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CONFERENCE OF THE PARTIES TO THE CONVENTION
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MEETING OF THE PARTIES TO THE CARTAGENA
PROTOCOL ON BIOSAFETY

Seventh meeting

Pyeongchang, Republic of Korea

29 September-3 October 2014

Item 10 of the provisional agenda*

**ANALYSIS OF INFORMATION ON STANDARDS RELEVANT TO THE HANDLING,
TRANSPORT, PACKAGING AND IDENTIFICATION OF LIVING MODIFIED ORGANISMS
(ARTICLE 18, PARAGRAPH 3)**

I. INTRODUCTION

1. At its fifth meeting, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety (COP-MOP) requested the Executive Secretary to, among other things, examine the potential gaps and inconsistencies in existing standards, methods and guidance relevant to the handling, transport, packaging and identification of living modified organisms¹ (LMOs).
2. The Executive Secretary thus commissioned a study² which was submitted to the Parties at their sixth meeting. COP-MOP considered the report and requested the Executive Secretary to further examine the potential gaps and inconsistencies identified and to provide recommendations, as appropriate, to the seventh meeting.
3. Accordingly, Section II of this document examines the study referred to above, taking into account previous discussions on this item by Parties to the Protocol. Section III provides recommendations to Parties on possible ways forward as regards standards on handling, transport, packaging and identification of living modified organisms in the context of Article 18, paragraph 3 of the Cartagena Protocol on Biosafety.

II. EXAMINATION OF THE PREVIOUS ANALYSIS OF INFORMATION

4. The analysis of information conducted in 2012 and submitted to the sixth meeting of the Parties to the Protocol concerning potential gaps and inconsistencies in the area of handling, transport, packaging and identification of LMOs, appears to have included all the possible gaps or related considerations at the time. The analysis considered a wide range of international regulations and practices applicable, in one

* UNEP/CBD/BS/COP-MOP/7/1.

¹ Decision BS-V/9, paragraph 1 (d).

² For the full report of the study, see UNEP/CBD/BS/COP-MOP/6/INF/24.

way or another, to the handling of LMOs. The analysis attempted to identify what were referred to as legal gaps and legal inconsistencies, divided on the basis of two areas of consideration, namely transboundary movements of LMOs (trade logistics) and LMO labelling for consumers (marketing).

5. According to the study, existing international regulation concerning the handling, transport, packaging and identification of living modified organisms was greatly fragmented. The conclusion was that, although it would be optimal to design a new international standard unifying the best and most complete international norms to achieve the purposes of the Cartagena Protocol, the suggestion to do so was probably unrealistic at that time, considering that no discernible progress had been possible despite more than a decade of negotiations. The study also concluded that the existing international standards, guidance and methods developed or used by the different mechanisms and instruments are sufficient to achieve the purposes of the Cartagena Protocol and that transboundary movements of LMOs may be considered informed and safe by the adoption of a combination of the norms or recommendations of these mechanisms and instruments. A suggestion was made on some possible ways that may help to harmonize the international standards and methods identified, also with a view to achieving compatibility with the Cartagena Protocol on Biosafety, in particular its Article 18.

6. The following actions were recommended:

(a) Encouraging States to continue using the Cartagena Protocol Commercial Invoice Model; or include in the traditional “bill of lading” the codes and recommendations developed by the World Customs Organization; the United Nations Recommendations on the Transport of Dangerous Goods – Model Regulations; and the Organisation for Economic Co-operation and Development (OECD);

(b) Encouraging Member States of the OECD to develop a new standard for a unique identifier of microorganisms and animals;

(c) Proposing and support the identification of the Cartagena Protocol on Biosafety as a new relevant international standard, under the umbrella of the sanitary and phytosanitary (SPS) measures (Article 12, para. 4, sentence 2 of the SPS Agreement and para. 3(d) of Annex A of the SPS Agreement);

(d) Encouraging States to inscribe the Cartagena Protocol standards in the SPS list of international standards, guidelines or recommendations applied by Members of the World Trade Organization (Article 12, para. 4, sentence 3 of the SPS Agreement);

(e) Promoting granting the Secretariat of the Convention on Biological Diversity observer status in the SPS Committee (WT/L/161 and its Annex 3);

(f) Suggesting the creation, under the umbrella of the World Customs Organization, of a new “tariff position” for LMOs and their different uses (FFP, contained use, intentional introduction into the environment);

(g) Sharing the International Portal on Food Safety, Animal and Plant Health with FAO with a view to storing all available information on one website;

(h) Offering advice to the UN committee of experts on the transport of dangerous goods about LMO risks and, eventually, propose some adaptations to the UN Model Regulations to meet LMO needs and the purposes of the Cartagena Protocol;

(i) Encouraging States to use more frequently the procedures and mechanisms on compliance under the Cartagena Protocol to enforce compliance with the Protocol’s requirements on the handling, transport, packaging and identification of LMOs and to create specific case law about Cartagena Protocol purposes;

(j) Encouraging States to transfer technology from developed countries to developing and less developed countries with a view to improving capabilities to segregate and trace LMOs, and as a mechanism to facilitate LMO identification;

(k) Encouraging States to create consumer education programmes to widen general knowledge of LMOs, as a mechanism to facilitate the implementation and international recognition of LMO labelling.

7. It should be noted that Parties have been considering the need for and modalities of developing standards with regard to identification, handling, packaging and transport practices involving LMOs since the early days of the Protocol. The COP-MOP recognized, at its first meeting, the need for harmonized unique identifier codes for the purpose of facilitating access to relevant information on LMOs that are on the market. In that regard, it welcomed the development and adoption of the OECD Guidance for the Designation of a Unique Identifier for Transgenic Plants and invited Parties and other governments to take measures to apply, as appropriate, the OECD Unique Identifiers for Transgenic Plants to living modified plants under the Protocol without prejudice to the possible development and applicability of other systems. It also requested the Executive Secretary to develop or maintain, in the Biosafety Clearing-House, a register of unique identification codes to ensure harmonization of such codes by all users and encouraged the Organisation for Economic Co-operation and Development and other organizations involved in the development of unique identification systems for living modified organisms to initiate or enhance their activities towards the development of a harmonized system of unique identifiers for genetically modified micro-organisms and animals.³

8. The first meeting of the COP-MOP also requested, in decision BS-I/6 and in the context of the requirement of documentation accompanying living modified organisms destined for contained use, Parties to take measures to ensure that shipments are accompanied with information on any requirements for the safe handling, storage, transport and use of the living modified organisms under applicable existing international instruments, such as the United Nations Recommendations on the Transport of Dangerous Goods⁴ or the International Plant Protection Convention, the World Organisation for Animal Health, domestic regulatory frameworks or under any agreements entered into by the importer and exporter.

9. The Parties to the Protocol at their second meeting also requested the Executive Secretary to establish cooperation with the World Customs Organization, the International Organization for Standardization, the United Nations Subcommittee of Experts on the Transport of Dangerous Goods, the International Air Transport Association and other relevant customs and transport organizations, with a view to developing a harmonized approach for the packaging and transport of living modified organisms in preparation for the consideration of paragraph 3 of Article 18 by the Parties at their third meeting.⁵

10. At its third meeting, the COP-MOP invited Parties, other Governments and relevant international organizations to submit views and information on: (a) the adequacy of existing rules and standards for identification, handling, packaging and transport of goods and substances to address concerns relating to living modified organisms that are subject to transboundary movements; and (b) on gaps that may exist that may justify a need to develop new rules and standards, or to call upon relevant international bodies to modify or expand their existing rules and standards, as appropriate.⁶ The Executive Secretary was requested to continue collaborating with relevant international bodies and to gather information on existing rules and standards with a view to making available the information, including on the experiences of relevant international bodies in the establishment and implementation of rules and standards relevant to Article 18, at the fourth and fifth meetings of the COP-MOP.

11. Accordingly, COP-MOP at its fourth meeting was presented with a document containing a synthesis of the information received by the Executive Secretary through submissions from Parties, other

³ Decision BS-I/6, annex, sect. C.

⁴ See http://www.unece.org/trans/danger/publi/unrec/rev18/18files_e.html.

⁵ Decision BS-II/6, para. f.

⁶ Decision BS-III/9, para. 1.

Governments and relevant international organizations, information on measures taken by the Executive Secretary to forge or continue collaboration with relevant international bodies and an overview of the work of some relevant international bodies (UNEP/CBD/BS/COP-MOP/4/9).

12. In response to the request by the COP-MOP, the Executive Secretary had also organized, in May-June 2009, an online discussion forum on standards for shipments of LMOs. The detailed report of the discussions, reflecting the full range of views expressed was made available to Parties.⁷ The outcome of the “Online Forum on Standards for LMO Shipments” was later published by the Secretariat as the first volume of the *Biosafety Technical Series*⁸ and is available on the Secretariat website.⁹ The publication includes a summary of standards and standard-setting bodies relevant to the handling, transport, packaging and identification of living modified organisms. An update of the summary was prepared and made available to COP-MOP at its sixth meeting in addition to the study commissioned to examine potential gaps and inconsistencies in existing standards, methods and guidance relevant to the handling, transport, packaging and identification of LMOs, with a view to facilitating an in-depth and informed discussion on the item by the Parties.¹⁰

13. The above examination of the previous analysis and summary of relevant activities undertaken within the process of the Cartagena Protocol on Biosafety shows that extensive information is available on rules, standards, practices and recommendations and on any possible gaps and inconsistencies among these existing rules, standards, practices and recommendations relevant to the handling, transport, packaging and identification of the transboundary movements of LMOs. The analysis, reports and publication on existing standards or practices in handling the transboundary movements of LMOs and the accounts of exchange of information among relevant stakeholders, including representatives of international standard-setting bodies, which are available in the Biosafety Clearing-House, remain a useful source of information in designing, adopting or implementing measures by Parties in the context of Article 18 of the Cartagena Protocol on Biosafety.

III. SUGGESTED ELEMENTS FOR A DRAFT DECISION

14. Based on the above review and bearing in mind that no consensus has as yet been possible on the need for and modalities of developing specific standards for identification, handling, packaging and transport practices within the context of paragraph 3 of Article 18 of the Cartagena Protocol, the Conference of the Parties serving as the meeting of the Parties to the Protocol may wish to:

(a) Invite Parties and other Governments to use existing guidance for handling, transport and packaging of LMOs as referred to in relation to operational objective 1.6. of the Strategic Plan for the Cartagena Protocol on Biosafety (2011-2020);

(b) Request the Executive Secretary to continue to collaborate with relevant international standard-setting bodies and to keep Parties abreast of any new developments in relevant international regulations and to make such information available in the Biosafety Clearing-House in a manner that is easily retrievable;

(c) Encourage Parties, other Governments and relevant organizations to provide the Executive Secretary with any additional information that may assist Parties in identifying and applying existing rules and standards, and request the Executive Secretary to make the such information available through the Biosafety Clearing-House;

⁷ The full report of the online forum is available as UNEP/CBD/BS/COP-MOP/5/INF/23.

⁸ Secretariat of the Convention on Biological Diversity, *Standards for Shipments of Living Modified Organisms: Outcomes of an Online Forum* (Montreal, 2011).

⁹ http://bch.cbd.int/protocol/cpb_technicalseries.shtml.

¹⁰ Summary with update is available in UNEP/CBD/BS/COP-MOP/6/INF/7.

(d) Decide to review, at its ninth meeting, the need for developing standards and consider any further steps that may be required in the light of the outcomes of the third assessment and review of the effectiveness of the Protocol and the mid-term review of the Strategic Plan.
