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

Eighth meeting

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Item 14 of the provisional agenda\*

### **MONITORING AND REPORTING (ARTICLE 33): ANALYSIS OF INFORMATION AND GAPS IN THE THIRD NATIONAL REPORTS**

*Note by the Executive Secretary*

#### **I. INTRODUCTION**

1. Article 33 of the Cartagena Protocol on Biosafety requires Parties to monitor the implementation of their obligations under the Protocol and report, at intervals to be determined by the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety (COP-MOP), on measures taken to implement the Protocol.
2. In its decision BS-I/9, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol requested Parties to submit reports every four years and, in the initial four-year period, to submit an interim report two years after entry into force of the Protocol. Accordingly, Parties were requested to submit their interim report on the implementation of the Cartagena Protocol on Biosafety by 11 September 2005 (decision BS-I/9) and their first regular national report by 11 September 2007 (decision BS-III/14).
3. In its decision BS-VII/14 on monitoring and reporting, the Conference of the Parties serving as the meeting of the Parties to the Protocol adopted a revised reporting format and requested the Executive Secretary to make it available to Parties online through the Biosafety Clearing-House (BCH).
4. The Conference of the Parties serving as the meeting of the Parties to the Protocol also requested Parties to use the reporting format for the preparation of their Third National Report or, in the case of Parties submitting their national report for the first time, to use it for their first national report on the implementation of their obligations under the Protocol. The Conference of the Parties serving as the meeting of the Parties to the Protocol also encouraged Parties to respond to all questions in the reporting format in order to facilitate the monitoring of progress towards the implementation of the objectives identified in the Strategic Plan and also contribute to the third assessment and review of the Cartagena Protocol.

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5. In recognizing the continuing need for financial resources to enable developing country Parties and Parties with economies in transition to fulfil their obligations under the Protocol, the Conference of the Parties serving as the meeting of the Parties to the Protocol, in its decision BS-VII/5 on “Financial mechanism and resources”, urged the Global Environment Facility (GEF) to make available financial resources to eligible Parties to facilitate the preparation of their third national reports under the Protocol.

6. In May 2015, GEF approved funding to support all eligible Parties to prepare their third national reports on the implementation of the Protocol. The Executive Secretary informed all Parties of the approval of GEF funding and urged them to contact the United Nations Environment Programme to access the funds.<sup>1</sup>

7. The Executive Secretary also reminded Parties to submit their Third Regular National Report on the implementation of the Cartagena Protocol on Biosafety no later than 1 November 2015, in an official language of the United Nations through the Management Centre of the BCH.<sup>2</sup> In order to allow for a maximum number of Parties to submit their reports for the analysis of the third national reports. There were however follow-up extensions made to allow for more submissions.<sup>3</sup>

8. Accordingly, the present note provides a brief overview of the responses submitted by Parties in their third national reports in section II. Section III provides a summary of the gaps identified in the reporting format. Section IV suggests elements for a draft decision. An addendum to this note provides a detailed analysis of the responses submitted by Parties in their third national reports.

## II. OVERVIEW OF THE RESPONSES

9. As of 31 August 2016, the Secretariat received submissions of third national reports from 124 of the 170 Parties to the Protocol. This represents 73 per cent of the Parties. The submissions received were regionally distributed as follows:

- Africa: 39 reports (78% of the Parties in the region);
- Asia and the Pacific (AP): 28 reports (60% of the Parties in the region);
- Central and Eastern Europe (CEE): 17 reports (77% of the Parties in the region);
- Latin America and the Caribbean (GRULAC): 22 reports (73% of the Parties in the region);
- Western Europe and Others Group (WEOG): 18 reports (86% of the Parties in the region).

10. Due to the significant differences in the level of implementation among Parties, and in particular the least developed and small island developing States among them, this summary, in addition to providing the breakdown of results at the regional level, also provides, where possible, the aggregated data of the following two groups:

- Least developed countries (LDCs): 30 reports (77% of the Parties in the group);

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<sup>1</sup> Notification 2015-059 of 2015-05-22 at <https://www.cbd.int/doc/notifications/2015/ntf-2015-059-bs-en.pdf>

<sup>2</sup> Notification 2015-089 of 2015-07-29 at <https://www.cbd.int/doc/notifications/2015/ntf-2015-089-bs-en.pdf>, Notification 2015-107 of 2015-09-16 at <https://www.cbd.int/doc/notifications/2015/ntf-2015-107-bs-en.pdf>

<sup>3</sup> Notifications 2015-01-06, 2015-07-29, 2015-09-16 and 2015-1 1-09, dated 6 January 2015, 29 July 2015, 16 September 2015 and 9 November 2015, respectively.

- Small island developing States (SIDS): 15 reports (47% of the Parties in the group).<sup>4</sup>

11. The analyses of the third national reports<sup>5</sup> exposed some general trends that have been summarized as follows:

(a) The number of third national reports submitted by Parties has decreased in relation to the second national report in spite of the financial resources made available by the Global Environment Facility to eligible Parties, and that decrease was more evident in the African and Asia-Pacific regions;

*General provisions (Article 2)*

(b) Less than half of the Parties have a domestic regulatory framework that is fully in place ;

*Transit and contained use (Article 6)*

(c) Two thirds of the Parties reported that they regulate, at least to some extent, the transit or contained use of LMOs;

*Advance Informed Agreement (AIA) and intentional introduction of LMOs into the environment (Articles 7 to 10)*

(d) One quarter of the Parties have not yet established a mechanism for decision-making regarding the first intentional transboundary movements of LMOs for introduction into the environment;

(e) Two thirds of Parties have never received an application/notification regarding intentional transboundary movements of LMOs for intentional introduction into the environment and nearly three quarters of Parties have never taken such a decision;

*Procedure for living modified organisms intended for direct use as food or feed, or for processing (LMOs-FFP) (Article 11)*

(f) Two thirds of the Parties have adopted specific law(s) and or regulation(s) for decision-making regarding domestic use, including placing on the market, of LMOs-FFP and established mechanisms for taking decisions on the import of LMOs-FFP, while slightly over a third of the Parties have taken a decision on LMOs-FFP, either on import or domestic use;

(g) Only half of the Parties informed other Parties through the BCH of their decision(s) regarding import or domestic use, including placing on the market, of LMOs-FFP;

*Risk assessment and risk management (Articles 15 and 16)*

(h) The vast majority of Parties have established a framework for conducting risk assessments prior to taking decisions regarding LMOs and have at least one person trained in risk assessment;

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<sup>4</sup> The current list of LDCs includes 48 Member States of the United Nations (33 in Africa, 14 in Asia and the Pacific and one in the Caribbean), of which 39 are Parties to the Protocol. The current list of SIDS includes 38 Member States of the United Nations (six in Africa, 16 in Asia and the Pacific and 16 in Latin America and the Caribbean) and 19 non-Members/associate members of the regional commissions, of which 32 are Parties to the Protocol. The two groups (LDCs and SIDS) have nine Member States of the United Nations in common, of which four are Parties to the Protocol. More information about LDCs and SIDS is available at <http://www.unohrlls.org/en/home/>.

<sup>5</sup> As contained in document UNEP/CBD/BS/COP-MOP/8/11/Add.1.

(i) Half of the Parties have conducted a risk assessment (including any type of risk assessment of LMOs, e.g. for contained use, field trials, commercial purposes, direct use as food, feed, or for processing);

(j) A third of the Parties are using the “Manual on Risk Assessment of LMOs” (developed by the Secretariat of the Convention) and/or “Guidance on Risk Assessment of LMOs” (developed by the Online Forum and the AHTEG on Risk Assessment and Risk Management) for training in risk assessment;

(k) Nearly half of the Parties do not consider the currently available training materials or technical guidance on risk assessment and/or risk management of LMOs sufficient;

*Unintentional transboundary movements and emergency measures (Article 17)*

(l) More than two thirds of the Parties have the capacity to identify, assess and/or monitor living modified organisms or specific traits that may have adverse effects on the conservation and sustainable use of biological diversity, taking into account risks to human health;

(m) A third of the Parties have neither established or maintained appropriate measures to prevent unintentional transboundary movements of LMOs, or a mechanism for addressing emergency measures in case of unintentional transboundary movements of LMOs that are likely to have significant adverse effect on biological diversity;

(n) Half of the Parties do not have the capacity to take appropriate measures in the event that a LMO is unintentionally released;

*Handling, transport, packaging and identification (Article 18)*

(o) A third of the Parties have not taken measures to require appropriate documentation accompanying LMOs-FFP;

(p) The vast majority of Parties have reliable access to laboratory facilities for the detection of LMOs and their laboratory personnel have received training in detection of LMOs;

*Information sharing and the Biosafety Clearing-House (BCH) (Article 20)*

(q) The vast majority of Parties have made mandatory information on “Contact details” for competent national authorities, national focal points, and emergency contacts available to the BCH;

(r) A considerable number of Parties have taken final decisions regarding the importation or release of LMOs (Article 10) or regarding the domestic use or import of LMOs-FFP (Article 11) but did not submit the information to the BCH;

(s) The number of Parties reporting that they submit information to the BCH does not necessarily match the actual number of Parties who have submitted information to the BCH, and in some instances the reported number is higher than the actual number of Parties who have submitted certain information to the BCH;<sup>6</sup>

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<sup>6</sup> For more details, see footnotes in document UNEP/CBD/BS/COP-MOP/8/11/Add.1.

*Capacity-building (Article 22)*

(t) More than two thirds of the Parties do not have predictable and reliable funding for building capacity for the effective implementation of the Protocol;

(u) The largest portion of funds made available to developing countries for capacity-building in biosafety is from sources outside the financial mechanism of the Convention on Biological Diversity;

(v) The vast majority of Parties still have capacity-building needs;

*Public awareness and participation (Article 23)*

(w) The vast majority of Parties have established, at least to some extent, a strategy or put in place legislation for promoting and facilitating public awareness, education and participation concerning the safe transfer, handling and use of LMOs.

### III. GAPS IN THE REPORTING FORMAT

12. In its decision BS-VII/3, the Conference of the Parties serving as the meeting of the Parties to the Protocol requested the relevant subsidiary body (i.e. the Subsidiary Body on Implementation) to undertake the third assessment and review and mid-term evaluation of the Strategic Plan, including contributions from the Liaison Group on Capacity-Building and input from the Compliance Committee under the Cartagena Protocol.

13. In the light of the above decision, at its eleventh meeting, the Liaison Group deliberated on the status and trends in the implementation of the Protocol based on the analysis of the indicators under the various operational objectives of the Strategic Plan.<sup>7</sup> The findings of the Liaison Group included the identification of gaps in the reporting format and the need for refining some of the questions in the fourth national report, taking into account the possibility that changes to the questions in future reports could lead to a loss of baseline information if the questions were not comparable.

14. The Liaison Group, in particular noted that:

(a) With regard to the questions related to risk assessment and risk management, there is the need to refine the questions in the fourth national report to address comparability with baseline information. The Group also recommended that the Secretariat should conduct further analyses of the information contained in the third national report format in order to gain better understanding of the overall status of the capacity of Parties to conduct risk assessment, risk management and monitoring, including requesting Parties to submit more information regarding their capacity and, based on that experience, consider the possibility to propose additional questions to the fourth national report format;

(b) With regard to questions on handling, transport, packaging and identification, there is some possible sources of ambiguity in the reporting of the status of the issue by Parties particularly as the question limits the scope of personnel who were responsible for inspecting shipments for the presence of LMOs to only “border control officers”, noting that in some countries such activities fall under the purview of quarantine officers or phytosanitary inspectors. Similarly, it was noted that additional information regarding the capacity to detect unauthorized LMOs might need to include specifying whether trained laboratory personnel worked in regulatory or academic sectors, and clarity on the extent to which laboratories could detect unauthorized LMOs. The Liaison Group recommended that, in the

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<sup>7</sup> The report of the Liaison Group on Capacity-building for Biosafety at its eleventh meeting is available at <http://bch.cbd.int/protocol/meetings/documents.shtml?eventid=5572>.

next reporting cycle, those questions be appropriately modified or accompanied by explanatory notes to ensure that the full scope of information is captured;

(c) With regard to questions related to transit, contained use, unintentional transboundary movements and emergency measures, some ambiguity in the phrasing of the questions in the national report format was noted. It was therefore recommended that some clarity be provided in future national reporting formats to provide a scale in the types of response measures that can be put in place or to provide Parties with the opportunity to provide further comments on such questions with the view to maintaining continuity of the questions through each reporting cycle while extracting additional information to clarify each answer;

(d) The indicator 1.4.2 on LMOs or specific traits that may have adverse effects leaves room for wide interpretation and recommended that the appropriate questions be rephrased for the fourth national report, while linking the indicator to other relevant Articles of the Protocol;

(e) If the indicators in the follow-up to the present Strategic Plan are updated, the format and guidelines for subsequent national reports need to be revised and the data sources and data acquisition methods be reconsidered.

15. The Compliance Committee, in providing input to the third assessment and review and the mid-term evaluation of the Strategic Plan, also analysed the responses from the third national reports against the baseline set in the second reporting cycle with regard to operational objective 3.1 of the Strategic Plan for the Cartagena Protocol, and identified gaps regarding the reporting format.<sup>8</sup>

16. The Committee in particular noted that:

(a) A few questions in the reporting format could be interpreted in different ways and that, as a result, the data per se might not always provide an accurate reflection of the state of implementation of the Protocol;

(b) There was a lack of clear linkages between some outcomes and indicators in operational objective 3.1 of the Strategic Plan.

#### IV. SUGGESTED ELEMENTS OF A DRAFT DECISION

17. Taking into account the findings and recommendations on the reporting format by the Liaison Group on Capacity-building at its eleventh meeting and of the Compliance Committee at its thirteenth meeting, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety may wish to take a decision along the following lines:

(a) Express concern about the lower rate of submission of the third national reports in comparison to the previous reporting cycle, and note with concern that third national reports are still due from 46 Parties, including seven Parties that have accessed funds from the Global Environment Facility for the preparation of their third national reports;<sup>9</sup>

(b) Welcome the financial support provided by the Global Environment Facility to a number of eligible Parties to support the preparation of their national reports, but note with concern that 39

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<sup>8</sup> The report of the Compliance Committee at its thirteenth meeting is available at <http://bch.cbd.int/protocol/meetings/documents.shtml?eventid=5561>.

<sup>9</sup> As of 1 September 2016, third national reports were still due from 46 Parties, including 7 Parties that had accessed GEF funds for the preparation of their third national reports. This follows the submission of third national reports by Antigua and Barbuda, Botswana, Central African Republic, El Salvador, Ethiopia, Kiribati, Lebanon, Mauritius, Nicaragua, Niue, the Philippines and Samoa. A further update on this matter will be provided to the Conference of the Parties serving as the meeting of the Parties at its eighth meeting as necessary.

Parties that were eligible for Global Environment Facility funding to complete their national reports either did not apply for that funding or were unable to access them;

(c) Also welcome the efforts made by the Secretariat to assist Parties in submitting national reports and to ensure their completeness;

(d) Note the effect of the challenges posed by new administrative changes within the United Nations and its impact on the current reporting cycle such as delays in the submission of the third national reports;

(e) Urge Parties that have not yet submitted their third national report to do so as soon as possible;<sup>10</sup>

(f) Urge Parties that have not submitted a complete third national report to do so as soon as possible;

(g) Request the Executive Secretary to propose a revised format for the fourth national reports which addresses the challenges noted by the Liaison Group and the Compliance Committee for the consideration of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety at its ninth meeting.

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<sup>10</sup> Afghanistan, Algeria, Angola, Armenia, Azerbaijan, Bahrain, Barbados, Belize, Cabo Verde, Comoros, Côte d'Ivoire, Democratic People's Republic of Korea, Djibouti, Fiji, Greece, Guinea, Guyana, Jamaica, Jordan, Libya, Luxembourg, Malta, Marshall Islands, Montenegro, Mozambique, Myanmar, Nauru, Oman, Pakistan, Palau, Papua New Guinea, Paraguay, Qatar, Saint Vincent and the Grenadines, Saudi Arabia, Serbia, Seychelles, Solomon Islands, Somalia, State of Palestine, Syrian Arab Republic, The Former Yugoslav Republic of Macedonia, Tonga, Trinidad and Tobago, Turkmenistan, and Venezuela.