WORLD TRADE ORGANIZATION

TN/TE/INF/9/Rev.1[*]
13 October 2004

(04-4284)

Committee on Trade and Environment
Special Session

Original: English

STATEMENT BY THE SECRETARIAT OF THE CONVENTION ON BIOLOGICAL DIVERSITY (CBD) AT THE COMMITTEE ON TRADE AND ENVIRONMENT SPECIAL SESSION OF 12 – 13 OCTOBER 2004

Paragraph 31 (i)

Revision

The following communication has been received from the CBD on 11 October 2004.

---

1. I wish to thank you for the invitation to attend this meeting on behalf of the CBD Secretariat, and for your continuing interest in the Convention on Biological Diversity and its Cartegena Protocol on Biosafety.

2. At the April meeting of this Committee, I briefed you on the decisions of the seventh meeting of the Conference of the Parties to the CBD as well as of the first meeting of the Parties to the Cartagena Protocol on Biosafety (COP-MOP 1) that are of relevance to the work of the Special Session of the CTE.

3. As requested at the last meeting of this Committee, on 22 June 2004, I would like to take this opportunity to provide additional information on some recent developments under the Protocol that are relevant to your work.

4. As you know, the Cartagena Protocol on Biosafety entered into force in September 2003. As of 5 October 2004, there were 108 Parties to the Protocol. The first meeting of the Parties to the Protocol (COP-MOP 1) took place on 23 to 27 February 2004, in Kuala Lumpur. The second and third meetings of COP-MOP will take place on an annual basis, with a decision on subsequent periodicity of meetings to be taken at a later stage. The second meeting of COP-MOP will take place in June 2005, in Montreal, Canada, and the third meeting will take place in May 2006, in Brazil, in conjunction with COP-8. Decisions of COP-MOP are taken by consensus.

5. The Protocol aims to ensure an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms (LMOs). In general, the Protocol applies to all LMOs that may have adverse effects on the conservation and sustainable use of biological diversity. However, certain types of LMOs are excluded either from the entire Protocol or from specific provisions. There are different categories of LMOs referred to in the Protocol, which are subject to different requirements. Let me address some of these requirements in more detail and update you on the pertinent decisions taken by COP-MOP 1, as well as on some recent figures on decisions taken by Parties with regard to the procedural requirements.

---

[*] In English only

Identification requirements

6. The Protocol requires each Party to take measures to identify LMOs subject to transboundary movement in accompanying documentation. For the purpose of identification requirements the Protocol distinguishes three different categories of LMOs on the basis of their intended use: (i) LMOs for direct use as food or feed or for processing (LMOs-FFP); (ii) LMOs destined for contained use; and (iii) LMOs for intentional introduction into the environment.

7. In the case of the last two categories of LMOs, the Protocol requires clear identification of the organisms as LMOs in accompanying documentation. In the case of LMOs for intentional introduction into the environment, additional information specifying the identity and relevant traits and characteristics of the LMOs is also required.

8. With regard to LMOs-FFP, the Protocol requires that documentation accompanying such LMOs clearly identifies that they "may contain" LMOs and are not intended for intentional introduction, as well as a contact point for further information. The documentation requirements for LMO-FFP were not fully resolved during the negotiations of the Protocol, which is why the Protocol also envisaged the need for taking a decision on the detailed requirements for identification of LMOs-FFP by COP-MOP no later than two years after the entry into force of the Protocol. With a view to fulfilling this call by the Protocol, COP-MOP 1 established an Open-ended Technical Expert Group, which would examine the issues relevant to identification of LMOs-FFP, including unique identification, and to come up with a proposed draft decision on these detailed requirements for the consideration of COP-MOP at its second meeting. The expert group is scheduled to meet in March 2005, in Montreal, Canada.

9. In the same decision, COP-MOP 1 also requested the Executive Secretary to convene a workshop on capacity building and exchange of experiences as related to the identification requirements, to be convened prior to the meeting of the expert group in order to facilitate its work. The workshop will convene 1–3 November 2004, in Bonn, Germany.

Procedural requirements

10. Unlike the Conventions that were discussed at the June meeting of this Committee,[1] the Biosafety Protocol does not use the listing or de-listing of items (that is, in the case of these Conventions, substances or species) in annexes as a mechanism to assign trade restrictions or regulations to these items. Instead, it sets out specific procedural requirements in accordance with the different categories of LMOs, while allowing, under certain conditions, for the exemption of individual LMO from these requirements.

11. As you may know, in the case of *LMOs for intentional introduction into the environment*, the Protocol sets out an advance informed agreement procedure (AIA) prior to the first intentional transboundary movement of such LMOs, under which the Party of import is notified of the proposed transboundary movement and given the opportunity to decide whether or not the import shall be approved and under what conditions (Articles 7 to 10 and 12). Decisions of the Party of import shall be in accordance with risk assessments carried out in a scientifically sound way and taking into account recognized risk assessment techniques.

12. COP-MOP 2 will further operationalize these requirements by considering options for implementing the Protocol with respect to requirements, by a Party of export, to ensure notification and the accuracy of information contained in the notification by the exporter, and by considering the

[1] CITES, the Stockholm Convention on Persistent Organic Pollutants (POPs), and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC).

development of guidance and a framework for a common approach in risk assessment and risk management.

13. Provided adequate safety measures are in place, there is also a possibility for a Party of import to apply a simplified procedure. In that regard, Parties of import may specify in advance, by notification to the Biosafety Clearing House, (a) cases in which intentional transboundary movement may take place at the same time as the movement is notified to the Party of import; and (b) imports of LMO to be exempted from the advance informed agreement procedure.

14. As of 5 October 2004, no Party had reported a decision taken under the advance informed agreement procedure to the Biosafety Clearing House, and two Parties had notified the Biosafety Clearing House that they would exempt a total of nine LMOs from the advance informed agreement procedure.

15. Furthermore, COP-MOP may also decide that some LMOs are not likely to have adverse effects, in which case the advance informed agreement procedure shall not be applicable (paragraph 4 of Article 7). No such decision was taken so far.

16. *For LMOs for direct use as food, feed, or for processing (LMO-FFP)*, the Protocol sets out another procedure, which essentially consists in a multilateral information exchange mechanism on final decisions by Parties regarding domestic use, including placing on the market, of LMO-FFP. As of 5 October 2004, the Biosafety Clearing House registered, under this procedure, a total of 340 LMO-FFP.

17. As required by the Protocol in the provisions on the advance informed agreement procedure (see paragraph 7 of Article), COP-MOP 1 adopted procedures and mechanisms to facilitate decision-making by Parties of import under the advance informed agreement procedure, under which priority will be given to capacity building of developing country Parties.

18. With regard to capacity building, the meeting of the Parties to the Protocol adopted an action plan for building capacities for the effective implementation of the Protocol. The meeting also established a coordination mechanism for the implementation of the action plan, including *inter alia* a liaison group as well as coordination meetings and workshops. The first meeting of the liaison group will take place in January 2005, in Montreal, Canada, back-to-back with a coordination meeting for governments, organizations and donors implementing or funding biosafety-related capacity-building activities.

19. We will be pleased to update you on further developments under the Biosafety Protocol in due course.