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### SUBSIDIARY BODY ON IMPLEMENTATION

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Item 12 of the provisional agenda\*

### **FURTHER OPTIONS FOR MECHANISMS TO SUPPORT REVIEW OF IMPLEMENTATION**

*Note by the Executive Secretary*

#### **INTRODUCTION**

1. The fourth edition of the *Global Biodiversity Outlook*, as well as the updated information on the achievement of the Aichi Biodiversity Targets that will be made available to the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) at its twentieth meeting and the Subsidiary Body on Implementation (SBI) at its first meeting, underscore the need to urgently scale up efforts to implement the Strategic Plan for 2011-2020 if the Aichi Biodiversity Targets are to be met by 2020 and the implementation of the Convention is to be advanced.
2. The Conference of the Parties at its twelfth meeting recognized the need to more effectively review progress towards implementation of commitments under the Convention through the establishment of SBI. SBI was given a mandate, among other things, to review relevant information on progress in the implementation of the Convention, including in the provision of support for the implementation of the Convention, as well as of any strategic plans and other relevant decisions adopted by the Conference of the Parties, and on progress in the achievement of targets established under the Convention. It was also given a mandate to assist the Conference of the Parties in preparing decisions on enhancing the implementation of the Convention, as appropriate, to develop recommendations on how to strengthen mechanisms to support implementation of the Convention and any strategic plans adopted under it, and to identify and develop recommendations to overcome, obstacles encountered (decision XII/26, annex). This item will be further covered in the note by the Executive Secretary on strategic actions to enhance implementation of the Convention and the Strategic Plan (UNEP/CBD/SBI/1/5).
3. Under this agenda item, SBI may wish to consider ways to strengthen mechanisms by elaborating a process to conduct its review of progress in implementation in a structured and efficient way that allows Parties to further enhance their efforts to implement the Convention and the Strategic Plan for Biodiversity 2011-2020.
4. Section I below contains information on relevant existing experiences with different review processes. Section II presents observations on those experiences, with section III containing proposals for an additional, Party-focused review process under SBI. This review process would complement and build upon existing review processes under the Convention and its Protocols. Related matters, such as national reporting and in particular the guidelines for the sixth national report, will be addressed by SBI

\* UNEP/CBD/SBI/1/1/Rev.1.

at its first meeting under agenda item 13.<sup>1</sup> Another related matter, monitoring of implementation, was addressed by SBSTTA at its nineteenth meeting in recommendation XIX/2.<sup>2</sup>

## **I. EXISTING EXPERIENCES WITH REVIEW PROCESSES**

### **A. Experience under the Convention and its Protocols**

5. The review of actions planned and undertaken and targets set by Parties to implement the Strategic Plan for Biodiversity 2011-2020 and, ultimately, the Convention, is a core part of the work under the Convention and reflected in a number of existing mandates.

6. It is the overarching function of the Conference of the Parties to keep the implementation of the Convention under review, and one of its specific mandates to consider information submitted in accordance with Article 26 of the Convention: information by Parties on measures which they have taken to implement the provisions of the Convention and the effectiveness of these measures in meeting the objectives of the Convention (Article 23 of the Convention).

7. In decision X/2 on the Strategic Plan for Biodiversity 2011-2020 the Conference of the Parties decided to conduct relevant reviews of progress in the implementation of the Strategic Plan and the achievement of the Aichi Biodiversity Targets. The Strategic Plan foresees that the subsidiary bodies support the Conference of the Parties in this task. The reviews mandated in decision X/2 are reflected in the updated multi-year programme of work of the Conference of the Parties up to 2020 (decision XII/31, annex).

8. In line with these provisions, a midterm assessment of progress towards the Aichi Biodiversity Targets, including an analysis of how the implementation of the Convention and its Strategic Plan has contributed to the 2015 targets of the Millennium Development Goals, was undertaken by the Conference of the Parties at its twelfth meeting.

9. Under the Convention, some experience exists with dialogue sessions for the exchange, among Parties, of experience with implementation, including at the seventeenth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice, the eighth meeting of the Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions and the twelfth meeting of the Conference of the Parties. As part of a review process, such plenary sessions would require more structure and would be based on technical input.

10. Under the Cartagena Protocol on Biosafety, the Conference of the Parties serving as the meeting of the Parties to the Protocol conducts, at least every five years, an evaluation of the effectiveness of the Protocol, including an assessment of its procedures and annexes, as required under Article 35 of the Protocol. The second assessment and review of the effectiveness of the Protocol focused primarily on evaluating the status of implementation of core elements of the Protocol. The third assessment and review is expected to be conducted using a core set of information needs identified by the seventh meeting of the Parties to the Protocol. A strategic plan was also adopted by the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety at its fifth meeting. The Strategic Plan for the Cartagena Protocol on Biosafety for the period 2011-2020 is scheduled to undergo a midterm evaluation by the Conference of the Parties at its next meeting. SBI was requested in decision BS-VII/3, to review information gathered and analysed by the Executive Secretary with a view to contributing to the third assessment and review of the Protocol and the midterm evaluation of the Strategic Plan. The Compliance Committee under the Cartagena Protocol has also been requested to provide an input to the third assessment and review of the Protocol and the midterm evaluation of the Strategic Plan in the form of an evaluation of the status of implementation of the Protocol in meeting its objectives.

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<sup>1</sup> See also UNEP/CBD/SBI/1/11 on national reporting and UNEP/CBD/SBI/1/11/Add.1 on guidelines for the sixth national reports.

<sup>2</sup> See also relevant information contained in UNEP/CBD/SBSTTA/19/3, Key scientific and technical needs related to the implementation of the Strategic Plan for Biodiversity 2011-2020 and related research, section I B.

11. Furthermore, compliance committees have been established both under the Cartagena Protocol on Biosafety and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization. These bodies, consisting of a limited number of members nominated by Parties, are mandated to receive and consider information related to individual cases of non-compliance of Parties with their obligations under the respective Protocol and can take measures as provided for in the relevant procedures. An overview of relevant aspects of these mechanisms is provided in annex I.

### **B. Experience under the biodiversity-related conventions**

12. Several of the biodiversity-related conventions use lists of areas or species as a means to strengthen implementation of commitments of Parties with regard to these species or sites. In some cases, Parties can include species or areas located in their territory into lists, while in some other cases the inclusion into a list requires a review and decision of the governing body or even an amendment to an annex to the convention concerned. An overview of the different approaches is provided in annex II.

13. For example, the Agreement on the Conservation of African-Eurasian Migratory Waterbirds has a process for reviewing, through its Standing Committee, the effectiveness of implementation measures.<sup>3</sup> The Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area, established a Follow-up Committee.<sup>4</sup> Both processes are summarized in annex III. In resolution 11.7, the Conference of the Parties to the Convention on the Conservation of Migratory Species of Wild Animals launched an intersessional process to explore possibilities for strengthening implementation of the Convention through the development of a review process.

14. Under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Standing Committee is tasked with monitoring overall compliance with the Convention, advising and assisting Parties in complying, verifying information and taking compliance measures. In addition, the Animals and Plants Committees advise and assist the Standing Committee and the Conference of the Parties by undertaking reviews, consultations and reporting namely on matters related to the Review of Significant Trade.

15. The Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture established a compliance committee of limited membership to promote compliance with the provisions of the Treaty and to address issues of non-compliance, including through monitoring and offering legal advice or legal assistance, when needed and requested, in particular to developing countries and countries with economies in transition.<sup>5</sup>

### **C. Experience under the United Nations Framework Convention on Climate Change**

16. A number of relevant review processes exist in the context of the United Nations Framework Convention on Climate Change (UNFCCC).

17. The Conference of the Parties to UNFCCC adopted a monitoring, reporting and verification system which includes two processes that are particularly relevant to a potential process under SBI: (a) “international assessment and review” (IAR), which applies to biennial reports by the set of Parties with more stringent obligations under UNFCCC<sup>6</sup> on progress in achieving emission reductions and the provision of financial, technology and capacity-building support; and (b) “international consultation and analysis” (ICA), which aims to enhance the transparency and accountability of information reported in biennial update reports by all other Parties. Both processes are undertaken under the Subsidiary Body for Implementation of UNFCCC (UNFCCC SBI) after technical preparation: international assessment and

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<sup>3</sup>AEWA Resolution 4.6, Establishment of an Implementation Review Process (2008).

<sup>4</sup>ACCOBAMS Resolution 5.4, ACCOBAMS Follow-up Procedure (2013).

<sup>5</sup>An update of information on the experience of compliance mechanisms under other multilateral environmental agreements, including CITES and the International Treaty, is made available in document UNEP/CBD/BS/CC/13/INF/2. The document is prepared in response to the request of the Compliance Committee under the Cartagena Protocol on Biosafety.

<sup>6</sup>Parties included in annex I to UNFCCC.

review is carried out directly by a working group of UNFCCC SBI, while international consultation and analysis is carried out in a workshop format.

18. International assessment and review consists of two steps. In the first step, a technical review of biennial reports, the annual greenhouse gas inventories and national communications is undertaken by a team of experts, and, where relevant, this is done in conjunction with the review of other reports under UNFCCC. The technical review results in an individual report for each Party. The report builds on existing reporting standards and includes an examination of the Party's progress in achieving its economy-wide emission reduction target. In years when biennial reports and national communications are submitted together, the review of the reports is conducted in-country; in other years, a centralized review is conducted. The draft technical review report is made available to the Party concerned for comments. The expert review team finalizes the technical review report, taking into account the comments received. All final review reports are published and forwarded by the secretariat, together with any written comments on the final review report by the Party concerned, to the Conference of the Parties.

19. The second step consists of a multilateral assessment of progress in implementation. The multilateral assessment is conducted under a working group session of UNFCCC SBI for each Party, with participation of all Parties. Well in advance of the relevant session of SBI, other Parties can submit written questions to the Party under review, which the Party will answer in writing. During the working group session, the Party under review gives a brief oral presentation, which is followed by oral questions by Parties and responses by the Party under review. The average duration of an assessment is one hour per Party.

20. While the objective and substantive scope of international consultation and analysis differ from international assessment and review, it follows a similar two-step process of expert analysis and dialogue part involving all Parties. Under international consultation and analysis, the team of technical experts also identifies capacity-building needs in order to facilitate reporting and participating in the process. The main procedural difference is the preparation of centralized reviews as opposed to the preparation of reports in-country. The dialogue part of international consultation and analysis is conducted as facilitative sharing of views in the form of a workshop under UNFCCC SBI.

21. Under the Paris Agreement,<sup>7</sup> a review process will be developed, building upon and eventually superseding the IAR and ICA procedures. The Agreement, in Article 13, establishes a technical expert review consisting of consideration of the support provided by Parties and their implementation and achievement of their nationally determined contribution. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement will, at its first meeting, adopt modalities, procedures and guidelines for the transparency of action and support, building on experience from arrangements related to transparency under the Convention. The Conference of the Parties to UNFCCC, in decision 1/CP.21, also agreed on the categories of information to be included in nationally determined contributions by Parties, and requested the further development of guidance on this information in order to facilitate clarity, transparency and understanding of the contributions.

22. A global-level review process, the "global stocktake", has also been established under the Paris Agreement. Further to Article 14 of the Agreement, the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement will, every five years, assess the collective progress towards achieving the purpose of the Paris Agreement and its long-term goals. This process is similar to the review of progress towards the implementation of the Strategic Plan for Biodiversity and the achievement of the Aichi Biodiversity Targets to be undertaken by the Conference of the Parties to the Convention on Biological Diversity at its thirteenth, fourteenth and fifteenth meetings. However, the process established under UNFCCC goes further in that it links the outcomes of the global stocktaking directly to additional follow-up actions by Parties. The outcomes of the global stocktake are explicitly stated to inform the nationally determined contributions that Parties are requested to communicate every five years. Currently, no such direct link exists under the Convention on Biological Diversity.

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<sup>7</sup> United Nations Framework Convention on Climate Change, Conference of the Parties, twenty-first session, decision 1/CP.21 (see FCCC/CP/2015/10/Add.1).

## **D. Experience with review processes in other organizations**

### *1. World Trade Organization trade policy review mechanism*

23. As part of the Marrakesh Agreement Establishing the World Trade Organization (WTO), a trade policy review mechanism was formally established. The reviews under this mechanism focus on trade policies and practices of WTO members. All WTO members are subject to review with the frequency of review determined by the share of world trade of a member.<sup>8</sup>

24. As a basis for the review, the Trade Policies Review Division of the WTO Secretariat prepares a report on the member under review, based on official information and comments provided by the member and complemented by material from other sources. The report is made available to the member concerned for review of factual accuracy. As part of the review process, a Secretariat team undertakes a visit of one week to 10 days to the member under review. As further basis for the review, members under review provide policy statements which outline, among other things, the objectives and main directions of their trade policies, recent trends and problems.

25. The Trade Policy Review Body, a configuration of the WTO General Council in which all members are represented, carries out the review in two sessions of typically half a day each. Members can submit questions ahead of the meeting of the Trade Policy Review Body, which the member under review will answer in writing. The Secretariat report and the policy statement provided by the member are published after the review meeting along with the minutes of the meeting and the text of the concluding remarks of the chairperson of the Trade Policy Review Body delivered at the conclusion of the meeting.

### *2. United Nations Human Rights Council universal periodic review*

26. The universal periodic review is an intergovernmental process under the United Nations Human Rights Council. The review focuses on assessing the human rights records of States. In the first cycle, from 2008-2011, all United Nations Member States were reviewed. From 2012-2016, three sessions of the Universal Periodic Review Working Group will be held each year. The working group reviews 14 States at each session.

27. The review is based on information provided by the State under review, information contained in the reports of independent human rights experts and groups, human rights treaty bodies, and other United Nations entities, as well as information from other stakeholders including national human rights institutions and non-governmental organizations.

28. The Universal Periodic Review Working Group, which conducts the review, consists of 47 members of the United Nations Human Rights Council. During a meeting of the working group, a discussion between the State under review and other United Nations Member States takes place. A review under the working group takes three hours and 30 minutes. Any United Nations Member State can take part in the discussion and pose questions, comments and/or make recommendations to the States under review.

29. The review of each State is assisted by groups of three States that serve as rapporteurs, selected through a drawing of lots. After the country review, the reviewed State has the opportunity to make preliminary comments on the recommendations emerging from the review, choosing to either accept or note them. Both accepted and noted recommendations are included in the final report. The final report is forwarded to a plenary session of the Human Rights Council for adoption. During the plenary session, the State under review can reply to questions and issues that were not sufficiently addressed during the working group and respond to recommendations that were raised by States during the review. Time is also allotted to member and observer States which may wish to express their opinion on the outcome of the review and for stakeholders to make general comments.

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<sup>8</sup> For example, the top four members are subject to biennial review.

30. After the report has been adopted, the reviewed State has the primary responsibility to implement the recommendations contained in the final outcome. During the second review, the State is expected to provide information on what they have been doing to implement the recommendations made during the first review as well as on any developments in the field of human rights. Dedicated funds are available to assist eligible States in implementing the recommendations and conclusions regarding capacity-building and technical assistance.

3. *African peer review mechanism of the New Partnership for Africa's Development*

31. The African Peer Review Mechanism is a mutually agreed programme, voluntarily adopted by the member states of the African Union under the framework of the New Partnership for Africa's Development (NEPAD), to promote and reinforce high standards of governance. States Members of the African Union are invited to participate voluntarily in this peer-review process. Between January 2006 and January 2011, 14 member countries were peer reviewed. The process focuses on (a) democracy and good political governance; (b) economic governance and management; (c) corporate governance; and (d) socioeconomic development.

32. As a first step of the review, a country conducts a self-assessment with the aid of a questionnaire and prepares a national programme of action. In a second step, a country review mission team assesses the performance of the country. The team prepares a report on the basis of a background document and an issue paper prepared by the African Peer Review Secretariat, and the information provided by official and unofficial sources during in-country consultations and interactions with stakeholders. The draft report takes into account the applicable political, economic and corporate governance and socio-economic development commitments, identifies any remaining weaknesses, and contains recommendations for further actions that should be included in the final programme of action.

33. The final report is discussed and approved by the Committee of Participating Heads of State and Government, the highest decision-making authority in the review mechanism. A Panel of Eminent Persons oversees the review process to ensure integrity, considers reports and makes recommendations to the Committee of Participating Heads of State and Government.

4. *Environmental performance review under the Organisation for Economic Co-operation and Development*

34. The Organisation for Economic Co-operation and Development (OECD) uses peer reviews in several areas of its work. The Environmental Performance Review programme, as one example, was launched in 1992. OECD countries are currently being reviewed for the third time; other countries, such as Brazil, Colombia and South Africa, have voluntarily undergone peer review.

35. The preparation of an environmental performance review includes consultations with the country under review to inform members of the relevant administrations and other stakeholders on the process and to select two subject areas for in-depth review (for example biodiversity or climate change). A total of 12<sup>9</sup> out of the 23 countries reviewed in 2010-2016 chose a biodiversity-related subject area for in-depth review. The Secretariat gathers data and information in cooperation with the reviewed country and from other sources within and outside OECD.

36. The review team (six to nine members), which typically includes secretariat staff and experts from two reviewing countries, visits the reviewed country and meets with government officials, academics, and representatives of local governments, the business sector, trade unions and environmental non-governmental organizations. The secretariat, together with the review team, prepares a draft report, examining the country's progress against domestic and international objectives related to environmental management and sustainable development. The draft report is accompanied by the "assessment and recommendations" stemming from the review, which summarize the main findings of the analysis and present policy recommendations to help the country improve its environmental performance.

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<sup>9</sup> Japan, Norway, Israel, Mexico, South Africa, Colombia, Sweden, Poland, Spain, Brazil, France and Chile.

37. The draft report and the “assessment and recommendations” are presented and discussed at meetings of the OECD Working Party on Environmental Performance, which convenes policymakers from all the OECD member and partner countries. The one-day discussion session per reviewed country allows for an open exchange of experience and encourages peer learning between a high-level delegation from the reviewed country and delegates from the other countries. The Working Party endorses the “assessment and recommendations”, which, therefore, reflects the collective views of OECD members. The review is subsequently published and presented at a launch event (e.g. conference, workshop, press conference) in the reviewed country, often in the presence of the environment minister. The reviewed country generally produces a formal response within a few years of publication, specifying actions taken on the review’s recommendations. The next OECD environmental performance review of the same country also monitors progress.

### **E. National biodiversity audits**

38. Nearly all countries around the world have specific government entities (usually known as “supreme audit institutions”) which are mandated to examine programmes, functions, operations or management systems and procedures of the country to assess whether it is achieving efficiency and effectiveness in the employment of available resources. Recently, supreme audit institutions have increasingly decided to audit their government’s environmental performance. Between 1993 and 2003, supreme auditing institutions around the world conducted at least 180 environmental audits of ecosystems and biodiversity and 247 of nature and recreation.

39. Audits can focus on specific topics, such as protected areas (parks, conservation areas, and bird sanctuaries), endangered species, invasive species, freshwater habitats and their resources, wetlands, marine habitats and their resources, genetic resources, forest resources, mainstreaming biodiversity into economic sectors and development planning, impact of climate change on biodiversity, and desertification and biodiversity. They can, however, also review the performance of a government in developing a national biodiversity strategy and the associated action plan. This would involve comparing the commitments under the Convention and its strategic plan with the actions of the Government. As audits generally include recommendations to the Government on how to improve its performance, they can be a useful tool to foster implementation of the Convention and the Strategic Plan for Biodiversity at the national level.

40. The International Organization of Supreme Audit Institutions (INTOSAI) provides an institutionalized framework for supreme audit institutions. It promotes the development and transfer of knowledge, works towards improving government auditing worldwide and enhancing the professional capacities of its member institutions. INTOSAI has established a working group on environmental auditing. The Working Group identified biodiversity as its central theme for the 2005–07 work plan period and prepared the Guidance for Supreme Audit Institutions on Auditing Biodiversity.<sup>10</sup>

41. Parties may wish to make use of this existing guidance or request the Executive Secretary to further refine this guidance for use by Parties at the national level.

## **II. OBSERVATIONS**

42. A number of other forums have established processes for reviewing implementation which take different forms. Compliance mechanisms are one form of review mechanism. Both Protocols under the Convention and many other multilateral environmental agreements have established such mechanisms. These mechanisms mostly concern the review of compliance with specific obligations contained in the relevant legal instrument.

43. The review process, through a compliance mechanism model, is conducted by a subsidiary body with limited membership which can decide on or recommend facilitative measures to support Parties in enhancing their implementation actions or, in some cases, can take or recommend punitive measures, such as the issuance of a formal warning or the suspension of benefits.

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<sup>10</sup> <http://www.environmental-auditing.org/LinkClick.aspx?fileticket=WJWCKyYayx8%3d&tabid=229>.

44. In another form of review mechanism, the review is conducted by a plenary body and peers. This type of review focuses on the review of policy frameworks established to implement commitments rather than compliance with specific provisions. Examples include the environmental performance review under OECD, the World Trade Organization's Trade Policy Review Mechanism, or the United Nations Human Rights Council's Universal Periodic Review. Under UNFCCC, processes have been established to review reports on the status of greenhouse gas emissions and removals by sinks, as well as on actions taken by individual Parties to reduce emissions or enhance sinks: "international assessment and review" and "international consultation and analysis".

45. Review mechanisms that provide a forum for Parties to engage in a dialogue on the different actions taken by them in response to common commitments can facilitate learning among Parties about effective policy practice, design and implementation. In the course of review processes, best practices and readily usable policy-relevant information may be provided by Parties. Where the structure of the review is an open, dialogue-oriented process, in contrast to a compliance-oriented mechanism, Parties may also be willing to engage in more candid dialogue with each other.

46. Review processes conducted in a plenary setting also provide Parties involved in a specific process with transparent information about the activities undertaken by other Parties. In particular, processes under which Parties submit national targets, plans and other pledges for activities benefit from such transparency. The sharing of information through a review process reassures all Parties involved of the credibility and ambition of the pledges of other Parties. Review mechanisms, by creating a platform for international recognition, also reward ambitious actions by Parties. In processes whereby global goals and targets are established for consecutive time periods, the information generated through the review can inform subsequent rounds of negotiation.

47. Experience with review mechanisms showed that a successful review needs to be based on credible information and analyses by a neutral entity. This requires rigorous reporting by Parties, using data from various sources, and the enhancement of the review, data collection and reporting capacities of Parties. Many other forums depend on substantial, well-staffed international organizations and secretariats for the preparation of information as an input to the review.

48. Furthermore, in forums where a robust review mechanism has been established, the technical capacity at the national level to monitor and report has also reportedly increased.

49. The review of actions taken by individual Parties, paired with a review of the contribution of the aggregate actions taken by all Parties towards global goals and targets, also allows for an evaluation of the effectiveness of international forums.

### **III. SUGGESTIONS FOR THE SUBSIDIARY BODY ON IMPLEMENTATION**

#### **A. A multidimensional review system under the Convention**

50. Existing mandates and practice have created a multidimensional review system under the Convention.

##### *1. Review of the collective progress made by Parties and the contribution of aggregate national targets towards global targets*

51. The review of progress in the achievement of the Aichi Biodiversity Targets at the global level is a core element of this system. Such a review was recently undertaken, for example, through the midterm review in 2014, and will continue in the future, including through the fifth edition of the *Global Biodiversity Outlook*. Such reviews already make use of data from various sources, including spatially explicit time series information on ecosystem change from remote sensing. As the spatial and temporal resolution of this information continues to improve, it can be increasingly used by the Convention to support monitoring of biodiversity change at the national level.<sup>11</sup> This dimension of review includes the

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<sup>11</sup> See also SBSTTA recommendation XIX/2 on access to data and improved monitoring.

outcomes of the aggregate of actions taken by individual Parties. It also includes global progress towards global targets as well as actions taken at the global level.

52. A second dimension of review extends beyond the aggregate progress and reviews the progress of individual Parties within the aggregate total. While individual Parties are usually not identified, the review addresses the distribution of Parties on a scale of progress made and identifies trends. Further work by SBI would complement the efforts by SBSTTA made earlier in this regard. For example, in the context of the fourth edition of the *Global Biodiversity Outlook*, a percentage was indicated, on the basis of their fifth national reports, of Parties that had not made progress, made progress but at an insufficient rate, were on track to meet the Aichi Biodiversity Targets, or were on track to exceed them. Apart from a country-by-country and a target-by-target review, SBI could also look at different subregions.

53. SBI at its first meeting under agenda item 4, will assess the contribution of the aggregate of national targets communicated by Parties towards the global targets and consider updated information on the scale of progress made by Parties and trends on a number of targets for which new information has become available.<sup>12</sup> In its recommendations under item 4, SBI may wish to request the continuation of this kind of review at its future meetings. This kind of review would then form part of Appendix A to the modus operandi of SBI, which would serve to elaborate on the different kinds of review that SBI will conduct as part of its function to review progress in implementation.

### *2. Review of progress by Parties in achieving their national targets and actions*

54. An additional element of the multidimensional review system could focus on the review of progress in implementation by individual Parties of the setting and achievement of their national targets and actions as well as the outcomes of these actions. This dimension of review would complement the existing elements of review and support Parties in further enhancing the implementation of the Convention and the Strategic Plan for Biodiversity. Building on experience with existing processes under the Convention, its Protocols and other processes, proposals for a Party-led review process to allow SBI to conduct this dimension of review in the most efficient manner are provided in the following sections. A summary of information on relevant processes is contained in annex IV. SBI may wish to consider the information contained in the sections below and, as part of its recommendation on the modus operandi, request the Executive Secretary to prepare, on the basis of this information, procedures for this specific kind of review to be also included in Appendix A to the modus operandi of SBI. As noted above, this appendix would serve to elaborate on the different kinds of review that SBI would conduct as part of its function to review progress in implementation.

### *3. Review of compliance with procedural and institutional requirements under the Convention*

55. In addition, SBI may address, as indicated in UNEP/CBD/SBI/1/10, section IV, the compliance of Parties with procedural and institutional requirements under the Convention. This could include the payment of mandatory contributions to Trust Funds under the Convention and the Protocols, the submission of national reports and national biodiversity strategies and action plans, the designation of focal points and national competent authorities, or the establishment of committees and agencies.

56. Under item 15, administration of the Convention, SBI will be provided with information on the status of compliance of individual Parties with these requirements. SBI may wish to consider the need for the development of a specific procedure for use in following up on cases with respect to the adherence of Parties to these procedural and institutional requirements.

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<sup>12</sup> See UNEP/CBD/SBI/1/2, Progress in the implementation of the Convention and the Strategic Plan for Biodiversity 2011-2020 and towards the achievement of the Aichi Biodiversity Targets, UNEP/CBD/SBI/1/2/Add.1, Update and analysis of national biodiversity strategies and action plans received after the adoption of the Strategic Plan for Biodiversity 2011-2020, and UNEP/CBD/SBI/1/2/Add.2, Analysis of the contribution of targets established by Parties and progress towards the Aichi Biodiversity Targets.

## **B. Elements of a Party-led review process**

57. On the basis of the experiences of the other forums briefly examined above, it appears that the experiences under UNFCCC, WTO, the United Nations Human Rights Council, NEPAD and OECD are most relevant to a potential additional Party-led review process under the Convention. Such a review would, like in the other processes, have its focus on the policy level and be rather broad in scope. It is expected that the needs of Parties for support will vary greatly in scope and nature, depending on their national circumstances. This approach also appears to be least demanding in terms of the resources required from the Secretariat to organize the process.

58. For the specific purpose of reviewing the progress of individual Parties in implementing the Strategic Plan for Biodiversity, the model of a formal compliance mechanism appears to be narrowly focused and may hinder candid exchange and mutual advice among Parties. Also, the use of lists to draw special attention to certain habitats and species, as used by other biodiversity-related conventions, does not seem suitable. The matters covered by the Convention go far beyond individual sites and species, and targets and planned actions by Parties, which may require support, are also expected to be broader in nature.

### *1. Subject of the review process*

59. As the experiences under the Convention, its Protocols and various other processes described in section I above show, the subject of a review can vary from adherence to very specific provisions of treaties to comprehensive policy frameworks developed in response to commitments undertaken by Parties. Under the Convention, the subject of a review process would be the progress that Parties are making in the implementation of their commitments under the Convention in the form of the current strategic plan and their national biodiversity strategies and action plans. This requires, as reflected in existing mandates by the Conference of the Parties, the review of national targets, plans and actions, and their outcomes, as well as legal and policy frameworks.

### *2. Purpose of the review process*

60. A review process under the Convention would aim to harness all the benefits experienced in other forums: To increase transparency with regard to the actions undertaken by Parties and to give confidence to Parties with regard to the contribution of each Party towards the achievement of global goals and targets. The review process would also aim to facilitate mutual learning among Parties by, among other things, identifying, sharing and giving recognition for good practices. By further strengthening the overall review of information, the review process would also enable SBI to identify strategic actions to overcome obstacles in national implementation.

### *3. Nature of the review process*

61. The examples provided in section I show that reviews can apply to all or only a set of Parties and can be mandatory or voluntary. A review process under the Convention would be open to all Parties. It would be undertaken on a voluntary basis, albeit with a view to including all Parties over time. It would aim to review Parties in a regionally balanced way by maintaining a balance between developed and developing country Parties, while least developed countries and small island developing States would have further flexibility in recognition of their limited capacity.

### *4. Reviewing body*

62. As the experiences under other processes show, the review can be conducted by a body with limited membership, or a plenary body, including a specific setting of a plenary body. A review process under the Convention could therefore be conducted by SBI, an open-ended body under SBI, or a smaller body with limited membership under SBI. Considering the subject and purpose outlined above, it appears that SBI itself, or a working group under SBI that is open to all Parties, would be best suited for a review process under the Convention.

63. Even with a very short time slot allocated for the review of each Party (see subsections (5) and (6) below), the time available during a meeting of SBI would not be sufficient to review the progress of all Parties within the 10-year timeframe of a strategic plan. To gain additional time for the review, SBI or an open-ended working group under SBI could be mandated to meet during meetings of the Conference of

the Parties, following the example of UNFCCC. Upon decision by the Conference of the Parties, additional meetings could also be held intersessionally, including in conjunction with meetings of other subsidiary bodies under the Convention, as necessary, in order to allow for additional time for review.

#### 5. *Steps in the review process*

64. On the basis of relevant experience, a Party-led review mechanism under SBI could include the following two steps:

(a) A preparation phase: Parties would provide information regarding the measures they are taking and the progress they are making in implementation, including through their national reports, their national biodiversity strategies and action plans, and other submissions, which would form the basis of the review. The Secretariat, in consultation with the Party under review, could, in addition, prepare an analysis of this and other available information, such as information from voluntary peer reviews of national biodiversity strategies and action plans and any internal national review undertaken by Parties;

(b) The review phase: This would be a session under the auspices of SBI, in which individual Parties would be invited to present an overview of their targets and progress towards them, and engage in a structured discussion with other Parties. In other forums, between 30 minutes and one day are allocated for the review of individual Parties. The review of each Party under the review process could be scheduled for about 30 minutes. Written questions by other Parties could be submitted in advance of the session which the Party under review would answer in writing.

65. The analysis made in the preparation phase would contain an in-depth examination of national targets established in accordance with the Strategic Plan for Biodiversity and actions included in the national biodiversity strategies and action plans of Parties. This would be in line with decision X/2, paragraph 17(b), in which the Conference of the Parties requested an analysis of national, regional and other actions, including targets, as appropriate. It would also be in line with decision IX/8, paragraph 16(a) and decision XI/2, paragraph 9, whereby the Conference of the Parties requested the Executive Secretary to facilitate the continued exchange of best practices and lessons learned from the preparation, updating and revision of national biodiversity strategies and action plans.

66. The review would provide a collegial and cooperative atmosphere that allows individual countries to engage in a constructive discussion with other Parties in a plenary setting. This would enable the sharing of experiences and practices, and thereby mutual learning. Review sessions would be held for three hours.

67. A summary of the presentation and exchange during the review session could be made available as an outcome of the review.

#### 6. *Length of review cycle*

68. The examples presented above show that the length of review cycles varies among different processes from about 2 to 10 years. While a more frequent review may be desirable, a longer cycle may be necessary in the context of the Convention, given the resource requirements for Parties and the Secretariat. A review process should aim to give the opportunity to each Party to be reviewed at least once in a 10-year cycle.

#### 7. *Capacity-support in the preparation of information*

69. Furthermore, quality and completeness of the information reviewed are a precondition for the review to produce meaningful outcomes. In this context, support to Parties in the gathering of information and the preparation of their national reports and the development or revision of their national biodiversity strategies and action plans is critically important.

70. SBI may wish to consider a recommendation to the Conference of the Parties to request the Global Environment Facility to complement and streamline existing support to strengthen national review, reporting and planning.

### **C. *Aligning reporting requirements for a successful review***

71. The success of any review mechanism largely depends on the quality and completeness of the information reviewed. The guidelines for the sixth national report and other developments in the context

of national reporting that SBI will consider at its first meeting are aimed at improving the information basis for the review.<sup>13</sup>

72. As part of the draft guidelines for the sixth national reports, Parties are requested to focus their reports on progress made and outcomes achieved in implementing national targets and to assess the effectiveness of the measures undertaken as part of NBSAP implementation. Parties are also invited to assess scientific and technical needs related to implementation of each target. This proposed format is expected to facilitate the future review of implementation, while promoting technical and scientific cooperation and assessments of effectiveness of types of measures taken in accordance with the provisions of the Convention. Such assessment could be undertaken through internal reviews of relevant policies, laws and regulations, to identify which are helping to further implementation of the Strategic Plan as well as any opportunities for overcoming hurdles or counter-incentives, with a view to ensuring coherence. They could be further supported by internal institutional processes at the national level to integrate the consideration of the conservation and sustainable use of biological resources into national decision-making, in accordance with Article 10(a) of the Convention on Biological Diversity. The draft guidelines for the sixth national reports invite summary reports of such assessments as part of the biodiversity country profiles. Likewise, Parties could report on mechanisms in place to ensure that decisions at the state and local levels support implementation of the Strategic Plan as well as on mechanisms in place to engage stakeholders in decision-making that could impact biodiversity.

#### **D. Aligning support to the outcomes of the review**

73. Besides the benefits of mutual learning and exchange that the review setting will provide, SBI could also consider linking the outcomes of the review to further support measures.

74. For example, the voluntary peer-review mechanism could serve both as a mechanism for a more in-depth review of the national targets, actions and plans of a Party and as an opportunity for intensive peer-to-peer exchange of implementation practices. The voluntary peer-review methodology currently being developed and tested by an informal expert group formed in response to decision XII/29, paragraph 3 provides, as an output, a set of observations and recommendations to the Party under review which could serve as the basis for a Party response and for further collaboration between Parties to improve the effectiveness of the implementation of the national biodiversity strategy and action plan in the context of the Strategic Plan for Biodiversity.

75. The results of the review could feed into the process proposed in the note by the Executive Secretary on capacity-building, technical and scientific cooperation, technology transfer and the clearing-house mechanism (UNEP/CBD/SBI/1/6) to channel Parties' expressed needs through the Convention's clearing-house mechanism to be met with implementation support — capacity-building and technical and scientific cooperation — from various sources, including the Bio-bridge Initiative (see UNEP/CBD/COP/12/INF/33), the Japan Biodiversity Fund's pilot project programme, the implementing agencies and other matchmaking facilities. These processes could use the results of the review, coupled with implementation needs expressed by Parties in various forms, as a basis to provide targeted support to Parties.

76. Furthermore, as with the Cartagena Protocol, the outcomes of the review could be used for recommending priority areas to the Global Environment Facility and to donors more broadly to inform their development of support programmes.<sup>14</sup> The information emerging from the review could also help to guide further research by the academic community where it is deemed needed.

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<sup>13</sup> See UNEP/CBD/SBI/1/11 on national reporting and UNEP/CBD/SBI/1/11/Add.1 on guidelines for the sixth national reports.

<sup>14</sup> In decision XI/5, Appendix II, the Conference of the Parties had provided guidance to Global Environment Facility to consider within the four-year outcome-oriented framework of programme priorities for biodiversity, a number of specific programme priorities with respect to biosafety, including activities recommended by the Compliance Committee to assist eligible Parties to comply with their obligations under the Cartagena Protocol on Biosafety, section I, paragraph 2(n).

*Annex I***EXPERIENCES IN COMPLIANCE MECHANISMS UNDER THE CARTAGENA AND NAGOYA PROTOCOLS****I. Overview of the compliance procedures and mechanisms under the Cartagena Protocol on Biosafety**

1. The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol adopted procedures and mechanisms on compliance in accordance with Article 34 of the Protocol, and established a compliance committee, with limited membership, to promote compliance, to address cases of non-compliance, and to provide advice or assistance.

2. Specifically, the compliance committee is mandated (a) to identify specific circumstances and possible causes of individual cases of non-compliance; (b) to consider information submitted to it regarding matters relating to compliance and cases of non-compliance; (c) to provide advice and/or assistance, as appropriate, to the concerned Party, on matters relating to compliance with a view to assisting it to comply with its obligations under the Protocol; (d) to review general issues of compliance by Parties with their obligations under the Protocol, taking into account the information provided in the national reports communicated in accordance with Article 33 of the Protocol and also through the Biosafety Clearing-House; and (e) to take measures, as appropriate, or make recommendations, to the Conference of the Parties serving as the meeting of the Parties to the Protocol.

3. The Compliance Committee specified, at its last meeting, held in May 2015, that the types of advice and/or assistance that it could provide could include:<sup>15</sup>

- (a) Identifying opportunities for regional cooperation;
- (b) Assisting with the identification of organizations and projects that can help;
- (c) Sharing information on lessons learned and best practices in implementation;
- (d) Providing information on possible sources of funding for implementation;
- (e) Recommending to the Conference of the Parties serving as the meeting of the Parties to the Protocol to provide assistance to individual or groups of Parties;
- (f) Recommending priority areas for GEF funding;
- (g) Advising on the availability of the roster of experts and the possible use of experts from that roster;
- (h) Clarifying use of terms and procedures.

**II. Overview of the cooperative procedures and institutional mechanisms to promote compliance with the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization**

4. Under the Nagoya Protocol, the Conference of the Parties serving as the meeting of the Parties to the Protocol adopted cooperative procedures and institutional mechanisms to promote compliance with the Nagoya Protocol and to address cases of non-compliance. The compliance committee, a body with limited membership, receives and considers submissions relating to issues of compliance and non-compliance with the provisions of the Protocol and issues recommendations.

5. Specifically, the Committee may: (a) offer advice or facilitate assistance to the Party concerned, as appropriate; (b) request or assist, as appropriate, the Party concerned to develop a compliance action plan; and (c) invite the Party concerned to submit progress reports on its efforts to comply with its obligations under the Protocol.

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<sup>15</sup> Report of the Compliance Committee under the Cartagena Protocol on Biosafety on the work of its twelfth meeting, 15 May 2015, annex.

6. The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, upon the recommendations of the Committee, may, in addition to the measures listed in the previous paragraph, (a) facilitate, as appropriate, access to financial and technical assistance, technology transfer, training and other capacity-building measures; (b) issue a written caution, a statement of concern or a declaration of non-compliance to the Party concerned; and (c) decide on any other measure, as appropriate, in accordance with Article 26, paragraph 4, of the Protocol and the applicable rules of international law, bearing in mind the need for serious measures in cases of grave or repeated non-compliance.

7. The first meeting of the Compliance Committee under the Nagoya Protocol will be held in Montreal, Canada, from 6 to 8 April 2016.

## *Annex II*

### **THE USE OF LISTS TO FOSTER IMPLEMENTATION UNDER THE BIODIVERSITY-RELATED CONVENTIONS**

#### *The World Heritage List under the World Heritage Convention*

1. The World Heritage Convention works on the basis of maintaining a list of protected sites — the World Heritage List — which contains properties forming part of the cultural heritage and natural heritage as defined by the Convention. Parties to the World Heritage Convention nominate sites on their territory for inclusion on the list maintained by the World Heritage Committee. When sites included in the World Heritage List are threatened by serious and specific dangers and require major conservation operations, the World Heritage Committee can include them in a list of World Heritage Sites in Danger. The list is designed to inform the international community of conditions which threaten the very characteristics for which a property was inscribed on the World Heritage List, and to encourage corrective action.

#### *The list of Wetlands of International Importance under the Ramsar Convention*

2. As one of their main commitments, Parties to the Ramsar Convention commit to designate suitable wetlands for the list of Wetlands of International Importance and ensure their effective management. The inclusion of a site in the list embodies the Government's commitment to take the steps necessary to ensure that its ecological character is maintained. Wetlands of international importance which are in need of priority conservation attention can be included in the Montreux Record in order to draw attention to the need for action or support for these sites.

#### *Appendices of the Convention on the Conservation of Migratory Species of Wild Animals*

3. The Convention on the Conservation of Migratory Species of Wild Animals contains two appendices – Appendix I, migratory species threatened with extinction, and Appendix II, migratory species that need or would significantly benefit from international cooperation. The Conference of the Parties can decide to list species in Appendix I, provided that reliable evidence, including the best scientific evidence available, indicates that the species is endangered. For species included in Appendix I of the Convention, Parties strive towards strictly protecting these animals, conserving or restoring the places where they live, mitigating obstacles to migration and controlling other factors that might endanger them. For species listed in Appendix II the Convention encourages Range States to conclude global or regional agreements.

#### *Appendices under the Convention on Trade in Endangered Species of Wild Fauna and Flora*

4. The Convention on Trade in Endangered Species of Wild Fauna and Flora also uses lists as a basis for measures. Species threatened with extinction can be included in Appendix I which means that trade in these species is generally prohibited. Species that are not yet threatened with extinction, but which may become so if trade is not controlled and monitored can be listed in Appendix II. Appendix III includes species which Parties identify as being subject to regulation in their jurisdiction for purposes of preventing or restricting exploitation and needing other Parties' cooperation to control trade.

*Annex III*

**PROCESSES UNDER THE AGREEMENT ON THE CONSERVATION OF AFRICAN-  
EURASIAN MIGRATORY WATERBIRDS AND THE AGREEMENT ON THE CONSERVATION  
OF CETACEANS OF THE BLACK SEA, MEDITERRANEAN SEA  
AND CONTIGUOUS ATLANTIC AREA**

*Agreement on the Conservation of African-Eurasian Migratory Waterbirds*

1. With Resolution 4.6, the Meeting of the Parties to the Agreement on the Conservation of African-Eurasian Migratory Waterbirds established a specific procedure to assist contracting Parties with the implementation of the Agreement; the Implementation Review Process (IRP) and that this procedure will be undertaken by the Standing Committee.
2. The IRP entitles the AEWA Standing Committee (StC) to address incidents of adverse or potential adverse effects on migratory waterbirds or on their sites and habitats as a result of human activities. Upon receiving information on such incidents, the Standing Committee shall contact the Contracting Party concerned and assess the impact on migratory waterbirds, also through on-the-spot missions, and recommend measures for preventing or mitigating the impact.
3. After receiving recommendations from the Standing Committee for preventing or mitigating the respective impact on waterbirds, or on their sites and habitats, the Party concerned shall ensure that any measures undertaken regarding the activity, site or habitat concerned are in accordance with its obligations under the Agreement and based on the precautionary principle. The Party concerned shall inform the Standing Committee as to the above measures at the earliest opportunity.
4. The Standing Committee was also instructed to prepare and submit to each ordinary session of the Meeting of the Parties a report on its operations in the framework of the IRP. The Secretariat was instructed to support the Standing Committee, resources permitting, in performing IRP activities.

*Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area*

5. The Meeting of the Parties to the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area, established a follow-up procedure. A follow-up committee with limited membership considers any relevant information submitted to it by the Party whose follow-up is in question, by other ACCOBAMS Parties, by the Secretariat or by ACCOBAMS Partners.
6. Specifically, its functions are: (a) to determine the facts and causes of the matter of follow-up and assisting the Party concerned in its resolution; (b) to adopt recommendations that it considers appropriate to resolve such a follow-up issue; (c) to ensure follow-up to its recommendations and of the relevant decisions of the Meeting of the Parties and report the results to the latter; and (d) at the request of the Meeting of the Parties, review general issues of implementation and follow-up under the Agreement and prepare a report, including relevant recommendations on them, to be presented at the Meeting of the Parties.

*Annex IV***MAIN FEATURES OF THE REVIEW OF IMPLEMENTATION IN OTHER FORUMS**

<b>Forum</b>	<b>Length of review cycle</b>	<b>Reviewing body</b>	<b>Background documentation and report</b>	<b>In-country visit</b>	<b>Duration of review session</b>	<b>Outcome</b>	<b>Measures based on/contained in outcome</b>
<b>UNFCCC IAR</b>		SBI (plenary body)	Prepared by technical expert teams	Yes	One hour per Party	Technical report and record of the multilateral assessment	
<b>WTO trade policy review</b>	2-6 years, Determined by share of world trade	Trade Policy Review Body (plenary body)	Prepared by Secretariat	Yes	2 sessions of half day per member	Secretariat report, policy statement by member, conclusions of the chairperson	
<b>United Nations Human Rights Council Universal Policy Review</b>	Four years	Universal Periodic Review Working Group (limited membership body)	Compiled by Secretariat, three states serve as rapporteurs during review session		Three hours 30 minutes per member	Report adopted by Human Rights Council	Recommendations; funds available to support implementation
<b>NEPAD African Peer Review Mechanism</b>	Ongoing	Committee of Participating Heads of State and Government (plenary body)	Compiled by Secretariat, country review mission team prepares report	Yes		Report	Development of a programme of action
<b>OECD Environmental Performance Review</b>	Eight to ten years	Working Party on Environmental Performance (plenary body)	Prepared by a review team (6-9 members), including Secretariat staff and experts from reviewing countries	Yes	One day	Report, assessment and recommendations endorsed by Working Party	recommendations
<b>Cartagena Protocol Compliance Committee</b>	Ad hoc	Compliance committee (limited membership body)	Prepared by Secretariat	No	No fixed time	Recommendation to COP-MOP	can include advice and/or assistance
<b>Montreal Protocol Implementation Committee</b>	Ad hoc	Implementation committee (limited membership body)	Prepared by Secretariat	No	No fixed time	Recommendation to COP-MOP	can include advice and/or assistance