

**Updated Briefing Note:
Target 17 of the Post-2020 Global Biodiversity Framework**

Third World Network, November 2022

Text from the Fourth Meeting of the Open-ended Working Group on the post-2020 Global Biodiversity Framework (OEWG-4) (see CBD/WG2020/4/4) has been 'streamlined' by the Informal Group on the post-2020 Global Biodiversity Framework (CBD/WG2020/5/2). A decision has yet to be taken on the basis for negotiations for the Montreal meetings. In the case of Target 17 of the GBF addressing biosafety issues, there are no substantive differences between the text from OEWG-4 and the 'streamlined' text from the Informal Group. This analysis is on the 'streamlined' text.

** TWN's previous briefing note on Target 17 of the First Draft of the post-2020 Global Biodiversity Framework: <https://twn.my/title2/biotk/2022/btk220304.htm>*

'Streamlined' text from the Informal Group:

Establish, strengthen capacity for, and implement [science-based] measures in all countries [based on the precautionary approach], [including through risk assessment and management and implementation of horizon scanning, monitoring and assessment] to prevent, manage or control potential [adverse] impacts of [living modified organisms resulting from] biotechnology [including synthetic biology and other new genetic techniques and their products and components] on biodiversity [and], [taking also into account the risks to] human health, [and socioeconomic considerations] [avoiding or minimizing] [the risk of these impacts], [while recognizing the potential benefits of biotechnology [towards achieving the objectives of the Convention and relevant sustainable development goals]].

Proposal (see notes for rationale):

Establish, strengthen capacity for, and implement ~~{science-based}~~ **legal, administrative and other** measures¹ in all countries {based on the precautionary approach}², {including through risk assessment and management and implementation of horizon scanning, monitoring and assessment}³ to prevent, manage or control potential {adverse}⁴ impacts of {living modified organisms resulting from} biotechnology⁵ {including synthetic biology and other new genetic techniques and their products and components}⁶ on biodiversity {and}, {taking also into account the risks to} human health⁷, {and socioeconomic considerations}⁸, {avoiding or minimizing} [the risk of these impacts]⁹, [while recognizing the potential benefits of biotechnology [towards achieving the objectives of the Convention and relevant sustainable development goals]]¹⁰.

Clean text proposal:

Establish, strengthen capacity for, and implement legal, administrative and other measures in all countries based on the precautionary approach, including through risk assessment and management and implementation of horizon scanning, monitoring and assessment to prevent, manage or control potential adverse impacts of living modified

organisms resulting from biotechnology including synthetic biology and other new genetic techniques and their products and components on biodiversity, taking also into account the risks to human health, and socioeconomic considerations, avoiding or minimizing these impacts.

Rationale:

1. Circumscribing the measures to be taken to only science-based ones would be too narrow and restrictive. Whereas Parties to the Cartagena Protocol on Biosafety are legally bound to take necessary and appropriate **legal, administrative and other measures** to implement their obligations.

2. The measures to be taken should be **based on the precautionary approach**, as this underpins both the CBD (Preamble) and the Cartagena Protocol (Preamble and Article 1). The Cartagena Protocol additionally operationalizes the precautionary approach in its Articles 10(6) and 11(8).

3. **Risk assessment and risk management** are the foundations of the Cartagena Protocol (Articles 15 and 16). CBD COP Decision 14/19 agreed that a broad and regular **horizon scanning, monitoring and assessing** of the most recent technological developments is needed for reviewing new information regarding the potential positive and potential negative impacts of synthetic biology. Horizon scanning, monitoring and assessment are thus relevant to LMOs resulting from biotechnology, including synthetic biology and other new genetic techniques, and would allow for the rapid and fast-paced developments in the field to be reviewed, and their potential adverse effects anticipated, monitored and assessed.

4. Articles 8(g), 19(3) and 19(4) of the CBD, which set out the obligations relating to living modified organisms (LMOs) resulting from biotechnology, focus on “adverse environmental impacts”, “adverse effect” and “potential adverse impact”, respectively. The Cartagena Protocol’s objective (Article 1) and scope (Article 4) also focus on LMOs that may have “adverse effects”. “**Adverse**” is therefore the appropriate verb here.

5. Articles 8(g), 19(3) and 19(4) of the CBD use the term ‘*LMOs resulting from biotechnology*’. The use of the term ‘**LMOs resulting from biotechnology**’ in Target 17 would have the following implications:

- The term applies to all CBD Parties, including those that are not Parties to the Cartagena Protocol
- The term includes LMOs resulting from modern biotechnology, as in the Cartagena Protocol
- The term includes LMOs resulting from new genetic techniques such as genome editing
- The focus is on the adverse effects/risks

6. **Synthetic biology and other new genetic techniques**, such as genome editing and engineered gene drives, insofar as they fall within the scope of LMOs resulting from biotechnology/modern biotechnology, are also under the purview of both the CBD and the Cartagena Protocol. The CBD COP has taken numerous decisions (X/13, XI/11, XII/24, XIII/17, 14/19) addressing synthetic biology and its risks.

During the timeframe of the GBF, synthetic biology and other new genetic techniques will be increasingly used; hence their risks should also be adequately addressed. The scope of Target 17 should therefore include synthetic biology and other new genetic techniques, as well as their **products and components**, and explicitly state so for clarity. Previous COP Decisions have recognized that significant risks also arise from the products and components of synthetic biology.

7. Both the CBD (Article 8(g)) and Cartagena Protocol (Article 1) oblige Parties to take also into account **risks to human health** arising from LMOs resulting from biotechnology/modern biotechnology.

8. Article 26 of the Cartagena Protocol establishes the right of Parties to take into account **socio-economic considerations**, especially with regard to the value of biodiversity to indigenous peoples and local communities. The roots of this article are in the CBD's Article 8(j), which sets out obligations with respect to the "knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles".

Further, CBD COP Decision XIII/17 on synthetic biology invited Parties to take into account, in accordance with their applicable domestic legislation or national circumstances, as appropriate, socio-economic, cultural and ethical considerations.

9. "**Avoiding or minimizing these impacts**" is in accordance with the precautionary approach (see point #2), which is articulated as such in the CBD (Preamble) and the Cartagena Protocol (Articles 10(6) and 11 (8)).

10. Target 17 derives directly from obligations in Articles 8(g) and 19(4) of the CBD, which are focused on the adverse effects and risks of LMOs resulting from biotechnology. Therefore, including the concept of "benefits" in Target 17 is not appropriate.

In addition, the context for discussion under the CBD of the benefits arising from biotechnologies is Article 19(2). This article calls for priority access on a fair and equitable basis by Parties, especially developing countries, to the results and benefits arising from biotechnologies based upon genetic resources provided by those Parties. It is clear that the focus is not on the benefits of biotechnologies per se, but is in line with the third objective of the CBD. This issue is already addressed in Target 13.