



**Convention on
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CONFERENCE OF THE PARTIES TO THE CONVENTION
ON BIOLOGICAL DIVERSITY SERVING AS THE
MEETING OF THE PARTIES TO THE CARTAGENA
PROTOCOL ON BIOSAFETY

Sixth meeting

Hyderabad, India, 1-5 October 2012

**CAPACITY-BUILDING: REPORT OF THE COORDINATION MEETINGS FOR
GOVERNMENTS AND ORGANIZATIONS IMPLEMENTING OR FUNDING
BIOSAFETY CAPACITY-BUILDING ACTIVITIES**

1. The Executive Secretary is pleased to circulate herewith, for the information of participants attending the sixth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety, reports of the seventh and eighth Coordination Meetings for Governments and Organizations Implementing or Funding Biosafety Capacity-Building Activities which were held from 4 to 6 April 2011 in Chisinau, Republic of Moldova and from 12 to 14 March 2012 in Prague, Czech Republic, respectively.
2. The two reports were previously issued by the Secretariat as documents UNEP/CBD/BS/CM-CB/7/3 and UNEP/CBD/BS/CM-CB/8/4, respectively.

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**REPORT OF THE SEVENTH COORDINATION MEETING FOR
GOVERNMENTS AND ORGANIZATIONS IMPLEMENTING OR FUNDING
BIOSAFETY CAPACITY-BUILDING ACTIVITIES**

INTRODUCTION

3. The seventh Coordination Meeting for Governments and Organizations Implementing or Funding Biosafety Capacity-Building Activities was held from 4 to 6 April 2011 at the Academy of Sciences of Moldova in Chisinau, Republic of Moldova. It was hosted by the Ministry of Environment. The Governments of Norway and Spain provided financial support for participants from developing countries and countries with economies in transition to attend the meeting.

4. The meeting was attended by 30 participants from 16 Governments and 9 organizations. The countries represented were: Austria, Bolivia, Cambodia, Cameroon, Czech Republic, Egypt, Germany, India, Liberia, Mexico, Norway, the Republic of Moldova, Serbia, Spain, the Ukraine and Zimbabwe. The organizations were: Global Industry Coalition, ECOROPA, the Food and Agriculture Organization of the United Nations (FAO), GenØk - Centre for Biosafety, the Inter-American Institute for Cooperation on Agriculture (IICA), the International Centre for Genetic Engineering and Biotechnology (ICGEB), the International Food Policy Research Institute (IFPRI), the Regional Agricultural and Environment Initiatives Network-Africa (RAEIN-Africa) and the United Nations Environment Programme (UNEP). The full list of participants is annexed to this report.

ITEM 1. OPENING OF THE MEETING

5. The meeting was opened by Hon. Gheorghe Salaru, the Minister of Environment of the Republic of Moldova. In his remarks, Hon. Salaru welcomed the participants to the meeting on behalf of the Government of the Republic of Moldova. He expressed his government's pleasure in hosting this international meeting on biosafety. He informed participants that in June 2011, the Ministry of Environment would also be hosting the fourth session of the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). He noted that the Aarhus Convention included provisions on public consultation and participation in decision-making regarding living modified organisms (LMOs).

6. Hon. Salaru reported that the Republic of Moldova had taken a number of concrete steps and initiatives to protect the environment including the conservation of biological diversity. For example, in 2001 the Ministry of Environment developed a National Strategy Action Plan for Biodiversity Conservation. He also mentioned that the 2010 International Year of Biodiversity was broadly marked in Moldova and plans were underway to launch the United Nations Decade on Biodiversity 2011-2020. He noted that hosting of international meetings formed part of the activities by the Republic of Moldova to mark the Decade on Biodiversity.

7. Hon. Salaru informed participants that the Republic of Moldova acknowledges the importance of modern biotechnology and its potential in promoting human welfare and the quality of life through enhancing agriculture and ensuring food security. At the same time, the Government shares the concerns regarding possible risks and adverse impacts of LMOs on the environment and human health. In this regard, the Republic of Moldova ratified the Cartagena Protocol on Biosafety in 2002 and has taken a number of steps to implement its provisions. In 2002, the Government enacted the Law on Biological Safety, which established a National Commission on Biological Safety and has also produced a number of biosafety policy documents. He expressed hope that the coordination meeting would develop new tools and ideas that would help the Republic of Moldova and other countries to effectively enforce their biosafety laws and to enhance capacity-building efforts.

8. Opening remarks were also made by Ms. Angela Lozan on behalf of Mr. Gheorghe Duca, President of the Academy of Sciences of Moldova. Ms. Lozan welcomed the participants to Chisinau and expressed her appreciation to Mr. Ahmed Djoghlaif, the Executive Secretary of Convention on Biological

Diversity (CBD), for his remarkable efforts in promoting the conservation of biological diversity and for accepting to organize the meeting at the Academy of Sciences in Chisinau. She informed the participants that during its 65-year history, the Academy has developed several research and development projects that have contributed to the conservation and sustainable use of biodiversity. She stated that the Institute of Genetics has developed research capacities and professional expertise that were contributing to the implementation of the Cartagena Protocol on Biosafety. In addition, the laboratory of molecular biology of the Academy of Sciences has established the capacities for the detection and identification of LMOs in the Republic of Moldova. Mr. Lozan further noted that the Academy has produced a number of books on topics related to LMOs. Researchers from the Academy of Sciences have also contributed to the promotion of public awareness and understanding of issues related to LMOs through public debates and scientific discussions.

9. Mr. Charles Gbedemah, speaking on behalf of the Executive Secretary of the Convention on Biological Diversity, thanked the Republic of Moldova for co-organizing and hosting the meeting. He also thanked the Governments of Norway and Spain for providing the financial support that enabled the participation of representatives from developing countries and countries with economies in transition. Mr. Gbedemah noted that the issue of capacity-building continues to be of critical importance to the implementation of the Protocol. He further noted that the adoption of the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress and the new 10-year Strategic Plan for the Cartagena Protocol by the fifth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP-MOP 5) in Nagoya in October 2010 called for the enhancement of the capacity-building efforts. He expressed hope that the coordination meetings would make an even more prominent contribution in facilitating exchange of views and experiences, fostering collaboration and developing guidance to improve the planning and delivery of capacity activities to support the implementation of the Cartagena Protocol and its Supplementary Protocol on Liability and Redress. In conclusion, Mr. Gbedemah recognized the contributions made by Ms. Angela Lozan and her team in organizing the meeting. He also thanked members of the steering committee for their guidance and support.

ITEM 2. ORGANIZATIONAL MATTERS

10. After the opening session of the meeting, participants elected Mr. Hartmut Meyer (Germany) who served as Chairperson of the meeting and Ms. Prudence Galega (Cameroon) who served as Rapporteur.

11. The participants then adopted the following agenda on the basis of the provisional agenda (UNEP/CBD/BS/CM-CB/7/1) developed by the Secretariat in consultation with the Steering Committee:

1. Opening of the meeting.
2. Organizational matters:
 - 2.1. Election of officers;
 - 2.2. Adoption of the agenda;
 - 2.3. Organization of work.
3. Standing agenda items:
 - 3.1 Update on ongoing and planned biosafety capacity-building projects/initiatives;
 - 3.2 Progress report on implementation of the recommendations of previous coordination meetings and relevant decisions of the meeting of the Parties to the Protocol;
4. Issues for in-depth consideration:
 - 4.1. Capacity-building for enforcement of national biosafety regulatory frameworks.

- 4.2. Consideration of capacity-building needs and initiatives relating to the implementation of the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress.
- 4.3. Update on the process for the next comprehensive review of the Action Plan for Building Capacities for the Effective Implementation of the Protocol and the Coordination Mechanism.
5. Other matters.
6. Conclusions and recommendations.
7. Closure of the meeting.

12. The participants also adopted the organization of work for the meeting, as contained in annex I to the annotated agenda (UNEP/CBD/BS/CM-CB/7/1/Add.1). It was agreed that all the agenda items would be discussed in plenary.

ITEM 3. STANDING AGENDA ITEMS

3.1. Update on ongoing and planned biosafety capacity-building activities

13. Under this agenda item, the participants made short presentations on their recent and ongoing biosafety capacity-building activities. Those who had not yet provided written submissions to the Secretariat about their activities were invited to do so as soon as possible in order to have them included in the information document (UNEP/CBD/BS/CM-CB/7/INF/1) and posted on the webpage for the meeting (<http://www.cbd.int/doc/?meeting=BSCMCB-07>).

3.2. Progress report on implementation of the recommendations of previous coordination meetings and relevant decisions of the Conference of the Parties serving as the meeting of the Parties to the Protocol

14. Under this agenda item, the Chair presented a progress report on the implementation of recommendations from the fifth and sixth meetings of the coordination mechanism, including those that were submitted for consideration by the fifth meeting of the Parties to the Cartagena Protocol. The Chair recalled that the sixth coordination meeting made recommendations to the fifth meeting of the Parties to the Protocol on the issue of socio-economic considerations, on the draft programme of work on public awareness, education and participation and on the draft Strategic Plan for the Cartagena Protocol on Biosafety.

15. It was noted that the fifth meeting of the Parties to the Protocol, in its decision BS-V/13, adopted most of the recommendations of the coordination meeting on the programme of work on public awareness, education and participation. As part of the follow-up activities, the Secretariat reported that it was developing tools and resource materials to assist Parties to implement the programme of work. The participants noted that effective implementation of the programme of work would require proactive and collaborative approaches involving various stakeholders, including civil society, media and academic institutions. The participants further encouraged governments to include components on public awareness, education and participation in their biosafety capacity-building projects. They also urged Governments that have not yet done so to put in place national legislation and administrative procedures to facilitate public access to biosafety information and public participation in biosafety processes. In this regard, they highlighted the tools and guidelines developed under the Aarhus Convention.

16. A representative of the Secretariat described elements of section IV of decision BS-V/3 regarding cooperation on the identification of capacity-building needs for research and information exchange on socio-economic considerations which incorporated most of the recommendations of the sixth coordination meeting. She also outlined the actions to be implemented in response to section IV of decision BS-V/3 as contained in notification 2011-016 (ref. No. SCBD/BS/CG/KG/jh/74729). It was reported that a large number of submissions had been received in response to the notification. Furthermore, the Secretariat

reported that it had launched online discussion groups on socio-economic considerations in March 2011 with very encouraging participation. It was also reported that the regional real-time online conferences on socio-economic considerations requested by paragraph 24 of decision BS-V/3 were tentatively planned for June 2011 and that the workshop on capacity-building for research and information exchange on socio-economic impacts of LMOs requested by paragraph 25 of the same decision was tentatively planned for November 2011.

ITEM 4. ISSUES FOR IN-DEPTH CONSIDERATION

4.1. Capacity-building for enforcement of national biosafety regulatory frameworks

17. Under this item, a representative of the Secretariat introduced document UNEP/CBD/BS/CM-CB/7/2. The document reviewed existing national measures and mechanisms for enforcement of biosafety laws and regulations. It also described experiences from initiatives by the United Nations Environment Programme (UNEP), the IUCN Environmental Law Programme and the International Network for Environmental Compliance and Enforcement (INECE) aimed at strengthening national capacities to implement and enforce environmental laws and requirements of multilateral environmental agreements. Furthermore, the document identified capacity-building needs for the enforcement of biosafety laws and regulations and the possible actions for addressing those needs.

18. After the introduction, the participants exchanged views and experiences regarding enforcement of biosafety regulatory frameworks (including laws, regulations, guidelines and standards). They discussed key issues that need to be taken into account in the development and enforcement of biosafety laws and regulations. The participants also considered some of the needs and gaps in national capacities in this regard and the options for addressing those needs.

19. In the detailed discussions that ensued, a number of issues relating to enforcement of biosafety regulatory frameworks were raised. These are summarized under the following categories:

A. Normative issues

20. The participants noted that enforcement encompasses actions to promote compliance with the biosafety laws and regulations as well as actions to foster implementation of biosafety policies and administrative requirements.

21. The participants suggested that during the development and enforcement of biosafety laws and regulations, the following country-specific issues needed to be taken into account: (i) the rights and needs of indigenous and local communities, (ii) the protection of centres of origin and centres of diversity, (iii) health and nutritional issues with respect to certain groups in society, (iv) disaster and emergency preparedness and redress, and (v) food safety issues.

22. It was also suggested that the context of the biosafety policy and regulation should be taken into account, including: (i) the decision on the lead ministry and the involvement of other ministries, institutions and bodies such as the biosafety committees; and (ii) the mainstreaming and framing of biosafety issues into other sectoral and cross-sectoral policies and regulatory frameworks (e.g., environmental protection, technology promotion, agricultural intensification).

23. Furthermore, the participants highlighted the need for countries to define clear criteria for determining the quantity and quality of information necessary in risk assessments and decision-making.

24. The participants also noted the need to: (i) create rights-based systems for ensuring access to information and access to justice; (ii) take into account the costs of specific enforcement measures and distribution of those costs; and (iii) address the issues of illegal LMO introductions.

B. Scientific and technical issues

25. The participants also highlighted a number of scientific and technical issues, particularly those that related to risk assessment and post-release monitoring of LMOs, which needed to be considered in order to facilitate effective enforcement of the biosafety requirements.

26. With regard to risk assessment, the participants emphasized the need to: (i) focus on evaluation of risks in the receiving environment; (ii) create baseline information; and (iii) develop criteria to determine the biodiversity protection goals.

27. The participants also highlighted the need to establish systems to conduct both general and specific monitoring of LMOs. It was noted that there always exists a challenge in the collection of the right data for monitoring LMOs among countries. Capacity-building was highlighted as a major issue limiting the establishment of national systems for LMO monitoring and the collection of the necessary data.

C. Institutional and procedural issues

28. With regard to procedural and process-oriented issues, the participants emphasized the need to ensure informed and meaningful public participation in the development of biosafety policy, laws and regulations. They also highlighted the need to facilitate interaction and dialogue between technical experts and the legal experts and parliamentarians during the development and enactment of biosafety laws and regulations.

29. Furthermore, it was noted that effective implementation and enforcement of biosafety policies, laws and regulations would require: (i) political will to create secondary regulation in a timely manner; (ii) raising awareness of the existence, scope and requirements of the biosafety system; (iii) the establishment of mechanisms for coordination between relevant institutions responsible for enforcement; (iv) clarification of the mandate and competence of the various enforcement authorities; and (v) developing institutional systems for monitoring and enforcement, including national strategies and operational procedures.

30. Participants agreed that in a centralized biosafety system where there is one leading body responsible for biosafety, it was crucial to communicate the mandate of this lead institution and to clarify the decision-making hierarchy (including who takes the final decision) in order to foster effective implementation and enforcement of the biosafety laws and regulations. In decentralized systems with several institutions with shared responsibilities, it is also crucial to communicate their mandates and to build up effective coordination structures.

31. The participants also highlighted the need for effective coordination and cooperation among enforcement authorities and relevant government agencies. It was pointed out that poor coordination and lack of mechanisms for communication and exchange of information among different enforcement agencies were some of the major challenges to the enforcement of biosafety laws.

D. Enforcement issues relating to specific elements of national biosafety regulatory systems

32. The participants identified a number of enforcement issues relating to specific elements of the biosafety regulatory systems, including LMO field trials, public awareness and participation, and compliance promotion and enforcement, and enforcement capacity.

33. With regard to field trials, the participants highlighted the issue of the feasibility of, and the compliance with, the risk management conditions. It was noted that many countries lack capacity to ensure that field trials were carried out in conformity with the stipulated conditions and guidelines. There was a need for training for specialized technical experts who can carry out inspections and audits of field trials. Some participants also noted the relevance of the Guidance on Risk Assessment of LMOs and the risk assessment road map being developed under the Protocol.

34. Concerning public participation, participants emphasized the need for raising public awareness by making information available to the public in order to facilitate informed public participation. The participants also emphasized the need to involve the public not only in decision-making regarding LMOs but also in other related processes and institutional arrangements including: (i) the development and implementation of biosafety policies and laws; (ii) the risk assessment process (specifically in problem formulation and determination of the protection goals or in conducting independent assessments); (iii) preparation of national reports; and (iv) representation in the biosafety committees. Governments were encouraged to put in place appropriate mechanisms and tools to facilitate easy and effective public participation, for example through organization of fora for public comments/opinions or public hearings.

35. Furthermore, the participants emphasized the need for raising awareness and common understanding of the legal requirements amongst various stakeholders and the public as a means of promoting compliance with the biosafety laws and regulations. This could be done through workshops or outreach and guidance materials explaining the requirements and how to comply with them.

36. In discussing the enforcement of compliance with the national biosafety laws, the participants underscored the need to enhance the effectiveness of the administrative and judicial systems and to strengthen the capacity of enforcement and judicial officers to competently handle biosafety-related cases. It was also noted that enforcement authorities needed to have clear mandates to enforce the biosafety measures. In addition, the participants highlighted the need to motivate all stakeholders to play an active role in enforcement of biosafety laws and regulations, including participation of the public.

37. Finally with regard to enforcement capacity, the participants called for the long-term training of technical staff responsible for LMO control, inspection and monitoring to ensure the relevance and effectiveness of their activities. It was also recommended that, wherever feasible, existing relevant personnel, such as agricultural inspectors or quarantine officers, should be trained to also handle biosafety enforcement instead of training and deploying completely new staff. It was further noted that many developing countries lacked the necessary infrastructure (e.g., laboratories for LMO testing and identification) to support monitoring and enforcement activities.

E. Other issues

38. Other general issues raised included the issue of the relationship between national and regional or sub-regional arrangements established for the regulation of LMOs and the enforcement of biosafety measures. It was noted that in some cases there are ambiguities and inconsistencies between the regional or sub-regional regulatory frameworks for LMOs and the national biosafety frameworks which makes enforcement difficult. There is a need to clarify the relationship and the limits in terms of responsibilities and authority between national and regional regulatory agencies.

39. The participants also highlighted the need for disaster preparedness including the development of appropriate emergency measures to be implemented in case of enforcement failures.

4.2. Capacity-building needs and initiatives relating to the implementation of the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress

40. Under this item, a representative of the Secretariat gave a presentation on the capacity-building needs and initiatives relating to the implementation of the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress. The presentation outlined the process by which the Supplementary Protocol was negotiated and adopted. It introduced the administrative approach to liability and redress taken by the Supplementary Protocol and described the main articles of the new treaty. Furthermore, it was pointed out that decision BS-V/11 adopting the Supplementary Protocol recognized the need for complementary capacity-building measures relating to the implementation of the Supplementary Protocol. In this regard the following areas and activities relating to the implementation of the Supplementary Protocol for which capacity-building needs could arise were identified:

(a) Amendment and development of domestic laws and administrative arrangements to implement the Supplementary Protocol;

- (b) Establishment of baselines;
- (c) Determination of causality;
- (d) Identification of the operator or operators responsible for the damage;
- (e) Determination of appropriate response measures;
- (f) Provision for financial security;
- (g) Implementation and relation to civil liability;
- (h) Additional and supplementary compensation mechanisms.

41. After the presentation the participants held discussions on this item in the plenary. The discussions were structured around the seven areas identified in the presentation with additional points on other general issues in relation to the Supplementary Protocol. A summary of the outcomes of the discussions is presented in sections A and B below.

A. *Capacity-Building for Implementing the Supplementary Protocol in National Legal Systems*

42. The participants made the following suggestion regarding capacity-building topics and activities, complementing those identified in the presentation by the Secretariat:

1) Analysis of existing national policies, laws and administrative systems

- (a) Stocktaking and analysis of existing national biosafety frameworks to determine the extent to which they address liability and redress for LMOs.
- (b) Identification of the gaps in existing domestic law and administrative systems with regard to fulfilling the objective, scope (relating to Article 3) and requirements of the Supplementary Protocol.
- (c) Identification of relevant existing legal provisions, case law decisions and government activities that could inform or be used in the establishment of a national liability and redress system for LMOs.
- (d) Identification of the competent authority for the purposes of the Supplementary Protocol.

2) Measurement of adverse effect and determination of significance of the damage (related to Articles 2.2(b) and 3 of the Supplementary Protocol)

- (a) Developing approaches and methods to observe and measure any adverse effects of LMOs on the conservation and sustainable use of biodiversity, taking also into account risks to human health.
- (b) Developing approaches and methods to determine the significance of any adverse effects in accordance with Articles 2 and 3 of the Supplementary Protocol.
- (c) Identifying options for gathering baseline information with regard to the three levels of biodiversity (genetic, species and ecosystem). Options may include:
 - (i) Using the biodiversity conservation goals identified in the problem definition component of the risk assessment process and the indicator species for ecosystem monitoring to develop baselines.
 - (ii) Using other information on the receiving environment collected during the risk assessment and monitoring of LMOs to develop baselines.
 - (iii) Using information generated from relevant activities related to the implementation of the Convention on Biological Diversity and other biodiversity-related treaties or initiatives to establish baselines. These include biodiversity assessment studies and mapping activities such as: The Economics of Ecosystems and Biodiversity

(TEEB) study, the Millennium Ecosystem Assessment, the International Assessment of Agricultural Knowledge, Science and Technology for Development (IAASTD) and studies by the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA).

(d) Establishing coordinated knowledge management systems to facilitate the establishment of baselines and the monitoring and measurement of changes at genetic, species and ecosystem levels.

43. The participants advised, however, that risk assessment and monitoring of LMOs should not be the only source of information for establishing baselines. It was noted that damage may also be caused by illegal and unintentional transboundary movements of LMOs where there is no risk assessment. It was further suggested that when establishing baselines, specific attention should also be given to LMOs intended for direct use as food or feed, or for processing (LMOs-FFP).

44. The meeting suggested that issues relating to the implementation of the Supplementary Protocol (including observation of phenomena, determination of damage and establishment of causal links) would require different methodologies and expertise. However, they are all closely interrelated elements of any national LMO liability and redress system.

3) Establishment of causal links (related to Articles 4 and 5)

(a) Stocktaking of existing human and institutional capacity in establishing causal links in the context of the existing general national liability and redress system.

(b) Establishing a system to link information from LMO monitoring with information from other biodiversity monitoring programmes, such as those on invasive alien species as well as information from health-related organizations such as World Health Organization.

(c) Development of specific guidelines, taking into account, *inter alia*, existing environmental liability and redress systems.

4) Identifying the operator (related to Articles 2.2(c) and (d), 5 and 9)

(a) Strengthening of the institutional and human capacities of the national competent authority and of the identified supporting institutions to facilitate their role in identifying the operator.

(b) Establishing administrative systems for identifying the operator, including: (i) mechanisms for involving other stakeholders in the identification process, (ii) guiding principles and approaches to promote transparency and avoid conflict of interest in the process, and (iii) standard operating procedures.

(c) Informing farmers and other LMO users about their rights and obligations under the national liability and redress regime, in relation to potential conditions in LMO permits, compliance with the conditions and their rights in relation to recourse and indemnity.

(d) Development of traceability systems and responsibility chains.

(e) Development of guidelines to assist Parties in drafting their domestic law implementing the Supplementary Protocol to ensure clarity of the provisions and limit ambiguity with respect to criteria and process for identification of operators.

5) Institutional capacity for determining appropriate response measures (related to Articles 2.2(d) and 5)

(a) Identification of existing expertise for the implementation of Article 5 in line with the scope and objective of the Supplementary Protocol and in relation to the biodiversity protection goals.

(b) Strengthening of the scientific and technical capacity of the competent authority to reach reasoned decisions in determining appropriate response measures and to assess their costs.

(c) Strengthening capacity to provide for administrative or judicial review of decisions on response measures to be taken by the operator in accordance with Article 5.6.

(d) Compilation and exchange of information on experiences and lessons learned from existing biodiversity restoration approaches through the Biosafety Clearing-House (BCH).

45. It was pointed out that response measures could be linked to the risk management measures put in place to minimize, contain, mitigate or avoid damage.

6) Financial security (related to Article 10)

(a) Analysis of various mechanisms for providing financial security.

(b) Analysis of the requirements and mechanisms for financial security in existing national liability and redress systems including case studies on the use of financial security in instances of environmental damage.

7) Civil liability (related to Article 12)

(a) Stock-taking and analysis of existing general law on civil liability including by involving judges, attorneys, prosecutors and other legal experts.

(b) Amending existing general law on civil liability, as appropriate, or developing new civil liability law to provide for rules and procedures that address damage as defined in Article 2, paragraph 2 (b) of the Supplementary Protocol.

8) Capacity-Building for Additional and Supplementary Compensation Measures

46. The meeting referred to Section B of decision BS-V/11 of the Parties to the Protocol which addresses additional and supplementary compensation measures. The meeting agreed that in light of the mandate given to Parties to the Protocol to consider such measures, the Coordination Meeting would only be in a position to discuss matters related to capacity-building for additional and supplementary compensation measures after the Parties to the Protocol has taken up this issue.

9) Other issues

47. In addition to the possible areas for capacity-building raised by the presentation from the Secretariat, the participants noted that there may a need to develop capacity to decide if and how to provide, in the domestic law, for exemptions in accordance with Article 6 of the Supplementary Protocol.

B. General issues for consideration

48. The participants raised the following general issues relating to the implementation of the Supplementary Protocol:

(a) The need for an explanatory guide to the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress. It was suggested that relevant institutions such as the IUCN Environmental Law Centre and the UNEP Environmental Law and Conventions Division could be invited to consider developing such a guide.

(b) The need to compile, share and analyze case studies on existing national liability and redress laws and administrative systems that address damage resulting from LMOs.

(c) The need to promote general awareness and understanding of the elements of the Nagoya – Kuala Lumpur Supplementary Protocol, including the rights and obligations under the Supplementary Protocol, in part to enable countries to make informed decisions on whether to sign and ratify it.¹

¹ On this point, it was reported that the Secretariat of the Convention on Biological Diversity, with financial support from the Government of Japan, would be carrying out four regional awareness workshops and a series of briefings for parliamentarians, government officials and other stakeholders on the Supplementary Protocol in the course of 2011.

49. The meeting also discussed issues relating to capacity-building to enable Parties to take a decision on whether and how to develop new national liability and redress systems for damage resulting from LMOs to implement the Supplementary Protocol and to determine the scope and structure of the system.

50. The participants noted that clarification and guidance may be required on how capacity-building activities for the development and implementation of national liability and redress systems for LMOs could be integrated into existing capacity-building programmes and how the activities could be structured, conducted and financed.

51. Furthermore, the participants recommended that capacity-building initiatives for the implementation of the Supplementary Protocol should promote the following:

(a) Establishment of all-inclusive processes that involve relevant stakeholders, including parliamentarians and officials from the government legal departments, right from the beginning of each process;

(b) Development of differentiated approaches to the development of capacities for different stakeholder groups;

(c) Development of exchange programmes for government officials from developing countries with countries that have expertise and advanced systems on liability and redress for LMOs.

4.3. *Update on the process for the next comprehensive review of the Action Plan for Building Capacities for the Effective Implementation of the Protocol and the Coordination Mechanism*

52. Under this item, a representative of the Secretariat gave a presentation on the proposed process for the next comprehensive review of the Action Plan for Building Capacities for the Effective Implementation of the Protocol and the Coordination Mechanism. He described the objectives of the comprehensive review and the proposed activities and schedule for the review. Participants were invited to share their preliminary views on effectiveness and impact of the Action Plan in guiding capacity-building efforts and to provide comments on possible improvements that could be made.

53. During the discussions, the participants made a number of observations and suggestions. It was noted that many changes and developments have taken place since the Action Plan was adopted in 2004 and later revised in 2006. Thus it was observed that capacity-building efforts needed to be adapted to the new developments and that the Action Plan needed to be reviewed periodically to ensure its relevance.

54. The participants noted that the current Action Plan provided a list of key areas that need to be addressed but it does not prioritize them. It was recommended that the next Action Plan should include a clear set of priorities consistent with the new Strategic Plan for the Protocol. One participant suggested that the Action Plan should include a vision for capacity-building and define actions to be undertaken in the short-term, medium-term and long-term to realize that vision.

55. One participant noted that the preliminary set of indicators for the Action Plan was insufficient to allow for effective monitoring of the Action Plan. However, another participant observed that it is difficult to set meaningful indicators at the global level and argued that it may be better for each Party to develop its own indicators at the national level.

56. It was observed that the effective implementation of the Action Plan would depend on the availability of resources to enable Parties to develop and implement demand-driven capacity-building activities. In this regard, it was suggested that the next Action Plan should endeavour to highlight the resource implications of the proposed priority actions.

57. Some participants recommended that capacity-building efforts under the Protocol should be linked with capacity-building efforts under other relevant processes to maximize synergies. In this regard, Parties were encouraged to integrate biosafety activities into national biodiversity strategies and action

plans, linking them, for example, to efforts to implement Articles 8 (g) and (h) of the Convention on Biological Diversity.

ITEM 5. OTHER MATTERS

A. Election of Steering Committee members

58. In accordance with the operational procedures and guidelines for coordination meetings, the participants elected the following persons to serve on Steering Committee for the next two years:

1. Dr. Hartmut Meyer (Germany) – Western Europe and Others Group
2. Dr. Ossama Abdel-Kawy (Egypt) – African region
3. Dr. Pisey Oum (Cambodia) – Asia-Pacific region
4. Ms. Georgina Catacora-Vargas (Bolivia) – Latin America and the Caribbean region
5. Dr. Aleksej Tarasjev (Serbia) – Central and Eastern Europe region
6. *TBA* – Donors
7. Mr. Alex Owusu-Biney (UNEP) – UN agencies
8. Mr. Decio Ripandelli (ICGEB) – Intergovernmental organizations.

B. Programme of the next coordination meeting

59. The participants agreed to address capacity-building relating to the following issues at the next coordination meeting:

- (a) Detecting and addressing illegal movements of LMOs.
- (b) Post-release monitoring of LMOs.

C. Date and venue of the next coordination meeting

60. The participant from the UNEP Division of Environmental Law and Conventions expressed her organization's interest in hosting the next coordination meeting and offered to make further consultations with the relevant authorities and inform the Secretariat in due course. The participant from the FAO Regional Office for Europe and Central Asia and the participant from the Government of the Czech Republic also expressed an interest in hosting the meeting in the event that UNEP is unable to do so. The participants welcomed the tentative offers and agreed to hold the next meeting in the first quarter of 2012.

ITEM 6. CONCLUSION AND RECOMMENDATIONS

61. The following is a summary of the main suggestions that were made regarding actions that may be taken to foster capacity-building for enforcement of national biosafety regulatory frameworks and for implementation of the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress. These are drawn from the outcomes of the discussions under items 4.1 and 4.2 above.

A. Capacity-building for enforcement of national biosafety regulatory frameworks

(a) Parties and other Governments be invited to prepare and submit to the Biosafety Clearing-House (BCH) case studies on experiences, best practices and lessons learned from enforcement of national biosafety laws and regulations. The case studies could highlight how the laws have been enforced, the enforcement mechanisms put in place, the challenges encountered, enforcement capacity-building initiatives undertaken and recommendations for improvement.

(b) The issue of capacity-building for enforcement of biosafety laws and regulations should be considered in the comprehensive review of the capacity-building Action Plan.

(c) Parties and other Governments be encouraged to take stock of the existing capacities for enforcement, assess their capacity-building needs for enforcement.

(d) The Secretariat should invite Governments and relevant international organizations to share existing training materials or guidance documents on biosafety inspection and enforcement (e.g., manuals or handbooks with specific guidelines, checklists or examples of standard operating procedures) through the BCH.

(e) Relevant international organizations, such as UNEP and FAO, be invited to develop training or guidance materials and organize training workshops on LMO safety inspection and enforcement.

(f) Governments and relevant organizations be encouraged to establish regional or subregional networks or online forums for biosafety inspectors and enforcement officers to facilitate exchange information, experience and resource materials.

62. It was agreed that the participants attending the present meeting would prepare short summaries (1-2 pages) about a biosafety enforcement experience in their respective countries or regions and submit it to the Secretariat for posting in the Biosafety Clearing-House by the end of July 2011.

B. Capacity-building for implementation of the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress

63. The following general suggestions were made with regard to capacity-building for the implementation of the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress:

(a) Relevant institutions such as the IUCN Environmental Law Centre and the UNEP Division for Environmental Law and Conventions be invited to consider developing an explanatory guide to the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress.

(b) Parties and other Governments be invited to compile and share information on existing national liability and redress laws and administrative systems that address damage resulting from LMOs and of relevant case studies through the Biosafety Clearing-House.

(c) Parties and relevant organizations be encouraged to organize seminars and workshops to promote general awareness of the Supplementary Protocol among decision makers, parliamentarians, academics, business and industry and the general public.

(d) Relevant organizations be invited to organize training courses and workshops to enable Parties to review, and amend if necessary, existing national liability and redress laws or to develop new civil liability laws to provide for rules and procedures that address damage resulting from LMOs.

(e) Guidance be developed to facilitate capacity-building for the implementation of the Supplementary Protocol, taking into account the points raised under section 4.2 of this report.

ITEM 7. ADOPTION OF THE REPORT AND CLOSURE OF THE MEETING

64. In the final session, the participants adopted the draft report of the meeting. The Secretariat was requested, in consultation with the Chair and Rapporteur, to incorporate proceedings of the last day and then send the final draft to all participants for comments. The present report has been finalized on that basis.

65. Following the usual exchange of courtesies, Chair Meyer declared the meeting closed at 6.30 p.m. on Wednesday, 6 April 2011.

REPORT OF THE EIGHTH COORDINATION MEETING FOR GOVERNMENTS AND ORGANIZATIONS IMPLEMENTING OR FUNDING BIOSAFETY CAPACITY-BUILDING ACTIVITIES

INTRODUCTION

66. The eighth Coordination Meeting for Governments and Organizations Implementing or Funding Biosafety Capacity-Building Activities was held from 12 to 14 March 2012 at the Ministry of the Environment in Prague, the Czech Republic. A total of 30 participants from 17 Governments and 11 organizations attended the meeting.

67. The governments represented were: Austria, Belize, Bolivia, Czech Republic, Germany, India, Italy, Liberia, Lithuania, Malaysia, Netherlands, Norway, Republic of Moldova, Serbia, Slovakia, Slovenia and Spain. The organizations represented were: Asociación Desarrollo Medio Ambiental Sustentable, ECOROPA, the Food and Agriculture Organization of the United Nations (FAO), GenØk - Centre for Biosafety, the Global Industry Coalition, the International Centre for Genetic Engineering and Biotechnology (ICGEB), the International Food Policy Research Institute (IFPRI), Le Groupe-Conseil Baastel Ltée, the Regional Agricultural and Environment Initiatives Network-Africa (RAEIN-Africa), the United Nations Environment Programme (UNEP) and the University of Westminster. The list of participants is annexed to this report.

ITEM 1. OPENING OF THE MEETING

68. The meeting was opened by Ms. Klara Wajdova, Department of International Relations, Ministry of the Environment of the Czech Republic. In her remarks, Ms. Wajdova welcomed the participants to the meeting on behalf of the Government of the Czech Republic and thanked the Secretariat for giving the Czech Republic the opportunity to host the meeting back-to-back with the ninth meeting of the Liaison Group on Capacity-Building for Biosafety. She informed participants that the Czech Republic became the seventh Party to the Cartagena Protocol on Biosafety in October 2001 and was the second country to ratify the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress, on 13 February 2012. These actions, she noted, clearly demonstrated the commitment of the Czech Government to the Cartagena Protocol. She further stated that the Czech Republic considered the Protocol as a very important global instrument for sustainable development. She reported that the government had adopted a number of policy documents containing biosafety principles, a regulatory regime, a system for handling requests for permits, a system for monitoring of environmental effects and enforcement; and a system for public information, participation and awareness-raising. Ms. Wajdova noted that effective implementation of the Cartagena was a big challenge requiring systematic and long-term capacity-building efforts. She further noted that during the current economic crisis, when almost all Governments were implementing budgetary cuts, capacity-building activities needed to be focused on the most urgent needs of Parties and implemented in a synergistic and efficient way. She expressed hope that the upcoming meetings would discuss measures for enabling Parties to meet these challenges.

69. Mr. Charles Gbedemah, speaking on behalf of the new Executive Secretary of the Convention on Biological Diversity, Mr. Braulio Dias, welcomed the participants and thanked the Czech Republic for hosting the meeting. Mr. Gbedemah noted that the implementation of the Protocol continued to be constrained by the lack of human resources and institutional capacities in many developing countries and countries with economies in transition. This situation, he noted, had been exacerbated by the current economic crisis facing most economies. He noted that these challenges required concerted efforts and innovative ways from all stakeholders and that the meeting provided an important forum for discussing possible solutions. Mr. Gbedemah concluded by recognizing the contribution made by Ms. Hana Jirakova and Ms. Milena Roudna in organizing the meeting.

ITEM 2. ORGANIZATIONAL MATTERS

70. After the opening session of the meeting, participants elected Mr. Hartmut Meyer (Germany) to serve as Chair of the meeting and Ms. Angela Lozan (Republic of Moldova) to serve as Rapporteur.

71. The participants then adopted the agenda on the basis of the provisional agenda developed by the Secretariat in consultation with the Steering Committee and available as document UNEP/CBD/BS/CM-CB/8/1.

72. The participants also adopted the organization of work for the meeting, as contained in annex I to the annotations to the agenda (UNEP/CBD/BS/CM-CB/8/1/Add.1). It was agreed that all the agenda items would be discussed in plenary.

ITEM 3. STANDING AGENDA ITEMS

3.1. *Update on ongoing and planned biosafety capacity-building activities*

73. Under this agenda item, the participants made short presentations on their recent and ongoing biosafety capacity-building activities. Participants who had not yet provided written updates to the Secretariat on their activities were invited to do so as soon as possible in order to have them included in the information document (UNEP/CBD/BS/CM-CB/8/INF/1) to be posted on the webpage for the meeting (<http://www.cbd.int/doc/?meeting=BSCMCB-08>). The Secretariat informed participants that the document would be updated and made available to the sixth meeting of the Parties to the Protocol.

74. At the end of the presentations, the participants had a general discussion on the current status and trends of capacity-building efforts for the effective implementation of the Protocol. The participants noted with concern the general decline in the level of bilateral and multilateral funding available for biosafety capacity-building activities, which they noted was likely to adversely affect the future implementation of the Protocol. It was observed that, besides the current economic difficulties and budgetary constraints facing many donor countries, the decline had been partly due to the low level at which many developing countries and countries with economies in transition were incorporating biosafety among their priorities for development assistance. In this regard, the participants underscored the need to mainstream biosafety into national development plans and relevant sectoral policies, strategies and programmes, including national biodiversity strategies and action plans. They also noted that it was important to ensure close collaboration and proactive exchange of information at the national level between the national focal points and other government officials in relevant government ministries and departments, including the Ministries of Finance and Economic Planning and the GEF operational focal points, among others.

75. Some participants also highlighted the need to link national biosafety activities with the national biotechnology policies and programmes. It was also suggested that effort should be made to highlight the linkages between biosafety and sustainable development efforts. In this regard, it was recommended that the implementation of the Cartagena Protocol should be highlighted in the post Rio+20 processes, noting that the Protocol could be highlighted as one of the tools for promoting sustainable development.

76. The participants also emphasized the need for regional approaches to capacity-building for biosafety. It was further noted that regional initiatives were likely to promote economies of scale and ensure that available financial and technical resources were used more effectively.

77. Finally, it was suggested that in the current era of limited availability of funding, effort should be made to adopt cost-effective approaches to capacity-building, including targeted training focusing on personnel already in service as well as individuals with academic background and expertise in relevant fields, who would require only limited resources for retraining.

3.2. *Progress report on implementation of the recommendations of previous coordination meetings and relevant decisions of the Conference of the Parties serving as the meeting of the Parties to the Protocol*

78. Under this agenda item, a representative of the Secretariat presented a brief report on the follow-up to the recommendations of the seventh coordination meeting. It was reported that since the last meeting, progress had been made regarding the issue of capacity-building for research and information exchange on socioeconomic considerations. Regional real-time online conferences on socioeconomic considerations, requested by the meeting of the Parties to the Protocol in paragraph 24 of decision BS-V/3, were conducted in June 2011 and the workshop on capacity-building for research and information exchange on socioeconomic impacts of living modified organisms (LMOs), requested in paragraph 25 of the same decision, was held from 14 to 16 November 2011 in New Delhi with funding from the Government of Norway. The workshop was attended by 34 participants from 27 governments and 7 organizations. The report of the workshop (UNEP/CBD/BS/WS-SEC/1/6) will be considered at the sixth meeting of the Parties to the Protocol, to be held in Hyderabad in October 2012.

79. In response to the recommendation to invite relevant international organizations to develop training or guidance materials and organize training workshops on LMO safety inspection and enforcement of biosafety regulatory frameworks, the Secretariat communicated the invitation to UNEP, which responded positively. A representative of UNEP reported that a process was currently underway to develop a medium-sized pilot project to be submitted to the Global Environment Facility (GEF). The project would include the following components: stocktaking to assess the current status of enforcement of biosafety regulatory frameworks; development of toolkits and training materials; organization of training workshops for relevant enforcement officials (including customs, quarantine officials and inspectors) in a few pilot countries; and establishment of a network for biosafety enforcement cooperation. The project was expected to involve a number of partners, including the Secretariat of the Convention on Biological Diversity, the Green Customs Initiative, the International Union for Conservation of Nature (IUCN), the International Network for Environmental Compliance and Enforcement (INECE), the Parties, and development partners.

80. The Secretariat also reported that it had written to the IUCN Environmental Law Centre inviting them to consider developing an explanatory guide to the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress. The IUCN Environmental Law Centre had expressed its interest in developing such a guide in view of its previous experience with the development of a similar guide for the Cartagena Protocol on Biosafety and the ongoing process of developing the guide for the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization. However, it indicated that it had limited financial resources to undertake the project.

ITEM 4. ISSUES FOR IN-DEPTH CONSIDERATION

4.1. Capacity-building for preventing, detecting, and managing illegal transboundary movements of living modified organisms

81. Under this item, a representative of the Secretariat introduced document UNEP/CBD/BS/CM-CB/8/2. The document reviewed the current status and examples of illegal transboundary movements of LMOs and the measures taken by Parties to address illegal transboundary movements as reflected in the second national reports on the implementation of the Protocol that were submitted as of 31 December 2011. The document also outlined the capacity-building needs identified by Parties in their second national reports and proposed possible strategies and measures that could be undertaken to develop national capacities for the prevention, detection, and management of illegal transboundary movements of LMOs. The last section presented a short conclusion and recommendation on the need for the development of strategies and measures to enhance the capacities of Parties for prevention, detection and control of confirmed cases of illegal transboundary movements of LMOs.

82. After the introduction of the document, the participants shared experiences regarding cases of illegal transboundary movements of LMOs and response measures that had been taken. Some participants also described their existing regulatory and institutional frameworks. Subsequently, three discussion groups were established to discuss the capacity-building needs and measures for the prevention, detection, and control of illegal transboundary movements of LMOs.

83. Following the small group discussions, the Chair invited the rapporteurs from each of the groups to report to plenary. The following are the summaries of the main points raised by the three groups:

A. Capacity-building for preventing illegal transboundary movements of LMOs

84. The group highlighted the need for:

(a) Promoting information exchange (e.g., through the Biosafety Clearing-House and locally adapted means) and raising awareness on the specific potential for illegal introduction of LMOs into the environment;

(b) Awareness-raising, education and dissemination of information to key stakeholders. Some illegal transboundary movements of LMOs may be occurring due to ignorance and lack of information on the part of the exporters, some regulatory authorities or end users (e.g., farmers, etc.). Parties may need to promote awareness among various stakeholders and the public, including through ensuring easy access to relevant information;

(c) Setting up of alert systems that would include traceability (aimed at undertaking checks), detection and other measures (e.g., quarantine) at entry points (e.g., borders) or other distribution points (e.g., markets);

(d) Establishment of institutional structures for monitoring and response measures with clear procedures and responsibilities, and with competencies differentiated at every stage (e.g., for border control officials, field technicians, emergency measure contact points), including designation and building the capacity of emergency measure contact points;

(e) Appraisal of social and economic dynamics of past and potential illegal transboundary movements to identify factors that may contribute to future illegal transboundary movement (e.g., traditional means of transportation of illegal shipments and informal transboundary trading patterns), which may be LMO-specific;

(f) Development of methods for general surveillance to monitor, on a regular basis, potential illegal introductions; this may require capacity-building to enable citizens, in particular farmers and civil society groups, to play a more effective role in preventing illegal transboundary movements of LMOs; e.g., citizen observations for resistance in the field (for instance using questionnaires to observe specific phenotypic characteristics and also making use of the local indigenous knowledge to detect illegal introductions);

(g) Making use of labelling to help distinguish between legal and illegal introductions and ultimately contribute to the prevention of illegal transboundary movements of LMOs.

85. The group also noted that the need for:

(a) Ongoing exchange of experiences; the group recommended the establishment of a network of biosafety inspectors;

(b) Regional approaches to capacity-building aimed at fostering collaborative efforts at regional level to prevent illegal transboundary movements; and

(c) Prioritization of the above needs at the national level.

B. Capacity-building for detecting illegal transboundary movements of LMOs

86. The second group proposed the following capacity-building priorities linked to the process of technical detection and control of illegal transboundary movements of LMOs:

(a) Identification of critical consignments or critical imports;

(b) Development and implementation of inspection and sampling plans; and

(c) Detection in the laboratories.

Identification of critical consignments or critical imports

87. The group also noted that in order to make the inspection most efficient and cost-effective, it was necessary to identify the critical points which might be linked to an illegal transboundary movement. In this regard, they noted that it was important to:

(a) Determine the critical parameters to consider: country of origin, type of commodity, etc.;

(b) Identify and register already known cases, to establish the history of illegal transboundary movements;

(c) Identify relevant information sources at the national, regional, international levels; and

(d) Involve the institutions and staff directly involved in control of illegal transboundary movements (including customs, phytosanitary inspections, food and feed inspectors, etc.).

Development and implementation of inspection and sampling plans

88. The group identified various topics in this area for which capacity-building was required. These included:

(a) Training for staff of different institutions, but also authorities (ministries) in charge of deciding on inspection plans;

- (b) Technical training for developing and implementing sampling plans;
- (c) Taking into account informal cross-border trade and movement of goods (e.g., seeds, LMOs-FFP [living modified organisms used for food, feed or processing]); and
- (d) Using information obtained through internal market surveillance (e.g., food samples from supermarkets) as a possible information source on illegal transboundary movements.

Detection in the laboratories

89. The group noted that it was important to:

- (a) Establish and maintain the infrastructure necessary for detection of LMOs, including laboratories;
- (b) Train laboratory staff in LMO detection; and
- (c) Develop and/or adapt methodology for LMO detection, including analytical strategies.

90. The group also suggested that basic detection could be done at the national level and advanced identification at regional or subregional level.

Cross-cutting issues

91. Furthermore, the group agreed that:

- (a) Information exchange between institutions/authorities/agencies involved is crucial and should be a real exchange (in all directions);
- (b) Regional cooperation and information exchange especially linked to the critical points assessment should be targeted by capacity-building activities; and
- (c) Tools to identify systematic illegal transboundary movements should be developed, legal systems (control, penalties, etc.) strengthened and information sources protected.

C. Capacity-building for managing confirmed cases of illegal transboundary movements of LMOs

92. The third group noted that effective action for managing confirmed cases of illegal transboundary movement of LMOs required:

- (a) Capable well-trained technicians who are able to act quickly and have the necessary knowledge regarding how to contain and/or destroy the illegal LMO in question;
- (b) Physical capacity in the form of appropriately equipped emergency response teams and facilities with the right technology to safely contain or dispose of the LMOs;
- (c) A robust legal framework that defines when a transboundary movement of LMOs is within the law. These rules should be drafted by legal and technical experts, and should be based on clear procedures. Such a strong legal framework helps identify who is technically responsible, but also who is legally liable for an illegal movement. This is essential to build a strong legal case, in the event that government action is contested before the court. The legislation should also include appropriate sanctions proportionate to the offence but also sufficient to act as a deterrent to further illegal behaviour;
- (d) The capability to prosecute after an illegal event, which requires capacity at the government legal offices and sufficient legal expertise to defend cases in court;
- (e) Clear and incontestable division of competencies among government departments and institutions, and clear and broadly defined mandates, so that everyone knows their role in the management of the illegal LMO;
- (f) Good information exchange among the different institutions involved within the country and also across the border where the LMO came from or where they could potentially move to, to facilitate timely and effective response;

(g) Good documentation of responses as they occur, in order not only to build a legal case, but also to learn from similar cases so that as time goes on data can be used to build smart monitoring programmes based on past patterns; and

(h) Standard accredited sampling techniques and detection methods.

93. The group also noted that government measures needed to be socially acceptable to citizens, and should, for example, include:

(a) Provisions that would allow governments to address emergency situations such as disaster response food aid;

(b) Safeguards against conflict of interest, such as procedures to controls the controllers.

94. The group also recognized the need to develop capacity to understand how the Protocol compliance mechanism worked in instances involving illegal transboundary movements between Parties and between Parties and non-Parties.

4.2. Capacity-building needs and initiatives for post-release monitoring of living modified organisms

95. Under this item, a representative of the Secretariat introduced document UNEP/CBD/BS/CM-CB/8/3. The document summarized how some countries address monitoring of LMOs introduced into the environment in their biosafety regulatory frameworks. It also provided examples of guidance on monitoring developed under the Protocol and by other international/regional organizations, as well as examples previous and ongoing capacity-building activities on monitoring of LMOs. The last section of the document elaborated possible strategies for strengthening national capacities relevant to monitoring of LMOs.

96. The Chair invited participants to make short presentations on whether and how mechanisms for monitoring were included in their national biosafety frameworks. From the presentations, it was noted that there were wide variations among countries in terms of experience in implementing activities on monitoring of LMOs and the scope of those activities.

97. A general discussion took place with a view to identifying needs and priorities for capacity-building in monitoring of LMOs released into the environment. Participants agreed that post-release monitoring of LMOs was a key issue for the effective implementation of the Protocol. They noted that there was limited experience in both developing and developed countries and underscored the urgent need to develop technical capacity for the development and implementation of monitoring frameworks and to foster collaboration among countries in this regard.

98. Participants were then divided into five smaller groups to discuss measures that could be taken to enhance national capacity for post-release monitoring of LMOs, taking into account examples presented in paragraph 30 of document UNEP/CBD/BS/CM-CB/8/3. The groups were also invited to discuss possible elements for recommendations to Parties in the context of capacity-building on post-release monitoring.

99. The five groups presented outcomes of their discussion to the plenary and this was followed by a general discussion on capacity-building priorities for post-release monitoring of LMOs. There was general agreement that there was a need for capacity-building to assist Parties in the development of national strategies for (i) monitoring of adverse effects that were identified but not addressed in the risk assessment, (ii) monitoring of unanticipated adverse effects that were not identified in the risk assessment, and (iii) detection of LMOs whose release was not authorized, e.g., LMOs that were unintentionally released or that entered the country through illegal transboundary movements. A summary of the main viewpoints and recommendations is presented in section B of item 6 below (conclusions and recommendations).

100. The participants also recommended, for consideration by the Parties, the establishment of a stepwise process, including online discussions and face-to-face meetings (e.g., international and regional workshops), as a possible mechanism to assist in the development of the capacities of Parties to monitor LMOs released into the environment.

101. Furthermore, the participants discussed a number of questions that could be used, prior to and during online discussions, to gather information, facilitate the exchange of experiences and help in identifying gaps, needs and success stories in the context of monitoring of LMOs. The following are some of the questions that were proposed:

- (a) Has your country carried any activities on monitoring of LMOs? If yes, did the monitoring relate to LMOs for field trials, commercial releases, or illegal/unauthorized releases?
- (b) Were reports from the monitoring activities produced? Are those reports available to the public and where?
- (c) Were baseline studies carried out?
- (d) What were the LMOs or traits in question? Was the monitoring tailored to those LMOs or traits?
- (e) Has the monitoring process produced data relevant to the risk assessment or to the release at a larger scale?
- (f) In cases where a posterior release is intended, was the monitoring carried out in the same environment where the posterior release would take place?
- (g) How were uncertainties associated with the monitoring addressed?
- (h) How was the methodology to be used for data collection (e.g., observation, data collection, etc.) established?
- (i) Was a system for reporting the findings of the monitoring activities available? If not, how was the reporting carried out?
- (j) Was a database used to track the monitoring parameters? If so, please provide details.
- (k) What are the priority needs of your country in relation to post-release monitoring of LMOs? Please name 3 (*the survey questionnaire should provide a list of choices and cluster answers into broad areas*).

102. The participants recommended that countries should first be invited to respond to general questions, including the following:

- (a) Does your national biosafety framework have provisions for monitoring? If not, do you envision including monitoring activities?
- (b) Are databases and baselines available?
- (c) What national agencies are involved in post-release monitoring activities?
- (d) What are the methods being used?
- (e) Is there any coordination mechanism in place?
- (f) What are the reporting capacities in the country?
- (g) How is transparency ensured?
- (h) In addition to government agencies and organizations conducting the post-release monitoring, (including inspectorates, farmer organizations, etc.), do you have a mechanism in place to involve local communities and other relevant stakeholders in post-release monitoring?
- (i) In which areas of post-release monitoring do you see a need for regional or subregional cooperation for increased efficiency?
- (j) What types of LMOs are being developed/used in your country? What are their traits and their intended uses?
- (k) Does your country consider human health aspects in the monitoring of LMOs, in addition to environmental monitoring?

103. The questions proposed specifically relating to capacity-building included the following:

- (a) What are the main gaps in and limitations to your country's capacity to conduct post-release monitoring?
- (b) What capacity-building activities are needed to identify the protection goal to be informed by the monitoring process?
- (c) What capacity-building activities are needed to identify the risk hypothesis associated with the protection goal?
- (d) What capacity-building activities are needed to establish the relevant assessment endpoints?
- (e) What have been the characteristics of successful monitoring programs implemented so far in your country and what have been the main limitations? What are the success stories of those monitoring initiatives?
- (f) What capacity-building activities would help the competent national authorities to implement effective monitoring programs based on defined protection goals, risk hypotheses and relevant assessment endpoints?

104. It was recommended that the survey questions should have a broad scope to cover different areas and capacity-building needs, including regulatory frameworks, technical issues and facilities, and examples of specific cases of monitoring. It was also recommended that at the end of the process a matrix should be produced placing countries in clusters and identifying their capacity-building needs.

105. The elements proposed by the participants for consideration by the Parties at their sixth meeting during deliberations on the comprehensive review of the capacity-building Action Plan are presented under item 6 (conclusions and recommendations) of this document.

4.3. *Update on the process for the next comprehensive review of the Action Plan for Building Capacities for the Effective Implementation of the Protocol and the Coordination Mechanism*

106. Under this agenda item, the consultant who carried out the independent evaluation of the Action Plan for Building Capacities for the Effective Implementation of the Protocol gave a presentation on the process and the main findings and recommendations in the evaluation report. During the discussions, participants sought clarifications with regards to the methodology and sources of information used and the basis for some of the conclusions and recommendations made. They made a number of suggestions for the improvement of the report. It was agreed that the revised version of the report, incorporating the views and suggestions made, would be sent to the participants for their feedback before the consultant submitted the final draft to the Secretariat.

107. Prior to the above presentation, the consultant commissioned by the Secretariat to carry out an analysis of the status of implementation of various elements of the Protocol with a view to facilitating the second assessment and review of the effectiveness of the Protocol also briefed the participants about the process and the preliminary results of her analysis. She gave an overview of the process and scope of the second assessment and review, the sources of information used, and the preliminary findings. The analysis encompasses the coverage of the Protocol, the domestic implementation of core procedures and other requirements of the Protocol including its annexes, the effectiveness of international-level procedures and mechanisms, and the impacts of transboundary movements of LMOs on biological diversity, taking also into account risks to human health. The participants provided input and made some suggestions for the improvement of the report.

ITEM 5. OTHER MATTERS

A. *Issues for consideration at the next coordination meeting*

108. The participants agreed to discuss capacity-building needs relating to the following issues at the next coordination meeting:

- (a) Identification (detection) of LMOs; and

- (b) Risk assessment.

109. The other issues considered but deferred for consideration at a later stage included the following:

- (a) Information sharing and data management;
- (b) Risk management; and
- (c) Implementation of the Strategic Plan for the Protocol.

B. Date and venue of the next coordination meeting

110. The participant from the FAO Regional Office for Europe and Central Asia expressed her organization's interest in hosting the next coordination meeting. She promised to confirm the offer with the Secretariat after consulting with the senior management of her organization.

ITEM 6. CONCLUSIONS AND RECOMMENDATIONS

111. The following is a summary of the main suggestions that were made regarding actions that might be taken to foster capacity-building for preventing, detecting and managing illegal transboundary movements and for post-release monitoring of living modified organisms.

A. Capacity-building for preventing, detecting and managing illegal transboundary movements of living modified organisms

112. With regards to capacity-building for preventing, detecting and managing illegal transboundary movements of LMOs, the participants highlighted the need to:

- (a) Develop capacities to determine possible pathways of illegal transboundary movements of LMOs, including likely entry points;
- (b) Promote public awareness, education and access to information by key stakeholders regarding illegal transboundary movements of LMOs, including potential pathways and national legal requirements, as illegal transboundary movements sometimes occur because of ignorance and lack of information on the part of the different actors, including exporters, importers, some regulatory authorities or end users (farmers, etc.);
- (c) Build awareness of the possibilities for public participation in the prevention, detection and management of illegal transboundary movements of LMOs;
- (d) Apply multidisciplinary and multistakeholder approaches to capacity-building measures for addressing illegal transboundary movements of LMOs;
- (e) Develop the capacity of Parties to understand how the Protocol's compliance mechanism would be used in instances involving illegal transboundary movements between Parties and between Parties and non-Parties;
- (f) Nominate Emergency Measures Contact Points and make their contact details available to the Biosafety Clearing-House (BCH).

B. Capacity- building in post-release monitoring of living modified organisms

113. The participants agreed that post-release monitoring of LMOs was a key issue for the effective implementation of the Protocol and must be conducted as an integral component of the broader system for the implementation of the national biosafety frameworks.

114. The participants noted that monitoring of LMOs released into the environment:

- (a) Is an activity that is still evolving and in which there is still limited experience, such that many countries, both developed and in development, need to develop capacity for its full implementation;
- (b) Involves various stakeholders (e.g., LMO developers, applicants, competent national authorities, technical personnel conducting the monitoring activities, operators of the LMO, etc.);

(c) Could benefit from existing experience and methodologies in monitoring systems (e.g., for plant protection or biodiversity); and

(d) Could use existing systems (e.g., for plant protection or biodiversity), provided that these systems are properly adapted to the biosafety context and requirements.

115. Participants further noted that capacity-building activities were needed to assist Parties in the development of a national strategy for:

(a) Monitoring of adverse effects that were identified but not addressed in the risk assessment;

(b) Monitoring of unanticipated adverse effects that were not identified in the risk assessment; and

(c) Detection of LMOs whose release was not authorized, e.g., LMOs that were unintentionally released or that entered the country through illegal transboundary movements.

Recommendations to Parties

116. Parties may wish to consider, at their sixth meeting, during their deliberations on the comprehensive review of the capacity-building Action Plan, the establishment of a stepwise process, including online discussions and face-to-face meetings (e.g., international and regional workshops), towards:

(a) Establishing the scope of post-release monitoring within their national contexts (e.g., based on national protection goals);

(b) Integrating monitoring strategies into their national biosafety framework by developing or further elaborating monitoring policies linked to risk assessment and risk management systems;

(c) Identifying information to be submitted with an application for the release of an LMO into the environment, including, for example, detection methods and methodological conditions for detection, including sensitivity and specificity of the methods, and a proposed monitoring plan;

(d) Establishing mechanisms for the effective implementation of post-release monitoring, including those for:

(i) Adapting existing monitoring systems (e.g., for plant protection, biodiversity) to LMOs;

(ii) Training of scientists and inspectors from the regulatory agencies to detect LMOs and monitor the environmental impacts of LMOs;

(iii) Developing guidelines and common formats for reporting the results of monitoring (e.g., to a national database), indicating the conditions, methodology and duration of the monitoring process; and

(iv) Developing systems and guidelines for subsequent verification/validation of monitoring results.

Recommendations to the Executive Secretary

117. The participants recommended the following activities be implemented, in collaboration with relevant organizations, as appropriate and subject to availability of resources, to facilitate the development of national capacities for post-release monitoring of LMOs:

(a) Explore the possibility of organizing a side-event at the sixth meeting of the Parties to facilitate the sharing of experiences among Parties, other Governments and relevant organizations regarding post-release monitoring;

(b) Take stock of existing monitoring initiatives at the national level;

(c) Organize online discussions to facilitate the sharing of information, experiences, challenges and lessons learned, including:

(i) Inviting those who have experience regarding capacity-building activities on monitoring as well as various stakeholders to take part in the online debates;

- (ii) Using questions and/or discussion points to guide the online debate, in particular those that may help promote exchange of experience and cooperation among countries, such as those listed in paragraphs 101 to 103 above;
- (d) Convene regional and international workshops, building on the online discussions, to assist Parties in sharing experiences and identifying obstacles as well as ways of revising and strengthening their national biosafety frameworks with respect to systems for monitoring of LMOs; and
- (e) Create the possibility for Parties, other Governments and relevant organizations to submit reports and results of monitoring to the Biosafety Clearing-House as reference records.

ITEM 7. ADOPTION OF THE REPORT AND CLOSURE OF THE MEETING

118. During the final session, the participants adopted the draft report of the meeting. The Secretariat was requested, in consultation with the Chair and Rapporteur, to incorporate proceedings of the last day and then send the final draft to all participants for comments. The present report has been finalized on that basis.

119. Following brief closing remarks by Ms. Zuzana Doubkova, Head of the Biosafety Unit of the Ministry of the Environment of the Czech Republic, and by Mr. Gbedemah from the Secretariat of the Convention on Biological Diversity, the Chair declared the meeting closed at 4.30 p.m. on Wednesday, 14 March 2012.
