

Progress in Implementing the Biosafety Protocol: A Report on COP-MOP-6 Meeting Held in Hyderabad

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Sixth meeting of the Conference of Parties serving as the Meeting of Parties to the Cartagena Protocol on Biosafety was held in Hyderabad on 1-5 October 2012. Its agenda items included discussions on capacity-building, biosafety clearing-house, socio-economic considerations concerning living modified organisms (LMOs), reviewing effectiveness of the Protocol and taking decisions to further ensure the safe transfer, handling and use of LMOs. This paper seeks to analyse and assess the outcome of this meeting against the much awaited expectations and India's concerns.

Key Words: Biosafety, Biosafety Clearing House, Cartagena Protocol, COP-MOP 6 meeting, Compliance Committee, Liability and Redress, LMOs, Nagoya-KL Supplementary Protocol, Risk Assessment and Risk Management

Legally binding Cartagena Protocol on Biosafety (CPB) to the Convention on Biological Diversity (CBD), which entered into force on 11 September 2003, is an international treaty with 164 Parties to it, including India. It has a specific focus on transboundary movement of living modified organisms (LMOs) resulting from modern biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity including risks to human health.

This Protocol also establishes an advance informed agreement (AIA) procedure for ensuring that countries are provided with the information necessary to make informed decisions before agreeing to the import of LMOs into their territory. It contains reference to a precautionary approach, reaffirming the Principle 15 of the Rio Declaration on Environment and Development, and also establishes a Biosafety Clearing-House (BCH) to facilitate the exchange of information on LMOs and to assist Parties in implementing the Protocol.

The governing body of the CPB, known as the Conference of the Parties to CBD serving as meeting of the Parties to the Protocol (COP-MOP in short) has held six meetings till date. Adoption of the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress in 2010 notwithstanding, the progress in implementing this Protocol has been slow so far and differences among Parties on several issues still remain unresolved.

In an effort to fast track the pace, fifth meeting of the COP-MOP, held at Nagoya, Japan in 2010, adopted a 10-year Strategic Plan (2011-2020) to facilitate the implementation of the protocol. The sixth meeting of the COP-MOP was held in Hyderabad, India on 1-5 October 2012 which was attended by some 1,500 delegates from more than 100 countries. As the incoming President of COP-MOP, India must now strive to take the process forward during the next two years of its Presidency until COP-MOP-7 to be held in South Korea in 2014.

I) Key Issues before COP-MOP-6

Substantive issues arising from the programme of work and previous COP-MOP decisions were identified by the Secretariat as follows:

1. Risk assessment and risk management (Articles 15 & 16)
2. Socio-economic considerations (Article 26)
3. Handling, transport, packaging and identification (HTPI) of LMOs (Article 18)
4. Liability and redress (Article 27) – including status of Supplementary Protocol
5. Unintentional transboundary movements and emergency measures (Article 17)
6. Assessment and review (Article 35)
7. Capacity-building and the roster of experts

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II) Main Agenda Items

Secretariat's revised annotations to the provisional agenda, developed for the meeting, included the following items for consideration and guidance of COP-MOP6:

i. Risk Assessment and Risk Management

- The revised version of the "Guidance on Risk Assessment of Living Modified Organisms"
- The mechanism for updating the lists of background materials
- New specific topics of risk assessment on which to develop further guidance
- Capacity-building activities coordinated by the Secretariat and possible future activities based on elements of the Strategic Plan for the Protocol

ii. Socio-economic Considerations (Article 26)

- Review the report of the regional online conferences and the workshop on socio-economic (SE) considerations organised during the intersessional period
- Consider the need for establishing an Ad hoc Technical Expert Group (AHTEG), or other mechanisms, to continue the work on SE considerations, including (i) development of conceptual clarity on SE considerations; (ii) review of information available on specific cases of SE impacts of LMOs; and (iii) development of guidelines on SE considerations.

iii. Handling, Transport, Packaging and Identification of LMOs

- Review the progress with the implementation of HTPI requirements for LMOs destined for contained use and LMOs intended for intentional introduction into the environment and provide guidance on further action
- Review the results of a study on existing standards, methods and guidance relevant to the HTPI of LMOs and an analysis of the developments on existing rules and standards related to the HTPI of LMOs and consider the possible need for the elaboration of standards for HTPI of LMOs and/or provide guidance on the use of existing international regulations and standards.

iv. Liability and Redress (Article 27)

- Consider the status of signature, ratification or accession to the Supplementary Protocol on Liability and Redress and the activities undertaken to expedite its early entry into force

v. Unintentional Transboundary Movements and Emergency Measures

- Consider the need for, and modalities of, developing tools and guidance to facilitate Parties to take appropriate responses to unintentional transboundary movements and initiate necessary actions, including emergency measures

vi. Assessment and Review (Article 35)

- Consider the status of implementation of the Protocol and adopt measures for further improvement

vii. Capacity Building

- Review the status of capacity-building under the Protocol and adopt a new Capacity-building Framework and Action
- Adopt a revised nomination form for the roster of experts and consider measures to improve the use of the roster

III) Expectations

COP-MOP-6 meeting was expected to address and deliver on the following issues:

1. To continue its commitment to support capacity-building activities as an important tool for its effective implementation and review the updated Action Plan for this purpose to clearly set out the strategy and priorities for the coming period with robust measures relevant to the current policy context.
2. To support the work of the Compliance Committee in order to ensure full and effective implementation of the Protocol by encouraging the Committee to make full use of its new and enhanced supporting role and assist Parties in meeting their obligations on submission of national reports.
3. To encourage more active use of BCH mechanism and overcome difficulties to facilitate easy submission of information in this context.
4. To identify and support more effective ways forward for proper implementation of the risk assessment and risk management provisions under the Protocol,

based on recommendations of the Ad Hoc Technical Expert Group.

5. To promote early ratification of the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress while also encouraging non-Parties to join the Cartagena Protocol.
6. To build up further on the progress achieved during the inter-sessional period between COP-MOP 5 and COP-MOP 6 on socio-economic considerations through regional online conferences and through the regionally-balanced workshop on capacity-building for research and information exchange on socio-economic impacts of LMOs and to identify way forward for socio-economic considerations.
7. To deliberate upon the crucial issue of the environmental risk assessment for taking decisions related to the intentional transboundary movement of LMOs in order to identify and evaluate their possible effects on the conservation and sustainable use of biological diversity taking into account risks to human health.
8. To work towards developing a consensus on the budget that is consistent with the agreed strategic priorities and programme of work for the Protocol's effective implementation and to mobilize greater resources for this purpose, including the next cycle of GEF funding.

IV) Brief Report on the Decisions taken by COP-MOP-6 Meeting

Indian Minister of Environment & Forests, Smt. Jayanthi Natarajan took over the COP-MOP-6 Presidency, from Mr Masamichi Saigo, Ministry of Agriculture, Forestry and Fisheries representing Japan's Presidency of COP-MOP-5, and stressed the need to develop a balance between health, technology and the environment and also urged upon the Parties to ratify the Supplementary Protocol on Liability and Redress. Following the inaugural session, Shri M.F. Farooqui, Spl. Secretary, Ministry of Environment & Forests, took over as the COP-MOP-6 Chair and conducted the proceedings.

The meeting adopted 16 decisions related to the following topics:

Compliance; the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress; subsidiary bodies; cooperation with other international organizations, conventions and initiatives; the BCH; capacity building; the roster of experts; monitoring

and reporting; assessment and review; notification requirements; HTPI of LMOs; unintentional transboundary movements of LMOs; financial mechanism and resources; socio-economic considerations; risk assessment and risk management; and the budget.

1. Compliance Committee

During the closing plenary, COP-MOP Chair Shri Farooqui announced the nominations for Compliance Committee from the beginning of 2013 as follows:

Kaouthar Tliche Aloui (Tunisia) and Johansen Voker (Liberia) for the African Group; Dubravka Stepic (Croatia) and Angela Lozan (Moldova) for Central and Eastern European Group; Jimena Nieto (Colombia) and Hector Conde Almeida (Cuba) for Group of Latin American and Caribbean countries; Geoff Ridley (New Zealand) and Reuben Dekker (the Netherlands) for the Western Europe and Others Group; and Rai S. 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.

2. Biosafety Clearing-House (BCH)

Discussions largely focused on the functionality and use of the BCH, the second phase of the UNEP-Global Environment Facility (GEF) project on capacity building support for the BCH and the project's likely extension. While many Parties supported extension, there were others who sounded caution.

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 to 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 Organisation (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 the capacity building in the use of the BCH, based on experiences learned from the UNEP-GEF BCH-II.

3. *Financial Mechanism and Resources*

COP/MOP Decision: In the decision (UNEP/CBD/BS/COPMOP/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.

4. Cooperation with Other Organisations, Conventions and Initiatives

COP/MOP Decision: In the decision (UNEP/CBD/BS/COPMOP/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 World Trade Organization that are relevant to biosafety.

5. Budget

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.

6. Capacity Building

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 midterm 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.

7. Roster of Experts

COP/MOP Decision: In the decision (UNEP/CBD/BS/COPMOP/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.

8. Handling, Transport, Packaging and Identification (HTPI)

- a. HTPI for LMOs destined for Contained Use or for Intentional Release
- b. HTPI Standards

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.

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.

9. Notification Requirements

COP/MOP Decision: In its decision (UNEP/CBD/BS/COPMOP/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.

10. Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress

COP/MOP Decision: In its decision (UNEP/CBD/BS/COPMOP/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.

11. Unintentional Transboundary Movements and Emergency Measures

COP/MOP Decision: In its decision (UNEP/CBD/BS/COP-MOP/6/L.13), the COP/MOP:

In its decision, 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.

12. Risk Assessment and Risk Management

COP/MOP Decision: In the decision (UNEP/CBD/BS/COPMOP/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 sub-regions; 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 sub-regional 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.

13. *Subsidiary Bodies*

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.

14. *Socio-Economic Considerations*

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 socioeconomic 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 socioeconomic 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 nonparties, UN organizations/agencies, relevant organizations, and indigenous and local communities.

15. *Monitoring and Reporting*

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.

16. *Assessment and Review*

COP/MOP Decision: In its decision (UNEP/CBD/BS/COPMOP/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.

17. Closing Plenary

The Plenary adopted 15 decisions and the reports of the working groups (UNEP/CBD/BS/COP-MOP/6/L.1/Add.1 and Add.2). This was preceded by a prolonged discussion on some outstanding issues, under the Agenda items on unintentional transboundary movements and the financial mechanism and resources, to explore developing consensus over them.

Session 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 Parties could not be included in the core budget, with both AHTEGs (Risk Assessment, and Socio-economic Considerations), being subject to voluntary contributions. Decision on budget was adopted without amendment. Delegates then adopted the COP/MOP 6 report (UNEP/CBD/BS/COP-MOP/6/L.1).

Progress made on risk assessment and socio-economic considerations received appreciation and Bolivia proposed to host the first AHTEG on this subject. Need for capacity building was again highlighted by the Asia-Pacific and the CEE groups. GRULAC urged retaining the two-year periodicity for COP/MOPs to fulfill the objective of the Strategic Plan.

The Republic of Korea announced its intention to host COP/MOP 7 and CBD COP 12. New Zealand offered a formal tribute to the Government and people of India, which the plenary endorsed by acclamation. Japan, recalling the challenges of the Presidency, asked delegates to support India over the next two years.

COP-MOP Chairman Shri M.F. Farooqui thanked the delegates for their positive attitude and spirit of compromise, announced financial pledges made by Norway and the Republic of Korea for the AHTEG on socioeconomic considerations, and formally closed the sixth meeting.

V) Overview

A. Progress of Implementation

The CPB is the only international agreement dealing exclusively with products of modern biotechnology. Interpretations of its Articles and their implementation have a significant bearing on biosafety regulations in both developed and developing countries. It is noteworthy that products from new technologies are assessed keeping in view the precautionary principle allowing countries to ban imports of an LMO if they feel that there is not enough scientific evidence showing that the product is safe. Its provisions also require the exporters to label clearly their shipments that contain genetically engineered commodities like maize or cotton.

At the first glance, it seems that implementation is doing well as gleaned from the fact that the Protocol now has 164 Parties and the submission rate of the national reports, which is one among the measures of implementation, reached an outstanding level of nearly 90 %. A closer look, however, reveals that the progress has been admittedly slow so far and severe differences among Parties still persist. COP-MOP-5, held at Nagoya in 2010, had adopted the 10-year Strategic Plan

(2011-2020) to speed up the Protocol's implementation and it is now left to India, as the president, to take the process forward.

All Parties are required to enact enabling legislations and to adopt necessary regulatory framework and procedures in support of the mandated safety measures. However, only about half of the Parties have actually implemented the core provisions of the Protocol by establishing an advance informed agreement procedure and supportive national biosafety frameworks.

It is noteworthy that only a small number of countries seem to be totally opposing the introduction of LMOs while more and more countries are now trying to differentiate between LMOs that they want to develop themselves and LMOs that they approve for import. As more countries become LMO exporters, their decisions regarding transboundary movements of LMOs may become inherently more complex, requiring the design of national biosafety frameworks that balance the interests of both the importers and exporters. Whereas importer countries seek to protect the environment and the biodiversity against risks associated with LMO-shipments, exporters are more concerned with creating least disruption to their international trade. During this COP-MOP meeting, demarcation of frontlines between interests of exporters and importers somehow appeared to be less pronounced on many issues.

Going by the example of HTPI, a highly contested issue of long standing, 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. 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 when a problem has emerged.

Regarding the likely reasons for slow implementation, many developing countries are still faced with insufficient technical human resources, lack of institutional capacities, inadequate awareness at all levels, irrational protests and, above all, little mobilization of the required funding. These challenges have to be met in case the pace of implementation is to make a real headway.

B. Risk Assessment and Socio-Economic Considerations

Following hard negotiations, key decisions on socio-economic considerations and risk assessment were adopted, advancing thereby the work of the Protocol on these issues.

Risk assessment and risk management are the core provisions of the Cartagena Protocol and discussions on them during this meeting, in particular the revised guidance on risk management, made good progress. It was felt that since it had gone 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 developing nationally adapted risk assessment approaches. However, despite numerous references emphasizing the voluntary nature of the guidance and the broad understanding that it would be tested and further revised, delegates did 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.

Surprisingly there was a welcome breakthrough on the issue of 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 Inter-sessional period. COP/MOP 6 was able to achieve broad consensus that socio-economic considerations require substantive engagement.

The decision on socio-economic considerations established an AHTEG to develop conceptual clarity on what constitutes socio-economic considerations under Article 26 and submit its report to COP-MOP-7 in 2014. This issue had remained highly contested earlier as the developing Parties wanted to retain their right to take socio-economic considerations into account when taking a decision on importing LMOs while some developed countries opposed this by giving it low priority. Building consensus on the need to establish an AHTEG to conduct this basic work led to 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 provided a clear objective for future work on socio-economic considerations and raised its status from that of a perpetual stalemate to an actual issue for outcome-oriented deliberations. The substantive debate will, however, still face some 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. However, by taking the first step at this COP-MOP, socio-economic considerations issue has now been firmly established as one of the main substantive issues to be developed at future COP/MOPs.

C. Refocusing on implementation

Being the first COP-MOP meeting after the adoption of the Nagoya-Kuala Lumpur Protocol on Liability and Redress, it faced somehow a cautious attitude of Parties delaying the rapid entry into force of this Supplementary Protocol that was intended mainly as an instrument to

protect the importing countries. The on-going negotiations revealed that the influence of importers is waning since many formerly importing countries have now become exporters and LMOs. Some exporting countries have made it clear, however, 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. Nevertheless, adoption of this Supplementary Protocol has provided some breathing space to focus on new issues, with socioeconomic considerations poised to move into the spotlight. COP/MOP 6 also made it clear that there is a need now to refocus on Protocol’s implementation. The risks associated with LMOs may 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.

VI) The Indian Scene

The COP-MOP-6 was an opportunity for the global community to discuss many of the biosafety aspects and pave the way for a more robust science-based regime across all countries in the world, including both the providers as well as users of the modern biotechnology products. It was also a testimony to India’s growing stature as it took over the COP-MOP presidency from Japan. It was reflected in the way socio-economic considerations and livelihood issues were brought forward and moved ahead in the meeting’s agenda.

It is commendable that India has notably moved forward and the private sector is now collaborating with the Government in an effort to ensure that we have one of the best science-based regulatory mechanisms in operation. In this context, India is set to enact the Biotechnology Regulatory Authority of India Bill to set up a statutory and autonomous agency with adequate powers to regulate research, import, develop, transport and use of biotechnology products with a view to maintaining safety standards. At present, there is a moratorium imposed in India on Bt brinjal (eggplant/ aubergine), imposed in February 2010, but open field trials for other GM food crops are permitted after they are approved by the Genetic Engineering Appraisal Committee subject, however, to final say by the individual states within the country.

A technical expert committee, appointed by the Supreme Court of India to advise upon open field trials for GM crops, has recently (18 October 2012) recommended a ten-year moratorium on all Bt food crops' field trials and has asked the regulatory authorities to revisit regulations afresh so as to ensure that the GM crops pose no risk to human health or the environment. This report highlights the need for specifically designated and certified field trial sites and focuses upon sufficient mechanisms to be established for monitoring trials before conducting further field trials. This recommendation is, however, yet to be considered by the Supreme Court for its acceptance. This new report apparently contradicts the advice from the Prime Minister's scientific advisory council on biotechnology and agriculture, which met on 09 October 2012, but it is in line with another report, submitted in August 2012, by a parliamentary committee on the cultivation of GM crops, recommending that GM crops' field trials should be discontinued and research on GM crops be conducted under strict regulation. Notwithstanding the urgent need for Indian evaluation of the safety status of GM crops to be of the desired standards, this experience reveals the need for convergence in policy and administrative decisions, considering that the progress of on-going research efforts may suffer for want of clear policy guidance on this subject.

VII The Way Ahead

Ensuring biosafety, when LMOs are released, is the responsibility of national governments. Problems often arise within a country when several ministries, with radically different priorities, are involved in regulation. CPB being a multilateral environment agreement, Ministry of Environment & Forests is the nodal implementing agency although the major beneficiaries may be the Ministries of Agriculture and Health. It has now become increasingly clear that the biosafety mainstay in developing countries is the precautionary principle that empowers Member States to permit imports, impose restrictions, or refuse imports even when there is no conclusive evidence of risk.

Transboundary movement of agricultural products containing LMOs is henceforth likely to be regulated through BCH, an internet-based information system. All LMOs, approved at the national level as food or feed, and which are registered with the BCH, may be exported to other Member States provided the importing country has not already imposed any restrictions based on its legal regulatory framework. Capacity building, creating awareness, clarity in procedures and transparency in decision making continue to remain the key elements in implementing this Protocol.