

AFRICA AGRI-BIOTECH UPDATES

Enhancing Africa's Capacity for Global Engagement in International Biosafety Negotiations



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Acronyms

ABNE	African Biosafety Network of Expertise
AHTEGs	Ad-Hoc Technical Expert Working Groups
AIA	Advance Informed Agreement
BCH	Biosafety Clearing House
BS	Biosafety
CBD	Convention on Biological Diversity
CFTs	Confined Field Trials
COP	Conference of Parties
CPB	Cartagena Protocol on Biosafety
FFPs	Food, Feed and Processing
GEF	Global Environment Facility
GMOs	Genetically Modified Organisms
HTPI	Handling, Transport, Packaging and Identification
LMOs	Living Modified Organisms
MOP	Meeting of Parties
NEPAD	New Partnerships for Africa's Development
PRRI	Public Research and Regulation Initiative
WGLR	Working Group on Liability and Redress

1.0. Global Governance of Modern Biotechnology

Modern biotechnology includes the isolation, selection and transfer of genes from one organism into another through a procedure known as genetic modification (also referred to as genetic engineering). Subsequently a genetically modified organism (GMO) or a Living Modified Organism (LMO) or a transgene is developed. For the past two decades, modern biotechnology, particularly the use of GMOs, has been at the centre of global conversations on public policy.

The potential for genetic engineering to make a significant contribution in the development of better health care and enhanced food security through sustainable agricultural practices was recognized in Agenda 21 of the United Nations Conference on Environment and Development held in Rio de Janeiro, Brazil in 1992. During the conference, a concern was expressed on the potential of GMOs/LMOs to have a negative impact on the sustainable conservation of biodiversity. Consequently, a process was initiated to facilitate negotiations for a global instrument to govern modern biotechnology under the auspices of the Convention on Biological Diversity (CBD).

Following lengthy global negotiations, the Cartagena Protocol on Biosafety (CPB) to the CBD was adopted in Cartagena, Colombia on 29th January, 2000. It entered into force on 11th September, 2003. Its core objective is to ensure the safe handling, transport and use of LMOs resulting from modern biotechnology that may have adverse effects on biological diversity, taking also into account risks to human health. To reinforce the legal liability provisions of the Protocol, the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the CPB was negotiated and adopted in Nagoya, Japan in 2010.

Negotiations for the global governance instrument and its implementation have been conducted in biannual meetings referred to as the Conference of Parties, to the CBD serving as the Meeting of Parties to the CPB (COP/MOP). As of 2014, twelve such meetings had taken place during which intense negotiations resulted in a number of decisions. This brief presents a historical perspective of these meetings, their outcomes and a review of the level of participation of African party states in the engagements.

2.0. Participation of African Party States in COP/MOP

The participation of developing countries, Island and countries with economies in transition party states in COP/MOP activities has been below expectation. This is despite affirmative action through dedicated funding mechanisms such as the United Nations Environmental Programme's Global Environment Facility (UNEP-GEF). A 2014 report prepared by the CBD Secretariat indicated dismal reporting of experiences in implementing various provisions of the Protocol, testing guidelines and even access to funding by party states in these categories. This situation is captured in the COP/MOP decision UNEP/CBD/BS/COPMOP/7/L.9, at the COP/MOP 7 which states that "The COP/MOP secretariat notes with concern the low number of projects and low amount of funding requested by parties from the GEF to support implementation of the Protocol during the GEF-5 period."

At the 5th meeting of the COP/MOP for example, parties were expected to review and assess experience gained in the implementation of paragraph 4 of decision BS-III/10, in relation to documentation accompanying LMOs intended for direct use as food, feed, or for processing (LMOs-FFP) and submit their reports to the Secretariat. Only 10 countries, South Africa alongside the Republic of Korea, Norway, Mexico, Malaysia, the European Union, China, Brazil, Australia and the United States of America (note that the USA and Australia are non-parties to the Protocol) made submissions to the Secretariat.

Three other organizations namely, the Global Industry Coalition, the International Grain Trade Coalition and No! GMO made submissions.

Majority of African party states belong to this category and various reasons have been advanced for the low participation including lack of technical, institutional and organizational capacity and weak coordination both at the party state and regional grouping levels. For the African Group, weak or poor coordination coupled with low levels of technical capacity are the main causes of the sustained lackluster show in these very important global engagements. Interestingly, one of the key areas that party states are required to report on is the submission of their specific capacity building needs for the effective implementation of the Protocol. Again none of the African party states made such a submission.

Pre COP/MOPs: Bridging the Gap

For the last three consecutive COP/MOP sessions (COP/MOPs 5, 6 & 7) ISAAA in collaboration with the African Biosafety Network of Expertise (ABNE), an agency of the AU under the New Partnerships for Africa's Development (NEPAD), national biosafety focal points and other like-minded partners have coordinated the participation of African party states through national, sub regional and regional workshops.. The objectives of the preparatory activities are:

1. To raise awareness and harmonize the region's position on priority items of the agenda at the COP/MOP sessions
2. To prepare the actual delegates for engagements at COP/MOP
3. To identify opportunities for effective participation based on regional priorities and capacities.

The preparatory meetings take the form of;

- workshops, in country and sub regional one on one interactions,
- Invitation of guest speakers from the CBD secretariat
- and side events.

A significant achievement of these preparatory activities was the participation a member of the 'Friends of the Chair' Mr. Rene Refeber during the discussions that led to the Supplementary Protocol on Liability and Redress.

The Bureau-supported Group of Africa enjoys official recognition by the COP/MOP administrative structures and therefore their position is crucial. Unfortunately most members of this group do not participate in the preparatory meetings. This has created disquiet among some African party states, whose interests are at variance with the positions advanced as the collective Group of Africa position (contradictory) presentations have often been at the plenary and therefore greatly weakening the collective negotiation benefit for the African group. It also contrasts sharply with the firm common approach taken by other regional groupings.

Impacts of preparation

1. Remarkable improvement in Africa's group participation in the COP/MOP workshops,
2. Shared responsibilities in the two working groups
3. Derives the country position
4. Side events on post patents

3.0. Historical Perspective of COP/MOP

The CBD was adopted on 22nd May 1992, and entered into force on 29th December 1993. As of 2014 there were 194¹ parties to the Convention, which aims to promote the conservation of biodiversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the use of genetic resources. The CPB, together with its supplementary Protocol (The Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress) are some of the Protocols under the CBD that have been negotiated and adopted.

Following extensive negotiations, the CPB was adopted in January 2000. The Protocol addresses the safe transfer, handling and use of LMOs that may have adverse effects on biodiversity, taking into account human health, with a specific focus on transboundary movements of LMOs. It includes an Advance Informed Agreement (AIA), procedure for imports of LMOs for intentional introduction into the environment. It also incorporates the precautionary approach and mechanisms for risk assessment and risk management. The Protocol establishes the Biosafety Clearing House (BCH) to facilitate information exchange. It also contains provisions on capacity building and financial resources, with special attention to developing countries and those without domestic regulatory systems. It entered into force on 11th September 2003 and 168² parties had ratified it by January, 2015. The Protocol's governing body is COP/MOP.

The administrative and operational structure of COP/MOP consists of the following organs:

- i. The Secretariat of the CBD;
- ii. The Bureau;
- iii. BCH;
- iv. Regional Groupings;
- v. Ad-hoc Technical Expert Working Groups (AHTEGs);
- vi. Friends of the Chair;
- vii. Contact groups;
- viii. Working groups;
- ix. On-line discussion groups;

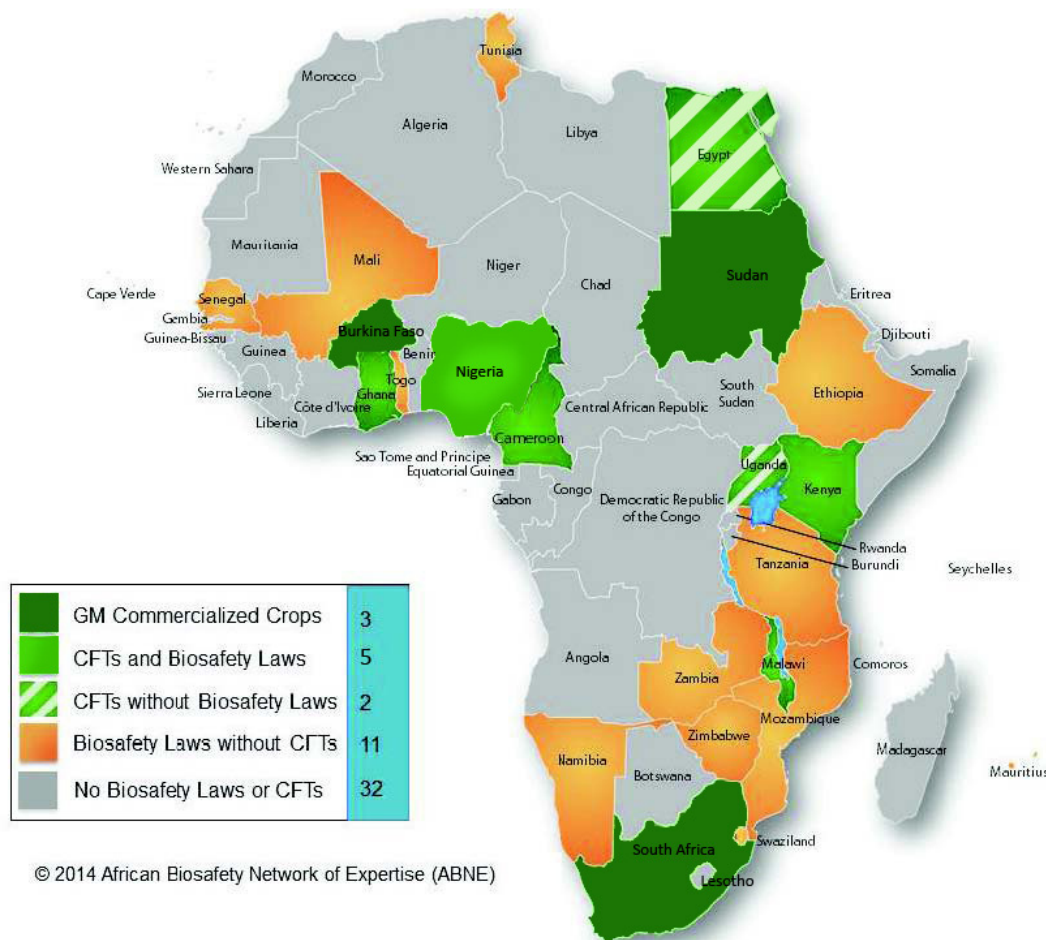
The African continent is considered as one of the 5 Regional Groups and therefore presents her intervention as such (Africa group) on behalf of the African party states.

Countries that are Contracting Parties to Cartagena Protocol on Biosafety in Sub-Saharan Africa (36 in total by 2014)

Benin	Gambia	Nigeria
Botswana	Ghana	Rwanda
Burkina Faso	Kenya	Senegal
Cameroon	Lesotho	Seychelles
Cape Verde	Liberia	South Africa
Chad	Madagascar	Sudan
Congo	Mali	Swaziland
Democratic Republic of Congo	Mauritania	Togo
Djibouti	Mauritius	Uganda
Eritrea	Mozambique	Tanzania
Ethiopia	Namibia	Zambia
Gabon	Niger	Zimbabwe

¹ Secretariat of the Convention on Biological Diversity (CBD) 2015: CBD Ratification List

² Secretariat of the Convention on Biological Diversity (CBD) 2015: Cartagena Protocol on Biosafety Ratification List

Status of biosafety regulations in Africa, 2014

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The first COP/MOP (COP/MOP 1) was held in February 2004, in Kuala Lumpur. Subsequently, three were held annually until 2006, after which the parties adopted a biannual arrangement of meetings. The latest one (COP/MOP 7) was held in Pyeongchang, Republic of Korea in September/October 2014. The run-up meetings addressed various issues on the implementation of the CBP through global negotiations and reached very important consensus on critical decisions as summarized in Table 1.



A cross section of participants during the preparatory workshop in Nairobi - 2010



Friends of the chair with partners during the preparatory workshop in Nairobi - 2010



Africa team preparatory workshop in Nairobi for MOP5 - 2010



Delegates follow proceeding during the preparatory meeting in Nairobi-2010



Africa team preparatory workshop in Nairobi - 2014



A group photo during a preparatory workshop in Nairobi - 2014



Group session during the preparatory workshop - 2012



Africa team preparatory workshop in Nairobi - 2014



Africa team side event in session during preparatory workshop in Korea - 2014



A group discussion during the preparatory meeting in Pretoria, South Africa - 2012



Group photo during preparatory meeting for COP/MOP 7 in Nairobi - 2014



Group photo during Pre-COP/MOP meeting in Korea - 2014

Table 1: Main agenda items on which key decisions have been taken at COP/MOP meetings

Meeting Number and Dates	Main agenda items on which key decisions were taken
COP/MOP 1, Kuala Lumpur, Malaysia: February 2004	<ul style="list-style-type: none"> • Information sharing and the justification for BCH • Capacity building • Decision making procedures • Monitoring and reporting • The Secretariat • Guidance to the financial mechanism • The medium-term work programme • LMO-FFPs • More detailed documentation requirements for LMOs destined for direct introduction into the environment • Established the Compliance Committee • Launched the Working Group on Liability and Redress (WGLR), to elaborate international rules and procedures in the field of liability and redress for damage resulting from trans-boundary movements of LMOs
COP/MOP 2, Montreal, Canada: May 2005	<ul style="list-style-type: none"> • Adopted detailed requirements for documentation and identification of LMO-FFPs • Considered various issues relating to the Protocol's operationalization including funding for the implementation of national biosafety frameworks, risk assessment, the rights and responsibilities of transit parties, the financial mechanism and capacity building
COP/MOP 3, Curitiba, Brazil: March 2006	<ul style="list-style-type: none"> • Compliance • Operations and activities of the BCH • Capacity-building (Roster of experts) • Matters related to the financial mechanism and resources • Cooperation • Programme budget for the costs of the Secretariat services and the biosafety work programme of the CPB for the biennium 2007-2008 • Handling, transport, packaging and identification (HTPI) of LMOs • Risk assessment and risk management • Liability and redress under the Biosafety Protocol • Subsidiary bodies • Monitoring and reporting

COP/MOP 4, Bonn, Germany: May 2008	<ul style="list-style-type: none"> Decided to extend the deadline for negotiating an international regime on liability and redress Adopted decisions on the Compliance Committee, HTPI, the BCH, capacity building, socio-economic considerations, risk assessment and risk management, financial mechanism and resources, and subsidiary bodies
COP/MOP 5, Nagoya, Japan: October 2010	<ul style="list-style-type: none"> Adopted the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress Adopted decisions on experiences with documentation requirements for HTPI of LMO-FFPs, HTPI standards, rights and/or obligations of parties of transit of LMOs, monitoring and reporting, assessment and review, the strategic plan and multi-year programme of work, risk assessment and risk management
COP/MOP 6, Hyderabad, India: October 2012	<ul style="list-style-type: none"> Risk Assessment and Risk Management Unintentional Transboundary Movements and Emergency Measures Financial Mechanisms And Resources Under The Global Environmental Facility (GEF) Fund HTPI Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress Socio-Economic Considerations
COP/MOP 7, Pyeongchang, Republic of Korea: September/ October 2014	<ul style="list-style-type: none"> Cooperation with other organizations, conventions and initiatives BCH Financial mechanism and resources Improving the efficiency of structures and processes The budget HTPI of LMOs The Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress Risk assessment and risk management Socio-economic considerations Monitoring and reporting Assessment and review of the effectiveness of the Protocol Unintentional transboundary movements and emergency measures Contained use of LMOs

Source: Reports of the Secretariat of the Convention on Biological Diversity³ and the Earth Negotiations Bulletins⁴.

³ http://bch.cbd.int/protocol/cpb_mopmeetings.shtml#mop6

⁴ <http://www.iisd.ca/biodiv/bs-copmop6/>

During COP/MOP 7 key decisions were taken in relation to Risk assessment and risk management; Socio-economic considerations; HTPI of LMOs; and unintentional transboundary movements and emergency measures (Table 2). This followed lengthy negotiations with some decisions allowing room for further deliberations in subsequent COP/MOP meetings. These decisions and their follow-up activities will have a great impact on the ability of African party states to develop and implement their national biosafety regulatory regimes and ultimately

their readiness to benefit from the global bio-enterprise through adoption of genetic modification technologies. African party states are therefore called upon to enhance their participation in these global biosafety negotiations and make submissions of their specific capacity building needs to access support through dedicated programmes such as the UNEP-GEF and multilateral bodies.

Table 2: Key decisions taken at COP/MOP 7

COP/MOP 7 Agenda Item	Key decision taken: The COP/MOP...
HTPI	Further review of the need for a stand-alone document is not required unless a subsequent meeting of the Parties so decides in light of the experience gained.
Risk assessment and risk management	Extended the Open-ended Online Expert Forum on Risk Assessment and Risk Management and the AHTEG on Risk Assessment and Risk Management. These are to work, primarily online and, subject to the availability of funds, through a face-to-face meeting, with revised terms of reference and expansion of the composition of the AHTEG to add one new member from each region.
Socio-economic considerations	<ol style="list-style-type: none"> 1. Extended the AHTEG on Socio-economic Considerations, subject to the availability of funds 2. The AHTEG on Socio-economic Considerations should work, in a stepwise approach, on: (i) further conceptual clarity on socio economic considerations especially arising from the impact of LMOs on the conservation and sustainable use of biological diversity. This should take into account and improve upon the "Elements of a Framework for Conceptual Clarity on Socio-Economic Considerations" contained in the annex to the report of the first meeting of the AHTEG on Socio-economic Considerations, and any information that may be provided and (ii) develop an outline for guidance with a view to making progress towards achieving operational objective 1.7 of the Strategic Plan and its outcomes

Unintentional transboundary movements and emergency measures	<ol style="list-style-type: none"> 1. Parties and other Governments, in the context of operational objective 1.8 of the Strategic Plan for the CPB for the period 2011-2020, to submit views on what constitutes unintentional transboundary movements in contrast with illegal transboundary movements and what type of information should be exchanged through the BCH 2. Parties and other Governments, without prejudice to Article 21 on confidential information, to ensure that, for regulatory purposes, the information provided by a notifier at the time of notification includes all the information necessary to detect and identify the LMOs; this should include information that allows for its unique identification and where reference materials may be obtained 3. The Online Network of Laboratories for the Detection and Identification of LMOs was requested to continue working on issues relevant to the detection and identification of living modified organisms with a view to achieving the operational objectives of the Strategic Plan relevant to successful implementation.
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Critical Lessons/Criteria for Participation from Past initiatives

Decisions taken at the COP/MOP meetings, being global negotiations forum, have far reaching implications on biotechnology development and biosafety regulation agenda of the African region generally and individual Party states in particular;

1. A divided approach to the negotiations greatly weakens Africa's position, slows down implementation and domestication of the Protocol. A pre-meditated and inclusive approach through pre-COP/MOP engagements at the National and Regional levels are crucial for coming up with common positions that serve the interests of the continent.
2. A coordinated approach to the pre-COP/MOP engagement in the form of African party states preparatory meetings is absolutely necessary for the effective participation of the African Group. In this regard, being an agency of the African Union (under NEPAD), ABNE is in vantage position to play a coordinative role with other relevant partners;
3. There are existing and open opportunities for deeper African participation in the various structures established under COP/MOP including Working Groups, AHTEG, on-line discussion forums, Technical Committees

and review teams. To effectively engage in these structures and reap benefits of affirmative action directed to developing countries party states, Africa should present her position as a common group since slots in these structures are shared out according to regional groupings as recognized by COP/MOP.

Way Forward

A common approach of leading and coordinating African participation in COP/MOP meetings should be forged between the African Union, ABNE and the COP/MOP Bureau for synergistic benefit. This should not be a challenge given that ABNE is an agency of the AU under (NEPAD). As a starting point, relevant development partners, key biotechnology and biosafety stakeholders and African party states' agencies are called upon to facilitate a meeting between ABNE, AU and the COP/MOP Bureau to forge a common approach to African participation in these very important global engagements. African governments are also called upon to allocate adequate human and financial resources for participation of national delegates.



ABOUT OFAB

The Open Forum on Agricultural Biotechnology in Africa (OFAB) is a platform that brings together stakeholders in agricultural biotechnology to share knowledge and experiences on all aspects of the technology. It is currently operational in eight countries- Burkina Faso, Egypt, Ghana, Kenya, Nigeria, Tanzania, Uganda and Zimbabwe. The Kenya Chapter is hosted by the International Service for the Acquisition of Agri-biotech Applications (ISAAA) AfriCenter under a collaborative agreement with the African Agricultural Technology Foundation (AATF).

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