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SUBSIDIARY BODY ON IMPLEMENTATION

Second meeting

Montreal, Canada, 9-13 July 2018

Item 14 of the provisional agenda[[1]](#footnote-1)\*

# Integrated approaches to issues at the interface between the biosafety-related provisions of the Convention and the provisions of the Cartagena Protocol

## *Note by the Executive Secretary*

**Introduction**

1. In decision [BS-VII/5](https://www.cbd.int/doc/decisions/mop-07/mop-07-dec-05-en.pdf), paragraph 10, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety urged Parties and invited other Governments to integrate and prioritize biosafety within their national biodiversity strategies and action plans (NBSAPs), and national development plans and programmes, as appropriate.
2. In decision [XII/29](https://www.cbd.int/doc/decisions/cop-12/cop-12-dec-29-en.pdf), paragraph 9, the Conference of the Parties encouraged Parties to integrate biosafety and access and benefit-sharing into NBSAPs, national development plans and other relevant sectoral and cross-sectoral policies, plans and programmes, as appropriate, taking into account national circumstances, legislation and priorities.
3. Furthermore, in paragraph 1 of decision [XIII/26](https://www.cbd.int/doc/decisions/cop-13/cop-13-dec-26-en.pdf) on enhancing integration among the Convention and its Protocols and the organization of meetings, the Conference of the Parties requested the Executive Secretary to prepare a note on possible ways and means to promote integrated approaches to issues at the interface between the biosafety-related provisions of the [Convention](https://www.cbd.int/convention/text/) and the provisions of the [Cartagena Protocol](http://bch.cbd.int/protocol/text/), taking into account Article 8(g) and Article 19, paragraph 4, of the Convention, and other issues of relevance to both the Convention and the Cartagena Protocol, for consideration by the Subsidiary Body on Implementation at its second meeting and the Conference of the Parties at its fourteenth meeting.
4. The present document addresses the relationship between the biosafety-related provisions of the Convention and the Cartagena Protocol. Pursuant to decision XIII/26, paragraph 2, cross-cutting issues under the Convention and its Protocols, such as capacity-building, the financial mechanism and resource mobilization, and national reporting will be addressed by the Subsidiary Body on Implementation at its second meeting under agenda items 10, 9, 8 and 13 respectively. Pursuant to decision [XII/31](https://www.cbd.int/doc/decisions/cop-12/cop-12-dec-31-en.pdf), issues related to the effectiveness of the processes under the Convention and its Protocols will be addressed by the Subsidiary Body on Implementation at its second meeting under agenda item 15.

# Relationship between the biosafety-related provisions of the Convention and the Cartagena Protocol

## A. Overview of biosafety-related provisions under the Convention and the Cartagena Protocol

1. Article 8(g) of the Convention sets out obligations to establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity, taking also into account the risks to human health.
2. Article 19 of the Convention sets out provisions for effective participation in biotechnological research activities by those Parties, especially developing countries, which provide the genetic resources for such research (para. 1), measures to promote and advance priority access on a fair and equitable basis by those Parties, especially developing countries, to the results and benefits arising from biotechnologies based upon genetic resources, provided by those Parties (para. 2). It also requires Parties to provide those Parties where living modified organisms are introduced with any available information about the use and safety regulations which it would require in handling living modified organisms as well as information on their potential adverse impact (para. 4).
3. Article 19, paragraph 3, also provides the basis for the development of what became the Cartagena Protocol, which entered into force in 2003.[[2]](#footnote-2) Its objective is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, and specifically focusing on transboundary movements.
4. Against this background, the Cartagena Protocol builds upon and complements the biosafety‑related provisions of the Convention. There are, however, distinctions in the scope of biosafety-related provisions under the Convention and the Protocol. On the one hand, the biosafety-related provisions of the Convention relate to both national and international measures to support the three objectives of the Convention in relation to living modified organisms as well as the non-living components and products of biotechnology. On the other hand, the Cartagena Protocol focuses on the transboundary movements of living modified organisms that may have potential adverse effects to the conservation and sustainable use of biological diversity.
5. Other provisions of the Convention may be relevant to biosafety, including those under Articles 7 (Identification and monitoring), 14 (Impact assessment and minimizing adverse impacts), 16 (Access to and transfer of technology), 18 (Technical and scientific cooperation), and 20 (Financial resources).

## B. Status of ratification of the Cartagena Protocol

1. As of May 2018, the Cartagena Protocol on Biosafety had 171 Parties. A total of 25 Parties to the Convention are not Parties to the Cartagena Protocol.[[3]](#footnote-3) Most of these are located in the Asian and Pacific region (8 countries) and the Western Europe and Others Group (7 countries).
2. In the past few years, progress by countries in ratifying or acceding to the Cartagena Protocol has been limited, and the number of new ratifications has been very low: 2 Parties in 2013; 2 Parties in 2014; 2 Parties in 2015; no Parties in 2016; and 1 Party in 2017.
3. As highlighted in a number of decisions, further technical assistance, capacity-building and financial resources are needed to support ratification and implementation of the Cartagena Protocol.
4. However, a number of Parties to the Convention that are not Party to the Cartagena Protocol already have biosafety measures in place. Among them, many countries have taken biosafety measures, thereby *de facto* implementing the Cartagena Protocol, and have made information available in this regard, such as the establishment of institutional structures or the development or revision of national biosafety measures, through their NBSAPs and/or the [Biosafety Clearing-House](http://bch.cbd.int/).
5. Furthermore, Parties to the Convention that are not Party to the Cartagena Protocol are nonetheless required to implement the biosafety obligations of the Convention, including those contained in Articles 8(g) and 19(4).

## C. Integration of biosafety considerations across the different programme areas under the Convention and activities undertaken towards this goal

1. Integration of biosafety across the Convention has implications at the intergovernmental and domestic levels.
2. Although biosafety contributes to the conservation of biological diversity and the sustainable use of its components, and supports the fair and equitable sharing of benefits arising from the utilization of genetic resources, biosafety is, to a large extent, still considered as a stand-alone issue dealt with solely or primarily under the Cartagena Protocol. This has implications in particular for those Parties to the Convention that are not Parties to the Cartagena Protocol, as well as for matters that do not concern transboundary movements or living modified organisms, which are the focus of the Cartagena Protocol. Nevertheless, significant biosafety-related issues have been addressed under the Convention, including genetic use restriction technologies (decision [V/5](https://www.cbd.int/decision/cop/default.shtml?id=7147)), genetically modified trees (decision [VIII/19](https://www.cbd.int/doc/decisions/cop-08/cop-08-dec-19-en.pdf)) and, more recently, synthetic biology (decisions [XII/24](https://www.cbd.int/doc/decisions/cop-12/cop-12-dec-24-en.pdf) and [XIII/17](https://www.cbd.int/doc/decisions/cop-13/cop-13-dec-17-en.pdf)).
3. Given their cross-cutting nature, in order to support its full implementation at national level, issues related to biosafety should be considered and addressed in the management and use of natural resources in different sectors (e.g. agriculture, forestry, fisheries) and areas (for example marine and freshwater areas, mountains, protected areas) as part of an integrated management approach that can contribute to conservation and sustainable use of biological diversity. Biosafety may also be regarded as a set of enabling measures for the adoption and use modern biotechnology in a manner that is supportive of the three objectives of the Convention.
4. Some efforts to support Parties in this regard have already been undertaken by the Secretariat, including the following:
	1. Activities to facilitate the integration of biosafety into NBSAPs and national development plans;
	2. Convening of regional workshops to mainstream biosafety within and across sectors;
	3. Development of a suite of e-learning modules on mainstreaming biosafety into NBSAPs;
	4. Ensuring a coordinated approach among processes under the Convention and the Cartagena Protocol in relation to the issue of synthetic biology;
	5. Inclusion of biosafety a topic in the “Global Platform for Business and Biodiversity”,[[4]](#footnote-4) which promotes private-sector collaboration for achieving the goals of the Convention.
5. As a result of efforts to integrate biosafety into national biodiversity strategies, a number of countries have included biosafety-related considerations in their revised NBSAPs.
6. Important initiatives to deliver on the abovementioned issues are being funded by the Government of Japan, through the Japan Biodiversity Fund, in the form of projects to strengthen national capacities for integrated implementation of biosafety within and across sectors at the national level.
7. A pilot project on mainstreaming biosafety was carried out in 2015-2016 in which nine Parties to the Cartagena Protocol participated. During the pilot project, participating countries identified ways in which biosafety could be integrated within a variety of sectoral and cross-sectoral legal, policy and institutional frameworks. Documenting best national practices, the project prepared for national actions and informed the development of e-learning capacity-building materials to support Parties in mainstreaming biosafety at the national level, including in their NBSAPs.
8. During the biennium 2017-2018, a follow-up project is being carried out to bring together national focal points of the Cartagena Protocol and of the Convention and the legal and policy experts of a total of 30 Parties in a series of regional workshops to develop actions to mainstream biosafety in a range of sectoral and cross-sectoral policies, legislation and institutional structures, including NBSAPs. The regional workshops are accompanied by national-level activities. E-learning materials on mainstreaming biosafety in national legislation, policy and institutional structures have been developed and support Parties in mainstreaming biosafety in different sectors.
9. Although progress is being made, further steps are needed to integrate biosafety across the work of the Convention. For instance, biosafety-related issues could be further considered when addressing protected areas, or the management of forests, mountains and marine areas, among others. The inclusion of a biosafety component as part of relevant capacity-building projects could also be considered in a more systematic manner.
10. Against this background, enhancing integration under the Convention and the Cartagena Protocol with regard to biosafety-related provisions would further support achieving the [Aichi Biodiversity Targets](https://www.cbd.int/sp/targets/) and the [post-2020 global biodiversity framework](https://www.cbd.int/post2020/).

# Conclusion

1. In conclusion, the majority of Parties to the Convention are Parties to the Cartagena Protocol. Of those Parties to the Convention that are not Parties to the Cartagena Protocol, a large number have taken biosafety measures that are in accordance with the Cartagena Protocol, thereby *de facto* implementing the Protocol. Furthermore, many countries have included biosafety-related considerations in their NBSAPs.
2. Considering the critical role of the Cartagena Protocol in facilitating the implementation of the biosafety-related provisions of the Convention, it is in the interest of all Parties to the Convention to ratify the Cartagena Protocol in order to support a coherent international biosafety regime. Further efforts are needed to support ratification and implementation of the Cartagena Protocol, including through capacity‑building and financial support.
3. Given the potential for modern biotechnology to contribute to conservation and sustainable use of biodiversity, and considering the cross-cutting nature of issues related to biosafety, further efforts are needed to integrate biosafety across the various work programmes of the Convention and to support Parties in efforts to integrate biosafety across various sectors at the national level.
4. Further integration of biosafety across the various work programmes of the Convention could be considered by adding biosafety considerations to the post-2020 global biodiversity framework and to the national reporting format under the Convention.

# III. Draft recommendation

1. The Subsidiary Body on Implementation may wish to recommend that the Conference of the Parties at its fourteenth meeting adopt a decision along the following lines:

*The Conference of the Parties,*

1. *Urges* Parties to the Convention on Biological Diversity that have not yet done so to deposit their instrument of ratification, acceptance, approval or accession to the Cartagena Protocol as soon as possible, and to take steps towards its implementation, including by establishing institutional structures and legislative, administrative and policy measures on biosafety;
2. *Reminds* Parties to the Convention on Biological Diversity that are not Parties to the Cartagena Protocol of their biosafety-related obligations under the Convention, and *invites* them to continue making relevant information available to the Biosafety Clearing-House and to submit the fourth national report under the Cartagena Protocol;
3. *Invites* Governments and relevant organizations to provide technical and financial support to address needs for capacity-building and development activities, as well as financial resources to support ratification and implementation of the Cartagena Protocol;
4. *Agrees* to consider the addition of biosafety considerations to the post-2020 global biodiversity framework and national reporting format under the Convention, and to other areas of work under the Convention;
5. *Requests* the Executive Secretary to continue efforts to integrate biosafety across the programmes of work of the Secretariat and to continue to support Parties in efforts to integrate biosafety across various sectors at the national level.

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1. \* [CBD/SBI/2/1](https://www.cbd.int/doc/c/6ce5/878e/5ffa49887c20c19961fe040a/sbi-02-01-en.pdf). [↑](#footnote-ref-1)
2. United Nations, *Treaty Series*, [vol. 2226](https://treaties.un.org/doc/Publication/UNTS/Volume%202226/v2226.pdf), No. 30619. [↑](#footnote-ref-2)
3. Andorra, Argentina, Australia, Brunei Darussalam, Canada, Chile, Cook Islands, Equatorial Guinea, Haiti, Iceland, Israel, Liechtenstein, Micronesia (Federated States of), Monaco, Nepal, Russian Federation, San Marino, Sao Tome and Principe, Sierra Leone, Singapore, South Sudan, Timor-Leste, Tuvalu, Uzbekistan and Vanuatu. [↑](#footnote-ref-3)
4. <https://www.cbd.int/business/bc.shtml>. [↑](#footnote-ref-4)