

SUMMARY OF THE SIXTH MEETING OF THE PARTIES TO THE CARTAGENA PROTOCOL ON BIOSAFETY: 1-5 OCTOBER 2012

The sixth 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 6) was held from 1-5 October 2012 in Hyderabad, India. Approximately 1300 participants representing parties to the Protocol and other governments, UN agencies, intergovernmental and non-governmental organizations, academia and industry attended the meeting.

The meeting adopted 16 decisions on: compliance; the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress (the Supplementary Protocol); subsidiary bodies; cooperation with other organizations, conventions and initiatives; the Biosafety Clearing-House (BCH); capacity building; the roster of experts; monitoring and reporting; assessment and review; notification requirements; handling, transport, packaging and identification (HTPI) of living modified organisms (LMOs) (Article 18); unintentional transboundary movements of LMOs (Article 17); financial mechanism and resources; socio-economic considerations; risk assessment and risk management; and the budget.

Delegates generally described the meeting as a pragmatic working session with little controversy. Being the first COP/MOP after the adoption of the Supplementary Protocol, the meeting revealed several substantive issues that the COP/MOP might focus on going forward. Many delegates pointed to the decision on socio-economic considerations, which establishes for the first time an *Ad Hoc* Technical Expert Group (AHTEG) to develop conceptual clarity, opening the way to developing guidelines in the future. While the decision on risk assessment and risk management stopped short of endorsing the guidance for risk assessments, delegates welcomed the detailed process for testing the guidance, which should allow for endorsement at a future COP/MOP.

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.

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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 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.

COP/MOP 6 REPORT

On Monday, 1 October, COP/MOP 5 President Masamichi Saigo, Japan's Ministry of Agriculture, Forestry and Fisheries, welcomed delegates and invited Jayanthi Natarajan, Indian Minister of Environment and Forests, to assume the COP/MOP 6 Presidency. COP/MOP 6 President Natarajan stressed the need to find a balance between health, technology and the environment, and urged parties to ratify the Supplementary Protocol.

CBD Executive Secretary Braulio Ferreira de Souza Dias announced new parties to the Protocol and ratifications of the Supplementary Protocol, outlined intersessional efforts and hailed the 90% submission rate for the second national reports. Bakary Kante, United Nations Environment Programme (UNEP), highlighted the UNEP-GEF projects for building capacity for Biosafety Clearing House (BCH) participation and implementation of the Protocol.

Ekkadu Srinivasan Lakshmi Narasimhan, Governor of Andhra Pradesh State, said that the survival of humans should not come at the cost of other life forms, stressing the need to raise awareness to ensure the wise use of biotechnology. Tishyarakshit Chatterjee, Indian Ministry of Environment and Forests, called on delegates to find consensus on risk assessment and risk management, socio-economic considerations and other issues on the COP/MOP 6 agenda.

COP/MOP 6 Chair Farooqui, Indian Ministry of Environment and Forests, explained that the COP 10 Bureau serves as the COP/MOP Bureau, and that Mexico replaces Argentina, which is not a Protocol Party. Delegates elected Betty Schroder (Namibia) as the meeting's rapporteur and adopted the meeting's agenda (UNEP/CBD/BS/COP-MOP/6/1) and organization of work (UNEP/CBD/BS/COP-MOP/6/1/Add.1/Rev.1), moving agenda item 16 on socio-economic considerations from Working Group II to Working Group I. Delegates then elected Bureau Members Ines Verleye (Belgium) and Spencer Thomas (Grenada) as Chairs of Working Group I and Working Group II, respectively.

Delegates heard reports on: the Compliance Committee (UNEP/CBD/BS/COP-MOP/6/2); financial mechanism and resources (UNEP/CBD/BS/COP-MOP/6/4); cooperation with other organizations, conventions and initiatives (UNEP/CBD/BS/COP-MOP/6/5); and the Protocol's administration and budgetary matters and the proposed budget and work programme for the biennium 2013-2014 (UNEP/CBD/BS/COP-MOP/6/6 and 6/Add.1). The Global Environment Facility (GEF) reported that GEF funding during the first half of the reporting period focused on assisting parties with preparing their second national reports. Delegates also established a budget contact group, chaired by Conrod Hunte (Antigua and Barbuda).

Grenada, on behalf of the Latin American and Caribbean Group (GRULAC), underscored the need for capacity building; urged countries to sign the Supplementary Protocol; and called on the GEF to fulfill its mandate. Uruguay emphasized the value of the BCH for ensuring effective participation in key mechanisms of the Protocol. Serbia, for Central and Eastern Europe (CEE), stressed the importance of cooperation with other organizations and conventions, especially with regard to information sharing. Denmark, for the European Union and its 27 member states and Croatia (EU), prioritized work on capacity building, and handling, transport and use of LMOs. Liberia, for the African Group, emphasized challenges associated with risk assessment and risk management.

Japan reported that his government's donations to the CBD's intersessional work have been used for capacity-building workshops and the development of e-learning training courses on biosafety. Saudi Arabia called for prioritizing regional capacity-building programmes on risk assessment and risk management. Kenya highlighted the national implementation of the Biosafety Protocol in her country, including regulations on contained use, labeling, environmental release, and import, export and transit.

The US, an observer to the Protocol, expressed its support for the Protocol and called on parties to implement it in a manner that is the least restrictive on trade.

Pointing to common objectives with the CBD, especially regarding sanitary and phytosanitary measures, the World Trade Organization (WTO) reported on ongoing consideration of the

CBD's application for observer status. The Organization for Economic Cooperation and Development (OECD) reported on the implementation of its Memorandum of Understanding with the CBD to harmonize information sharing on biosafety aimed at improving their respective databases on LMOs.

The following summary is organized according to the meeting's agenda. Unless otherwise stated, draft decisions were approved by the working groups (WGs) and final decisions adopted in plenary on Friday.

COMPLIANCE COMMITTEE

In Monday's plenary, delegates heard the report of the Compliance Committee (UNEP/CBD/BS/COP-MOP/6/2). Delegates began discussions on Monday afternoon in WG I and approved draft text on Tuesday afternoon. Discussion focused on: gaps in developing national biosafety frameworks; the need for financial resources for parties experiencing difficulties implementing the Protocol; the importance of developing public awareness programmes on safe transfer, handling and use of LMOs; and the importance of GEF funds and regional workshops in helping to achieve the high rate of submission of second national reports.

During the closing plenary, COP/MOP Chair Farooqui announced the nominations for the compliance committee from the beginning of 2013: Kaouthar Tliche Aloui (Tunisia) and Johansen Voker (Liberia) for the African Group; Dubravka Stepic (Croatia) and Angela Lozan (Moldova) for CEE; Jimena Nieto (Colombia) and Hector Conde Almeida (Cuba) for GRULAC; Geoff Ridley (New Zealand) and Ruben Dekker (the Netherlands) for the Western Europe and Others Group (WEOG); and Rai Rana (India) and Banpot Napompeth (Thailand), for the Asia-Pacific Group.

COP/MOP Decision: In its decision (UNEP/CBD/BS/COP-MOP/6/L.2), the COP/MOP:

- calls upon parties to expedite efforts to put in place legal and administrative frameworks to meet obligations under the Protocol;
- requests parties that have not yet put in place operational biosafety frameworks to submit information on challenges, and on plans and timelines for taking necessary measures;
- requests the Secretariat to compile and submit such information to the Compliance Committee for consideration and appropriate action;
- reminds parties experiencing challenges that they may seek assistance from the Compliance Committee; and
- reiterates its invitation to make use of the programme of work on public awareness, education and participation on safe transfer, handling and use of LMOs.

BIOSAFETY CLEARING-HOUSE

On Monday and Wednesday delegates considered the operation and activities of the Biosafety Clearing-House (UNEP/CBD/BS/COP-MOP/6/3). On Thursday delegates approved a draft decision.

Discussions focused on the functionality and use of the BCH, the second phase of the UNEP-GEF project on capacity-building support for the BCH (UNEP-GEF BCH II), and the project's possible extension. Although many parties supported extension of the second phase of the UNEP-GEF BCH II project, some

cautioned on the extension. The EU called for progress on: inclusion of risk assessment summaries; continuation of online fora and training; and evaluating the BCH before extending the UNEP-GEF BCH II project. On the budgetary implications of extending the UNEP-GEF BCH II, Norway cautioned against budgetary implications of activities proposed in the draft decision. Japan, Mexico and the Philippines suggested improving cost effective mechanisms such as online fora. On the use and functionality of the BCH, Colombia urged encouraging all sectors to use the BCH, while Brazil proposed that parties decide what data to include. Parties also generally agreed that the BCH should be used to further promote and facilitate public awareness, education and participation of stakeholders on the use of LMOs.

COP/MOP Decision: In its decision (UNEP/CBD/BS/COP-MOP/6/L.6), the COP/MOP requests the Secretariat to:

- collect, through the BCH national focal points and online tools made available in the BCH, feedback on existing capacity and experiences in using the BCH and the submission and retrieval of data, to take the experience into account for future improvements to the BCH;
- continue its collaboration with other biosafety databases and platforms, such as those of the OECD and the UN Food and Agriculture Organization (FAO), with a view to improving the utility of the BCH as a global mechanism for sharing information on biosafety;
- continue to organize online forums and real time online conferences on topics relevant to biosafety and the implementation of the protocol; and
- encourages greater use of the BCH to further promote and facilitate public awareness, education and participation of relevant stakeholders in the use of LMOs.

The COP/MOP further urges parties to fulfill their obligations under the Protocol and the decisions of the parties by updating all incomplete published national records with the mandatory fields required by the common formats; and recommends that the COP, in adopting its guidance to the GEF, urge it to provide further support to all eligible parties for capacity building in the use of the BCH, based on experiences learned from the UNEP-GEF BCH-II.

FINANCIAL MECHANISM AND RESOURCES

On Monday delegates in WG II heard reports on the financial mechanism and resources (UNEP/CBD/BS/COP-MOP/6/4). On Tuesday the Democratic Republic of Congo and others supported allocation of specific quotas for biosafety. India and Colombia opposed, stating that allocation of biodiversity funds should be the prerogative of parties. Malaysia said biosafety agencies should work with biotechnology developers to ensure that funds for promotion of LMOs include provisions for biosafety. Kenya, Mexico and Namibia emphasized extending the UNEP-GEF BCH-II Project and the EU called for evaluation before extension.

Brazil emphasized that mobilization of additional resources cannot replace obligations of CBD parties. Guatemala encouraged South-South cooperation. Ghana highlighted the need for streamlining access to GEF funds. On programme

priorities related to biosafety, Bolivia proposed adding socio-economic considerations and, with Peru and Cuba, emphasized the importance of public participation.

On Wednesday, on defining specific quotas for biosafety for each country during the sixth replenishment and programming period (GEF-6), Egypt, supported by the Philippines, Brazil and Moldova, said parties should decide on the proportion to be allocated for biosafety and suggested instead that parties should “give priority to the national biosafety project under the GEF System for Transparent Allocation of Resources (STAR).” Zambia and others argued that many African parties would be disadvantaged since biosafety is not a priority in African countries. Nigeria and the EU said the quota should consider specific requirements by parties. In informal consultations, delegates considered proposed text encouraging parties “to give priority to national biosafety plans and projects under the GEF-STAR” and a new paragraph requesting the Secretariat to consult with the GEF regarding opening a special financial support window for implementation of the Protocol. The EU said they could not accept the latter addition.

On programming resources under the biodiversity focal area, the EU said a notional allocation of US\$102 million for GEF-6 is excessive since only 7% of available funding for biosafety has been used during GEF-5. Delegates agreed to delete text on rechanneling fees and fines that may be levied on processing LMO imports and violating biosafety laws towards supporting national biosafety activities.

The African Group proposed on Thursday that delegates consider the request to the Executive Secretary to discuss with the GEF the possibility of opening a special financial support window for Protocol implementation. Delegates agreed to informally discuss this issue together with the bracketed references to national priorities under GEF-STAR allocations and the need to include biosafety financing as part of sustainable development financing. After informal discussions, the EU reported that delegates had agreed to remove the brackets around these three issues.

Norway reported that the parties involved in informal discussions on inclusion of socio-economic considerations in the four-year outcome-oriented framework of programme priorities for biodiversity had reached an impasse.

Delegates decided to forward the revised draft decision to plenary, leaving this reference in brackets. During the closing plenary, delegates adopted this decision after removing brackets around socio-economic considerations and accepting Paraguay’s addition “in providing support for socio-economic considerations, the GEF should take into account the outcomes of AHTEG and the decision on the appropriate further steps towards fulfilling Operational Objective 1.7 of the strategic plan for the Cartagena Protocol on Biosafety 2011-2020, recognizing that further work to develop conceptual clarity on the issue is underway.”

COP/MOP Decision: In the decision (UNEP/CBD/BS/COP-MOP/6/L.14), the COP/MOP notes with concern the drastic decline in the level of bilateral and multilateral funding available for biosafety capacity-building activities.

The COP/MOP, *inter alia*: urges parties to give priority to national biosafety plans and projects under the GEF-STAR to ensure support for implementation of the Protocol.

On guidance to the financial mechanism, the COP/MOP recommends to the COP, in adopting further guidance with respect to financial support for implementation of the Protocol, to invite the GEF to *inter alia*:

- further streamline, simplify and expedite the process of accessing funds from the GEF Trust Fund;
- consider developing a new strategy for financing biosafety, incorporating the priorities and objectives of the Strategic Plan;
- make available, in a timely manner, adequate and predictable financial resources to eligible parties to facilitate the preparation of their third national reports under the Protocol;
- provide support to eligible parties that have not yet done so to initiate implementation of their legal, administrative and other measures for the implementation of the Protocol;
- provide financial and technical assistance to developing country parties and parties with economies in transition to undertake the testing and capacity-building activities on risk assessment and risk management, and to implement detection and identification requirements of the Protocol;
- make financial resources available to support awareness-raising, experience-sharing and capacity-building activities to expedite the early entry into force and implementation of the Protocol and the Supplementary Protocol;
- consider the following priorities within the four-year outcome-oriented framework of programme priorities for biodiversity for GEF-6: national biosafety frameworks; risk assessment and risk management; HTPI and identification of LMOs; liability and redress, public awareness and biosafety education and training; and socio-economic considerations; and
- consider making a notional allocation that improves the biosafety share of the biodiversity focal area to support the implementation of the Protocol during GEF-6.

On mobilization of additional resources, the COP/MOP:

- requests the Executive Secretary to include resource mobilization for the Protocol in activities to facilitate the implementation of the strategy for resource mobilization in support of the CBD; and
- also requests the Executive Secretary to further communicate with the GEF Secretariat in order to discuss the possibility of opening a special financial support window for implementation of the Protocol.

COOPERATION WITH OTHER ORGANIZATIONS, CONVENTIONS AND INITIATIVES

The report on cooperation with other organizations, conventions and initiatives (UNEP/CBD/BS/COP-MOP/6/5) was introduced during plenary on Monday. The item was further discussed in plenary on Wednesday. The EU asked to delete a provision urging parties to contribute the necessary resources to enable the Secretariat to engage effectively with other organizations.

The decision was adopted with amendments.

COP/MOP Decision: In the decision (UNEP/CBD/BS/COP-MOP/6/L.5), the COP/MOP welcomes the Executive Secretary's cooperation with a number of institutions and underlines

the contribution of cooperation to the implementation of the Strategic Plan. The COP/MOP requests the Executive Secretary, subject to the availability of funds, to: further pursue cooperation with other organizations, conventions and initiatives with a view to meeting the strategic objective in Focal Area 5 of the Strategic Plan on outreach and cooperation; and continue efforts to gain observer status in those committees of the WTO that are relevant to biosafety.

BUDGET

On Monday, plenary established a contact group on the budget that was chaired by Conrod Hunte (Antigua and Barbuda) and met throughout the week. The group considered three different options for the budget, ranging from zero growth to significant increases. Delegates also asked the Secretariat to extend options under consideration to 2015 in case COP 12 is in 2015. On Thursday, the Secretariat presented three options for the budget extended to 2015, to accommodate the possibility that the COP and the COP/MOP will move to a three-year interval. Delegates noted that the decision about periodicity of meetings would have to be taken by the COP.

Delegates also heard a report about unpaid contributions and discussed possible measures to encourage parties to pay their contributions, including having the Executive Secretary send letters, or not allowing countries in arrears to serve as Bureau members. They also discussed the surplus, and which part could be used towards the upcoming budget without depleting it entirely or causing problems for the Secretariat. On Friday, the budget contact group engaged in protracted negotiations over whether the AHTEGs mandated by the COP/MOP should be covered out of the core budget or rely on voluntary contributions, and over upgrading a post for the Biosafety Division of the Secretariat.

COP/MOP Decision: In its decision on the budget (UNEP/CBD/BS/COP-MOP/6/L.17), the COP/MOP approves: a core programme budget of US\$2,922,100 for the year 2013 and US\$2,963,100 for the year 2014; and includes a contingency plan for a provisional budget for 2015 in case COP/MOP 7 takes place in 2015. The COP/MOP further notes with concern and regret that the core programme budget does not contain adequate finance for all activities identified by the parties, including the priorities of developing country parties, resulting in finance for AHTEGs being dependent on voluntary funding, which could have a deleterious effect on capacity building for developing countries. The COP/MOP further agrees to upgrade a post for implementation of the supplementary protocol for the biennium 2015-2016.

CAPACITY BUILDING

STATUS OF CAPACITY-BUILDING ACTIVITIES: On Monday, delegates in WG II considered UNEP/CBD/BS/COP-MOP/6/7/ and 7/Add.1 on the status of capacity building and the comprehensive review of the capacity-building action plan. Many parties supported regional capacity-building initiatives, while Uganda and Brazil called for support to address national capacity needs. The EU, with others, called for continued coordination between donors and recipient parties. Japan, New Zealand and Mexico called for continuous development of

skills and advancement of e-learning. Bolivia called for shifting responsibility for capacity building on LMOs to parties and stakeholders responsible for their development.

On Thursday, Ecuador and Guatemala suggested forwarding to the budget group the text on GEF support for parties to implement the Framework and Action Plan for Capacity Building. On inviting donor countries, agencies and organizations to provide capacity support on biosafety issues, the EU urged this be subject to the availability of funds.

COP/MOP Decision: In the decision (UNEP/CBD/BS/COP-MOP/6/L.7), the COP/MOP takes note of the report of the independent evaluation and the working document prepared by the Executive Secretary to facilitate the comprehensive review and possible revision of the Action Plan for Building Capacities for the Effective Implementation of the Protocol; adopts and decides to review the new Framework and Action Plan for Capacity Building in conjunction with the mid-term review of the Strategic Plan of the Protocol; and requests the Executive Secretary to raise awareness of the above Framework and Action Plan and encourage regional stakeholders and donors to play a greater role in supporting its implementation by parties.

The COP/MOP further invites:

- parties, other governments, and relevant organizations to implement the Framework and Action Plan for capacity building and to share their experiences through the BCH;
- developed country parties and donors and relevant organizations to take into account the Framework and Action Plan in providing financial and technical support to developing countries, in particular the least developed and small island developing states and countries with economies in transition; and
- the GEF to provide financial support to eligible parties to implement the Framework and Action Plan for Capacity Building.

The COP/MOP further requests the Executive Secretary to prepare reports on the status of implementation of the above Framework and Action Plan. The COP/MOP decides to review the Framework and Action Plan in conjunction with the mid-term review of the Strategic Plan of the Protocol and the third assessment and review of the Protocol's effectiveness.

On strategic approaches to capacity building, the COP/MOP: takes note of the analysis of strategic approaches to capacity building prepared by the Executive Secretary; invites parties, other governments and relevant organizations to adopt the strategic approaches to improve the design, delivery, effectiveness, impact and sustainability of biosafety capacity-building initiatives; and requests the Executive Secretary to provide, as appropriate, and subject to the availability of funding, technical support to parties to implement the strategic approaches to capacity building.

On coordination mechanisms, the COP/MOP decides to adopt the restructured and streamlined elements in Annex II to the decision; and invites donor countries and agencies and other organizations providing capacity support in biosafety to participate actively in the Coordination Mechanism.

Annex I to the decision outlines objectives of the Framework and Action Plan for Capacity Building for the Effective Implementation of the Protocol, including to:

- further support the development and implementation of national regulatory and administrative systems;
- enable parties to evaluate, apply, share and carry out risk assessments; develop capacity for HTPI of LMOs;
- assist parties to the Protocol to establish and apply rules and procedures on liability and redress from transboundary movements of LMOs;
- enhance capacity to facilitate public awareness and promote education on safe transfer, handling and use of LMOs; and
- ensure that BCH is easily accessed by all stakeholders.

Annex II, on Coordination Mechanisms for Capacity-Building Efforts under the Protocol, outlines guiding principles, elements and administration of the coordination mechanism.

ROSTER OF EXPERTS: On Monday, WG II Chair Thomas presented the report on the use of the roster of biosafety experts (UNEP/CBD/BS/COP-MOP/6/7/Add.2). Delegates discussed nominations to the roster and the mandates of its experts. Bolivia suggested deleting a call for contributions to the voluntary fund to operationalize the roster. Japan, Cuba, Ecuador, Niger and Togo supported adopting a revised form for nominating experts and Paraguay said new nominations should not replace the current roster. Malaysia urged nominating an expert on socio-economic issues. India said funds should primarily support parties' activities.

On Wednesday, Bolivia with India, Malaysia, Nigeria, Sudan and Tanzania, opposed by Benin, Cambodia, the EU, Mexico, CEE and the Philippines, suggested deleting text on expanding the mandate of the experts on the roster to support the work of the Secretariat. This matter was further discussed in an informal group.

On Thursday, Delegates agreed to a proposal by the EU to state that the roster's mandate can be expanded, upon request, to meet capacity-building needs of developing countries and countries with economies in transition. Delegates agreed, and the draft decision was approved as amended.

COP/MOP Decision: In the decision (UNEP/CBD/BS/COP-MOP/6/L.8), the COP/MOP:

- reiterates its earlier call to parties and other governments that have not yet done so to nominate experts to the roster;
- adopts the revised nomination form for the roster of experts and authorizes the Executive Secretary to update the form based on operational experience;
- decides to expand the mandate of the roster of experts to include supporting, as appropriate and upon request, the work of the Secretariat, the COP/MOP and other bodies under the Protocol, in relation to capacity building for developing countries and countries with economies in transition; and
- invites parties and other governments to consider nominating experts on the roster to serve on the AHTEGs, informal advisory committees and other relevant bodies under the Protocol.

The COP/MOP also: invites parties, other governments, relevant organizations and the Executive Secretary to consider using experts on the roster as resource persons for capacity-building activities; and reiterates its invitation to developed country parties and other donors to make contributions to the voluntary fund.

HANDLING, TRANSPORT, PACKAGING AND IDENTIFICATION

HTPI of LMOs was discussed in WG I on Monday, Wednesday and Thursday. Delegates initially discussed two sub-items: HTPI for LMOs destined for contained use or for intentional release (UNEP/CBD/BS/COP-MOP/6/8 and INF/7); and HTPI standards (UNEP/CBD/BS/COP-MOP/6/9 and INF/24). They eventually agreed to address both items in a single decision.

LMOs DESTINED FOR CONTAINED USE OR FOR INTENTIONAL RELEASE: Discussions focused on the scope of the decision and on documentation requirements. On scope, delegates debated whether the inclusion of a reference to the use of unique identifiers would require expanding the scope of the decision to also include LMOs for Food, Feed or Processing (LMOs-FFPs) (Article 18.2(a)), rather than only LMOs destined for contained use or for intentional release (Articles 18.2(b) and (c)). Malaysia favored expanding the scope to maintain the integrity of previous COP/MOP decisions, whereas Colombia noted that HTPI for LMO-FFPs will be addressed at COP/MOP 7. Delegates eventually decided to delete the reference to unique identifiers.

On documentation requirements, delegates debated whether to include references to independent documentation as types of acceptable documentation, and to the LMO-quick link tool, deciding to include neither. Bolivia proposed ensuring implementation by requiring the incorporation of specific documentation and to review the issue at COP/MOP 8. Malaysia, Paraguay, Colombia and Mexico said they already have legal requirements in place and opposed changes to existing documentation requirements. Delegates also debated whether to use a commercial invoice or standalone documentation, eventually agreeing on language allowing for the use of either or both.

HTPI STANDARDS: On examining the need for further HTPI standards, delegates discussed: references to labeling; addition of new codes into existing coding systems of the World Customs Organization; referencing the Protocol under the standards of the WTO Sanitary and Phytosanitary Standards Committee; and the use of LMO databases prepared by the BCH. On analyzing the need for new identifier codes, delegates agreed to delete language regarding codes for LMOs and their different intended uses, as this would expand beyond the scope of the current decision.

They also debated at length whether or not to include a reference to the UN Model Regulations on Transport of Dangerous Goods, which was opposed by Paraguay, Uruguay, Mexico, Colombia, Nigeria and New Zealand, with Colombia proposing alternative language aiming to recognize the value of this ongoing work relevant to LMO transport. Delegates eventually decided to delete the reference.

COP/MOP Decision: In the decision on HTPI of LMOs (UNEP/CBD/BS/COP-MOP/6/L.12), the COP/MOP notes ongoing cooperation between the CBD Secretariat and international organizations whose work is relevant for HTPI of LMOs and, *inter alia*: requests parties and encourages other governments to continue to implement the requirements of Article 18(2)(b) and (c) and related decisions through the use of

a commercial invoice or other documents required or utilized by existing documentation systems, or documentation required by domestic regulatory and/or administrative frameworks; requests the Executive Secretary to include a specific question in the third national report inquiring whether parties require the use of existing documents or stand-alone documents or both; and encourages the OECD to renew efforts to develop unique identification systems for living modified micro-organisms and animals.

The COP/MOP also requests the Executive Secretary to further examine the potential gaps and inconsistencies in HTPI standards and provide recommendations to COP/MOP 7, as appropriate.

NOTIFICATION REQUIREMENTS

On Monday afternoon, delegates in WG I considered UNEP/CBD/BS/COP-MOP/6/10. Further discussions continued on Tuesday afternoon and Wednesday morning. Delegates discussed: gaps in implementation, with India noting that only half the parties had established notification requirements for exporters; future review of requirements, and following a suggestion by the EU, agreeing that such review should only take place if parties demonstrate a documented need; possible use of parameters to assess if existing rules and measures meet the Protocol's objectives based on parties' experience with notification requirements; and including the barcode of the LMO quick-link tool in the information provided in a notification.

Bolivia, India and Namibia supported text inviting parties and others to consider including the latter, with Japan, the EU and Mexico opposing. After informal consultations, and a proposed amendment by the African Group referencing "relevant national authorities" for consistency with decision BS-V/2, delegates agreed on Thursday to keep the quick-link text and to delete similar text from the HTPI decision.

COP/MOP Decision: In its decision (UNEP/CBD/BS/COP-MOP/6/L.11), the COP/MOP:

- requests parties to address gaps in domestic implementation of notification requirements related to intentional transboundary movements of LMOs;
- decides that further review of notification requirements should only take place if there is a documented need, as indicated through national reports or other submissions;
- invites parties, other governments and relevant organizations to consider using the LMO quick-link tool by their relevant national authorities where reference is made to a living modified organism; and
- encourages sharing, through the BCH, best practices and experiences on implementing requirements.

NAGOYA-KUALA LUMPUR SUPPLEMENTARY PROTOCOL ON LIABILITY AND REDRESS

On Monday in WG I, the Secretariat presented the update on the Supplementary Protocol (UNEP/CBD/BS/COP-MOP/6/11), noting that three countries had ratified the Supplementary Protocol with 40 required for its entry into force. Discussions on Tuesday focused on: national efforts to achieve ratification of the Supplementary Protocol, with the EU emphasizing capacity building and establishing national priorities; and the need for

awareness-raising at the national level, including an explanatory guide for the Supplementary Protocol. Delegates approved the draft decision as amended.

COP/MOP Decision: In its decision (UNEP/CBD/BS/COP-MOP/6/L.3), the COP/MOP:

- calls on parties to expedite internal processes for ratification, approval, acceptance of or accession to the Supplementary Protocol;
- calls on parties to the CBD that are not parties to the Protocol to take relevant steps to become parties so they may also become parties to the Supplementary Protocol;
- invites parties to identify capacity-building needs and establish national priorities to implement and apply provisions of the Supplementary Protocol;
- invites parties and relevant organizations to make financial resources available for awareness-raising, experience-sharing, and capacity-building activities to expedite entry into force and implementation; and
- requests the Executive Secretary to encourage UNEP and the International Union for the Conservation of Nature (IUCN) to develop an explanatory guide.

UNINTENTIONAL TRANSBOUNDARY MOVEMENTS AND EMERGENCY MEASURES

On Tuesday, WG I discussed Unintentional Transboundary Movements of Living Modified Organisms and Emergency Measures (Article 17) (UNEP/CBD/BS/COP-MOP/6/12). Japan and Kenya urged making information about unintentional release of LMOs available to affected states as soon as possible to minimize costs and impacts. Brazil and Paraguay opposed references to the Supplementary Protocol as guidance. Ecuador and Jordan emphasized capacity building to detect and address unintentional transboundary movements of LMOs, with Uganda and Tunisia stressing technology transfer.

The EU, supported by Brazil, Ecuador, Kenya and New Zealand, suggested that the COP/MOP, rather than the AHTEG on Risk Assessment and Risk Management, consider the synthesis of views on what constitutes unintentional transboundary movement. Malaysia and Bolivia said the AHTEG is best positioned to provide an international elaboration on this issue.

On Wednesday delegates had a lengthy debate about including reference to the Supplementary Protocol given that it has not entered into force, but decided not to include it. The EU proposed, and delegates agreed, to specify that the listed instruments to assist with the implementation of Article 17 are to serve “as guidance.” The EU, opposed by Japan, asked to delete a reference to the scope and elements of possible guidance on unintentional release of LMOs. Delegates agreed to retain the reference. On Thursday WG I approved the revised draft decision without amendment. On Friday plenary delegates added a preambular paragraph, “Noting that the guidance on risk assessment of LMOs is not prescriptive and does not impose any obligation on parties,” and adopted the decision as amended.

COP/MOP Decision: In its decision (UNEP/CBD/BS/COP-MOP/6/L.13), the COP/MOP: encourages parties to use as guidance in their implementation of Article 17, decisions that have been or may be taken relating to Protocol Article 18 (HTPI), and the guidance on risk assessment of LMOs

developed by the AHTEG; and urges parties to make relevant details of their point of contact for receiving notifications available, establish and maintain measures to prevent unilateral transboundary movement of LMOs, and establish mechanisms for emergency measures. The COP/MOP further requests parties and invites governments and relevant organizations to provide views and information to the Executive Secretary six months prior to COP/MOP 7 on any challenges and experiences relating to the implementation of Article 17; and requests the Executive Secretary to prepare a synthesis of the views.

RISK ASSESSMENT AND RISK MANAGEMENT

On Monday, WG II considered risk assessment and risk management and the revised guidance on risk assessment of LMOs (UNEP/CBD/BS/COP-MOP/6/13/Rev.1 and 13/Add.1). Deliberations focused on extending the mandate of the AHTEG on risk assessment as well as the open-ended online forum, whether to endorse the guidance on the risk assessment of the use of LMOs, and selection of topics for additional guidance.

Much of the discussion was spent on whether or not to endorse the guidance, with the EU, the African Group, CEE, Norway, China and Colombia supporting endorsing the guidance and continuing the open-ended online forum and the AHTEG. New Zealand, Brazil, Ecuador, India, South Africa and the Philippines urged testing and refining the guidelines prior to their endorsement. After long and protracted negotiations, delegates agreed to “commend” the progress made on the development of the guidance and also agreed to extend the mandate of the open-ended online forum. Delegates also established a new AHTEG and provided its terms of reference in the draft decision.

On capacity building, Brazil urged focusing on building expertise and the Philippines supported cost-effective capacity building. Vietnam, Malaysia, Mexico and CEE welcomed the revision of the training manuals. The EU said the open-ended online forum should be included in developing the advanced educational package. On LMOs not likely to have adverse effects, Colombia and Bolivia expressed concern about the inclusion of a list of such LMOs, and the EU said the existing evidence is too limited to adopt a list. The Centre for Integrated Research and Biosafety said LMOs have so far only been released large-scale in areas suitable for cultivation and thus a list is premature.

COP/MOP Decision: In the decision (UNEP/CBD/BS/COP-MOP/6/L.16), the COP/MOP, *inter alia*, states that the guidance is not prescriptive and does not impose any obligations on parties and that the guidance will be tested nationally and regionally for further improvement. It further encourages parties, governments and other organizations to translate the guidance and provide financial and technical assistance to developing country parties and parties with economies in transition to test the guidance.

The COP/MOP requests the Executive Secretary to: develop appropriate tools to structure and focus testing of the guidance; gather and analyze feedback from the testing; and provide a report on possible improvements to the guidance. It also establishes a mechanism for regularly updating the list of background documents to the guidance and extends the open-ended online forum renewable every four years. The COP/MOP further decides to bring to a close the current AHTEG and establishes a new AHTEG to serve until COP/MOP 7. The

terms of reference for the AHTEG are attached as an annex to the decision. It requests the Executive Secretary to select experts for the new AHTEG, in consultation with the COP/MOP Bureau. On capacity building, the COP/MOP requests the Executive Secretary to, *inter alia*: convene the remaining training courses on risk assessment for the African and CEE subregions; follow up on training by gathering additional feedback from parties on the practicality, usefulness and utility of the guidance; and conduct workshops on risk assessment and risk management at international, regional and/or subregional levels.

On the identification of LMOs or specific traits that may have or are not likely to have adverse effects on the conservation and sustainable use of biological diversity, the COP/MOP requests the Executive Secretary to create sections in the BCH where such information can be submitted and easily retrieved and invites parties to provide the Executive Secretary with scientific information that may assist in the identification of LMOs that may have or are likely to have adverse effects on the conservation and sustainable use of biodiversity.

On the status of implementation of risk assessment and risk management provisions, the COP/MOP requests the Executive Secretary to conduct an online survey on the status of the implementation of Operational Objectives 1.3, 1.4 and 2.2 of the Strategic Plan with a view to establishing baselines for, and collecting data on, the indicators concerned.

SUBSIDIARY BODIES

WG I discussed the item on subsidiary bodies (UNEP/CBD/BS/COP-MOP/6/14) on Tuesday and Wednesday. A number of parties opposed the establishment of a permanent subsidiary body, with some preferring the use of AHTEGs as needed. The EU requested that the convening of AHTEGs be “subject to the availability of funds.” India suggested considering whether certain issues can be addressed by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. Delegates agreed to revisit the item at COP/MOP 8.

COP/MOP Decision: In the decision on subsidiary bodies (UNEP/CBD/BS/COP-MOP/6/L.4), the COP/MOP decides: that at this stage there is no need to establish an open-ended subsidiary body for scientific and technical advice; to continue establishing AHTEGs with specific mandates, as needed and subject to the availability of funds; to take into account experience and lessons learned from previous AHTEGs, including the use of open-ended online expert forums; and to consider the need to establish a permanent subsidiary body at COP/MOP 8.

SOCIO-ECONOMIC CONSIDERATIONS

On Tuesday morning, WG I considered socio-economic considerations (UNEP/CBD/BS/COP-MOP/6/15 and INF/13). A contact group, co-chaired by Ruben Dekker (the Netherlands) and Gurdial Singh Nijar (Malaysia), met on Tuesday afternoon and Wednesday evening, where they considered a non-paper prepared by the Co-Chairs. On Thursday, the Contact Group deliberated throughout the day on revised draft text. The Co-Chairs requested informal consultations to resolve remaining issues. On Thursday evening and Friday, WG I considered the draft decision reflecting the negotiations in the contact group.

Initial discussions addressed: the need for socio-economic considerations to be focused on impacts of LMOs on the conservation and sustainable use of biodiversity; the need for conceptual clarity, as well as relevant activities and responsible bodies to develop it; and whether or when to establish an AHTEG. Subsequent discussions centered on the purpose and scope of the potential mandate for an AHTEG, its composition and funding.

Throughout the discussions, delegates differed on whether the eventual outcome should be “guidance” or “guidelines,” given reference to both in Operational Objective 1.7 of the Strategic Plan. Delegates resolved the issue by changing a proposed reference to guidelines to “objectives and outcomes,” thereby incorporating both concepts in the draft decision. Numerous countries expressed concern about adequate representation in the AHTEG, both for individual countries, as well as for indigenous and local communities and non-parties. Co-Chair Nijar noted that the proposed size of the AHTEG already exceeded that recommended for AHTEGs and financial constraints. Delegates agreed to a flexible approach for the number of representatives and observers, based on available resources, and resolved concerns about text related to voluntary funding by agreeing to “encourage” rather than “urge” parties to provide financial support for an AHTEG. The Republic of Korea indicated readiness to co-sponsor a meeting of the proposed AHTEG and Norway said it will explore the possibility of contributing to an AHTEG.

On Friday, WG I delegates considered an earlier proposal by Ethiopia to broaden the potential basis for stocktaking and review by the Secretariat and delegates agreed to keep the draft text as it was. Brazil requested that preambular text include reference to domestic implementation, in addition to decisions on import, to make it consistent with Protocol text. With that amendment, delegates approved the draft decision text.

COP/MOP Decision: In its decision (UNEP/CBD/BS/COP-MOP/6/L.15), the COP/MOP encourages parties, other governments and relevant organizations to: conduct research on the socio-economic impact of LMOs to fill knowledge gaps and identify specific socio-economic issues, including those with positive impacts; share and exchange information on research and experience via the BCH; and build domestic capacity in socio-economic analysis of LMO impacts by engaging local institutions of higher education.

The COP/MOP further requests the Executive Secretary to compile, take stock of and review information on socio-economic considerations arising from the impact of LMOs on the conservation and sustainable use of biodiversity, on the basis of: existing situational frameworks, legislation and policies with provisions on socio-economic considerations; capacity-building activities relating to biosafety and socio-economic considerations; existing expertise and experience; and other policy initiatives concerning social and economic impact assessments.

The COP/MOP further decides to establish an AHTEG, subject to availability of funds, and according to the terms of reference contained in the annex to the decision. The AHTEG will develop conceptual clarity, drawing on the outcomes of: stocktaking and review by the Executive Secretary of

information on socio-economic impacts of LMOs on the conservation and sustainable use of biodiversity; and online discussion groups and regional online conferences to facilitate and synthesize the exchange of views, information and experiences among parties, governments, organizations, and indigenous and local communities. According to the annex, the AHTEG will be composed of: a minimum of five and maximum of eight experts per region, depending on funding, and nominated by parties, while maintaining a regional balance; and at least five, but no more than ten observer participants representing non-parties, UN organizations/agencies, relevant organizations, and indigenous and local communities.

MONITORING AND REPORTING

On Tuesday, WG II considered Monitoring and Reporting (Article 33): Analysis of Information and Trends Contained in the Second National Reports (UNEP/CBD/BS/COP-MOP/6/16). On national reporting, the EU suggested eliminating questions that lead to reporting static information and urged all parties to complete the second national report. Mexico stressed that the format should improve trend assessments. Guatemala called for a format that facilitates public dissemination of national reporting noting, with Niger, the need for financial support. Brazil cautioned that the role of the Executive Secretary in identifying gaps in reporting and communicating to parties should not surpass the mandate under the Protocol.

On Thursday, the EU suggested removing reference to the review of the revised reporting format by the AHTEG on the Strategic Plan and evaluation of the effectiveness of the Protocol. WG II adopted the draft decision with this amendment.

COP/MOP Decision: In its decision (UNEP/CBD/BS/COP-MOP/6/L.9), the COP/MOP: welcomes the high rate of submission of second national reports by parties and takes note of the analysis of responses prepared by the Secretariat; reminds parties of their obligation to submit national reports, urging those who have not done so to submit their reports and answers to all mandatory questions; and further reminds parties to make the required information available to the BCH.

The COP/MOP further requests the Secretariat to: assess, on the basis of the second national reports, the discrepancies and/or gaps in information made available by parties through the BCH; assist parties to submit through the BCH the updated information contained in their reports; update the reporting format, taking into account the experiences gained from analyzing the second national reports, the recommendations of the Compliance Committee and feedback from parties; and to submit the revised format to COP/MOP 7.

ASSESSMENT AND REVIEW

On Tuesday, WG II considered the Protocol's second assessment and review (UNEP/CBD/BS/COP-MOP/6/17 and Add.1). The EU cautioned against overlap and duplication between the mid-term evaluation of the Strategic Plan and the third assessment. Mexico said data screening for the evaluation of the Protocol's effectiveness would require the support of an AHTEG. South Africa supported an AHTEG, suggesting future reviews should focus on underlying reasons for countries having difficulties in implementing national biosafety frameworks.

Norway prioritized gathering information on indicators for which information is insufficient to date and suggested reconsidering the need for an AHTEG at COP/MOP 7.

On Thursday the EU said commissioning a consultant to develop a methodological approach for the third assessment should be subject to availability of funds. The EU also suggested inviting parties to submit views on this approach, and requesting the Secretariat to review the approach "in light of views received." WG II approved the draft decision with these amendments.

COP/MOP Decision: In its decision (UNEP/CBD/BS/COP-MOP/6/L.10), the COP/MOP: notes the information contained in the second national reports and the analysis undertaken on the status of implementation of core elements of the Protocol; and decides that the data and information contained in the analysis shall form the baseline for measuring progress in implementing the Protocol.

The COP/MOP further requests the Executive Secretary to:

- undertake a dedicated survey to gather information corresponding to indicators in the Strategic Plan that could not be obtained from the second national reports or through other existing mechanisms;
- review the information gathered through the survey and make the results available to the parties prior to COP/MOP 7;
- commission a consultant, subject to availability of funds, to develop a sound methodological approach for the third assessment and review of the effectiveness of the Protocol; and
- provide parties with an opportunity to submit views on the methodological approach, review it in light of the views provided, and submit a proposal for consideration by COP/MOP 7.

The COP/MOP also requests the Compliance Committee, in light of the conclusions and recommendations of the AHTEG on the Second Assessment and Review of the Protocol, to evaluate the status of implementation of the Protocol as a contribution to the third evaluation of effectiveness in meeting the objectives of the Protocol; and decides that in the process of preparing for the third assessment and review of the Protocol, the experiences of the parties in complying with the Protocol shall be taken into account.

CLOSING PLENARY

The closing plenary convened at 5:15 pm on Friday. Delegates resolved outstanding issues in the decisions on unintentional transboundary movements and the financial mechanism and resources and adopted 15 decisions and the reports of the working groups (UNEP/CBD/BS/COP-MOP/6/L.1/Add.1 and Add.2).

Plenary was then suspended to allow for the finalization of the decision on the budget and reconvened at 8:30 pm. Conrod Hunte, Chair of the budget contact group, introduced the 2013-2014 draft budget decision (UNEP/CBD/BS/COP-MOP/6/L.17). He expressed concern that priority issues expressed by states could not be included in the core budget, with both AHTEGs (Risk Assessment, and Socio-economic Considerations), being subject to voluntary contributions. Delegates then adopted the budget decision without amendment. Delegates then adopted the COP/MOP 6 report (UNEP/CBD/BS/COP-MOP/6/L.1).

The Republic of Korea announced its intention to host COP/MOP 7 and CBD COP 12. Chair Farooqui said that the decision on this would be made during COP 11.

CBD Executive Secretary Dias hailed work on risk assessment and socio-economic considerations. Mexico, on behalf of GRULAC, urged retaining the two-year periodicity for COP/MOPs to fulfill the objective of the Strategic Plan. Syria, on behalf of the Asia-Pacific Group, with Moldova, for CEE, highlighted the need for capacity building. The EU said compromises reached during the meeting will help further effective implementation of the Protocol. Benin, for the African Group, thanked the Indian government and people for their hospitality. Japan, recalling the challenges of the Presidency, asked delegates to support India over the next two years. New Zealand offered a formal tribute to the Government and people of India, which the plenary endorsed by acclamation. Bolivia proposed to host the first AHTEG on socio-economic considerations.

Chair Farooqui thanked delegates for their positive attitude and spirit of compromise, announced financial pledges made by Norway and the Republic of Korea for the AHTEG on socio-economic considerations, and gavelled the meeting to a close at 9:31 pm.

A BRIEF ANALYSIS OF COP/MOP 6

Asked about their expectation before the meeting, many delegates expressed a sense of anti-climax. Two years after the adoption of the Supplementary Protocol on Liability and Redress, which had dominated deliberations at previous COP/MOPs, many expected COP/MOP 6 to be a low-key meeting. While many described COP/MOP 6 as a “pragmatic working session” most delegates felt that the meeting allowed an important glance at the substantive issues and implementation challenges future COP/MOPs will have to address.

This brief analysis will look behind the shadow of the liability and redress negotiations to assess which issues have now moved into the spotlight and the implementation challenges that remain.

MIXED VIEWS ON IMPLEMENTATION

At first glimpse, it seems that the Cartagena Protocol is doing well. It now has 164 parties and the outstanding 90% submission rate of the second national reports suggests that parties are heavily engaged in implementation. A closer look, however, reveals that only about half of the parties have actually implemented the core provisions of the Protocol by establishing an advance informed agreement procedure and implementing national biosafety frameworks. What is more, the GEF reported that only 7% of funds nominally devoted to biosafety implementation are actually being used by countries. This could indicate that for many GEF-eligible countries biosafety implementation is not as high a priority as other biodiversity-related activities such as protected areas or species conservation programmes.

One reason for this persisting low rate of implementation may be related to the fast changing landscape of biotechnology and countries' shifting interests, in particular. Today, only a very small number of countries are opposing LMOs entirely. More and more countries differentiate between LMOs they want to

approve for production and LMOs they approve for import. As more and more countries become LMO exporters their decisions regarding transboundary movements of LMOs are inherently more complex, requiring the design of national biosafety frameworks that balance importer and exporter interests. With regard to imports countries seek to protect the environment against risks associated with LMO-shipments; whereas with regard to exports their interest is to create the least disruption to international trade. At COP/MOP 6 these trends led to less pronounced positions on many issues that used to determine the frontlines between exporter and importer interests.

Take for example HTPI, a long-standing controversial issue, especially with regard to the documentation requirements for LMOs destined for contained use, and LMOs for intentional introduction into the environment. COP/MOP 6 was to review the use of these requirements and take necessary measures to boost implementation of Article 18. According to national reports, only about 40% of the parties have taken measures to meet the requirements, which points to the need for COP/MOP action to address the problem.

Importing countries used to take a strong stance on this issue as they see documentation as a primary means to take informed decisions with regard to LMO imports. However, rather than repeating the traditional face-off between importers and exporters, COP/MOP 6 delegates chose to neutralize most of the potentially controversial references by either deleting them or opting for flexible language. Prominent examples are the deletion of reference to the UN Model Recommendations on the Transport of Dangerous Goods, or the move away from a requirement to use stand-alone documentation, rather than existing documents such as a commercial invoice. In both cases, delegates shied away from the task of crafting finely balanced language that would have been needed to make substantive progress towards implementation.

Similar trends were observed in the discussions on notification requirements or unintended transboundary movements and emergency measures, where the decision text shrunk at an impressive speed as delegates decided to review the issue only once a problem has occurred. These are examples of the well-known “wait-and-see” approach consisting of gathering more information and reviewing the issue again at a later stage, or waiting until there is a problem to trigger a review.

The price of this lack of ambition is, however, that some opportunities were left by the wayside, such as an exchange of information with the UN Model Recommendations on the Transport of Dangerous Goods, whose work on guidelines for GMO transports could provide a useful complement to regulations adopted under the Protocol.

As one delegate noted, the wait-and-see approach may have been appropriate in the Protocol's early years, but now parties have gotten to a point where they must identify and address the underlying reasons for the slow progress in implementation.

MOVING INTO THE SPOTLIGHT – RISK ASSESSMENT AND SOCIO-ECONOMIC CONSIDERATIONS

The wait-and-see approach also affected the discussions on risk assessment and risk management, in particular the revised guidance on risk management. Many felt that since it went through an extensive review through online forums and the

reconvened AHTEG on risk assessment, the guidance should be sufficiently mature to be endorsed by the COP/MOP as an essential resource for the development of nationally adapted risk assessment approaches. Despite numerous references emphasizing the voluntary nature of the guidance and the broad understanding that it would be tested and further revised, delegates could not agree to endorse and operationalize the guidance. Instead, they decided to call for another round of improvements by requesting a structured approach to testing and subsequent revision. While this was generally welcomed, some believed that the discussion missed out on a key point. For developed countries the guidance is a reference point in further development of their own nationally adapted approaches to risk assessment. They felt that the current guidance was too detailed and restrictive. Developing countries, on the other hand, need the guidance as a tool to start conducting risk assessments in the first place. Rather than addressing these different needs, which could have led to a more differentiated approach, the discussions focused on finding language that would satisfy all parties, resulting yet in another incarnation of the wait-and-see approach.

Surprisingly the issue that was least affected by the wait-and-see approach was the one least expected to lead to a breakthrough: socio-economic considerations. This issue had long been blocked by bitter debates among those who felt that broader socio-economic considerations should not be dealt with under the Protocol, because it is limited to transboundary movements; and participants who wanted to address potential negative socio-economic impacts of LMOs, such as the loss of agricultural varieties that have cultural value. As a result, work on socio-economic considerations has been slow and mostly limited to compiling information, until a workshop on socio-economic considerations was hosted by India during the intersessional period.

COP/MOP 6 was able to achieve broad consensus that socio-economic considerations require substantive engagement. Delegates realized that the first step towards addressing socio-economic considerations in a meaningful way is to develop conceptual clarity on what constitutes socio-economic considerations under Article 26. Building consensus on the need to establish an AHTEG to conduct this basic work enabled delegates to envision the next steps. This vision came embodied in a reference to Operational Objective 1.7 of the Strategic Plan, which mentions the development of “guidance” or “guidelines” as a possible outcome. Many hailed this reference as the real breakthrough of the meeting since it provides a clear objective for future work on socio-economic considerations. Thereby it has lifted the item from the status of perpetual stalemate to an actual issue for outcome-oriented deliberations.

Of course, the substantive debate will face many future hurdles, such as drawing a line between any type of socio-economic impact of LMOs and those impacts associated with damage to the conservation and sustainable use of biodiversity that can be rightfully considered under the Protocol’s scope. Nonetheless, many delegates felt that by taking the first step at this COP/MOP, socio-economic considerations has been firmly established as one of the main substantive issues to be developed at future COP/MOPs.

REFOCUSING ON IMPLEMENTATION

The ongoing negotiations on liability and redress were often cited as a reason for a lack of focus on implementation. Completing the “missing piece” of the biosafety regime was considered the priority, to the detriment of many other issues. This attitude may be one of the reasons for the dominance of the wait-and-see approach.

On the other hand, the wait-and-see-approach does not bode well for the rapid entry into force of the Nagoya-Kuala Lumpur Protocol on Liability and Redress, intended mainly as an instrument to protect importing countries. The negotiations themselves, however, were a perfect display of the trend that the influence of importers is waning as many formerly importing countries become exporters and LMOs have become more prevalent and more accepted around the globe. Some exporting countries have made it clear that they won’t accept any reference to the Supplementary Protocol, for example suggesting it as guidance in the context of other decisions, before its entry into force. These statements may indicate that these countries have little interest in ratifying the Supplementary Protocol.

The adoption of the Supplementary Protocol has freed up resources of the COP/MOP to focus on new issues, with socio-economic considerations poised to move into the spotlight. COP/MOP 6 also made it clear that there is a need to refocus on implementation. As both the technology of LMOs and the Protocol mature, the wait-and-see approach is no longer appropriate, since it could invite problems that the Protocol is trying to avoid. The risks associated with LMOs concern low probability events that could potentially create irreversible and long-term damage to biodiversity. The objective of the precautionary approach and the Protocol is precisely to avoid such risks from materializing by putting into place adequate procedures and regulatory frameworks. The challenge for the COP/MOP will be to overcome the complacency inherent in the wait-and-see approach and motivate countries to implement preventive measures before a problem occurs.

UPCOMING MEETINGS

CBD COP11: The 11th meeting of the Conference of the Parties (COP 11) to the Convention on Biological Diversity (CBD) 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. **dates:** 8-19 October 2012 **location:** Hyderabad, India **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/cop11/>

Africa Regional Capacity-Building Workshop on Public Awareness, Education and Participation Concerning the Safe Transfer, Handling and Use of LMOs: This meeting will

address national and legal frameworks for public awareness, education, access to information, public participation and fostering regional and international cooperation. **dates:** 5-9 November 2012 **location:** Kampala, Uganda **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/doc/?meeting=BSWSCBLMO-AFR-01>

7th Session of the Intergovernmental Technical Working Group on Animal Genetic Resources for Food and Agriculture: Issues to be addressed by the Seventh Session of the Working Group include: reviewing progress made in implementing the Global Plan of Action for Animal Genetic Resources; implementing and reviewing the Funding Strategy for implementing the Global Plan of Action; indicators to measure progress made in implementing the Global Plan of Action; and further developing the headline indicator of the CBD for trends in genetic diversity of domesticated animal species of major socio-economic importance. **dates:** 24-26 October 2012 **location:** FAO Headquarters, Rome, Italy **contact:** Irene Hoffmann **phone:** +39-6-570-52796 **fax:** +39-6-570-55749 **email:** ITWG-ANGR7@fao.org **www:** <http://www.fao.org/ag/againfo/programmes/en/genetics/angrvent.html>

Fourth Meeting of ITPGR Committee on SMTA and MLS: The *Ad Hoc* Technical Advisory Committee on the Standard Material Transfer Agreement (SMTA) and the Multilateral System (MLS) of the ITPGR advises the Treaty Secretary on implementation questions raised by users. **dates:** 6-7 November 2012 **location:** Rome, Italy **contact:** ITPGR Secretariat **phone:** +39-6-570-53441 **fax:** +39-6-570-56347 **email:** pgrfa-treaty@fao.org **www:** <http://www.planttreaty.org/>

First Meeting of ITPGR Committee on Sustainable Use of PGRFA: The *Ad Hoc* Technical Advisory Committee on sustainable use of PGRFA will advise the Secretary and Bureau of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR) on a number of issues, including: identifying needs and opportunities to facilitate sustainable use of PGRFA; developing a toolbox on sustainable use of PGRFA in order to assist parties in the implementation of ITPGR Article 6; elaboration of a draft work programme on sustainable use of PGRFA; and cooperating with the Convention on Biological Diversity (CBD), the Commission on Genetic Resources for Food and Agriculture (CGRFA), and other international processes and institutions in the field of sustainable use of PGRFA. **dates:** 8-9 November 2012 **location:** Rome, Italy **contact:** ITPGR Secretariat **phone:** +39 06 570 53441 **fax:** +39 06 570 56347 **email:** pgrfa-treaty@fao.org **www:** <http://www.planttreaty.org/>

Intergovernmental Technical Working Group on PGRFA: The Intergovernmental Technical Working Group on Plant Genetic Resources for Food and Agriculture (PGRFA) of the Commission on Genetic Resources for Food and Agriculture (CGRFA) will examine, *inter alia*: the implementation of the Second Global Plan of Action for Plant Genetic Resources for Food and Agriculture; a review of the draft updated Genebank Standards; the process for preparing the Third Report on the State of the World's Plant Genetic Resources for Food and Agriculture; and access and benefit-sharing for plant genetic

resources. **dates:** 14-16 November 2012 **location:** Rome, Italy **email:** ITWG-PGRFA@fao.org **www:** <http://www.fao.org/agriculture/crops/core-themes/theme/seeds-pgr/itwg/6th/en/>

International Banana Symposium: Scientific experts, researchers, government agencies and private industries working on banana issues will gather for an international banana symposium co-organized by the Taiwan Banana Research Institute (TBRI), Council of Agriculture (COA) of Taiwan, Bioversity International and the Banana Asia Pacific Network (BAPNET). The symposium's theme will be "Banana health management, use diversification and adaptation to climate change." Bioversity International is a member of the Consultative Group on International Agricultural Research (CGIAR). **dates:** 19-22 November 2012 **location:** Kaohsiung City, Taiwan **contact:** Shin-Chao Chiang **email:** shihchaochiang@yahoo.com.tw **www:** http://www.itfnet.org/v1/wp-content/uploads/2012/09/International-Banana-Symposium_2nd-Announcement.pdf

World Soybean Research Conference IX: This conference is convened under the theme "From China to Africa – Can research close the gap between soy production and increasing global demand." **dates:** 17-22 February 2013 **location:** Durban, South Africa **contact:** Paragon Conventions Africa **phone:** +27-21-555-4152 **email:** wsrc@paragon-conventions.co.za **www:** <http://www.wsrc2013.co.za/>

COP-MOP 7: The seventh meeting of the Meeting of the Parties to the Cartagena Protocol will take place in 2014 or 2015. The dates will be decided by the COP of the Convention on Biological Diversity. **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <http://www.cbd.int/>

GLOSSARY

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| AHTEG | <i>Ad Hoc</i> Technical Expert Group |
| BCH | Biosafety Clearing-House |
| CBD | Convention on Biological Diversity |
| CEE | Central and Eastern Europe |
| COP/MOP | Conference of the Parties serving as the Meeting of the Parties |
| GEF | Global Environment Facility |
| GRULAC | Latin American and Caribbean Group |
| HTPI | Handling, transport, packaging and identification |
| LMO | Living modified organisms |
| LMO-FFP | Living modified organisms for food, feed and processing |
| OECD | Organization for Economic Cooperation and Development |
| STAR | System for Transparent Allocation of Resources |
| WG | Working Group |
| WTO | World Trade Organization |



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International Institute for Sustainable Development Reporting Services (IISD RS) Knowledge Management Resources

IISD RS, publisher of the *Earth Negotiations Bulletin*, also maintains online knowledgebases that are updated daily with information regarding meetings, publications and other activities related to international sustainable development policy and its implementation.

Each knowledgebase project consists of several integrated resources, to help the sustainable development policy and practice communities assess trends and activities at the international level. These resources are:

- Daily news reports researched and written by our own experts and organized in a **freely accessible, searchable on-line knowledgebase**;
- A **comprehensive calendar of upcoming events** related to international sustainable development policy, which can be downloaded to your own online calendar;
- And a **community listserve**, which exclusively delivers email updates of the most recent additions to our knowledgebases, as well as announcements by listserve members regarding their organizations' sustainable development activities.

Each knowledgebase focuses on a specific environmental challenge or region, as noted below:



Sustainable Development Policy & Practice
<http://uncsd.iisd.org/>



Climate Change Policy & Practice
<http://climate-l.iisd.org/>



SIDS Policy & Practice
<http://sids-l.iisd.org/>



Biodiversity Policy & Practice
<http://biodiversity-l.iisd.org/>



Sustainable Energy Policy & Practice
<http://energy-l.iisd.org/>



Latin America & Caribbean Regional Coverage
<http://larc.iisd.org/>



African Regional Coverage
<http://africasd.iisd.org/>