



Convention on Biological Diversity

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Compliance Committee under the Nagoya Protocol on Access and Benefit-sharing Fourth meeting

Montreal, Canada, 25–27 March 2024

Item 4 of the provisional agenda*

Review of general issues of compliance

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Note by the Secretariat

I. Introduction

1. In accordance with paragraphs 9 and 10 of section D of the cooperative procedures and institutional mechanisms to promote compliance with the provisions of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity and to address cases of non-compliance (decision [NP 1/4](#), annex), the Compliance Committee under the Nagoya Protocol on Access and Benefit-sharing may examine a situation where a Party fails to submit its national report pursuant to Article 29 of the Protocol, or where information indicates that the Party concerned is faced with difficulties with complying with its obligations under the Protocol, as well as systemic issues of general non-compliance that come to the attention of the Committee.

2. Section II of the present document contains information on the submission of national reports, while section III contains a review of general issues of compliance on the basis of the analysis of progress made by Parties in implementing the Protocol and publishing information in the Access and Benefit-sharing (ABS) Clearing-House provided in document CBD/NP/CC/4/3/Add.1. Lastly, section IV contains suggestions for follow-up actions by the Compliance Committee and for recommendations for consideration by the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol.

II. Submission of national reports (Article 29)

3. Under Article 29 of the Protocol, each Party is required to monitor the implementation of its obligations under the Protocol and to report to the Conference of the Parties serving as the meeting of the Parties to the Protocol on measures that it has taken to implement the Protocol.

A. Submission of the interim national report on the implementation of the Nagoya Protocol

4. In decision [NP-1/3](#), the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol agreed to the guidelines and format for submission of an interim national report on the implementation of the Protocol and requested Parties to the Protocol to submit the interim report

* CBD/NP/CC/4/1.

12 months before its third meeting (i.e. by 1 November 2017). It also welcomed submissions of relevant information by non-Parties.

5. By the reporting deadline, 100 Parties to the Convention were party to the Nagoya Protocol, while an additional 5 had ratified the Protocol but were not party to it and, therefore, did not have the obligation to submit the interim national report.

6. At its third meeting, held in April 2020, in its review of general issues of compliance, the Compliance Committee requested the Executive Secretary to follow up on the letters that had been previously sent to those Parties that had not yet submitted their interim national reports. Accordingly, the Executive Secretary sent letters to nine Parties¹ to the Protocol that had the obligation to submit the interim national report but had not done so by 15 September 2021. Three Parties² submitted their interim national report after receiving the letter, and the Secretariat continued to follow up with the remaining six Parties to encourage submission of the report. One developing country Party indicated that it was not included in the list of Parties eligible to receive funds from the Global Environment Facility.

7. As at 19 December 2023, 93 Parties to the Nagoya Protocol with the obligation to submit the interim national report had published their reports on the ABS Clearing-House. One additional Party³ had submitted its interim national report to the Secretariat but had not yet published it on the Clearing-House. Altogether, this represents a rate of submission of 94 per cent. In addition, eight countries that were not Parties to the Protocol on 1 November 2017 had submitted interim national reports.⁴

B. Progress made on the first national report on the implementation of the Nagoya Protocol

8. In its decision [NP-4/3](#), the Conference of the Parties serving as the meeting of the Parties to the Protocol adopted the guidelines and format for the first national report on the implementation of the Nagoya Protocol, as contained in the annex to the decision, and requested Parties to submit a first national report on the implementation of their obligations under the Protocol by the same deadline as when the seventh national reports under the Convention were due (i.e. by 28 February 2026).

9. The Secretariat is working on making the reporting format available in the ABS Clearing-House in all official languages of the United Nations. A notification will be sent in due course to invite Parties and encourage non-Parties to submit their reports by the due date. Information on support from the Global Environmental Facility for the preparation of the report for eligible countries will also follow.

10. As highlighted in document CBD/NP/CC/4/4 on the development of the methodology for the second assessment and review of the effectiveness of the Nagoya Protocol, given the limited time available between the submission deadline for the first national reports and the time when their analysis needs to be made available to inform the second assessment and review, it is unlikely that reports submitted after the deadline will be considered in the analysis. The timely submission of the first national reports is, therefore, critical.

III. Adoption of measures, establishment of institutional arrangements and publication of information in the Access and Benefit-sharing Clearing-House

A. Follow-up pursuant to the request of the Compliance Committee at its third meeting

11. In order to implement the Protocol, Parties need, as a first step, to put the necessary ABS legislative, administrative and policy measures in place and establish institutional arrangements to

¹ Bolivia (Plurinational State of), Jordan, Luxembourg, Marshall Islands, Mauritius, Micronesia (Federated States of), Syrian Arab Republic, United Arab Emirates and Vanuatu.

² Marshall Islands, United Arab Emirates and Vanuatu.

³ Vanuatu.

⁴ Of those, six have since become Parties to the Protocol.

implement them (i.e. a national focal point, one or more competent national authorities and one or more checkpoints). The publication of mandatory information in the ABS Clearing-House (including information on permits or their equivalent issued at the time of access) is also essential for the implementation of the Protocol. Consequently, at its third meeting, the Compliance Committee considered possible general issues of compliance in relation to those core elements.

12. The Compliance Committee drew a number of conclusions regarding the state of implementation of the core elements, made recommendations to the Conference of the Parties serving as the meeting of the Parties to the Protocol⁵ and requested the Executive Secretary to take some follow-up actions.

13. Further to those requests, between August and December 2021, the Executive Secretary sent letters to 96 Parties that had not yet established their ABS measures or institutional arrangements or that had relevant information that needed to be made available through the ABS Clearing-House but had not yet submitted or published such information,⁶ which represented more than 70 per cent of the 132 Parties to the Nagoya Protocol as at December 2021.

14. Reminder messages were sent to those Parties that had not responded after two months of issuance of the letter. Of the 96 Parties concerned, 56 (about 58 per cent) acknowledged receipt, responded or took action following receipt of the original letter or the reminder. The Secretariat continued to follow up with Parties as part of its outreach activities to encourage compliance with the obligation to publish information in the ABS Clearing-House.

15. As a result of those efforts, 3 Parties designated a national focal point, 8 published information on ABS measures on the ABS Clearing-House, 7 published information on competent national authorities, 10 published information on checkpoints and 3 published information for the constitution of internationally recognized certificates of compliance.

16. In their responses, many Parties provided information on progress made at the national level to adopt ABS measures to implement the Protocol, the majority of Parties having draft measures ready for approval. A number of Parties referred to their lack of capacity and human resources to advance the implementation of the Protocol. Two developing country Parties indicated that they were not included in the list of Parties eligible to receive funds from the Global Environment Facility.

17. Another Party explained that, in its understanding of paragraph 2 of [Article 13](#), a country was not required under the Protocol to designate a competent national authority when it had decided not to put in place measures regulating access to its genetic resources. The Compliance Committee may therefore wish to consider the obligation in paragraph 2 of Article 13 to establish one or more competent national authorities in relation to Parties that have decided not to regulate access in accordance with paragraph 1 of Article 6. Experience from other Parties that do not have access requirements may be relevant in this regard. A number of Parties that do not have access requirements have been designating competent national authorities as authorities responsible for implementing the Nagoya Protocol.

B. Analysis of general issues of compliance as at December 2023

18. Given the time elapsed since the previous meeting of the Compliance Committee and the fact that additional countries have become Parties to the Protocol in that period, the Secretariat has prepared an updated analysis of progress in the implementation of the Protocol and the publication of information in the ABS Clearing-House.⁷ The analysis covers the 140 Parties to the Convention that were party to the Protocol as at 14 December 2023.

⁵ See document CBD/NP/CC/4/2 for more information on how the Compliance Committee's recommendations were considered by the Conference of the Parties serving as the meeting of the Parties to the Protocol.

⁶ The letters also included a request for information on the submission of the interim national report, as appropriate.

⁷ CBD/NP/CC/4/3/Add.1.

19. The analysis takes into account the responses from Parties to the letters from the Executive Secretary referred to in section III A, information available in the ABS Clearing-House and the interim national reports, as well as information received through national biodiversity strategies and action plans and the sixth national reports on the implementation of the Convention. Given that the deadline for reports under the Protocol was November 2017 and that there are no recent official sources of information on implementation, document CBD/NP/CC/4/3/Add.1 also includes information collected by the Secretariat in its engagement with Parties to promote compliance with the Protocol in order to have recent information on compliance with the Protocol.

20. To assist in measuring progress in implementation, the information from December 2023 is contrasted with that collected in March 2020, with the caveat that, since then, 17 countries have become Parties to the Protocol.

1. Access and benefit-sharing measures

21. Paragraph 6 of document CBD/NP/CC/4/3/Add.1 provides information on the progress by Parties in establishing access and benefit-sharing measures as at 14 December 2023. The equivalent analysis done for the Committee's previous meeting can be found in document CBD/NP/CC/3, in particular paragraphs 15 to 17. Table 1 contains an overview of progress in establishing ABS measures and publishing information on measures in the ABS Clearing-House as at 4 March 2020 and 14 December 2023, for comparison purposes.

Table 1

Progress by Parties in establishing access and benefit-sharing measures and publishing the information in the Access and Benefit-sharing Clearing-House

<i>Status of progress</i>	<i>March 2020^a</i>		<i>December 2023^b</i>	
	<i>Number</i>	<i>Percentage</i>	<i>Number</i>	<i>Percentage</i>
Parties with ABS measures in place	95	77	113	81
Parties with measures in place and no information on plans for additional measures	20	16	27	19
Parties revising or developing additional measures	59	48	69	49
Parties planning to revise or develop additional measures	16	13	17	12
Parties with no ABS measures in place	28	22	27	19
Parties that have published ABS measures in the ABS Clearing-House	60	49	70	50

^a Based on a total number of 123 Parties to the Protocol as at 4 March 2020.

^b Based on a total number of 140 Parties to the Protocol as at 14 December 2023.

22. As shown in table 1, the rate of compliance with the obligation to put in place ABS measures increased slightly from March 2020 to December 2023, even while the number of Parties to the Protocol increased. While the trend is encouraging, close to 20 per cent of Parties still had no measures in place as at December 2023. Furthermore, only 50 per cent of Parties had published their measures in the ABS Clearing-House. Given the critical importance of ABS measures in the implementation of the Protocol, those rates are of concern.

2. National focal point

23. As indicated in paragraph 10 of document CBD/NP/CC/4/3/Add.1, 138 of 140 Parties to the Protocol (99 per cent) had designated a national focal point for ABS as at 14 December 2023,

compared with 120 of 123 Parties (98 per cent) as at 4 March 2020. The situation in both March 2020 and December 2023 reflects a very high rate of compliance with the obligation in Article 13.

3. Competent national authorities and checkpoints

24. Competent national authorities and checkpoints are often established in ABS measures, and progress in the implementation of those obligations is therefore usually linked.

25. Information on progress by Parties in designating competent national authorities and checkpoints is provided in paragraphs 11 and 12, respectively, of document CBD/NP/CC/4/3/Add.1. The equivalent analysis done for the Committee's previous meeting can be found in paragraphs 20 to 23 of document CBD/NP/CC/3. Table 2 contains an overview of progress in designating those authorities and publishing the information in the ABS Clearing-House as at 4 March 2020 and as at 14 December 2023, for comparison purposes.

Table 2

Progress by Parties in designating competent national authorities and publishing the information in the Access and Benefit-sharing Clearing-House

<i>Status of progress</i>	<i>March 2020^a</i>		<i>December 2023^b</i>	
	<i>Number</i>	<i>Percentage</i>	<i>Number</i>	<i>Percentage</i>
Parties with one or more competent national authorities	80	65	94	67
Parties that have published competent national authorities in the ABS Clearing-House	64	52	73	52
Parties with one or more checkpoints	40	32	47	34
Parties that have published checkpoints in the ABS Clearing-House	29	23	40	29

^a Based on a total number of 123 Parties to the Protocol as at 4 March 2020.

^b Based on a total number of 140 Parties to the Protocol as at 14 December 2023.

26. Similar to the situation with ABS measures, the rate of compliance with the designation of competent national authorities and checkpoints remained relatively stable, even while the number of Parties to the Protocol increased. As at December 2023, however, more than 30 per cent of Parties had still not designated a competent national authority, and more than 60 per cent had still not designated a checkpoint. Those rates may be linked to ongoing efforts by Parties to revise existing or develop new measures to fulfil their obligations, as described in paragraph 21, in particular with regard to the designation of one or more checkpoints as a new institutional structure introduced pursuant to the Protocol. Challenges to publishing information on competent national authorities and checkpoints in the ABS Clearing-House also remain.

4. Permits constituting internationally recognized certificates of compliance and checkpoint communiqués

27. Since March 2020, six additional Parties have published in the ABS Clearing-House information on permits constituting internationally recognized certificates of compliance or their equivalents, bringing the total number of Parties with such certificates to 27.

28. According to the information available to the Secretariat as at December 2023, 23 Parties had permits that still needed to be made available in the ABS Clearing-House, including 22 that had not published any internationally recognized certificates of compliance to date.

29. The number of Parties that had published checkpoint communiqués in the ABS Clearing-House increased from 5 in March 2020 to 11 in December 2023, while the number of checkpoint communiqué records in the Clearing-House increased from 26 to 174 over the same period. A total

of 60 per cent of the checkpoint communiqués (105 of 174) did not reference any internationally recognized certificate of compliance. The fact that there exist checkpoint communiqués with no link to an internationally recognized certificate of compliance suggests that there are permits that Parties should still publish in the Clearing-House.

IV. Suggestions for consideration by the Compliance Committee

30. The Compliance Committee may wish to review the information on general issues of compliance with obligations under the Protocol, as outlined in sections II and III, and formulate conclusions or recommendations, as appropriate. In view of the low level of compliance with the obligation to designate one or more checkpoints and the importance of the publication of all available national information in the ABS Clearing-House, the Committee may wish in particular to reflect on possible challenges faced by Parties in complying with those obligations.

31. The Compliance Committee may also wish to request the Executive Secretary to send letters to the Parties that have not yet established ABS measures or institutional arrangements and to those that have relevant information that needs to be made available through the ABS Clearing-House to urge them to take the necessary actions as soon as possible.

32. The Compliance Committee may consider recommending that, at its fifth meeting, the Conference of the Parties serving as the meeting of the Parties to the Protocol:

(a) Request from Parties that have not yet completely put in place the legislative, administrative or policy measures necessary to implement the Protocol that they expedite the adoption of such measures and include the designation of one or more competent national authorities and one or more checkpoints;

(b) Urge those Parties that have relevant national information that needs to be made available in the ABS Clearing-House to make the information available as soon as possible;

(c) Welcome the high rate of submission of interim national reports on the implementation of the Protocol;

(d) Encourage Parties to submit their first national reports on the implementation of the Protocol before the deadline of 28 February 2026, with a view to facilitating the analysis for the second assessment and review of the effectiveness of the Protocol.
