



Convention on Biological Diversity

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CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE CARTAGENA PROTOCOL ON BIOSAFETY

Ninth meeting

Sharm El-Sheikh, Egypt, 17-29 November 2018

Item 5 of the provisional agenda*

REPORT OF THE COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY ON THE WORK OF ITS FOURTEENTH AND FIFTEENTH MEETINGS

1. During the intersessional period that followed the eighth meeting of the Conference of the Parties serving as the meeting Parties to the Cartagena Protocol, the Compliance Committee held two meetings: its fourteenth, from 16 to 18 May 2017, and its fifteenth, from 8 to 10 May 2018. Both were held at the offices of the Secretariat in Montreal, Canada. The present document contains a consolidated report of the discussions and outcomes of the two meetings.

2. At its fourteenth meeting, the Committee considered the outcomes of the eighth meeting of the meeting of the Parties to the Cartagena Protocol and reviewed a number of decisions in this regard:

(a) The Committee identified a number of possible opportunities for informal follow-up concerning paragraphs 6 to 9 of decision [CP-VIII/1](#) on compliance and decided to include a standing item in the agenda for its future meetings to facilitate the consideration of ongoing individual cases of non-compliance;

(b) For decision [CP-VIII/5](#), the Committee noted that the concurrent meetings allowed for better and more integrated discussions on matters common to the Convention and its Protocols, including on the guidance to the Global Environment Facility (GEF);

(c) In considering how the meeting of the Parties had taken up the Committee's recommendation related to monitoring and reporting, the Committee took note of decision [XIII/27](#) on national reporting, specifically the work envisaged on proposals for aligning national reporting under the Convention and its Protocols. It stressed the importance of retaining questions that enable the Committee to obtain necessary information on compliance with obligations under the Protocol and the importance of the free-text fields in understanding the challenges faced by Parties;

(d) Concerning decision [CP-VIII/17](#) on transit and contained use, the Committee decided to undertake informal discussions in preparation for its fifteenth meeting where it would assess if information submitted to the Biosafety Clearing-House (BCH) under contained use was in accordance with Article 6 of the Protocol.

3. The Committee also reviewed compliance on the basis of third national reports with a focus on priority areas identified by the meeting of the Parties to the Cartagena Protocol. The Committee requested

* CBD/CP/MOP/9/1.

the Secretariat to follow up with Parties on a number of issues in this regard and to report on the results to the Committee at its fifteenth and sixteenth meetings. In this context, the Committee reviewed the types of assistance it could offer Parties and updated the “information note on the role of the Compliance Committee in assisting Parties”¹.

4. In the context of its review of general issues of compliance, the Committee explored possible reasons for the lower rate of reporting for the current reporting cycle and identified general reasons for the lower rate of submission that could include:

- (a) Difficulties in accessing funds from GEF;
- (b) Challenges with the length of the reporting format;
- (c) Difficulties in complying with multiple reporting requests under different international agreements;
- (d) Lack of priority accorded to biosafety at the national level;
- (e) Lack of awareness of the importance of national reporting.

5. The Committee welcomed the extended availability of funds provided by GEF for the completion of third national reports, which may assist eligible Parties in submitting their third national report. The Committee decided that the Chair would send follow-up letters to the national focal points of those Parties whose third national report was still outstanding and to the Ministries of Foreign Affairs of Greece, Montenegro and Turkmenistan on their not having submitted their second and third national reports.

6. At its fifteenth meeting, the Committee reviewed consistency between the information in national reports and the BCH. It noted the visible progress compared to the previous review of consistency and the increasing efforts by Parties to provide detailed information in national reports. The Committee identified different reasons for inconsistency issues related to the formulation of questions in the national reporting format. The Committee noted that it was not possible to make substantial changes to the fourth national reporting format to address some of these reasons for inconsistency but acknowledged that a more in-depth review of the reporting format should be undertaken after 2020 in preparation for the fifth national reports.

7. The Committee stressed the fundamental importance of the BCH for the work of the Committee in promoting compliance with the Protocol and addressing cases of non-compliance. It noted that the Protocol itself provides for the establishment of the BCH (Article 20) and that the BCH is central to the implementation of many obligations in the Protocol. The Committee emphasized the importance of the ensuring the continued support provided by the Secretariat to maintain the BCH, including communicating with BCH national focal points in their efforts to maintain complete and accurate records in the BCH.

8. The Committee assessed the decisions submitted to the BCH under contained use. It noted that some records made available under contained use were not fully in accordance with Article 6 and that some of these records related rather to intentional introduction into the environment.

9. The Committee reviewed general issues of compliance, focusing on compliance with the obligation to introduce measures to implement the Protocol and to monitor the implementation of obligations. Committee members noted the many issues raised by Parties regarding challenges faced in this regard and that many of these are interlinked. The Committee requested the Secretariat to follow up with a number of Parties in this regard. The Committee recognized that the availability of financial resources for the implementation of the Protocol is an ongoing challenge for many Parties. It discussed the possibility of donors being urged to provide voluntary funds to enable the Committee to facilitate

¹ The revised information note has been made available on the Secretariat’s website at: http://bch.cbd.int/protocol/cpb_art34_cchelp.shtml.

compliance in cases where financial resources were needed by helping Parties to develop and implement, in accordance with Section VI, paragraph 1(c), of the Procedures and Mechanisms on Compliance under the Cartagena Protocol on Biosafety,² compliance action plans regarding the achievement of compliance with their obligations under the Protocol.

10. In the context of its review of compliance with the obligation to submit national reports, the Committee noted that 23 third national reports were still outstanding and decided that the Chair would follow up with the Parties concerned. The Committee also noted that Greece, Montenegro and Turkmenistan had still not submitted their second or third national reports, despite the efforts on numerous occasions by the Committee to address this issue, and that Greece and Montenegro had also not submitted their first national reports. The Committee therefore agreed to consider these as individual cases of non-compliance, along with the Marshall Islands, given that no national reports had been received from the Marshall Islands, despite the informal consultations undertaken, following decision [BS-VII/1](#).

11. The Committee reviewed individual cases of non-compliance regarding reporting obligations by Greece, the Marshall Islands, Montenegro and Turkmenistan and, following lengthy and careful deliberations, decided that the Chair would contact these Parties, informing them that the Committee would recommend to the Conference of the Parties serving as the meeting of the Parties at its ninth meeting that it issue a caution to those Parties as provided for in section VI, paragraph 2(b), of the Procedures and Mechanisms on Compliance, unless they submit their third national report prior to the ninth meeting of the Conference of the Parties serving as the meeting of the Parties.

12. Finally, the Committee considered its possible role in the final evaluation of the [Strategic Plan for the Cartagena Protocol on Biosafety](#) and the fourth assessment and review of the effectiveness of the Protocol, further to decision [CP-VIII/15](#).

13. The Committee also took note of the processes regarding the development of the post-2020 biodiversity framework and recognized that it would be essential that biosafety is adequately addressed in the framework. It also noted that biosafety experts should be involved in the related process, that relevant Protocol experiences and practices should be considered, and opportunities for engagement through biosafety-specific meetings should be identified.

14. The full text of the reports of the Committee on the work of its fourteenth ([CBD/CP/CC/14/5](#)) and fifteenth ([CBD/CP/CC/15/5](#)) meetings as well as the working documents for each meeting are available on the Secretariat's [website](#).

² Decision [BS-I/7](#), annex.

Annex

RECOMMENDATIONS OF THE COMPLIANCE COMMITTEE TO THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE CARTAGENA PROTOCOL ON BIOSAFETY AT ITS NINTH MEETING³

The Compliance Committee recommends that the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety decide, at its ninth meeting, to:

A. Compliance

1. General issues

1. Remind Parties of their responsibility and obligation to take the necessary and appropriate legal, administrative and other measures to implement the Protocol;
2. Also remind Parties of their obligation to monitor the implementation of the obligations under the Protocol, in accordance with Article 33;
3. Recall that Parties facing difficulties in complying with one or more obligations under the Protocol are encouraged to seek assistance from the Committee;
4. Request Parties to collaborate fully when requested to provide information in relation to their compliance with obligations under the Protocol;
5. Invite Parties that have made progress in complying with certain obligations to share relevant information in the free-text fields in the fourth national reports or through bilateral or regional cooperation on the circumstances that may have contributed to their progress;
6. Encourage Parties to use free-text boxes in the reporting format to explain responses provided and invite Parties that are facing challenges in complying with certain obligations to share information on the challenges encountered in the free-text fields in the fourth national reports;
7. Note with appreciation the efforts made by Parties to comply with their obligations under the Protocol to make information available to the BCH;
8. Urge Parties to make all required information available in the BCH in a timely manner, in particular risk assessments and final decisions relating to the first intentional transboundary movement of living modified organisms for intentional introduction into the environment, including living modified organisms intended for field trials;
9. Remind Parties of the need to maintain up-to-date details of their national focal points on the BCH;
10. Urge Parties to coordinate at the national level to avoid inconsistency of information in the national reports and the BCH and encourage communication between national focal points and competent national authorities;
11. Remind Parties of the importance of engaging constructively with all stakeholders, including with industry and the public for the effective implementation of the Protocol;
12. Encourage Parties to mainstream biosafety in their educational systems;
13. Urge Parties and invite other Governments to provide voluntary funds in support of those Parties requested by the Committee to develop and implement compliance action plans;
14. Encourage Parties to allocate funds to biosafety in national budgets;

³ Following the practice adopted at the earlier meetings of the Conference of the Parties serving as the meeting of the Parties to the Protocol, recommendations may be allocated to the relevant agenda items where their consideration might be more appropriate.

2. Caution

Recalling Article 33 of the Protocol,

Also recalling section VI, paragraph 2(b), of the Procedures and Mechanisms on Compliance under the Cartagena Protocol on Biosafety,⁴

Noting with regret that Greece, the Marshall Islands, Montenegro and Turkmenistan have not submitted their national reports over multiple reporting cycles,

Noting that the Compliance Committee and the Executive Secretary have contacted Greece, the Marshall Islands, Montenegro and Turkmenistan on numerous occasions, in accordance with decision BS-V/1, including by offering support to these Parties to prepare their reports,

1. *Caution* Greece, the Marshall Islands, Montenegro and Turkmenistan for failure to fulfil their reporting obligations;

2. *Request* Greece, the Marshall Islands, Montenegro and Turkmenistan, as a matter of urgency, to submit their third national reports;

3. *Encourage* Greece, the Marshall Islands, Montenegro and Turkmenistan to seek the assistance of the Compliance Committee in accordance with decision BS-V/1, should they require support in preparing their reports;

B. Matters related to the financial mechanism and resources

15. Urge eligible Parties to prioritize biosafety projects during the programming of their national allocations under the System for Transparent Allocation of Resources (STAR) within the framework of the seventh replenishment period of the Global Environment Facility Trust Fund, taking into account their obligations under the Cartagena Protocol on Biosafety, the Strategic Plan for the Cartagena Protocol on Biosafety for the period 2011-2020, and the guidance of the Conference of the Parties to the financial mechanism;

16. Recommend that the Conference of the Parties, in adopting its guidance to the financial mechanism with respect to support for the implementation of the Cartagena Protocol, invite the Global Environment Facility to make funding available:

(a) To assist eligible Parties that have not yet done so, in fully putting in place measures to implement the Protocol;

(b) To support eligible Parties in completing their fourth national reports;

(c) To support Parties in implementing compliance action plans regarding the achievement of compliance with the Protocol;

17. Urge eligible Parties to engage proactively with the Global Environment Facility, including through coordination with their operational focal point for the Global Environment Facility, to ensure that they are able to access available funds for biosafety;

C. Transit and contained use of living modified organisms

18. Take note of the Committee's assessment of information on the BCH submitted by Parties as decisions under contained use;

19. Remind Parties of their obligation under Article 20, paragraph 3 (d) to publish in the BCH their final decisions regarding the importation or release of living modified organisms and to encourage other Governments to do so;

20. Remind Parties that:

⁴ Decision BS-I/7, annex.

(a) Article 3(b) of the Protocol sets out the definition of contained use, namely “any operation, undertaken within a facility, installation or other physical structure, which involves living modified organisms that are controlled by specific measures that effectively limit their contact with, and their impact on, the external environment”;

(b) Intentional introduction into the environment can include introduction both for experimental or for commercial purposes;

(c) A field trial, confined field trial or experimental introduction is to be regarded as intentional introduction into the environment and not as contained use.

D. Monitoring and reporting and assessment and review of the effectiveness of the Protocol

21. Welcome the additional third national reports submitted, and urge the Parties that have not yet submitted their third national report to do so as soon as possible.⁵

⁵ Angola, Azerbaijan, Belize, Cabo Verde, Comoros, Democratic People’s Republic of Korea, Djibouti, Greece, Jordan, Libya, Marshall Islands, Montenegro, Myanmar, Nauru, Papua New Guinea, Qatar, Saudi Arabia, Serbia, Seychelles, State of Palestine, Syrian Arab Republic, the former Yugoslav Republic of Macedonia, Turkmenistan.