Article 30. Procedures and Mechanisms to Promote Compliance with this Protocol

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, consider and approve cooperative procedures and institutional mechanisms to promote compliance with the provisions of this Protocol and to address cases of non-compliance. These procedures and mechanisms shall include provisions to offer advice or assistance, where appropriate. They shall be separate from, and without prejudice to, the dispute settlement procedures and mechanisms under Article 27 of the Convention.

1 Overview

Article 30 is an enabling provision, which mandates the establishment of multilateral procedures and mechanisms for monitoring compliance and addressing instances of non-compliance with the Protocol. Similarly to the Biosafety Protocol, it provides a definite mandate to the Protocol’s governing body (‘consider and approve’) and a time frame (‘at its first meeting’).

Article 30 indicates that the aim of the compliance procedures and mechanisms will be two-fold: on the one hand, to promote compliance and, on the other hand, to address cases of non-compliance. It further provides some indication as to the nature of these procedures and mechanisms (‘cooperative and non-adversarial’) and the relevant powers, by pointing to the possibility to offer advice or assistance, and clearly distinguishing them from dispute settlement procedures and mechanisms under Article 27 of the Convention.

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1 This provision was first incorporated in the Cali Draft.
2 This is a common approach in other multilateral environmental agreements, such as the Kyoto Protocol, Article 18; the Stockholm Convention on Persistent Organic Pollutants (Stockholm, 22 May 2001, in force 17 May 2004) 2256 UNTS 119, Article 17; and ITPGRFA, Article 21. See also Greiber et al., Explanatory Guide, op. cit., 244.
4 For similar considerations in the context of the Biosafety Protocol, see ibid., 194.
5 Which will be held concurrently with the first meeting of the CBD COP that is to convene after the Protocol’s entry into force: Protocol Article 26(6). See this commentary on Article 26.
procedures. All other elements of the procedures and mechanisms, including their form, the full array of their powers, the determination of entities entitled to trigger consideration of cases of non-compliance and the nature of measures to address non-compliance will have to be defined in subsequent negotiations and eventually be adopted by the Protocol’s governing body.

To a certain extent, the compliance procedures and mechanisms to be established under the Protocol will share features that have become commonplace across multilateral environmental agreements. On the other hand, some distinctive features of the Protocol will likely lead Parties to consider innovative approaches to multilateral compliance procedures and mechanisms. The following sections will therefore discuss some of the likely common features of compliance procedures under the Nagoya Protocol and other MEAs, and then focus on likely distinctive features. The relation of Article 30 with other compliance-related provisions of the Protocol, and with international dispute settlement mechanisms, will be analyzed next.

2 Common Features

Compliance procedures, including the creation of a compliance committee, have become a common feature of MEAs – although negotiations for their establishment have proven quite arduous. Compliance procedures represent a response to general and individual issues related to compliance with international treaties, that are based on problem-solving through negotiation with

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6 The Nagoya Protocol does not contain a provision on dispute settlement, but CBD Article 27 on dispute settlement is applicable in this context (pursuant CBD Article 27(5), which reads: ‘The provisions of this Article shall apply with respect to any protocol except as otherwise provided in the protocol concerned.’)


8 For a comparative discussion, see Morgera et al., “Implementation Challenges,” op. cit.