

Republic of Honduras

Submission of views on cooperative procedures and institutional mechanisms to promote compliance with the Protocol and to address cases of non-compliance

Reply to letter 135-2011 from the Convention on Biological Diversity, received by the Office of Biodiversity of the Ministry of Natural Resources and Environment in Tegucigalpa, on 22 July 2011.

Background: At its first meeting, the Open-ended Ad Hoc Intergovernmental Committee for the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ICNP-1)

Invite[d] Parties, other Governments, international organizations, indigenous and local communities and relevant stakeholders to communicate to the Executive Secretary by 1 September 2011 their views on elements and options for cooperative procedures and institutional mechanisms to promote compliance with the Protocol and to address cases of non-compliance under Article 30 of the Nagoya Protocol, taking into account the experience and lessons learned from other relevant multilateral agreements.

This information would be reviewed by an expert committee and submitted to the second Conference of the Parties for consideration.

Views and recommendations:

Cooperative procedures: Cooperation could begin at the local level (communities, ethnic groups and local governments), national level (research institutes, academia, legislatures, Government), regional level (groups of countries such as the Central American Integration System (SICA) and the Organization of American States (OAS)) and global level (international cooperation, international consultancy firms, universities, research centres, international organizations such as the Food and Agriculture Organization of the United Nations (FAO), the United Nations and special funds created to support the implementation of the Protocol).

Cooperation, including technical and financial support, could be channelled North-South, South-South or East-West.

Technical cooperation

- With regard to technical cooperation, certain topics deserve support because of the importance attributed to them in the Protocol; these include: information generation and access, research, documentation, regulatory framework, participatory methodology (to promote the involvement of the population) and education. The suggested strategy is to use existing mechanisms that can be optimized, expanded, updated and consolidated. In the case of new topics such as bioprospecting, biosciences and regulatory frameworks, both national and international, cooperation is required in order to support research and information generation. Honduras, as a developing country, needs international cooperation in all these areas.

- Generate and provide access to information: Honduras has had previous experience in this type of initiative, which should be appropriately followed up. For example, the information platform of the Biodiversity Monitoring and Evaluation Programme (PROMEBIO) will provide countries with access to information on plant and animal species and specimens in the Central American region. Countries will also gain access to methodologies for monitoring nine biodiversity indicators of the future impact of interventions concerning the conservation and use of resources. Support is needed in order to pursue this initiative and build country capacities in the use of such tools, which Honduras is willing to share with other countries (see www.promebio.irbiocad.org).
- Support the building of local scientific capacities to promote the sustainability of the relevant processes and compliance with agreements. This will require a conscious effort to involve local consultancy firms, universities, community groups and local governments in finding ways of monitoring and evaluating biodiversity and its applicability to the development of products that promote human well-being.
- Develop a mechanism for implementing, in a collective or holistic way, all the agreements that have been signed, in which compliance with one is linked to compliance with the others. All the agreements and protocols have a common denominator – human beings and natural resources – which means there is a great deal of interaction among the objectives.
- Use a participatory methodology to promote the involvement of the population, seeking internal country synergies to bring about an understanding and awareness of the Protocol and respect for compliance with it, based on mutual benefits for all stakeholders. It is especially important to involve decision makers, from the President of the Republic down to local authorities, including all intermediate positions.

Financial cooperation

Regional cooperation

- It is recommended that countries be notified of opportunities for financing and of mechanisms to provide timely access to such financing, using the Clearing-House Mechanism of the Protocol and direct communications with the Parties' lists of contacts.
- Honduras is participating in the joint preparation, together with the other Central American countries, of a proposal through the Regional Biodiversity Institute (IRBIO), an organ of the Central American Commission for Environment and Development. The purpose of this proposal is to support the countries of the region in implementing the Protocol, in order to ensure the fair, equitable and sustainable use of biodiversity, especially genetic resources native to the countries of the region and the associated traditional knowledge of indigenous peoples and local communities, with a view to bolstering compliance with the Protocol.

Global cooperation

- It is recommended that the Nagoya Protocol Implementation Fund, which will receive donations from countries and international organizations to support the developing countries in implementing the Protocol, become fully operational. The mechanism for gaining access to these funds should be widely publicized.
- With regard to payments for environmental services under the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (UN-REDD), it is recommended that a mechanism be created to enable a portion of the country's revenues from this programme to be used to support the implementation of the Protocol, especially the sharing of benefits with the local communities where the forests, protected areas, buffer zones, co-managers and producers are located, so as to provide an incentive to prevent deforestation and soil degradation and promote activities aimed at conserving biodiversity, such as the growing of organic crops or the use of native species.

Institutional mechanisms to promote compliance with the Protocol

- Regulatory framework. Strengthen the Honduran Office of Biodiversity to enable it to respond in a timely and technical manner to the requirements of the Protocol and successful compliance with it for the benefit of the country, especially in relation to regulations and monitoring of enforcement of environmental legislation. The Office of Biodiversity will work with the various indigenous communities and the offices in charge of copyrights and intellectual property in order to develop the legal framework applicable to genetic resources and traditional and local knowledge.
- Strengthen the National Institute for Forest Conservation and Development of Protected Areas and Wildlife (ICF) as the official executing and technical agency in the field, with trained staff equipped to monitor ecosystems and ensure the proper management of natural resources and the involvement of the population.
- Draw up agreements with the countries that use genetic resources, which would be incorporated into the general legislation and relevant regulations of the country of origin and into international agreements, but which would assign added value to the resource, for which the user would compensate the provider or country of origin. Such agreements should specify the percentage of the benefit and in what form the country would receive it, and how this benefit would be shared with or transferred to the community or area of origin of the required resource, in order to make a contribution to the local economy that would be reflected in the preservation and improvement of the living conditions of the population.

Mechanisms to address non-compliance with the Protocol

Honduras believes it is preferable to seek measures or mechanisms to prevent non-compliance, by reinforcing the relevant national and international regulatory and normative frameworks and supporting knowledge and technology that would help deter non-compliance.

- It is recommended that an international mechanism be developed and defined to register intellectual property relating especially to biodiversity, which would record not only the resources and processes involved but also local knowledge about the use of these resources. It could constitute a section of the World Trade Organization regulations. The progress made by international organizations on this topic should be reviewed. See <http://www.eclac.org/dmaah/noticias/paginas/6/28386/cabrera.pdf>
- Arbitration: It is important to set up an international legal body in which bilateral or multilateral agreements between countries would be registered, as an international legal support for compliance with these agreements under the Protocol. This body could serve as an arbitrator in cases of disputes.
- With regard to sanctions for non-compliance, each case should be submitted to an honour court or arbitral tribunal under the Convention on Biological Diversity, which would judge the case impartially and, after hearing the arguments of the Parties, come to a decision and determine the appropriate sanctions.
- A financial compensation procedure should be developed, in cases where an international organization or institution acts without going through the relevant national approval procedures.