

### Cartagena Protocol on Biosafety

the international treaty governing movements of living modified organisms

Introduction to the basic concepts and core elements of national regimes on public access to information: Outcomes of the online forum on public access to biosafety information

Secretariat of the Convention on Biological Diversity <a href="http://bch.cbd.int/protocol/">http://bch.cbd.int/protocol/</a>









### **Presentation Outline**





- Part 1: Background
- Part 2: Basic concepts: The meaning and scope
- Part 3: Basic concepts: The right to information and the importance
- Part 4: Core elements:
  - Procedures
  - Format and language
  - Timelines
  - Charging for providing information
  - Denial of information
  - Confidentiality
  - Appeals
- Part 5: Means of active dissemination

### Part 1: Background

### Article 23 requires Parties to:

Endeavour to ensure that PAE encompass access to information on LMOs imported

#### COP-MOP 5:

- •In Decision BS-V/13, paragraph 1, COP-MOP adopted a <u>comprehensive</u> <u>programme of work</u> on PAEP (2011-2015), including <u>programme element 3 on public access to information</u>
- •In the same decision, paragraph 7, COP-MOP invited the Secretariat to establish an online forum to facilitate exchange of information and experiences on the implementation of the PoW.

#### Objective:

- •Online Forum on Public Access to Information:
- Discussion group 1: "The meaning, scope and importance of public access to information"

Discussion Group 2: "Facilitating public access to biosafety information"

#### •Outcomes:

- 1. Strengthened familiarity with and guidance to access to biosafety information
- 2. Identified basic concepts and core elements of national regimes on public access to information

### Part 2: Basic Concept

### The meaning and scope of public access to biosafety information

- 1. Defined in national biosafety/environmental laws or policies. A public right to information.
- 2. Other considerations:
  - (a) Everyone having access
  - (b) Posting and disseminating information
  - (c) Access meaning accessible and understandable
  - (d) A broader scope than biosafety
  - (e) The information facilitating effective public participation in the decision-making process on LMOs
- 3. Government entities and other public/private entities
- 4. The "public" in national law/policy should be people/citizens or people/groups with an interest in issues related to LMOs





# cont. Part 3: Basic Concept The public right to information and the importance



- 1. National laws and/or NBFs:
  - (a) Access to biosafety information and/or environmental information as a right
- (b) Based on national constitutions, regional agreements and/or international treaties
- 2. The important contributions:
  - (a) Public participation in decision-making regarding LMOs
  - (b) Greater accountability and transparency
  - (c) Improved implementation of the Protocol

## Part 4: Core Elements The procedures



- 1. Mechanism and/or infrastructure:
  - (a) Posting and disseminating information(e.g., information centers, via websites)
  - (b) Educational programmes
  - (c) Contact information to key government officials
- 2. Two key procedures:
  - (a) Information available upon request
  - (b) Notifying the public on essential biosafety information
- 3. Specific government agencies/entities handing specific types of LMOs

## Cont. Part 4: Core Elements Format and Language





- 1. Electronically and in hard copies
- 2. Languages other than the official national language
- 3. Summarized and simplified/comprehensible format
- 4. Different formats depending on the target audiences

## Cont. Part 4: Core Elements Timelines for providing information upon request

- 1. National laws/administrative procedures set time limits
- 2. In general, 15 days of the date of receipt of the request
- 3. In general, 1 month for extensions
  - (a) Complex requests
  - (b) Information not available immediately
  - (c) Further studies and validation required





# Cont. Part 4: Core Elements Charging for providing information upon request



- 1. In general, no fee
- 2. In general, a fee only to cover operational costs and other basic costs
  - (a) Paper
  - (b) Photocopies
  - (c) Sending information
- 3. Governments should cover reproduction and distribution costs

### Cont. Part 4: Core Elements Denial of information upon request





- 1. Criteria in national laws
- 2. Circumstances/grounds based on limitations:
  - (a) International regulations on confidential information
  - (b) International and/or national regulations on commercial information and intellectual property rights

### Cont. Part 4: Core Elements Confidentiality





- 1. International laws and/or procedures
  - (a) Article 21 under the Protocol
  - (b) The Trade Related Intellectual
    Properties Rights (TRIPS) Agreement by
    the WTO and confidential business
    information (CBI)
- 2. National laws and/or procedures
- 3. Major challenges and how to address them:
  - (a) Accessing information on potential negative effects of LMOs
  - (b) Maintaining confidentiality
- 4. Information under paragraph 6 of Article 21 under the Protocol needs to be in national laws and procedures

### Cont. Part 4: Core Elements Appeals



- 1. An appeals system for information unjustifiably withheld or otherwise not made available
  - (a) African Model Law on Access to Information
  - (b) National laws
- 2. The main roles and functions of information commissioners and other oversight bodies:
  - (a) Information commissioners
  - (b) Other oversight bodies, such as commissions or ministries
  - (c) Courts

### Cont. Part 4: Core Elements Appeals





- 1. The importance of developing an enforcement mechanisms/procedures:
  - (a) A legal system should protect those seeking appeals from being penalized, persecuted or harassed

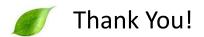
#### Part 5:

#### Means to Active Dissemination of Information





- 1. The BCH and national websites/databases
- 2. E-mails
- 3. Discussion groups
- 4. Publications/CD-ROMs
- 5. Mass media (e.g. newspapers, radio/TV), bulletins and online tools (e.g. e-mail alerts and social media)
- 6. New Information Communication Technologies (ICTs):
  - (a)Online networks/forums
  - (b)Social media (e.g. Twitter/Facebook)
  - (c) Webinars



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#### Online Forum:

http://bch.cbd.int/onlineconferences/portal\_art23/pa\_forum2012.s html

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