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
http://bch.cbd.int/protocol/
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 comprehensive programme of work on PAEP (2011-2015), including programme element 3 on public access to information

• 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
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
Thank You!

Ulrika Nilsson

Online Forum:

Contacts for Further Information

Secretariat of the Convention on Biological Diversity
413 Saint-Jacques Street, suite 800
Montreal, Quebec
Canada H2Y 1N9
Tel.: +1 (514) 288-2220
Fax: +1 (514) 288-6588
E-mail: secretariat@cbd.int

Protocol website:
http://bch.cbd.int/protocol/
Biosafety Clearing-House:
http://bch.cbd.int/