



CONVENTION ON BIOLOGICAL DIVERSITY

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REVIEW OF PROCESSES UNDER THE CONVENTION: SUMMARY OF PREVIOUS REVIEWS, EXTERNAL REVIEWS AND SUBMISSIONS FROM PARTIES

Note by the Executive Secretary

I. INTRODUCTION

1. This note provides the background information that supports the review of Convention processes (UNEP/CBD/WGRI/1/3). It is divided into four sections. Section II outlines work previously undertaken by the Convention to review its processes. Section III summarizes independent reviews of Convention processes and section IV synthesizes views on the operations of the Convention submitted by Parties and relevant organizations.

II. SUMMARY OF INTERNAL REVIEWS OF CONVENTION PROCESSES

2. Numerous reviews and revisions of Convention bodies and mechanisms have occurred since the Convention's entry into force. The most comprehensive reviews of the operations of the Convention were those undertaken in response to decisions III/22 and IV/16. They led to significant changes in the operations of the Convention (decisions IV/16 V/20) and laid the basis for further, more issue-specific reviews and revisions, which, as the institutional structure of the Convention evolved, focused increasingly on strategic and implementation-related issues. This section summarizes the issues raised through previous reviews. An analysis of how these issues have been addressed and which ones remain to be addressed is provided in the annex hereto.

A. *Participation*

3. Previous reviews recognized limited participation in meetings of the Conference of Parties and its subsidiary bodies—particularly from developing countries and countries with economies in transition—as a major constraint to enhancing transparency, accountability, efficiency and effective decision-making by the Conference of the Parties, strengthening national implementation and promoting cooperation. The reviews identified limited financial resources, language barriers and inadequate preparation for meetings as prohibitive to full and effective participation. They also noted the lack of transparency in meeting proceedings created by the ad hoc use of contact groups and meetings of friends of the chair, usually conducted in English, to resolve outstanding issues prior to plenary.

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B. Scope of the Convention

4. Review processes repeatedly identified the scope of the Convention as one of the Convention's greatest challenges. They noted that the breadth of the scope had led to the elaboration of both thematic issues and issues related to the provisions of the Convention, as well as the proliferation of methodologies for addressing these issues (programmes of work, initiatives, protocols, working groups, and others). Given the limited resources of the Convention, reviews found that the breadth in scope had resulted in an overwhelming workload for the Conference of the Parties, its subsidiary bodies, and the Secretariat. They also noted that the scope of the Convention and the inherently integrative and cross-sectoral nature of biological diversity had led to overlapping activities and initiatives both within the Convention and with other conventions and processes.

C. The Conference of the Parties

5. Previous reviews recognized that preparations for the meetings of the Conference of the Parties, as well as the depth of consideration of issues prior to and during the meetings, had suffered from its heavy workload. Thus, they stressed the importance of prioritization in the work programme of the Conference of the Parties, improving preparations for its meetings and improving the efficiency of its operations. They also noted the overlap, repetition and lack of clarity in decisions as well as the uncertainty about rules and procedures, particularly regarding the periodicity of meetings and the participation of non-governmental organizations, as hindering the efficiency and effectiveness of the Conference of the Parties. Finally, they found that the potential contribution of the ministerial segment to the Convention process and to raising the profile of biodiversity was not being fully realized.

D. Subsidiary Body on Scientific, Technical and Technological Advice

6. Previous reviews of SBSTTA identified the need to improve its scientific and technical input to the Conference of the Parties as one of its key challenges. They identified possible reasons for the absence of high quality scientific advice as SBSTTA's large workload, limited participation, preponderance of political rather than scientific experts and confusion around the role of the Subsidiary Body as a political or a purely scientific body. In addition, they noted that the failure of the Subsidiary Body to draw on existing scientific knowledge in a strategic manner raised issues of transparency.

E. Additional inter-sessional bodies

7. The need to create an additional standing body to address issues outside the mandate of SBSTTA, including implementation, review of implementation and preparations for meetings of the Conference of the Parties, was investigated in previous reviews. The following options for such a body were identified: a subsidiary body on implementation, an executive inter-sessional body and an open-ended working group on implementation. Alternatives to the creation of a new body were also suggested. They included extending the mandate of the bureaux of the Conference of the Parties and SBSTTA, broadening the mandate of the Subsidiary Body on Scientific, Technical and Technological Advice and/or increasing reliance on regional preparatory meetings.

F. Secretariat

8. Reviews of the Secretariat identified its major constraint as its growing workload. They acknowledged the need to enhance the capacity of the Secretariat to enable more effective meeting preparation. They also raised the issue of the Secretariat's role in guiding and interpreting national reports.

G. Financial resources and the financial mechanism

9. There is ongoing recognition of the need for additional financial resources to support the implementation of the Convention. Previous reviews also noted the need for clearer, consolidated guidance from the Conference of the Parties to the financial mechanism to ensure that existing financial

resources effectively support national implementation of the Convention and monitoring of that implementation.

H. Review of implementation

10. Previous reviews acknowledged the difficulty in providing a comprehensive assessment of the impacts and achievements of the Convention due to the absence of a formal mechanism for reviewing implementation and effectiveness in terms of the status and trends of biodiversity, the status of follow-up to decisions of the Conference of the Parties and the status of implementation of the Convention and the Strategic Plan. They also identified the need to improve national reports so that they were more comparable and could be collated to give an indication of overall implementation, were simpler, and better contributed to reviewing implementation of the Convention.

Actions taken to respond to previous reviews

11. Many of the issues raised by previous reviews of Convention processes have been addressed since the first major review took place at the fourth meeting of the Conference of the Parties. These issues are identified in annex I, which also highlights issues or components of issues that have not yet been addressed or given adequate attention.

III. INDEPENDENT REVIEWS OF CONVENTION PROCESSES

12. Although a number of independent reviews of, or commentaries on the Convention on Biological Diversity have been conducted since its entry into force, a survey of the literature suggests that only a few specifically address the Convention bodies and processes (see UNEP/CBD/WGRI/1/INF/3 for a list of references to the Convention). These include, *inter alia*, Philippe Le Prestre's 'Governing Global Biodiversity: The Evolution and Implementation of the Convention on Biological Diversity,' 'Five Years After Rio: Measuring progress in the implementation of the Convention on Biological Diversity' by IUCN, and 'The Convention on Biological Diversity: The Next Phase' by Sam Johnston. Some of the key findings from these reviews are summarized below.

13. The issues identified by independent reviews of the Convention processes are similar to those raised through internal review processes. They include, *inter alia*, the scope of the meetings, the periodicity of meetings, effective use of the ministerial segment, the quality of scientific advice from SBSTTA, the need for an inter-sessional body on implementation, the development of mechanisms for review, the effectiveness of guidance to the financial mechanism and fostering links with civil society and other international agreements, institutions and initiatives.

14. The broad scope of the Convention on Biological Diversity has resulted in the proliferation of programme areas and overburdened meeting agendas, which has challenged the Convention's ability to adequately address issues, as well as the expectations of its various constituencies. It has also led to overlapping frameworks, workloads and institutional arrangements both within the Convention and between conventions and related processes. This highlights the importance of both streamlining Convention processes and developing synergies and partnerships with other conventions, institutions, and initiatives to meet the objectives of the Convention.

15. The Conference of the Parties and other subsidiary bodies would be better able to address their large agendas if several working groups could be held simultaneously; however, resource limitations often prevent developing countries from sending multiple representatives. Thus, additional deliberations are frequently required to address all agenda items. These deliberations have often taken the form of informal consultation processes lacking both transparency in their organization and translation services, thereby making it difficult for all delegates to fully and effectively participate. Participation has repeatedly surfaced as an issue of concern for the Conference of the Parties and its subsidiary bodies. Although having a governing structure that reflects the preeminence of States, yet is accessible to other stakeholders helps to facilitate participation, participation from developing countries still needs to be

improved to ensure ownership of the process, enhance transparency in decision-making and prevent a bias toward the interests of well-funded Parties in the policy debate.

16. The effectiveness of the Conference of the Parties could also be improved if the rules of procedure governing its meetings were finalized, particularly regarding voting and the mechanism for assessing financial contributions, and if the pre-session documents included well-developed recommendations for consideration by Parties. The impact of the Conference of the Parties, and that of the whole Convention, could be increased if the Ministerial Segment were organized in a way that harnessed political support for the process more effectively.

17. Uncertainties exist regarding the roles of the various bodies of the Convention, particularly with regard to SBSTTA, which is mandated to provide scientific advice to the Conference of the Parties, but often acts more like a “mini-COP”. Delegations to the Subsidiary Body often consist of government representatives, very few of whom are technical experts. This politicizes the nature of the debate and impedes in-depth discussion of scientific issues. As a result of this and the size of its workload, the Subsidiary Body has often failed to provide meaningful scientific guidance to the Conference of the Parties. Some authors propose that the Subsidiary Body model itself after the Intergovernmental Panel on Climate Change or act as an advisor, translating scientific knowledge generated by external bodies into potential actions for the Convention. Other options include increasing the role of liaison groups and ad hoc technical expert groups or creating a subsidiary body on implementation to reduce the burden on SBSTTA. While the debate over whether the Subsidiary Body should conduct scientific assessments, interpret assessments for the Conference of the Parties and/or engage in policy discussions is ongoing, there is general agreement that the level of scientific and technical input into the Convention process needs to be increased and the quality improved.

18. Some authors favour the creation of a subsidiary body on implementation as a forum for developing mechanisms to facilitate and review implementation, and to enable SBSTTA to narrow its focus to its scientific mandate. They suggest it would play a role in enhancing transparency and increasing the efficiency of the Convention process. Others consider enhancing existing processes to minimize the cost implications of creating a new subsidiary body.

19. Improving the effectiveness of existing subsidiary bodies could significantly reduce the workload of the Conference of the Parties and the Secretariat. This could be done in part by encouraging Parties to select appropriately qualified delegates for meetings under the Convention and by making full use of the Clearing-house Mechanism for meeting preparations and follow-up.

20. Concern has been raised about the availability of financial and technical resources to implement the Convention, particularly in view of the shift from policy-making to implementation. The current reliance on voluntary contributions to fund meetings and initiatives could potentially skew the implementation of the Convention towards issues considered important by funding Parties, but that may not address the concerns of the majority of Parties.

21. Authors agree that the Secretariat’s effectiveness is often hampered by its workload, which could be improved if Parties and subsidiary bodies to the Convention were more proactive or more resources were allocated to the Secretariat. They highlight the hidden costs of developing and maintaining relationships with other institutions and processes, and raise the issue of the role of the Secretariat in facilitating implementation of the Convention. They note that while the Secretariat is well positioned to provide technical support to Parties, some Parties may have concerns about conceding responsibility to the Secretariat. Furthermore, Parties may question the impartiality of the Secretariat, as several staff members are on secondment from or funded by national administrations or international organizations. They identify building trusting relationships with Parties as one of the key challenges of the Executive Secretary.

22. Most authors indicate that the development of the Strategic Plan has offered great potential for overcoming many of the challenges facing the Convention by:

- (a) Identifying priorities;
- (b) Streamlining the work of the various bodies of the Convention;
- (c) Enhancing cross-sectoral integration;
- (d) Developing mechanisms for implementation;
- (e) Developing mechanisms for the review of implementation; and
- (f) Promoting cooperation with other international agreements and organizations.

IV. VIEWS OF PARTIES AND RELEVANT ORGANIZATIONS ON THE IMPACTS AND EFFECTIVENESS OF CONVENTION PROCESSES

23. A number of the issues raised by Parties in their submissions on issues to be addressed by the Ad Hoc Open-ended Working Group on Review of Implementation were linked to those identified by previous and independent reviews of the Convention. A summary of the issues raised in submissions relevant to this note, including submissions on the prioritization of agenda items of the Convention on Biological Diversity for budgetary purposes and the Operational Plan of SBSTTA, is provided below. Views that relate to cooperation and to national reporting are summarized in the relevant notes by the Executive Secretary (UNEP/CBD/WGRI/1/7) and (UNEP/CBD/WGRI/1/10). The full submissions are available in as information document (UNEP/CBD/WGRI/1/INF/2).

A. Conference of the Parties

24. As the Convention moves into its implementation phase, it will focus primarily on implementing existing obligations under the Convention and avoid developing new programmes of work. Thus, some Parties proposed that the Conference of the Parties reviews progress in implementation at each meeting and limit itself to taking only decisions that facilitate implementation or on priority issues that require additional concrete action. They also suggested that the meeting periodicity of the Conference of the Parties be changed to three years instead of two, to give Parties sufficient time to implement the decisions of the Conference of the Parties.

25. With regard to prioritizing the agenda items of the Conference of the Parties for the purpose of guiding budgetary allocations, Parties suggested that each draft decision be accompanied by a statement of its cost implications based on notional costs. They recommended that such costs be reviewed and revised during discussions on substantive issues and that a notional core budget be developed by the budget group. Some Parties supported the establishment of a working group to review the notional budget and make recommendations as to whether proposed inter-sessional activities should be funded from the core budget or the Voluntary Fund. One group of Parties, however, suggested that such recommendations be made by the plenary. Parties agreed that recommendations would be used to guide further substantive and budgetary negotiations in working groups, but that the plenary of the Conference of the Parties would make the final decision on budgetary allocations.

26. Parties suggested that to improve the transparency of decision-making by the Conference of the Parties and enhance ownership of decisions by Parties, more time should be given for informal caucusing amongst and between United Nations groups and subgroups, particularly in the development of the text of draft decisions. Parties also recommended that agreement be reached on rule 40 of the rules of procedure regarding voting on substantive issues. Another Party felt that given the influential role of the President of the Bureau, rule 21 should be revised such that Bureau presidents are elected from amongst the regional representatives to the Bureau.

27. Several Parties emphasized the importance of improving ministerial segments at the Conference of the Parties, noting that at present, they are expensive, do not always reflect the themes being discussed by the Conference of the Parties and often result in ministerial declarations that are not followed up.

B. Subsidiary Body on Scientific, Technical and Technological Advice

28. A number of Parties considered that SBSTTA should deal only with scientific and technical issues and leave addressing political issues to the Conference of the Parties or an additional subsidiary body. One Party suggested that the Secretariat assist SBSTTA to maintain its scientific and technical focus by ensuring that meeting documents are as scientific and technical as possible and free of political considerations. Another Party suggested that less time in SBSTTA meetings be devoted to general opening statements and expressions of gratitude in order to save time for substantive discussion.

29. One Party stated that SBSTTA should no longer elaborate programmes of work and that it should go beyond assessing the status and trends of biodiversity to instead look for solutions and develop tools to assist Parties to implement their commitments.

30. Some Parties, while recognizing the value of ad hoc technical expert groups (AHTEGs), agreed that these should be limited in number and that their mandate, duration of operation and obligations to SBSTTA and Conferences of the Parties should be more clearly stated. Many Parties agreed that AHTEGs should be established to provide scientific and technical analyses of specific issues rather than broader policy solutions on comprehensive subjects. One Party suggested that to facilitate participation of experts appointed by Parties, AHTEGs could be shorter in length and, where topics were related, convened back-to-back over the course of one or two weeks or back-to-back, but not parallel, to SBSTTA meetings. It also recommended exploring innovative means of communication in order to minimize the need for face-to-face meetings as a means of facilitating participation and reducing costs. In addition, it supported limiting participation in AHTEGs, taking into account geographical representation and other considerations, but proposed allowing observers to accompany experts to meetings.

31. Several Parties questioned the utility of rosters of experts, stating that they were difficult to maintain and, consequently, often out of date. They recommended that instead of using rosters of experts, the Secretariat should continue its practice of calling for experts on an ad hoc basis. One Party, however, suggested that the rosters of experts be developed into networks of relevant scientific and technical organizations and national and thematic focal points.

32. One Party stated that while it supported the peer-review of scientific and technical reports, it believed that papers with direct relevance to government policy should, in the first instance, be reviewed by affected national governments and that comments from non-governmental organizations should not be conveyed directly to the Secretariat for integration into meeting documents and draft recommendations.

33. With regard to the Operational Plan of SBSTTA, one group of Parties suggested redrafting the mission and outcomes (sections B and C) to more accurately reflect SBSTTA's mandate as defined in Article 25 of the Convention, as well as its more recent focus on achieving the goals and targets of the Strategic Plan. It also noted that many of the strategic ways and means of achieving outcomes (section D) where either self-evident or could be undertaken by the Executive Secretary in response to a decision from the Conference of the Parties.

34. In addition, one organization felt that the guidelines for scientific assessments conducted for SBSTTA were particularly useful in terms of strengthening the scientific and technical component of the work of the Convention. It suggested emphasizing, in the Operational Plan, the need for SBSTTA delegates to have scientific and technical expertise and to be well prepared on thematic issues in order to strengthen scientific and technical debate in SBSTTA. It also recommended encouraging SBSTTA to develop cooperative relationships with scientific organizations and biodiversity-related processes in addition to biodiversity-related conventions.

35. Finally, some Parties noted the recommendation of the International Conference "Biodiversity: Science and Governance" in Paris, January 2005 to launch "an international multi-stakeholder consultative process guided by a balanced multi-stakeholder steering committee to assess the need for an international mechanism which would provide a critical assessment of the scientific information and policy options required for decision-making". They suggested that the Secretariat, and the Convention

more broadly, engage in this process and determine how such a mechanism would complement the SBSTTA process.

C. Additional bodies

36. One Party proposed establishing a standing body to address issues of implementation and issues that are political in nature.

D. Secretariat

37. Parties suggested that the Secretariat circulate documents for comment by Parties well in advance of meetings to enable Parties to input into documents and ensure that their views are adequately reflected. One Party recommended that the Secretariat take care to avoid redundancy and to accurately reflect decisions, recommendations and discussions coming out of meetings of the Conference of the Parties and SBSTTA in documents.

38. Some Parties recommended optimizing the Secretariat's functioning in terms of the preparation and follow-up of meetings, including streamlining the flow of information to, and requests from, focal points, as well as in terms of assisting Parties to meet their commitments under the Convention. One submission suggested that the Secretariat allocate contact people to specific regions to facilitate communication and enable Parties to more easily solicit advice from the Secretariat.

E. National focal points

39. Submissions on national focal points were quite varied. One Party noted that focal points were often not the actual people responsible for implementing the Convention and that as a result, effective implementation at the national level, communication with the Secretariat and cooperation with other Parties were often inhibited. Another Party suggested that, where possible, the Conference of the Parties and SBSTTA focal points should be the same, while a third submission recommended the use of multi-stakeholder national committees to assist national focal points in coordinating the implementation of the Convention.

40. One group of Parties suggested that the Working Group should address how to bring together national representatives to the Convention on Biological Diversity, whose work often tends to be associated primarily with multilateral processes, with those who are primarily responsible for domestic biodiversity management. They also suggested that, at the request of Parties, support might be provided to identify ways and means of improving the capacity of national focal points to: prepare for and follow-up on meetings of the Convention; promote implementation and sectoral integration at the national level; promote communication and awareness of biodiversity issues; improve liaison between the global, regional and national levels; improve coordination among national focal points of different Parties at the regional level; and, improve liaison with focal points for other international instruments, organizations and processes.

F. Review of implementation

41. Some Parties suggested that the proposal for an ad hoc high level advisory group of around 20 experts to analyse and assess the existing processes under the Convention and propose improvements be reconsidered. They noted that innovative ideas for improvement could be more effectively discussed by a smaller group of high level experts.

*Annex I***IMPLEMENTATION OF RECOMMENDATIONS OF PREVIOUS INTERNAL REVIEWS OF THE CONVENTION**

Issue	Actions implemented in response to recommendations	Issues not yet fully addressed
Broad Scope	<ul style="list-style-type: none"> • Strategic Plan adopted (VI/26) • Longer-term programme of work adopted (VII/31) • Joint Liaison Group of the three Rio conventions and Liaison Group of the Biodiversity-related Conventions established. Joint calendar available (VI/20). Memorandums of Cooperation with other conventions signed and cooperation with relevant bodies and processes undertaken (decisions VI/20 & VII/26) • Measures taken to enhance preparations for and the efficiency of COP and its subsidiary bodies (see COP and SBSTTA sections of this table) 	<ul style="list-style-type: none"> • Criteria for the use of each mechanism for addressing issues under the Convention • Collaboration with other conventions, organizations and initiatives (VII/26) • Engagement of stakeholders, including the private sector (VI/26) • Priority-setting (VII/31)
Participation	<ul style="list-style-type: none"> • Notification system enhanced (V/20) • COP and SBSTTA meetings conducted in the six official UN languages (IV/16) • Participation of non-governmental organizations at SBSTTA clarified (VI/16) • COP Bureau allowed to authorize the Executive Secretary to transfer excess funds from the core budget to the voluntary trust funds (VI/29) • NGO Liaison identified within the Secretariat (VI/27) • Agendas and documents circulated six months prior to meetings of the Conference of the Parties (IV/16) • Longer-term programme of work adopted (VII/31) 	<ul style="list-style-type: none"> • Use of core funds to support participation in meetings of the Convention • Funding of at least two delegates from developing countries (VI/27) • Lack of financial resources • Overcoming language barriers (IV/16 & VI/27) • Facilitating participation of small delegations (VI/27) • Facilitating participation of representatives from non-governmental organizations from developing countries (VI/27)
Conference of the Parties	<ul style="list-style-type: none"> • Handbook developed (IV/16) • Principal documentation, including agendas distinguishing between items for information and for discussion, and noting the actors involved in, and fora and time frames for discussion circulated six months prior to meetings of the Conference of the Parties (IV/16) • Pre-session documents including elements of draft decisions circulated no later than three months prior to meetings and draft decisions from Parties circulated at least three weeks before meetings (IV/16) • Composition of Bureau and terms of office of its members revised (V/20) • SBSTTA clarifies whether recommendations to COP are for noting, consideration or approval (IV/16) • Decisions indicate actors involved and reporting processes V/20) 	<ul style="list-style-type: none"> • Periodicity of meetings (V/20) • Standardization of, and guidelines for contact groups • Elected representatives more engaged in debate around biodiversity issues • Brief review of meetings directly following each one or at the subsequent Bureau meeting • Prioritisation for purposes of budgetary allocations (VII/33)

	<ul style="list-style-type: none"> • Rules of procedure further clarified (V/20) • Longer-term programme of work adopted (VII/31) • Status of decisions reviewed and phased approach to consolidation of decisions adopted (VI/27 & VII/33) 	
Subsidiary Body on Scientific, Technical and Technological Advice	<ul style="list-style-type: none"> • COP clarifies whether it expects information for noting, recommendations for approval or advice for decision-making (IV/16) • Agendas more structured and prioritised (IV/16) • Terms of reference for ad hoc technical expert groups and rosters of experts created (IV/16) • Establishment of ad hoc technical expert groups by the Subsidiary Body allowed (V/20) • Increased use of ad hoc technical expert groups and rosters of experts • Pilot scientific assessments initiated (V/20), guidelines for conducting scientific assessments developed and a list of current and potential assessments compiled (recommendation X/2) • Use of expert groups, consultation and peer review increased (VI/27) • Chair participation in other technical bodies and processes funded (VI/29) • Longer-term programme of work adopted (VII/31) 	<ul style="list-style-type: none"> • Clarifying the role of SBSTTA • Criteria for the use of various mechanisms to address issues (working groups, expert groups, programmes of work, initiatives etc.) • Developing mechanisms to assess the quality of rosters of experts • Increased capacity of the Bureau • Reliance on regional representation (VI/27) • Action-oriented draft decisions
Inter-Sessional Body on Implementation	<ul style="list-style-type: none"> • Incremental approach to changing the Convention processes adopted • Clear mandates for inter-sessional meetings (IV/16, V/20, VI/26 & VII/30) 	<ul style="list-style-type: none"> • Support for and reliance on regional, networks, initiatives and preparatory processes (VI/27 & VII/33)
Financial Resources and the Financial Mechanism	<ul style="list-style-type: none"> • Guidance to the financial mechanism incorporated into one decision per COP meeting (V/20) • Guide to Sources of International Assistance to Biological Diversity compiled and Interactive Info-bulletin on Financing for Biological Diversity created (VI/17) 	<ul style="list-style-type: none"> • Sourcing of additional financial resources (VII/21)
Mechanism for Reviewing Implementation	<ul style="list-style-type: none"> • Framework for review of progress towards the 2010 target developed (VII/30) • Review of progress towards the implementation of the Convention, including of Convention processes, at every COP until 2010 (VII/31) Revision of national reporting guidelines (V/19 & VII/25) 	<ul style="list-style-type: none"> • Enhancing the comparability and usefulness of national reports (VII/30) • Mechanism for reviewing effectiveness of Convention processes, possibly including process-oriented targets and indicators • Implementation of decisions tracked
