

## SIXTH MEETING OF THE PARTIES TO THE CARTAGENA PROTOCOL ON BIOSAFETY AND ELEVENTH MEETING OF THE CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY: 1-19 OCTOBER 2012

The sixth meeting of the Conference of the Parties (COP) to the Convention on Biological Diversity (CBD) serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety (COP/MOP 6) opens today in Hyderabad, India, and will continue until 5 October 2012. It will be followed by the eleventh meeting of the CBD COP (COP 11) which will meet from 8-19 October. COP/MOP 6 will address a number of substantive issues, including: capacity building; handling, transport, packaging and identification (HTPI) of living modified organisms (LMOs); notification requirements; unintentional transboundary movements and emergency measures; risk assessment and risk management; socio-economic considerations; monitoring and reporting; and the second assessment and review of the Protocol's effectiveness. The meeting will also address standing agenda items relating to the Compliance Committee; the Biosafety Clearing-House (BCH); financial resources and mechanism; and cooperation with other organizations, conventions and initiatives. COP/MOP 6 is also expected to consider the status of the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress.

CBD COP 11 will address the status of the Nagoya Protocol on access to genetic resources and benefit-sharing (ABS); implementation of the Strategic Plan 2011-2020 and progress towards the Aichi biodiversity targets; and issues related to financial resources and mechanism, cooperation, outreach and the UN Decade on Biodiversity, operations of the Convention, and administrative and budgetary matters. Delegates will also review the programme of work on island biodiversity, and address: ecosystem restoration; Article 8(j) (traditional knowledge); marine and coastal biodiversity; biodiversity and climate change; biodiversity and development; and several other ecosystem-related and cross-cutting issues. From 16-19 October 2012, the high-level segment will focus on: implementation of the Strategic Plan; biodiversity for livelihoods and poverty reduction; marine and coastal biodiversity; and implementation of the Nagoya Protocol on ABS.

### A BRIEF HISTORY OF THE CBD AND THE CARTAGENA PROTOCOL ON BIOSAFETY

The CBD was adopted on 22 May 1992, and entered into force on 29 December 1993. There are currently 193 parties to the Convention, which aims to promote the conservation of

biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic resources.

The COP is the governing body of the Convention. Among its achievements, the COP has adopted:

- the Jakarta Mandate on marine and coastal biodiversity (COP 2, November 1995, Jakarta, Indonesia);
- work programmes on agricultural and forest biodiversity (COP 3, November 1996, Buenos Aires, Argentina);
- the Global Taxonomy Initiative (GTI) (COP 4, May 1998, Bratislava, Slovakia);
- work programmes on dry and sub-humid lands, and incentive measures (COP 5, May 2000, Nairobi, Kenya);
- the Bonn Guidelines on ABS and the Global Strategy for Plant Conservation (COP 6, April 2002, The Hague, the Netherlands);
- work programmes on mountain biodiversity, protected areas and technology transfer, the Akwé: Kon Guidelines for cultural, environmental and social impact assessments, the Addis Ababa Principles and Guidelines for sustainable use (COP 7, February 2004, Kuala Lumpur, Malaysia);
- a work programme on island biodiversity (COP 8, March 2006, Curitiba, Brazil); and
- a resource mobilization strategy, and scientific criteria and guidance for marine areas in need of protection (COP 9, May 2008, Bonn, Germany).

**COP 10:** At its tenth meeting (October 2010, Nagoya, Japan), the CBD COP adopted the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, which, after seven years of negotiations, sets out rules and procedures for implementing the Convention's third objective. The Protocol requires 50 ratifications to come into force. To date, six Parties have ratified the Protocol.

The COP also adopted, among many other decisions: the CBD Strategic Plan for the period 2011-2020, including the Aichi biodiversity targets; and a decision on activities and indicators for the implementation of the resource mobilization strategy.

**NEGOTIATION OF THE BIOSAFETY PROTOCOL:** Adopted in January 2000 following protracted negotiations, the Cartagena Protocol on Biosafety addresses the safe transfer, handling and use of LMOs that may have adverse effects on biodiversity, taking into account human health, with a specific focus on transboundary movements of LMOs. It includes an advance informed agreement (AIA) procedure for imports of LMOs for intentional introduction into the environment, and also incorporates the precautionary approach and mechanisms for risk assessment and risk management. The Protocol establishes the BCH to facilitate information exchange, and contains provisions



on capacity building and financial resources, with special attention to developing countries and those without domestic regulatory systems. It entered into force on 11 September 2003 and currently has 164 parties. The Protocol's governing body is the COP/MOP.

**COP/MOP 1:** At its first meeting (February 2004, Kuala Lumpur, Malaysia), the COP/MOP adopted decisions on information sharing and the BCH; capacity building; decision-making procedures; monitoring and reporting; the Secretariat; guidance to the financial mechanism; and the medium-term work programme. Delegates also agreed on elements of documentation of LMOs for food, feed, and processing (LMO-FFPs), pending a decision on detailed requirements; and reached agreement on more detailed documentation requirements for LMOs destined for direct introduction into the environment. The meeting established the Compliance Committee, and launched the Working Group on Liability and Redress (WGLR), to elaborate international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of LMOs in the context of the Protocol in line with Protocol Article 27 (Liability and Redress).

**COP/MOP 2:** At its second meeting (May/June 2005, Montreal, Canada), the COP/MOP adopted decisions on capacity building, and public awareness and participation; and agreed to establish an intersessional technical expert group on risk assessment and risk management. COP/MOP 2 did not reach agreement on detailed requirements for documentation of LMO-FFPs that were to be approved "no later than two years after the date of entry into force of this Protocol."

**COP/MOP 3:** At its third meeting (March 2006, Curitiba, Brazil), the COP/MOP adopted detailed requirements for documentation and identification of LMO-FFPs, and considered various issues relating to the Protocol's operationalization, including funding for the implementation of national biosafety frameworks, risk assessment, the rights and responsibilities of transit parties, the financial mechanism and capacity building.

**COP/MOP 4:** At its fourth meeting (May 2008, Bonn, Germany), the COP/MOP decided to extend the deadline for negotiating an international regime on liability and redress, and adopted decisions on, among other issues: the Compliance Committee; HTPI; the BCH; capacity building; socio-economic considerations; risk assessment and risk management; financial mechanism and resources; and subsidiary bodies.

**NEGOTIATIONS ON LIABILITY AND REDRESS:** The negotiations on international rules and procedures on liability and redress spanned more than five years. The first two meetings of the WGLR (May 2005 and February 2006, Montreal, Canada) considered expert presentations and started compiling views and draft texts submitted by parties. WGLR 3 and 4 (February 2007 and October 2007, Montreal, Canada) developed options for core elements of an international regime, including on a definition of damage, administrative approaches and civil liability.

WGLR 5 (March 2008, Cartagena de Indias, Colombia) agreed on a number of core elements of the regime and decided to convene a Friends of the Co-Chairs group (CCLR) to complete the negotiations. The CCLR was unable to finalize negotiations before the COP/MOP 4 deadline, in part because of enduring divisions regarding the nature of the regime and whether or not it should include legally-binding provisions on civil liability. COP/MOP 4 therefore decided to reconvene the CCLR to finalize negotiations based on a compromise that envisioned a legally-binding supplementary protocol focusing on an administrative approach but including a legally-binding provision on civil liability complemented by non-binding guidelines on civil liability.

The CCLR met four more times. At the first meeting (February 2009, Mexico City, Mexico), delegates developed a draft protocol text. The second meeting (February 2010, Putrajaya, Malaysia) elaborated a legally-binding provision on civil liability but did not conclude negotiations on this and other

outstanding issues. The third meeting (June 2010, Kuala Lumpur, Malaysia), reached agreement on civil liability and other issues, including "imminent threat of damage" and the definition of "operator." The CCLR convened a final time directly prior to COP/MOP 5 to resolve outstanding issues with regard to the definition of products of LMOs and financial security.

**COP/MOP 5:** At its fifth meeting (October 2010, Nagoya, Japan), the COP/MOP adopted the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress, which will enter into force 90 days after the 40th ratification. To date, three parties have ratified the Supplementary Protocol. COP/MOP 5 also adopted decisions on, among other issues: experiences with documentation requirements for HTPI of LMO-FFPs; HTPI standards; rights and/or obligations of parties of transit of LMOs; monitoring and reporting; assessment and review; the Strategic Plan and multi-year programme of work (MYPOW); risk assessment and risk management.

### INTERSESSIONAL HIGHLIGHTS

**ARTICLE 8(j):** The CBD Working Group on Article 8(j) and Related Provisions (October–November 2011, Montreal, Canada) adopted recommendations on, among others: Tasks 7, 10 and 12 (benefit-sharing from, and unlawful appropriation of, traditional knowledge) of the Article 8(j) work programme; Article 10(c) (customary sustainable use); and terms of reference developing guidelines on repatriation.

**SOCIO-ECONOMIC CONSIDERATIONS:** A workshop on Capacity-building for Research and Information Exchange on Socio-economic Impacts of LMOs (November 2011, New Delhi, India) suggested next steps, including the development of general guidelines providing minimum common elements that could be used in the consideration of socio-economic impacts of LMOs while providing flexibility to take into account the situation in different countries.

**SBSTTA:** The Convention's Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) met twice (November 2011 and April/May 2012, Montreal, Canada) and adopted a series of recommendations for consideration by COP 11, including on: indicators for monitoring implementation of the Strategic Plan; a draft capacity-building strategy for the GTI; and ecosystem restoration. It also adopted two packages of recommendations on marine and coastal biodiversity, and biodiversity and climate change.

**REVIEW OF IMPLEMENTATION:** The first meeting of the AHTEG on Assessment and Review of the Protocol (May 2012, Vienna, Austria) reviewed information on implementation and developed recommendations regarding: domestic implementation; capacity building and resource mobilization; regional approaches; and information sharing and the BCH.

**WGRI:** The CBD Working Group on the Review of Implementation (May 2012, Montreal, Canada), adopted recommendations on, among others: the Strategic Plan; the resource mobilization strategy; cooperation with other conventions; biodiversity for poverty eradication and development; business engagement; and South-South cooperation.

**RISK ASSESSMENT AND RISK MANAGEMENT:** Supported by real-time online conferences and discussion forums, the fourth meeting of the *Ad hoc* Technical Expert Group (AHTEG) on Risk Assessment and Risk Management (June 2012, Montreal, Canada) developed a revised version of the guidance on risk assessment of LMOs and a list of specific topics for the development of additional guidance.

**ABS:** The Intergovernmental Committee for the Nagoya Protocol on ABS met twice (June 2011, Montreal, Canada; and July 2012, New Delhi, India) and focused on: compliance; modalities of operation of the ABS Clearing-house; capacity building and awareness raising; and guidance for the financial mechanism and for resource mobilization. To date, six parties have ratified the Nagoya Protocol.