn from each other when determining appropriate means for implementation. The Strategic Plan for Biodiversity also lists, in paragraphs 20, 22 and 24 of the annex to decision X/2 several support mechanisms other than financial resources. These include capacity-building, clearing-house mechanism and technology transfer, and partnerships and initiatives to enhance cooperation.

35. With regard to financial resources, the Strategic Plan states, in paragraph 23, that the strategy for resource mobilization including the proposed concrete initiatives, targets and indicators to be developed,

and processes for developing innovative mechanisms, provides a roadmap for achieving the effective implementation of Article 20, paragraphs 2 and 4, of the Convention, in order to provide adequate, predictable and timely new and additional financial resources, in support of the implementation of the Strategic Plan. Furthermore, the Conference of the Parties requested the Global Environment Facility, the financial mechanism of the Convention, to provide adequate, timely and predictable financial support to eligible countries to enable the implementation of the Strategic Plan for Biodiversity 2011-2020 (decision X/2, para. 11).

36. With regard to capacity-building for effective national action, the Strategic Plan notes that many Parties, especially developing countries, in particular the least developed countries, small island developing States and the most environmentally vulnerable countries, as well as countries with economies in transition, may require support for the development of national targets and their integration into national biodiversity strategies and action plans. The Strategic Plan further states that global and regional capacity-building programmes could provide technical support and facilitate peer-to-peer exchange, complementing national activities supported by the financial mechanism.

37. In decision XII/2 B, paragraph 8(a), the Executive Secretary was requested to continue promoting and facilitating activities to strengthen the implementation of the Strategic Plan, and to further progress towards the Aichi Biodiversity Targets at the regional, subregional, national, subnational and local levels. The Conference of the Parties also requested the Executive Secretary to promote the use of available mechanisms and advanced technologies, including the clearing-house mechanism, to further enhance capacity-building, technical and scientific cooperation and technology transfer to support the implementation of the Strategic Plan and the achievement of the Aichi Biodiversity Targets (decision XII/2, para. 8(e)). The Executive Secretary was requested to undertake a number of activities listed in decision XII/2 B, paragraph 9 with a view to enhancing technical and scientific cooperation and technology transfer supporting the effective implementation of the Strategic Plan for Biodiversity 2011-2020 and its Aichi Biodiversity Targets, as well as revised and updated national biodiversity strategies and action plans, and to report on progress to SBI.

38. In the context of the above mandates, SBI could consider linking the outcomes of any review of implementation to the development of further support measures as outlined in document UNEP/CBD/SBI/1/10/Add.3 and explained in document UNEP/CBD/SBI/1/6.

39. While SBSTTA, will continue to fulfil its mandate to identify innovative, efficient and state-of-the-art technologies and know-how relating to the conservation and sustainable use of biological diversity and advise on the ways and means of promoting development and/or transferring such technologies, (decision VIII/10, Appendix A, para. (c)) SBI is generally best placed to deal with all matters related to utilization and strengthening means of implementation.

E. Operations of the Convention and the Protocols: improving the effectiveness of processes and activities

40. Under this area of work, SBI would review the impacts and effectiveness of existing processes under the Convention and identify ways and means that increase efficiencies, including an integrated approach to the implementation of the Convention and its Protocols.

41. SBI would also cover any procedure that supports the other three areas of its work. For example, the development of guidelines for national reports and of reporting tools falls under this area of work. The further development of a mechanism to strengthen review of progress in implementation, as suggested in paragraph 26 above, would also fall under this area. Similarly, procedural aspects of the voluntary peer-review mechanism and the online decision-tracking tool would be discussed under this part of the agenda of meetings of SBI, as necessary.

42. Furthermore, matters related to the administration of the Convention more generally would also be addressed by SBI as part of this area of its work.

43. With regard to the allocation of work between SBI and SBSTTA, it is expected that SBI will be generally responsible for considering matters related to the operations of the Convention and its

Protocols. The role of SBSTTA, in this regard, may be limited to responding to future developments in areas where it has developed procedures in the past, including for identifying new and emerging issues relating to the conservation and sustainable use of biodiversity and for exchange of scientific and technical information with the Intergovernmental Science-Policy Platform for Biodiversity and Ecosystem Services, as specified in decisions IX/29, XI/11 and XII/25.

III. MECHANISMS TO STRENGTHEN REVIEW

A. Mechanisms to support review of implementation

44. The establishment of SBI provides a unique opportunity to further enhance the implementation of the Convention and the Strategic Plan for Biodiversity. In order to facilitate its work related to review of progress in implementation and fulfil its mandate effectively, SBI could consider establishing some additional procedures.

45. As noted in Section II of this document, the Conference of Parties, recalling that its role is to keep the implementation of the Convention under review, decided that at its future meetings it would review progress in the implementation of the Strategic Plan for Biodiversity 2011-2020, share experiences relevant for implementation and make recommendations in line with the principle of adaptive management through active learning to strengthen the mechanisms to support implementation, monitoring and review to overcome obstacles encountered. (Decision X/2, annex, para. 19).

46. Moreover, in this context, the Conference of Parties also decided to consider at its eleventh meeting the need for and possible development of additional mechanisms or enhancements to existing mechanisms such as SBSTTA and WGRI to enable Parties to meet their commitments under the Convention and the implementation of the Strategic Plan for Biodiversity 2011-2020 (decision X/2, para. 15). While no decision was taken in this regard at the eleventh meeting, the establishment of SBI at the twelfth meeting could be considered as a major step and an affirmation of the need for additional mechanisms. The development of the modus operandi of SBI would, therefore, provide an opportunity to complete and further consolidate this task, without excluding the consideration of other arrangements for improved and effective processes of review of progress in implementation.

47. While currently the Conference of the Parties, through the Global Biodiversity Outlook and other analyses, is able to assess the global progress towards the Aichi Biodiversity Targets, there are only limited opportunities for its work to be truly informed by the national experiences of individual Parties, and the opportunities for mutual learning and adaptive management are constrained accordingly.

48. Many other forums have established processes for reviewing implementation, which take different forms. Such practice is reviewed in UNEP/CBD/SBI/1/10/Add.3. Recently review mechanisms have been established under UNFCCC: the Monitoring, Reporting and Verification system to review reports on the status of greenhouse gas emissions and removals by sinks, as well as on actions taken by individual parties to reduce emissions or enhance sinks, known as “international assessment and review” and “international consultation and analysis”, respectively. In addition are the review mechanisms that focus on review by peers of policy frameworks including: the Environmental performance review under the Organization for Economic Cooperation and Development, the World Trade Organization Trade Policy Review Mechanism, and the United Nations Human Rights Council Universal Periodic Review.

49. These review mechanisms provide a forum for parties or members to engage in a dialogue on their different actions taken in response to common commitments and they can facilitate learning among them about effective policy practice, design and implementation. In the course of a review process, best practices and readily-usable policy-relevant information may be provided by parties. Where the structure of the review is an open, dialogue-oriented process, in contrast to a compliance procedure-oriented mechanism, parties may also be willing to engage in more candid dialogue with each other. Such mechanisms provide parties involved with transparency about the activities undertaken by other parties. In particular processes where parties agreed to submit their national targets, plans and other commitments for activities benefit from such transparency. In processes where global goals and targets are established for consecutive time periods, the information generated through the review can inform subsequent rounds

of negotiation. Furthermore, in forums where a robust review mechanism has been established, the technical capacity at the national level to monitor and report has also reportedly increased.

50. Under the Convention, the focus of review for the coming years will be progress in the implementation of the most recent strategic plan. This requires, as reflected in existing mandates provided by the Conference of the Parties, the review of national targets, plans and actions, as well as their outcomes. Therefore, the establishment of a review process that is conducive to the assessment of comprehensive policy frameworks (in the form of national strategies and action plans) and that facilitates constructive mutual learning among Parties appears most appropriate. The details of the proposal for such a review mechanism are discussed in document UNEP/CBD/SBI/1/10/Add.3.

51. The success of any review mechanism largely depends on the quality and completeness of the information reviewed. The guidelines for the sixth national report and other developments in the context of national reporting that SBI will consider at its first meeting, are aimed to improve the information basis for the review.³ In this context, support to Parties in the gathering of information and the preparation of their national reports and the development or revision of their national biodiversity strategies and action plans is critically important. SBI may wish to consider a recommendation to the Conference of the Parties to request the Global Environment Facility to complement and streamline existing support to strengthen national reporting and planning.

B. Mechanism to support operations of the convention with regard to procedural and institutional requirements

52. SBI is also expected to review the adherence of Parties to procedural and institutional requirements under the Convention. SBI will be provided, at its first meeting, in the context of its work related to the administration of the Convention, with information on the status of the compliance of Parties with the procedural and institutional requirements arising from being a Party to the Convention. This includes the status of submissions of national reports, national biodiversity strategies and action plans, and credentials; the designation of focal points and national competent authorities; and the payment of assessed contributions to Trust Funds under the Convention and the Protocols.

53. SBI will be invited to consider the status of compliance and may wish to also consider the need for specific procedure to follow-up on the adherence of Parties to the Convention to procedural and institutional requirements, including the establishment of a process for the development of such procedure. Any recommendation in this regard may be considered as part of item 15, administration of the Convention.

IV. ELEMENTS OF DRAFT RECOMMENDATION

54. The Subsidiary Body on Implementation may wish to adopt a recommendation along the following lines:

The Subsidiary Body on Implementation,

Recalling decisions X/2 and XII/26,

Recognizing the need to enhance the review of implementation of the Strategic Plan for Biodiversity 2011-2020,

1. *Welcomes* the draft *modus operandi* for the Subsidiary Body on Implementation contained in annex I to the note by the Executive Secretary on the *modus operandi* of the Subsidiary Body on Implementation and mechanisms to support review of implementation,⁴ and *recommends* that the Conference of the Parties at its thirteenth meeting adopt the *modus operandi*;

³ Further information is contained in documents UNEP/CBD/SBI/1/11 on national reporting and UNEP/CBD/SBI/1/11/Add.1 on guidelines for the sixth national report.

⁴ UNEP/CBD/SBI/1/10.

2. *Welcomes* the progress made in the development of a voluntary peer-review mechanism for national biodiversity strategies and action plans,⁵ especially the development of a draft methodology for the review, and *requests* the Executive Secretary to further test the draft methodology and submit a final draft to the Conference of the Parties at its thirteenth meeting for its consideration and possible adoption;

3. *Welcomes* the progress made in the development of a decision tracking tool and *takes note* of the results to date of the application of the tool on a pilot basis to review the decisions of the eighth and ninth meetings of the Conference of the Parties;⁶

4. *Requests* the Executive Secretary to further develop, for the consideration of the Conference of the Parties at its thirteenth meeting, elements of a mechanism for the review of implementation under the Subsidiary Body on Implementation to be included as an appendix to the modus operandi,⁷ taking into account the information in the addendum on further options for mechanisms to support review of implementation,⁸ the views expressed by Parties and observers at the present meeting, and further views provided by Parties and observers by 1 July 2016.

55. The Subsidiary Body on Implementation may also wish to recommend that the Conference of the Parties adopt a decision along the following lines:

The Conference of the Parties

1. *Approves* the modus operandi of the Subsidiary Body on Implementation as annexed to the present draft decision;

2. *Invites* Parties to designate an expert responsible for national implementation, as appropriate, especially for the preparation of national reports and the development and revision of national biodiversity strategies and action plans, as an additional focal point for national implementation;

3. *Endorses* the elements of a mechanism for the review of implementation as outlined in the appendix⁹ to the modus operandi of the Subsidiary Body on Implementation, and *invites* each Party to participate in the review;

4. *Invites* Parties to develop, enhance and make use of national processes to review the measures that they have taken for the implementation of the Convention and related strategic plans, and to identify obstacles that may exist to such implementation;

5. *Decides* to align the modus operandi of the Subsidiary Body on Scientific, Technical and Technological Advice¹⁰ concerning the election of the Chair of the Subsidiary Body on Scientific, Technical and Technological Advice (para. 10) and the preparation of documentation (para. 12), with current practice and the modus operandi of the Subsidiary Body on Implementation, as follows:

(a) The Chair of the Subsidiary Body on Scientific, Technical and Technological Advice will take office from the end of the meeting of the Conference of the Parties at which he/she is elected and remain in office until his/her successor takes office;

(b) The documentation for the meetings of the Subsidiary Body on Scientific, Technical and Technological Advice shall be issued by the Secretariat in the official languages six weeks before the date of opening of the meeting;

⁵ See UNEP/CBD/SBI/1/10/Add.1.

⁶ See UNEP/CBD/SBI/1/10/Add.2.

⁷ UNEP/CBD/SBI/1/10, annex I.

⁸ UNEP/CBD/SBI/1/10/Add.3.

⁹ This is the appendix that will be developed by the Executive Secretary in response to the request contained in draft operative paragraph 4 under paragraph 54.

¹⁰ Decision VIII/10, annex III.

6. *Requests* the Executive Secretary to further develop the decision-tracking tool, taking into account any views or comments provided by Parties and other Governments, and to continue reviewing the decisions of the Conference of the Parties taken from the first to the seventh meetings, as well as the decisions of the tenth and eleventh meetings.

56. The Subsidiary Body on Implementation may also wish to recommend that the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol adopt a decision along the following lines:

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol

Endorses the modus operandi of the Subsidiary Body on Implementation as approved by the Conference of the Parties to the Convention.

57. The Subsidiary Body on Implementation may also wish to recommend that the Conference of the Parties serving as the meeting of the Parties to Nagoya Protocol adopt a decision along the following lines:

The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol

Endorses the modus operandi of the Subsidiary Body on Implementation as approved by the Conference of the Parties to the Convention.

*Annex I***MODUS OPERANDI OF THE SUBSIDIARY BODY ON IMPLEMENTATION (Draft)****A. Functions**

The Subsidiary Body on Implementation will perform its functions under the guidance of the Conference of the Parties. The functions of the Subsidiary Body on Implementation are those contained in its terms of reference (decision XII/26, annex).

B. Areas of work

Taking into account its functions, the Subsidiary Body on Implementation undertakes, at each of its meetings, the following four interrelated areas of work as described below.

1. *Review of progress in implementation*

This will include items related to the review of progress in the implementation of the Convention, the Protocols, and related strategic plans, including review of progress in the provision of support for implementation, and in particular progress by Parties in the setting and achievement of their national targets and actions as well as the outcomes of these actions, the aggregate progress of individual Parties, as well as the contribution of the aggregate of national targets communicated by parties towards the objectives of the Convention and its Protocols. The processes for review are set out in appendix A.

2. *Strategic actions to enhance implementation*

This will include items related to the identification of strategic actions and the provision of guidance to enhance implementation based on the review of progress in implementation and other relevant information, including consideration of the future direction of implementation of the convention. These may include actions related to mainstreaming; the development and implementation of coherent and effective legal and policy measures and supporting institutional frameworks; and the enhancement of the role of relevant actors, especially the private sector and subnational governments in implementation.

3. *Strengthening means of implementation*

This will include items related to resource mobilization, the financial mechanism, and the general and strategic aspects and institutional mechanisms for technical and scientific cooperation, the clearing-house mechanism, capacity-building, technology transfer and communication, education and public awareness.

4. *Operations of the Convention: improving the effectiveness of processes and activities*

This will include items related to ways and means to increase efficiencies of processes, including an integrated approach to the implementation of the Convention and its Protocols, especially containing items that are common to the implementation of the Convention and its Protocols, any procedures that support the other three areas of work of the Subsidiary Body, and matters related to the administration of the Convention.

C. Procedural matters

1. The work of the Subsidiary Body on Implementation will be conducted in accordance with the relevant provisions of decision XII/26, including the following:

(a) In line with paragraph 5 of rule 26 of the rules of procedure for meetings of the Conference of the Parties, the rules of procedure for meetings of the Conference of the Parties apply, *mutatis mutandis*, to the meetings of the Subsidiary Body on Implementation with the exception of rule 18, which will not apply;

(b) The Subsidiary Body on Implementation should meet in each intersessional period. The number and length of the meetings and activities of the Subsidiary Body and its organs should be

reflected in the budget adopted by the Conference of the Parties or other sources of extrabudgetary funding;

(c) When the Subsidiary Body on Implementation serves a Protocol of the Convention, decisions under the Protocol shall be taken only by the Parties to the Protocol;

(d) The Subsidiary Body on Implementation should undertake any tasks that fall within the scope of its terms of reference and those that are referred to it by the Conference of the Parties or the Conference of the Parties serving as the meetings of the Parties to the respective Protocols, and should report on its work to these bodies.

2. The Bureau of the Conference of the Parties, consisting of the President and vice-presidents as per the rules of procedures (annex to decisions I/1 and V/20), will serve as the Bureau of the Subsidiary Body on Implementation. The Chairperson of the Subsidiary Body on Implementation will, however, be elected by the Conference of the Parties to ensure active participation in the preparatory process as well as facilitation of the meeting. The Chairperson, elected at an ordinary meeting of the Conference of the Parties, shall take office from the end of that meeting of the Conference of the Parties and remain in office until his/her successor takes office. As a general rule, the chairing of the Subsidiary Body on Implementation shall rotate among United Nations regional groups. Candidates for the Chair of the Subsidiary Body should have experience in the processes of the Convention. The Chair of the Subsidiary Body shall participate in meetings of the Bureau of the Conference of the Parties.

3. The work of the Subsidiary Body on Implementation will be conducted in plenary sessions or in open-ended sessional working groups, as appropriate. Subject to the provision of the necessary budgetary resources by the Conference of the Parties, up to two open-ended sessional working groups of the Subsidiary Body on Implementation could be established and operate simultaneously during meetings of the Subsidiary Body. In such case, they shall be established on the basis of well-defined terms of reference, and will be open to all Parties and observers.

4. The Subsidiary Body on Implementation may establish an open-ended forum to support the review of implementation of the Convention, its Protocols and related strategic plans with a view to facilitating the exchange of information and experience among Parties. This forum may take place in session during meetings of the Subsidiary Body on Implementation and of the Conference of the Parties.

5. Where necessary to carry out its mandate and subject to the availability of the necessary resources, regionally balanced ad hoc expert groups may be established to help prepare for the work of the Subsidiary Body on Implementation. The Executive Secretary, in consultation with the Chair of the Subsidiary Body on Implementation and the Bureau of the Conference of the Parties, will select the experts from among the nominations submitted by Parties. The ad hoc expert groups shall normally be composed of no more than fifteen experts nominated by Parties, with due regard to geographical representation, gender balance and to the special conditions of developing countries, in particular the least developed countries, small island developing States, and countries with economies in transition. Where relevant, a limited number of experts from organizations may also be selected.

6. The Subsidiary Body on Implementation may, within the available budgetary resources for matters related to its mandate, make requests to the Executive Secretary and utilize mechanisms under the Convention or its Protocols, as appropriate.

D. Focal points

1. The primary focal point to the Convention will serve as the focal point for the Subsidiary Body on Implementation.

2. In case where the national focal point of the Convention is not directly responsible for national implementation, the preparation of national reports and the revision of national biodiversity strategies and action plans, Parties may designate an expert responsible for these areas as an additional focal point for national implementation.

E. Documentation

1. The documentation for the meetings of the Subsidiary Body on Implementation shall be made available by the Secretariat in the official languages six weeks before the date of opening of the meeting.
2. The documentation should include proposed conclusions and recommendations for consideration by the Subsidiary Body on Implementation.

Appendix

ELEMENTS OF A MECHANISM FOR THE REVIEW OF IMPLEMENTATION

[To be developed on the basis of section III of UNEP/CBD/SBI/1/10/Add.3]

*Annex II***TERMS OF REFERENCE FOR THE SUBSIDIARY BODY ON IMPLEMENTATION**

The terms of reference of SBI, as contained in the annex to decision XII/26, are:

1. Under the guidance of the Conference of the Parties, the Subsidiary Body on Implementation should perform the following functions in order to support the Conference of the Parties in keeping under review the implementation of the Convention pursuant to its Article 23, paragraph 4:

(a) Review relevant information on progress in the implementation of the Convention, including in the provision of support for the implementation of the Convention, as well as of any strategic plans and other relevant decisions adopted by the Conference of the Parties, and on progress in the achievement of targets established under the Convention;

(b) Assist the Conference of the Parties in preparing decisions on enhancing the implementation of the Convention, as appropriate;

(c) Identify, and develop recommendations to overcome, obstacles encountered in implementing the Convention and any strategic plans adopted under it;

(d) Develop recommendations on how to strengthen mechanisms to support implementation of the Convention, and any strategic plans adopted under it;

(e) Review the impacts and effectiveness of existing processes under the Convention and identify ways and means that increase efficiencies, including an integrated approach to the implementation of the Convention and its Protocols, including in areas such as resource mobilization, guidance to the financial mechanism, capacity-building, national reporting, technical and scientific cooperation and the clearing-house mechanism, and communication, education and public awareness;

(f) Perform such other functions as may be determined by the Conference of the Parties.

2. In performing the functions in paragraph 1 above, the Subsidiary Body on Implementation should take into account, as appropriate, the multi-year programme of work for the Conference of the Parties for the period concerned, as well as, where appropriate, input from the Subsidiary Body on Scientific, Technical and Technological Advice;

3. The Subsidiary Body on Implementation and the Subsidiary Body on Scientific, Technical and Technological Advice should carry out their respective functions taking into account their role and functions with a view to ensuring complementarity in their work and avoiding overlap;

4. These terms of reference should apply, *mutatis mutandis*, to the Subsidiary Body on Implementation when serving the Cartagena and the Nagoya Protocols;

5. The Subsidiary Body on Implementation should undertake the functions detailed under paragraph 1 above, at the request of the Conference of the Parties serving as the meetings of the Parties to the respective Protocols in reviewing their respective implementation;

6. When the Subsidiary Body on Implementation addresses matters referred to it by the Conference of the Parties serving as the meeting of the Parties to a Protocol, decisions on these matters will be taken only by Parties to the Protocol. However, Parties to the Convention that are not Parties to the Protocols may participate as observers in the proceedings.
