



## Convention on Biological Diversity

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### COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY

Eighth meeting  
5-7 October 2011, Montreal

### REPORT OF THE COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY ON THE WORK OF ITS EIGHTH MEETING

#### INTRODUCTION

##### A. *Background*

1. The Compliance Committee under the Cartagena Protocol on Biosafety held its seventh meeting from 8 to 10 September 2010 in Montreal. The Committee submitted its recommendations to the fifth meeting 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.
2. The fifth meeting of the Parties to the Protocol took place from 11 to 15 October 2010 in Nagoya, Japan. The meeting considered the report and recommendations of the Compliance Committee and adopted decision BS-V/1 on compliance as well as a number of other decisions<sup>1</sup> incorporating elements related to compliance.
3. In February 2011, the Secretariat circulated a note,<sup>2</sup> prepared by Mr. Jürg Bally, Chair of the Compliance Committee, assessing the decisions of the fifth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol relevant to compliance. The note also detailed a proposed work plan for the Committee for the intersessional period to the sixth meeting of the Parties to the Protocol. Members of the committee were invited to provide their comments.
4. The eighth meeting of the Compliance Committee under the Cartagena Protocol on Biosafety was held in Montreal, from 5 to 7 October.

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<sup>1</sup> BS-V/2, BS-V/14.

<sup>2</sup> Also circulated as UNEP/CBD/BS/CC/8/INF/1.

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## **B. Attendance**

5. The following members of the Committee were present at the meeting:

***Africa:***

Ms. Mary Fosi Mbantenkhu

***Latin America and the Caribbean:***

Mr. Lionel Michael

***Asia and the Pacific:***

Dr. Yousef S. Al-Hafedh

Dr. Banpot Napompeth

Dr. Rai S. Rana

***Western Europe and Others:***

Mr. Jürg Bally

Mr. Ruben Dekker

Ms. Clare Hamilton

***Central and Eastern Europe:***

Dr. Liina Eek

Dr. Angela Lozan

Ms. Natalya Minchenko

### **ITEM 1. OPENING OF THE MEETING**

6. Mr. Jürg Bally, Chair of the Committee, opened the meeting at 9.30 a.m. on 5 October 2011. He welcomed participants and thanked the Secretariat for facilitating the organization of the meeting.

7. The Chair invited the members to introduce themselves for the benefit of the newly elected members of the Committee for whom this was their first meeting.

8. The representative of the Secretariat reported on the attendance of members of the Committee. He reported that four members of the Committee, Mr. Alejandro Hernández and Ambassador Raymundo S.R. Magno, from the Group of Latin America and Caribbean, and Mr. Tewolde Berhan Gebre Egziabher and Mr. Abisai Mafa, from the Africa region, were not able to attend the meeting.

9. The representative of the Secretariat confirmed that eleven members of the Committee were present and thus there was a quorum for the meeting to proceed in accordance with rule 16 of the Committee's rules of procedure.

### **ITEM 2. ORGANIZATIONAL MATTERS**

#### ***2.1 Adoption of the agenda***

10. The Committee adopted the following agenda on the basis of the provisional agenda (UNEP/CBD/BS/CC/8/1) prepared by the Secretariat, as amended:

1. Opening of the meeting.
2. Organizational matters:
  - 2.1 Adoption of the agenda;
  - 2.2 Election of officers;
  - 2.3 Organization of work.

3. Some considerations on the possible modalities of implementation of the supportive role of the Compliance Committee as modified by decision BS-V/1.
4. General issues of compliance.
5. Other matters.
6. Adoption of the report.
7. Closure of the meeting.

## ***2.2 Election of officers***

11. At its sixth meeting, held in 2009, the Committee had elected Mr. Jürg Bally as Chair and Dr. Liina Eek as Vice-Chair for a two-year term. The need for the election of a Chair and Vice-Chair was noted and accordingly, the Committee re-elected both Mr. Bally and Dr. Eek as Chair and Vice-Chair, respectively, for another two-year term, in accordance with rule 12 of the rules of procedure.

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

12. The Committee agreed on the organization of its work as proposed by the Secretariat, including the schedule of its sessions, as specified in annex I to the annotations to the provisional agenda (UNEP/CBD/BS/CC/8/1/Add.1).

### **ITEM 3. SOME CONSIDERATIONS ON THE POSSIBLE MODALITIES OF IMPLEMENTATION OF THE SUPPORTIVE ROLE OF THE COMPLIANCE COMMITTEE AS MODIFIED BY DECISION BS-V/1**

13. Introducing the item, the representative of the Secretariat described the content of the different sections of the working document:<sup>3</sup> section II of the document provides background information to assist in understanding the decision; section III highlights some of the possible issues that may arise in the process of applying decision BS-V/1. He noted the suggestions to the Committee contained in section IV but he encouraged the Committee to go beyond the points raised in the document. He also pointed out that the understanding of decision BS-V/1 as presented in the document should not necessarily be taken as the only approach to the implementation of the decision.

14. The Chair invited the Committee members to make any general comments on the document. After extensive discussions, the Committee noted the following regarding decision BS-V/1:

(a) Consideration of the compliance measures in paragraph 1 of section VI of the annex to decision BS-I/7 shall be carried out in accordance with a plain reading of paragraphs 1 (a) and (b) of decision BS-V/1 in the event a Party makes a submission with respect to itself, a Party fails to submit its national report or information in the national report or the Biosafety Clearing-House (BCH) shows compliance difficulties faced by a Party;

(b) Information available in the BCH needs to be analysed and taken into account with a view to considering action that promotes the compliance of Parties with their obligations under the Protocol;

(c) The absence or inconsistency of mandatory information in a national report or in the BCH may also form the basis for the consideration of measures in the context of decision BS-V/1.

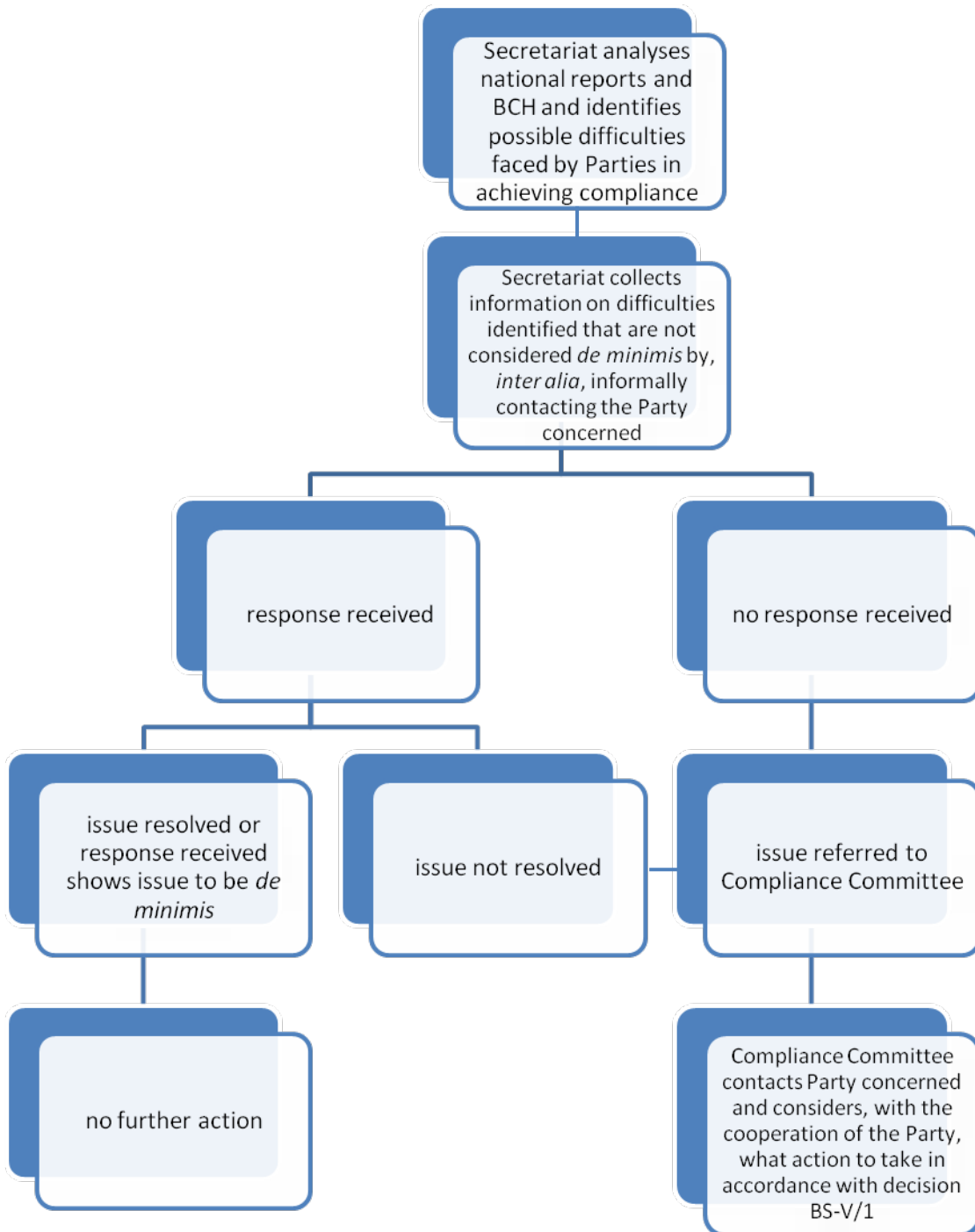
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<sup>3</sup> UNEP/CBD/BS/CC/8/2

15. The Committee agreed to the approach in figure 1 below, to guide its functions in the context of decision BS-V/1. According to this approach, the Secretariat, in order to identify any possible difficulty hindering the compliance of a Party, will: (i) review national reports in terms of their consistency and completeness; (ii) review information in the BCH; and (iii) identify instances of non-submission of national reports; and will informally contact the Party concerned unless the issue is *de minimis*. If no response is received, the Secretariat will forward the issue to the Compliance Committee for its consideration. If a response is received and the issue is resolved or found to be *de minimis*, no further action would be necessary. However, if the issue is not resolved, it will be forwarded to the Committee. Any consideration of an issue by the Committee will be undertaken with the cooperation of the Party concerned as provided in paragraph 2 of decision BS-V/1.

16. It was also agreed that the Committee will further elaborate, including on a case-by-case basis, and keep under review the appropriate steps that may be needed to effectively address compliance-related issues and difficulties faced by Parties.

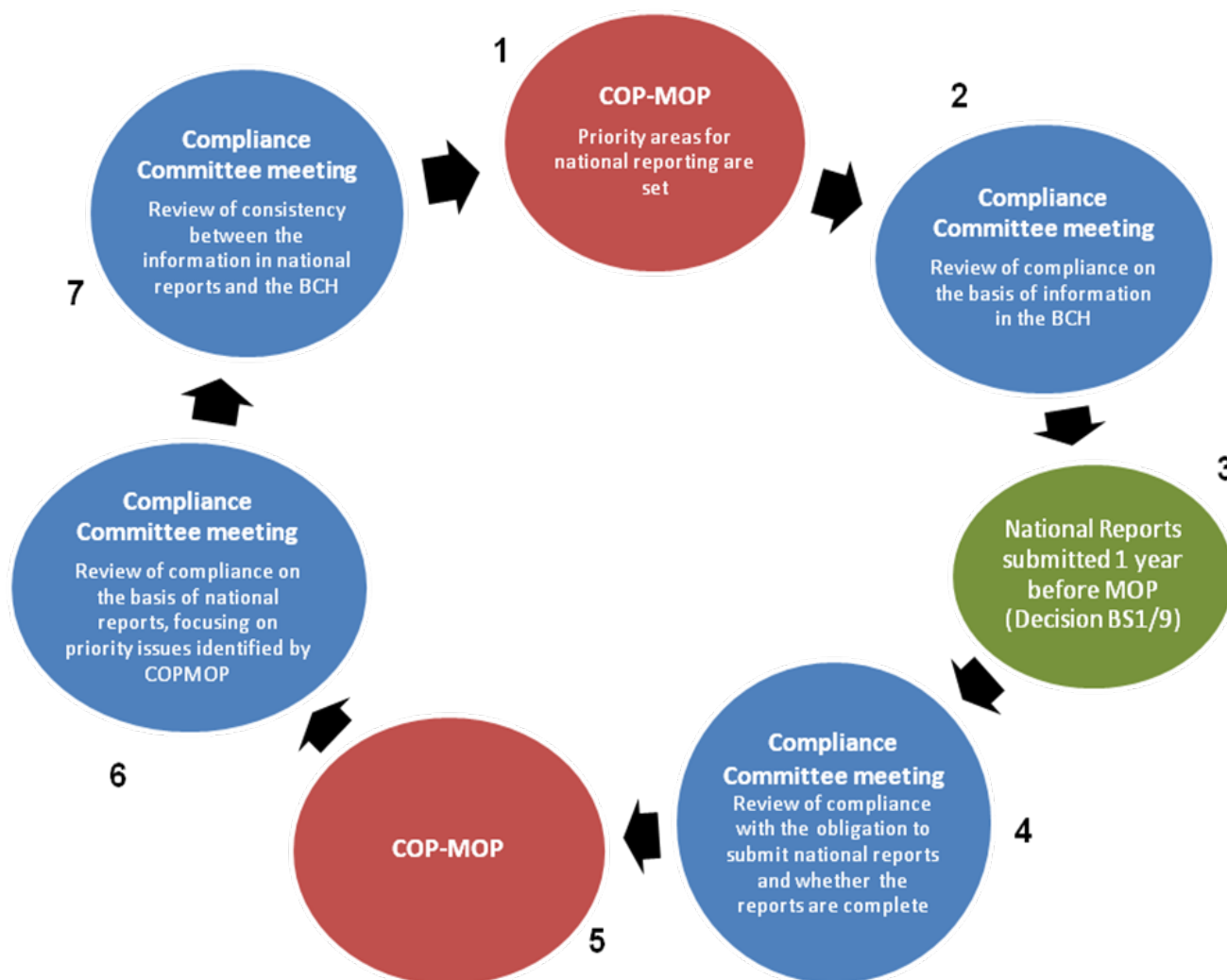
Figure 1. Approach to guide functions in the context of decision BS-V/1



17. The Committee also agreed to the organization of work in figure 2, below, in order to apply decision BS-V/1. The Committee will organize its work following the four-year reporting cycle, taking into account the priority areas set by the Conference of the Parties serving as the meeting of the Parties to the Protocol for each reporting cycle.

18. The Committee recognized that it is required to consider any compliance issues that may arise in the context of decision BS-V/1. However, due to limited resources, it agreed to structure the steps and schedule of its consideration of issues as indicated in the organization of work below. Members have further noted that the potential increase in the number of cases that the Committee may need to consider in the future could have implications on the resources available to it and the Secretariat.

**Figure 2. Organization of work**



19. It was noted that this organization of work is intended to complement any work plan or existing arrangement for the consideration of specific items by the Committee.

20. The Committee agreed that in following this organization of work, it would, at its next meeting, review compliance as indicated in step four in figure 2, above. The review will include consideration of the rate of reporting and the number of reports that are not complete.

21. The Committee also agreed to consider compliance-related information specific to individual Parties as case-studies in developing experience in the application of decision BS-V/1. In that regard, the Committee requested the Secretariat to compile information for consideration at its next meeting about Parties that had the obligation to submit the interim, first, and second national reports but have not done so.

22. The Committee agreed that failure by a significant number of Parties to submit their national report may also be addressed as a general issue of compliance. The Committee noted paragraph 8 (b) of decision BS-V/14 which requests the Executive Secretary to send reminders to the national focal points of individual Parties that do not submit their national report. It agreed that such reminders should make reference to the role of the Compliance Committee envisaged in decision BS-V/1.

#### **ITEM 4. GENERAL ISSUES OF COMPLIANCE**

23. The Committee agreed to consider any substantive review of general issues of compliance at its next meeting on the basis of information from the second national reports.

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

24. The Committee noted paragraph 1 (b) of decision BS-V/15 whereby the Parties decided that the evaluation of the status of implementation of core elements of the Protocol as identified in the annex to the decision should be based on, *inter alia*, information that might be made available through the Compliance Committee in relation to its functions to review general issues of compliance. In that regard, the Committee asked the Secretariat to make available to the assessment and review process the Committee's findings on general issues of compliance as contained in the reports of its previous meetings.

25. The Secretariat reported that a member of the Committee who was unable to attend the meeting had expressed an interest in taking part in the discussions through electronic means, namely Skype. The member was informed by the Secretariat that, according to rule 15 of the rules of procedure, electronic means may be used for informal consultations on issues under consideration but not for formal meetings such as the present one where decisions were expected to be made on matters of substance. The Secretariat had, however, invited the member to make written submissions on the matters to be considered by the Committee. The Committee supported the response from the Secretariat and agreed that this rule should be maintained for the time being.

26. Considering the potential need for the exchange of information and informal discussions among members during the intersessional period, the Secretariat reminded members of the availability of a facility in the form of a collaborative portal that had been created in the BCH in 2005. At the time, the portal could be accessed only by members of the Committee. The representative of the Secretariat agreed to ensure that all members are assigned the necessary password.

27. The Committee agreed to tentatively hold its ninth meeting from 30 May to 1 June 2012, taking into account the work plan annexed to this report as supplemented by the conclusions of the present meeting contained in the relevant paragraphs above.

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

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

**ITEM 7. CLOSURE OF THE MEETING**

29. Following the usual exchange of courtesies, the meeting was declared closed by the Chair at 12.30 p.m. on Friday, 7 October 2011.



*Annex*

**WORK PLAN FOR THE NINTH MEETING OF THE COMPLIANCE COMMITTEE**

1. General issues of compliance (based on information from second national reports);
2. Cases of non-compliance, if any, based on information from the second national reports;
3. Any other issues that may be pending or may arise; and
4. Preparation and adoption of the report and the recommendations of the Committee for submission to the sixth meeting 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.

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