



Committee on Sanitary and Phytosanitary Measures

APPLICANTS FOR OBSERVER STATUS

NOTE BY THE SECRETARIAT¹

Revision

A renewed application for observer status in the SPS Committee was received on 24 January 2024 from the Convention on Biological Diversity (CBD). Information provided by the CBD on the CBD and its Cartagena Protocol on Biosafety is summarized below.

1 MEMBERSHIP

1.1. The Convention on Biological Diversity (CBD) is an intergovernmental treaty with 196 Parties (195 States and one regional organization). It entered into force on 29 December 1993. The Cartagena Protocol on Biosafety (hereafter the "Cartagena Protocol") entered into force on 11 September 2003. It currently has 173 Parties (172 States and one regional organization). Only Parties to the Convention may become Parties to the Protocol.

2 MANDATE, SCOPE AND AREA OF WORK

2.1. The objectives of the CBD are the conservation of biological diversity (or "biodiversity"), the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.

2.2. Article 8(h) of the Convention calls upon Parties to prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species – important components of biodiversity. In 2004, the Conference of the Parties, the governing body of the Convention, recognized the need to strengthen institutional coordination at international, regional and national levels on invasive alien species as a trade-related issue, and therefore invited the World Trade Organization and its relevant bodies to give consideration to the risks from invasive alien species in their deliberations. In 2008, the Conference of the Parties reviewed the on-going work on invasive alien species and requested the Executive Secretary to continue collaboration with relevant international organizations with a view to filling gaps and promoting coherence in the regulatory framework, reducing duplication, promoting other actions to address invasive alien species at the national level and facilitating support to Parties including through capacity-building.

2.3. Article 8(g) of the Convention requires each Party to establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms (commonly known as genetically modified organisms – GMOs). Article 19 of the Convention addresses the sharing of information on the use and safety regulations in handling living modified organisms. It also contains a provision that stood at the basis of the negotiations and adoption, in January 2000, of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity. The Cartagena Protocol applies to the transboundary movement, transit, handling and use of living modified organisms (LMOs) with the aim of ensuring an adequate level of protection in regard to the conservation and sustainable use of biodiversity, taking into account risks to human health. The Cartagena Protocol sets out procedures for notification and decision-making on the import and export of LMOs. It includes, among other provisions, an advance informed agreement procedure for

¹ This document has been prepared under the Secretariat's own responsibility and is without prejudice to the position of Members or to their rights and obligations under the WTO.

LMOs for intentional introduction into the environment comprising requirements for scientifically sound risk assessment as well as provisions on risk management; and a procedure for use, including placing on the market, and import of LMOs for direct use as food, feed or for processing, a procedure applying to LMOs being traded as commodities. The Cartagena Protocol also contains requirements for the safe handling, transport, packaging and identification of LMOs.

2.4. To ensure its effective implementation, the Cartagena Protocol includes provisions for capacity-building for developing-country Parties to strengthen their biosafety-related human resources and institutional capacities. A Biosafety Clearing-House (<http://bch.cbd.int/>) facilitates the exchange of information, including decisions on LMOs, risk assessments and biosafety legislation.

2.5. The Conference of the Parties serving as the meeting of the Parties (the governing body of the Protocol) has repeatedly requested the Executive Secretary to pursue efforts to obtain observer status for the CBD Secretariat with the WTO's Committee on Sanitary and Phytosanitary Measures.

3 CONTRIBUTION TO THE WORK OF THE SPS COMMITTEE

3.1. Establishment of close collaboration with the SPS Committee is needed to address the gaps in the international regulatory framework relevant to invasive alien species, and to facilitate the implementation of pertinent international standards and guidelines, in particular by developing countries. In 2008, the Conference of the Parties to the CBD invited the WTO SPS Committee to note the lack of international standards to address risks from invasive alien species associated with international trade (decision IX/4 A, 30 May 2010). In the same decision, the Parties requested continued collaboration with relevant international organizations including the SPS Committee and the standard setting organizations identified in the Agreement on the Application of Sanitary and Phytosanitary Measures.

3.2. The Executive Secretary of the CBD established an inter-agency liaison group on invasive alien species (hereafter Liaison Group) to facilitate inter-agency collaboration and coordination. The Liaison Group agreed to continue collaboration in (i) setting standards/guidelines on the movement of living animals, plants and other organisms; and (ii) capacity development to implement the standards/guidelines in order to address the issues related to invasive alien species. Recently, a new set of voluntary guidance, including on e-commerce and invasive alien species has been developed and will be presented to the 16th meeting of the Conference of the Parties. Inputs from the liaison group members were instrumental in the development of those guidelines.

3.3. There is also a close relationship between the SPS Agreement and the Cartagena Protocol in terms of their purpose, coverage and some of their core requirements. The SPS Agreement covers measures intended to protect animals and plants from pests or diseases while the Cartagena Protocol aims at protecting biological diversity. The SPS Agreement also covers measures whose purpose is the protection of human or animal health from food-borne risks, and human health from animal- and plant-carried diseases, while the Cartagena Protocol takes also into account risks to human health and promotes the transparent movement of LMOs that are intended for direct use as food or feed or for processing. The SPS Agreement promotes the use of science and scientific risk assessment as a means for substantiating trade-related measures. Similarly the Cartagena Protocol requires decisions on the import of LMOs to be based on scientific risk assessment and includes a technical annex to that effect outlining the factors that need to be taken into account in risk assessments. Observer status with the SPS Committee would thus allow the CBD Secretariat to provide information to the Committee on the status of implementation of these and other relevant requirements under the Protocol and in return to gather information regarding the SPS Agreement process, in particular the notifications on national measures, and advise Parties to the Protocol on such developments.

3.4. Moreover, the recent adoption of the Global Biodiversity Framework emphasizes the need for a whole-of-government and whole-of-society approach to address the drivers of biodiversity loss, and the need for mutually supportive approaches between trade and biodiversity for the implementation of policies related to biodiversity. This further strengthens the importance of observer status for the CBD.

3.5. Parties to the Cartagena Protocol follow developments concerning biosafety-related standards including in the areas of the identification, handling, packaging and transport of LMOs. In decision BS-VII/8, the Conference of the Parties serving as the meeting of the Parties requested the Executive

Secretary to continue to collaborate with relevant international standard-setting bodies and to keep Parties abreast of any new developments in relevant international regulations and to make such information available in the Biosafety Clearing-House. Cooperation with standard-setting organizations, including the International Plant Protection Convention (IPPC), is ongoing. Observer status in the SPS Committee would improve opportunities for exchange of information on matters of mutual interest among the Cartagena Protocol, the WTO and its Members, as well as the OIE/WOAH and the Codex Alimentarius Commission.

3.6. The CBD holds observer status in the WTO Committee on Trade and Environment in Regular Session (CTE-R) and is invited on an ad hoc basis to meetings of the Committee on Trade and Environment in Special Session (CTE-SS). The CBD has also requested observer status in the Committee on Technical Barriers to Trade, the Committee on Agriculture and the Council for Trade-Related Aspects of Intellectual Property Rights.

4 RECIPROCITY

4.1. The WTO Secretariat has observer status in the CBD and participates in meetings of the Conference of the Parties and its subsidiary bodies on a regular basis.

5 TERMINOLOGY

5.1. Under the CBD's work on invasive alien species, "alien species" refers to a species, subspecies or lower taxon, introduced outside its natural past or present distribution; includes any part, gametes, seeds, eggs, or propagules of such species that might survive and subsequently reproduce. "Invasive alien species" means an alien species whose introduction and/or spread threaten biological diversity.
