



# CONVENTION ON BIOLOGICAL DIVERSITY

Distr.  
GENERAL

UNEP/CBD/BS/COP-MOP/2/2  
16 March 2005

ORIGINAL: ENGLISH

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## CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY SERVING AS THE MEETING OF THE PARTIES TO THE CARTAGENA PROTOCOL ON BIOSAFETY

Second meeting

Montreal, 30 May—3 June 2005

Item 4 of the provisional agenda\*

### REPORT OF THE COMPLIANCE COMMITTEE ON THE WORK OF ITS FIRST MEETING

#### INTRODUCTION

1. In its decision BS-I/7, the Conference of the Parties serving as the meeting of the Parties to the Protocol adopted the procedures and mechanisms on compliance under the Protocol (hereinafter referred to as the compliance procedures) and established the Compliance Committee (hereinafter referred to as the Committee). On the same occasion, the Conference of the Parties serving as the meeting of the Parties to the Protocol elected 15 members on the basis of three members from each of the five regional groups of the United Nations to serve on the Committee.

2. The first meeting of the Committee took place in Montreal from 14 to 16 March 2005. The following members of the Committee were present: Mr. Victor Villalobos Arámbula (Mexico), Mr. Jürg Bally (Switzerland), Dr. Tewolde Berhan Gebre Egziabher (Ethiopia), Ms. Mary Fosi Mbantenkhu (Cameroon), Dr. Sergiy Gubar (Ukraine), Ms. Birthe Ivars (Norway), Dr. Nemat Khansari (Islamic Republic of Iran), Mr. Veit Koester (Denmark), Mr. Bather Kone (Mali), Mr. Gábor Nechay (Hungary), and Mr. Alvaro Rodriguez (Colombia).

#### ITEM 1. OPENING OF THE MEETING

3. The meeting was opened at 9.30 a.m. on 14 March 2005 by Mr. Hamdallah Zedan, Executive Secretary of the Convention on Biological Diversity. He welcomed the members of the Committee to its first meeting and congratulated them on their elections. He stated that the establishment of the Committee marked an important step toward promoting effective implementation of, and compliance with, the obligations of Parties under the Protocol. He further pointed out that the Committee would serve as a valuable forum to help Parties identify roots of problems of implementation and assist them in complying with the Protocol. Finally, he expressed his confidence that the work of the Committee at its first meeting would serve as an important foundation for the future and establish the credibility of the process.

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4. After the opening statement, Mr. Hamdallah Zedan informed the meeting that four members of the Committee were not able to attend the meeting: Ms. Prescott (Tonga), Ms. Strel (Slovenia), Mr. O'Garro (Barbados) and Mr. Gurdial Singh Nijar (Malaysia). In the case of Ms. Prescott, her Government had informed the Secretariat that she was no longer in a position to serve on the Committee. Mr. Hamdallah Zedan indicated that the Committee might therefore wish to address the situation where a member of the Committee was unable to complete his/her term of office, and an appropriate procedure for replacement. He understood that that would be one of the issues to be considered in discussing rules of procedure for the Committee.

## **ITEM 2. ORGANIZATIONAL MATTERS**

### ***2.1 Election of officers***

5. The Committee elected Mr. Veit Koester as its Chairperson and Ms. Mary Fosi Mbantenkhu as Vice-Chairperson. Having taken the chair, Mr. Koester thanked members of the Committee for the election and expressed his confidence that the Committee would work together to achieve the objectives of the compliance procedures.

### ***2.2 Adoption of the agenda***

6. The Committee adopted the following agenda on the basis of the provisional agenda (UNEP/CBD/BS/CC/1/1) prepared by the Executive Secretary:

1. Opening of the meeting.
2. Organizational matters:
  - 2.1. Election of officers;
  - 2.2. Adoption of the agenda;
  - 2.3. Organization of work.
3. Development of rules of procedure for meetings of the Compliance Committee under the Cartagena Protocol.
4. Work plan of the Compliance Committee.
5. Other matters.
6. Adoption of the report.
7. Closure of the meeting.

### ***2.3. Organization of work***

7. The Committee agreed on the schedule for its meetings.

## **ITEM 3: DEVELOPMENT OF RULES OF PROCEDURES FOR MEETINGS OF THE COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL**

8. At the request of a member of the Committee, the Chair briefed the Committee on his experiences in handling the compliance process under the Convention on Access to Information, Public Participation

in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention), in his capacity as the Chairman of the Compliance Committee under that Convention.

9. The Chair then invited the members to consider rules of procedures for the meetings of the Compliance Committee on the basis of the note by the Executive Director on the subject (UNEP/CBD/BS/CC/1/2).

10. The Committee discussed the following issues: general approaches to development of rules of procedure, purposes, definitions, dates and notice of meetings, agenda, distribution and consideration of information, publication of documents and information, members, officers, participation in proceedings of the Committee, conduct of business, voting, languages, amendments to rules of procedure, and overriding authority of the Protocol and decision BS-I/7.

11. In these discussions, the following issues were raised in relation to practical operation of the rules of procedure:

(a) With respect to paragraph 3 of rule 8, concerning determination of relevance of the information received in accordance with paragraph 2 of section V of the compliance procedures, the Committee agreed that rule 15, which is related to electronic means of communication, would be applicable;

(b) Regarding rule 13, on participation in proceedings of the Committee, the Committee noted that if the submission made under paragraph 1 of section IV of the compliance procedures is from a developing country Party or a Party with economy in transition, funding for participation in the meetings of the Committee by that Party should be provided by the Secretariat, subject to budgetary considerations. In this context, the Executive Secretary was requested to bring this matter to the attention of the the Conference of the Parties serving as the meeting of the Parties to the Protocol for appropriate action;

(c) With regard to rule 15, on electronic means of communications, it was the understanding of the Committee that any confidential information as referred to in paragraph 4 of section V of the compliance procedures should not be transmitted to the members of the Committee through electronic means;

(d) Regarding paragraph 2 of rule 8, the Committee noted that if a submission that was made in accordance with paragraph 1 (a) of section IV of the compliance procedures is in English, such a submission may be transmitted to the members of the Committee immediately. In the case where such submission is made in an official language of the United Nations other than English, the Secretariat should transmit the English translation of the submission to the members of the Committee within ninety days of receipt of the submission. However, any member of the Committee may request the Secretariat for the copy of the submission in its original form;

(e) For the purpose of cost effectiveness and timeliness, the members of the Committee are encouraged to offer assistance to the Secretariat in reviewing submissions, the response and the information as referred to in Rule 20 that are received in an official language of the United Nations other than English, including their English translations.

12. The Secretariat informed the meeting that in order to facilitate the work of the Committee during the inter-sessional period, a Compliance Committee collaborative portal had been created in the Biosafety Clearing-House as workspace for members. The Portal would only be accessed by members of the Committee through a password and was established for the purpose of communication, exchange of information and collaboration on various issues among members. The Secretariat demonstrated how the portal would be used by the members.

13. The Committee adopted by consensus its rules of procedure as contained in annex I to the present report. In accordance with paragraph 7 of section II of the procedures and mechanisms on compliance, these rules of procedure will be submitted to the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol for consideration and approval.

#### **ITEM 4. WORK PLAN OF THE COMPLIANCE COMMITTEE**

14. The Committee discussed its work plan on the basis of the note by the Executive Director prepared on the subject (UNEP/CBD/BS/CC/1/3). The Committee agreed that the work plan should take into account the timeframes for the review of the effectiveness of the procedures and mechanisms on compliance as referred to in section VII of the compliance procedures, as well as in decision BS-I/12. It also took note that the work plan should be seen in the context of section V of the compliance procedures.

15. The Committee adopted the following work plan (for the period up to the review of the procedures and mechanisms on compliance), on the understanding that it would, at each meeting, review the plan in light of new developments in the operation of the procedures and mechanisms on compliance under the Protocol:

- (a) Consideration of submissions from Parties;
- (b) Review of general issues of compliance by Parties with their obligations under the Protocol, with a view to promoting compliance, including:
  - (i) Consideration of information from national reports communicated in accordance with Article 33 of the Protocol;
  - (ii) Consideration of information provided through the Biosafety Clearing-House;
- (c) Consideration of any other issue that may be assigned to the Committee by the Conference of the Parties serving as the meeting of the Parties to the Protocol.

16. The Committee agreed that its second meeting would take place in the first quarter of 2006 and that one of the items would be consideration of general issues of compliance that may arise from interim national reports, to be submitted by Parties no later than 11 September 2005, as well as the information from the Biosafety Clearing-House. To this end, the Secretariat was requested to prepare necessary documents for that meeting. However, it was noted that the timing for that meeting might need to be reviewed after the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

17. The Committee also noted the importance of assisting, where necessary, Parties to the Protocol, in particular developing country Parties and the Parties with economies in transition, in their preparation and submission of their interim national reports in a timely manner, in accordance with decision BS-I/9.

#### **ITEM 5. OTHER MATTERS**

18. No other matters were raised by the members of the Committee.

#### **ITEM 6. ADOPTION OF THE REPORT**

19. The Chair introduced the draft report of the first meeting of the Committee, which was adopted, as orally amended.

**ITEM 7. CLOSURE OF THE MEETING**

20. The Chair thanked members of the Committee for their constructive discussions and contributions, and the Secretariat for the preparation and facilitation of the meeting. He declared the meeting closed at 10.30 a.m. on Wednesday, 16 March 2005.

*Annex I***DRAFT RULES OF PROCEDURE FOR THE MEETINGS OF THE COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY**

*Submitted by the Compliance Committee to the second meeting of the Conference of the Parties serving as the meeting of the Parties for consideration and approval*

**I. PURPOSES*****Rule 1***

These rules of procedure shall apply to any meeting of the Compliance Committee under the Cartagena Protocol on Biosafety and shall be read together with and in furtherance of the procedures and mechanisms set out in decision BS-I/7 of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety.

***Rule 2***

The rules of procedure for meetings of the Conference of the Parties to the Convention on Biological Diversity, as applied, *mutatis mutandis*, to the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety, shall apply, *mutatis mutandis*, to any meeting of the Compliance Committee under the Cartagena Protocol on Biosafety, except as otherwise provided in the rules set out herein and in decision BS-I/7, and provided that rules 16 to 20, on representation and credentials of the rules of procedure for the meetings of the Conference of the Parties to the Convention on Biological Diversity shall not apply.

**II. DEFINITIONS*****Rule 3***

For the purposes of these rules:

- (a) “Protocol” means the Cartagena Protocol on Biosafety to the Convention on Biological Diversity adopted in Montreal on 29 January 2000;
- (b) “Party” means a Party to the Protocol;
- (c) “Conference of the Parties serving as the meeting of the Parties to the Protocol” means the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety as provided for under Article 29 of the Protocol;
- (d) “Committee” means the Compliance Committee established by decision BS-I/7 of the Conference of the Parties serving as the meeting of the Parties to the Protocol;
- (e) “Chair” and “Vice-Chair” mean, respectively, the chairperson and the vice chairperson elected in accordance with rule 12 of the present rules of procedure;
- (f) “Member” means a member of the Committee elected in accordance with paragraph 2 of section II of the compliance procedures or a replacement appointed in accordance with paragraph 2 of rule 10 of the present rules of procedure;
- (g) “Secretariat” means the Secretariat referred to in Article 31 of the Protocol.
- (h) “The Compliance Procedures” means the procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety adopted by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol and set out in the annex to decision BS-I/7.

### **III. DATES AND NOTICE OF MEETINGS**

#### ***Rule 4***

The Committee shall decide on the dates and duration of its meetings.

#### ***Rule 5***

The Secretariat shall notify all members of the Committee of the dates and venue of a meeting at least six weeks before the meeting is due to commence.

### **IV. AGENDA**

#### ***Rule 6***

The agenda of the Committee shall include items arising from its functions as specified in section III of the Compliance Procedures and other matters related thereto.

#### ***Rule 7***

To the extent possible, the provisional agenda, together with supporting documents, shall be distributed by the Secretariat to all members of the Committee at least four weeks before the opening of the meeting.

### **V. DISTRIBUTION AND CONSIDERATION OF INFORMATION**

#### ***Rule 8***

1. Members of the Committee shall be informed immediately by the Secretariat that a submission has been received under paragraph 1 of section IV of the compliance procedures.
2. A submission received in accordance with paragraph 1 (a) of section IV of the Compliance Procedures shall be transmitted by the Secretariat to the members of the Committee as soon as possible but no later than ninety days of receipt of the submission. A submission received in accordance with paragraph 1 (b) and any response and information received under paragraph 3 of section IV of the Compliance Procedures shall be transmitted by the Secretariat to the members of the Committee as soon as practicable.
3. The information received in accordance with paragraph 2 of section V of the Compliance Procedures shall be transmitted by the Secretariat to the members of the Committee within fifteen days of receipt of such information. The Committee shall determine the relevance of the information before placing it on the agenda. Any such information that will be considered by the Committee shall, as soon as practicable, be made available to the Party concerned.

### **VI. PUBLICATION OF DOCUMENTS AND INFORMATION**

#### ***Rule 9***

The provisional agenda, reports of meetings, official documents and, subject to rule 8 above and paragraph 4 of section V of the Compliance Procedures, any other relevant documents shall be made available to the public.

## **VII. MEMBERS**

### ***Rule 10***

1. The term of office of a member shall commence on 1 January of the calendar year immediately following his or her election and end on 31 December, two or four years thereafter, as applicable.

2. If a member of the Committee resigns or is unable to complete his or her term of office or to perform his or her functions, the Bureau of the Conference of the Parties serving as the meeting of the Parties to the Protocol shall, in consultation with the appropriate regional group, appoint a replacement to serve the remainder of that member's term of office.

### ***Rule 11***

Each member of the Committee shall, with respect to any matter that is under consideration by the Committee, avoid direct or indirect conflicts of interest. Where a member finds himself or herself faced with a direct or indirect conflict of interest, that member shall bring the issue to the attention of the Committee before consideration of that particular matter. The concerned member shall not participate in the elaboration and adoption of a recommendation of the Committee in relation to that matter.

## **VIII. OFFICERS**

### ***Rule 12***

1. The Committee shall elect a Chair and a Vice-Chair for a term of two years. Subject to rule 10 of the present rules of procedure, they shall serve in those capacities until their successors take office.

2. No officer shall serve for more than two consecutive terms.

## **IX. PARTICIPATION IN PROCEEDINGS OF THE COMMITTEE**

### ***Rule 13***

A Party in respect of which a submission is made or which makes a submission as referred to in paragraph 1 of section IV of the Compliance Procedures shall be invited to participate in the deliberations of the Committee. The Party concerned shall be given an opportunity to comment in writing on any recommendation of the Committee. Any such comments shall be forwarded with the report of the Committee to the Conference of the Parties serving as the meeting of the Parties to the Protocol.

## **X. CONDUCT OF BUSINESS**

### ***Rule 14***

1. The Committee shall meet in closed session unless it decides otherwise.

2. The Party concerned is entitled to participate in the meetings of the Committee pursuant to paragraph 4 of section IV of the compliance procedures.

3. Any person invited by the Committee may attend the meetings of the Committee.



***Rule 15***

Electronic means of communication may be used by the members of the Committee for the purpose of conducting informal consultations on issues under consideration. Electronic means of communication shall not be used for making decisions on matters of substance.

***Rule 16***

Ten members of the Committee shall constitute a quorum.

**XI. VOTING**

***Rule 17***

Each member of the Committee shall have one vote.

***Rule 18***

1. The Committee shall make every effort to reach agreement on all matters of substance by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, any decision shall, as a last resort, be taken by a two-thirds majority of the members present and voting or by eight members, whichever is the greater. Where consensus is not possible, the report shall reflect the views of all members of the Committee

2. For the purposes of these rules, the phrase “members present and voting” means members present at the session at which voting takes place and casting an affirmative or negative vote. Members abstaining from voting shall be considered as not voting.

**XII. LANGUAGE**

***Rule 19***

The working language of the Committee shall be English.

***Rule 20***

The submissions from the Party concerned, the response and the information, as referred to in section IV of the Compliance Procedures, shall be made in one of the six official languages of the United Nations. The Secretariat shall make arrangements to translate them into English if they are submitted in one of the languages of the United Nations other than English.

**XIII. AMENDMENTS TO RULES OF PROCEDURE**

***Rule 21***

Any amendment to these rules of procedure shall be adopted by consensus by the Committee and submitted to the Conference of the Parties serving as the meeting of the Parties to the Protocol for consideration and approval.

**XIV. OVERRIDING AUTHORITY OF THE PROTOCOL AND DECISION BS-I/7**

***Rule 22***

In the event of a conflict between any provision in these rules and any provision in the Protocol or decision BS-I/7, the provisions of the Protocol or, as the case may be, decision BS-I/7 shall prevail.

*Annex II*

**DRAFT DECISION OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING  
OF THE PARTIES TO THE PROTOCOL**

*The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,*

*Recalling* its decision BS-I/7,

*Recalling also* paragraph 7 of section II of the procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety that requires the Compliance Committee to submit its rules of procedure to the Conference of the Parties serving as the meeting of the Parties to the Protocol for its consideration and approval,

*Taking note of* the report of the Compliance Committee under the Cartagena Protocol on Biosafety on the work of its first meeting (UNEP/CBD/BS/COP-MOP/2/2),

*Approves* the rules of procedure for the meetings of the Compliance Committee under the Cartagena Protocol on Biosafety as annexed to the present decision.

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