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AD HOC TECHNICAL EXPERT GROUP ON GAPS AND INCONSISTENCIES IN THE INTERNATIONAL REGULATORY FRAMEWORK IN RELATION TO INVASIVE ALIEN SPECIES

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Item 3.1 of the provisional agenda*

INVASIVE ALIEN SPECIES: FURTHER CLARIFICATION OF THE GAPS AND INCONSISTENCIES IN THE INTERNATIONAL REGULATORY FRAMEWORK

Note by the Executive Secretary

I. INTRODUCTION

1. The purpose of the present note is to provide a brief review to assist the Ad Hoc Technical Working Group in considering the first element of its mandate, as set out in paragraph 9 (a) of decision VII/13 of the Conference of the Parties to the Convention on Biological Diversity, namely to:

“Further clarify the gaps and inconsistencies in the international regulatory framework that are significantly hindering countries' efforts to manage threats arising from the introduction, establishment and spread from invasive alien species, focusing this analysis on the known major pathways for the spread of invasive alien species, and taking into account past efforts of relevant organizations and initiatives that have considered the issue.”

2. The note focuses in particular on the specific gaps and inconsistencies identified in paragraph 7 of decision VII/13 and reproduced in paragraph 2 of the annotations to the provisional agenda for the present meeting (UNEP/CBD/AHTEG-IAS/1/1/Add.1). For each of those gaps and inconsistencies, the paper highlights any relevant work of international agreements and bodies. Section II introduces a few international agreements and bodies that are considered to be particularly relevant to the mandate of the meeting. Section III reviews what is currently covered by existing international agreements and bodies with respect to specific aspects of the gaps and inconsistencies identified by the seventh meeting of the Conference of the Parties. Finally, section IV highlights some considerations that may be appropriate in clarifying gaps and inconsistencies and using that information as the basis for development of options to address the gaps and inconsistencies.

* UNEP/CBD/AHTEG-IAS/1/1.

3. Previous analyses related to the international regulatory framework for invasive alien species, which contributed to decision VII/13, were spread across several documents (see UNEP/CBD/AHTEG/IAS/1/1/Add.1, annex). Of particular relevance are the notes by the Executive Secretary (UNEP/CBD/SBSTTA/9/15 and UNEP/CBD/SBSTTA/9/INF/32). Some of the information in those documents has been included in the present note where relevant, or has been updated if there have been more recent developments.

II. INTRODUCTION TO RELEVANT EXISTING INTERNATIONAL AGREEMENTS AND BODIES

4. There are certain international agreements and bodies whose mandates may be particularly relevant to the pathways for alien invasions identified in paragraph 7 of decision VII/13. This section provides an introduction to, in particular, the International Maritime Organization (IMO), as well as the standard-setting bodies referred to in the Agreement on the Application of Sanitary and Phytosanitary Measures (“the SPS Agreement”) of the World Trade Organization (WTO).

5. IMO deals with shipping in international trade, including such aspects as maritime safety, efficiency of navigation and prevention and control of marine pollution from ships. IMO, together with the Global Environment Facility (GEF) and the UNDP, established the Global Ballast Water Management Programme, to address the introduction of invasive marine species into new environments through ballast water, hull-fouling and other vectors. As described in section III, the International Convention for the Control and Management of Ships’ Ballast Water and Sediments was adopted by consensus at an IMO Diplomatic Conference in 2004.

6. The SPS Agreement establishes basic rules for food safety and animal and plant health standards. WTO does not itself develop standards under the SPS Agreement. Rather, it allows countries to set their own standards to protect human, animal or plant life or health, and requires that any measures taken are based on assessment of risks.

7. The SPS Agreement encourages countries to use international standards, guidelines and recommendations where they exist. In this regard, it notes that such standards, guidelines and recommendations may be developed by relevant international organizations, and it specifically names three such organizations: the International Plant Protection Convention (IPPC), the Office International des Epizooties (OIE), and the Codex Alimentarius Commission. For matters not covered by those three organizations, standards, guidelines and recommendations from other relevant international organizations can be identified by the SPS Committee.

8. IPPC addresses risks to plants. More specifically, it deals with plant pests, which are broadly defined as any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products. IPPC has developed numerous standards that contribute to the international regulatory framework on invasive alien species, and its scope is not limited to impacts on agricultural systems. For example, the International Standard for Phytosanitary Measures No. 11 (*Pest risk analysis for quarantine pests, including analysis of environmental risks and living modified organisms*) explicitly clarifies that its scope includes environmental risks and risks to biological diversity.

9. OIE addresses risks associated with animal diseases in the context of trade in animals, including aquatic animals, and animal products. It does not address animals that may themselves be invasive alien species.

10. The Codex Alimentarius Commission deals with food safety, and is therefore not directly relevant to the effects of invasive alien species for biological diversity.

11. In addition to binding standards or agreements, there are a range of non-binding codes and instruments that may be relevant to the pathways of alien invasions, including but not limited to the Guiding Principles for the Prevention, Introduction, and Mitigation of Impacts of Alien Species that Threaten Ecosystems, Habitats or Species, which were adopted by the Conference of the Parties in its decision VI/23*.

III. COVERAGE OF EXISTING INTERNATIONAL AGREEMENTS AND BODIES IN RELATION TO GAPS AND INCONSISTENCIES IDENTIFIED BY THE SEVENTH MEETING OF THE CONFERENCE OF THE PARTIES

12. The following section considers each of the specific gaps and inconsistencies in the international regulatory framework for invasive alien species, as identified in paragraph 7 of decision VII/13. Specifically, the relevance of existing agreements and bodies to particular aspects of each pathway listed in that paragraph is highlighted. For example, existing agreements may cover a particular pathway to some extent, but may be limited to particular types of species that are invasive; to particular types of habitats, biomes or species that may be threatened by alien species; or to particular stages of intervention: prevention, mitigation or control. It should be noted that some of the pathways identified by the Conference of the Parties at its seventh meeting have a wide potential scope, and therefore there may be some degree of overlap among the pathways.

A. *The use of non-native organisms in aquaculture and the restocking of marine and inland water systems for commercial and recreational fisheries taking into account contributions of national codes, and voluntary international efforts such as Codes of Practice on the Introductions and Transfers of Marine Organisms developed by the International Council for the Exploration of the Seas and the FAO Code of Conduct on Responsible Fisheries*

13. The existing regulatory framework related to aquaculture and restocking for commercial and recreational fisheries consists of OIE codes, which focus on the disease risks, not the invasiveness *per se*, of introduced stock, and non-binding technical guidance and codes of practice such as that developed under the FAO Code of Conduct for Responsible Fisheries. Alien aquatic species are not covered by any binding international instrument. For example there are no international binding requirements for the assessment of risks related to release of alien aquatic organisms into transboundary water systems.

14. The 1997 Convention on the Law of the Non-Navigational Uses of International Watercourses, adopted by the General Assembly of the United Nations, includes an article on alien species that states that “[w]atercourse States shall take all measures necessary to prevent the introduction of species, alien or new, into an international watercourse which may have effects detrimental to the ecosystem of the watercourse resulting in significant harm to other watercourse States”. However, this Convention has not yet entered into force, and few of the bilateral watercourse agreements in place address invasive alien species.

15. Risks associated with invasive alien species related to non-shipping pathways (dredging, recreational boating, fishing, fouling of offshore oil and gas platforms) have received very little attention, and are not covered by the international regulatory framework.

16. Invasive alien species in wetland ecosystems are addressed by the resolution VIII.18 of the Conference of the Parties to the Ramsar Convention on Wetlands, on invasive species and wetlands,

* One representative entered a formal objection during the process leading to the adoption of this decision and underlined that he did not believe that the Conference of the Parties could legitimately adopt a motion or a text with a formal objection in place. A few representatives expressed reservations regarding the procedure leading to the adoption of this decision (see UNEP/CBD/COP/6/20, paras. 294-324)

which was adopted in 2002. The resolution urges Parties to address wetland issues related to invasive alien species in a decisive and holistic manner, making use of tools and guidance developed by various institutions and under other conventions. However, the resolution does not provide practical guidance for wetland managers.

B. Unintentional or opportunistic introductions (e.g., “hitchhiker organisms”), including through hull-fouling, packaging material, import consignments, vehicular transport and other means

17. The IMO International Convention for the Control and Management of Ships’ Ballast Water and Sediments referred to in paragraph 5 above focuses on minimizing current risks and side effects to the environment and human health arising from the transfer of species in ships’ ballast water and sediments, and is beginning the process of eliminating such harmful transfers in the future. Once it enters into force, the Convention will require all ships to implement a ballast water and sediments management plan. All ships will have to carry a ballast water record book and will be required to carry out ballast water management procedures to a given standard. Existing ships will be required to do the same, but after a phase-in period. The Ballast Water Convention condones the dumping of untreated ballast water into the open ocean. Scientists have raised concerns that some coastal species may thrive in the open ocean as temperatures rise, and pervasive marine debris (especially plastics) is available to provide them shelter. Development of new *in situ* ballast-water-treatment technologies that eliminate the need for open-ocean exchange, or other approaches, may therefore remain important.

18. Hull-fouling associated with international shipping is considered an equal or greater risk than disposal of ballast waters, but is not yet regulated. The Parties to the Convention on Biological Diversity have already called on IMO to develop mechanisms to minimize hull-fouling as a matter of urgency (decision VI/23, para. 7). In addition, the need to control or minimize hull-fouling as a pathway is also highlighted in paragraph 7 (b) of decision VII/13 and paragraph 24 (e) of decision VI/23 of the Conference of the Parties to the Convention on Biological Diversity.

19. Policies for the prevention and/or management of invasive alien species are also being developed under some of the regional seas agreements.

20. Regarding packaging material, the governing body of the IPPC has adopted *Guidelines for regulating wood packaging material in international trade* (International Standard for Phytosanitary Measures No. 15). This does not extend beyond wood-packaging material but demonstrates the type of standard that can be developed in the context of IPPC.

21. Regarding international trade in seeds, the OECD schemes for the varietal certification of seed (“the OECD seeds schemes”) are relevant to minimizing the presence of undesirable organisms such as noxious weeds in international movements of seeds. The schemes are voluntary and comprise a set of techniques and procedures for monitoring seed quality and thereby promoting varietal purity.

22. In the context of international civil aviation, the 35th Assembly of the International Civil Aviation Organization (ICAO) in 2004 adopted resolution A35-19, on preventing the introduction of invasive alien species. The resolution urges States to support one another's efforts to reduce the risk of introducing, through civil air transportation, potentially invasive alien species to areas outside their natural range. In order to assist Contracting States in their efforts, the resolution also requests the ICAO Council to develop guidance material and, if appropriate, standards and recommended practices, in this area, and to continue working with the appropriate organizations in this regard.

23. In the context of resolution A35-19, the ICAO Assembly informed Contracting States and interested international organizations of the results of a survey on the introduction of invasive alien species by air conducted in 2002. Based on the survey, ICAO concluded that international civil aviation

appears to be a significant pathway for the unintentional introduction of invasive alien species of the “hitchhiking” type (such as micro-organisms, weeds and insects) that are carried on other species intentionally introduced (e.g., plants, fruits, packing material and animals) or on “hosts” (air passengers). In the same resolution, the Assembly requested the ICAO Council to develop guidance material and, if appropriate, standards and recommended practices.

24. Regarding organisms that are agents of animal diseases, the OIE Animal Health Codes includes guidelines on import-risk analysis, which detail the obligations of both importing and exporting countries involved in trade of animals and their products as well as certification procedures. The principal aim of import-risk analysis is to provide importing countries with an objective and defensible method of assessing the disease risks associated with the importation of animals, animal products, animal genetic material, feedstuffs, biological products and pathological material. The principles and methods are the same whether the commodities are derived from aquatic and/or terrestrial animal sources.

C. Unintentional introductions of invasive alien species through international assistance and humanitarian programmes, tourism, military, scientific research, cultural and other activities

25. Development assistance, humanitarian and military programmes provide non-trade-related pathways that fall outside the regulatory framework. CABI is currently conducting a review of the role of international assistance programmes as a pathway (see also section G below).

D. Intentional introductions of alien species for non-food purposes, including certain aspects of horticulture and trade in pets and aquarium species

26. Regarding trade in aquarium species, although there is recognition of the problem of invasive species by the industry (e.g., by the Ornamental Aquatic Trade Organization), and some Governments have laws prohibiting releases at national level, there is no international regulatory framework covering such species.

27. For other more specific pathways covering intentional introductions of alien species for non-food purposes, see sections F, G and H.

E. Intentional introduction of alien species, as biocontrol agents for control or eradication of invasive alien species, pests or weeds

28. In April 2005, the governing body of the International Plant Protection Convention (IPPC) adopted a standard entitled *Guidelines for the export, shipment, import and release of biological control agents and other beneficial organisms*, which is a revision of International Standard for Phytosanitary Measures No. 3. The scope of this standard is quite broad, but does not include living modified organisms, issues related to registration of biopesticides, or microbial agents intended for vertebrate pest control.

F. Transnational and national ex situ breeding projects with alien species as sources for intentional or unintentional introduction

29. For the case of aquatic organisms used in aquaculture and restocking, there are relevant instruments as reviewed in section A above. No additional information was found regarding international frameworks that cover this pathway for other types of organisms.

G. Intentional introduction of invasive alien species through international assistance programmes, including conservation and development projects and other activities

30. This pathway is linked to the category covered in section C above. It may include, for example, pasture improvement projects or agroforestry development projects. There do not appear to be any international frameworks that specifically cover this pathway. As noted in section C above, CABI is currently conducting a review of the role of international assistance programmes as a pathway for invasive alien species.

H. Intentional introduction of potentially invasive alien species through international incentives schemes

31. Incentive schemes might include, for example, opportunities to offset emissions of greenhouse gases by planting trees, pursuant to the Kyoto Protocol. No information was found regarding international frameworks that cover this pathway specifically.

I. Introduction of alien species through aquaculture escapes, bait and pet releases, water transfer schemes

32. Some aspects of the specific pathway for aquaculture escapes are covered under section A above. No other information was found regarding international frameworks that specifically cover other aspects of this pathway.

IV. CONSIDERATIONS IN THE CLARIFICATION OF GAPS AND INCONSISTENCIES IN THE INTERNATIONAL REGULATORY FRAMEWORK AND THE DEVELOPMENT OF OPTIONS TO ADDRESS THOSE GAPS AND INCONSISTENCIES

33. The Ad Hoc Technical Expert Group may wish to use the information in section III above, in addition to any other relevant information, as a basis for further clarification of the gaps and inconsistencies in the international framework for invasive alien species. The Group may also wish to identify any other specific gaps and inconsistencies in the international regulatory framework that it considers to be important but which were not specifically identified in paragraph 7 of decision VII/13.

34. In accordance with the mandate given by decision VII/13, paragraph 9, in particular subparagraph 9 (b), the Ad Hoc Technical Expert Group is also expected, under item 3.2 of the provisional agenda to develop practical options on how to address the gaps and inconsistencies that it has clarified. In this regard, the Conference of the Parties also specified in that same subparagraph that the expert group should:

(a) Where possible, develop options within the context of existing international frameworks, including identifying, if appropriate, those gaps which should be addressed at the national level;

(b) Take into account the costs/benefits of options for addressing the gaps and inconsistencies;

(c) Take into account the need for appropriate capacity-building at the national and regional level, to support this work.

35. In considering options within the context of existing international frameworks (paragraph 34 (a) above), the Expert Group may wish to distinguish between those gaps and inconsistencies that are within the scope of existing international frameworks but which are not yet actively addressed, and those gaps and inconsistencies that do not seem to be within the scope of any existing international frameworks.