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COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY

Seventeenth meeting

Online, 15-17 April 2020

**Fourth assessment and review of the Cartagena Protocol and final evaluation of the Strategic Plan for the Cartagena Protocol for the period 2011-2020: input by the Compliance Committee**

*Note by the Executive Secretary*

# I. INTRODUCTION

1. Article 35 of the Cartagena Protocol requires the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol to undertake a periodic evaluation of the effectiveness of the Protocol.
2. Through decision [BS-V/16](https://www.cbd.int/decision/mop/?id=12329), the Conference of the Parties serving as the meeting of the Parties to the Protocol adopted the Strategic Plan for the Cartagena Protocol on Biosafety for the Period 2011-2020 (Strategic Plan) and decided that a mid-term evaluation of the Strategic Plan would be conducted in conjunction with the third assessment and review of the Protocol.
3. The third assessment and review of the Protocol and mid-term evaluation of the Strategic Plan for the Cartagena Protocol was conducted in 2016, and the outcome of this process was reflected in decision [CP-VIII/15](https://www.cbd.int/doc/decisions/mop-08/mop-08-dec-15-en.pdf).
4. In its decision [CP-9/6](https://www.cbd.int/doc/decisions/cp-mop-09/cp-mop-09-dec-06-en.pdf), the Conference of the Parties serving as the meeting of the Parties to the Protocol decided that the fourth assessment and review of the Cartagena Protocol would be combined with the final evaluation of the Strategic Plan. The Conference of the Parties serving as the meeting of the Parties to the Protocol requested the Executive Secretary to analyse and synthesize information on the implementation of the Protocol using, among other things*,* the fourth national reports as a primary source, the Biosafety Clearing-House and experience from capacity-building projects and the Compliance Committee, where appropriate, and make this information available to the Liaison Group and, as appropriate, the Compliance Committee.
5. The Conference of the Parties serving as the meeting of the Parties to the Protocol requested the Liaison Group and the Compliance Committee, working in a complementary and non-duplicative manner, to contribute to the fourth assessment and review of the Protocol and the final evaluation of the Strategic Plan and to submit their conclusions for consideration by the Subsidiary Body on Implementation, at its third meeting.
6. The Compliance Committee at its sixteenth meeting, held from 29 to 31 May 2019, decided that the scope of its input to the fourth assessment and review of the Protocol and the final evaluation of the Strategic Plan would focus on operational objective 3.1 of the Strategic Plan, related to compliance, and on the experience the Committee had gained in implementing its supportive role of assisting Parties in complying with their obligations.
7. The present note provides, in section II, a summary of information related to the implementation of the Protocol concerning progress made towards achieving operational objective 3.1 of the Strategic Plan, including a summary of the activities and experience of the Committee in supporting Parties in this regard. Section III provides some conclusions and suggestions for the consideration of the Committee.
8. Document CBD/SBI/3/3/Add.1 provides the full analysis of information on the implementation of the Cartagena Protocol on Biosafety on the basis of a review of progress towards achieving the operational objectives of the Strategic Plan for the Cartagena Protocol. The document is made available to the Committee as an information document.

# II. Progress made towards achieving operational objective 3.1 of the Strategic Plan for the Cartagena Protocol on Biosafety

1. This section provides, in subsection A, information on methodological aspects concerning the analysis of information for the fourth assessment and review of the Protocol and final evaluation of the Strategic Plan and, in subsection B, a summary of progress made towards achieving operational objective 3.1 of the Strategic Plan, including a summary of the activities and experience of the Committee in supporting Parties in this regard.[[1]](#footnote-2)

## A. Methodological aspects

1. Operational objective 3.1. of the Strategic Plan relates to compliance with the Protocol and aims at strengthening mechanisms for achieving compliance.
2. The outcomes of the operational objective comprise the following:
3. Each Party fully implements its obligations and regularly monitors the implementation of its obligations under the Protocol;
4. Improved reporting by Parties, including by submitting complete and timely national reports;
5. All Parties able to enforce their regulatory frameworks and decisions;
6. Sufficient financial resources are allocated to compliance;
7. The Committee is able to thoroughly review the implementation of obligations by Parties and to propose appropriate measures;
8. Supportive role of the Compliance Committee is improved.
9. Eight indicators are provided for operational objective 3.1. For each of these indicators, a description of progress since the baseline[[2]](#footnote-3) is provided in CBD/SBI/3/3/Add.1. These descriptions are based on information provided in, primarily, the fourth national reports and the Biosafety Clearing-House (BCH), as well as experience of the Compliance Committee. The sources of information consulted for each indicator are provided in the matrix on sources of information.[[3]](#footnote-4)
10. Where information is presented that has been obtained from the fourth national reports, the information is based only on the fourth national reports submitted by 15 January 2020 of those Parties that also provided related information at the baseline.[[4]](#footnote-5) This approach is intended to enable a consistent and comparable review of progress over time and follows the approach taken for the third assessment and review of the Protocol and mid-term evaluation of the Strategic Plan.[[5]](#footnote-6) More information on methodological issues is provided in CBD/SBI/3/3/Add.1, section II.
11. The presentation of the information below has followed as much as possible the areas of work on which the Committee has focused, with the following sequence: (a) national reporting (indicator 3.1.7); (b) national legal, administrative and other measures to implement the Protocol (indicator 3.1.2); (c) systems in place for handling requests including for advance informed agreement (indicator 3.1.4); (d) monitoring and enforcement system in place (indicator 3.1.6); (e) designation of national focal points (indicator 3.1.3); (f) submission of mandatory information to the BCH (3.1.5); (g) access to financial resources (indicator 3.1.8), and; (h) addressing non-compliance (indicator 3.1.1).[[6]](#footnote-7)

## Summary of progress made towards achieving operational objective 3.1 of the Strategic Plan

### 1. National reporting: indicator 3.1.7 (Number of national reports received under each reporting cycle)

1. Fourth national reports were due on 1 October 2019. As of 15 January 2020, 99 Parties had submitted their complete fourth national report out of 171 Parties to the Protocol that had an obligation to do so. This represents a submission rate of 58 per cent. Submission rates of previous national reports, at a similar point in time following the deadline for submission of the respective national report were as follows: third national report: 62 per cent; second national report: 89 per cent; first national report: 35 per cent; interim national report: 37 per cent. Further information on the reporting rate, including factors that may have affected the submission rates of the respective national reports is provided in document CBD/CP/CC/17/2.
2. Pursuant to decision BS-V/1, which enabled the Committee to consider taking measures in respect of Parties that had not submitted a national report, the Committee has followed up with Parties that have not complied with their reporting obligation. Following the submission deadline for the second national report (September 2011), the Committee contacted those Parties that had not submitted a second national report at various instances, primarily by way of communications from the Chair of the Committee. Individual members of the Committee also informally followed up with Parties concerned in their respective region.[[7]](#footnote-8) By May 2015, the submission rate had increased to 95 per cent (153 of the 161 Parties had submitted their second national report) and has remained unchanged to date.
3. At its thirteenth meeting, the Committee reviewed compliance by Parties with their reporting obligation on the basis of a review of the submission of third national reports, which were due in October 2015. The Committee requested the Secretariat to follow up with Parties that had not submitted their third national report. In addition, in respect of three Parties that had not submitted their third national report that had also not submitted any previous national report, the Committee at its eighth meeting recommended that the Conference of the Parties serving as the meeting of the Parties to the Protocol caution those Parties for failure to comply with their reporting obligation, in accordance with section VI, paragraph 3(b), of the procedures and mechanisms on compliance (decision BS-I/7, annex).[[8]](#footnote-9) By the time the Conference of the Parties serving as the meeting of the Parties to the Protocol considered the issue, two of these Parties had submitted their third national report. The Conference of the Parties serving as the meeting of the Parties to the Protocol did not issue the caution to the remaining Party (Marshall Islands).
4. At its fourteenth meeting, the Committee stated that the caution, although it had not been taken up by the Conference of the Parties serving as the meeting of the Parties to the Protocol, had nevertheless been very useful and had likely encouraged two of the Parties concerned to submit their third national report. The Committee agreed that informal follow-up with the Marshall Islands could be beneficial.
5. In addition, the Committee decided that its Chair would send a letter to the Ministry of Foreign Affairs of three Parties (Greece, Montenegro, Turkmenistan) that had not submitted a third or a second national report as a follow-up to previous communications addressed to the national focal points of these Parties. It furthermore decided that the Chair would send a letter to the national focal points of those Parties that had not submitted their third national report reminding them of their obligation to do so.
6. At its fifteenth meeting, the Committee decided that its Chair would send a follow-up letter to those 23 Parties that had still not submitted their third national report.[[9]](#footnote-10) The Committee also decided to recommend to the Conference of the Parties serving as the meeting of the Parties to the Protocol, at its ninth meeting, that it issue a caution to Greece, the Marshall Islands, Montenegro and Turkmenistan for failure to submit multiple national reports. By the time the Conference of the Parties serving as the meeting of the Parties to the Protocol considered the issue, three of these Parties had submitted their third national report. The Conference of the Parties serving as the meeting of the Parties to the Protocol did not issue the caution to the remaining Party (Montenegro).
7. By the sixteenth meeting of the Committee, a total of 17 third national reports were outstanding. The Committee decided to consider the matter at its seventeenth meeting in the context of the review of compliance by Parties with their obligation to submit a fourth national report.[[10]](#footnote-11) Furthermore, the Committee decided that its Chair would send a letter to the national focal point of Montenegro, informing the country of the outcome of the ninth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. The Committee also decided that its members from the Central and Eastern European regional group would follow up closely with Montenegro.
8. Following the Committee’s sixteenth meeting, two further third national reports were submitted, bringing the total number of Parties having submitted their third national report to 157, which constitutes a submission rate of 92 per cent.
9. An overview of the various follow-up actions and measures taken by the Committee on compliance by Parties with their reporting obligation was prepared for its fifteenth meeting (CBD/CP/CC/15/INF/2).
10. While the continuous efforts of the Committee to support Parties in relation to their reporting obligation has likely contributed to the high number of third national reports that have now been submitted, the timeliness of the submission of the third and fourth national reports remains a challenge.[[11]](#footnote-12)

### 2. National legal, administrative and other measures to implement the Protocol: indicator 3.1.2 (Number of Parties having approved and functional national legal, administrative and other measures to implement the Protocol)

1. A total of 55 per cent of Parties (51 Parties) reported that measures to implement the Protocol are fully in place, an increase of 8 per cent from the baseline.[[12]](#footnote-13) A total of 39 per cent of Parties (38 Parties) reported that national measures are partially in place, a decrease of 1 per cent from the baseline. One Party reported that only temporary measures had been introduced, a decrease of two Parties since the baseline. Five Parties reported that only draft measures had been taken, a decrease of one Party from the baseline. The number of Parties reporting that no measures have been taken has decreased from three Parties at the baseline to zero Parties currently.
2. A total of 58 per cent of Parties (53 Parties) reported having established a mechanism for budget allocations for the operation of national biosafety measures, while 23 per cent of Parties (21 Parties) reported that such a mechanism had been established to some extent. Considered together, this constitutes an increase of 13 per cent from the baseline, which is mainly attributable to Parties within the Asia and the Pacific, Central and Eastern Europe, and Africa.
3. A total of 94 per cent of Parties (87 Parties) reported having permanent staff to administer functions directly related to biosafety, an increase of 8 per cent from the baseline. A total of 47 per cent of Parties reported that the number of staff was adequate.[[13]](#footnote-14)
4. Several Parties indicated in their free-text contributions that legal instruments were being developed or were pending adoption. Some of these Parties indicated that the adoption of these instruments is expected to have beneficial effects on the institutional structures and availability of resources. A number of Parties indicated that the lack of resources and capacities had negatively affected the implementation of the Protocol.
5. Following decision BS-V/1, the Committee has increasingly followed up with Parties that reported not having taken any legal, administrative or other measures to implement the Protocol, or having only taken draft or temporary measures.
6. At its fourteenth meeting, the Committee considered compliance on the basis of third national reports with a focus on priority areas identified by the Conference of the Parties serving as the meeting of the Parties to the Protocol. In this context, the Committee considered, among other things, compliance by Parties with their obligation to take the necessary legal, administrative and other measures to implement the Protocol, in accordance with Article 2, paragraph 1, of the Protocol.[[14]](#footnote-15) In this context, the Committee requested the Secretariat to contact those Parties that had reported not having taken any measures to implement the Protocol, or having taken only temporary or draft measures for the implementation of the Protocol, and collect information on the challenges they were facing in this regard.
7. At its fifteenth meeting, the Committee considered the information provided by Parties on their challenges and noted that lack of political will is a key challenge to implementation. It also recognized that the availability of financial resources for the implementation of the Protocol was an ongoing challenge for many Parties and discussed the possibility of donors being urged to provide voluntary funds to enable the Committee to facilitate compliance in cases where financial resources were needed.[[15]](#footnote-16)
8. The Committee decided that its Chair would contact those Parties that had reported not having taken any measures, or only having taken draft or temporary measures for the implementation of the Protocol, and request those Parties to develop a compliance action plan in accordance with section VI, paragraph 1(c) of the procedures and mechanisms on compliance (decision BS-1/7, annex).[[16]](#footnote-17) Following the meeting, the Chair of the Committee requested 25 Parties to develop a compliance action plan.
9. At its sixteenth meeting, the Committee considered an update on progress made in this regard. It welcomed the submission of compliance action plans by four Parties, recognizing that the submission of the compliance action plan in itself represented an important commitment to addressing non-compliance. The Committee also welcomed the response provided by one Party informing the Committee that the necessary measures for the implementation of the Protocol had recently been adopted. The Committee expressed concern that the majority of the Parties had neither submitted a compliance action plan nor informed the Committee of their having taken the measures to implement the Protocol.[[17]](#footnote-18) The Committee decided that its Chair would send letters to the Parties that had submitted a compliance action plan, thanking them and indicating that the Secretariat would follow up on the progress of the activities outlined in the compliance action plan. The Committee decided that its Chair would also send letters to those Parties that had not submitted their compliance action plan and urge them to do so as soon as possible. More information on the current status of this matter is provided in CBD/CP/CC/17/5.

### 3. Systems in place for handling requests, including for advance informed agreement: indicator 3.1.4 (Number of Parties having in place a system for handling requests including for Advance Informed Agreement)

1. A total of 66 per cent of Parties (61 Parties) reported having established legal requirements for exporters under their domestic framework to notify in writing the competent national authority of the Party of import prior to the intentional transboundary movement of an LMO that falls within the scope of the advance informed agreement (AIA) procedure. In addition, 10 per cent of Parties (9 Parties) reported having established such legal requirements for exporters to some extent.[[18]](#footnote-19) Taken together, 76 per cent of Parties (70 Parties) reported having established such legal requirements, an increase of 14 per cent from the baseline.[[19]](#footnote-20)
2. A total of 21 per cent of Parties (19 Parties) reported having received a notification regarding the intentional transboundary movements of LMOs for intentional introduction into the environment, which is a decrease of 13 per cent from the baseline.[[20]](#footnote-21) A total of 19 per cent of Parties (15 Parties) reported having taken decisions in response to the notification regarding intentional transboundary movements of LMOs for intentional introduction during this reporting cycle, a decrease of 14 per cent. A total of 10 of these Parties reported that national measures to implement the Protocol were fully in place, while 5 reported that national measures to implement the Protocol were partially in place.
3. A total of 84 per cent of Parties (78 Parties) reported having laws, regulations or administrative measures for decision-making regarding domestic use, including placement on the market of LMOs for direct use as food, feed or for processing, which constitutes an increase of 15 per cent from the baseline.[[21]](#footnote-22)
4. A total of 70 per cent of Parties (21 Parties) reported having taken decisions regarding domestic use, including the placement on the market, of LMOs that may be subject to transboundary movement for direct use as food or feed, or for processing.[[22]](#footnote-23) This represents a decrease of 3 per cent from the baseline. All these Parties reported having in place laws, regulations or administrative measures for decision-making regarding domestic use, including placement on the market of LMOs for direct use as food, feed or for processing.
5. A total of 83 per cent of Parties (77 Parties) reported having laws, regulations or administrative measures for decision-making regarding the import of LMOs for direct use as food, feed or for processing, which constitutes an increase of 13 per cent from the baseline.
6. A total of 70 per cent of Parties (21 Parties) reported having taken decisions regarding the import of LMOs for direct use as food or feed, or for processing.[[23]](#footnote-24) This constitutes a decrease of 6 per cent from the baseline. All these Parties reported having in place laws, regulations or administrative measures for decision‑making regarding the import of LMOs for direct use as food, feed or for processing.
7. Follow-up by the Committee in this regard has only indirectly taken place through its follow-up on compliance with the obligation to take the necessary measures to implement the Protocol, in accordance with Article 2, paragraph 1. Follow-up on the submission of decisions (and risk assessment summary reports) to the BCH in this regard is summarized in subsection (6) below.

### 4. Monitoring and enforcement system in place: indicator 3.1.6 (Number of Parties having in place a monitoring and enforcement system)

1. A total of 77 per cent of Parties (53 Parties) reported having in place a system to monitor and enforce the implementation of the Cartagena Protocol.[[24]](#footnote-25) This constitutes an increase of 7 per cent from the baseline.[[25]](#footnote-26)

### 5. Designation of national focal points: indicator 3.1.3 (Percentage of Parties that designated all national focal points)

1. A total of 98 per cent of all Parties to the Protocol (168 out of 171 Parties) have designated their national focal point for the Cartagena Protocol. This constitutes a decrease of 1 per cent from the baseline, when 159 out of 161 Parties (99 per cent) had done so. A total of 99 per cent of all Parties to the Protocol (169 Parties) have designated their focal point for the BCH (no change from the baseline). A total of 78 per cent of all Parties to the Protocol (133 Parties) have made available to the BCH information concerning their point of contact for receiving notifications under Article 17. This represents an increase of 34 per cent from the baseline when it was 44 per cent (71 of the 161 Parties at the time).
2. The Compliance Committee has regularly reviewed compliance by Parties with their obligation to designate national focal points pursuant to the Committee’s cyclical organization of work, agreed to at its eighth meeting, in particular in the context of its review of compliance on the basis of information in the BCH.[[26]](#footnote-27) The Committee has also reviewed this matter in the context of its review of general issues of compliance. The Committee has followed-up with Parties concerned, in particular by mandating the Secretariat to remind Parties of their obligation to designate national focal points. The follow-up by the Committee is likely to have contributed to the consistently high levels of compliance by Parties in this regard.
3. Most recently, the Committee reviewed this issue at its sixteenth meeting, held from 29 to 31 May 2019, when it requested the Secretariat to follow up with those Parties that had not made available to the BCH the relevant details setting out their point of contact for the purpose of receiving notifications under Article 17 of the Protocol. It also decided that its Chair would send a letter to those Parties that had not designated their national focal point for the Protocol, or for the BCH.[[27]](#footnote-28)
4. More information on follow-up by the Committee in this regard is provided in document CBD/CP/CC/17/4. Information on the obligation to submit information to the BCH is provided in subsection (6) below.

### 6. Submission of mandatory information to the BCH: indicator 3.1.5 (Percentage of Parties that published all mandatory information via the BCH)

1. A total of 78 per cent of Parties reported that they have submitted to the BCH information related to legislation, regulations and guidelines for implementing the Protocol, as well as information required by Parties for AIA procedures, which constitutes an increase of 21 per cent from the baseline. With respect to legislation**,** regulations and guidelines applicable to the import of LMOs intended for direct use as food or feed, or for processing, 71 per cent of Parties (66 Parties) reported that this information has been submitted to the BCH, an increase of 18 per cent from the baseline.
2. Of those Parties that reported that information regarding bilateral, multilateral and regional agreements and arrangements was available, 54 per cent reported that the information had also been submitted to the BCH, an increase of 15 per cent from the baseline.
3. A total of 16 per cent of Parties (15 Parties) reported that information concerning cases of illegal transboundary movements of LMOs was available. Of these Parties, 33 per cent reported that the information had been submitted to the BCH, a decrease of 17 per cent from the baseline.
4. A total of 40 per cent of Parties reported that decisions regarding the importation of LMOs for intentional introduction into the environment were available. Of these Parties, 73 per cent reported that the information had been submitted to the BCH, an increase of 19 per cent from the baseline.
5. A total of 45 per cent of Parties reported that decisions regarding the domestic use of LMOs that may be subject to transboundary movement for direct use as food or feed, or for processing were available. Of these Parties, 83 per cent reported that the information had been submitted to the BCH, an increase of 14 per cent.
6. A total of 47 per cent of Parties reported that decisions regarding the import of LMOs intended for direct use as food or feed, or for processing that are taken under domestic regulatory frameworks (Article 11, para. 4) or in accordance with annex III to the Protocol were available. Of these Parties, 82 per cent reported that the information had been submitted to the BCH, an increase of 15 per cent.
7. A total of 55 per cent of Parties reported that summaries of risk assessments or environmental reviews of LMOs generated by regulatory processes and relevant information regarding products thereof were available. Of these Parties, 69 per cent reported that the information had been submitted to the BCH, an increase of 19 per cent. The information in the BCH at the time of preparation of the present document showed that risk assessment summary reports were missing in respect of 78 decisions of a total of six Parties.[[28]](#footnote-29) As of January 2020, risk assessment summary reports are missing in 4 per cent of decisions requiring one.
8. In their free text contributions, a number of Parties indicated that many types of information are not available in their country and that, for this reason, the information had not been submitted. Some Parties referred to the lack of capacities and resources for making certain information available.
9. The Compliance Committee has regularly reviewed compliance by Parties with their obligation to make mandatory information available to the BCH, under various agenda items of most of its meetings.
10. More specifically, and in accordance with the Committee’s cyclical organization of work, agreed to at its eighth meeting, the Committee has considered this issue in the context of its review of consistency between information in national reports and in the BCH.[[29]](#footnote-30) The Committee has also reviewed the obligation to submit certain types of information to the BCH as part of its review of completeness of information on the BCH.[[30]](#footnote-31) The Committee has initiated follow-up with the Parties concerned, in particular by mandating the Secretariat to remind Parties of their obligations in this regard.
11. The Compliance Committee last reviewed consistency between information in the third national reports and the Biosafety Clearing-House at its fifteenth meeting, held from 8 to 10 May 2018.[[31]](#footnote-32) In this context, the Committee noted the visible progress compared to the previous review of consistency and the increasing efforts by Parties to provide detailed information in national reports, thereby facilitating the review of the data and increasing the understanding of the specific situations faced by Parties. The Committee requested the Secretariat to contact those Parties it had identified whose records on the BCH were inconsistent with the information provided in their third national report with a view to resolving the inconsistency.[[32]](#footnote-33)
12. At its sixteenth meeting, held from 29 to 31 May 2019, the Committee reverted to this matter. A note prepared by the Executive Secretary provided a description of the follow-up activities carried out in this regard since the Committee’s fifteenth meeting and included an updated overview of inconsistencies between information in the national reports and the BCH, based on a renewed analysis of inconsistencies, carried out in January and February 2019.[[33]](#footnote-34) The Committee noted that Parties, in general, appeared to be responding positively to communications from the Secretariat, and most appeared to be acting diligently to address or clarify any inconsistencies in their country records, which contributed to ensuring the completeness and accuracy of the BCH. The Committee requested the Secretariat to continue following up with Parties in this regard, as necessary.[[34]](#footnote-35)
13. The Committee at its sixteenth meeting also reviewed whether risk assessment reports had been made available for relevant decisions, considering an overview prepared by the Secretariat on the basis of information gathered in January 2019.[[35]](#footnote-36)

### 7. Access to financial resources: indicator 3.1.8 (Number of Parties able to access financial resources to fulfil their obligations under the Protocol)

1. A total of 35 per cent of Parties (25 Parties) reported having access to predictable and reliable funding for building capacity for the effective implementation of the Protocol, while 14 per cent of Parties (10 Parties) reported having access to such funding to some extent. Taken together, this represents an increase of 7 per cent from the baseline.[[36]](#footnote-37)
2. A total of 70 per cent of Parties (31 Parties) reported having mobilized funding in addition to the regular budget allocation to support the implementation of the Cartagena Protocol, which is 13 Parties less than at the baseline.[[37]](#footnote-38) Differences are reported in the amounts received in comparison to the baseline. A decrease of 11 per cent is reported in amounts up to US$ 50,000. A decrease of 14 per cent was reported in amounts received between US$ 100,000 and US$ 500,000. A decrease of 7 per cent was reported in amounts received over US$ 500,000. The contribution to the decrease seems to be divided relatively evenly among Parties across the regions.
3. The Committee recognized that the availability of financial resources can contribute to compliance by Parties with their obligations under the Protocol. The Committee has highlighted the positive effect of the timely availability of financial resources on compliance by Parties with their obligations, for example in the context of the obligation to submit national reports.[[38]](#footnote-39)
4. The Committee has also considered access to resources in the context of compliance with other obligations under the Protocol, for example the adoption of national measures to implement the Protocol.[[39]](#footnote-40) At its fifteenth meeting, the Committee recognized that the availability of financial resources for the implementation of the Protocol was an ongoing challenge for many Parties and discussed the possibility of donors being urged to provide voluntary funds to enable the Committee to facilitate compliance in cases where financial resources were needed.[[40]](#footnote-41) In this light, the Committee decided on a recommendation to the Conference of the Parties serving as the meeting of the Parties to the Protocol, which was reflected in decision CP-9/1, in which the Conference of the Parties serving as the meeting of the Parties to the Protocol urged Parties and invited other Governments to provide voluntary funds in support of those Parties that had been requested by the Committee to develop and implement a compliance action plan. While the recommendation resulted in the inclusion of a line in the voluntary budget for the Cartagena Protocol on the implementation of compliance actions plans, to date, no funding has been made available in this regard.[[41]](#footnote-42)
5. Furthermore, the Committee has made a number of recommendations through which it sought to ensure that the Global Environment Facility was invited to make funding available to assist eligible Parties in implementing the Protocol. The Committee did so recently, at its fifteenth meeting, referring to funding to assist Parties in putting in place the necessary measures to implement the Protocol, to support Parties in completing their fourth national reports, and to support Parties in implementing compliance action plans.[[42]](#footnote-43) These recommendations were reflected in decision CP-9/4 and decision 14/23, concerning the financial mechanism and resources.

### 8. Addressing non-compliance: indicator 3.1.1 (Number of Parties that have identified and addressed their non-compliance issues)

1. While to date no receivable submissions relating to compliance, pursuant to section IV of the procedures and mechanisms on compliance (decision BS-I/7, annex), have been made, the Committee has actively supported Parties in complying with their obligations under the Protocol, pursuant to its broad mandate to review compliance by Parties.
2. As shown in the description of the activities of the Committee in the subsections above, the Committee has, following decision BS-V/1, systematically reviewed compliance by Parties with key obligations under the Protocol. The review and subsequent follow-up with Parties concerned has contributed to the identification by Parties of their compliance issues. For a number of obligations, it seems that the work of the Compliance Committee has contributed substantively to compliance by Parties with, for example, the obligation to designate focal points, the obligation to make mandatory information available to the BCH, and the obligation to submit national reports, as set out above.
3. While the work of the Committee has also contributed to identifying compliance issues in relation to other obligations, such as the obligation to adopt the necessary measures to implement the Protocol, progress has been less obvious in addressing issues of non-compliance in this regard. The Committee recognized that the lack of political will is a key challenge to implementation in this regard.[[43]](#footnote-44) It also recognized that the availability of financial resources for the implementation of the Protocol was an ongoing challenge for many Parties. While the Committee has recommended that specific funds be made available to support Parties in addressing identified compliance issues, these recommendations have, to date, not resulted in the availability of dedicated funding.

# III. Conclusions and suggestions for consideration by the Committee

1. The Strategic Plan has enabled the Committee to review in a systematic way the progress Parties have made on a number of key obligations under the Protocol and to consider the Committee’s role in supporting Parties in this regard.
2. Progress as compared to the baseline has been reported on most indicators related to operational objective 3.1, although the overall level of progress on the indicators varies significantly. The overall level of compliance with key obligations under the Protocol also varies significant. Despite the progress in complying with a number of key obligations under the Protocol, the overall level of compliance with certain obligations remains low.
3. The adoption of decision BS-V/1, in 2010, enabled the Committee to consider taking certain measures under section VI of the procedures and mechanisms on compliance (decision BS-1/7, annex), if a Party fails to submit a national report or information has been received through a national report or the Secretariat, based on information from the BCH, that shows that the Party concerned is faced with difficulties complying with its obligations under the Protocol. This has enabled the Committee to actively support Parties in complying with their obligations under the Protocol, throughout the implementation period of the Strategic Plan for the Cartagena Protocol.
4. The Committee has focused its activities mainly on a number of key obligations under the Protocol, in particular on: (a) compliance with the obligation to submit national reports; (b) the obligation to adopt the measures necessary for the implementation of the Protocol; (c) the obligation to designate focal points; and (d) the obligation to make mandatory information available to the BCH. The Committee has taken incremental measures to address compliance issues in this regard, and the Committee’s role in contributing to progress reported by Parties in this regard has been welcomed by the Conference of the Parties serving as the meeting of the Parties to the Protocol.
5. The work of the Committee likely contributed to the high rates of compliance by Parties on a number of obligations under the Protocol, in particular the obligation to designate focal points, the obligation to make mandatory information available to the BCH, and, over time, the obligation to submit national reports.
6. The Committee recognized that the availability of financial resources for the implementation of the Protocol was an ongoing challenge for many Parties. Recommendations by the Committee to request Parties and donors to provide funding to support Parties in addressing their compliance issues have not resulted in the availability of funding for this purpose.
7. The Committee may wish to consider the summaries of progress made towards achieving operational objective 3.1 of the Strategic Plan and the role of the Committee in supporting Parties in this regard, provided in section II, subsection B, above. The Committee may wish to draw its conclusions and request the Secretariat to transmit the conclusions for consideration by the Subsidiary Body on Implementation at its third meeting.
8. In addition, the Committee may wish to recommend that the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol, at its tenth meeting:
	1. Welcome progress made by Parties in complying with their obligations under the Protocol, including the obligations concerning: (i) making certain information available to the Biosafety Clearing‑House, and; (ii) the designation of national focal points and competent national authorities;
	2. Note with concern that a large number of Parties are not in full compliance with key obligations under the Protocol, including: (i) the obligation to take the necessary legal, administrative and other measures to implement the Protocol, and (ii) the obligation to submit a national report in a timely manner;
	3. Urge Parties that have not yet completely done so to put in place legal, administrative and other measures to implement their obligations under the Protocol;
	4. Also urge Parties that have not yet completely done so to make all required information available to the BCH and keep their records up-to-date, focusing in particular on information related to: (i) national legislation, regulation and guidelines; (ii) summaries of risk assessments; (iii) final decisions regarding the importation or release of living modified organisms; (iv) national focal points, national points of contact and competent national authorities; information on bilateral, regional or multilateral agreements or arrangements it has entered, and; (v) information concerning illegal transboundary movements of living modified organisms;
	5. 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 on Biosafety, invite the Global Environment Facility to make specific funding available to eligible Parties to: (i) put in place legal, administrative and other measures for the implementation of the Protocol; (ii) support eligible Parties in fulfilling their reporting obligations under the Protocol, including the submission of fifth national reports, in a timely fashion; and (iii) support eligible Parties in implementing compliance action plans regarding the achievement of compliance with the Protocol;
	6. Welcome the Committee’s supportive role, carried out pursuant to decision BS-V/1, as a contribution to the progress reported and request the Committee to continue exercising its mandate accordingly;
	7. Request the Secretariat, as appropriate and following guidance provided by the Committee, to continue following up with Parties that have not yet fully complied with their obligations under the Protocol, and request Parties to collaborate fully in this regard;
	8. Welcome the Committee’s input to the fourth assessment and review of the Protocol and final evaluation of the Strategic Plan for the Cartagena Protocol, and request the Committee to continue providing input to the fifth assessment and review and evaluation process of the follow-up to the Strategic Plan for the Cartagena Protocol, as appropriate.

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1. For a full overview of progress made on operational objective 3.1, including regional breakdowns, see CBD/SBI/3/3/Add.1, section III, subsection J. [↑](#footnote-ref-2)
2. Through decision BS-VI/15, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol decided that the information contained in the second national reports and the analysis undertaken on the status of core elements of the Protocol would form the baseline for measuring progress in implementing the Protocol. The baseline information was supplemented by information obtained through a dedicated survey to gather information corresponding to indicators in the Strategic Plan that could not be obtained from the second national reports or though other existing mechanisms (Survey), which was carried out in 2013. [↑](#footnote-ref-3)
3. A matrix detailing the source of information based on which each indicator was analysed can be found at <https://bch.cbd.int/protocol/issues/final_evaluation.shtml>. [↑](#footnote-ref-4)
4. As of 15 January 2020, 99 Parties had submitted a complete fourth national report, which represents 58 per cent of the Parties to the Protocol that had an obligation to do so. A total of 94 of these Parties had also submitted a second national report. [↑](#footnote-ref-5)
5. At the cut-off date for the preparation of the comparative analysis of information for the third assessment and review of the Protocol and mid-term evaluation of the Strategic Plan, 105 Parties had submitted their third national report. A total of 102 of these Parties had also submitted a second national report and their reports were used for the development of the comparative analysis. See UNEP/CBD/SBI/1/4. [↑](#footnote-ref-6)
6. The areas of work largely follow core obligations under the Protocol, in particular: the obligation to submit national reports (Article 33 of the Protocol); the obligation to take the necessary measures to implement the Protocol (Article 2(1) of the Protocol); the obligation to designate national focal points and competent national authorities (Article 19); the obligation to make mandatory information available to the BCH (Article 20(3) of the Protocol). [↑](#footnote-ref-7)
7. See for the various types of follow-up decided on by the Committee in this period, for example: CBD/CP/CC/9/4, para. 10(d); UNEP/CBD/BS/10/5, paras. 23 and 24; UNEP/CBD/BS/CC/12/5, para. 18. [↑](#footnote-ref-8)
8. UNEP/CBD/BS/13/6, para. 11(a) and para. 12(g). [↑](#footnote-ref-9)
9. CBD/CP/CC/15/5, para. 29. [↑](#footnote-ref-10)
10. CBD/CP/CC/16/7, paras. 27 and 29. [↑](#footnote-ref-11)
11. Fourth national reports submitted beyond 15 January 2020 could not be considered in the analysis for the fourth assessment and review of the Protocol and the final evaluation of the Strategic Plan. [↑](#footnote-ref-12)
12. This increase is mainly attributable to an increase (+10 per cent) during the third reporting cycle. A decrease (-2 per cent) was reported in the fourth reporting cycle. [↑](#footnote-ref-13)
13. This information has been obtained from question 19 of reporting format for the fourth national reports and could not be compared to information provided at the baseline, as Parties were not asked to provide this information at the time. [↑](#footnote-ref-14)
14. See CBD/CP/CC/14/3, which also provides an overview of activities carried out by the Committee following the submission of second national reports. [↑](#footnote-ref-15)
15. CBD/CP/CC/15/5, para. 27. [↑](#footnote-ref-16)
16. CBD/CP/CC/15/5, para. 32. [↑](#footnote-ref-17)
17. CBD/CP/CC/16/7. [↑](#footnote-ref-18)
18. It was not possible to respond “to some extent” to the related question in the second national report. This may have affected the reported changes as compared to the baseline. [↑](#footnote-ref-19)
19. Due to rounding up of decimals, the sum of the percentages is 14 per cent rather 15 per cent. [↑](#footnote-ref-20)
20. Some of these changes may be related to the revision of the question in the format for the fourth national report, which was restricted to the reporting period, while it was open-ended in the second national report. [↑](#footnote-ref-21)
21. This increase is mainly attributable to an increase in the fourth reporting cycle (+12 per cent). [↑](#footnote-ref-22)
22. In the second national reporting format, only those Parties that reported having ever taken a decision on LMOs-FFP were asked to respond to the question. For this reason, the overall number of Parties having provided information on this question is low. [↑](#footnote-ref-23)
23. Ibid. [↑](#footnote-ref-24)
24. Question 168 in the fourth national report is related to question 35(a) (on monitoring systems) and question 35(b) (on enforcement systems) in the Survey. For this analysis, the analyser tool on the BCH compared question 168 of the fourth national report with question 35(a) of the Survey. The total count differences between answers to question 35(a) and (b) are minimal (35(a): 61 answered *yes*, 46 answered *no*. Q35(b): 58 answered *yes*, 46 answered *no*). [↑](#footnote-ref-25)
25. The increase is mainly attributable to an increase in the fourth reporting cycle (+8 per cent). [↑](#footnote-ref-26)
26. At its sixteenth and twelfth meetings. [↑](#footnote-ref-27)
27. CBD/CP/CC/16/7, paras. 24-25. [↑](#footnote-ref-28)
28. Three of these Parties made available risk assessment summaries for the vast majority of decisions they submitted to the BCH. [↑](#footnote-ref-29)
29. At its fifteenth meeting and eleventh meetings. [↑](#footnote-ref-30)
30. At its sixteenth meeting and twelfth meetings. This is particularly the case for the review by the Committee of compliance by Parties to submitted to the BCH summary reports of risk assessments for relevant decisions. [↑](#footnote-ref-31)
31. It focused on the following types of information: (a) decisions taken: (i) under Articles 7 to 10 on the intentional transboundary movement of living modified organisms (LMOs) for intentional introduction into the environment; (ii) under Article 11, paragraph 1 on LMOs approved for domestic use, including placing on the market, and that may be subject to transboundary movement for direct use as food or feed, or for processing; (b) summaries of risk assessments corresponding to the decisions referred to in subparagraph (a) above (Article 20(3)(c)); (c) bilateral, regional and multilateral agreements and arrangements (Article 14(2)); (d) notifications concerning unintentional transboundary movements (Article 17(1)); (e) illegal transboundary movements (Article 25(3)); (f) relevant laws, regulations and guidelines to implement the Protocol (Article 20(3)(a)). See CBD/CP/CC/15/2. [↑](#footnote-ref-32)
32. CBD/CP/CC/15/5. [↑](#footnote-ref-33)
33. CBD/CP/CC/16/4. [↑](#footnote-ref-34)
34. CBD/CP/CC/16/7. [↑](#footnote-ref-35)
35. CBD/CP/CC/16/3. [↑](#footnote-ref-36)
36. The related question in the Survey did not provide for the answer ‘yes, to some extent’. A total of 51 per cent of Parties reported not to have access to such funding. [↑](#footnote-ref-37)
37. Question 167 of the fourth national report allows Parties to respond that no additional funding was obtained, while the lowest possible answer to the related question 6 of the Survey was “less than 5,000”. The change in the drafting of the answers may have contributed to this difference. [↑](#footnote-ref-38)
38. See UNEP/CBD/BS/CC/9/4, para. 10(b). The Committee also noted that delays in accessing funding in this regard had caused difficulties for a number of Parties in fulfilling their obligations under the Protocol, for example as regards submission of their national report (see UNEP/CBD/BS/CC/13/6, para. 10(c)). [↑](#footnote-ref-39)
39. UNEP/CBD/BS/CC/10, paras. 17-19. [↑](#footnote-ref-40)
40. See CBD/CP/CC/15/5, para. 27. The Committee previously considered this issue at its tenth and eleventh meetings (see UNEP/CBD/BS/CC/10, paras. 17-19; UNEP/CBD/BS/CC/11, paras. 10-19). [↑](#footnote-ref-41)
41. Decision 14/37, table 3, sect. B. [↑](#footnote-ref-42)
42. CBD/CP/CC/15/5, para. 33(d). The Committee recommended 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 to assist and support eligible Parties in putting in place measures to implement the Protocol, submit their fourth national reports and implement compliance action plans regarding the achievement of compliance with the Protocol. [↑](#footnote-ref-43)
43. CBD/CP/CC/15/5, para. 26. [↑](#footnote-ref-44)