



## Convention on Biological Diversity

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### **Compliance Committee under the Cartagena Protocol on Biosafety Nineteenth meeting**

Montreal, Canada, 30 April–2 May 2024

Item 5 of the provisional agenda\*

#### **Individual cases of non-compliance**

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#### **Note by the Secretariat**

#### **I. Introduction**

1. At its fourteenth meeting, held in May 2017, the Compliance Committee under the Cartagena Protocol on Biosafety decided to include a standing item on the agenda of its future meetings to facilitate consideration of ongoing individual cases of non-compliance.<sup>1</sup>
2. At its eighteenth meeting, held in October 2023, the Compliance Committee considered individual cases of non-compliance concerning the obligation to report in accordance with Article 33 of the Protocol, and the obligation to take the necessary and appropriate legal, administrative and other measures to implement the obligations under the Protocol, in accordance with paragraph 1 of Article 2.
3. The present document contains an overview of developments and actions taken since the eighteenth meeting of the Compliance Committee and suggestions as to possible follow-up regarding individual cases of non-compliance concerning compliance with the aforementioned provisions of Article 33 (sect. II) and Article 2 of the Protocol (sect. III). Non-compliance by certain Parties with their obligation to designate a national focal point, which the Committee may wish to consider as individual cases of non-compliance, is addressed in section IV.

#### **II. Individual cases of non-compliance concerning the obligation to report (Article 33)**

##### **A. Developments and actions taken**

4. At its eighteenth meeting, the Compliance Committee reviewed compliance with the obligation to report and expressed concern over the fact that nine Parties had submitted neither their third nor their fourth national reports.<sup>2</sup> The Committee agreed that its Chair would write to the national focal points of the Parties concerned to remind them of their obligation to submit national reports and invite them to share any information on the challenges that they might face in complying

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\* CBD/CP/CC/19/1.

<sup>1</sup> See [CBD/CP/CC/14/5](#), para. 25.

<sup>2</sup> Azerbaijan, Belize, Libya, Nauru, Papua New Guinea, Qatar, Saudi Arabia, Seychelles and Syrian Arab Republic.

with that obligation. The Committee also agreed that, if no response was received and no report was submitted, its Chair would write to the ministries of foreign affairs of those Parties, with a copy to the national focal points for the Protocol and the national focal points for the Convention on Biological Diversity, urging the Parties concerned to submit their national reports. It further agreed to review the results of those communications at the present meeting.

5. The Chair of the Compliance Committee wrote to the Parties concerned on 18 December 2023, urging them to submit their fourth national report before 15 February 2024. He also advised the Parties that he would follow up with their respective ministries of foreign affairs if a report was not submitted by that date. The letters further contained an overview of previous communications with the Parties concerned regarding the obligation to report, as well as information on the submission process and an offer of assistance from the Secretariat in this regard, and an explanation of the importance of national reporting.

6. Azerbaijan published its report on the Biosafety Clearing-House on 12 January 2024. Saudi Arabia submitted its fourth national report to the Secretariat on 22 February 2024. Libya and Seychelles responded to the letter from the Chair, indicating that they would endeavour to submit their fourth national reports before the deadline of 15 February 2024; however, the reports had not yet been received as at 15 March 2024.

7. The Chair wrote to the respective ministries of foreign affairs of the five remaining Parties on 1 March 2024, urging the Parties to submit their fourth national reports without further delay.

8. As at 15 March 2024, seven Parties had submitted neither their fourth nor their third national reports.<sup>3</sup>

## **B. Possible follow-up by the Compliance Committee**

9. The outstanding individual cases of non-compliance with the reporting obligation concern Parties that have not submitted two consecutive national reports. Follow-up with such Parties on behalf of the Compliance Committee included, starting in 2016, informal communications, letters from the Executive Secretary and letters from the Chair of the Committee. The communications were addressed to the national focal points for the Protocol and, on two occasions, to the ministries of foreign affairs of the Parties concerned. The Parties have been urged to submit their reports and invited to inform the Committee of the challenges that they faced in complying with the reporting obligation under Article 33, and they have been offered advice and assistance in this regard. The Parties have also been reminded in the communications of the importance of reporting.

10. Furthermore, at the recommendation of the Compliance Committee, the Conference of the Parties serving as the meeting of the Parties to the Protocol, on multiple occasions,<sup>4</sup> urged Parties that had not yet done so to submit their national reports. In its decision CP-10/9, the Conference of the Parties serving as the meeting of the Parties to the Protocol also noted with concern that some of the Parties that had not yet submitted their fourth national reports had also not submitted their third national reports, listing those Parties in a footnote to the decision.

11. Against this background, the Compliance Committee may wish to explore alternative compliance measures that it may take in accordance with section VI of the procedures and mechanisms on compliance under the Protocol.<sup>5</sup> In this context, the Committee may wish to recall that, at its thirteenth and fifteenth meetings, held in February 2016 and May 2018, respectively, it decided on measures in the face of similar recurrent cases of non-compliance with the reporting obligation, recommending that the Conference of the Parties serving as the meeting of the Parties to the Protocol caution certain Parties that had not submitted their national reports over multiple

<sup>3</sup> Belize, Libya, Nauru, Papua New Guinea, Qatar, Seychelles and Syrian Arab Republic.

<sup>4</sup> See decisions CP-VIII/15, para. 5, CP-9/5, para. 1, and CP-10/9, para. 4.

<sup>5</sup> Decision BS-I/7, annex.

reporting cycles, in accordance with section VI, paragraph 2 (b), of the procedures and mechanisms on compliance.<sup>6</sup>

12. In view of the above, the Compliance Committee may wish to consider recommending that, at its eleventh meeting, the Conference of the Parties serving as the meeting of the Parties to the Protocol caution the seven Parties that have submitted neither their third nor their fourth national reports, in accordance with section VI, paragraph 2 (b), of the procedures and mechanisms on compliance under the Protocol, unless a report is submitted before said meeting. Should the Committee decide to make such a recommendation, it may wish to request that its Chair inform the Parties concerned of its recommendation and urge them to submit their fourth national reports as soon as possible.

13. The Compliance Committee may also wish to invite its members to engage with the Parties concerned in their respective regions to encourage them to submit their national reports.

### **III. Individual cases of non-compliance concerning the obligation to take measures to implement the Protocol (Article 2 (1))**

14. At its fifteenth meeting, the Compliance Committee reviewed compliance by Parties with their obligation under Article 2, paragraph 1, of the Protocol to take the necessary and appropriate legal, administrative and other measures for the implementation of their obligations under the Protocol. The Committee decided that its Chair would contact those Parties that had reported in their third national reports not having taken any measures or only having taken draft or temporary measures for the implementation of the Protocol and, in line with section VI, paragraph 1 (c), of the procedures and mechanisms on compliance, request those Parties to develop a compliance action plan setting out a timeline and the actions required to achieve compliance with their obligations. On the basis of information provided in their third national reports, 25 Parties were identified and requested, by way of a letter from the Chair, to develop a compliance action plan. The Committee considered the issue further at its subsequent meetings, in the context of the review of individual cases of non-compliance.

15. At its eighteenth meeting, the Compliance Committee agreed on follow-up actions in respect of those individual cases of non-compliance. An overview of developments, actions taken and possible follow-up concerning those cases is provided in section A below.

16. Furthermore, the Compliance Committee also identified additional Parties that had not adopted any measures to implement the Protocol or that had adopted only draft or temporary measures, and decided on measures and follow-up actions in this regard. An overview of developments, actions taken and possible follow-up concerning those additional Parties is provided in section B below.

#### **A. Parties identified by the Compliance Committee at its fifteenth meeting on the basis of information in the third national reports**

17. Of the 25 Parties initially requested to prepare compliance action plans in 2018, 24 remain under consideration as individual cases of non-compliance. Updates on those Parties are provided below.

##### **1. Parties that submitted a compliance action plan**

###### **(a) Background**

18. At its eighteenth meeting, the Compliance Committee considered the limited information received from Barbados, Kyrgyzstan and Oman on the implementation of their compliance action plans and agreed that its Chair would write to those Parties to urge them to provide information on progress made with regard to the activities set out in the plans.

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<sup>6</sup> UNEP/CBD/BS/CC/13/6, para. 12 (g), and CBD/CP/CC/15/5, para. 37. See also UNEP/CBD/BS/COP-MOP/8/2, annex, sect. A.2, and CBD/CP/MOP/9/2, annex, sect. A.2.

19. The Compliance Committee also agreed that its Chair would write to Morocco to thank it for preparing a compliance action plan and to request that its national focal point provide details of the time frame for the activities set out therein. The Chair was also to invite Morocco to specify what type of resources it might need to carry out those activities.

20. The Compliance Committee welcomed and reviewed the new compliance action plans submitted by Burundi and Guinea and agreed that its Chair would write to the national focal points of those Parties to thank them for the submissions. It also requested that the Secretariat follow up with the two Parties, including on progress made with regard to the activities set out in the plans.

21. The Compliance Committee decided that it would invite the six Parties to the present meeting for an online exchange to discuss progress made and any challenges with the implementation of their plans. It requested the Secretariat to make the necessary arrangements in that regard.

**(b) Developments and actions taken**

22. Accordingly, the Chair of the Compliance Committee wrote to Barbados, Burundi, Guinea, Kyrgyzstan, Morocco and Oman on 18 December 2023. He included in his letters information on the opportunity to receive technical legal assistance through the Law and Environment Assistance Platform under the Programme for the Development and Periodic Review of Environmental Law of the United Nations Environment Programme (UNEP).<sup>7</sup> He also extended the Committee's invitation to an online exchange and explained that the Secretariat would provide more information in this regard in due course.

23. By letter dated 25 January 2024, Morocco responded to the Chair of the Compliance Committee, transmitting a revised compliance action plan that included a time frame for the activities outlined in its compliance action plan.<sup>8</sup> Morocco also informed the Committee that it had applied for technical assistance through the Law and Environment Assistance Platform. The Secretariat replied to the letter, thanking Morocco for having shared the revised compliance action plan and informing the national focal point that the revised plan would be transmitted to the Committee.

24. Barbados acknowledged receipt of the letter the Chair of the Compliance Committee, and Burundi informed the Secretariat that it would respond with additional information; as at 15 March 2024, however, no further communications had been received from either Party. No responses to the letter from the Chair had been received from Guinea, Kyrgyzstan or Oman. Communications regarding the informal online exchanges were to be sent after the preparation of the present document.

25. It should be noted that Kyrgyzstan submitted its fourth national report on 21 February 2024 and indicated that national measures were partially in place.

26. UNEP informed the Secretariat that, in addition to the request from Morocco, requests for technical legal assistance through its Law and Environment Assistance Platform had also been received from Burundi and Guinea. UNEP is communicating with the three Parties to define the scope of the work to be undertaken further to those requests.

**(c) Possible follow-up by the Compliance Committee**

27. Considering that the six Parties will be invited to the present meeting for an informal online exchange to discuss progress made and any challenges with the implementation of their compliance action plans, the Compliance Committee may wish to consider follow-up actions in the light of the information provided during the online exchanges.

28. The online exchanges are being prepared by the Secretariat in coordination with the Chair of the Compliance Committee. Further information will be provided during the meeting.

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<sup>7</sup> CBD/CP/CC/18/5, para. 39.

<sup>8</sup> The revised compliance action plan of Morocco will be shared with the members of the Compliance Committee through the Committee's collaborative portal, at [https://bch.cbd.int/onlineconferences/portal\\_art34/cc\\_main.shtml](https://bch.cbd.int/onlineconferences/portal_art34/cc_main.shtml).

**2. Parties that did not submit a compliance action plan but that informed the Compliance Committee that progress had been made in the adoption of measures**

**(a) Background**

29. At its eighteenth meeting, the Compliance Committee discussed the status of Eritrea, Mauritania and Saint Lucia, which had not submitted a compliance action plan but had informed the Committee that they had made progress in the adoption of measures to implement the Protocol. The Committee agreed that its Chair would: (a) write to Eritrea to urge it to publish the text of its proclamation No. 179/2017 in the Biosafety Clearing-House; (b) write to Mauritania to urge it to publish its recent biosafety measures in the Biosafety Clearing-House; and (c) write to Saint Lucia to ask for further information on the timeline for enactment of its biosafety bill.

**(b) Developments and actions taken**

30. Accordingly, the Chair of the Compliance Committee wrote to Eritrea, Mauritania and Saint Lucia on 8 March 2024.

31. On 13 March 2024, Eritrea contacted the Secretariat requesting assistance with attaching the text of its proclamation No. 179/2017 to the relevant record in the Biosafety Clearing-House, owing to Internet connectivity problems. The Secretariat provided the necessary assistance, and the revised record with the text of the proclamation (including an English translation) is now available in the Biosafety Clearing-House.<sup>9</sup>

32. As at 15 March 2024, and noting the limited time since the letters were sent, no response had been received from Mauritania or Saint Lucia.

**(c) Possible follow-up by the Compliance Committee**

33. In the light of the positive developments in the case of Eritrea, the Compliance Committee may wish to request its Chair to write to its national focal point to thank Eritrea for addressing the compliance issue by publishing the text of its proclamation in the Biosafety Clearing-House.

34. Both Mauritania and Saint Lucia indicated in their fourth national reports that measures were now partially in place. The discrepancy between that statement and the information available in the Biosafety Clearing-House is addressed in document CBD/CP/CC/19/2, in which the Compliance Committee is also invited to consider follow-up actions. The Committee may wish to follow up with the two Parties in the context of its review of consistency of information provided in the fourth national reports and in the Biosafety Clearing-House.

**3. Parties that did not submit a compliance action plan and did not provide further information to the Compliance Committee on measures taken**

**(a) Background**

35. At its eighteenth meeting, the Compliance Committee considered the individual cases of non-compliance concerning 15 Parties that had not submitted a compliance action plan and that had not provided further information to the Committee on measures taken to implement the Protocol.<sup>10</sup> It noted with concern that several reminders sent by the Secretariat to those Parties had not resulted in the submission of compliance action plans.

36. The Compliance Committee noted that 4 of the 15 Parties concerned had indicated in their fourth national reports that partial measures for the implementation of the obligations under the Protocol had been taken.<sup>11</sup> Noting that none of those Parties had published the measures in the

<sup>9</sup> <https://bch.cbd.int/en/database/LAW/BCH-LAW-ER-113207>.

<sup>10</sup> Bahamas, Botswana, Dominica, Fiji, Gambia, Grenada, Guyana, Palau, Saint Vincent and the Grenadines, Samoa, Suriname, Trinidad and Tobago, Tunisia, United Arab Emirates and Yemen.

<sup>11</sup> Grenada, Guyana, Palau and United Arab Emirates.

Biosafety Clearing-House, the Committee agreed that its Chair would communicate with the four Parties concerned to request them to do so.

37. The Compliance Committee also agreed that its Chair would write to the remaining 11 Parties<sup>12</sup> to urge them to develop a compliance action plan setting out a timeline and the actions required to achieve compliance with Article 2, paragraph 1, of the Protocol.

**(b) Developments and actions taken**

(i) *Grenada, Guyana, Palau and United Arab Emirates*

38. The Chair of the Compliance Committee sent letters to Grenada, Guyana, Palau and the United Arab Emirates on 8 March 2024.

39. As at 15 March 2024, and noting the limited time since the letters were sent, no response had been received from Guyana, Palau or the United Arab Emirates, while Grenada had acknowledged receipt. None of the four Parties, however, had published additional measures in the Biosafety Clearing-House.

(ii) *Bahamas, Botswana, Dominica, Fiji, Gambia, Saint Vincent and the Grenadines, Samoa, Suriname, Trinidad and Tobago, Tunisia and Yemen*

40. The Chair of the Compliance Committee sent letters to the Bahamas, Botswana, Dominica, Fiji, the Gambia, Saint Vincent and the Grenadines, Samoa, Suriname, Trinidad and Tobago, Tunisia and Yemen on 14 and 15 February 2024.

41. Suriname submitted a compliance action plan on 12 March 2024. The plan will be shared with the Committee members through the collaborative portal.

42. Tunisia replied on 19 February 2024, indicating there had been changes since the submission of its fourth national report, in particular the development of an environmental code. The Party had also published a record in the Biosafety Clearing-House on the Environmental Code and updated a record on a biosafety bill. On 14 March 2024, Tunisia submitted a compliance action plan, which will be shared with the Compliance Committee through the collaborative portal.

43. As at 15 March 2024, Botswana and Saint Vincent and the Grenadines had acknowledged receipt. Yemen had also responded, indicating that it was working on the preparation of the compliance action plan and that it would submit it as soon as possible. A response had also been received from Dominica, requesting guidance on the preparation of the plan, which the Secretariat provided. No responses had been received from the Bahamas, Fiji, the Gambia, Samoa or Trinidad and Tobago.

**(c) Possible follow-up by the Compliance Committee**

(i) *Grenada, Guyana, Palau and United Arab Emirates*

44. Grenada, Guyana, Palau and the United Arab Emirates all indicated in their fourth national reports that measures were now partially in place. The discrepancy between that statement and the information available in the Biosafety Clearing-House is addressed in document CBD/CP/CC/19/2, in which the Compliance Committee is also invited to consider follow-up actions. The Committee may wish to follow up with the four Parties in the context of the review of consistency of information between the fourth national reports and the Biosafety Clearing-House.

(ii) *Suriname and Tunisia*

45. The Compliance Committee may wish to review the compliance action plans submitted by Suriname and Tunisia and decide whether they adequately set out the timeline and actions required to achieve compliance or whether further information, clarification or refinement are needed. It may also wish to request its Chair to write to the respective national focal points to thank the Parties for

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<sup>12</sup> Bahamas, Botswana, Dominica, Fiji, Gambia, Saint Vincent and the Grenadines, Samoa, Suriname, Trinidad and Tobago, Tunisia and Yemen.

having prepared their compliance action plans and to inform them that the Secretariat will follow up on progress made with regard to the activities outlined in the plan.

(iii) *Bahamas, Botswana, Dominica, Fiji, Gambia, Saint Vincent and the Grenadines, Samoa, Trinidad and Tobago, Tunisia and Yemen*

46. Recalling that its Chair already wrote to the national focal points of those Parties on multiple occasions to request them to prepare a compliance action plan, the Compliance Committee may wish to consider requesting the Chair to write to the ministers overseeing the national focal points for the Protocol, urging the Parties to prepare a compliance action plan and to submit it to the Committee as soon as possible.

## **B. Parties identified by the Compliance Committee at its eighteenth meeting**

47. At its eighteenth meeting, the Compliance Committee had before it information on 12 additional Parties that had reported not having taken measures to implement their obligations under the Protocol or having taken only temporary or draft measures.<sup>13</sup> The information had been pulled from their fourth national reports or, where those were not available, their third national reports submitted after the Committee's fifteenth meeting.

48. The Compliance Committee recognized that two of those Parties<sup>14</sup> had submitted information in the Biosafety Clearing-House, which suggested that measures had been adopted. The Committee requested that the Secretariat write to the two Parties to seek clarification, which the Secretariat did on 27 February 2024. As at 15 March 2024, no response had been received.

49. The Compliance Committee agreed that its Chair would write to the other 10 Parties to request that they prepare a compliance action plan in accordance with section VI, paragraph 1 (c), of the procedures and mechanisms on compliance. Accordingly, the Chair wrote to nine of those Parties on 29 February 2024.<sup>15</sup>

50. On 6 March 2024, Angola published its fourth national report in the Biosafety Clearing-House, in which it indicated that national measures were partially in place. The discrepancy between that statement and the information available in the Biosafety Clearing-House is addressed in document CBD/CP/CC/19/2, in which the Compliance Committee is also invited to consider follow-up actions. Pending any response from Angola to the letter from the Chair, the Committee may wish to follow up with Angola in the context of the review of consistency of information between the fourth national reports and the Biosafety Clearing-House.

51. As at 15 March 2024, no response had been received from the other eight Parties that had been written to.

52. The Compliance Committee may wish to consider requesting its Chair to communicate again with those Parties in the second half of 2024, urging those that, by then, would still have not shared their compliance action plans, to prepare and submit their plans as a matter of urgency, noting that it is currently not possible to communicate with Myanmar.

## **IV. Possible further individual cases of non-compliance**

53. At its eighteenth meeting, the Compliance Committee considered compliance by Parties with the obligation to designate a national focal point. The Committee had before it an overview of actions taken and developments in respect of Parties that had not designated national focal points. Two

<sup>13</sup> Angola, Antigua and Barbuda, Armenia, Cabo Verde, Côte d'Ivoire, Djibouti, Kuwait, Lebanon, Liberia, Marshall Islands, Myanmar and Somalia.

<sup>14</sup> Armenia and Côte d'Ivoire.

<sup>15</sup> Angola, Antigua and Barbuda, Cabo Verde, Djibouti, Kuwait, Lebanon, Liberia, Marshall Islands and Somalia. No letter could be sent to Myanmar, in accordance with guidance provided further to General Assembly resolution 78/124, in which the Assembly approved the report of the Credentials Committee (A/78/605). In its report, the Credentials Committee had agreed to postpone its consideration of the credentials pertaining to the representatives of Afghanistan and Myanmar.

Parties, the Marshall Islands and Saint Vincent and the Grenadines, had been urged by the Chair of the Committee to designate their national focal points for the Protocol, through a letter sent on 23 January 2020 to the national focal points for the Convention. The Parties had not replied to the letter or to a follow-up email sent by the Secretariat in March 2020, and had not designated a national focal point for the Protocol by the time of the Committee's eighteenth meeting.

54. The Compliance Committee requested that the Executive Secretary follow up with the Marshall Islands and Saint Vincent and the Grenadines to request them to designate their national focal points for the Protocol as soon as possible and to notify the Secretariat accordingly, in accordance with Article 19 of the Protocol.

55. Accordingly, the Acting Executive Secretary wrote to the national focal points for the Convention of the Marshall Islands and Saint Vincent and the Grenadines on 23 January 2024, urging those Parties to designate their respective focal points for the Protocol and to notify the Secretariat by 15 February 2024.

56. On 1 February 2024, the Marshall Islands replaced its national focal points for the Convention and the Biosafety Clearing-House but did not designate a national focal point for the Protocol. By letter dated 29 February 2024, the Chair of the Compliance Committee communicated with the Marshall Islands on a number of outstanding compliance issues, also urging the Party to designate a national focal point for the Protocol. As at 15 March 2024, neither the Marshall Islands nor Saint Vincent and the Grenadines had designated a national focal point for the Protocol.

57. Against this background, and considering that the Marshall Islands and Saint Vincent and the Grenadines have been contacted on the issue on multiple occasions, the Compliance Committee may wish to consider requesting that the Chair write to the ministers overseeing the national focal points for the Convention, with a copy to the national focal points for the Convention and for the Biosafety Clearing-House, urging them to designate a national focal point for the Protocol.

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