



## Convention on Biological Diversity

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### Subsidiary Body on Implementation

#### Fourth meeting

Nairobi, 21–29 May 2024

Agenda item 9

#### Assessment and review of the effectiveness of the Nagoya Protocol (Article 31)

### Recommendation adopted by the Subsidiary Body on Implementation on 29 May 2024

#### 4/11. Development of the methodology for the second assessment and review of the effectiveness of the Nagoya Protocol

*The Subsidiary Body on Implementation*

*Recommends* that the Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol, at its fifth meeting, adopt a decision along the following lines:

*\*[The Conference of the Parties serving as the meeting of the Parties to the Nagoya Protocol,*

*Recalling* Article 31 of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity,<sup>1</sup>

*Recalling also* decision NP-2/4 of 17 December 2016, in which the Conference of the Parties serving as the meeting of the Parties to the Protocol decided to conduct the first assessment and review of the Protocol on the basis of the elements in the annex to that decision, and the importance of continuity in approaches in order to ensure comparability of results,

*Recalling further* decision NP-3/1 A of 25 November 2018, in which the Conference of the Parties serving as the meeting of the Parties to the Protocol identified additional elements to consider for the second assessment and review of the effectiveness of the Protocol and requested the Executive Secretary to carry out a targeted survey on challenges related to the implementation of the Protocol and to seek feedback from all types of users of the Access and Benefit-sharing Clearing-House on its implementation and operation,

*Recalling* decision NP-4/3 of 10 December 2022, by which the Conference of the Parties serving as the meeting of the Parties to the Protocol adopted the guidelines and format for the first national report on the implementation of the Protocol,

\* The present draft decision was prepared by the Chair of the Subsidiary Body on Implementation with the support of the Secretariat following the first reading of agenda item 9. The text was not reviewed by the Subsidiary Body at its fourth meeting.

<sup>1</sup> United Nations, *Treaty Series*, vol. 3008, No. 30619.

*Recalling also* decisions 15/9 of 19 December 2022 of the Conference of the Parties to the Convention on Biological Diversity and NP-4/6 of 19 December 2022 of the Conference of the Parties serving as the meeting of the Parties to the Protocol on digital sequence information on genetic resources,

*Acknowledging* ongoing work on synthetic biology, as set out in decision 15/31 of 19 December 2022 of the Conference of the Parties to the Convention,

1. *Decides* to conduct the second assessment and review of the effectiveness of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity on the basis of the elements in the annex to the present decision;

2. *Urges* Parties and encourages other Governments, relevant organizations, indigenous peoples and local communities and women and youth representatives to publish information on the Access and Benefit-sharing Clearing-House so that it is available for the second assessment and review of the effectiveness of the Protocol;

3. *Emphasizes* that Parties should submit their first national reports on the implementation of the Protocol by 28 February 2026 and encourages them, where possible, to submit their reports before that deadline in order to facilitate the analysis for the second assessment and review of the effectiveness of the Protocol;

4. *Urges* eligible Parties to submit their letters of commitment to the implementing agency in a timely manner to ensure that projects to support the preparation of first national reports are submitted to the Global Environment Facility for approval well before the deadline for the submission of the reports;

5. *Urges* the Global Environment Facility and the implementing agencies to facilitate the relevant processes in a timely manner in order to ensure that support is provided to Parties that submit their letters of commitment;

6. *Invites* Parties, other Governments, indigenous peoples and local communities, women and youth representatives and relevant stakeholders and other organizations to respond to the targeted surveys to be carried out by the Executive Secretary pursuant to paragraphs 18 (a) and 20 (c) of decision NP-3/1 A and to submit their views in order to inform a preliminary review of the compliance procedures and mechanisms set out in the annex to decision NP-1/4 of 17 October 2014;

7. *Requests* the Executive Secretary:

(a) To analyse and synthesize information on the implementation of the Protocol using the sources of information listed in the annex to the present decision, measure the indicators in the framework of indicators presented in annex II to decision NP-3/1 A and make the information available to the Informal Advisory Committee on Capacity-building for the Implementation of the Nagoya Protocol, the Compliance Committee under the Nagoya Protocol and the Subsidiary Body on Implementation;

(b) To commission a scoping study, subject to the availability of resources, on the possible reasons and underlying root causes for the challenges to effective implementation and compliance and on possible ways to enhance implementation, taking into account the specific challenges faced by developing country Parties, including those related to means of implementation;

(c) To include the main conclusions of the study within the context of the elements for the second assessment and review of the effectiveness of the Protocol as a complementary source of information, as relevant;

8. *Requests* the Informal Advisory Committee on Capacity-building for the Implementation of the Protocol<sup>2</sup> and the Compliance Committee under the Nagoya Protocol, working in a complementary and non-duplicative manner, to contribute to the second assessment and review of the effectiveness of the Protocol and to submit their conclusions for consideration by the Subsidiary Body on Implementation at its sixth meeting.

## Annex

### Elements and sources of information for the second assessment and review of the effectiveness of the Nagoya Protocol

<i>Element</i>	<i>Sources of information</i>
(a) Extent of implementation of the provisions of the Nagoya Protocol and related obligations of Parties, including assessment of progress by Parties in establishing institutional structures and access and benefit-sharing measures to implement the Protocol (this includes Articles 4–8, 11–13, 15, 17 and 21) <sup>b</sup>	<ul style="list-style-type: none"> <li>– First national reports<sup>a</sup></li> <li>– Access and Benefit-sharing Clearing-House</li> <li>– National reports submitted under the Convention</li> <li>– National biodiversity strategies and action plans</li> <li>– Targeted survey<sup>c</sup></li> <li>– Relevant documents on cooperation with other conventions, international organizations and initiatives submitted to the Conference of the Parties serving as the meeting of the Parties to the Protocol</li> </ul>
(b) Assessment of effectiveness (this includes Article 9)	<ul style="list-style-type: none"> <li>– First national reports (questions 10, 12, 19, 30–32 and 43–45 of the format)</li> <li>– Access and Benefit-sharing Clearing-House</li> <li>– Targeted survey</li> <li>– National reports submitted under the Convention as they refer to Goal C and Target 13 of the Kunming-Montreal Global Biodiversity Framework<sup>d</sup></li> </ul>
(c) Assessment of support available for implementation (Articles 22 and 25)	<ul style="list-style-type: none"> <li>– First national reports (questions 54, 55 and 59–64)</li> <li>– Access and Benefit-sharing Clearing-House</li> <li>– Information on capacity-building projects and resources</li> <li>– Targeted survey</li> </ul>
(d) Assessment of effectiveness of Article 18 (extent of implementation)	<ul style="list-style-type: none"> <li>– First national reports (questions 25–28)</li> <li>– Targeted survey</li> </ul>
(e) Assessment of implementation of Article 16 in the light of developments in other relevant international organizations, including the World Intellectual Property Organization	<ul style="list-style-type: none"> <li>– First national reports (question 20)</li> <li>– Reports of, inter alia, the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization</li> </ul>
(f) Stocktaking of the use of model contractual clauses, codes of conduct, guidelines, best practices and standards, as well as the customary laws, community protocols and procedures of indigenous peoples and local communities (Articles 12, 19 and 20)	<ul style="list-style-type: none"> <li>– First national reports (questions 39, 50 and–51)</li> <li>– Access and Benefit-sharing Clearing-House</li> <li>– Targeted survey</li> </ul>

<sup>2</sup> See recommendation 4/7 of the Subsidiary Body on Implementation, in which the Subsidiary Body recommended that the mandate of the Informal Advisory Committee on Capacity-building for the Implementation of the Nagoya Protocol be expanded to include the provision of advice on issues more generally related to the implementation of the Protocol.

<i>Element</i>	<i>Sources of information</i>
(g) Review of implementation and operation of the Access and Benefit-sharing Clearing-House, including number of access and benefit-sharing measures made available; number of countries that have published information on their competent national authorities; number of internationally recognized certificates of compliance that have been published; and number of checkpoint communiqués published (Article 14)	<ul style="list-style-type: none"> <li>– First national reports (questions 4, 5, 7, 12, 13 and 21)</li> <li>– Access and Benefit-sharing Clearing-House</li> <li>– Reports of meetings relevant to the Access and Benefit-sharing Clearing-House</li> <li>– Targeted survey</li> <li>– Statistics on the Access and Benefit-sharing Clearing-House website traffic<sup>e</sup></li> </ul>
(h) Progress on the implementation of Article 10, on a global multilateral benefit-sharing mechanism	<ul style="list-style-type: none"> <li>– Relevant documents prepared for the consideration of the Conference of the Parties serving as the meeting of the Parties to the Protocol</li> </ul>
(i) Progress on the implementation of Article 23, on technology transfer, collaboration and cooperation.	<ul style="list-style-type: none"> <li>– First national reports (question 57)</li> <li>– Targeted survey</li> </ul>
(j) Preliminary review of the compliance procedures and mechanisms (see decision NP-1/4, annex) (Article 30)	<ul style="list-style-type: none"> <li>– Submission of views</li> <li>– Report of the Compliance Committee</li> </ul>

<sup>a</sup> The format for the first national report is available at <https://absch.cbd.int/en/kb/tags/abs/First-National-Report-on-the-Implementation-of-the-Nagoya-Protocol/66199bba4defc2994ae886d7>.

<sup>b</sup> Element (a) addresses all relevant Articles of the Protocol covered by the first national report that are not addressed under other elements.

<sup>c</sup> In paragraph 18 (a) of its decision NP-3/1 A, the Conference of the Parties serving as the meeting of the Parties to the Protocol requested the Executive Secretary to carry out a targeted survey of access and benefit-sharing national focal points, competent national authorities, and users and providers of genetic resources and/or associated traditional knowledge on challenges related to the implementation of the Protocol to provide an additional source of information in future processes for the assessment and review of the effectiveness of the Protocol.

<sup>d</sup> Decision 15/4, annex.

<sup>e</sup> Encompassing number of visitors, country of visitor and average duration on a web page.

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