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COMPLIANCE COMMITTEE UNDER THE NAGOYA PROTOCOL

Third meeting

Online, 21-23 April 2020

Item 4 of the provisional agenda *

REVIEW OF GENERAL ISSUES OF COMPLIANCE

Note by the Executive Secretary

INTRODUCTION

1. In accordance with section D, paragraph 10, of the compliance procedures and mechanisms (decision [NP-1/4](#), annex), the Committee may examine systemic issues of general non-compliance that come to its attention.
2. At its last meeting, the Committee was provided by the Secretariat with information on the rate of submission of interim national reports as required under Article 29 of the Nagoya Protocol and further to decision [NP-1/3](#) of the first meeting of the Parties. The Committee requested the Executive Secretary to send letters to those Parties that had not yet submitted their reports urging them to do so as soon as possible and inviting them to provide information on challenges they had faced in completing and submitting such reports. The Committee requested the Executive Secretary to submit the results of those communications to it at its third meeting.
3. The meeting of the Parties to the Protocol, in decision [NP-3/15](#) on the preparation for the follow-up to the Strategic Plan for Biodiversity 2011-2020, requested that the Compliance Committee at its next meeting consider how to support and promote compliance with the Nagoya Protocol within the post-2020 global biodiversity framework (para. 5).
4. Accordingly, the present document contains, in section I, information on the status of submission of the interim national reports. Section II reviews general issues of compliance; section III highlights the request made to the Committee to consider how to support and promote compliance with the Nagoya Protocol within the post-2020 global biodiversity framework, and section IV presents some elements of suggestions for consideration by the Committee.

I. STATUS OF SUBMISSION OF INTERIM NATIONAL REPORTS (ARTICLE 29)

5. Article 29 of the Protocol requires Parties to monitor the implementation of their obligations under this Protocol and to report to the Conference of the Parties serving as the meeting of the Parties to the Protocol on measures that it has taken to implement the Protocol.
6. In decision [NP-1/3](#), the Parties to the Protocol, agreed on the format and guidelines for submission of an interim national report on the implementation of the Nagoya Protocol and requested Parties to the Protocol to submit the report 12 months prior to the third meeting of the Parties to the Protocol. The Parties also welcomed submissions of relevant information by non-Parties. Interim national reports were due to be submitted by 1 November 2017.

* [CBD/NP/CC/3/1](#).

7. A total of 100 Parties to the Convention were Parties to the Nagoya Protocol by the reporting deadline of 1 November 2017. An additional five Parties to the Convention had ratified the Protocol but were not Parties to the Protocol by 1 November 2017 and therefore did not have the obligation to submit the interim national report.

8. In accordance with the request by the Committee, the Executive Secretary sent letters to 26 Parties¹ to the Protocol that had the obligation to submit the interim national report but had not done so by June 2018. Eight Parties² responded to the letter. Most responses identified the late receipt of funds as the reason for the delay in finalizing their interim national report. In some cases, delays in convening stakeholder consultations and/or in hiring consultants were indicated as additional reasons for not submitting the reports. One developing country Party indicated that its country was not included in the list of Parties to receive funds from the Global Environmental Facility.

9. As of 5 March 2020, 91³ Parties to the Nagoya Protocol with the obligation to submit a national report had submitted. This represents a rate of submission of 91 per cent.⁴ In addition, eight countries which were non-Parties to the Protocol by 1 November 2017 have also submitted interim national reports.⁵

10. All interim national reports received are available online on the Access and Benefit-sharing Clearing-House at the following link: <https://absch.cbd.int/reports>, with the exception of one⁶ report that was submitted offline.

II. GENERAL ISSUES OF COMPLIANCE

11. In order to make the Protocol operational, Parties need, as first step, to put the necessary access and benefit-sharing legislative, administrative and policy measures in place, and to establish institutional arrangements to implement them (i.e. a national focal point, one or more competent national authorities and one or more checkpoints). The publication of mandatory information in the Access and Benefit-sharing Clearing-House (including information on the permits or their equivalent issued at the time of access) is also essential for the implementation of the Protocol. Promoting compliance with these core elements is key for the operationalization of the Protocol, and, therefore, it is proposed that these elements be further examined by the Committee as possible general issues of compliance. In that context, the Secretariat has compiled the data below from the information that is available in the Access and Benefit-sharing Clearing-House covering 123 Parties to the Convention on Biological Diversity that were Parties to the Protocol by 4 March 2020, and information received through the interim national reports.

12. The aggregated data below, provided to facilitate the consideration of general issues of compliance, may need to be considered within the broader context of general challenges that a number of Parties are facing in implementing the Protocol and taking into account the fact that many Parties are at

¹ Angola, Bolivia (Plurinational State of), Cambodia, Djibouti, Egypt, Fiji, Gabon, Guatemala, Guyana, Jordan, Lesotho, Luxembourg, Marshall Islands, Mauritius, Micronesia (Federated States of), Mozambique, Myanmar, Namibia, Republic of Korea, Samoa, Sierra Leone, Syrian Arab Republic, Tajikistan, United Arab Emirates, Vanuatu, Zambia.

² Angola, Cambodia, Egypt, Gabon, Guatemala, Namibia, Samoa, and Syrian Arab Republic.

³ Albania, Angola, Antigua and Barbuda, Argentina, Belarus, Belgium, Benin, Bhutan, Botswana, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, China, Comoros, Congo, Côte d'Ivoire, Croatia, Cuba, Czechia, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Egypt, Eswatini, Ethiopia, European Union, Fiji, Finland, France, Gabon, Gambia, Germany, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Hungary, India, Indonesia, Japan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lesotho, Liberia, Madagascar, Malawi, Mali, Malta, Mauritania, Mexico, Mongolia, Mozambique, Myanmar, Namibia, Netherlands, Niger, Norway, Pakistan, Panama, Peru, Philippines, Portugal, Qatar, Republic of Korea, Republic of Moldova, Rwanda, Samoa, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Slovakia, South Africa, Spain, Sudan, Sweden, Switzerland, Tajikistan, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland, Uruguay, Viet Nam, Zambia.

⁴ The following Parties have not submitted their interim national report: Jordan, Luxembourg, Marshall Islands, Mauritius, Micronesia (Federated States of), Syrian Arab Republic, United Arab Emirates, Vanuatu.

⁵ Austria, Barbados, Estonia, Morocco, Nigeria, Poland, Venezuela (Bolivarian Republic of), Saint Kitts and Nevis.

⁶ Fiji.

early stages in the implementation of the Protocol as highlighted by the key findings of the first assessment and review of the effectiveness of the Protocol.⁷

13. As already indicated, the data or the synthesis below takes into account information provided in the interim national reports and the Access and Benefit-sharing Clearing-House. For those Parties that did not submit an interim national report, relevant information provided through the national biodiversity strategies and action plans (NBSAPs) and the fifth national reports on the implementation of the Convention has been considered. Any relevant information that was made available through the sixth national reports, was also considered.

A. Legislative, administrative or policy measures on access and benefit-sharing

14. A number of provisions of the Protocol require Parties to adopt legislative, administrative or policy measures on ABS.

15. According to the information that is available, as of 4 March 2020, 95 Parties (77 per cent) had published measures in the Access and Benefit-sharing Clearing-House or reported, in their interim national report, NBSAP or the fifth/sixth national reports, having some ABS measures established. This represents a substantial increase since February 2018, when 62 per cent of Parties had some ABS measures in place.

16. The ABS measures reported vary in the degree of specificity and comprehensiveness and a large part of these measures were apparently adopted prior to the adoption of the Nagoya Protocol. Some Parties reported having general legislation which relates to ABS (for example, general environmental legislation, or measures dealing with animal husbandry, forests), while others have adopted specific ABS measures to implement the Protocol. Out of the 95 Parties, 59 indicated that they were currently revising existing ABS measures or developing new ones to implement the Protocol, and 16 Parties were planning to develop additional ABS measures.

17. A total of 28 Parties reported not having ABS measures in place and did not have measures published in the ABS Clearing-House. However, the latest information shows that 16 of these Parties are currently developing measures, and 7 Parties are planning to develop ABS measures.

⁷ Decision NP-3/1, annex I.

Figure 1. Status of progress by Parties that have ABS measures in place (as of 4 March 2020)

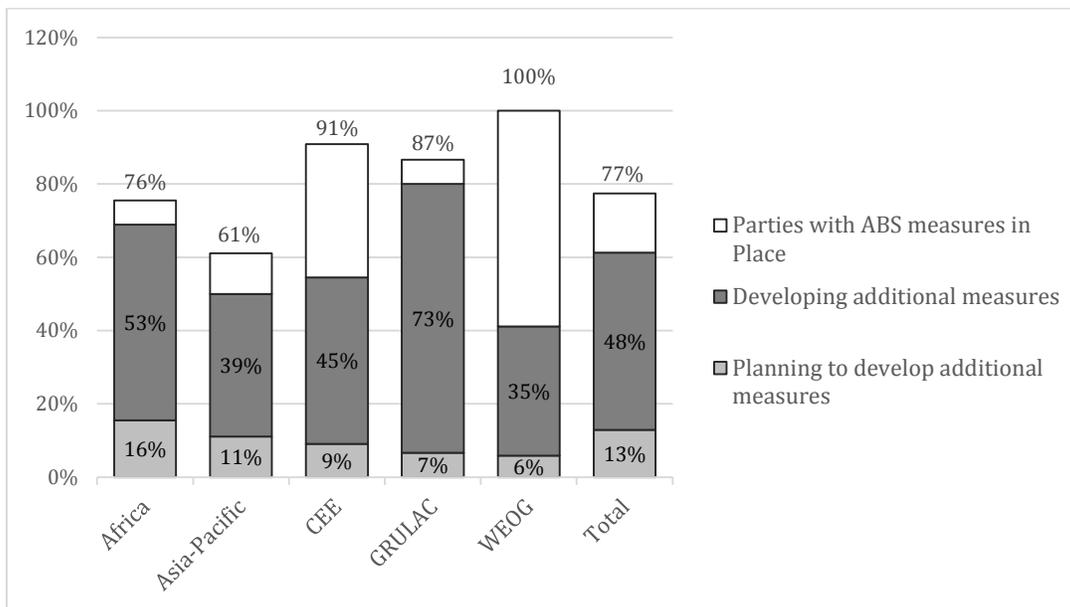
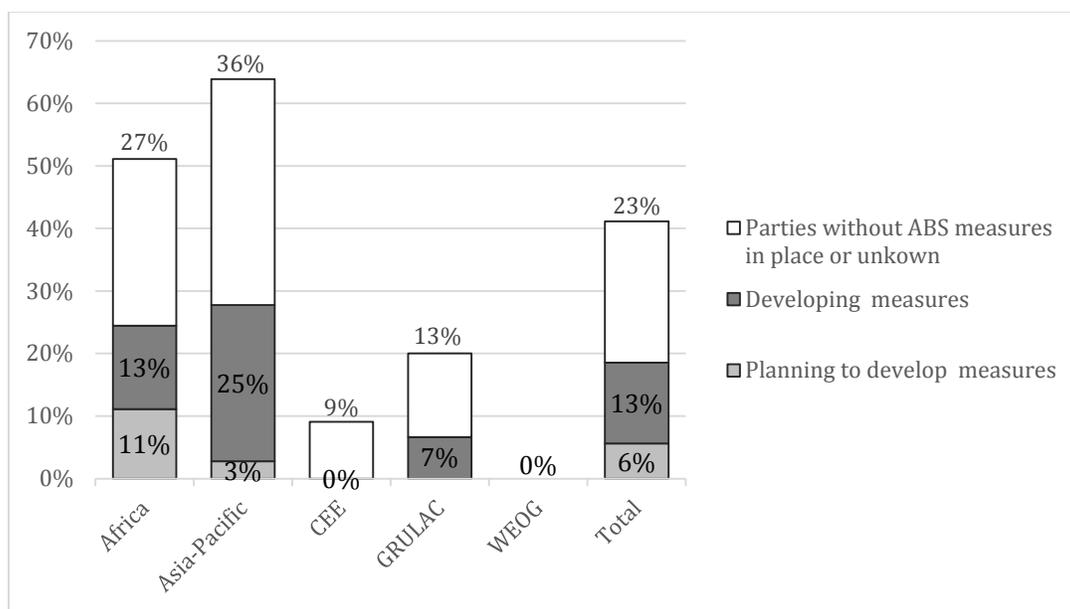


Figure 2. Status of progress by Parties that do not have ABS measures in place (as of 4 March 2020)



B. Institutional arrangements

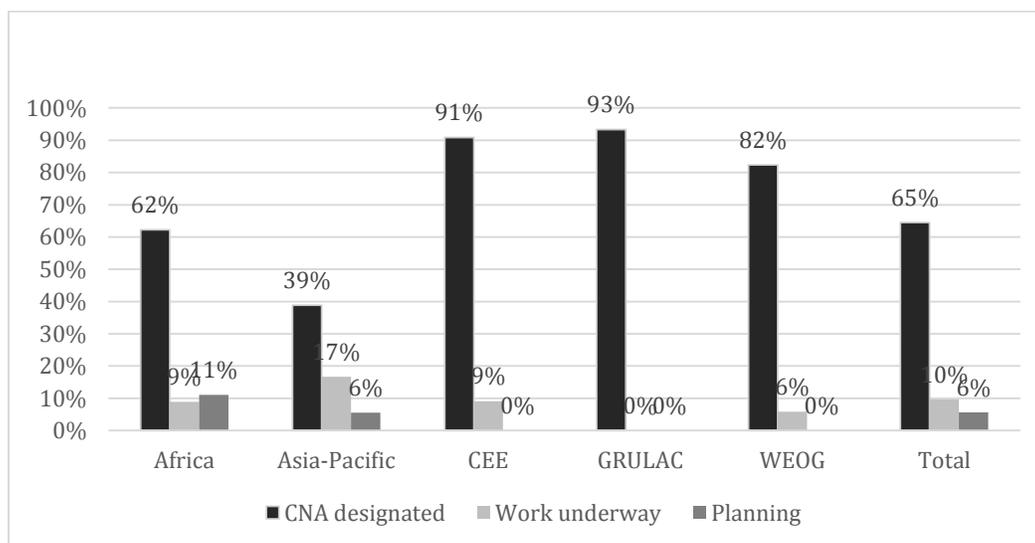
18. Article 13 of the Protocol requires Parties to designate a national focal point on ABS (para. 1) and one or more competent national authorities (para. 2). In addition, Article 17 requires Parties to take measures to support compliance, including through the designation of one or more checkpoints (para. 1). Generally, Parties are making good progress in fulfilling these requirements.

19. *National focal points.* As of 4 March 2020, a total of 120 Parties to the Protocol (98 per cent) have designated a national focal point for ABS. Given the key role national focal points are expected to play as specified under Article 13, paragraph 1, of the Protocol, this figure represents good progress and a high rate of implementation of one of the requirements related to institutional arrangements.

20. *Competent national authorities.* As of 4 March 2020, a total of 80 Parties (65 per cent) had designated one or more competent national authorities, according to information that was made available in the interim national reports, the ABS Clearing-House, the NBSAP or fifth/sixth national reports. In addition, 12 Parties reported on internal work under way towards the designation of one or more competent national authorities, and another 7 Parties indicated that they were planning to do so. This represents a substantial increase since February 2018, when 54 per cent of Parties had designated one or more competent national authorities.

21. Finally, 24 Parties did not report on progress towards designating one or more competent national authorities, and therefore there is no information available for these Parties.

Figure 3. Status of progress in the designation of one or more competent national authorities (as of 4 March 2020)

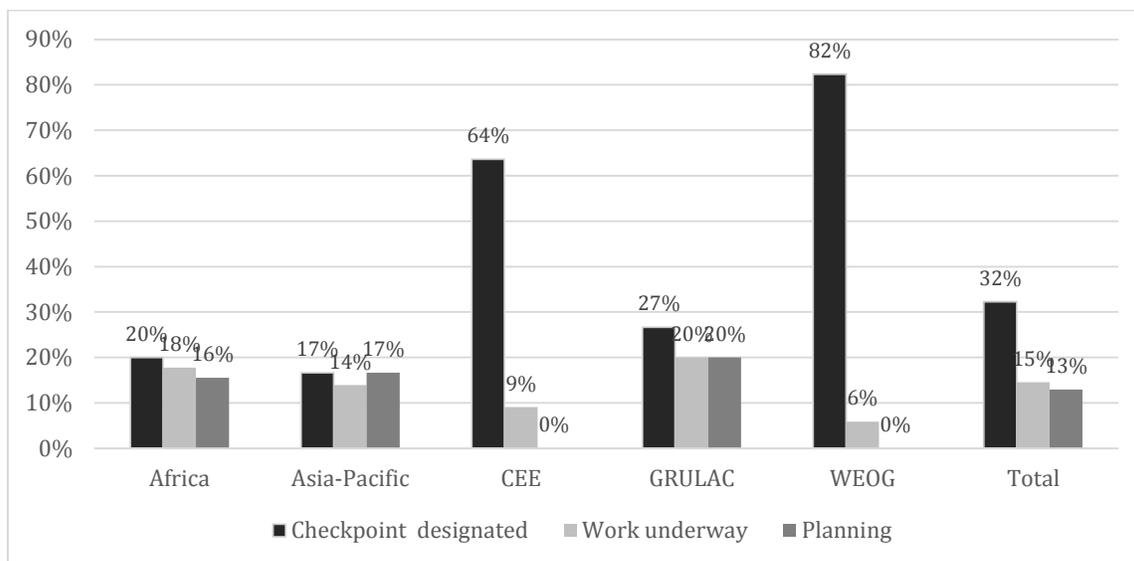


22. *Checkpoints.* As of 4 March 2020, a total of 40⁸ Parties had designated one or more checkpoints (32 per cent), according to information that was made available in the interim national reports, the Access and Benefit-sharing Clearing-House, the NBSAP or the sixth national reports. In addition, 18 Parties reported on their internal work that was underway to designate one or more checkpoints, and 16 Parties indicated that they were planning to do so. This represents an increase since February 2018, where 27 per cent of Parties had designated one or more checkpoints.

23. Finally, 49 Parties did not report on progress towards designating one or more checkpoints, and, therefore, no information is available for these Parties.

⁸ Austria, Belarus, Belgium, Bhutan, Bulgaria, Croatia, Cuba, Czechia, Denmark, Djibouti, Dominican Republic, Estonia, Eswatini, European Union, Finland, France, Germany, Hungary, Indonesia, Japan, Kenya, Lesotho, Malta, Mauritania, Netherlands, Peru, Portugal, Qatar, Republic of Korea, Rwanda, Sierra Leone, Slovakia, South Africa, Spain, Sweden, Switzerland, United Kingdom, Uruguay, Viet Nam, Zambia.

Figure 4. Status of progress in the designation of one or more checkpoints (as of 4 March 2020)



C. Publication of information in the Access and Benefit-sharing Clearing-House

24. Article 14 of the Protocol requires Parties to make available to the Access and Benefit-sharing Clearing-House the following information: (a) legislative, administrative and policy measures on access and benefit-sharing; (b) information on national focal point and competent national authority or authorities; and (c) permits or their equivalent issued at the time of access as evidence of the decision to grant prior informed consent and of the establishment of mutually agreed terms.

25. For the purpose of assessing the status of progress in publishing information in the Access and Benefit-sharing Clearing-House, the information on the national focal point has not been included in the analysis, as this information is not made available by Parties through the Access and Benefit-sharing Clearing-House but through official letters to the Secretariat. However, the publication of information on checkpoints has been considered, as this is one of the key measures required by the Protocol in order to monitor and enhance transparency about the utilization of genetic resources and thereby operationalizing the Protocol.

26. The following table summarizes the information made available to the Access and Benefit-sharing Clearing-House by Parties as of 4 March 2020.

Table 1. Number of national records made available in the ABS Clearing-House (comparison as of 4 March 2020)

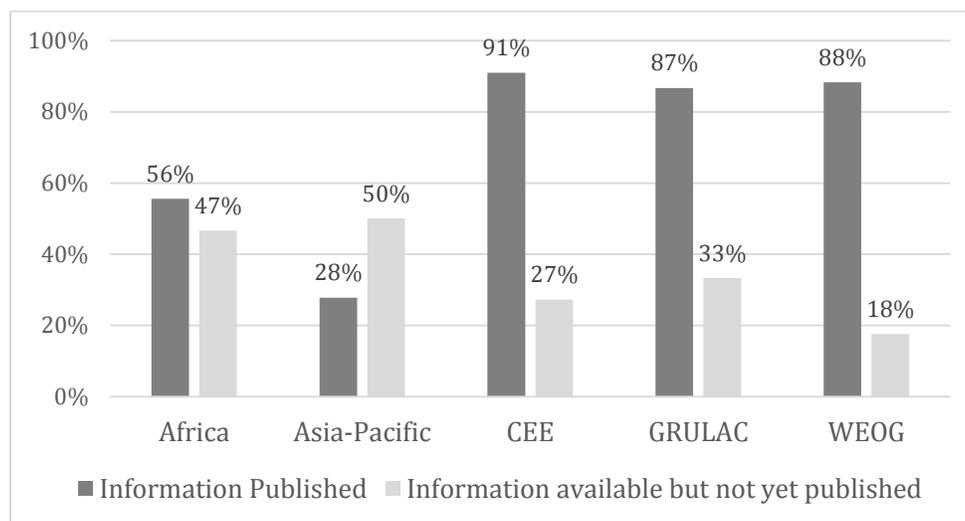
<i>Type of information</i>	<i>Number of records published</i>	<i>Number of Parties that published the records</i>
Competent national authorities	112	64
ABS measures	236	60
Checkpoints	62	29
Permits or their equivalent constituting an internationally recognized certificate of compliance	1 211	21

27. As of 4 March 2020, a total of 73 Parties (59 per cent) had published ABS measures, competent national authorities, checkpoints or internationally recognized certificates of compliance in the Access and

Benefit-sharing Clearing-House. This represents an increase from the 51 per cent of Parties that were reported, by 22 February 2018, to have had published information in the Access and Benefit-sharing Clearing-House. In particular, the number of internationally recognized certificates of compliance has grown substantially from a total of 146 certificates published by 12 Parties in February 2018 to 1,211 certificates published by 21 Parties as of March 2020.

28. A total of 49 Parties indicated in their interim national report, NBSAP or fifth/sixth national report having ABS measures, competent national authorities, checkpoints or permits or their equivalents that had not yet been made available to the Access and Benefit-sharing Clearing-House. With regard to permits, 11 Parties indicated that they had permits to make available to the Access and Benefit-sharing Clearing-House.

Figure 5. Status of progress in publishing information in the ABS Clearing-House (as of 4 March 2020)



III. PROMOTING COMPLIANCE WITH THE NAGOYA PROTOCOL WITHIN THE GLOBAL BIODIVERSITY FRAMEWORK

29. The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, in its decision NP-3/15 on the preparation for the follow-up to the Strategic Plan for Biodiversity 2011-2020, requested that the Compliance Committee at its next meeting consider how to support and promote compliance with the Nagoya Protocol within the post-2020 global biodiversity framework (para. 5).

30. The Parties to the Protocol also welcomed the decision by the Conference of the Parties as regards the post-2020 biodiversity development process (decision [14/34](#)) and invited Parties to the Protocol to participate in the process, and encouraged them to undertake measures to enhance implementation of the Nagoya Protocol on Access and Benefit-sharing in the context of the post-2020 global biodiversity framework. In response to decision NP-3/15, the Global Consultation on the Post-2020 Global Biodiversity Framework in Relation to Access and Benefit-sharing and the Nagoya Protocol was held on 25 August 2019, prior to the first meeting of the Open-ended Working Group on the Post-2020 Global Biodiversity Framework.⁹

31. At its second meeting, the Open-Ended Working Group on the Post-2020 Global Biodiversity Framework considered the zero draft of the post-2020 Global Biodiversity Framework ([CBD/WG2020/2/3](#)), which included a goal on benefit-sharing (Goal E) and a target (Target 11) and, in its appendices on the preliminary draft monitoring framework for the goals and targets ([CBD/WG2020/2/3/Add.1](#)), proposed possible elements for the ABS-related goal and target, including suggested indicators.

⁹ For the report on the Consultation, see [CBD/POST2020/WS/2019/8/3](#).

32. The outcomes of the second meeting of the Open-Ended Working Group on the Post-2020 Global Biodiversity Framework are available on the website of the meeting (<https://www.cbd.int/meetings/WG2020-02>).

IV. SUGGESTIONS FOR CONSIDERATION BY THE COMMITTEE

33. The Committee may wish:

(a) To review the information on general issues of compliance with obligations under the Protocol as outlined in section II of the present document and to formulate a conclusion or recommendation, as appropriate. The Committee may consider recommending that the Conference of the Parties serving as the meeting of the Parties to the Protocol at its fourth meeting:

- (i) Urge Parties to the Nagoya Protocol that have not yet done so to submit their interim national report without further delay;
- (ii) Request the Parties concerned to expedite the adoption of their legislative, administrative or policy measures on access and benefit-sharing;
- (iii) Request those Parties that have relevant national records that need to be made available to the Access and Benefit-sharing Clearing-House to make the information on these records available as soon as possible;

(b) To consider how to support and promote compliance with the Nagoya Protocol within the post-2020 global biodiversity framework and make conclusion or recommendation, as appropriate. In that regard, the Committee may look at the outcomes of the second meeting of the Working Group on the Post-2020 Global Biodiversity Framework and, in particular, the additional elements proposed by participants in the meeting in relation to Goal E and Target 11 of the zero draft, and formulate conclusions or suggestions on how the elements under consideration may support compliance with the Protocol.
