



## Convention on Biological Diversity

Distr.  
GENERAL

UNEP/CBD/BS/A&R/1/3  
4 May 2012

ORIGINAL: ENGLISH

### AD HOC TECHNICAL EXPERT GROUP MEETING ON THE SECOND ASSESSMENT AND REVIEW OF THE CARTAGENA PROTOCOL ON BIOSAFETY

Vienna, 14-16 May 2012

Item 7 of the provisional agenda\*

### OUTLINE OF AN APPROACH TO THE MIDTERM EVALUATION OF THE STRATEGIC PLAN AND THE THIRD ASSESSMENT AND REVIEW OF EFFECTIVENESS

#### I. INTRODUCTION

1. This document is intended to be read in conjunction with the document UNEP/CBD/BS/A&R/1/2, *Second assessment and review of the effectiveness of the Cartagena Protocol on Biosafety (Article 35)*, which seeks to evaluate the status of implementation of the Protocol for the purpose of the second assessment and review of effectiveness under Article 35.

2. At its fifth meeting in 2010, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety (COP-MOP) adopted, in decision BS-V/16, a Strategic Plan for the Protocol for the period 2011-2020. In this decision, the Parties to the Protocol provided for midterm evaluation of the Strategic Plan to be carried out five years after its adoption. In paragraph 4(a) of the decision and paragraph 3(b) of decision BS-V/15, it is stated that the midterm evaluation will take place at the eighth meeting of the Parties in conjunction with the third assessment and review of the effectiveness of the Protocol. Given the current timing of meetings of the Parties to the Protocol, this is likely to be in 2016. The evaluation process is to use the indicators set out in the Strategic Plan to assess the extent to which the strategic objectives are being achieved (paragraph 11 of annex I to decision BS-V/16). Information for the evaluation is to be drawn mainly from the national reports submitted by Parties and “from other sources that are relevant and available to generate the data necessary for the analysis” (*ibid.*).

3. In paragraph 4(b) of decision BS-V/16, the Parties to the Protocol decided that the midterm evaluation would use appropriate evaluation criteria to be proposed by the Executive Secretary at the seventh meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. As a starting point, decision BS-V/16 states the assumption that “a baseline of the status of implementation of the Protocol and global indicators will be established after the second assessment and review at the sixth meeting of the Conference of the Parties serving as the meeting of the Parties to establish a global picture” (paragraph 13 of annex I to decision BS-V/16). The decision further notes that the indicators in the Strategic Plan have been drafted in such a way that they would facilitate measurement of progress against this baseline.

\* UNEP/CBD/BS/A&R/1/1.

4. The document UNEP/CBD/BS/A&R/1/2 analyses the status of implementation of core aspects of the Protocol, in accordance with decision BS-V/15. The analysis addresses the elements and indicators set out in the annex to decision BS-V/15, and is based primarily on information available in the second national reports. The present Ad Hoc Technical Expert Group meeting will consider this analysis with a view to making recommendations to the sixth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol on the status of implementation of the Protocol and conclusions on the second evaluation of the effectiveness of the Cartagena Protocol. Thus, the sixth meeting of Conference of the Parties serving as the meeting of the Parties is expected to establish the “baseline” of the status of implementation.

5. Against this background, the present document, UNEP/CBD/BS/A&R/1/3, presents a preliminary attempt to outline elements of a process for conducting the midterm evaluation of the Strategic Plan and the third assessment and review of effectiveness at the eighth meeting of the Conference of the Parties serving as the meeting of the Parties. Overall, the preliminary recommendation at this stage is that, as far as possible, these processes should be combined, both in terms of procedure and in terms of substantive analysis. There are a number of reasons to support such a suggestion.

6. First, the analysis of the status of implementation of the Protocol, contained in document UNEP/CBD/BS/A&R/1/2, indicates that many developing country Parties, in particular, remain at a relatively early stage of implementing national biosafety frameworks (NBFs). Numerous such Parties are presently undertaking or initiating projects funded by the Global Environment Facility (GEF) on implementation of NBFs. In addition to finalizing legal and regulatory frameworks, such projects also often appear to address capacity development in areas identified as priorities by the Parties concerned, such as risk assessment and management, and/or sampling and detection of LMOs. Against this context, the third assessment and review of effectiveness is likely to have to devote further significant attention to consideration of the extent to which the overall status of implementation of the Protocol by Parties has progressed since 2012. At the same time, the Strategic Plan contains a number of indicators which are designed to facilitate measurement of progress against the baseline of the status of implementation established by the second assessment and review of effectiveness.<sup>1</sup>

7. Second, several processes have now been developed under the Protocol which provide for measurement of progress by reference to indicators.<sup>2</sup> To a significant extent, such measurement depends upon the provision of information by Parties through their national reports, or potentially through dedicated surveys. Combining evaluation under Article 35 and the Strategic Plan review process at the eighth meeting of the Conference of the Parties serving as the meeting of the Parties would simplify and streamline the evaluation process, particularly at the information-gathering stage. Clearly, this has implications for the design of the format for the third national reports to be submitted by Parties.

## II. MIDTERM REVIEW OF THE STRATEGIC PLAN

8. For the reasons set out above, the proposal set out in part III below seeks to link the process for midterm review of the Strategic Plan with that for the third evaluation of effectiveness of the Protocol.

---

<sup>1</sup> Paragraph 13 of annex I to decision BS-V/16. See, in the Strategic Plan (decision BS-V/16), the indicators in relation to operational objectives 1.1, 1.3, 1.4, 1.6, 1.8, 2.1, 2.2, 2.5, 2.6, 3.1, 4.1 and 5.3.

<sup>2</sup> In addition to the Strategic Plan, these include the Article 35 assessment and review process itself, the implementation of the Action Plan on capacity-building (decision BS-IV/3) and the Programme of Work on Public Awareness, Education and Participation (decision BS-V/13). The independent evaluation of the Action Plan for Capacity-building, UNEP/CBD/BS/COP-MOP/6/INF/2, suggests that linkages be made between a new results-based Action Plan for capacity-building and the Strategic Plan (see recommendations 1 and 2 of the independent evaluation).

The Strategic Plan already sets out a detailed set of indicators designed to enable measurement of progress towards desired outcomes and operational objectives.

9. The achievement of the strategic objectives of the Strategic Plan is linked to the programme of work adopted for the Parties to the Protocol in the period to 2016 (eighth meeting of the Parties). The midterm evaluation of the Strategic Plan might comprise a review of progress in respects of all focal areas and operational objectives under the Plan. Such an evaluation should then, it is suggested, be based upon an analysis of the existing indicators contained in decision BS-V/16.

### **III. FRAMEWORK FOR THIRD EVALUATION OF EFFECTIVENESS OF THE PROTOCOL**

#### *Scope*

10. The third evaluation of the effectiveness of the Protocol is due to be conducted at the eighth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. As noted above, the analysis of the status of implementation of the Protocol, undertaken as a basis for the second evaluation of effectiveness, makes it clear that many Parties have yet to finalize the legal and administrative measures necessary to enable implementation of the Protocol's procedures, and that many are still in the process of developing capacity to implement the Protocol. In this context, it would seem that the third evaluation of effectiveness should, *inter alia*, assess what further progress has been made in domestic implementation of core elements of the Protocol.

11. At the same time, however, it should be noted that in their comments prior to the second evaluation of effectiveness of the Protocol, a number of Parties expressed the view that evaluations under Article 35 should address the effectiveness of the Protocol in achieving its objective.<sup>3</sup> Article 1 of the Protocol states that:

In accordance with the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Protocol is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, and specifically focusing on transboundary movements.

12. For the purposes of the Article 35 assessment and review process, the wording of Article 1, particularly the phrase "to contribute to ensuring an adequate level of protection", arguably raises the question whether an evaluation of effectiveness of the Protocol requires primarily an evaluation of whether appropriate *procedural* mechanisms have been adopted and applied in order to ensure the safe transfer, handling and use of living modified organisms. Alternatively, or in addition, this wording could be interpreted to imply that there should be an evaluation as to whether the procedures and mechanisms put in place pursuant to the Protocol have had the *effect* of identifying and managing any risks associated with the transfer, handling and use of living modified organisms such that adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, have not occurred. It is suggested that both of these elements form part of the objective of the Protocol, and that the reference to the evaluation of "effectiveness" in Article 35 indicates that future evaluations should encompass consideration of substantive outcomes arising from the application of the procedures and mechanisms that the Protocol provides. The questions that then arise include: how might this be

---

<sup>3</sup> UNEP/CBD/BS/COP-MOP/4/INF/10, 3 April 2008, *Assessment and Review (Article 35): Compilation of Submissions of Views*.

achieved; what data would be required in order to make such an evaluation (and are such data available); and upon what criteria or indicators should such an evaluation be based.

#### *Process*

13. In relation to the first evaluation of effectiveness, the Parties to the Protocol considered document UNEP/CBD/BS/COP-MOP/5/15, which, *inter alia*, reviewed processes utilized in other multilateral environmental agreements (MEAs) to assess and review effectiveness of the agreement concerned, and considered the extent to which experiences in relation to such processes might provide models from which the Cartagena Protocol could draw. Some further progress has been made in relation to some of these processes, including, in particular, under the Stockholm Convention on Persistent Organic Pollutants.<sup>4</sup> However, as noted in document UNEP/CBD/BS/COP-MOP/5/15, other MEAs for which evaluation processes have been put in place differ in significant respects from the Cartagena Protocol on Biosafety in terms of their objectives and the regulatory techniques that they employ.<sup>5</sup> Thus, the specific processes for evaluation of effectiveness or assessment of implementation may well not be directly transferable or appropriate to the Cartagena Protocol on Biosafety. As a general point, it is noteworthy, however, that a number of other MEAs are grappling with the challenge of evaluating their effectiveness, often in the context of limited resources and national capacity of Parties, a lack of a prior common understanding of or framework for assessing effectiveness, and inadequate or incomplete existing dedicated data sets upon which such evaluations can be based.

14. The scope of and process for the third evaluation of effectiveness will need to be determined by the seventh meeting of the Conference of the Parties serving as the meeting of the Parties, so as to enable data gathering and analysis before the eighth meeting of the Conference of the Parties serving as the meeting of the Parties. It is suggested that two aspects, in particular, would benefit from further deliberation in a regionally balanced forum: these are, first, the possible consolidation of indicators for the evaluation of effectiveness and the midterm evaluation of the Strategic Plan, and, second, the development of indicators concerning the substantive outcomes of the application of the procedures and mechanisms of the Protocol. For this reason, the proposal suggests below that an Ad Hoc Technical Expert Group on the Strategic Plan and the Evaluation of the Effectiveness of the Cartagena Protocol should be established by the sixth meeting of the Conference of the Parties serving as the meeting of the Parties, in order to prepare for the evaluations to be undertaken by the eighth meeting of the Conference of the Parties serving as the meeting of the Parties. On a preliminary basis, it is suggested that the framework for the third evaluation of effectiveness might comprise the elements listed below. Where relevant, a suggestion is made, in brackets, as to which entity might conduct the various tasks.

(a) Identification of common indicators in work programmes and action plans adopted by the Parties to the Protocol to date, and in the Strategic Plan (Secretariat of the Convention on Biological Diversity for the seventh meeting of the Conference of the Parties serving as the meeting of the Parties);

(b) Establishment of an Ad Hoc Technical Expert Group on the Strategic Plan and Evaluation of the Effectiveness of the Cartagena Protocol (AHTEG/SP). It is suggested that this group should be established by the sixth meeting of the Conference of the Parties serving as the meeting of the Parties in order to undertake the tasks described below. In terms of membership, it may be appropriate for

---

<sup>4</sup> See Stockholm Convention on Persistent Organic Pollutants, UNEP/POPS/COP.5/31, *Effectiveness evaluation*, 14 December 2010, and decision SC-5/17 on effectiveness evaluation, in annex I to UNEP/POPS/COP.5/36, 29 May 2011.

<sup>5</sup> For example, while a number of them, like the Cartagena Protocol on Biosafety, seek to control in some manner the transboundary movement of certain products in order to prevent adverse effects on the environment, some of them also explicitly provide for reducing or phasing out the production and/or consumption of certain substances. Measuring changes in, for example, the manufacture, import and export of persistent organic pollutants will inevitably pose methodological challenges different from those involved in measuring the impact of living modified organisms (LMOs) on the conservation and sustainable use of biological diversity.

this group to include representation from, for example, the Bureau of the Conference of the Parties to the Convention on Biological Diversity serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety (COP-MOP Bureau), the Compliance Committee and the Capacity-building Coordination Mechanism, in addition to representatives of Parties, intergovernmental organizations and other stakeholders, as appropriate. Its membership should be regionally balanced, and it should include representation of technical experts in evaluation processes;

(c) Identification and adjustment of indicators for measuring progress in the status of implementation of the Protocol. These could be based upon the elements and indicators contained in the annex to decision BS-V/15, as well as relevant indicators in the Strategic Plan, adjusted as necessary in light of the experience of the second evaluation of effectiveness and the proposed scope of the third evaluation (Secretariat of the Convention on Biological Diversity and AHTEG/SP for the seventh meeting of the Conference of the Parties serving as the meeting of the Parties);

(d) Develop draft indicators for assessing the effectiveness of the Protocol in meeting its objective, stated in Article 1, for consideration by the seventh meeting of the Conference of the Parties serving as the meeting of the Parties (AHTEG/SP);

(e) Consider and make recommendations on issues relating to data-gathering and analysis related to the indicators identified in (iv) above (AHTEG/SP);

(f) Propose a specific time frame and work plan for conducting the third evaluation of effectiveness and the midterm review of the Strategic Plan for the consideration of the seventh meeting of the Conference of the Parties serving as the meeting of the Parties (AHTEG/SP);

(g) Adopt a single set of indicators for the purpose of evaluation of effectiveness and midterm evaluation of Strategic Plan (the seventh meeting of the Conference of the Parties serving as the meeting of the Parties, on the basis of input from the AHTEG/SP and the Secretariat of the Convention on Biological Diversity);

(h) Adopt a format for third national reports that would facilitate the data-gathering requirements for the third evaluation of effectiveness, in light of the indicators developed above (the seventh meeting of the Conference of the Parties serving as the meeting of the Parties);

(i) Consider and adopt any appropriate provisions to facilitate timely submission of third national reports by Parties (the seventh meeting of the Conference of the Parties serving as the meeting of the Parties);

(j) Ensure that the deadline for submission of third national reports provides sufficient time for analysis of information by AHTEG/SP and the Secretariat of the Convention Biological Diversity prior to the eighth meeting of the Conference of the Parties serving as the meeting of the Parties (the seventh meeting of the Conference of the Parties serving as the meeting of the Parties);

(k) Identify, in a decision of the Parties to the Protocol, a list of other appropriate sources of data for the third evaluation of effectiveness and the midterm review of the Strategic Plan. For example, in addition to information from Parties and other States, information might be invited from international and regional organizations, industry, non-governmental organizations, public agricultural research institutions, and other stakeholders (the seventh meeting of the Conference of the Parties serving as the meeting of the Parties);

(l) Invite Parties, governments, organizations and other stakeholders to make information available that may be of relevance for the third evaluation of effectiveness for consideration by AHTEG/SP (the seventh meeting of the Conference of the Parties serving as the meeting of the Parties);

(m) Ensure that any further indicators, or milestones, built into decisions adopted in respect of other provisions of the Protocol are integrated into the overall evaluation process (the seventh of the Conference of the Parties serving as the meeting of the Parties);

(n) Provide a mandate and financial resources for the AHTEG/SP to meet sufficiently in advance of the eighth meeting of the Conference of the Parties serving as the meeting of the Parties to review the analysis of data and provide conclusions and recommendations to the eighth meeting of the Conference of the Parties serving as the meeting of the Parties on the third evaluation of effectiveness and midterm evaluation of Strategic Plan (the seventh meeting of the Conference of the Parties serving as the meeting of the Parties);

(o) The conclusions and recommendations of the AHTEG/SP should address whether there is any need for a review of the programme of work of the Parties to the Protocol contained in annex II to decision BS-V/16 (AHTEG/SP);

(p) Adopt a decision containing conclusions on the evaluation of effectiveness and the midterm evaluation of Strategic Plan (the eighth meeting of the Conference of the Parties serving as the meeting of the Parties);

(q) Adopt a framework for the final evaluation of the Strategic Plan, including the possible continuation of AHTEG/SP (the eighth meeting of the Conference of the Parties serving as the meeting of the Parties).

#### **IV. CONCLUSION**

15. This proposal seeks to link the processes of evaluation of effectiveness and evaluation of the Strategic Plan for the purposes of the eighth meeting of the Conference of the Parties serving as the meeting of the Parties and beyond. It also seeks to create links, as appropriate, with other work programmes and plans under the Protocol, particularly in relation to capacity development. It seeks to streamline data-gathering and analysis for the purpose of evaluation. Over the longer term, the Parties to the Protocol may wish to consider whether the requirement in Article 35 to conduct regular evaluations of effectiveness of the Protocol could be addressed solely through the development and assessment of periodic Strategic Plans. This approach seems to have been utilized in certain other multilateral environmental agreements, and enables the formulation of short- and medium-term measurable objectives, and their evaluation, against a longer-term vision.

-----