



CHECKLIST OF KEY MEASURES FOR THE RATIFICATION AND IMPLEMENTATION OF THE AARHUS CONVENTION AND THE CARTAGENA PROTOCOL ON BIOSAFETY IN THE CONTEXT OF LMOs/GMOs¹

Introduction

A round table on access to information, public participation and access to justice regarding living modified organisms/genetically modified organisms (GMOs/LMOs) was held in Geneva on 16 and 17 October 2013 under the auspices of the United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and the Cartagena Protocol on Biosafety to the Convention on Biological Diversity (CBD).

The joint round table reached a set of conclusions which were summarized by the Chair, including key challenges, needs and good practices with regard to accession to and implementation of the provisions of the two treaties on access to information, public participation and access to justice, as appropriate.

Responding to calls by countries and stakeholders participating at the round table, the secretariats of the Aarhus Convention and the Convention on Biological Diversity, the latter services the Cartagena Protocol on Biosafety, have prepared a checklist of key measures recommended for ratifying the Almaty Amendment of the Aarhus Convention and/or the Cartagena Protocol with regards to its Article 23, and for implementing the Aarhus Convention and the Cartagena Protocol in the context of GMOs/LMOs.² The checklist is based on the Aarhus Convention's Lucca Guidelines and the Cartagena

¹ This document was not formally edited.

² The text of the Aarhus Convention is available at: <http://www.unece.org/env/pp/treatytext.html>.
The text of the Almaty amendment is available at: <http://www.unece.org/environmental-policy/conventions/public-participation/aarhus-convention/about-the-convention/amendments/gmo-amendment.html>.

The text of the Cartagena Protocol is available at: <https://bch.cbd.int/protocol/text/>

Protocol's programme of work on public awareness, education and participation concerning LMOs.³

The checklist is intended to assist each Party to identify possible steps it might take to most efficiently and systematically ratify and implement the two instruments in the context of LMOs/GMOs. As this is not an exhaustive list of measures, it is recommended to consult the Lucca Guidelines and the Cartagena Protocol's programme of work for more detailed information.

The checklist was prepared taking into consideration comments received from Parties to the two instruments and stakeholders. Careful consideration was given to meeting the different needs of Parties' in terms of comprehensiveness and the degree of detail in the guidance, bearing in mind the various levels of and approaches to implementation of the Convention's and Protocol's provisions on access to information and public participation. The approach was that the wording which is the most consistent with the language and spirit of the Convention and the Protocol was preferred.

This checklist should be seen as a flexible guidance intended to facilitate the ratification and assist with the implementation of the two instruments in the context of LMOs/GMOs. The checklist represents examples of good practice and comprises a range of measures that need to be considered in the context of existing national provisions.

I. Ratification of the Aarhus Convention's Almaty Amendment on GMOs and the Cartagena Protocol on Biosafety

The Cartagena Protocol on Biosafety was adopted on 29 January 2000 and entered into force on 11 September 2003. As of December 2015, 169 countries and the European Union have ratified the Protocol. According to focus area 5 of the Strategic Plan for the Protocol (2011-2020), the aim is for "all Parties to the Convention on Biological Diversity to become Parties to the Protocol". To date, the Convention has 196 ratifications.

The Aarhus Convention amendment on public participation in decisions on deliberate release into the environment and placing on the market of genetically modified organisms (Almaty Amendment on GMOs)⁴ was adopted by the Meeting of the Parties to the Convention through decision II/1 at its second session (Almaty, 25-27 May 2005). It will enter into force when it has been ratified by at least three quarters of the Parties that were a party to the Convention at the time the amendment was adopted. That is, it must be ratified by 27 of the 35 Parties that were a party to the Convention at the time the amendment was adopted. As of December 2015, a further 5 ratifications are required in

³ The Lucca Guidelines (MP.PP/2003/3-KIEV.CONF/2003/INF/7) are available at <http://www.unece.org/index.php?id=21475> and the Cartagena Protocol's programme of work is available at http://bch.cbd.int/protocol/cpb_art23_pow.shtml

⁴ Decision II/1 on Genetically Modified Organisms (ECE/MP.PP/2005/2/Add.2), available at: <http://www.unece.org/env/pp/mop2/mop2.doc.html#/>

order for the amendment to enter into force. The following Parties were a party to the Convention at the time the amendment was adopted but are yet to ratify the amendment: Albania, Armenia, Azerbaijan, Belarus, France, Georgia, Kazakhstan, Kyrgyzstan, Malta, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan, Ukraine. Upon its entry into force, the GMO amendment will apply to all those Parties which have by that time become a party to it.

To deposit the instrument of ratification, acceptance, approval or accession with the Depositary, Governments need to take the following steps:

1. Prepare instrument of ratification, acceptance or approval.
2. Deliver the instrument by hand, mail or fax to the Treaty Section of the United Nations, preferably including translation into English or French, where appropriate.

The contact information for the Treaty Section is as follows:

Treaty Section, Office of Legal Affairs, United Nations New York, NY 10017, USA
Tel: 1-212 963 5047
Fax: 1-212-963-3693
Email: treaty@un.org treatyRegistration@un.org

If the instrument is faxed to the Treaty Section, deliver the original instrument to the Treaty Section as soon as possible thereafter.

II. Implementation of the Aarhus Convention and the Cartagena Protocol on Biosafety in the context of LMOs/GMOs

A. Strengthening and/or developing the institutional and technical capacity in countries

There are a number of legal and/or policy frameworks, such as the national biosafety frameworks, and other mechanisms that could be considered by Governments when strengthening or developing countries' capacities for access to information, public awareness, education and public participation. These include:

1. Conducting analysis of national legislation on the subject of compliance with the Cartagena Protocol and the Almaty Amendment on GMOs and identifying the required amendments;
2. Where available, ensuring effective public participation through the use of existing legal and policy frameworks;

3. When required, establishing or amending legal and policy frameworks with the effective participation of all interested stakeholders as to facilitate access to information, public awareness, education and public participation;
4. Establishing or making use of existing outreach/communication units, information centres and other outreach/communication services that facilitate access to information and support public participation in decision-making;
5. Establishing or making use of existing advisory groups, involving representatives of all interested stakeholders, to gather their comments on e.g. draft legislative proposals, communications, draft working documents;
6. Mainstreaming issues related to access to information and public participation with regard to LMOs/GMOs into broader processes, programmes and agendas relating to biodiversity, environment and sustainable development;
7. Encouraging cooperation between the designated or existing contact points of public authorities dealing with issues related to biosafety, biodiversity or the environment;
8. Promoting a cross-sectoral approach to facilitate access to information and public participation in decision-making with regard to LMO/GMO (e.g. inter-government, intra-government, government-scientists-civil society-business).

B. Promoting broad public awareness and education

A number of activities could be considered by Governments to promote public awareness and education, including:

1. Conducting baselines surveys to ascertain and evaluate the level of public awareness of the issues regarding LMOs/GMOs as to identify appropriate activities according to countries needs to enhance public awareness and education, and making the results available through open web resources;
2. Exploring innovative mechanisms and measures for communicating to and educating different stakeholders regarding LMOs/GMOs (e.g. consensus conferences, round-table discussions, stakeholder dialogues, networks, workshops, training packages and training-of-trainers events);
3. Integrating issues related to LMOs/GMOs and biosafety into the curricula of existing relevant academic programs and courses;
4. Where required, developing and/or strengthening existing education and training programs for relevant public authorities and different stakeholders;
5. Preparing and implementing outreach strategies and /or communication plans related to the Almaty Amendment on GMOs and the Cartagena Protocol on Biosafety;
6. Strengthening capacity of authorities for the effective use of media and appropriate electronic tools to promote public awareness, education and issues related to LMOs and GMOs for a better understanding and support of the Aarhus Convention and the Cartagena Protocol on Biosafety by the public (e.g. developing national media strategies/plans, improving media coverage of

- biosafety issues, holding press-related activities and training, building awareness of available electronic tools, including online databases, clearing-houses, online forums, blogs, social media);
7. Exchanging information on existing biosafety education and training courses, programmes and materials through the clearing-houses of the Aarhus Convention and the Cartagena Protocol on Biosafety;
 8. Increasing the outreach to and collaboration with other Governments as well as intergovernmental or non-governmental organizations on the processes on public awareness, access to information and public participation with regard to LMOs/GMOs as to share experiences, good practices and resource materials.

C. Improving access to information, collection and dissemination of information

A number of measures could be considered by Governments to promote effective public access to relevant information in a user-friendly and timely manner, including through the clearing-houses of the Aarhus Convention and of the Cartagena Protocol on Biosafety, national websites and other suitable mechanisms. Measures could include:

1. Informing the public of their right to access environmental information in written, electronic and other formats;
2. Providing sufficient information to the public about the type and scope of information on activities with LMOs/GMOs held by public authorities, the basic terms and conditions under which such information is made available and accessible, and the process by which it can be obtained (e.g. through Internet sites or regular publications);
3. Establishing or making use of existing practical arrangements for provision of effective and free of charge access to information on activities with LMOs/GMOs through e.g. publicly accessible lists, registers or files;
4. Establishing or making use of existing procedures for effective provision of information upon request and for active dissemination of information (e.g. nominating a focal point to provide responses; setting clear criteria for confidentiality; providing information on reasons for denial; setting effective timeframes; setting criteria for charging for information; making available information on an appeal process; making available means for active dissemination of information and setting up biosafety records management system; labelling of products consisting of or containing LMOs/GMOs or the provision of relevant accompanying documentation);
5. Enhancing the availability of different types of information (e.g. legislation and policy documents, a non-technical explanation of the types of activities with

LMOs/GMOs; non-technical summaries of applications and contact points);

6. In the event of any imminent threat to the environment and/or human health of activities with LMOs/GMOs, disseminate immediately and without delay to members of the public who may be affected, all information that government authorities hold and that could enable the public to take measures or mitigate harm arising from the threat;
7. Publish regularly and disseminate reports on the experience gained with activities with LMOs/GMOs, including any results of monitoring their effects on the environment and/or human health, and also including possible implications for the risk assessment and risk management of further activities with LMOs/GMOs.
8. Exchanging through the Biosafety Clearing-House (BCH) and the Aarhus Convention Clearinghouse case studies on best practices and lessons learned in promoting access to information, public participation and access to justice;
9. Collecting and disseminating, if needed, through the BCH, raw data and information on testing methods (and test kits) for field trials of LMOs/GMOs (e.g. prior to the approvals of LMOs/GMOs and/or if field trials were unauthorized or beyond the approved area).

D. Promoting public participation in decision-making

It is important to establish mechanisms and procedures to consult and involve the public in the decision-making process regarding LMOs/GMOs and to make the results of such decisions available to the public. A number of measures could be considered by Governments to promote effective public participation in decision-making processes, including:

1. Promoting public participation in decision-making regarding GMOs within the context of article 6, paragraph 11 and article 6 bis of the Almaty Amendment on GMOs and in line with relevant elements of the national biosafety framework, and furthering the implementation of Article 23 of the Cartagena Protocol on Biosafety;
2. Setting up or using existing mechanisms as to ensure effective public participation (e.g. town hall meetings, national websites, stakeholder dialogues, public hearings, advisory bodies, open public debates, internet sites, online forums, roundtable discussions);
3. Setting up or using existing procedures as to ensure effective public participation (e.g. to inform the public of their right to participate in the decision-making processes regarding LMOs/GMOs; setting up time frames for participation,

formats, criteria to nominate participants, criteria for incorporating public comments into final decisions regarding LMOs/GMOs);

4. Setting up or using existing mechanisms and procedures to notify the public effectively regarding planned public consultations/hearings and opportunities to participate in decision-making regarding new LMO/GMO applications (e.g. announcements through national websites, social media sites, newspapers and gazettes, forums, mailing lists, press releases);
5. Setting up or using existing mechanisms/bodies to monitor and foster regular, transparent and objective public consultation and participation;
6. Setting up or using existing procedures to make available information within a public participation process on LMOs/GMOs (e.g. based on Article 21, paragraph 6 of the Protocol and/or Annex III, such as a general description of the LMOs/GMOs, the name and address of the notifier or applicant, the purpose of the proposed activity with the LMOs/GMOs, a comprehensive summary of the risk assessment and any methods and plans for emergency response);
7. Taking due account of the outcome of the public participation and, where appropriate, promoting collaborative initiatives to train decision-makers on how to utilize effectively the outcomes of public participation.

III. Useful resources

- Guidelines on access to information, public participation and access to justice with respect to genetically modified organisms (Lucca Guidelines)(MP.PP/2003/3-KIEV.CONF/2003/INF/7):
<http://www.unece.org/fileadmin/DAM/env/pp/documents/gmoguidelinesenglish.pdf>
- Programme of work on public awareness, education and participation concerning the safe transfer, handling and use of living modified organisms (2011-2015):
http://bch.cbd.int/protocol/cpb_art23_pow.shtml
- Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters (ECE/MP.PP/2014/2/Add.2):
http://www.unece.org/env/pp/aarhus/mop5_docs.html#/
and: http://www.unece.org/env/pp/publications/maastricht_recommendations
- Aarhus Convention: An Implementation Guide, second edition, 2014, (ECE/CEP/72/Rev.1):
http://www.unece.org/fileadmin/DAM/env/pp/Publications/Aarhus_Implementation_Guide_interactive_eng.pdf
- Aarhus Convention National Implementation Reports:
<http://apps.unece.org/ehlm/pp/NIR/qwery.asp?LngIDg=EN>

- National Reports by Parties to the Cartagena Protocol:
http://bch.cbd.int/protocol/cpb_natreports.shtml
- Biosafety Clearing-House (BCH): <http://bch.cbd.int/>
- Aarhus Clearinghouse: <http://aarhusclearinghouse.unece.org/>
- Online forum on public participation concerning LMOs:
http://bch.cbd.int/onlineconferences/portal_art23/pp_forum2014.shtml
- Facebook on the Cartagena Protocol on Biosafety:
<https://www.facebook.com/UN.Biosafety>
- Discussion groups on access to information:
http://bch.cbd.int/onlineconferences/portal_art23/pa_forum2012.shtml
- Biosafety Awareness Surveys:
http://bch.cbd.int/onlineconferences/portal_art23/pa_survey.shtml
- Aarhus Good Practice database: <http://www2.unece.org/aarhus-good-practices/>
