



Convention on Biological Diversity

Distr.
GENERAL

UNEP/CBD/ICNP/3/9
6 January 2014

ORIGINAL: ENGLISH

OPEN-ENDED AD HOC INTERGOVERNMENTAL
COMMITTEE FOR THE NAGOYA PROTOCOL ON
ACCESS TO GENETIC RESOURCES AND THE
FAIR AND EQUITABLE SHARING OF BENEFITS
ARISING FROM THEIR UTILIZATION

Third meeting

Pyeongchang, Republic of Korea, 24-28 February 2014

Item 4.1 of the provisional agenda*

MONITORING AND REPORTING (ARTICLE 29)

Note by the Executive Secretary

I. INTRODUCTION

1. Article 29 of the Nagoya Protocol requires Parties to monitor implementation of their obligations under the Protocol, at intervals and in the format to be determined by the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP-MOP), and to report to the COP-MOP on measures taken to implement the Protocol.

2. At its eleventh meeting, the Conference of the Parties, in paragraph 6 (a) of decision XI/1 A, decided that the item “Monitoring and reporting (Article 29)” should be considered by the Open-ended Ad Hoc Intergovernmental Committee for the Nagoya Protocol (the Intergovernmental Committee) at its third meeting in preparation for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

3. Pursuant to the above decision, via notification 2013-003 (ref. No. SCBD/SEL/ABS/VN/BG/81188) of 17 January 2013 and reminders of 16 May and 2 August 2013, the Executive Secretary invited Parties, other Governments, international organizations, indigenous and local communities and relevant stakeholders to provide views and/or relevant information on monitoring and reporting for the consideration of the Intergovernmental Committee. As of 9 November 2013, the Executive Secretary had received submissions from the following Parties: China, the European Union and its member States, India, Japan and Nigeria. All submissions are available at: <http://www.cbd.int/icnp3/submissions/>.

4. Taking into account the submissions received, the Executive Secretary has prepared the present note with a view to assisting the Intergovernmental Committee in considering the intervals and format for

* UNEP/CBD/ICNP/3/1.

monitoring and reporting under the Nagoya Protocol in preparation for the first meeting of the Parties to the Protocol. Section II examines reporting mechanisms under the Convention on Biological Diversity and the Cartagena Protocol on Biosafety and the lessons learned from their experience. Section III considers monitoring and reporting under the Nagoya Protocol. Finally, section IV contains proposed recommendations for consideration by the Intergovernmental Committee at its third meeting.

II. MONITORING AND REPORTING UNDER THE CONVENTION ON BIOLOGICAL DIVERSITY AND THE CARTAGENA PROTOCOL ON BIOSAFETY

A. *National reporting under the Convention*

5. Article 26 of the Convention requires all Parties to present reports to the Conference of the Parties (COP) on measures taken for the implementation of the provisions of the Convention and their effectiveness in meeting the objectives of the Convention.

6. The second meeting of the Conference of the Parties, in paragraph 4 of decision II/17, decided that the first national reports would be due at its fourth meeting in 1997; a deadline of 30 June 1997 was given for submission of the reports and the deadline was extended twice. A total of 153 first national reports were received, accounting for 79 per cent of the total number of Parties to the Convention.

7. At its fifth meeting, the Conference of the Parties, in paragraph 5 of decision V/19, requested Parties to submit their national reports for consideration at alternate ordinary meetings of the Conference of the Parties (i.e., every four years). The fourth national report, which was due by 30 March 2009, has achieved rates of submission significantly higher than that of previous reports, with receipt of 177 fourth national reports, accounting for 91 per cent of the total number of Parties.

8. The first national report used a narrative format where Parties answered general questions on the development of national biodiversity strategies and action plans and where the Secretariat provided suggested issues to address under each question through general guidelines,¹ offering a flexible reporting format. A more structured, questionnaire-based (with multiple choices provided) format was used for the second and third national reports and a narrative format was used again for the fourth and fifth national reports. The Ad Hoc Working Group on Review of Implementation of the Convention in its review of experience and proposals for the fifth national report (UNEP/CBD/WG-RI/3/6) noted an improvement in the adequacy of information as a result of using a narrative format. However, it was also noted that the size of the reports varied considerably as did the information contained in the reports with reports consequently difficult to analyze.

9. In response to these issues, the tenth meeting of the Conference of the Parties, in paragraph 10 of decision X/10, decided that the fifth national report would use a narrative format where appropriate, combined with the use of suggested tools, including tables, charts and questionnaires for statistical analysis. It was also agreed that the format for the fifth and sixth national reports should be consistent to allow for long-term tracking of the implementation of the Strategic Plan for Biodiversity 2011-2020 and of progress towards the Aichi Biodiversity Targets. Currently, a new tool to move towards online reporting through the clearing-house mechanism of the Convention is being tested. The fifth national reports are due by 31 March 2014.

10. In addition to adapting the reporting format to new and changing circumstances (i.e. new requests from the Conference of the Parties), the intervals for reporting have also been adapted to

¹ See annex to decision II/17.

coincide with the mid-term review of the Strategic Plan for Biodiversity 2011-2020 and its Aichi Biodiversity Targets in 2014 and its final assessment in 2020.

11. The format for the fifth national report addresses access and benefit-sharing through reporting on the progress made towards achievement of Aichi Target 16 which provides that “by 2015, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization is in force and operational, consistent with national legislation”. Part II of the fifth national report also provides for reporting on access and benefit-sharing, within the overall umbrella of countries reporting on the implementation of national biodiversity strategies and action plans and mainstreaming of biodiversity.

B. Monitoring and reporting under the Cartagena Protocol on Biosafety

12. Article 33 of the Cartagena Protocol on Biosafety requires Parties to monitor implementation of their obligations under the Protocol and to report to COP-MOP on measures taken to implement the Protocol at intervals to be determined by COP-MOP.

13. In paragraph 5 of decision BS-I/9, Parties to the Protocol were requested to submit reports every four years, but in the initial four-year period to submit an interim report two years after entry into force of the Protocol. Fifty-five Parties submitted an interim national report (a 45 per cent reporting rate) while the first national report had a higher rate of submission with eighty-nine Parties submitting their first national reports (a 63 per cent reporting rate). Reporting rates continued to improve most recently as the second national report was submitted by one hundred and fifty-one Parties (a 94 per cent reporting rate),

14. National reports can be submitted through the Biosafety Clearing-House, but a facility for non-electronic submissions is also provided. The latest reporting format (for the second national reports) was developed with a view to minimizing the reporting burden on Parties, while eliciting the important information regarding implementation of the provisions of the Protocol. The reporting format was structured around the articles of the Protocol. Most of the questions asked required only a tick in one or more boxes, and for each article, a text field provided for further details on implementation. Although there was no set limit on length of text, in order to assist with the review and synthesis of the information in the reports, respondents were asked to ensure that answers were as relevant and as succinct as possible. National reports and their information can be consulted and analyzed through a data analysis tool available through the Biosafety Clearing-House.²

15. Under the Cartagena Protocol, the monitoring and reporting process and the compliance procedures and mechanisms³ are linked. The functions of the Compliance Committee⁴ include, *inter alia*, (a) reviewing 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 (b) taking measures, as appropriate, or making recommendations, to the Conference of the Parties serving as the meeting of the Parties to the Protocol.⁵ Furthermore, in decision BS-V/1, the Parties decided that the Compliance Committee may provide advice or assistance to a Party or make recommendations to COP-MOP to

² For further information see: <http://bch.cbd.int/database/reports/>.

³ The procedures and mechanisms on compliance were adopted by decision BS-I/7 at the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol.

⁴ A Compliance Committee was established under decision BS-I/7, section II, paragraph 1 with the objective of promoting compliance with the provisions of the Protocol, addressing cases of non-compliance by Parties and providing advice or assistance where appropriate.

⁵ Decision BS-I/7, annex, section III, paragraph 1 (d) and (e).

consider the provision of financial and technical assistance, technology transfer, training and other capacity-building measures to a Party where that Party has failed to submit its national report or where information received through a national report shows that the Party is faced with difficulties in complying with its obligations under the Protocol (paragraphs 1 (a) and (b)).

16. The Compliance Committee has also made recommendations regarding the reporting format, which were then taken into account by the Executive Secretary when reviewing the reporting format as requested by COP-MOP.⁶ Parties that encounter difficulty with the timely completion of their national reports are encouraged to seek assistance from the Secretariat or the Compliance Committee, and to consult, as appropriate, national experts and experts from the roster of biosafety experts.⁷

C. Lessons learned

17. With a view to considering the intervals and reporting format to implement Article 29 of the Nagoya Protocol it is important to draw on the experiences and lessons learned from both the Convention and the Cartagena Protocol in order to benefit from best practices in reporting that have been developed.

18. The reporting rates for the first reports submitted under the Convention and Cartagena Protocol were lower than desired; in addition, reports that were submitted were often varied in size and imbalanced in content. As indicated in document UNEP/CBD/WG-RI/1/10 on Reporting Mechanisms under the Convention and Other Conventions, sufficient time must be given to Parties to prepare reports and with the assistance of guidelines. In addition, sufficient time must be given to the Executive Secretary for the analysis of the reports.

19. There are both advantages and disadvantages to free-flow narrative and more structured reporting formats as described in document UNEP/CBD/WG-RI/1/10 and as indicated in the note by the Executive Secretary on national reporting: review of experience and proposals for the fifth national report (UNEP/CBD/WG-RI/3/6). Narrative reporting formats give Parties the flexibility to decide what is important to report on and also tend to result in more interesting and informative documents; however narrative formats also generate more variation in size and structure among the reports submitted, making comparison difficult. In addition, the usefulness of information in many reports is compromised by overlaps or repetitions among different chapters. Narrative reports are also usually more complex to analyse and require greater human input in their review. Structured questions, on the other hand, make it easier to generate comparable information between Parties, facilitating analysis to assess implementation. A check-box style of reporting format allows much of the analysis to be automated.

20. A possible disadvantage to the structured check-box approach to reporting is that it may oversimplify completion of the reporting format. This can result in national reports where little thought has been given to the answers or where answers are not substantiated by supporting information, therefore compromising the usefulness of the information provided.

21. It is worth noting that the formats for reporting under the Cartagena Protocol and the Convention have evolved over the years as needs change with implementation and experience is acquired. It remains important to ensure that reporting formats are accessible and user-friendly and minimize the reporting burden on Parties, while still eliciting the important information regarding the implementation of provisions.

⁶ Decision BS-IV/14, paragraph 5 and decision BS-VI/14, paragraph 9.

⁷ Decision BS-V/14, paragraph 7.

22. The limited financial and human resources capacity of some Parties may inhibit timely submission and thorough reporting. In recognizing these limitations, the Conference of the Parties to the Convention invited, through decisions VIII/14 and VIII/16, the Global Environment Facility and other financial instruments to provide financial support to eligible Parties to support the preparation of their national reports. The Global Environment Facility was also invited to explore and establish easier and expeditious mechanisms for the provision of funds to eligible Parties for preparing their future national reports. Similarly, in their decision BS-IV/14, Parties to the Cartagena Protocol urged the Global Environment Facility to make financial resources available with a view to enable eligible Parties to prepare their national report. Financial resources can facilitate national reporting by enabling Parties to conduct consultations among the ministries and agencies involved in implementation and/or with relevant stakeholders regarding the activities undertaken in the reporting period and to compile the information necessary to complete the report.

III. MONITORING AND REPORTING UNDER THE NAGOYA PROTOCOL

23. Article 29 of the Nagoya Protocol provides that each Party shall monitor the implementation of its obligations under this Protocol and shall, at intervals and in the format to be determined by COP-MOP, report to COP-MOP on measures that it has taken to implement the Protocol.

24. Other relevant provisions of the Protocol are:

(a) Article 26, paragraph 4, which provides that COP-MOP shall keep under regular review the implementation of the Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation; and

(b) Article 31 provides that COP-MOP shall undertake, four years after the entry into force of the Protocol and thereafter at intervals to be determined by COP-MOP, an evaluation of the effectiveness of the Protocol.

25. The monitoring and reporting process under the Nagoya Protocol could assist in achieving the following objectives:

(a) Establishing a baseline about implementation and consequently being able to assess and measure progress in the implementation of the provisions of the Protocol;

(b) Providing an opportunity to Parties for self-assessment on the level of implementation of the obligations under the Protocol, facilitate national planning processes and monitor progress towards implementation at national level;

(c) Facilitating the sharing of information among Parties about implementation, including best practices and lessons learned;

(d) Facilitating the evaluation of the effectiveness of the Protocol in the context of Article 31 on assessment and review; and

(e) Facilitating the identification of challenges and gaps in implementation in order to inform decision-making by COP-MOP to promote the effective implementation of the Protocol pursuant to Article 26, paragraph 4, of the Protocol.

26. Monitoring and reporting could also play a role in promoting compliance with the provisions of the Protocol and addressing cases of non-compliance. However, this aspect needs to be discussed under

item 3.7 of the provisional agenda on cooperative procedures and institutional mechanisms to promote compliance with the Protocol and to address cases of non-compliance, including procedures and mechanisms to offer advice or assistance, where appropriate.

27. In light of these objectives, building on previous experience and lessons learned as outlined in section II of this document; subsections A and B below propose certain criteria for the development of the reporting format and the intervals for the monitoring and reporting process under the Nagoya Protocol.

28. In considering this issue it is important to bear in mind that the obligations contained in the Cartagena Protocol are similar in nature to those of the Nagoya Protocol and that the experience from the Cartagena Protocol may be particularly relevant for consideration of monitoring and reporting to implement Article 29 of the Protocol.

A. Intervals

29. *Interim report.* An early submission of a report on implementation of the Protocol could provide an opportunity to Parties for self-assessment on the level of implementation of the obligations under the Protocol and facilitate national planning processes. It could also facilitate the identification of challenges and difficulties in implementation in order to inform decision-making by COP-MOP and assist in establishing baselines with a view to monitoring and assessing progress in the implementation of the Protocol.

30. Taking into account that the first evaluation of the effectiveness of the Protocol is to be undertaken four years after the entry into force of the Protocol, it is suggested that an interim report could be submitted before the second meeting of COP-MOP in order to establish a baseline, followed by a first national report to be submitted before the third meeting of COP-MOP in order for its analysis to inform the process of assessment and review under Article 31 of the Protocol.

31. *Intervals.* After the first national report, and following the precedent of the reporting cycle of the Convention and the Cartagena Protocol, it is suggested that national reports be submitted at alternate ordinary meetings of the Parties to the Protocol (four-year cycle), unless otherwise decided by COP-MOP.

32. *Deadline for submissions.* In order to give Parties sufficient time to prepare national reports through a consultative process and involving relevant stakeholders, as well as giving sufficient time to the Executive Secretary to analyse the reports, it is suggested to give Parties a one year deadline from the date of issuance of the notification for the submission of national reports.

33. Assuming that the Protocol enters into force in time for the first meeting of the Parties to be held concurrently with the twelfth meeting of the Conference of the Parties, the proposed reporting cycle would be as follows:

	Deadline for submission	Review
Interim report	End 2015	COP-MOP 2 (2016)
First report	End 2017	COP-MOP 3 (2018) - First assessment and review process under Article 31
Second report	End 2021	COP-MOP 5 (2022)
Third report	End 2025	COP-MOP 7 (2026)

B. Reporting format

34. *Format of the report.* It is proposed that the format be designed to minimize the reporting burden on Parties and avoid the duplication of information that is already available in the ABS Clearing-House, while eliciting the most important information regarding implementation of the provisions of the Protocol.

35. For the interim report, a structured format could be developed as this would facilitate the comparison of information and analysis of the reports. The format could consist of simple closed questions (i.e. multiple choice) related to the status of implementation of obligations under the Protocol but leaving the possibility for narrative information to be included. Important information to be included in a narrative form could include information on measures taken to implement the Protocol as well as challenges and difficulties encountered. Guidelines could be prepared to assist Parties in fulfilling this task. The reporting format for the second national reports developed under the Cartagena Protocol could provide a good example.

36. *ABS Clearing-House.* It is suggested that Parties submit their national reports through the ABS Clearing-House. A user-friendly electronic format could be developed for facilitating the online submission of information and a facility could be included to allow for non-electronic submissions as done for other common formats of the ABS Clearing-House. The use of the ABS Clearing-House for reporting has a number of advantages.

37. The reporting format could make use of the ABS Clearing-House controlled vocabulary. The use of this agreed list of phrases and words facilitates retrieval of information and allows for consistent and harmonized searches through the information included in the national reports and information available in the ABS Clearing-House. Submission of reports through the ABS Clearing-House would facilitate the analysis of the reports and the generation of aggregated data through the use of electronic data analysis tools.

38. *Baseline and indicators.* The format could be designed to help establish a baseline (global picture) of the status of implementation of the Protocol and include indicators that would assist in monitoring the effectiveness of the Protocol.

39. The establishment of this baseline will facilitate measurement of progress in the implementation and for the future assessment and review process of the Protocol that would take place according to Article 31 four years after the entry into force of the Protocol (COP-MOP 3).

40. *Dynamic tool and flexible.* It is important to note that for subsequent reports, the format is expected to evolve, as questions that are no longer relevant may be deleted, questions that are relevant to ongoing progress in implementation will be retained, and additional questions will be formulated pursuant to future decisions of COP-MOP; the monitoring and reporting process is also expected to adapt, making use of best practices and lessons learned and incorporating feedback from Parties.

IV. SUGGESTED ISSUES FOR CONSIDERATION

41. The Intergovernmental Committee, on the basis of the experience and lessons learned from the Convention on Biological Diversity and the Cartagena Protocol on Biosafety may wish to consider:

(a) The intervals for reporting as suggested in section III, subsection A of this document and make recommendations for consideration by the first meeting of the Parties to the Protocol, including the

possibility of having an interim report to be reviewed and considered by the second meeting of the Parties to the Protocol;

(b) The criteria for the development of the format for reporting under the Nagoya Protocol as proposed in section III, subsection B of this document;

(c) In the case that the Intergovernmental Committee agrees to have an interim report as referred to in subparagraph (a) above, to request the Executive Secretary to prepare a draft reporting format for submission through the ABS Clearing-House for consideration and adoption by the first meeting of the Conference of the Parties serving as the meeting of the Conference of the Parties to the Protocol.
