



## Convention on Biological Diversity

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### COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY

Ninth meeting

Montreal, 30 May – 1 June 2012

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

#### INTRODUCTION

1. The ninth meeting of the Compliance Committee was held in Montreal, from 30 May to 1 June 2012, in the offices of the Secretariat in accordance with the Committee's decision to have its ninth meeting prior to the sixth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP-MOP).

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

***Africa:***

Ms. Mary Fosi Mbantenkhu

***Asia and the Pacific:***

Dr. Yousef S. Al-Hafedh

Dr. Banpot Napompeth

Dr. Rai S. Rana

***Central and Eastern Europe:***

Dr. Liina Eek

Dr. Angela Lozan

Ms. Natalya Minchenko

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

Mr. Lionel Michael

Mr. Alejandro Hernández

***Western Europe and Others:***

Mr. Jürg Bally

Mr. Ruben Dekker

Ms. Clare Hamilton

#### ITEM 1. OPENING OF THE MEETING

3. Mr. Jürg Bally, Chair of the Committee, opened the meeting at 9.30 a.m. on 30 May 2012. He welcomed participants and thanked the Secretariat for facilitating the organization of the meeting.

4. Mr. Braulio Ferreira de Souza Dias, the Executive Secretary, in his remarks emphasized that his priority and focus for the work of the Secretariat is helping Parties in their implementation of the Convention on Biological Diversity and its protocols. He noted, in that regard, decision BS-V/1 and the mandate it provides to the Committee to highlight compliance with obligations under the Protocol at the same time as supporting Parties' implementation.

5. The representative of the Secretariat reported on the attendance of members of the Committee. He reported that three members of the Committee, 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.

6. The representative of the Secretariat confirmed that twelve 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***

7. The Committee adopted the following agenda on the basis of the provisional agenda (UNEP/CBD/BS/CC/9/1) prepared by the Secretariat:

1. Opening of the meeting.
2. Organizational matters:
  - 2.1 Adoption of the agenda;
  - 2.2 Organization of work.
3. Review of compliance with the obligation to submit national reports.
4. Review of general issues of compliance.
5. Report and recommendations of the Committee to the sixth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.
6. Other matters.
7. Adoption of the report.
8. Closure of the meeting.

### ***2.2 Organization of work***

8. The Committee agreed on the organization of its work as proposed by the Secretariat, as specified in annex I to the annotations to the provisional agenda (UNEP/CBD/BS/CC/9/1/Add.1).

## **ITEM 3. REVIEW OF COMPLIANCE WITH THE OBLIGATION TO SUBMIT NATIONAL REPORTS**

9. Introducing this item, the representative of the Secretariat outlined the structure and content of the note by the Executive Secretary on the state of compliance with the national reporting obligation (UNEP/CBD/BS/CC/9/2). He noted that the Committee may wish to consider the suggestions contained in section III of the document.

10. The Chair reminded the Committee of the organization of work that it had agreed to at its eighth meeting. He invited members to provide comments on the document, in particular the suggestions submitted for the consideration of the Committee. After extensive discussions, the Committee noted the following:

- (a) The high rate of submission of the second national reports;
- (b) The contribution of the financial resources made available by the Global Environment Facility in achieving the high rate of reporting and the importance of maintaining such support in the future;

(c) Nonetheless, second national reports are still due from 17 Parties, namely, the Bahamas, Barbados, Belize, Georgia, Greece, Luxembourg, the Marshall Islands, Montenegro, Nauru, Nicaragua, Oman, Pakistan, Palau, Paraguay, Suriname, Trinidad and Tobago and Turkmenistan;

(d) The relatively small number of Parties that had an obligation to submit interim, first and second national reports and have not done so, namely the Bahamas, Luxembourg, the Marshall Islands, Nauru, Nicaragua, Oman and Paraguay;

(e) The efforts made by the Secretariat, including through the regional workshops, in reminding Parties of the need to submit their national reports and informing them of the available opportunities to assist them in fulfilling this obligation;

(f) The technical and other support that may be available to assist Parties in the preparation of their national reports through regional and subregional organizations, such as Inter-American Institute for Cooperation on Agriculture and the regional offices of the United Nations Environment Programme, as well as bilateral assistance from countries that have experience with the preparation of their own national reports, and using experts from the Biosafety Roster of Experts;

(g) The incompleteness of a certain number of second national reports wherein questions referring to obligations under the Protocol have not been answered.

11. The Committee:

(a) Welcomed the exceptionally high rate of reporting;

(b) Welcomed the efforts made by the Secretariat, including through the regional workshops, in reminding Parties of the need to submit their national reports and informing them of the available opportunities to assist them in fulfilling this obligation and encouraged the Secretariat to continue this practice, subject to the availability of resources, with respect to the preparation of subsequent national reports;

(c) Requested the Secretariat to contact the Parties that submitted incomplete reports where questions referring to obligations under the Protocol have not been answered, draw their attention to the information gap in their reports, and seek the necessary information;

(d) Agreed to:

(i) Send a letter to the Parties that have not submitted an interim, first or second national report to date and did not respond to any reminder, with a view to urging them to complete the format for the second national report as well as to seek an explanation of the situation that may have prevented them from submitting national reports and offering them the availability of the Committee to provide, as appropriate, advice or assistance that they may wish to receive;

(ii) The content of the letter and asked the Chair to communicate it to the Parties concerned;

(e) Requested the Secretariat to follow-up with the Parties referred to in paragraph 10 (c) with a view to:

(i) Seeking information on the difficulties that may have prevented them from submitting a report and offering assistance, as appropriate; and

(ii) Reminding them of the need for the submission of their report without further delay.

12. The Committee agreed to recommend that, at their sixth meeting, the Parties should:
- (a) Welcome the fact that 144<sup>1</sup> out of 161 Parties that had an obligation to report have submitted their second national reports;
  - (b) Welcome the financial support that was made available by the Global Environment Facility to eligible Parties to prepare and submit their second national reports and recognize that this contributed to the high rate of submission of the reports;
  - (c) Recommend to the Conference of the Parties, in adopting its guidance to the Global Environment Facility with respect to support for the implementation of the Cartagena Protocol on Biosafety, to urge the Facility to make available, in a timely manner, financial resources to eligible Parties to facilitate the preparation of their third national reports under the Cartagena Protocol on Biosafety and to make specific provision to this effect as part of the fifth replenishment;
  - (d) Note that seven Parties have not fulfilled their reporting obligation under the Protocol as they have failed to submit any reports in accordance with Article 33 of the Protocol and associated decisions of the Conference of the Parties serving as the meeting of the Parties to the Protocol;
  - (e) Also note that a further 10 Parties have not yet submitted their second national reports;
  - (f) Request the 17 Parties that have not yet submitted their national report to do so at the earliest opportunity using the reporting format for the second national report as contained in the annex to decision BS-V/14 and responding to all questions, given that the information provided in the second national reports establishes the baseline for measuring progress of implementation of the Protocol;
  - (g) Urge those Parties that have not yet submitted responses to all mandatory questions in the second national report to cooperate with the Secretariat in order to complete their national reports as soon as possible;
  - (h) Reminds Parties of paragraph 2 of decision BS-V/14 which requests Parties submitting their national report for the first time to use the reporting format of the second national report and decides that all Parties should complete this format before using any simplified reporting format that may be adopted in the future;
  - (i) Encourage Parties to explore and utilize, as appropriate: (i) technical and other resources available in existing bilateral, regional and subregional arrangements, and (ii) experts from the Biosafety Roster of Experts, to facilitate the preparation and submission of their national reports;
  - (j) Request the Secretariat to assist the Parties, including through the organization of workshops, subject to the availability of funds, in preparing their third national reports.

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

13. The Chair invited the representative of the Secretariat to introduce the documents relevant to this item. The representative of the Secretariat drew the Committee's attention to the note by the Executive Secretary on the subject (UNEP/CBD/BS/CC/9/3), which identified a few general issues of compliance on the basis of the information from the second national reports as synthesized in document UNEP/CBD/BS/COP-MOP/6/16. He also mentioned the work of the Ad Hoc Technical Expert Group on the Second Assessment and Review of the Cartagena Protocol on Biosafety (AHTEG) which similarly evaluated the status of implementation of the Protocol. The conclusions and recommendation of the AHTEG were made available to the Committee members.

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<sup>1</sup> As of 1 June 2012.

14. The Committee discussed the information before it and noted the following:

(a) The need for the Committee to consider in more detail the implementation of the obligation to introduce legal, administrative and other measures necessary for the implementation of the Protocol;

(b) The overlap between the function of the Compliance Committee in the context of general issues of compliance and the process for the second assessment and review in the context of decision BS-V/15.

15. The Committee requested the Secretariat to continue liaising with Parties that have not provided any or complete information to the Biosafety Clearing-House to encourage them to update and complete information which they have an obligation to make available through the Biosafety Clearing-House and to report on the outcome of its efforts to the Committee.

16. The Committee agreed to make the following recommendations to the sixth meeting of the Parties:

(a) Decide to identify as a priority the fulfilment of the obligation to introduce legal, administrative and other measures necessary for the implementation of the Protocol consistent with the Strategic Plan adopted under decision BS-V/16, which identifies the task of putting operational biosafety frameworks in place as the top-most priority area;

(b) Request Parties that have not yet put in place operational biosafety frameworks to submit information on the difficulties they are faced with in this regard, and the plans and timelines they envisage, as appropriate, for the purpose of taking the necessary measures;

(c) Request the Executive Secretary to compile the information submitted by the concerned Parties as stated in subparagraph (b) above and submit it to the Compliance Committee for its consideration and appropriate action;

(d) Remind Parties experiencing difficulties putting in place legal, administrative and other measures necessary for the implementation of the Protocol that they may submit their difficulties to the Compliance Committee in order to seek assistance in this regard;

(e) Reiterate its invitation to Parties to make use of the programme of work on public awareness, education and participation concerning the safe transfer, handling and use of living modified organisms, as contained in the annex to decision BS-V/13, to facilitate the implementation of their obligations to promote public awareness and participation as specified in Article 23 of the Protocol;

(f) Decide that, in the process of preparing for the third assessment and review of the Protocol, the experiences of the Parties in complying with the Protocol, including submission of national reports, are taken into account, along with the input of, *inter alia*, the Compliance Committee;

(g) Request the Compliance Committee, in light of the conclusions and recommendation of the Ad Hoc Technical Experts Group on the Second Assessment and Review of the Cartagena Protocol on Biosafety, to evaluate the status of implementation of the Protocol as a contribution to the third evaluation of the effectiveness in meeting the objective of the Protocol in accordance with Article 35 of the Protocol.

**ITEM 5. REPORT AND RECOMMENDATIONS OF THE COMMITTEE TO THE SIXTH MEETING OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE PROTOCOL**

17. The Committee considered and adopted a consolidated report on the work of its two inter-sessional meetings, including recommendations for consideration and adoption, as appropriate, by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its sixth meeting (UNEP/CBD/BS/COP-MOP/6/2).

**ITEM 6. OTHER MATTERS**

18. The representative of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), who was on a working visit to the Secretariat, gave a presentation to the Committee on the experience under CITES in using electronic permit systems in monitoring the trading of CITES-listed species. He outlined how electronic documentation systems can be used towards the fulfilment of requirements under multilateral environmental agreements regarding the transboundary movement of environmentally-sensitive goods. He noted the relationship in this regard to Article 18 of the Biosafety Protocol.

19. The Secretariat informed the Committee that the terms of ten of its members would end on 31 December 2012 and therefore the Conference of the Parties serving as the meeting of the Parties to the Protocol will be invited to elect new members at its sixth meeting. Members of the Committee whose terms will end at the end of the year are: (i) Africa: Mary Fosi Mbantenkhu (already served two terms) and Tewolde Berhan Gebre Egziabher (already served two terms); (ii) Group of Latin America and the Caribbean: Lionel Michael (already served two terms) and Raymundo Magno; (iii) Western Europe and Others Group: Jürg Bally (already served two terms) and Ruben Dekker; (iv) Central and Eastern Europe: Liina Eek (already served two terms) and Angela Lozan; (v) Asia-Pacific: Banpot Napompeth and Rai Rana.

20. The Chair expressed his gratitude to the outgoing members for their service and the contribution of their expertise to the work of the Committee. He recalled the report from the fifth meeting of the Parties where the President reminded the meeting that under decision BS-I/7, members of the Compliance Committee should be elected for a full term of four years.

**ITEM 7. ADOPTION OF THE REPORT**

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

**ITEM 8. CLOSURE OF THE MEETING**

22. In closing, the Chair expressed his gratitude for the confidence entrusted in him by the members of the Committee during his two terms as Chair. He noted that his job has been facilitated by the friendliness and the positive working attitude of each member. He also expressed his appreciation for the support that he and the Committee members had received from the Secretariat. Chair Bally also noted the progress made in the evolution of the compliance procedures, which have now enabled the Committee to play a more active role in promoting compliance and supporting the implementation of the Protocol.

23. The members of the Committee also warmly applauded the Chair's contribution in guiding the Committee's work. They expressed their appreciation of the Chair's role in creating the positive and professional atmosphere that has prevailed in the Committee over the years.

24. The meeting was declared closed by the Chair at 12.30 p.m. on Friday, 1 June 2012.

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