



IGTC Policy

Cartagena Biosafety Protocol

June 2016ⁱ

Background: The IGTC's purpose is to convene significant expertise and representation to provide advice on the commercial requirements and economics of the world's food, feed and processing industries from a global perspective.

The Cartagena Protocol on Biosafety (CPB) is a Protocol of the Convention on Biological Diversity (CBD) and was the imperative leading to the formation of the IGTC. Commencing development in 2000, The Protocol seeks "to protect biological diversity from the potential risks posed by Living Modified Organisms (LMOs) resulting from modern biotechnology". It establishes an Advance Informed Agreement (AIA) procedure for ensuring that countries are provided with the information necessary to make informed decisions before agreeing to the import of such organisms into their territory. The Protocol contains reference to a precautionary approach and reaffirms the precaution language in Principle 15 of the [Rio Declaration on Environment and Development](#). The Parties to the Protocol meet every two years, with the next Conference of the Parties serving as the Meeting of the Parties (COP-MOP 8) being held in Cancun from 4-17 December, 2016.

The CBP strongly implicates the grain trade as it engages in the international movement of products that may contain LMOs derived from modern biotechnology. In June 2016, the 170 Parties to the Protocol cover more than 85% of the world's grain trade movements. Important grain trading 'Non-Parties', such as Canada, Australia, Argentina and the USA, may comply with CBP provisions when exporting to countries that have ratified.

The industry's efforts over the past decade have aimed to assure that the provisions enacted and utilized as a consequence of the Cartagena Protocol do not undermine the world-wide commerce of grains, or the ability of the grain trade to help underpin the successful implementation of the Protocol.

The IGTC's global standing and vast network of grain trade actors has allowed it to be an important source of information on how the CBP relates to grain movements destined for food, feed or processing, among exporting and importing countries, whether Parties to the Protocol or not. The IGTC's 'Notices to Trade', issued over the past decade to inform associations, councils and corporate stakeholders, can be read [here](#).



IGTC

International Grain Trade Coalition

IGTC Policy

Recognizing that:

- The role of international trade in agri-bulks is expanding, increasingly complex and in need of a sound, responsible, and predictable commercial and official regulatory environment;
- Tighter and more demanding measures for risk management or extended liability could potentially undermine food security and result in higher prices through its supply disruption and/or unjustified significant costs growth;
- Risks are carefully assessed and measured by trade operators and related actors. If risks cannot not be measured and managed, there will be no trade.

The IGTC believes:

1. The Protocol should protect the world's biodiversity while maintaining the benefits of the current low cost and increasingly efficient global handling and transportation system.
2. The Protocol should provide and enable a workable regulatory framework for the international movement of products that may contain LMOs derived from modern biotechnology, at the same time as contributing to the conservation and sustainable use of biodiversity.
3. Parties and Observers to the Protocol have a responsibility to make sure that resulting provisions do not undermine the important provision of food security and sufficient nutrition provided by international movement of grains, oilseeds, pulses and other agri-bulks.

Therefore:

- Parties should take action to support trade-enabling measures in any review of the documents.
- New laws and/or regulations pertaining to the transboundary movement of LMOs should not create trade barriers or generate unnecessary costs.
- Parties should have the ability to appropriately limit the interpretation of the CBP to the narrowest possible scope, in order to provide for its successful implementation and viable compliance.
- 'Low Level Presence' of LMOs is an administrative concern due to the regulatory processes synchronicity between exporting and importing countries, while not posing biosafety or health risks to the latter. Given this, and that LLP ensures by its definition to "fully comply with articles 7 and 11 of the Protocol", then LLP cases should remain out of the CBP scope, having granted to them a multilateral legal status.
- As per their sovereign rights, and assuming as a minimum the compliance with the Protocol provisions, Parties may formulate and enforce their national regulatory frameworks beyond them, whilst acknowledging conspicuously that the resulting legal status of each transboundary movement case is exclusively assigned under their legislation and jurisdiction.
- The scope of the CBD and the CBP should be further limited to addressing the biosafety and health risks resulting from transboundary

International Grain Trade Coalition (IGTC) ©

w : www.igtglobal.org e : secretariat@igtglobal.org



movement of Living Modified Organisms (LMOs) produced through modern biotechnology, and examine with sound science fundamentals each of the synthetic biology developments in their biosafety or biological diversity instruments applicability.

4. The CBD and CBP instruments should be sufficiently adaptable to allow compatible sovereign decisions to reflect each country's biosafety and biological diversity priorities and economic condition.
5. In order to properly and effectively enforce the regulations accordingly to the direction of the Protocol, each Party is encouraged to consider the financial implications of their decisions relating to regulatory frameworks along the lines of three main considerations:
 - i) The price of the product and the cost or disruption of its supply, therefore the efficiencies or incentives for the supply chains
 - ii) The potential risk of the product
 - iii) The cost of enforcing the regulation

Specific recommendations on priority articles include:

No	Title	IGTC recommendations
Article 17	Unintentional Transboundary Movements and Emergency Measures	<p>Article 17 is only applicable to unique and unusual transboundary movements not related to the commercial trade for food, feed and processing.</p> <ul style="list-style-type: none"> • The Article should resolve the issue of uneven reporting of LMOs to be intentionally released to the environment above anything else. <p>The IGTC recommends the following changes [in brackets] to the current (June 2016) definition tabled by the CBD Compliance Committee:</p> <p><i>"Unintentional transboundary movement"</i> is a transboundary movement of a living modified organism that has inadvertently crossed the national borders of a Party whereby the living modified organism was released either deliberately or accidentally. An unintentional transboundary movement may [also] be considered an illegal transboundary movement if the movement results in a contravention of the [potentially] affected Party's domestic measures to implement the</p>



IGTC

International Grain Trade Coalition

		<p>Protocol [,and only when transgressing concurrently the Protocol provisions in force, while not interfering the potentially affected Party sovereign right to adopt more stringent regulations than those provided in the Protocol, assuming the illegal status exclusively under its domestic legislation and jurisdiction]</p>
<p>Article 18.2(a)</p>	<p>Handling, Transport, Packaging and Identification ("<i>may contain</i>" provision)</p>	<p>The text of this Article is currently implemented and complied without further discussions among Parties and non-Parties to the Protocol, so it should not be reopened since other articles with no sustained relationship, and which are still in decision process.</p> <p>The existing documentation is adequate to address the CBP requirements in force, which respond to risk management.</p> <p>Additional requirements would endanger food security primarily in food importing developing countries due to significantly higher costs or supply curb that will occur in the bulk commodity handling system.</p> <p>Further reading: IGTC Notices to trade</p>
<p>Article 25</p>	<p>Illegal Transboundary Movements</p>	<p>Above all, the Article should resolve the issue of uneven reporting of LMOs to be intentionally released to the environment.</p> <p>The IGTC recommends the following changes [in brackets] to the current (June 2016) definition tabled by the CBD Compliance Committee:</p> <p><i>"Illegal transboundary movement"</i> is a transboundary movement carried out in contravention of the domestic [legislation] [measures to implement the Protocol] that [have been] [may be] adopted by the [potentially] affected Party [, and only when transgressing concurrently the Protocol provisions in force,] [and may include transboundary movements of living modified organisms that have not been approved</p>



IGTC

International Grain Trade Coalition

		<p>for a particular use in the jurisdiction of that Party] [while not interfering the potentially affected Party sovereign right to adopt more stringent regulations than those provided in the Protocol, assuming the illegal status exclusively under its domestic legislation and jurisdiction];</p>
<p>Article 27</p>	<p>Liability and Redress</p>	<ul style="list-style-type: none"> • Should be limited to the time period during which the exporter or importer had control over the LMOs; • Should be limited to situations in which the negligence of the exporter or importer caused the damage; • Should attempt to maximize certainty for the parties, in order to maximize predictability, potential cost assessments for financial reporting, and the ability to encourage trade, while minimizing unknown risks, unreasonable financial burdens, and trade disruptions. • Should not apply to the context of transboundary movements if a party has acted in a non-negligent fashion, undertaken due diligence in its efforts, or if there is contamination limited to “adventitious presence,” which by definition will not cause harm to the environment, or biological diversity.

ⁱ This policy document was approved by IGTC Management Council on Tuesday 14 June, 2016