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TO THE CARTAGENA PROTOCOL ON
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Item 10.1 of the provisional agenda*

HANDLING, TRANSPORT, PACKAGING AND IDENTIFICATION OF LIVING MODIFIED ORGANISMS

Synthesis of information on experience gained with the implementation of requirements related to paragraph 2 (a) of Article 18

I. INTRODUCTION

1. The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety (COP-MOP), in paragraph 1 of decision BS-III/10, requested Parties and urged other Governments to take measures to ensure that existing documentation systems or documentation as required by domestic regulatory and/or administrative frameworks accompany shipments of living modified organisms intended for direct use as food or feed, or for processing (LMOs-FFP) and that such documentation include the information in paragraph 4 of the decision.

2. Among other things, paragraph 4 of decision BS-III/10 provides that the documentation accompanying LMOs-FFP should clearly state:

(a) In cases where the identity of the living modified organisms is known through means such as identity preservation systems, that the shipment contains LMOs-FFP;

(b) In cases where the identity of the living modified organisms is not known through means such as identity preservation systems, that the shipment may contain one or more LMOs-FFP;

(c) That the living modified organisms are not intended for intentional introduction into the environment;

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(d) The common, scientific and, where available, commercial names of the living modified organisms;

(e) The transformation event code of the living modified organisms or, where available, as a key to accessing information in the Biosafety Clearing-House, its unique identifier code;

(f) The Internet address of the Biosafety Clearing-House for further information.

3. The Parties decided to review and assess, at their fifth meeting, experience gained with the implementation of paragraph 4 with a view to considering a decision at its sixth meeting. Such a review is also to include an examination of capacity-building efforts in developing countries (decision BS-III/10, paragraphs 7 and 8).

4. Furthermore, in paragraph 2 of decision BS-III/10, the Parties called for the submission of information on experience gained with the use of the documentation referred to in paragraph 1 of the decision with a view to further harmonization of a documentation format to fulfil the identification requirements set out in paragraph 4 of the decision, including consideration of the need for a stand-alone document. The Executive Secretary was requested to compile the information and prepare a synthesis report for consideration by the Parties at their fifth meeting.

5. Accordingly, section II of the present document contains a synthesis of the information received by the Executive Secretary on experience gained with the identification and documentation of shipments of living modified organisms intended for direct use as food or feed, or for processing. Section III presents information on capacity-building efforts. Finally, section IV suggests some elements of a draft decision for consideration by the Parties at their fifth meeting.

I. EXPERIENCE GAINED WITH THE IDENTIFICATION AND DOCUMENTATION OF SHIPMENTS OF LIVING MODIFIED ORGANISMS INTENDED FOR DIRECT USE AS FOOD OR FEED, OR FOR PROCESSING

6. By 15 March 2010, submissions had been received from five Parties: Botswana, the European Union, Mexico, Niger and Venezuela; and from two international organizations: the Global Industry Coalition and the International Grain Trade Coalition. The full text of the submissions has been compiled and made available as an information document (UNEP/CBD/BS/COP-MOP/5/INF/5).

7. Botswana stated that its national biosafety framework, a tool used to implement the Biosafety Protocol, is not yet operational as the proposed policy and legal administrative activities have not yet been passed by cabinet and hence are not yet enacted into law. In this regard, the country has prohibited both the production and the transboundary movement of living modified organisms (LMOs) as there is no law to regulate such activities. Botswana explained that, in an attempt to address these issues, efforts have been made to establish a domestic biosafety database, but securing the software for this purpose had been a challenge.

8. Botswana also reported the existence of a number of uncertainties due to the absence of the national biosafety framework, national database and insufficient public awareness on LMOs and biosafety. One uncertainty was that transboundary movements have been taking place without detailed documentation accompanying LMOs-FFP for the purpose of identification as required by paragraph 2 (a) of Article 18 of the Protocol. The submission noted that given that Botswana imports food and food products from neighbouring countries and there is some evidence that some of these countries produce genetically modified organisms (GMOs) like Bt maize and Bt soybean. Botswana could not rule out the

transboundary movement of LMOs, particularly in the form of grains, into the country for use as food or feed or for processing.

9. A second uncertainty cited by the submission was that the absence of information on the introduction of LMOs to Botswana could mean that the environment and human health have been compromised. Botswana noted that there is a need to fast-track the approval of its national biosafety framework and the development of the domestic database that will enable the sharing of information on biosafety nationally and internationally through the Biosafety Clearing-House (BCH).

10. In its submission, the European Union (EU) stated that its legal framework on GMOs was developed before the adoption of decision BS-III/10. The European Union described its legislative framework as enforcing identification and documentation requirements for living modified organisms that are imported and exported to both Parties and non-Parties. It stated that its requirements are consistent with paragraph 2 (a) of Article 18 of the Protocol and represent the implementation in the European Union of paragraph 4 of decision BS-III/10. Furthermore, in conformity with Article 2, paragraph 4 and Article 11, paragraph 4 of the Protocol, the European Union noted that its legislation imposes further specific documentation requirements to those described in decision BS-III/10. The European Union provided details of the legislative instruments that contain those requirements. These included:

- Regulation (EC) No. 65/2004 of 14 January 2004 establishing a system for the development and assignment of unique identifiers for genetically modified organisms. The Regulation adopts the format developed by the Organisation for Economic Co-operation and Development for Unique Identifiers for Transgenic Plants, which in mid-April 2004 became mandatory for the European Union's domestic regulatory framework for GMOs;

- Regulation (EC) No. 1946/2003 on transboundary movements of GMOs: Article 12 requires exporters to state in a document accompanying the GMO, which is to be transmitted to the importer receiving the GMO, that it contains or consists of GMOs and the unique identification code(s) assigned to those GMOs if such codes exist. The same article also stipulates that for GMOs intended for direct use as food or feed, or for processing, the above information must be supplemented by a declaration by the exporter stating that the GMOs are intended for direct use as food or feed, or for processing and indicating clearly that they are not intended for deliberate release into the environment and giving details of the contact point for further information; and

- Regulation (EC) No. 1830/2003 of 22 September 2003 concerning the traceability and labelling of GMOs and the traceability of food and feed products produced there from: business operators must transmit and retain information about products that contain or are produced from GMOs at each stage of the placing on the market.

11. The European Union also noted that, further to its framework, some of its member States have established specific control procedures and requirements at the internal level. They cited the example of Portugal which has established a pre-information procedure on imported products (origin, quantities, LMO event and final uses.)

12. Regarding the use of documentation referred to in paragraph 1 of decision BS-III/10, the European Union explained that its legislation states that the required information should be included in a document accompanying the LMO but it does not provide specifications on the type of documentation to be used. From their experience, in most cases the required information is included in commercial invoices or similar documents.

13. Mexico submitted a "Report on the Pilot Programme Dealing with the Documentation Accompanying Imports of Yellow Maize Intended for Direct Use as Food or Feed or for Processing". The report stated that the Government of Mexico found that paragraph 2 (a) of Article 18 of the Protocol could have serious consequences for the country's food security as a result of the high degree of integration of Mexico with its partners in the North American Free Trade Agreement (NAFTA), i.e. the United States and Canada, who are not Parties to the Protocol. It commented that these effects are based on international trade patterns in the bulk distribution of agricultural products as these patterns are incompatible with requirements for the specific identification and traceability of potential incidents involving shipments during transboundary movements.

14. The report described how, to comply with paragraph 2 (a) of Article 18, the Government of Mexico entered into a Trilateral Arrangement on "Documentation Requirements for Living Modified Organisms for Food or Feed, or for Processing" with Canada and the United States. It stated that the process focused on bulk staples and sought to establish minimum acceptable conditions to avoid hindering trade and to ensure compliance with the guidelines established in the context of Article 24 of the Protocol for trade between Parties and non-Parties. The Arrangement provides for the following:

(a) The statement "May contain LMOs intended for direct use as food or feed, or for processing, and not intended for intentional introduction into the environment" was to be included on the commercial invoice associated with a shipment;

(b) The last exporter and the first importer of a shipment were to be identified. Shipments of products containing species for which no LMOs have been developed or products explicitly or implicitly identified as being free of LMOs were exempted from this requirement; and

(c) The threshold by which a shipment is deemed to be free of LMOs is a maximum content of five per cent. This figure is based on tolerances established through extensive experimentation studying the correlation between costs and feasibility of control and verification in respect of the various commercial parameters.

15. The report noted that the Arrangement was initially in force from 2003 to October 2005 at which time it was extended indefinitely by means of an addendum signed by the ministers of agriculture of the three countries.

16. The report described how the Ministry of the Economy, the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food Supply (SAGARPA), the Mexican National Service for Agri-Food Health, Safety and Quality (SENASICA-SAGARPA) and the Customs Administration, under instructions from the Ministry of Finance, prepared a voluntary compliance scheme in respect of the Arrangement. They adopted the "Pilot programme dealing with the documentation accompanying imports of yellow maize intended for direct use as food or feed or for processing". The report stated that the pilot programme is a voluntary instrument that was established on 28 September 2005 after consultation with national industry representatives. The report noted that agreement on the pilot programme led to significant results stemming from coordinated actions that did not involve the creation of new laws, regulations or other legal provisions such as Official Mexican Standards. It described the pilot programme as being consistent with the Protocol as well as Mexico's international trade obligations and applicable legislation in force.

17. The report described the objective of the pilot programme to be to enable the identification of imports which may contain LMOs and make it possible to track them from their entry into the country to their final destination. Under the pilot programme, commercial invoices accompanying shipments of yellow maize from Canada and the U.S were to include the 'may contain' statement agreed to under the Trilateral Arrangement. In order to obtain data on the shipments bearing this statement, the Ministry of

Finance published information in the *Official Gazette* of the Federation on the use of an identifier as a statistical marker, allowing customs agents to register a shipment's point of entry into the country.

18. The report described how national industry, associations, organizations and companies submitted information on their yellow maize imports to the Ministry of the Economy using the "Form Detailing Documentation Accompanying Imports which Contain Yellow Maize Intended for Use as Food or Feed, or for Processing".[1] The report also described the seven steps in the pilot programme:

- *Step 1*: the exporter issues an invoice bearing the 'may contain' statement at the point of shipment;
- *Step 2*: the importer receives the shipping documents for admission to Mexico from the point of shipment. These include the invoice bearing the 'may contain' statement and the NAFTA certificate of origin with the tariff item number 10059003[2] (which implicitly indicates that the imported products are not seeds for sowing);
- *Step 3*: the importer submits the import documentation to a SENASICA-SAGARPA official;
- *Step 4*: SENASICA-SAGARPA issues the importer with a phytosanitary import certificate which details the shipment's movement until its destination and is accompanied by shipment documentation. The importer and the customs agent proceed to the import declaration process. The import declaration includes an identifier referring to the 'may contain' advisory;
- *Step 5*: the importer/end-user prepares a quarterly report on maize consumption. The report includes information on any incidents during the movement of a shipment until its final destination;
- *Step 6*: the Ministry of the Economy receives the quarterly reports on maize consumption, processes the information therein and produces a 'certificate of consumption compliance' indicating the consolidated quarterly figure relating to the volume consumed during that period;
- *Step 7*: the Inter-Secretariat Commission on the Biosafety of Genetically Modified Organisms (CIBIOGEM) obtains information related to the importer-user of yellow maize from the documented import shipments in the SENASICA-SAGARPA biosafety database. The Ministry of the Economy issues 'certificates of consumption compliance' for yellow maize to consolidate information on imports. Periodically, statistical information on imports of yellow maize from different sectors and customs is consolidated nationally and forwarded to the BCH.[3]

19. The report listed a number of benefits of the pilot programme: it provided a practical alternative for the implementation of paragraph 2 (a) of Article 18; it avoided unnecessary trade obstacles with NAFTA trading partners who have not ratified the Protocol; it ensured compliance with the Trilateral Arrangement; the Programme created voluntary yet coordinated action between government and industry; it provided an alternative solution to the environmental concern about the possible deviation of grain into the environment; the provisions of the national legal framework on biosafety were obeyed; and the Programme made it possible to transparently disclose the procedures carried out for several years by the industries that import yellow maize and process it for food products.

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1 A copy of the form was included as annex 1 to Mexico's submission.

2 This tariff item is derived from the Harmonized System (HS) code of the World Customs Organization. It consists of the six-digit HS code for 'maize–other' plus a two-digit national code forming a specific code for yellow maize.

3 The Secretariat was unable to confirm the availability of this information in the BCH at the time of writing.

20. The report from Mexico provided statistical information on the imports of yellow maize between 15 October 2005 and 30 September 2007.[4] It stated that 53 companies submitted information using the form referred to in paragraph 17 on a volume of over six million tonnes of imported maize. Of this amount, 84% was reported as having invoices bearing the 'may contain' statement. When compared with the information provided by the Central Administration of Customs Operations, the six million tonnes of imports reported by the industry represented 43% of the total volume of imports recorded by customs. The report noted that the pilot programme made it possible to obtain information on the import into Mexico of yellow maize that may contain GMOs, information that would not have been possible to obtain otherwise.

21. The report noted that the conditions of the maize import regime in Mexico changed in 2008 when NAFTA came into full effect and tariff restrictions were lifted. This led to the transformation of the trade structure as other players began to appear at different points in the process between import and use, making the original scheme of the pilot project more complex and less functional. The report also outlined other problems that arose among participants with regard to the management of the pilot programme, including difficulties related to communications and monitoring. It pointed out that there was a period of adjustment at the beginning of the programme that made for slow implementation initially, but the speed of implementation increased with time until a stable rate was achieved. The report commented that, in general, as the number of participants grew and geographic distribution and business diversity increased, these problems became more acute.

22. The report stated that, in light of changes to trade and industry, a meeting on the re-launching of the pilot programme took place in January 2009. The programme's new scope and timeframe were announced at this meeting, taking into consideration the fifth and sixth meetings of the Parties to the Parties. In view of the new trade and operational circumstances affecting the development of the pilot programme, the industry proposed a Harmonization Convention to the Government of Mexico. The Convention is currently under study with a view to its ultimate formalization. According to the report, the Convention is intended to resolve the problems stemming from the new trade context faced by Mexico and the operation problems identified during the implementation of the pilot programme.

23. The report described a number of objectives of the Convention, including:

(a) Ensuring the harmonization of trade practices that help to preserve Mexico's biodiversity. This harmonization is said to involve the collaboration of countries, agencies and bodies of the federal administration as well as participants in the agri-food industry supply chain;

(b) Ensuring the continuity of the pilot programme;

(c) Providing oversight of the processes on information supply, interpretation and assessment with a view to adjusting them accordingly and enhancing official procedures and trade practices;

(d) Specifying the terms according to which organizations and companies must operate;

(e) Organizing working group to assess and apply the pilot programme;

(f) Ensuring that organizations and companies comply with the Convention;

(g) Promoting the development of mechanisms for the oversight, assessment and adjustment of the processes of the pilot programme in order to attain the highest possible level of compliance. This

[4] More detailed statistical information was provided in annex 3 to Mexico's submission.

would entail the participation of importers and users who are responsible for most of the total imports of the product in question.

24. A Permanent Executive Committee would oversee the Convention and the pilot programme. The report listed a number of guiding principles for the Executive Committee including preservation of the country's biodiversity; compliance with paragraph 2 (a) of Article 18 of the Protocol; and compliance with article 102 of the Mexican Law on the Biosafety of Genetically Modified Organisms.

25. The report described the revised seven steps in the pilot programme as established in the proposed Harmonization Convention that is still under study. The main change from the steps outlined in paragraph 18 above, is the creation of a secure, direct internet system for the reporting of import shipments and use of yellow maize. The report stated that based on current market conditions and structure, the possible operators who would submit information through the internet system as required by the pilot programme are:

(a) The user, i.e. a corporation which is an agro-industrial consumer or processor of yellow maize;

(b) The importer, i.e. a company that only imports and re-distributes the yellow maize whether or not it knows the identity of the buyers and users at the time of import; or

(c) The importer and user where these are one and the same.

26. The report also included information from the private sector detailing the measures taken as a result of incidents that involved the unintentional release of organisms into the environment:

(a) *Incident*: the carrier notifies in writing the client and/or entity legally responsible for the product, providing a brief description of the incident, date, place, units involved and condition of said units;

(b) *Railway protection*: security is called in to safeguard the product until its removal;

(c) *Client*: receives notification and gives written notice to the corresponding authorities;

(d) *Authorities*: send an inspector to the site of the incident and issue a report. Make the necessary recommendations to prevent the germination and propagation of the product;

(e) *Carrier*: removes and/or retrieves the product. Cleans the site, taking the necessary precautions to avoid product germination. If the shipment is retrieved and marketed, the carrier must ensure that the buyer's identity is made known to the client and/or entity legally responsible for the product. The buyer, in turn, must state in writing that it will not use the product for sowing; the product shall only be processed and used for feed;

(f) *Carrier*: once cleaning is completed, notifies the client and/or entity legally responsible for the product so that a joint inspection of the site may be performed. The site is visited periodically to verify that the product has not germinated. If the product has germinated, the plantlets are pulled up;

(g) *Client*: notifies the corresponding authorities in order to coordinate a visit to the site if so required;

(h) *Authorities*: can issue a final report in which they state that the site is clean and that there is no possibility of product germination.

27. One of the annexes accompanying the Mexican submission included information on incidents involving spills of imported yellow maize possibly containing genetically modified organisms that occurred during the implementation of the pilot programme (October 2005 to September 2007). It stated that during that time, the railway company moved approximately four million tonnes of yellow maize and had a traffic total of approximately 4,500 trucks. Two hopper wagons were involved in accidents, an accident rate of 0.044%. The resulting spills were said to amount to between ten and 12 tonnes, representing between 0.00025% and 0.0003% of the import lots moved by the company. It stated that in principle, these incidents pose minimum risk. It explained that both events were immediately reported to the SENASICA-SAGARPA.

28. Niger listed the following experience gained in relation to the use of documentation referred to in paragraph 1 of decision BS-III/10: the elaboration of a national biosafety framework, including domestic regulations; the elaboration of a national biosafety law project; the creation of a database for documentation for shipments of LMOs-FFP with 20 documents; the establishment of national biosafety structures; and access to relevant information for all stakeholders in accordance with the requirements of documentation referred to in paragraph 1 of decision BS-III/10.

29. Venezuela explained that its National Office of Biological Diversity in the Ministry of People's Power for the Environment does not establish specific measures concerning the transportation of living modified organisms among countries that are Parties to the Protocol and those that are not. It explained that this is due to Venezuela currently searching and adjusting its regulations on the manipulation, identification and transportation of living modified organisms by taking existing international norms into account in order to adapt them in the best possible way to the country's needs and requirements.

30. The submission stated that Venezuela does not yet possess enough experience regarding the implementation of paragraph 4 of decision BS-III/10 with respect to the necessary information that must accompany products containing LMOs-FFP. Venezuela expressed the view that the capacity for the elaboration of identification, manipulation and transportation regulations of living modified organisms must be created and a review of the international norms is needed as reference for the development of these particular regulations given the specific characteristics of living modified organisms.[5]

31. The Global Industry Coalition (GIC) expressed the view that Parties can implement the requirements of paragraph 2 (a) of Article 18 of the Protocol as outlined in decision BS-III/10 in a way that is minimally disruptive to trade and that will not be unduly burdensome or costly for Parties. They stated that implementation is already occurring with existing documentation in a way that provides the customs officials of the importing country with the information they require to make a decision to allow the import of the material. GIC felt that paragraphs 4 and 6 of decision BS-III/10 provide adequate instructions to identify the material in a shipment and its purpose in cases where the identity of the material is known, or not known and identified as "may contain". They stated that all the required information can be adequately conveyed using existing documentation.

32. The International Grain Trade Coalition (IGTC) stated that the implementation of paragraph 2 (a) of Article 18 of the Protocol has a profound influence on the commercial requirements and economics of the world's food, feed and processing industries. It expressed the view that it is critically important that the provision be implemented in a commercially acceptable manner. They explained that Governments have a responsibility to ensure that the biosafety frameworks they develop do not cause food-security problems or damage local industry and create unnecessary unemployment through trade disruptions. They commented that trade disruptions often hurt importers more than exporters as countries may not be able to secure needed supplies for food, feed or processing. They cited one example where a shipment

[5] An "Updated summary of information on standards and standard-setting bodies relevant to the handling, transport, packaging and identification of living modified organisms" is available as document UNEP/CBD/BS/COP-MOP/5/INF/6.

was placed in quarantine because one seed in 120,000 tested positive for an unauthorized event. IGTC felt that one seed in 120,000 was unlikely to cause harm to the environment or human or animal health but they explained that the out-of-compliance requirements forcing the product into quarantine created significant trade disruptions with unfortunate consequences for both importers and exporters.

33. IGTC stated that paragraph 2 of Article 18 of the Protocol established an important principle: different end-uses of living modified organisms require different risk management approaches. They pointed out that paragraph 2 (a) of Article 18 focuses on commodities that are destined for food, feed or processing and are not intended for intentional introduction into the environment. They felt that the most cost-efficient method for a Party to ensure that these products do not cause risk to its biodiversity may be to avoid the enforcement of zero thresholds by developing a domestic protocol to confirm that the living modified organisms are indeed used for food, feed or processing and are not introduced into the environment.

34. IGTC recognized the significant decisions on the documentation requirements for the transboundary movements of living modified organisms that were taken at the third meeting of the Parties in Curitiba, Brazil, in 2006 but noted that very few countries have actually implemented decision BS-III/10. IGTC pointed to its Notices to Trade #7 and #8 (17 July 2006 and 15 July 2009 respectively),[6] in which it recommended that IGTC members do not change their current documentation practices until advised by Parties or requested by importers following discussions with their respective governments. IGTC was concerned that global trade could be disrupted if exporters implemented the documentation requirements of decision BS-III/10 before importing Governments had advised their customs officials of the changes.

35. IGTC noted that, to date, very few countries have implemented the documentation requirements for LMOs-FFP and those that have, such as the European Union and Mexico, had their biosafety import requirements largely in place before the third meeting of the Parties. Nonetheless, the IGTC felt it was still possible to draw some conclusions based on the experience that has been gained. This experience includes that the invoice remains the preferred instrument for carrying shipping documentation requirements for living modified organisms as it accompanies all shipments, identifies the exporter and importer and the importer is likely in the same time zone with the same language as customs officials. Other experience was that Parties should ensure that the word "contains" is only used in cases where the identity of the living modified organisms is known through means such as identity-preservation systems as shipments have been disrupted when a Party required shipping documentation to use "contains" before a listing of events in normal bulk shipments. IGTC stated that listing events that are actually in a bulk shipment requires extensive and costly testing and in shipments of commodities with many commercialized events, such as corn, this information may be impossible to provide.

36. Other information from experience gained according to IGTC was that in cases where the identity of living modified organisms is not known, the documentation should state that the commodity in the shipment may contain one or more LMOs-FFP (meaning bulk, break bulk or container shipments of corn, soybeans or canola) and exporting Governments should be required to provide a listing in the Biosafety Clearing-House of events in commercial production with the appropriate information such as the unique identifier. Furthermore, IGTC explained that the international grain trade is not involved in the commercialization process and therefore may not know when an event is commercialized or when an event is discontinued.

[6] The full text of IGTC's Notice to Trade #8 was provided as an appendix to its submission, see document UNEP/CBD/BS/COP-MOP/5/INF/5.

37. IGTC advocated that Parties consider introducing a domestic protocol rather than requiring the shipping documentation to list events that may be in the shipment as a means to protect biodiversity. It pointed to experience from the use of such a protocol in Mexico with regard to trade with non-Parties. It highlighted a number of aspects of the Mexican approach including:

(a) When a customs officer in Mexico sees on the invoice that the cargo may contain living modified organisms, that the commodity is to be used for food, feed or processing and that the commodity is not for intentional introduction into the environment, the customs officer immediately enters the information into a special field in the customs database system which triggers a request to the importer and/or end user to complete a form confirming that the cargo was indeed used for food, feed or processing and to forward the completed form back to the Government;

(b) Through relatively low cost procedures, the domestic protocol protects Mexico's biodiversity by ensuring that all LMOs-FFP are not introduced into the environment while avoiding costly testing procedures and minimizing potential trade disruptions that could adversely impact the country's food security.

38. The final area of experience described by IGTC was that Parties should ensure that advance notice is given of any change in shipping documentation. They stated that the World Trade Organization requires that advance notice be posted of any regulatory change that may impact trade. Furthermore, they described how grain contracts are often negotiated six months before shipment and exporters and importers must know the regulations that will be in force at the time of shipment. They cited an example where shipping regulations were changed while vessels were en route, disrupting trade.

39. IGTC concluded that there is potential to unintentionally create significant trade disruptions in the implementation of decision BS-III/10 by generating potential regulatory compliance issues that subsequently cause severe hardship both to importers and exporters. IGTC stated that Parties must consider potential trade implications in the development of their biosafety regulatory frameworks.

II. CAPACITY-BUILDING EFFORTS

40. The European Union listed nine capacity-building activities related to the implementation of the requirements of paragraph 4 of decision BS-III/10 in which its member States or the European Commission were involved:

(a) The Government of Spain had co-organized a regional training for Latin America and the Caribbean on the identification and documentation of living modified organisms that took place from 23 to 27 November 2009. The main objective of the workshop was to introduce participants to the requirements of the Biosafety Protocol regarding the identification and documentation of living modified organisms and to techniques and methodologies that may be used to ensure the implementation of these requirements;

(b) In November 2009, the Government of Austria co-financed a five-day laboratory training on quantitative GMO detection carried out in cooperation with the Institute for Chemistry Malaysia within a United Nations Development Programme–Global Environment Facility (UNDP-GEF) implementation project. The course had 15 participants from different enforcement laboratories and universities in Malaysia and included both theoretical (e.g. sampling and detection methods, legal requirements for testing) and practical components (analysing samples for GMO content);

(c) Since the adoption of decision BS-III/10, the European Commission has financially supported the CBD Secretariat in organising regional training of trainers' workshops on the identification and documentation of LMOs, including in Africa (see below for more details.);

(d) Since the adoption of decision BS-III/10, the European Commission has financially supported the Convention Secretariat in liaising with the Green Customs Initiative in support of a wider implementation of the documentation requirements agreed to under the Protocol;

(e) The Joint Research Center (JRC) of the European Commission has conducted a series of training courses on the analysis of food and feed samples for the presence of GMOs since 2000. The specific objective of the training courses is to familiarize the staff of control laboratories with molecular detection techniques and to help them to adapt their facilities and work programmes to include analyses to comply with worldwide regulatory acts in the field of biotechnology. Staff from more than 100 laboratories have been trained to date. Training courses are organized both in response to general and specific needs and participants have included individuals from European Union and non-European Union countries, including Eastern European countries with economies in transition;

(f) The European Union and the World Health Organization (WHO) have collaborated since 2000 in the organization of training courses on detection techniques for GMOs in foods. The aim is to provide analytical biotechnology skills to food control laboratory staff and to promote the use of validated and harmonized methods for detecting, identifying and quantifying GMOs. As part of this joint effort, training courses have been held in the WHO European Region, including Central and Eastern European countries with economies in transition. The Joint Research Center and WHO have also developed a *Joint Manual on Analysis of Food Samples for the Presence of GMOs*. The specific objectives are to provide information on the methodologies and protocols currently used and to assist in the diffusion and dissemination of skills in GMO detection and quantification, taking into account the context of the different working environments and individual needs;

(g) The Joint Research Center has established the European Network of GMO Laboratories, which develops methods for tracing GMOs and provides free electronic access to this information, including to developing countries and countries with economies in transition;

(h) The Joint Research Center organized the first "Global Conference on GMO Analysis" in Como, Italy, from 24 to 27 June 2008;

(i) The Joint Research Center authored a report providing an "Overview of EU activities for the development and harmonisation of GMO detection methods and sampling procedures". The report contains an authoritative overview of the latest state of play in sampling and detection methods. It is a living document with embedded links leading to the latest state-of-the-art information on the subject matter. It is available online in the Biosafety Information Resource Centre of the BCH (record 43770).

41. Regarding the implementation of paragraph 4 of decision BS-III/10, including capacity-building efforts in developing countries made with respect to the implementation of the requirements of paragraph 4, Niger listed the following as initiatives it is undertaking: the operationalization of the national biosafety framework; the development of legislative and institutional national capacities; ensuring adequate equipment for the national reference laboratory; and establishing follow-up, monitoring and inspection systems for living modified organisms.

42. The Biosafety Unit of the Secretariat of the Convention on Biological Diversity also undertook a number of relevant capacity-building activities in the inter-sessional period. These were intended to contribute to not only the capacity-building elements of decision BS-III/10 but also to paragraph 3 of decision BS-IV/9, which calls for cooperation in efforts to build capacity in developing country Parties

and Parties with economies in transition in the area of sampling and detection of living modified organisms.

43. The Secretariat organized the Africa Regional Training of Trainers' Workshop on the Identification and Documentation of Living Modified Organisms under the Cartagena Protocol on Biosafety with funding from the European Commission and the West African Economic and Monetary Union. The workshop was hosted by the Government of Mali at the University of Bamako from 14 to 18 September 2009. The workshop was attended by more than 36 participants, including representatives of 22 countries and six organizations involved in the identification and documentation of living modified organisms. The workshop was aimed at introducing customs officers to: (i) the requirements of the Cartagena Protocol on Biosafety regarding the identification and documentation of LMOs; and (ii) techniques and methodologies that may be used for the implementation of these requirements. To this end, participants discussed the role of customs officials in implementing the Cartagena Protocol on Biosafety, documentation accompanying shipments of living modified organisms, sampling and detection of living modified organisms and experiences of the Green Customs Initiative partners. One of the major outputs of the workshop was the development of action plans for the implementation of the identification and documentation requirements for LMOs by country participants. The workshop also had an experimental session on LMO detection and identification at the Laboratoire de Biologie Moléculaire Appliquée of the University of Bamako. The report of the workshop is available as document UNEP/CBD/BS/COP-MOP/5/INF/19.

44. The Secretariat next organized a similar workshop for the GRULAC region. The workshop was hosted by the Government of Mexico through the National Autonomous University of Mexico, in collaboration with the Inter-American Institute for Cooperation on Agriculture. Financial support for participants was provided by the Government of Spain. Thirty-four participants from 19 countries and five organizations attended. Participants in the workshop included customs officers and related border-protection personnel. The workshop had the same objectives as the one for the Africa region and touched on similar themes. One of the major outputs of the workshop was the development of action plans for the implementation of identification and documentation requirements of LMOs by country participants. The workshop also included a practical laboratory session on detection and identification of LMOs. The laboratory sessions were held at the Faculty of Chemistry at the National Autonomous University of Mexico. The report of the workshop is available as document UNEP/CBD/BS/COP-MOP/5/INF/20.

45. Information on the workshops including resource materials are available through the Collaborative Portal for Customs Officers on the BCH: http://bch.cbd.int/onlineconferences/customs_art18.shtml.

46. The Secretariat also collaborated with the UNDP-GEF Biosafety Project in Malaysia to organize a Malaysian National Workshop on the Identification and Documentation of Living Modified Organisms under the Cartagena Protocol on Biosafety. More than 50 participants from Malaysian customs, health and quarantine services participated in the workshop. Representatives of the Secretariat served as resource persons during the workshop and provided information on the Cartagena Protocol on Biosafety, its requirements for the documentation and identification of LMOs and the Biosafety Clearing-House. The workshop also included a practical laboratory session on the identification and detection of LMOs as well as a field-study visit to Port Klang where officials demonstrated the sampling and inspection practices used for imports of living organisms into Malaysia. At the end of the workshop, the participants developed recommendations to facilitate the implementation of identification and documentation requirements of LMOs in Malaysia.

III. ELEMENTS FOR A DRAFT DECISION

47. As described above, decision BS-III/10 calls on the Parties to consider two points at their fifth meeting:

(a) Experience gained with the use of documentation referred to in paragraph 1 of the decision with a view to further harmonization of a documentation format to fulfil the identification requirements set out in paragraph 4 of the decision, including consideration of the need for a stand-alone document; and

(b) An assessment and review of experience gained with implementation of paragraph 4 of the decision with a view to considering a decision at the sixth meeting of the Parties to ensure that documentation accompanying LMOs-FFP covered by paragraph 4 clearly states that the shipment contains LMOs-FFP and includes the detailed information in of paragraph 4 (c)-(f).

48. In light of these points and the above information, the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol may wish to:

(a) Request Parties to the Protocol and urge other Governments to continue to take measures to ensure that the information required by paragraph 2 (a) of Article 18 and paragraph 4 of decision BS-III/10 to identify living modified organisms intended for direct use as food or feed, or for processing, is incorporated into existing documentation accompanying the living modified organisms, as specified in paragraph 1 of decision BS-III/10;

(b) Urge Parties to expedite the implementation of their biosafety regulatory frameworks and make available to the Biosafety Clearing-House any laws, regulations and guidelines for the implementation of the Protocol, and any changes to their regulatory requirements related to the identification and documentation of living modified organisms intended for direct use as food or feed, or for processing;

(c) Request Parties and urge other Governments to take measures that facilitate further the implementation of decision BS-III/10, in particular its paragraph 4;

(d) Request Parties and encourage other Governments, relevant international organizations, as well as the Global Environment Facility to cooperate with and support developing country Parties and Parties with economies in transition to build capacity to implement the identification requirements of paragraph 2 (a) of Article 18 and related decisions;

(e) Encourage Parties to develop domestic systems to confirm that imported living modified organisms intended for direct use as food or feed, or for processing are used for that purpose and are not introduced into the environment;

(f) Decide, taking into account the limited experience gained to date in the implementation of paragraph 4 of decision BS-III/10, to postpone the consideration of the decision envisaged in paragraph 7 of decision BS-III/10 until its eighth meeting;

(g) Request Parties and invite other Governments and relevant international organizations to submit to the Executive Secretary, no later than six months prior to the eighth meeting of the Parties to the Protocol, further information on experience gained with the implementation of paragraph 4 of decision BS-III/10 as well as the present decision.
