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

Eighth meeting

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Item 12 of the provisional agenda**

**UNINTENTIONAL TRANSBOUNDARY MOVEMENTS AND EMERGENCY MEASURES
(ARTICLE 17) AND THE DETECTION AND IDENTIFICATION OF
LIVING MODIFIED ORGANISMS**

Note by the Executive Secretary

I. INTRODUCTION

1. In its decision BS-VII/10, paragraph 1, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety invited Parties and other Governments to submit to the Executive Secretary information on actual cases of unintentional transboundary movement of living modified organisms (LMOs) and case studies related to their existing mechanisms for emergency measures in case of unintentional transboundary movements that are likely to have significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, including information on existing rapid alert mechanisms and monitoring systems, and requested the Executive Secretary to compile and synthesize the information received.

2. In paragraph 2 of the same decision, the Conference of the Parties serving as the meeting of the Parties invited Parties and other Governments to submit views, in the context of operational objective 1.8 of the Strategic Plan for the Cartagena Protocol on Biosafety for the period 2011-2020, on what constitutes unintentional transboundary movements in contrast with illegal transboundary movements and what type of information should be exchanged through the Biosafety Clearing-House, and requested the Executive Secretary to compile and synthesize information submitted for consideration by the Compliance Committee at its thirteenth meeting and, on the basis of this compilation, to submit suggested clarifications on what constitutes an unintentional transboundary movement in contrast with an illegal transboundary movement.

3. Further, in paragraph 4 of the decision, the Conference of the Parties serving as the meeting of the Parties requested the Online Network of Laboratories for the Detection and Identification of Living Modified Organisms to continue working on issues relevant to the detection and identification of LMOs with a view to achieving the operational objectives of the Strategic Plan relevant to the implementation of article 17.

4. The Conference of the Parties serving as the meeting of the Parties also requested the Executive Secretary, among other things:

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(a) To organize, in cooperation with relevant organizations, subject to the availability of funds, capacity-building activities, such as online and face-to-face training workshops on sampling, detection and identification of LMOs, to assist Parties in fulfilling the requirements under article 17 and towards achieving the relevant outcomes of the Strategic Plan;

(b) To create, in the Biosafety Clearing-House, a system for the easy identification of notifications relating to unintentional transboundary movements of LMOs within the context of article 17, and provide cross-references among the notifications and relevant detection methods, where applicable.

5. The present note provides an overview of actions taken in response to decision BS-VII/10 to assist the Conference of the Parties serving as the meeting of the Parties in its deliberations on this agenda item. Section II summarizes the clarifications suggested by the Compliance Committee on what constitutes an intentional transboundary movement of LMOs in contrast with an illegal transboundary movement. Section III provides a synthesis of the information and views submitted by Parties and other Governments on matters related to unintentional transboundary movements. Section IV contains a summary of the outcomes of the activities undertaken by the Network of Laboratories for the Detection and Identification of Living Modified Organisms. Section V provides an overview of the capacity-building activities undertaken during the intersessional period. Section VI provides a summary of the improvements made in the Biosafety Clearing-House within the context of the submission of notifications under article 17. Finally, section VII outlines suggested elements of a draft decision for consideration by the Conference of the Parties serving as the meeting of the Parties at its eighth meeting.

II. SUGGESTED CLARIFICATION ON WHAT CONSTITUTES UNINTENTIONAL TRANSBOUNDARY MOVEMENTS IN CONTRAST WITH ILLEGAL TRANSBOUNDARY MOVEMENTS

6. In response to paragraph 2 of decision BS-VII/10, the Secretariat issued a notification¹ inviting Parties and other Governments to submit their views on what constitutes an unintentional transboundary movement in contrast with an illegal transboundary movement. Submissions were made by 12 Parties (Brazil, Cambodia, Colombia, European Union, Malaysia, Mexico, Nigeria, New Zealand, Norway, Philippines, Republic of Korea and Zimbabwe) and one other Government (Australia).²

7. The Secretariat compiled and synthesized the information submitted and proposed draft operational definitions in document UNEP/CBD/BS/CC/13/5³ for consideration by the Compliance Committee at its thirteenth meeting, held in Montreal, Canada, from 24 to 26 February 2016.

8. The Compliance Committee noted that an operational definition could provide Parties with useful guidance and, in that regard, decided to recommend to the Conference of the Parties serving as the meeting of the Parties at its eighth meeting the adoption of operational definitions of the terms “unintentional transboundary movement” and “illegal transboundary movement”, with a corresponding explanatory note, as follows:

¹ Notification SCBD/BS/MPM/DA/84222, available from <https://www.cbd.int/doc/notifications/2015/ntf-2015-002-bs-en.pdf>.

² The original submissions can be found at http://bch.cbd.int/protocol/cpb_art17/submissions.shtml.

³ Following a recommendation by the Compliance Committee, the document is also being made available to the Conference of the Parties serving as the meeting of the Parties at its eighth meeting, as it provides the necessary context for considering the operational definitions.

“Illegal transboundary movement” is a transboundary movement carried out in contravention of the domestic measures to implement the Protocol that have been adopted by the affected Party;

“Unintentional transboundary movement” is a transboundary movement of a living modified organism that has inadvertently crossed the national borders of a Party whereby the living modified organism was released either deliberately or accidentally.

Explanatory note:

An illegal transboundary movement may include transboundary movements of living modified organisms that have not been approved for a particular use in the jurisdiction of the affected Party;

A transboundary movement can still be considered illegal if it results in a contravention of the affected Party’s domestic measures to implement the Protocol, even if the transboundary movement is unintentional.

III. SYNTHESIS OF INFORMATION ON ACTUAL CASES OF UNINTENTIONAL TRANSBOUNDARY MOVEMENT AND CASE STUDIES RELATED TO EXISTING MECHANISMS FOR EMERGENCY MEASURES IN CASE OF UNINTENTIONAL TRANSBOUNDARY MOVEMENTS

9. In response to paragraph 1 of decision BS-VII/10, the Secretariat invited Parties and other Governments, through the same notification referred to in paragraph 7 above, to submit information on actual cases of unintentional transboundary movement and case studies related to their existing mechanisms for emergency measures in case of unintentional transboundary movements of LMOs that are likely to have significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, including information on existing rapid alert mechanisms and monitoring systems.

10. Four Parties submitted information on actual cases where unintentional transboundary movements of LMOs into or out of their countries were detected, for example cotton, rice, maize, papaya, flax and zebra fish.

11. The same four Parties indicated that the emergency measures implemented following the detection of unintentional transboundary movements of LMOs into or out of their countries included destroying the material from shipments and/or any sown seed that tested positive for the presence of the LMOs, returning the shipment to the exporting country, and carrying out a risk assessment on the detected living modified organism to establish a tolerance limit for its presence.

12. Furthermore, a Party noted that, as a preventative measure, it requests the exporting country to accompany all shipments of a particular crop with a certificate demonstrating the absence of LMOs while also carrying out random sampling and analysis of the shipments upon import.

13. Two of these Parties also indicated that they had reported some of the cases in which unintentional transboundary movements of LMOs had been detected in their countries to the Biosafety Clearing-House as illegal transboundary movements.

14. The remaining submissions indicated that no cases of unintentional transboundary movement had been encountered. Among the submissions, some indicated that they have guidelines and mechanisms in place for emergency measures in case of detection of an unintentional transboundary movement of an LMO into their country. However, they did not provide details or practical guidelines regarding the content of their emergency measures.

15. Furthermore, some Parties highlighted the importance of detection and identification of LMOs as key components towards taking appropriate measures to respond to unintentional transboundary movements of LMOs.

IV. SUMMARY OF THE OUTCOMES OF THE ACTIVITIES UNDERTAKEN BY THE NETWORK OF LABORATORIES FOR THE DETECTION AND IDENTIFICATION OF LIVING MODIFIED ORGANISMS

16. To facilitate the request by the Conference of the Parties serving as the meeting of the Parties contained in paragraph 4 of decision BS-VII/10, the Secretariat organized a series of online discussions under the Network of Laboratories for the Detection and Identification of Living Modified Organisms between January and April 2015.⁴

17. Further to the online discussions, with financial support from the Government of Japan through the Japan Biodiversity Fund and in collaboration with the Institute for Health and Consumer Protection of the European Commission's Joint Research Centre, the Workshop of the Network of Laboratories for the Detection and Identification of Living Modified Organisms was held in Ispra, Italy, from 9 to 11 June 2015.⁵

18. The outcomes of the face-to-face workshop of the Network included a plan of action for the development of training material for capacity-building activities on the detection and identification on LMOs to assist countries in fulfilling their relevant obligations under the Protocol and achieving the outcomes of the Strategic Plan that are relevant to the detection and identification of LMOs.

19. Following the workshop and in accordance with the agreed plan of action for the development of the training material, the Secretariat initiated the development of the training material, in consultation with relevant participants in the workshop and the Network, as appropriate. An advance draft of the training material is available as document UNEP/CBD/BS/COP-MOP/8/INF/6.

20. Furthermore, participants in the workshop made the following recommendations for future actions to further assist Parties to adequately detect and identify LMOs for the consideration of the Conference of the Parties serving as the meeting of the Parties at its eighth meeting:

(a) Invite Parties and other Governments to provide information regarding their capacity and needs in the detection and identification of LMOs, including a list of laboratories and their specific activities;

(b) Encourage Parties to establish effective mechanisms to support the workflow for sampling, detection and identification by, for example, providing border control officials and laboratories with the appropriate mandates to sample, detect and identify LMOs, ensuring that laboratories remain functional and that they receive high-quality test samples;

(c) Encourage Parties to support regional and subregional LMO detection networks and, subject to the availability of funds, provide the networks with opportunities to host meetings;

(d) Encourage Parties to nominate experts in the field of LMO detection and identification to the roster of biosafety experts;

(e) Encourage Parties, with a view to facilitating the identification of LMOs, to submit to the Biosafety Clearing-house information on methods of detection and identification;

(f) Request the Executive Secretary:

(i) To continue organizing online discussions through the Network of Laboratories focusing on the detection and identification of LMOs;

(ii) To convene, in cooperation with relevant organizations, subject to the availability of funds, regional and subregional capacity-building activities, such as online training

⁴ See http://bch.cbd.int/onlineconferences/portal_detection/discussions.shtml.

⁵ The report of the face-to-face workshop of the Network of Laboratories for the Detection and Identification of Living Modified Organisms is available as document [UNEP/CBD/BS/COP-MOP/8/INF/5](http://bch.cbd.int/onlineconferences/portal_detection/discussions.shtml).

and face-to-face meeting/workshops in the fields of sampling, detection and identification of LMOs;

- (iii) To improve the user interface of the Technical Tools and Guidance for the Detection and Identification of LMOs with a view to creating a searchable and indexed database;
- (iv) To establish a mechanism for regularly updating the Technical Tools and Guidance for the Detection and Identification of LMOs;
- (v) To establish a mechanism for regularly updating the training material for capacity-building workshops on sampling, detection and identification of LMOs.

V. CAPACITY-BUILDING ACTIVITIES ON THE DETECTION AND IDENTIFICATION OF LIVING MODIFIED ORGANISMS

21. The Secretariat organized two regional workshops, with support from the Government of Japan through the Japan Biodiversity Fund and the Government of the Republic of Korea through the Korea Biosafety Capacity Building Initiative, with the objective of providing theoretical and hands-on training on:

- (a) Sampling, detection and identification of LMOs in the context of the Cartagena Protocol on Biosafety;
- (b) Laboratory methodologies used for the analysis of test samples;
- (c) Sharing experiences and assessing national needs and gaps for the effective implementation of the relevant outcomes under the Strategic Plan for the Cartagena Protocol.

22. The first workshop was organized in collaboration with the Slovenian National Institute of Biology and the Slovenian Ministry of the Environment and Spatial Planning, for the benefit of countries in the Central and Eastern European region and held in Ljubljana from 7 to 11 March 2016.

23. The second workshop was organized in collaboration with the Intersecretarial Commission on Biosafety of Genetically Modified Organisms on behalf of the Government of Mexico and the Centro Nacional de Referencia en Detección de Organismos Genéticamente Modificados, for the benefit of Spanish-speaking countries in the Latin American and Caribbean region, and held in Mexico City from 15 to 19 August 2016.

24. The reports of the two workshops are available as an information document (UNEP/CBD/BS/COP-MOP/8/INF/7).

25. In evaluating whether the objectives of the training workshops had been achieved, the participants from both the Central and Eastern European and Latin American and Caribbean regions were in agreement that the workshops were useful and had achieved their intended outcomes.

26. The participants in the two workshops identified the following as possible future actions for facilitating the implementation of activities relating to the detection and identification of LMOs at the national and regional levels for consideration by the Conference of the Parties serving as the meeting of the Parties at its eighth meeting:

- (a) Encouraging Parties to establish, support and participate in regional and subregional LMO detection networks in order to promote technical cooperation within the field and, subject to the availability of funds, provide the networks with opportunities to host training workshops;
- (b) Encouraging Parties to establish effective mechanisms to support the workflow for sampling, detection and identification by, for example, providing the relevant border control officials and LMO detection laboratories with the appropriate mandates within the Party's regulatory system to sample, detect and identify LMOs;

(c) Encouraging Parties to make funds available for the training of laboratory personnel in the field of detection and identification of LMOs, including the provision of co-financing opportunities;

(d) Requesting the Executive Secretary to continue organizing, in cooperation with relevant organizations and subject to the availability of funds, such capacity-building activities as online training and face-to-face meetings/workshops in the fields of sampling, detection and identification of LMOs, with a specific emphasis on the topics of (i) sampling at the border; (ii) establishment and maintenance of quality assurance and quality control systems; (iii) interpretation of the results of LMO analysis reports; (iv) environmental sampling; (v) developing reference materials; and (vi) validation procedures; and (iv) measurement of uncertainty.

VI. SUMMARY OF THE IMPROVEMENTS TO THE BIOSAFETY CLEARING-HOUSE MADE IN THE CONTEXT OF THE SUBMISSION OF NOTIFICATIONS UNDER ARTICLE 17

27. Notifications relating to unintentional transboundary movements of LMOs within the context of Article 17 are currently submitted to the Biosafety Clearing-House through the common format for submission of “Country’s Decisions and other Communications”.⁶

28. In response to the request in decision BS-VII/10 to create, in the Biosafety Clearing-House, a system for the easy identification of notifications relating to unintentional transboundary movements of LMOs within the context of Article 17, and provide cross-references between the notifications and relevant detection methods, where applicable, the Secretariat:

(a) Added filters to the Biosafety Clearing-House search tools to enable more targeted searches of “Country’s Decisions and other Communications” records, thereby facilitating the identification of notifications made in the context of article 17;

(b) Added links within the notifications to relevant information on detection methods;

(c) Modified the language of the common format for the submission of such notifications to further align it with the text of the Protocol and to provide clarity to users regarding the type of information to be made available to the Biosafety Clearing-House.

VII. SUGGESTED ELEMENTS OF A DRAFT DECISION

29. Taking into account the information above, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol may wish to adopt a decision along the following lines:

(a) Adopt the operational definitions of the terms “unintentional transboundary movement” and “illegal transboundary movement”, with a corresponding explanatory note as recommended by the Compliance Committee;

(b) Urge Parties to submit to the Biosafety Clearing-House information and available guidance on the mechanisms for emergency measures in case of unintentional transboundary movements;

(c) Welcome the draft training manual on the detection and identification of LMOs;

(d) Invite Parties to provide information regarding their capacity and needs in the detection and identification of LMOs, including a list of laboratories and their specific activities;

(e) Encourage Parties to establish effective mechanisms to support the workflow for sampling, detection and identification by, for example, providing border control officials and laboratories with the appropriate mandates to sample, detect and identify LMOs, ensuring that laboratories remain functional and that they receive high-quality test samples;

⁶ <http://bch.cbd.int/database/decisions/>

(f) Encourage Parties to establish, support and participate in regional and subregional LMO detection networks in order to promote technical cooperation within the field and, subject to the availability of funds, for example through the Roster of Biosafety Experts, provide the networks with opportunities to host training workshops;

(g) Invite Parties to nominate experts in the field of LMO detection and identification to the roster of biosafety experts;

(h) Encourage Parties, other Governments and relevant organizations to submit to the Biosafety Clearing-house information on methods for the detection and identification of LMOs;

(i) Request the Executive Secretary:

- (i) To continue organizing online discussions through the Network of Laboratories focusing on the detection and identification of LMOs;
 - (ii) To continue convening, in cooperation with relevant organizations, subject to the availability of funds, regional and subregional capacity-building activities, such as online training and face-to-face meeting/workshops in the fields of sampling, detection and identification of LMOs with specific emphasis on the topics of (i) sampling at the border; (ii) establishment and maintenance of quality assurance and quality control systems; (iii) interpretation of the results of LMO analysis reports; (iv) environmental sampling; (v) developing reference materials; and (vi) validation procedures; and (iv) measurement of uncertainty;
 - (iii) To finalize the training manual and make it available for capacity-building workshops on sampling, detection and identification of LMOs and establish a mechanism for regularly updating its content in line with advances in the field;
 - (iv) To commission a study, taking into account the information submitted under paragraph (b) above, to analyse possible gaps in existing standards, methods and guidance including assessing the possible need for the elaboration of standards on mechanisms for emergency measures in case of unintentional transboundary movements, and to make the study available for consideration by the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety at its ninth meeting;
 - (v) To improve the user interface of the Technical Tools and Guidance for the Detection and Identification of LMOs with a view to creating a searchable and indexed database and regularly update its content, as needed;
 - (vi) To create in the Biosafety Clearing House a system for the easy identification of capacity-building training opportunities related to detection and identification of LMOs.
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