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New Zealand submission on the post-2020 process for the Cartagena Protocol on Biosafety

Dear Dr Palmer,

With reference to CBD Notification 2019-027, please find following New Zealand's views on the post-2020 process for the Cartagena Protocol on Biosafety.

As a general point, we should note that we are unaware of any cases of harm resulting from the inadvertent release of an LMO into the environment. Approved LMO's have proven to be manageable, safe, and beneficial, particularly from the perspective of decreased herbicide use, and the environmental benefits that accrue from such use.

We note that at its introduction, the Cartagena Protocol was intended to create "...an enabling environment for the environmentally sound application of biotechnology, making it possible to derive maximum benefit from the potential that biotechnology has to offer, while minimizing the possible risks to the environment and to human health."[1] This enabling environment is consistent with New Zealand's domestic legislation,[2] which requires the examination of both the benefits and risks of the release of any LMO, and to assess the benefits against any risks (including mitigation measures). If the benefits outweigh the risks, then a release can be granted.

We consider that the post-2020 Implementation Plan for the Cartagena Protocol should be structured in such a way that enables the creation of this environment. The post-2020

[1] The Cartagena Protocol, Introduction.

[2] *The Hazardous Substances and New Organisms Act 1996.*

Implementation Plan should treat the risk of an LMO in the context of the purpose of the Protocol (as well as relevant Articles of the Convention), specifically to enable the safe use of biotechnology and the realisation of potential benefits for biological diversity.

In answer to the specific questions raised in Notification 2019-027, we provide the following comments in the context of the three main points requested in the notification:

(1) the structure and content of the Implementation Plan for the Cartagena Protocol on Biosafety post-2020, noting that the Plan is to:

  (a) be developed as an implementation tool;
  (b) reflect the elements of the Strategic Plan for the Cartagena Protocol for the period 2011-2020 that are still relevant;
  (c) include new elements reflecting lessons learned and new developments relevant to biosafety;
  (d) ensure sufficient flexibility to account for developments during the implementation period; and
  (e) comprise indicators that are simple and easily measurable to facilitate the review of progress in the implementation of the Protocol.

New Zealand considers that the existing Strategic Plan has elements that are relevant to the post-2020 implementation plan. However, we note that there is a great deal of redundancy in the existing Strategic Plan, much of it linked to capacity building. For this reason, the bulk of our comments as they might pertain to Focal area 1 (Facilitating establishment and development of effective biosafety systems) are addressed in our comments as they regard Focal area 2 (Capacity Building). Our view is that capacity building is among the most important aspects of the post-2020 implementation plan. However, a notable lesson learned from the last nine years is that the development of guidance documents is not the best use of resources in providing capacity building to Parties that request it. Please refer to our comments in point 2 below for more on capacity building.

Compliance with the Protocol continues to be somewhat problematic. However, nearly all Parties have now submitted at least one National Report. We recommend that Parties in a place to do so should assist other Parties who have resourcing issues that mean they cannot meet their reporting requirements. We note that a major sticking point with aspects of compliance lies in the inability of the Biosafety Clearing House to accept incomplete information, particularly as it pertains to the detection of LMOs. The tools in the BCH require further development to facilitate reporting, and thus compliance, not only as it pertains to *ad hoc* incidents, but also to National Reports.

(2) possible elements of a specific action plan for capacity-building on biosafety, covering the Cartagena Protocol and its Supplementary Protocol;

National Biosafety frameworks (Item 2.1 of the current Strategic Plan)

The current strategic plan calls for the development of National Biosafety Frameworks. While good progress has been made, there is more work to be done. While a regulatory

framework is of key importance, such frameworks are dependent on domestic legislatures developing and implementing relevant legislation and underlying regulations. Thus, this is an activity that can only be supported and encouraged, but little else can be done in terms of an implementation tool.

Risk assessment and risk management (Item 2.2 of the current Strategic Plan)

Because any National Biosafety framework cannot be implemented in their absence, the training of risk assessors is perhaps of greater importance than the framework itself. Historically, risk assessments have been carried out on an *ad hoc* basis by trained risk assessors prior to the development of a national framework in many countries. Such assessments can be implemented if measures are put in place to prevent the escape of such organisms until a National Biosafety Framework is in place, and interim assessments can be reassessed. Thus, we consider such training to be of primary importance. This training should have as its main goal the understanding that each LMO has its own characteristics, and must be considered on its own merits, taking into account:

- its specific traits, i.e. the modifications of the LMO and the reason for its creation, and why it might be desirable to release it into the environment;
- the way those traits might bring benefit to the environment, including human health and well-being;
- the way those traits might realistically cause adverse effects on the environment, including human health and well-being;
- mitigation measures against potential adverse effects and their efficacy, particularly with regard to the threshold any level of concern, keeping in mind that "zero risk" is unachievable in the context of a release, and is often an undesirable goal, when one considers the opportunity costs of not releasing the LMO.

We consider that a useful effectiveness measure might be the number of risk assessments in the Biosafety Clearing House that are carried out in a way that reflects the training needs we identified above. Please see our comments on information sharing for further views on the role of the BCH in the post-2020 implementation plan.

As stated earlier, we consider the development of further superfluous technical guidance to be an ineffective use of resources by Parties and the Secretariat.

Handling, transport, packaging and identification (Item 2.3 of the current Strategic Plan)

Similarly, training for border inspectors must include knowledge of domestic legislation regarding the use and importation of LMOs in the receiving country. Of course, this is dependent on proper labelling when an LMO is being shipped as well as knowledge of what species have approved LMO varieties in other countries and the detection of low-level presence (above a set threshold) of such LMOs in a shipment of non-LMO varieties.

Information sharing (Item 2.6 of the current Strategic Plan)

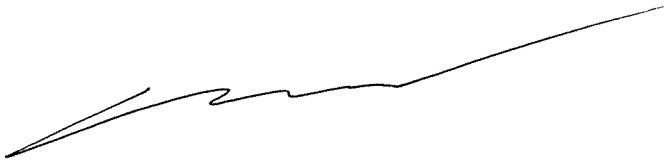
Another key component in enabling risk assessors to be able to effectively carry out their work is access not only to the risk assessments of other Parties, but also to the primary scientific literature to enable a risk assessor to more effectively evaluate the potential benefits and risks of a given LMO. Additional thought needs to be given as to how access to such resources can be achieved.

Complementary to the primary scientific literature, we consider the Biosafety Clearing House to be a useful tool for Parties to share risk assessments and experiences with various LMOs. Ensuring access via Capacity building is of critical importance to the implementation of Focal area 4 for information sharing.

(3) relevant elements of the biosafety component of the post-2020 global biodiversity framework.

Please see our prefatory comments.

Yours sincerely



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