



COP/MOP-2 HIGHLIGHTS: TUESDAY, 31 MAY 2005

Delegates to the second meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD) serving as the meeting of the Parties to the Cartagena Protocol on Biosafety (COP/MOP-2) convened in two working group sessions. Working Group I (WG-I) continued discussion on risk assessment and risk management, and considered handling, transport, packaging and identification (HTPI), and other scientific and technical issues. Working Group II (WG-II) addressed notification requirements and socioeconomic considerations. A contact group discussed documentation for living modified organisms for food, feed or processing (LMO-FFPs).

WORKING GROUP I

RISK ASSESSMENT AND RISK MANAGEMENT: Many delegates emphasized capacity building. ARGENTINA said the scope of risk assessment under the Protocol should not extend to health. The REPUBLIC OF KOREA emphasized dialogue between scientists and policy makers.

The FAO INTERNATIONAL PLANT PROTECTION CONVENTION described a recent supplement, including LMO risk analysis, to the International Standard for Phytosanitary Measures on Pest Risk Analysis for Quarantine Pests. The PUBLIC RESEARCH AND REGULATION INITIATIVE described its development of a modular risk assessment guide. WG-I Chair Birthe Ivars (Norway) will prepare a Chair's text.

HTPI: Documentation for LMO-FFPs (Article 18.2(a)): The Secretariat introduced documents on HTPI (UNEP/CBD/BS/COP-MOP/2/10 and Add.1) and relevant information documents (UNEP/CBD/BS/COP-MOP/2/INF/3-4). François Pythoud (Switzerland) reported on the meeting of the Technical Expert Group on LMO-FFP identification requirements, noting his revised Chair's text does not reflect consensus. NEW ZEALAND, SWITZERLAND, CANADA, ARGENTINA and AUSTRALIA supported using the Chair's text as a starting point for discussions. Ethiopia, on behalf of the AFRICAN GROUP, with CUBA, PANAMA, UKRAINE, INDIA, MALAYSIA and others, preferred using instead Decision BS-I/6 (HTPI). The EUROPEAN COMMUNITY (EC) and NORWAY supported basing discussions on Decision BS-I/6 with some elements from the Chair's text.

The AFRICAN GROUP stressed that no trace of unapproved LMOs should be contained in any commodity shipment, and that approved trace LMOs should be identified in any shipment; and with PERU, CHINA and others, opposed using the "may contain" language included in Protocol Article 18.2(a). On setting a threshold for approved trace LMOs, many countries

emphasized the need to build capacity in monitoring and testing. The EC supported allowing importing Parties to decide whether to receive information in commercial invoices or in a stand-alone document. Several countries suggested documentation include, *inter alia*: common, scientific and commercial names; unique identifier; certificate of origin; and transformation event code. Several participants stressed the need for a fully functioning Biosafety Clearing-House (BCH) as a prerequisite for a documentation decision.

INDIA, MALAYSIA and LIBERIA underscored that safety must be the overriding concern of identification requirements. CAMEROON highlighted the situation of biodiversity-rich transit States. AUSTRALIA warned against rushing a decision on documentation as long as experience or capacity are lacking. INDONESIA said identification requirements should not affect domestic regulation. The CODEX ALIMENTARIUS COMMISSION introduced relevant work on the identification of food derived from biotechnology. The INTERNATIONAL GRAIN TRADE COALITION proposed using the "may contain" language during a transitional period. WG-I Chair Ivars established a contact group, to be co-chaired by Pythoud and Nematollah Khansari (Iran).

Documentation for LMOs destined for contained use or for intentional introduction into the environment (Article 18.2(b) and (c)): SWITZERLAND requested the Secretariat consult with the International Air Transport Association and other organizations on practices in the shipment of hazardous materials. The Netherlands, on behalf of the EU, and JAPAN, ARGENTINA and NORWAY proposed reporting on implementation of this issue to COP/MOP-4. WG-I Chair Ivars will prepare a Chair's text.

OTHER SCIENTIFIC AND TECHNICAL ISSUES: The Secretariat introduced documents on other scientific and technical issues necessary for the Protocol's implementation (UNEP/CBD/BS/COP-MOP/2/14 and UNEP/CBD/BS/COP-MOP/2/INF/6). SWITZERLAND asked for guidance on the status of documentation requirements for LMOs that are veterinary products not intended for introduction into the environment. NEW ZEALAND and the PUBLIC RESEARCH AND REGULATION INITIATIVE suggested exemptions for such products. The EU suggested considering them as LMOs destined for contained use or for intentional release. ARGENTINA, the AFRICAN GROUP and NORWAY stated that all LMO veterinary products are destined for intentional release.

CANADA, JAPAN, ARGENTINA and NORWAY raised the issue of documentation obligations for transit States, with ARGENTINA requesting that obligations apply to exporters only. WG-I Chair Ivars said a Chair's text will be prepared.

**WORKING GROUP II**

NOTIFICATION REQUIREMENTS: THAILAND, CANADA and the GLOBAL INDUSTRY COALITION suggested keeping the issue under review pending submission of interim national reports. CANADA highlighted the need for importing country regulations to integrate notification requirements. MADAGASCAR said transit countries should also be notified.

In the afternoon, WG-II Chair Orlando Santos (Cuba) presented a conference room paper containing a draft decision prepared by the Chair on options for implementing Article 8 (Notification). On preambular text referring to the rights of countries of transit, CANADA noted the reference to language of Protocol Article 6.1 (transit) was incomplete, and BRAZIL suggested including text from Protocol Article 7 (Application of the Advance Informed Agreement Procedure). Following an EU proposal, delegates agreed to recall both Articles 6 and 7, without quoting their text. ZAMBIA, NAMIBIA, ZIMBABWE, TURKEY, PANAMA and CUBA called for reference to the sovereign rights of transit States in the operative part of the decision.

Regarding the operative part, the EU proposed, and delegates agreed, to consider modalities of implementing notification requirements at COP/MOP-4 "if appropriate." BRAZIL and NEW ZEALAND called for deleting all proposed elements of implementation, suggesting they are outside COP/MOP's medium-term programme of work. SOUTH AFRICA suggested deleting only language repeating the provisions of Protocol Article 8, and ALGERIA, the EU, INDIA and CUBA proposed instead recalling Articles 6 and 8 without quoting their text. BRAZIL opposed a reference to penalties for infringing notification requirements.

ZIMBABWE, SOUTH AFRICA, RWANDA, KENYA and TANZANIA stressed the need to provide for notification to the national authority of the transit State. Delegates then debated language on exporting countries' notification requirements regarding transit States. ZAMBIA suggested language acknowledging the right of a Party of transit to regulate the transport of LMOs through its territory, including requiring notification in writing to its competent national authority, if so required by its law. Delegates debated reference to the law of the transit State, with KENYA opposing and the EU and CUBA supporting it. No agreement was reached and the reference is bracketed, pending informal consultations.

SOCIOECONOMIC CONSIDERATIONS: The Secretariat introduced a note on cooperation on research and information exchange regarding socioeconomic considerations (UNEP/CBD/BS/COP-MOP/2/12). The EU and others suggested using the BCH. AUSTRALIA preferred creating a chat room on the Protocol website. NAMIBIA prioritized information gathering at national and regional levels. ZIMBABWE proposed the COP/MOP consider socioeconomic effects of genetic use restriction technologies. The EU highlighted work undertaken by the CBD COP on the issue, and cautioned against duplication. TURKEY suggested considering the effects of LMOs on landraces and small farmer systems. ZAMBIA, supported by many, suggested compiling information on policies and laws, and building capacities to assess socioeconomic factors. MALAYSIA, supported by many, urged a UNEP study on current socioeconomic impacts of LMOs.

ARGENTINA and AUSTRALIA cautioned against creating trade barriers and, with BRAZIL, called for consistency with other international agreements. AUSTRALIA, supported by the US, suggested a case-by-case approach rather than developing guidelines. BRAZIL highlighted the lack of international agreement on a common methodology for evaluating socioeconomic impacts.

Regarding the draft decision, MALAYSIA, supported by many, suggested specific timelines for considering a synthesis of views. BRAZIL highlighted the workload and timelines already undertaken. The EU considered it premature to submit proposals to COP/MOP-3. ALGERIA suggested language requesting

donor countries and financing agencies to provide funding to developing countries. WG-II Chair Santos said a Chair's text will be prepared.

PUBLIC AWARENESS AND PARTICIPATION: The Secretariat introduced the document on public awareness and participation (UNEP/CBD/BS/COP-MOP/2/13). Many delegates highlighted GEF projects, called for ensuring funding, and supported using the BCH. MALAYSIA asked for incorporating programme sustainability.

MEXICO emphasized public awareness through educational systems and, with INDIA, regional collaboration. The MARSHALL ISLANDS, KIRIBATI and GRENADA stressed the need to adapt biosafety information to local languages and situations. The US supported equal participation opportunities for all stakeholders.

The EU called for a memorandum of understanding with the Aarhus Convention to ensure mutual supportiveness. NORWAY suggested the Aarhus Guidelines on genetically modified organisms serve as guidance. BRAZIL, NEW ZEALAND and AUSTRALIA cautioned against importing concepts agreed at regional levels. The GLOBAL INDUSTRY COALITION said procedures should not hinder innovation. The PUBLIC RESEARCH AND REGULATION INITIATIVE identified the need to clarify misconceptions in the public debate on LMOs. WG-II Chair Santos said a Chair's text will be prepared.

CONTACT GROUP ON DOCUMENTATION FOR LMO-FFPS

In the afternoon, the contact group began discussions based on both the revised Chair's text and Decision BS-I/6. Delegates debated references to documentation requirements in cases in which it is not known whether a shipment contains LMOs. Proposals included: deleting the reference; developing scenarios and respective documentation requirements; and drafting consolidated text applicable to all shipments, including additional requirements for cases where a shipment may contain LMOs.

In the evening, delegates considered a Co-Chairs' text reflecting the afternoon's discussions, including a section on documentation measures and on the sharing of experiences, prepared by an informal group. After discussion on procedure, the Co-Chairs decided to first discuss two options outlined in the text relating to documentation requirements: the first retaining language distinguishing between shipments containing LMOs and cases where LMO-content is not known; and the second on documentation accompanying transboundary movement of all LMO-FFPs. Delegates then discussed the preamble, bracketing paragraphs on thresholds for adventitious or technically unavoidable LMOs and on sampling and detecting techniques.

A revised Co-Chairs' text incorporating amendments to the preamble will be prepared for consideration by the contact group on Wednesday.

IN THE CORRIDORS

As negotiations heated up on notification, WG-II witnessed an entrenchment of positions around the interests of exporting, importing and transit countries. Some delegates remarked that this may be symptomatic of diverging expectations of countries that have already enacted national biosafety and biotechnology legislation and those seeking international guidance on starting their national implementation of the Protocol. One participant ventured that this may be a preview of what is likely to develop in the context of negotiations on documentation for LMO-FFPs.

As the contact group began deliberations on documentation, delegates soon got bogged down in scenarios trying to distinguish between "what is known to be known," "what is known to be unknown" and "the unknown." Some argued that exporters can either know which LMOs the shipment contains or that it contains none. Nevertheless, most of the debate revolved around cases where it is not known whether or not the shipment contains LMOs. Delegates agreed, in the end, that a new Co-Chairs' text will contain, may contain, or may or may not contain a compromise solution.