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Update for information

Report by the Director-General

The Director-General has the honour to refer to a proposal received from Finland on 3 January 2020 (see Annex). In response, an item will be added to the Provisional agenda entitled, “The public health implications of implementation of the Nagoya Protocol”.

ANNEX

Explanatory Memorandum

3 January 2020

Proposal submitted by Finland

The public health implications of implementation of the Nagoya Protocol

Finland considers that a continued debate at the 73rd World Health Assembly on the public health implication of the implementation of the Nagoya Protocol (NP) is necessary and timely for the following reasons:

Relevance

- The proposal is directly linked with goal of GPW13 on the **achievement of improved health security for 1 billion people** and with **SDG3 and SDG11**.
- The proposal is directly linked **with the implementation of the International Health Regulation (IHR, 2005)** and especially the core capacities described in the Annex 1 of the IHR (2005).
- The Protocol is an international access and benefit sharing (ABS) instrument under the Convention on Biological Diversity. It is implemented in national legislation. The Protocol **concerns mainly and is governed by the environment sector**, but its implementation can have **implications also on public health**.
- Article 8 (b) of the Protocol calls on the Parties to consider the need for **expeditious access to genetic resources** in the cases of present or imminent emergencies that threaten or damage human [...] health, as determined nationally or internationally.
- Countries where Article 8 (b) of the Protocol has not been implemented in the national legislation, may have to follow in connection with a health emergency the provisions of the protocol on sharing of pathogens. This could result in a significant **delay in the response to a national or international health emergency**, in particular as regards risk assessment and the development of diagnostics, medicines and vaccines.
- WHO is currently collecting data on the implementation of the Protocol. The results are expected to be available for consideration by the 73rd WHA. They are of high importance for the WHA as they **may have an impact also countries that are not Parties of the Protocol**.
- According to preliminary information, so far **only a minority of countries have included a provision dealing with Article 8 (b)** of the Protocol in their national legislation in implementing the Protocol.
- In our view, Parties of the Protocol would benefit from having access to **examples of models for implementing the Article 8 (b) in their national legislation**. Requesting the development of such public health policy relevant technical support is within the mandate of WHA.

Other public health relevant issues on the agenda of the upcoming COP-MOP of the Nagoya Protocol

- The COP-MOP of the Protocol will convene in Kunming, China, in October 2020. It is important to inform the WHO Membership also of **other issues that may be relevant for global public health** and that will be discussed by the upcoming COP-MOP.
- The interpretation of whether **gene sequences** of pathogens are covered by the Protocol will have crucial implications for the surveillance, diagnostics and treatment of communicable diseases, where gene sequences are already today used routinely regardless of the causative pathogen of the disease. Due to the rapid development of molecular biology as the basic means of **laboratory analysis of samples**, the significance of gene sequences in the prevention and control of communicable diseases is expected to increase in the future, including in addressing AMR.

Consequently, there is a **potential conflict with the IHR**, which requires that a State Party shall notify and communicate to WHO timely, accurate and sufficiently detailed public health information available to it, including **laboratory results** where possible (Art 6(2)). In order to do so, the State Party needs to meet the core capacity requirements for surveillance and response, including **laboratory analysis of samples**, as described in the Annex 1 of the IHR.

- Another relevant issue to be discussed by the COP-MOP is the interpretation of Article 4 of the protocol on the principles that will guide the **recognition of other already existing or future ABS instruments**.

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