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CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE CARTAGENA PROTOCOL ON BIOSAFETY

Sixth meeting

Hyderabad, India, 1-5 October 2012

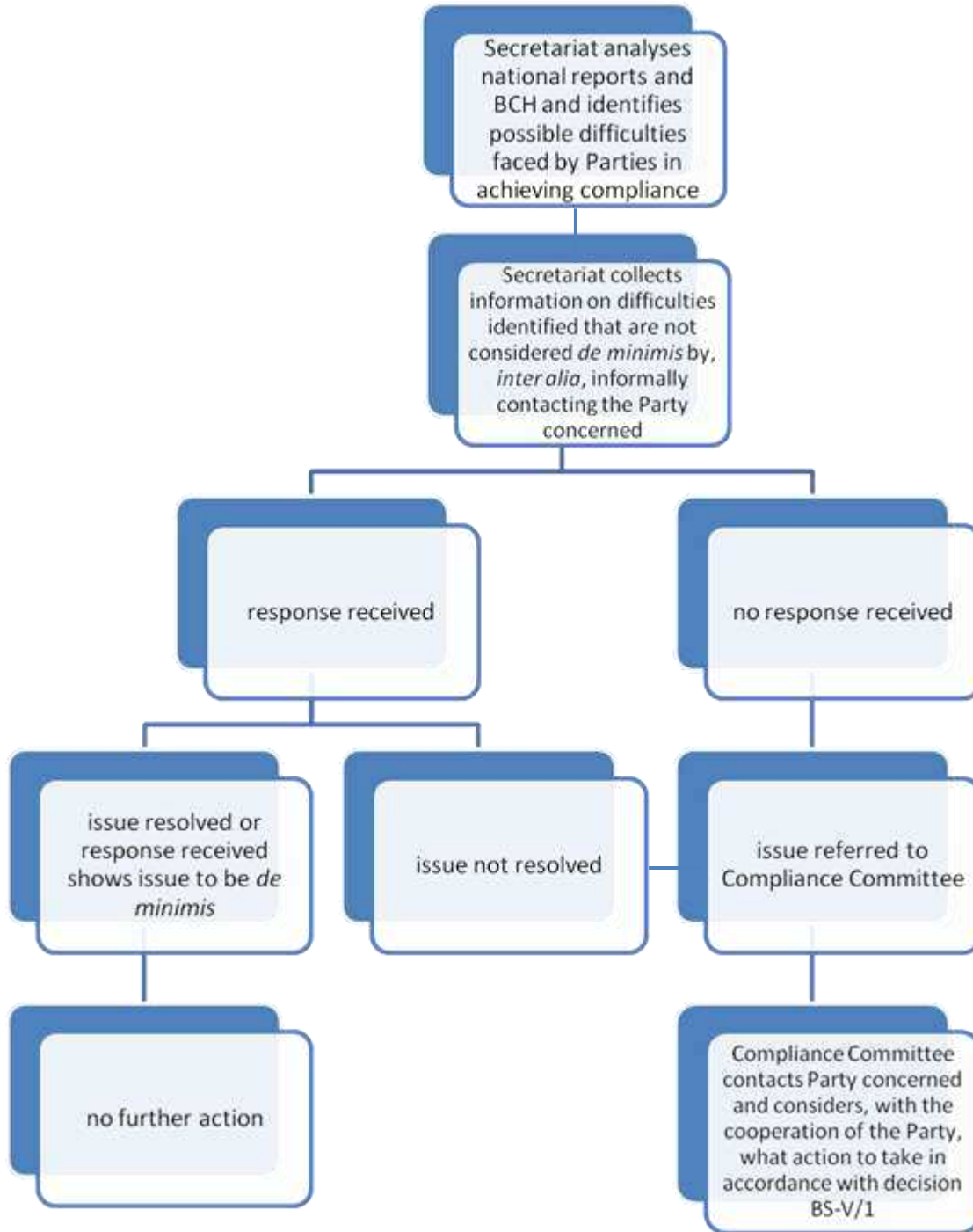
Item 4 of the provisional agenda*

REPORT OF THE COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY ON THE WORK OF ITS EIGHTH AND NINTH MEETINGS

1. The Compliance Committee held two meetings during the inter-sessional period that followed the fifth meeting of the Parties to the Protocol, i.e., its eighth meeting from 5 to 7 October 2011 and its ninth meeting from 30 May to 1 June 2012, at the offices of the Secretariat in Montreal, Canada. This document presents a consolidated report of the discussions and outcomes from these two meetings.
2. At its eighth meeting, the Committee reviewed, among other things, the outcomes of the fifth meeting of the Parties to the Protocol (COP-MOP) as they relate to compliance and the Compliance Committee.
3. The Committee agreed to the approach in figure 1 below to guide its functions in the context of decision BS-V/1. According to this approach, the Secretariat, in order to identify any possible difficulty hindering the compliance of a Party, will:
 - (a) Review national reports in terms of their consistency and completeness;
 - (b) Review information in the Biosafety Clearing-House; and
 - (c) Identify instances of non-submission of national reports; and will informally contact the Party concerned unless the issue is *de minimis*. If no response is received, the Secretariat will forward the issue to the Compliance Committee for its consideration. If a response is received and the issue is resolved or found to be *de minimis*, no further action would be necessary. However, if the issue is not resolved, it will be forwarded to the Committee. Any consideration of an issue by the Committee will be undertaken with the cooperation of the Party concerned as provided in paragraph 2 of decision BS-V/1.

* UNEP/CBD/BS/COP-MOP/6/1.

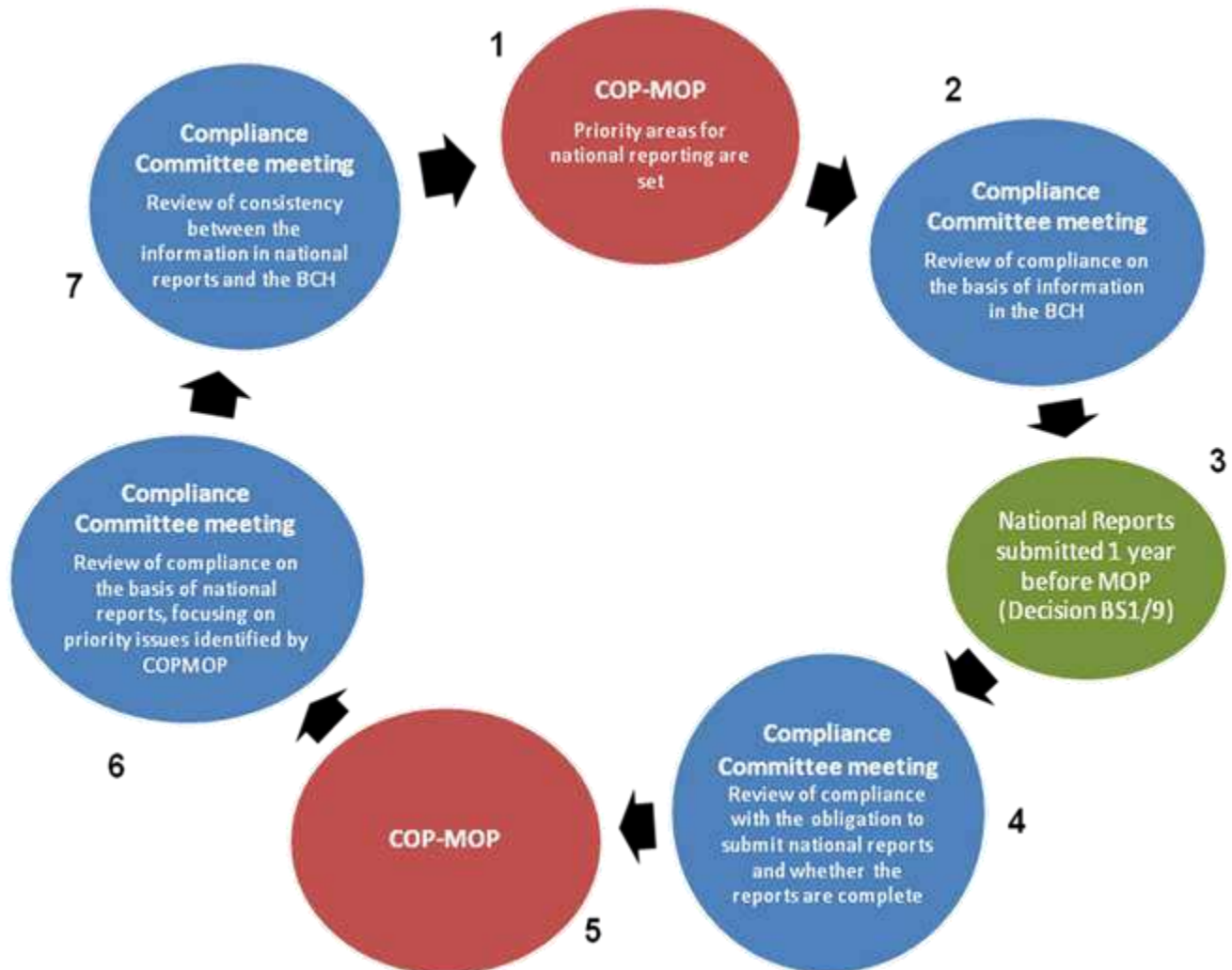
Figure 1. Approach to guide functions in the context of decision BS-V/1



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

5. The Committee also agreed to the organization of work in figure 2 below taking into account the four year reporting cycle and the priorities set by the Conference of the Parties serving as the meeting of the Parties to the Protocol.

Figure 2. Organization of work



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

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

8. In accordance with the agreed organization of work, the Committee considered, at its ninth meeting, the state of compliance with national reporting obligations. In particular, it considered:

- (a) The rate of reporting;

(b) The completeness of the reports (the number of reports where questions referring to obligations under the Protocol have not been answered); and

(c) Information on Parties that have not submitted any national report (i.e., interim, first and second national reports) by the end of 2011.

9. In this regard, the Committee noted:

(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, 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 sub-regional 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.

10. The Committee also:

(a) 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;

(b) 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;

(c) 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;

- (d) Requested the Secretariat to follow-up with the Parties referred to in paragraph 9 (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.

11. Under the standing item of a review of general issues of compliance, the Committee also considered some gaps with respect to Parties' compliance with the Protocol that had been identified through the analysis of information contained in the second national reports. These are:

- (a) The obligation to put in place legal, administrative and other measures necessary for the implementation of the Protocol;
- (b) The obligation to share information by making it available through the Biosafety Clearing-House, and
- (c) The obligation to promote public awareness and participation.

12. In this regard, the Committee noted:

- (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.

13. 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.

14. The Committee agreed to the recommendations contained in the Annex to this document, 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.

15. The full text of the reports of the Committee on the work of its eighth and ninth meetings can be accessed from the Secretariat's website. The documents of each meeting and the respective reports are available at the following links:

- <http://www.cbd.int/doc/?meeting=BSCC-08>; and
- <http://www.cbd.int/doc/?meeting=BSCC-09>.

*Annex***RECOMMENDATION OF THE COMPLIANCE COMMITTEE TO THE SIXTH MEETING OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE BIOSAFETY PROTOCOL¹**

The Compliance Committee recommends that the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety decide, at its sixth meeting, to:

Compliance

1. *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;

2. *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;

3. *Request* the Executive Secretary to compile the information submitted by the concerned Parties as stated in paragraph 2 above and submit it to the Compliance Committee for its consideration and appropriate action;

4. *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;

5. *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;

Monitoring and reporting

6. *Welcome* the fact that 144² out of 161 Parties that had an obligation to report have submitted their second national reports;

7. *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;

8. *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;

9. *Also note* that a further 10 Parties have not yet submitted their second national reports;

10. *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;

¹ Following the practice adopted at the earlier meetings of the Conference of the Parties serving as the meeting of the Parties to the Protocol, recommendations may be referred to the relevant agenda items where their consideration might be more appropriate.

² This number represents the number of Parties that submitted their national reports as of 1 June 2012. This number and those referred to in paragraphs 8, 9 and 10 may need to be updated if more national reports are received by the sixth meeting of the Conference the Parties serving as the meeting of the Parties to the Protocol.

11. *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;

12. *Remind* 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;

13. *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;

14. *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;

Financial mechanism and resources

15. *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 Global Environment 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;

Assessment and review

16. *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.

17. *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.
