



**CONVENTION ON
BIOLOGICAL
DIVERSITY**

Distr.
GENERAL

UNEP/CBD/ICCP/2/15
10 October 2001

ORIGINAL: ENGLISH

**INTERGOVERNMENTAL COMMITTEE FOR THE CARTAGENA
PROTOCOL ON BIOSAFETY**
Second meeting
Nairobi, 1-5 October 2001

**REPORT OF THE INTERGOVERNMENTAL COMMITTEE FOR THE CARTAGENA
PROTOCOL ON BIOSAFETY ON THE WORK OF ITS SECOND MEETING**

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INTRODUCTION

1. The second meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety was held at the headquarters of the United Nations Environment Programme (UNEP) in Nairobi from 1 to 5 October 2001, at the kind invitation of the Executive Director of UNEP and with additional financial support from the Governments of Denmark, Italy, Japan, the Netherlands, New Zealand, Norway, the Republic of Korea, Sweden and Switzerland.

2. The following Parties to the Convention on Biological Diversity and other States were represented at the meeting: Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahamas, Bangladesh, Belgium, Benin, Bhutan, Botswana, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Czech Republic, Democratic Republic of the Congo, Denmark, Dominica, Ecuador, Egypt, Equatorial Guinea, Eritrea, Ethiopia, European Community, Finland, France, Gambia, Georgia, Germany, Grenada, Guatemala, Guinea, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iraq, Islamic Republic of Iran, Italy, Jamaica, Japan, Kazakhstan, Kenya, Kiribati, Lao People's Democratic Republic, Latvia, Lesotho, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, New Zealand, Niger, Nigeria, Norway, Pakistan, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Samoa, Saudi Arabia, Senegal, Seychelles, Slovak Republic, South Africa, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Netherlands, Togo, Tunisia, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Zimbabwe

3. Observers from the following United Nations bodies, Secretariat units, specialized agencies and convention secretariats also attended: Food and Agriculture Organization of the United Nations (FAO), United Nations Development Programme (UNDP), United Nations Educational, Cultural and Scientific Organization (UNESCO), United Nations Environment Programme (UNEP), UNEP-GEF Coordination Office, United Nations Industrial Development Organization (UNIDO), World Health Organization (WHO),

4. The following other organizations were represented:

(a) *Intergovernmental organizations:* African Centre for Technology Studies (ACTS), International Centre for Genetic Engineering and Biotechnology (ICGEB), Organisation for Economic Co-operation and Development (OECD), South Pacific Regional Environment Programme (SPREP).

(b) *Non-governmental organizations:* Africa Sciences, Centro de Derecho Ambiental, Universidad de Chile, Consultative Group on International Agricultural Research (CGIAR), École Nationale Supérieure Agronomique, ECOROPA, Foundation for International Environmental Law and Development (FIELD), Friends of the Earth, Greenpeace International, Greenpeace/49th Parallel Biotechnological Consortium, Institute of Development Studies, IUCN—The World Conservation Union, Maasai Culture and Communication Centre, Maoni Network (Scholar Magazine), Solagrail, T.M.C. Asser Institute, The Edmonds Institute, Third World Network, World Wide Fund for Nature (WWF) International,

(c) *Industry:* Genetic ID NA, Inc, FIS/ASSINSEL, Global Industry Coalition, International Grain Trade Coalition, Monsanto.

ITEM 1. OPENING OF THE MEETING

5. The meeting was opened by the Chair of the Intergovernmental Committee, Ambassador Philemon Yang (Cameroon), at 10.15 a.m. on 1 October 2001. Ambassador Yang welcomed participants and said that, since the adoption of the Protocol, significant progress had been made in preparing for its implementation on the three key issues of information-sharing, capacity-building and the development of a compliance regime, which had been discussed by the Committee at its first meeting. New issues, including liability and redress, monitoring and reporting, and guidance to the financial mechanism, were now before the ICCP. According to the work plan for the Committee, the current meeting was to be the last before the first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol. It was therefore necessary to endeavour to complete the preparatory work by addressing all issues that were included in the work plan. The success of the ICCP would provide incentives for the rapid ratification of the Protocol by giving Governments a sense of where the Protocol was heading, particularly on sensitive issues such as the operation of the Biosafety Clearing-House; handling, transport, packaging and identification of LMOs; compliance; liability and redress; and capacity-building. In conclusion, he expressed gratitude to those countries that had hosted or supported the meetings under the Protocol during the inter-sessional period.

6. Opening statements were also made by Mr. Noah Katana Ngala, Minister of Environment of Kenya; Mr. Jorge Illueca, Director of the UNEP Division of Environmental Conventions, speaking on behalf of Mr. Klaus Töpfer, Executive Director of UNEP; and Mr. Hamdallah Zedan, Executive Secretary of the Convention on Biological Diversity.

7. Mr. Ngala said that the Biosafety Protocol created an enabling environment for Parties to derive maximum benefit from biotechnology while minimizing possible risks to the environment. He hoped that the meeting would further develop modalities for the full implementation of the Protocol. In Kenya, activities leading to the development of biosafety mechanisms had been started in 1993 and had resulted in regulations and guidelines, as well as the Kenya biosafety framework. It was now time for partnership and regional collaboration in the implementation of biosafety regulatory instruments. He therefore called on development partners, the private sector, donors and international organizations to broaden and enhance their roles in such efforts. He also called upon the Global Environment Facility and UNEP to include Kenya in the second phase of their capacity-building project. With regard to ratification of the Protocol, he said that Kenya was at an advance stage in completing the modalities and in finalizing the legislation on biosafety in the country. He was aware that the slow pace of ratification of the Protocol will mean rearranging the first meeting of the Parties, but was confident that the ICCP would advise on the wise course of action.

8. Mr. Illueca welcomed participants and reiterated the gratitude of the Executive Director to the ICCP Bureau and the Bureau of the Conference of the Parties to the Convention for agreeing to hold the meeting in Nairobi. He extended particular thanks to the Bureau and to the Global Environment Facility for their financial, moral and political support towards the convening of the two meetings on biosafety that had been held in Havana in July 2001. Having stressed the importance of capacity-building in order to realize the potential benefits and minimize the potential risks of modern biotechnology, he said that it was heartening to note that a way forward on the subject had been articulated in the draft Action Plan recommended by the Open-ended Meeting of Experts on Capacity-building in Havana. It was also gratifying that the GEF Council had approved the \$26.4 million UNEP/GEF project on the development of national biosafety frameworks. The issue of capacity-building for biosafety and financial support for such activities should be adequately resolved by the ICCP as it was crucial for the smooth and effective implementation of the Protocol. UNEP accorded particular attention to the issue of capacity-building to enhance the enforcement of multilateral environmental agreements because it was closely linked with the equally important issue of international environmental governance, which was of great relevance to UNEP's current focus in the run-up to the World Summit for Sustainable Development, to be held in Johannesburg in September 2002.

9. Mr. Zedan welcomed participants and thanked the Governments of Denmark, Italy, Japan, the Netherlands, New Zealand, Norway, the Republic of Korea, Sweden and Switzerland for their financial contributions to enable the participation of developing countries and countries with economies in transition. He referred to the inter-sessional meetings that had been held in direct response to the request of ICPCP to advance work on some of the key items on the agenda of the current meeting, namely: capacity-building; information-sharing, in particular the Biosafety Clearing-House; financial support for the creation and implementation of national biosafety frameworks; handling, transport, packaging and identification of LMOs; and compliance. He expressed his gratitude to those Governments that had either hosted or provided financial support for those meetings, and said that he was confident that their outcomes would greatly help in expediting the work of the Committee. He reviewed progress made in the pilot phase of the Biosafety Clearing-House, which had been launched in April 2001 and whose operationalization had been one of the priority tasks before the ICPCP at its first meeting. On the question of entry into force of the Protocol, he congratulated those countries that had already deposited their instruments of accession or ratification or had indicated that the ratification process had already started. He urged others to follow them, so that the Protocol would enter into force as soon as possible. The current meeting was crucial in fostering accelerated ratification, as it would address some of the issues felt by many to be essential to the process.

10. Following those opening statements, introductory statements were made by the representatives of Belgium (on behalf of the European Community and its member States), Japan, Mexico (on behalf of the Latin American and Caribbean Group), the Republic of Korea, Ethiopia (on behalf of the African Group) and India (on behalf of the Asian and Pacific Group).

11. Statements were also made by a representative of industry and by a representative of non-governmental organizations.

12. The representative of Belgium said that the first meeting of the ICPCP had launched the process for implementation of the Biosafety Protocol and hoped that the same constructive spirit of cooperation would continue. Pointing to the need for rapid implementation of the Protocol, he stressed the need to develop instruments and build capacities to that end. In that connection, he drew attention to the importance of the pilot phase of the Biosafety Clearing-House. Expressing a desire to see the early entry into force of the Protocol, he said that the European Community and its member States were in the process of preparing their ratification procedures and urged other countries to follow suit.

13. The representative of Japan said that his country was both an importer and a potential exporter of LMOs and therefore took a strong interest in the operations of the Convention and its Protocol on Biosafety. Pointing to the need for early entry into force of the Protocol, he hoped that, in their deliberations, participants would reach agreement on as many outstanding issues as possible.

14. The representative of Mexico underlined the need for rapid implementation of the Protocol and said that the countries of her region looked forward to participating constructively in all aspects of the deliberations of the meeting.

15. The representative of the Republic of Korea, highlighting the need to apply the precautionary approach, said that mechanisms for risk assessment and risk management should be in place before LMOs were put on the market, as well as a strict liability regime for compensation. Agreement was needed on the transfer of technology and on financial assistance for capacity-building. There was also a need for additional measures, as well as the convergence of opinions to facilitate the implementation of the Protocol.

16. The representative of Ethiopia noted that implementation of the Biosafety Protocol would affect Africa in a differentiated way, since the region's richness of resources and biological diversity, especially agrobiodiversity, was in stark contrast to its extremes of poverty, and it was known that the poor were less

capable of coping with mishaps. Africa would continue, with the same commitment as before, to resolve the issues before the ICCP at the current meeting. Other outstanding issues needed to be resolved rapidly once the Protocol had entered into force. He expressed the hope that the Conference of the Parties serving as the meeting of the Parties to the Protocol could be convened in 2002.

17. The representative of India said that many countries of the region already had experience in dealing with LMOs. It was his hope that the remaining obstacles would soon be overcome and that countries of the region would soon move to ratification of the Protocol.

18. The representative of industry looked forward to the chance to place his organizations' extensive hands-on experience of biotechnology at the disposal of the current meeting, through provision of information, advice and constructive interventions. The Biosafety Protocol could be at the service of all stakeholders, serving to protect biological diversity, while also helping countries to enjoy the benefits of appropriate use of biotechnology.

19. The representative of environmental non-governmental organizations pointed to the serious impact of LMOs in polluting centres of genetic diversity, as evidenced by the recent accidental contamination of maize varieties and landraces in communities in Mexico. Measures were needed not only to redress such a situation rapidly, but also to ensure that such accidental pollution did not recur. In that connection, she stressed the need for a stringent liability regime.

ITEM 2. ORGANIZATIONAL MATTERS

2.1. Adoption of the agenda

20. At the opening session of the meeting, the ICCP adopted the following agenda on the basis of the provisional agenda that had been circulated as document UNEP/CBD/ICCP/2/1:

1. Opening of the meeting.
2. Organizational matters:
 - 2.1. Adoption of the agenda;
 - 2.2. Organization of work.
3. Report of the Executive Secretary on inter-sessional work.
4. Matters for consideration by the Intergovernmental Committee for the Cartagena Protocol on Biosafety at its second meeting in preparation for the first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol as reflected in the work plan adopted by the Conference of the Parties at its fifth meeting (decision V/1, annex):
 - 4.1. Liability and redress (Article 27);
 - 4.2. Monitoring and reporting (Article 33);
 - 4.3. Secretariat (Article 31);
 - 4.4. Guidance to the financial mechanism (Article 28, paragraph 5, Article 22);

- 4.5. Rules of procedure for meetings of the Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Protocol (Article 29, paragraph 5);
- 4.6. Consideration of other issues necessary for effective implementation of the Protocol (e.g., Article 29, paragraph 4);
- 4.7. Elaboration of a draft provisional agenda for the first meeting of the Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Protocol;
- 4.8. Items for continued consideration from the first meeting of the ICCP:
 - 4.8.1. Decision-making (Article 10, paragraph 7);
 - 4.8.2. Information-sharing (Article 20);
 - 4.8.3. Capacity-building (Article 22, Article 28, paragraph 3);
 - 4.8.4. Handling, transport, packaging and identification (Article 18);
 - 4.8.5. Compliance (Article 34).
5. Other matters.
6. Adoption of the report.
7. Closure of the meeting.

2.2. Officers

21. The Bureau of the ICCP continue to comprise:

<i>Chair:</i>	Ambassador Philémon Yang (Cameroon)
<i>Vice-Chairs:</i>	Mr. Eric Schoonejans (France) Mr. P.K. Ghosh (India) Mr. Mohammad Reza Salamat (Islamic Republic of Iran) Mr. Andrzej Aniol (Poland) Mr. Raymond Solomon (Saint Kitts and Nevis) Mr. Gert Willemse (South Africa) Mr. François Pythoud (Switzerland) Mr. Andrey Ostapenko (Ukraine)
<i>Rapporteur:</i>	Ms. Antonietta Gutiérrez Rosati (Peru)

2.3. Organization of work

22. At the 1st plenary session of the meeting, the ICCP agreed on the organization of the work for the meeting on the basis of the proposal contained in the revised provisional organization of work (UNEP/CBD/ICCP/2/1/Add.2).

23. Accordingly, the ICCP established two sessional working groups: Working Group I under the chairmanship of Mr. François Pythoud, Vice-Chair from Switzerland, to consider agenda items 4.8.2 (Information sharing); 4.8.4 (Handling, transport packaging and identification); and 4.6 (Consideration of

other issues necessary for the effective implementation of the Convention) and Working Group II under the chairmanship of Mr. Mohammad Reza Salamat, Vice-Chair from the Islamic Republic of Iran, to consider agenda items 4.8.1 (Decision-making procedures); 4.8.3 (Capacity-building); and 4.1 (Liability and redress). This allocation of items was approved on the understanding that the Bureau would review the situation and decide which of the new items to be taken up in plenary on the first day of the meeting might need to be addressed in working groups for further consideration. The Bureau would consider the matter at its meeting the following day and the resulting decision would be communicated to the working groups before they started their work. The Bureau would also identify a suitable time for convening a brief plenary session in the middle of the week to hear progress reports from the working groups.

24. It was also agreed that, before the items were taken up individually in the working groups, there would be a preliminary plenary discussion of the individual items.

25. At its meeting in the morning of 2 October 2001, the Bureau considered the arrangements to deal with the items in the work plan of IC CP that were being taken up for the first time, as well as item 4.8.5, on compliance. On the basis of the statements made in plenary, the Bureau agreed that, of those items, Working Group I would take up item 4.2 (Monitoring and reporting) and Working Group II would take up items 4.4 (Guidance to the financial mechanism) and 4.8.5 (Compliance). It further agreed that informal consultations would take place on items 4.3 (Secretariat) and 4.5 (Rules of procedure for meetings of the Conference of the Parties serving as the meeting of the Parties to the Protocol) with a view to deciding at a later stage on the appropriate arrangements for dealing with them.

26. The revised organization of work was circulated as document UNEP/CBD/ICCP/2/1/Add.2/Rev.1.

Work of the working groups

27. In accordance with the organization of work agreed by the IC CP for its second meeting, Working Group I met under the chairmanship of Mr. François Pythoud, Vice-Chair from Switzerland, to consider agenda items 4.8.2 (Information-sharing); 4.8.4 (Handling, transport packaging and identification); 4.2 (Monitoring and reporting); and 4.6 (Consideration of other issues necessary for effective implementation of the Protocol). The Working Group held six meetings, from 2 to 4 October 2001. It adopted its report (UNEP/CBD/ICCP/2/L.13) at its 6th meeting, on 4 October 2001.

28. In accordance with the organization of work agreed by the IC CP for its second meeting, Working Group II met under the chairmanship of Mr. Mohammad Reza Salamat, Vice-Chair from the Islamic Republic of Iran, to consider agenda items 4.1 (Liability and redress), 4.4 (Guidance to the financial mechanism), 4.8.1. (Decision-making procedures); 4.8.3 (Capacity-building), and 4.8.5 (Compliance). The Working Group held six meetings, from 2 to 4 October 2001. It adopted its report (UNEP/CBD/ICCP/2/L.14) at its 6th meeting, on 4 October 2001.

29. At its 1st meeting, on 2 October 2001, Working Group II agreed to set up an open-ended contact group, to be facilitated by the representative of Namibia, Ms. Martha Kandawa-Schulz, with a core membership of Argentina, Australia, Belgium, Brazil, Cameroon, Canada, China, Denmark, Haiti, Hungary, India, Italy, Japan, Malaysia, Mexico, New Zealand, Norway, the Republic of Korea, Seychelles, Sweden, Togo, Uganda, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania and the United States of America. The group was asked to undertake informal consultations on capacity-building and the roster of experts (agenda item 4.8.3), and guidance to the financial mechanism (agenda item 4.4).

30. At the 3rd plenary session of the meeting, on 3 October 2001, the Intergovernmental Committee heard a progress report from the chairs of the two working groups.

ITEM 3. REPORT OF THE EXECUTIVE SECRETARY ON INTER-SESSIONAL WORK

31. Agenda item 3 was taken up by the Intergovernmental Committee at the 1st plenary session of the meeting, on 1 October 2001. In considering the item, the Committee had before it the report of the Executive Secretary on inter-sessional work pursuant to decisions EM-I/3 and V/1 of the Conference of the Parties to the Convention on Biological Diversity (UNEP/CBD/ICCP/2/2).

32. The report of the Executive Secretary was introduced by the representative of the Secretariat, who thanked all Governments that had provided the information necessary to assist the Secretariat in carrying out its work.

33. On the proposal of the Chair, the Committee agreed that comments on the report of the Executive Secretary could be made under agenda item 4.6.

ITEM 4. MATTERS FOR CONSIDERATION BY THE INTERGOVERNMENTAL COMMITTEE FOR THE CARTAGENA PROTOCOL ON BIOSAFETY AT ITS SECOND MEETING IN PREPARATION FOR THE FIRST MEETING OF THE CONFERENCE OF THE PARTIES TO THE CONVENTION SERVING AS THE MEETING OF THE PARTIES TO THE PROTOCOL, AS REFLECTED IN THE WORK PLAN ADOPTED BY THE CONFERENCE OF THE PARTIES AT ITS FIFTH MEETING (DECISION V/1, ANNEX)

A. New items for consideration at the second meeting of the Intergovernmental Committee

4.1. Liability and redress (Article 27)

34. The ICCP took up agenda item 4.1 at the 2nd plenary session of the meeting, on 1 October 2001. In considering the item, the Committee had before it the note on the subject, prepared by the Executive Secretary (UNEP/CBD/ICCP/2/3).

35. Introducing the item, the representative of the Secretariat reported on the Workshop on Liability and Redress in the Context of the Convention on Biological Diversity, held in Paris, from 18 to 20 June 2001, which brought together Government-nominated experts and representatives of intergovernmental and non-governmental organizations. Its recommendations regarding the process for the review of Article 14, paragraph 2, of the Convention included: (a) further information-gathering and analysis; (b) the establishment of a legal and technical expert group to review information gathered and to continue the technical analysis of pertinent issues, including examining the appropriateness of a liability and redress regime under the Convention; and (c) the enhancement of capacities at the national level with respect to measures for the prevention of damage to biological diversity, the establishment and implementation of national policy and legislative regimes on liability and redress, including through the elaboration of guidelines. The experts had taken note of the process contemplated under Article 27 of the Cartagena Protocol on Biosafety, and stressed that the two processes should be kept separate, while noting that the products of the two processes could be mutually enriching. He informed that the report of the workshop (UNEP/CBD/WS-L&R/3) was available on the Secretariat's website and would be submitted to the Conference of the Parties at its sixth meeting, in April 2002.

36. Statements were made by the representatives of Antigua and Barbuda (on behalf of the Alliance of Small Island States), Canada, Colombia, Ethiopia (speaking on behalf of the Group of 77 and China), Belgium (on behalf of the European Community and its member States), Japan, Norway and Switzerland.

37. Following the introduction of the item at the 1st plenary session of the meeting, Working Group II took up agenda item 4.1 at its 2nd meeting, on 2 October 2001

38. Introducing the item, the representative of the Secretariat described the content of the note by the Executive Secretary (UNEP/CBD/ICCP/2/3), which examined the concept of State responsibility and environmental liability in customary public international law, reviewed existing multilateral treaties dealing with liability and redress for transboundary harm, provided an overview of ongoing developments in related international forums, outlined and discussed possible elements for a liability and redress regime under the Protocol, suggested options for a process for the elaboration of international rules and procedures in the field, and made recommendations for the consideration of the ICCP. The note was based partly on the documentation prepared for the Workshop on Liability and Redress in the Context of the Convention on Biological Diversity, held in Paris from 18 to 20 June 2001, the report of which was available in document UNEP/CBD/WS-L&R/3.

39. The Chair proposed that delegates address the process and necessary steps for the elaboration of international rules and procedures in the field of liability and redress under Article 27 of the Protocol, and that they defer addressing the substance of a liability and redress regime to a later stage.

40. Statements were made by the representatives of Algeria, Argentina, Australia, Belgium (speaking on behalf of the European Community and its member States), Brazil, Cameroon (speaking on behalf of the African Group), Canada, Chile, China, Colombia, Cuba, Islamic Republic of Iran, Japan, Kenya, Mexico, Nepal, Nigeria, Norway, Republic of Korea, Russian Federation, Rwanda, Senegal, South Africa, Switzerland, Togo, United Kingdom of Great Britain and Northern Ireland and United States of America.

41. Statements were also made by the representatives of the Consultative Group on International Agricultural Research (CGIAR) and of the Global Industry Coalition.

42. At its 4th meeting, on 3 October 2001, the Working Group considered a Chair's text, containing a draft recommendation by the ICCP, to which was annexed a draft recommendation of the ICCP to the Conference of the Parties serving as the meeting of the Parties to the Protocol. Introducing the paper, the Chair explained that the first recommendation reflected the steps to be taken in the interim period up to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, and the second recommendation represented a draft proposal for a decision of that meeting on the process for addressing the issue of liability and redress.

43. Statements were made by the representatives of Algeria, Argentina, Belgium (speaking on behalf of the European Community and its member States), Brazil, Burkina Faso, Cameroon, Canada, Colombia, Islamic Republic of Iran, Kiribati, Palau (speaking on behalf of AOSIS), Republic of Korea, Rwanda, Seychelles, South Africa, Switzerland, Togo, United Kingdom of Great Britain and Northern Ireland and United States of America.

44. At its 5th meeting, on 4 October 2001, the Working Group resumed its consideration of the Chair's text, containing a draft recommendation by the ICCP and, in its annex, a draft recommendation of the ICCP for a draft decision by the Conference of the Parties serving as the meeting of the Parties to the Protocol.

45. Statements were made by the representatives of Algeria, Argentina, Australia, Belgium (speaking on behalf of the European Community and its member States), Botswana, Canada, China, Colombia, Côte d'Ivoire, Denmark, European Commission, Islamic Republic of Iran, Kenya, Norway, Seychelles, South Africa, Switzerland, Togo, United Kingdom of Great Britain and Northern Ireland and United States of America.

46. At its 6th meeting, on 4 October 2001, Working Group II considered a revised Chair's text, incorporating the comments and proposals made in the discussion.

47. Statements were made by the representatives of Australia, Brazil, Eritrea and New Zealand.

48. The text submitted by the Chair was approved, as amended, for transmission to plenary as document UNEP/CBD/ICCP/2/L.6.

49. At the 4th plenary session of the meeting, the Chair of Working Group II introduced recommendation UNEP/CBD/ICCP/2/L.6.

50. The representative of Cameroon, speaking on behalf of the African Group, called for the inclusion in the terms of reference of the open-ended ad hoc group of legal and technical experts of interim measures to cover damage resulting from the introduction of living modified organisms. The group should look at the issue of damage occurring before the entry into force of the liability and redress regime, and a compensation fund should be established, to which exporters would contribute, to enable actions for redress to be undertaken before the finalization of the process by the ad hoc group. That would offer a guarantee of the protection of global biodiversity, human and animal health, thus facilitating ratification of the Protocol by countries of her region.

51. The Intergovernmental Committee then adopted draft recommendation UNEP/CBD/ICCP/2/L.6 as recommendation 2/1. The text of the recommendation as adopted is contained in annex I to the present report.

4.2 *Monitoring and reporting (Article 33)*

52. The ICCP took up agenda item 4.2 at the 2nd plenary session of the meeting, on 1 October 2001. In considering the item, the ICCP had before it the note prepared by the Executive Secretary (UNEP/CBD/ICCP/2/4) on monitoring and reporting. The Chair said that the Bureau would consider appropriate arrangements for dealing with the agenda item.

53. Statements were made by the representatives of Australia, Belgium (speaking on behalf of the European Community and its member States), Canada, Ethiopia (on behalf of the Group of 77 and China), and Norway.

54. Following the introduction of the item at the 1st plenary session of the meeting and the decision of the Bureau reflected in paragraph 25 above, Working Group I took up agenda item 4.2 at its 2nd meeting, on 2 October 2001.

55. Introducing the item, a representative of the Secretariat said that on the basis of the experience gained from national reporting under the Convention, the note proposed a draft format for consideration by the ICCP based on the obligations of Parties to the Protocol. The note also contained draft recommendations for consideration by the ICCP regarding, in particular, the format of the report and the establishment of guidelines for the reports, including the issue of timing for reporting.

56. Statements were made by the representatives of Argentina, Australia, Belgium (on behalf of the European Community and its member States), China, India, Japan, Lesotho (on behalf of the African Group), Mexico and the United States of America.

57. At its 4th meeting, on 3 October, the Working Group considered a text prepared by the Chair on the basis of comments made on the item at the preceding meeting. At the end of their discussions, the Working Group agreed that the Chair would modify the text to incorporate the points expressed by delegations on the item.

58. Statements were made by representatives of Australia, Belgium (on behalf of the European Community and its member States), Canada, Cameroon, China, Jamaica, Latvia (on behalf of the Central and Eastern European Group) and Zimbabwe.

59. At its 5th meeting on 4 October, Working Group I considered the text submitted by the Chair containing draft recommendations on monitoring and reporting (UNEP/CBD/ICCP/2/WG.I/L.2). The Working Group adopted the text without any amendments and forwarded it to plenary in document UNEP/CBD/ICCP/2/L.3.

60. At the 4th plenary session of the meeting, the ICCP adopted the draft recommendation UNEP/CBD/ICCP/2/L.3 as recommendation 2/2. The text of the recommendation as adopted is contained in annex I to the present report.

4.3. Secretariat (Article 31)

61. The ICCP took up agenda item 4.3 at the 2nd plenary session of the meeting, on 1 October 2001. In considering the item, the ICCP had before it the note prepared by the Executive Secretary (UNEP/CBD/ICCP/2/14), containing a programme budget for the biennium following the entry into force of the Protocol and highlighting the costs of the secretariat services for the Protocol.

62. Statements were made by the representatives of Bahamas (speaking on behalf of the Alliance of Small Island States (AOSIS)), Belgium (speaking on behalf of the European Community and its member States), Canada, Ethiopia (speaking on behalf of the Group of 77 and China), India and Japan.

63. The ICCP resumed its consideration of the agenda item at the 4th plenary session of the meeting, on 5 October 2001. The Chair reported that an informal open-ended contact group, coordinated by Mr. Conrad Hunte (Antigua and Barbuda), had met to consider the issue and had reached agreement on a draft recommendation on a programme budget for the biosafety work programme for the biennium following the entry into force of the Protocol, containing one subparagraph in square brackets. That draft recommendation was submitted to the ICCP by the Chair in a conference room paper.

64. The representative of Japan expressed his Government's concern that paragraph 1 (g) of the draft recommendation did not reflect the provisions of Article 31, paragraph 3 of the Protocol.

65. The representative of Australia expressed a strong reservation over paragraph 1 (g) of the draft recommendation, which she considered was in contradiction to the negotiated provisions contained in Article 29, paragraph 2, of the Convention and Article 31, paragraph 3, and Article 37 of the Protocol. She said that the ICCP could not amend such negotiated provisions and that Australia reserved the right to take up the matter at the sixth meeting of the Conference of the Parties.

66. The representative of Brazil expressed support for the reservations made concerning paragraph 1 (g) of the draft recommendation.

67. Following those statements, the Intergovernmental Committee adopted the draft recommendation as recommendation 2/3. The text of the recommendation as adopted is contained in annex I to the present report.

4.4 Guidance to the financial mechanism (Article 28, para. 5, and Article 22)

68. The ICCP took up agenda item 4.4 at the 2nd plenary session of the meeting, on 1 October 2001. In considering the item, the ICCP had before it the note on the subject prepared by the Executive Secretary (UNEP/CBD/ICCP/2/5).

69. Statements were made by the representatives of Belgium (speaking on behalf of the European Community and its member States), Ethiopia (speaking on behalf of the Group of 77 and China), Mexico (speaking on behalf of the States members of GRULAC) and the United States of America.

70. Following the introduction of the item at the 1st plenary session of the meeting, Working Group II took up agenda item 4.4 at its 1st meeting, on 2 October 2001.

71. Introducing the item, the representative of the Secretariat drew attention to the note by the Executive Secretary (UNEP/CBD/ICCP/2/5), which dealt with the relationship between the Convention and the financial mechanism, the relationship between the Protocol, the Convention and the financial mechanism, guidance to the financial mechanism in relevant decisions of the Conference of the Parties, the need for financial resources to assist developing country Parties, funding from sources other than the financial mechanism and relationship among various funding efforts, and proposed recommendations.

72. Statements were made by the representatives of Algeria, Argentina, Belgium (speaking on behalf of the European Community and its member States), Cuba and United Republic of Tanzania.

73. The Working Group agreed to refer the item for detailed consideration by the open-ended contact group, established to consider, *inter alia*, the issues of guidance to the financial mechanism.

74. At the 6th meeting of the Working Group, the facilitator of the contact group reported on the deliberations of the group on the item and presented a draft recommendation on guidance for the financial mechanism for the Protocol, on which the members of the contact group had reached agreement.

75. Statements were made by the representatives of Argentina, Brazil, Chile, Kenya, Mexico and the United States of America.

76. The Working Group approved the draft recommendation for transmission to plenary as document UNEP/CBD/ICCP/2/L.10.

77. The representative of Mexico introduced an amendment to paragraph 2 of the draft recommendation.

78. At the 4th plenary session of the meeting, the Intergovernmental Committee adopted draft recommendation UNEP/CBD/ICCP/2/L.10, as amended, as recommendation 2/4.

4.5. Rules of procedure for meetings of the Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Protocol (Article 29, para. 5)

79. The ICCP took up agenda item 4.5 at the 2nd plenary session of the meeting, on 1 October 2001. In considering the item, the ICCP had before it the note on the subject prepared by the Executive Secretary (UNEP/CBD/ICCP/2/6).

80. Statements were made by the representatives of Algeria, Belgium (on behalf of the European Community and its member States) and Canada.

81. The ICCP resumed its consideration of the agenda item at the 4th plenary session of the meeting, on 5 October 2001. The Chair said that Mr. Veit Koester (Denmark) had conducted informal consultations with as many delegations as possible, and had reported to the Bureau on the results of those consultations, on which basis a draft recommendation had been prepared. That draft recommendation, on the rules of procedure for meetings of the Conference of the Parties serving as the meeting of the Parties to the Protocol and a draft statement to be included in the report of the meeting of the ICCP, was contained in the Chair's text submitted to the ICCP in document UNEP/CBD/ICCP/2/L.15.

82. The representative of Algeria, speaking on behalf of the African Group, said that the draft recommendation reflected the point of view of his group. He considered that the square brackets around the rules on decision-making on financial matters would lead to complications for the developing countries and problems in adopting measures for the capacity-building that was necessary to ensure compliance. He asked that the Conference of the Parties take into consideration the question of removing the square brackets around rule 40, paragraph 1, of the rules of procedure for meetings of the Conference of the Parties.

83. The representative of New Zealand considered that paragraph 2 of the draft recommendation was contrary to the spirit of Article 29, paragraph 5, of the Protocol. He considered that was necessary to consider the issue further at some future date.

84. The representative of Argentina requested due clarification of the use of the word “amendment” as it appeared in paragraph 2 of the draft recommendation, in order to define the scope of the meaning, in particular, whether or not the removal of the square brackets in Article 40 would constitute an amendment for the purposes of the recommendation.

85. Following those statements, the ICCP adopted draft recommendation UNEP/CBD/ICCP/2/L.15 as recommendation 2/5. The text of the recommendation as adopted is contained in annex I to the present report. The statement contained in the Chair’s text for inclusion in the report of the meeting was also adopted by the Intergovernmental Committee and is reproduced in paragraphs 86 to 88 below.

86. The ICCP, in its recommendation on the rules of procedure for meetings of the Conference of the Parties serving as the meeting of the Parties to the Protocol, to be submitted for consideration by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, notes that according to Article 29, paragraph 5, of the Protocol, the rules of procedure of the Conference of the Parties to the Convention shall be applied, *mutatis mutandis*, under the Protocol, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to the Protocol.

87. In addressing the issue of the rules of procedure, the ICCP recalled that no agreement had been achieved regarding rule 40, paragraph 1, of the rules of procedure of the Conference of the Parties and noted that lack of agreement might have some implications on the effective operation of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

88. The ICCP therefore recommends to the Conference of the Parties to the Convention that it further considers rule 40, paragraph 1, of the rules of procedure of the Conference of the Parties, with a view to reaching agreement on this matter.

4.6. Consideration of other issues necessary for the effective implementation of the Protocol (e.g., Article 29, para. 4)

89. The ICCP took up agenda item 4.6 at the 2nd plenary session of the meeting, on 1 October 2001. In considering the item, the ICCP had before it the note on the subject prepared by the Executive Secretary (UNEP/CBD/ICCP/2/7).

90. Statements were made by the representatives of Belgium (on behalf of the European Community and its member States), Ethiopia (on behalf of the Group of 77 and China), Japan, and New Zealand.

91. As provided in the organization of work for the meeting, representatives were then given the opportunity to comment on the draft Strategic Plan for the Convention as it related to the Cartagena Protocol on Biosafety. An introductory statement was made by the representative of the Seychelles, who

reported on the outcome of the Workshop on the Strategic Plan, which had been held in Mahé in May 2001.

92. A statement on the preparation of the Strategic Plan was made by the representative of Belgium, speaking on behalf of the European Community and its member States.

93. At the invitation of the Chair, general statements on the issues that had been taken up at the 1st plenary session of the meeting were then made by the representatives of Argentina, Australia, Canada, Cameroon, Côte d'Ivoire, Egypt, Ethiopia (on behalf of the Group of 77 and China), Hungary (on behalf of the Group of Central and Eastern European States), Indonesia, Kenya, Mali, Mexico, Nepal, Norway, Republic of Korea, Sudan, Uganda, Togo, the United States of America, and Zimbabwe.

94. The representative of the Secretariat of the International Plant Protection Convention (IPPC) also made a statement.

95. Following the introduction of the item at the 1st plenary session of the meeting, Working Group I took up agenda item 4.6 at its 2nd meeting, on 2 October 2001.

96. Introducing the item, the representative of the Secretariat said that the intention was to address any other issues not yet specifically identified in the work plan for the ICCP. The note of the Executive Secretary contained a list of possible issues that may be considered by the ICCP as "other" issues. The note also focused on how the work of the Convention can support the process of the entry into force of the Protocol and preparations for the first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol, as well as on issues more directly relevant to the work of the process immediately after that first meeting.

97. The Chair invited the Working Group to focus attention on section V of the note by the Executive Secretary as it contained the draft recommendations for the ICCP. He also recalled that some delegations had already raised other issues at the first session of the plenary meeting to be considered under this item.

98. The representative of Argentina pointed out that many proposals had been made at the plenary session which needed to be reflected on further before being raised under this sub-item and therefore proposed that the Working Group defer its consideration of the sub-item to the following day. Several delegations endorsed this proposal.

99. The Secretariat identified the following issues raised at the plenary session: the need for clarification for the categorization of living modified organisms; the issue of non-Parties under Article 24; the nature and extent of the responsibility of the party of export as regards notification or requiring notification as provided for under paragraph 1 of Article 8; socio-economic considerations under Article 26; guidance on methods of risk management and risk assessment; consideration of appropriate mechanisms to address issues arising; possible call for cooperation between activities under the Protocol and the work of the Interim Commission on Phytosanitary Measures (ICPM) of the IPPC, regarding specifications for an international standard for phytosanitary measures on living modified organisms; and guidance on reporting and monitoring.

100. Statements were made by the representatives of Australia, Belgium (on behalf of the European Community and its member States), Canada, China, Egypt, Japan, Mexico (on behalf of the Group of Latin American and Caribbean States) and the Philippines.

101. At its 3rd meeting, on 3 October 2001, Working Group I resumed its consideration of item 4.6. There being no further comments from the floor, the Chair suspended proceedings on the understanding that, in consultation with the Secretariat and delegations that had made observations, he would prepare a Chair's text on the item on the basis of the earlier discussion thereon.

102. At its 5th meeting on 4 October, the Working Group considered the draft text prepared by the Chair on the item. At the end of its deliberations thereon, the Working Group decided to entrust the Chair with drafting of a revised version of his text, taking into account the observations made at the 5th meeting.

103. Statements were made by representatives of Argentina, Australia, Belgium (on behalf of the European Community and its member States), Brazil, Cameroon, Canada, China, Ethiopia, France, India, Jamaica, Japan, Kenya, Mali, Mexico, Nepal, Norway, the Republic of Korea, the United States of America, and Zimbabwe.

104. At its 6th meeting, on 4 October 2001, the Working Group adopted the revised text on the draft recommendations submitted by the Chair on the item as amended and forwarded it to plenary in document UNEP/CBD/ICCP/2/L.7.

105. The representatives of Australia and the United States of America expressed reservations about the inclusion of specific examples in paragraph 1 of the preamble.

106. Statements were made by the representatives of Australia, Belgium (on behalf of the European Community and its member States), Egypt, Ethiopia, Jamaica, Japan, Lesotho, Mexico, the Republic of Korea, the United States of America, Uruguay and Zimbabwe.

107. At the 4th plenary session of the meeting, on 5 October 2001, the Chair of Working Group I introduced draft recommendation UNEP/CBD/ICCP/2/L.7.

108. Statements were made by the representatives of Australia, Canada, Japan and the United States of America.

109. The ICCP then adopted draft recommendation UNEP/CBD/ICCP/2/L.7 as recommendation 2/6. The text of the recommendation as adopted is contained in annex I to the present report.

4.7. Elaboration of a draft provisional agenda for the first meeting of the Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Protocol

110. The ICCP took up agenda sub-item 4.7 at the 4th plenary session of the meeting, on 5 October 2001. In considering the item, the ICCP had before it the draft provisional agenda prepared by the Executive Secretary under the guidance of the Bureau of the ICCP (UNEP/CBD/ICCP/2/8).

111. The draft provisional agenda was approved without change and is reproduced in annex II to the present report.

B. Items for continued consideration from the first meeting of the ICCP (item 4.8)

4.8.1 Decision-making (Article 10, paragraph 7)

112. Agenda sub-item 4.8.1 was taken up by Working Group II at its 2nd meeting, on 2 October 2001. In considering the item, the Committee had before it the note prepared by the Executive Secretary (UNEP/CBD/ICCP/2/11).

113. Introducing the item, the representative of the Secretariat drew attention to the note by the Executive Secretary, and said that six submissions had been received in response to the request by the ICCP that Parties and Governments communicate their views to the Executive Secretary on appropriate procedures and mechanisms to facilitate decision-making by Parties of import, in accordance with

paragraph 7 of Article 10. She pointed out that draft procedures and mechanisms on the subject had been prepared by the Secretariat and were contained in the annex to the note of the Executive Secretary.

114. The Chair proposed that delegates focus their comments on the draft procedures and mechanisms contained in the annex to document UNEP/CBD/ICCP/2/11.

115. Statements were made by the representatives of Argentina, Australia, Belgium (speaking on behalf of the European Community and its member States), Brazil, Cameroon, Canada, Côte d'Ivoire, Eritrea, New Zealand, Norway, Republic of Korea, Seychelles, Uganda (speaking on behalf of the African Group) and the United States of America.

116. A statement was also made by the representative of the Global Industry Coalition.

117. At its 3rd and 4th meetings, on 3 October 2001, the Working Group considered a draft recommendation, submitted by the Chair, to which was annexed a revised set of draft procedures and mechanisms to facilitate decision-making by Parties of import under paragraph 7 of Article 10 of the Protocol, which had been prepared on the basis of the Secretariat's draft, contained in the annex to the note by the Executive Secretary, and taking into account the comments and proposals made during the debate on the issue.

118. Statements were made by the representatives of Algeria, Argentina, Australia, Brazil, Canada, China, Côte d'Ivoire, Denmark, Eritrea, European Commission, Islamic Republic of Iran, Malaysia, Myanmar, New Zealand, Norway, Philippines, Republic of Korea, Rwanda, Seychelles, South Africa, Tunisia, Uganda (speaking on behalf of the African Group) and United States of America.

119. At its 5th and 6th meetings, on 4 October 2001, the Working Group considered a revised Chair's text, containing a draft recommendation of the ICCP to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

120. Statements were made by the representatives of Algeria, Argentina, Australia, Brazil, China, the European Community, Malaysia, Mexico, Palau (speaking on behalf of the Alliance of Small Island States), Senegal, Seychelles and United States of America.

121. The Working Group approved the Chair's text, as amended, for transmission to plenary as draft recommendation UNEP/CBD/ICCP/2/L.8.

122. At the 4th plenary session of the meeting, on 5 October 2001, the Chair of Working Group II introduced a number of editorial corrections to draft recommendations UNEP/CBD/ICCP/2/L.8. With those corrections, the draft recommendation was adopted as recommendation 2/7. The text of the recommendation as adopted is contained in annex I to the present report.

4.8.2 Information-sharing (Article 20)

123. The ICCP took up agenda item 4.8.2 at the 1st plenary session of the meeting, on 1 October 2001. In considering the item, the Committee had before it two notes prepared by the Executive Secretary (UNEP/CBD/ICCP/2/9 and UNEP/CBD/ICCP/2/9/Add.1), respectively conveying an interim report on the implementation of the pilot phase of the Biosafety Clearing-House and a report on the technical review of the pilot phase by the Liaison Group of Technical Experts on the Biosafety Clearing-House, for consideration by ICCP.

124. The item was introduced by Mr. François Pythoud (Switzerland), Vice-Chair of the ICCP, who reported on the exercise by the Bureau of the mandate given to it at the first meeting of the ICCP to provide management oversight in the development of the Biosafety Clearing-House. He described the

progress made in the pilot phase of the Biosafety Clearing-House and on the outcome of work of the Liaison Group of Technical Experts on the Biosafety Clearing-House, which had held its second meeting on 27-28 September 2001.

125. Following the introduction of the item at the 1st plenary session of the meeting, Working Group I took up agenda item 4.8.2 at its 1st meeting, on 2 October 2001.

126. Introducing the item, the representative of the Secretariat said that the ICCP might wish to consider the recommendations contained in the notes prepared by the Executive Secretary and provide guidance, on the basis of the experiences of individual countries, with respect to the further development of the pilot phase of the Biosafety Clearing-House.

127. Statements were made by the representatives of Argentina, Belgium (on behalf of the European Community and its member States), Cameroon, Canada, China, Egypt, Ethiopia (on behalf of the Group of 77 and China), Grenada, India, Jamaica, Japan, the Republic of Korea, Lesotho (on behalf of the African Group), Latvia (on behalf of the Group of Central and Eastern European States), Mali, Mexico (on behalf of the Group of Latin American and Caribbean States), Panama, Peru, Swaziland, Tunisia, the United States of America, Uruguay and Zimbabwe.

128. A statement was also made by representative of the World Health Organization.

129. At its 4th meeting on 3 October, the Working Group considered a text prepared by the Chair on the basis of observations that had been made by delegations on that item. At the end of its discussions, the Working Group agreed that the Chair would revise the text capturing the essence of new comments.

130. Statements were made by representatives of Argentina, Australia, Belgium (on behalf of the European Community and its member States), Canada, Chile, Grenada, Japan, Norway and the United States of America.

131. At its 6th meeting, on 4 October 2001, the Working Group adopted the draft recommendation submitted by the Chair on the item as amended by the Chair and forwarded it to plenary in document UNEP/CBD/ICCP/2/L.5.

132. The representative of India expressed strong reservations over the inclusion of "subject to the necessary financial resources being made available", in paragraph 7 of the Chair's text (development and distribution of CD-ROMs).

133. At the 4th plenary session of the meeting, the ICCP adopted recommendation UNEP/CBD/ICCP/2/L.5, with an editorial correction introduced by the Chair of Working Group I, as recommendation 2/8. The text of the recommendation is contained in annex I to the present report.

4.8.3 Capacity-building (Article 22, Article 28, paragraph 3)

134. The ICCP took up agenda item 4.8.3 at the 1st plenary session of the meeting, on 1 October 2001. In considering the item, the Committee had before it two notes prepared by the Executive Secretary (UNEP/CBD/ICCP/2/10 and UNEP/CBD/ICCP/2/10/Add.1), respectively on capacity-building and on operationalizing the roster of experts.

135. As an introduction to the item, the Committee heard reports from the representative of Cuba on the outcome of the open-ended meeting of experts held in Cuba in July 2001, to further develop proposals on the implementation of capacity-building provisions of the Protocol; the representative of UNEP on the joint UNEP/GEF workshop on financial support for the creation and implementation of national biosafety frameworks; the representative of the African region on the outcome of the African regional workshop on

the Biosafety Clearing-house held in Nairobi in February 2001; the representative of the Latin American and Caribbean region on the outcome of the meeting on capacity-building for the Protocol held in Lima, Peru, in September 2001; the representative of CGIAR on the international centres' research and studies relating to capacity-building in the context of the Protocol; and a representative of the Edmonds Institute on the Biosafety Clearing-House process.

136. Following the introduction of the item at the 1st plenary session of the meeting, Working Group II took up agenda item 4.8.3 at its 1st meeting, on 2 October 2001.

137. Introducing the item, the representative of the Secretariat drew attention to the note by the Executive Secretary (UNEP/CBD/ICCP/2/10), conveying the report of the Open-Ended Meeting of Experts on Capacity-building for the Cartagena Protocol, held in Havana from 11 to 13 July 2001, and invited the ICCP to consider approving the Draft Action Plan for Building Capacities for the Effective Implementation of the Cartagena Protocol on Biosafety, contained in annex I to that document. He explained that, under the item, the ICCP was also expected to give further consideration to the issue of the roster of experts established pursuant to paragraph 14 of decision EM-I/3 of the Conference of the Parties to the Convention, with a view to providing guidance on the operationalization of the roster for consideration by the first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol. The other note prepared by the Executive Secretary under the item (UNEP/CBD/ICCP/2/10/Add.1) contained proposals on draft rules of procedure or guidelines on how the roster would be used by Parties, and proposals on how financial resources could be made available to enable developing country Parties and Parties with economies in transition to make full use of the roster of experts.

138. The Chair proposed that delegates focus their comments on the draft action plan for building capacities, as adopted by the Open-ended Expert Meeting on Capacity-Building, held in Havana from 11 to 13 July 2001, and contained in the annex to document UNEP/CBD/ICCP/2/10. He drew attention to paragraph 42 of that document, which contained the observation that the draft action plan contained no reference to the financial mechanism and the suggestion that some such reference be included under section 3 (Processes/steps). He noted the Implementation Toolkit, contained in annex II of that document, as well as the suggested sequence of actions, contained in its annex III. He invited participants to also give consideration to those aspects in their deliberations under the agenda item.

139. Statements were made by the representatives of Algeria, Antigua and Barbuda, Argentina, Australia, Belgium (speaking on his own behalf and on behalf of the European Community and its member States), Brazil, Cameroon, Canada, Chile, China, Colombia, Denmark, Equatorial Guinea, Eritrea, Gambia, Haiti, Hungary (speaking on his own behalf and on behalf of the Central and Eastern European Group), India, Indonesia, Japan, Kenya, Malaysia, Mexico (speaking on behalf of GRULAC), Morocco, Namibia (speaking on behalf of the African Group), New Zealand, Norway, Pakistan, Philippines, Republic of Korea, Senegal, Seychelles, South Africa, Sudan, Togo, United Republic of Tanzania and United States of America.

140. Statements were also made by the representatives of the Consultative Group on International Agricultural Research (CGIAR) and of the Global Industry Coalition.

141. The Working Group agreed to refer the item for detailed consideration by the open-ended contact group, established to consider, *inter alia*, the issues of capacity-building, and the roster of experts.

142. At the 6th meeting of the Working Group, the facilitator of the contact group reported on the deliberations of the group on the item and presented a draft recommendation on capacity-building, on which the members of the contact group had reached agreement, to which was annexed a Draft Action Plan for Building Capacities for the Effective Implementation of the Cartagena Protocol on Biosafety and a possible sequence of actions.

143. A statement was made by the representative of Brazil.

144. The Working Group approved the draft recommendation, as amended, for transmission to plenary as draft recommendation UNEP/CBD/ICCP/2/L.11.

145. Also at the 6th meeting of the Working Group, the facilitator of the contact group presented a draft recommendation on the roster of experts, on which the members of the contact group had reached agreement, to which were annexed interim guidelines for the roster of experts on biosafety, a nomination form for the roster of experts, an indicative list of areas of advice and support for the roster of experts for implementation of the Cartagena Protocol, a declaration of confidentiality and no conflict of interest, and a statement of expert's interests. She made oral corrections to the draft recommendation.

146. Statements were made by the representatives of Hungary, Namibia, Norway, United Kingdom of Great Britain and Northern Ireland and United States of America.

147. The Working Group approved the draft recommendation, as amended, for transmission to plenary as draft recommendation UNEP/CBD/ICCP/2/L.12.

148. At the 4th plenary session of the meeting, the Intergovernmental Committee adopted draft recommendations UNEP/CBD/ICCP/2/L.11 and UNEP/CBD/ICCP/2/L.12 as recommendations 2/9 A and 2/9 B, respectively. The text of the recommendations as adopted is contained in annex I to the present report.

4.8.4 Handling, transport, packaging and identification (Article 18)

149. The ICPC took up agenda item 4.8.4 at the 1st plenary session of the meeting, on 1 October 2001. In considering the item, the Committee had before it a note by the Executive Secretary (UNEP/CBD/ICCP/2/12), which had been prepared in response to the request of the ICPC at its first meeting, inviting Governments and relevant international organizations to submit to the Executive Secretary information on their existing practices, rules and standards relevant to Article 18 of the Protocol and requesting the Executive Secretary to prepare a synthesis of these practices, rules and standards, and options for coordinating the work under Article 18 with the work of other relevant international bodies.

150. The representative of France reported on the meeting of technical experts on the subject held in Paris in June 2001, co-funded by France and Canada. He drew attention, in particular, to the various options for a documentation system that had been explored by the Meeting. The representative of Canada made a statement highlighting the outcome of the meeting of technical experts. He said that his country was pleased to have had the opportunity to be involved in that process.

151. Following the introduction of the item at the 1st plenary session of the meeting, Working Group I took up agenda item 4.8.4 at its 1st meeting, on 2 October 2001. In considering the item, the Working Group considered the note by the Executive Secretary containing a synthesis of these practices, rules and standards relevant to Article 18 of the Protocol, and options for coordinating the work under Article 18 with work of other relevant international bodies.

152. Introducing the item, the representative of the Secretariat said that the Working Group was expected to focus on four key issues in its consideration of the item: review of existing practices, rules and standards; options for coordinating the work under Article 18 with the work of relevant international bodies; suggested options for continuing the work under Article 18; modalities for a process for discussion on Article 18.2 (a) by the first meeting of the Parties; and the report and recommendations of the Meeting of Technical Experts on Handling, Transport, Packaging and Identification of Living Modified Organisms held in Paris in June 2001. The Working Group agreed to adopt a stepwise approach and consider paragraphs 2 (b) and 2 (c) separately from 2 (a).

153. Statements were made by the representatives of Argentina, Australia, Belgium (on behalf of the European Community and its member States), Cameroon, Canada, Egypt, India, Jamaica, Japan, Kenya, Latvia, Malaysia, Namibia (on behalf of the African Group), Norway, Republic of Korea, Switzerland, Togo, Turkey, and the United States of America.

154. A statement was also made by a representative of the Global Industry Coalition.

155. At its 2nd meeting, Working Group I continued its discussion on agenda item 4.8.4 and more specifically on paragraphs 2 (b) and 2 (c) of Article 18.

156. Statements were made by representatives of Cameroon, Indonesia and Switzerland.

157. At the same meeting, the Working Group also considered paragraph 2 (a) of Article 18 of the Protocol.

158. Statements were made by representatives of Argentina, Australia, Cameroon, Canada, China, Ethiopia (on behalf of the Group of 77 and China), the European Community, India, the Islamic Republic of Iran, Kenya, the Republic of Korea, Switzerland, the United States of America, and Zimbabwe.

159. The representative of the Organisation for Economic Co-operation and Development also made a statement.

160. Statements were also made by the representatives of industry and non-governmental organizations.

161. In view of the complexity of the issue raised under paragraph 2 (a), the Working Group agreed to establish a contact group to help it with its further consideration of the matter.

162. At the 4th meeting of the Working Group, on 3 October, the chair of the contact group reported that for lack of time, the group had been unable to complete its work and therefore requested more time to do so.

163. At the 5th meeting of the Working Group, the contact group presented a text on the outcome of its work, which, however, did not meet complete unanimity. The Working Group agreed that the contact group should meet again to come up with a revised text.

164. At its 6th meeting, on 4 October 2001, the Working Group adopted the draft recommendation submitted by the Chair on the item as amended by the Chair and forwarded it to plenary as draft recommendation UNEP/CBD/ICCP/2/L.9.

165. The representatives of Australia and the United States of America expressed reservations on the wording of paragraph 5 (b) (ii) of section II of the recommendation.

166. The representatives of Argentina and Brazil requested that the pressing need for financial assistance for developing countries in implementing paragraph 2 (a) of Article 18 of the Protocol be reflected in the report of the Working Group.

167. At the 4th plenary session of the meeting, the ICCP adopted recommendation UNEP/CBD/ICCP/2/L.9, with an editorial correction introduced by the Chair of Working Group I, as recommendation 2/10. The text of the recommendation is contained in annex I to the present report.

4.8.5 Compliance (Article 34)

168. The ICCP took up agenda item 4.8.5 at the 1st plenary session of the meeting, on 1 October 2001. In considering the item, the ICCP had before it the synthesis report of views submitted by Governments regarding the elements and options for a compliance regime under the Protocol (UNEP/CBD/ICCP/2/13), and the report of the Open-ended Meeting of Experts on Compliance (UNEP/CBD/ICCP/2/13/Add.1), which met in Nairobi prior to the second meeting of ICCP, from 26 to 28 September 2001.

169. The item was introduced by Mr. Mohammed Reza Salamat (Islamic Republic of Iran), Chair of the Open-ended Meeting of Experts on a Compliance Regime under the Cartagena Protocol on Biosafety. Mr. Salamat requested the Committee to endorse both the report and its annex to enable further discussions on compliance to be held.

170. Following the introduction of the item at the 1st plenary session of the meeting, Working Group II took up agenda sub-item 4.8.5 at its 3rd meeting, on 3 October 2001.

171. The Chair drew attention to the report of the Open-ended Meeting of Experts on a Compliance Regime under the Cartagena Protocol on Biosafety, held in Nairobi from 26 to 28 September 2001 (UNEP/CBD/ICCP/2/13/Add.1). The annex to that report contained draft procedures and mechanisms on compliance, which included elements that were in square brackets. He sought guidance on how to proceed in the consideration of the draft procedures, particularly the elements in square brackets.

172. Statements were made by the representatives of Algeria, Argentina, Armenia, Australia, Belgium (speaking on behalf of the European Community and its member States), Brazil, Burkina Faso, Canada, Côte d'Ivoire, European Commission, Indonesia, Islamic Republic of Iran, Iraq, Japan, Kenya, Norway, Pakistan, Republic of Korea, Senegal, Togo (on his own behalf and on behalf of the African Group), Uganda, United States of America, and Zimbabwe.

173. At its 5th meeting, on 4 October 2001, Working Group II considered a Chair's text, containing a draft recommendation of the ICCP.

174. Statements were made by the representatives of Australia and of the United States of America.

175. The Working Group approved the Chair's text, as amended, for transmission to plenary as draft recommendation UNEP/CBD/ICCP/2/L.4. It was understood that all elements of the draft procedures and mechanisms on compliance annexed to the draft recommendation would be subject to further discussion.

176. Introducing the draft recommendation at the 4th plenary session of the meeting, on 5 October 2001, the Chair suggested that a footnote be added to paragraph 2 to indicate that the date could be extended or altered by the Executive Secretary if the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol did not occur in April 2002. A similar footnote was already in place in draft recommendation UNEP/CBD/ICCP/2/L.6 (adopted as recommendation 2/1).

177. With that amendment, draft recommendation UNEP/CBD/ICCP/2/L.4 was adopted as recommendation 2/11. The text of the recommendation as adopted is contained in annex I to the present report.

ITEM 5. OTHER MATTERS***Cooperation between the Cartagena Protocol on Biosafety and the International Plant Protection Convention (IPPC) regarding risk analysis procedures for phytosanitary risks that may be arising from living modified organisms***

178. The ICCP took up agenda item 5 at the 4th plenary session of the meeting, on 5 October 2001. In considering the item, the ICCP had before it document UNEP/CBD/ICCP/2/L.2, containing a draft recommendation, submitted by the Chair, on cooperation between the Cartagena Protocol on Biosafety and the International Plant Protection Convention (IPPC) regarding risk analysis procedures for phytosanitary risks that may be arising from living modified organisms. Introducing the item, the Chair also drew attention to an information note prepared by the Bureau of the ICCP (UNEP/CBD/ICCP/2/INF/3), to which was attached the report of the Interim Commission on Phytosanitary Measures (ICPM) Open-ended Working Group on specifications for an International Standard for Phytosanitary Measures on LMOs.

179. Statements were made by the representatives of Brazil, Canada, Ethiopia and France.

180. The ICCP adopted draft recommendation UNEP/CBD/ICCP/2/L.2, as amended by the representative of Canada, as recommendation 2/12. The text of the recommendation is contained in annex I to the present report.

Need for further preparatory work by the Intergovernmental Committee for the Cartagena Protocol on Biosafety before the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol

181. At the 4th plenary session of the meeting, on 5 October 2001, the Chair introduced a draft recommendation on the need for further preparatory work by the Intergovernmental Committee for the Cartagena Protocol on Biosafety before the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. Recalling the mandate given to the Committee by the Conference of the Parties in its decisions EM-I/3 and V/1, he said that the Conference of the Parties had worked on the assumption that the Protocol would enter into force in time for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol to be held in conjunction with the sixth meeting of the Conference of the Parties to the Convention in April 2002 and, therefore, the work plan adopted by the Conference of the Parties provided for only two meetings of the Committee to be held. However, given the current status of ratification, it was now uncertain whether the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol could be held as planned. The Chair pointed out that, in order to maintain the momentum for the early entry into force of the Protocol, the ICCP might need to continue addressing the issues in its work plan. The Bureau had unanimously supported the holding of a third meeting of the Intergovernmental Committee in the event that the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol could not take place in April 2002, in conjunction with the sixth meeting of the Conference of the Parties to the Convention. The ICCP Bureau had consequently requested the Chair to table a draft recommendation on the need for further preparatory work by the ICCP before the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. The draft recommendation included some important elements, including consultations between the ICCP Bureau and the Bureau of the Conference of the Parties, on the understanding that it would be for the Bureau of the Conference of the Parties to make a final decision regarding the convening of the third meeting of the ICCP and for the ICCP Bureau to propose an appropriate agenda for such a meeting. Governments would be informed of the arrangements made as soon as possible.

182. In the ensuing discussion, statements were made by the representatives of Argentina, Australia, Brazil, Belgium (on behalf of the European Community and its member States), Burkina Faso, Cameroon,

Canada, Ethiopia (on behalf of the African Group), Hungary, Kenya, Norway, Sudan and the United Kingdom of Great Britain and Northern Ireland.

183. In his statement, the representative of Argentina, supported by the representative of Brazil, expressed reservations as to whether the legal authority existed for a third meeting of the Intergovernmental Committee to be held without a decision by the Conference of the Parties. Other representatives, however, expressed general support for the draft recommendation, some pointing out that Bureau was simply being given the mandate to explore, together with the Bureau of the Conference of the Parties, the possibility of holding a third meeting.

184. In response to a query by one representative, the Chair clarified that the issues to be discussed would be those already in the work plan adopted by the Conference of the Parties. He noted that the Bureau had the mandate of oversight of implementation of decisions of the Conference of the Parties and that it would seek the endorsement of the Conference of the Parties at its sixth meeting for any action taken.

185. Following the discussion, the draft recommendation was adopted as recommendation 2/13. The text of the recommendation as adopted is contained in annex I to the present report.

186. Subsequent to the adoption of recommendation 2/13, the representative of Australia said that, at its third meeting, the Intergovernmental Committee should tackle the priority issues within its existing mandate that were critical for the entry into force of the Protocol. Capacity-building required continuing attention. In addition, a third meeting would provide an opportunity for discussion of appropriate action in light of further information on ratifications and on the extent of any shortfall.

ITEM 6. ADOPTION OF THE REPORT

187. The present report was adopted at the 4th plenary session of the meeting, on 5 October 2001, on the basis of the draft report (UNEP/CBD/ICCP/2/L.1) that had been prepared by the Rapporteur and the reports of Working Group I (UNEP/CBD/ICCP/2/L.13) and Working Group II (UNEP/CBD/ICCP/2/L.14), which were introduced and revised by their respective chairs. The Committee authorized the Rapporteur, with the assistance of the Secretariat and in consultation with the Chair to finalize the report to reflect the proceedings of the final day of the meeting.

ITEM 7. CLOSURE OF THE MEETING

188. After the customary exchange of courtesies, the Chair declared the second meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety closed at 2.30 p.m. on Friday, 5 October 2001.

Annex

**RECOMMENDATIONS ADOPTED BY THE INTERGOVERNMENTAL COMMITTEE FOR
THE CARTAGENA PROTOCOL ON BIOSAFETY AT ITS SECOND MEETING**

2/1. *Liability and redress (Article 27)*

The Intergovernmental Committee for the Cartagena Protocol on Biosafety

1. *Recommends* that information gathering and analysis on the issue of liability and redress pursuant to Article 27 of the Protocol should continue;

2. *Requests* Parties, Governments and relevant international organizations to provide the Executive Secretary with information on national, regional and international measures and agreements in the field of liability and redress for damage resulting from transboundary movements of living modified organisms by no later than three months prior to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

3. *Requests* the Executive Secretary to prepare a synthesis report of the information provided by Parties, Governments and relevant international organizations and to submit this report to the first meeting of Conference of the Parties serving as the meeting of the Parties to the Protocol, and to make it available to the workshops referred to in paragraph 4 of the present recommendation, by no later than three months prior to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

4. *Invites* Parties to the Convention to organize workshops, as soon as possible but in any case before the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, on liability and redress for damage resulting from transboundary movements of living modified organisms, and to forward their findings to the Executive Secretary who will make them available through the Internet and in hard copies, with a view to:

(a) Considering case-studies relating to damage resulting from transboundary movements of living modified organisms;

(b) Analysing the information gathered by the Executive Secretary as well as recommending the kind of further information that may be needed;

(c) Considering any other issues that may be relevant to the process provided for in Article 27 of the Protocol, taking into account principles of international law.

5. *Urges* donor countries to provide the necessary funding for the workshops referred to in paragraph 4 above;

6. *Recommends* that the terms of reference for the open-ended ad hoc group of legal and technical experts that may be established by the Conference of the Parties serving as the meeting of the Parties to the Protocol, at its first meeting, should be defined by the same meeting on the basis of the information gathered and the views of Parties communicated to the Executive Secretary pursuant to paragraph 7 of the present recommendation;

7. *Invites* Parties and Governments to submit their views in writing to the Executive Secretary on elements of the terms of reference for the open-ended ad hoc group of legal and technical experts referred to in paragraph 6 above by no later than three months prior to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

8. *Recommends* the draft decision annexed to the present recommendation for the consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its first meeting.

Annex

RECOMMENDATION OF THE ICCP TO THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE PROTOCOL FOR A DRAFT DECISION BY THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE PROTOCOL

The Conference of the Parties serving as the meeting of the Parties to the Protocol,

Recalling Article 27 of the Protocol, which requires the Conference of the Parties serving as the meeting of Parties to adopt, at its first meeting, a process with respect to the appropriate elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms, analysing and taking due account of the on-going processes in international law on these matters, and to endeavour to complete this process within four years,

Recognizing that the appropriate elaboration of international rules and procedures regarding liability and redress pursuant to Article 27 of the Protocol is crucial for the effective implementation of the Protocol,

Emphasizing that the process with respect to liability and redress under the Protocol is distinct from the process with respect to liability and redress under Article 14, paragraph 2, of the Convention, while acknowledging the need to identify and promote synergies and cross-fertilization between the two processes,

Recognizing that the process with respect to liability and redress under Article 27 of the Protocol is also distinct and different from the compliance procedures and mechanisms under Article 34 of the Protocol,

1. *Decides* to establish an open-ended ad hoc group of legal and technical experts to carry out the process pursuant to Article 27 of the Protocol;

2. *Decides* that the terms of reference for the open-ended ad hoc group of legal and technical experts established by paragraph 1 above shall be those contained in the annex to this decision;

3. *Requests* the Executive Secretary to convene the open-ended ad hoc group of legal and technical experts established by paragraph 1 above as soon as possible, at least once before the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

2/2. *Monitoring and reporting*

The Intergovernmental Committee for the Cartagena Protocol on Biosafety

1. *Recognizes* the need for clear and simple reporting requirements that:
 - (a) Consider technical, technological and financial capacity limitations in developing countries, in particular the least developed and small island developing States among them, and countries with economies in transition, as well as countries that are centres of origin and centres of genetic diversity;
 - (b) Avoid duplication of other requirements pursuant to the Convention;
 - (c) Support statistical analysis and compilation;
 - (d) Encourage Parties to provide detailed information at national as well as at regional levels, where such information can be useful to other Parties;
2. *Supports* the general format contained in the annex to the note by the Executive Secretary on monitoring and reporting (UNEP/CBD/ICCP/2/4), and *invites* Governments to provide written comments on the draft format to the Executive Secretary before 15 January 2002, with a view to further developing the format;
3. *Recommends* that the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol establish guidelines for the reports under Article 33 that:
 - (a) Request Parties to make use of the agreed format;
 - (b) Recommend that Parties prepare their reports through a consultative process involving all relevant stakeholders, as appropriate;
 - (c) Request Parties to submit their reports:
 - (i) On a general frequency of every four years, but in the initial four-year period to submit an interim report two years after the entry into force of the Protocol;
 - (ii) Twelve months prior to the meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol that will consider the report;
 - (iii) In an official language of the United Nations;
 - (iv) In both hard copy and electronic format;
4. *Recommends* that the intervals and formats of the reports should be kept under review, building on the experience of Parties in preparing their reports.

2/3. Secretariat: programme budget for the biosafety work programme for the biennium following the entry into force of the Cartagena Protocol on Biosafety

The Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Noting that according to Article 31, paragraph 1, of the Protocol, the Secretariat of the Convention established by Article 24 of the Convention shall serve as the secretariat of the Protocol,

Noting also that, according to Article 31 paragraph 3, to the extent that they are distinct, the costs of the secretariat services for this Protocol shall be met by the Parties hereto,

Recognizing that in the absence of a fully developed work programme for the Conference of the Parties serving as the meeting of the Parties to the Protocol and the uncertainty whether, in the early years following the entry into force of the Protocol, the number of Parties at that time may not have the financial capacity to provide the necessary funding for activities under the Protocol,

Recognizing that in the future there is a need to distinguish the costs associated with the implementation of the Protocol,

Emphasizing that the budget for the biosafety work programme should be considered within the overall budget of the Convention,

1. *Recommends* that the Conference of the Parties to the Convention approve the following elements and include them in the BY, BE and BZ trust funds for the Convention on Biological Diversity and in the relevant decision of the Conference of the Parties at its sixth meeting:

(a) A core programme budget of \$2,441,597 for the year 2003 and of \$1,701,934 for the year 2004, for the purposes, as set out in table 1 on page 31 below, and incorporate it into the core budget of the Convention on Biological Diversity;

(b) An additional amount of \$325,000 from the core budget for the organization of the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol in case it is not convened back-to-back with the sixth meeting of the Conference of the Parties;

(c) That the total cost of the core budget referred to above be considered within the overall budget of the Convention for the biennium 2003-2004; ^{1/}

(d) The sum of \$949,200 for the purposes, as set out in annex I to the present recommendation, and incorporate it into the Special Voluntary Trust Fund (BE) for Additional Voluntary Contributions in Support of Approved Activities under the Convention on Biological Diversity for the biennium 2003-2004;

(e) The sum of \$2,203,500 for the purposes, as set out in annex II to the present recommendation, and incorporate it into the Special Voluntary Trust Fund (BZ) for Facilitating Participation of Parties in the processes of the Convention for the biennium 2003-2004;

^{1/} The total cost of the core budget (BY Trust Fund) will be adjusted in response to the guidance and decisions of the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol and the sixth meeting of the Conference of the Parties.

(f) A Biosafety Protocol staffing level of 10 posts (seven Professional and three General Service) at the level indicated in table 2 on page 31 below and to further assess the staffing requirements at the second meeting of the Conference of the Parties serving as the meeting of the Parties;

(g) [That the total cost of the core budget (BY Trust Fund) of the biosafety work programme will continue to be borne on an interim basis by the Parties to the Convention for the biennium 2003-2004 or until such a time that the Protocol is ratified by an agreed number of developed and developing country Parties where the costs will then be borne by the Parties on a pro rata basis];

(h) That all Parties to the Convention are invited to note that contributions to the core budget (BY Trust Fund) are due on 1 January of the year in which these contributions have been budgeted for, and to pay them promptly, and *urges* Parties in a position to do so, to pay by 1 October of the year 2002 for the calendar year 2003 and by 1 October 2003 for the calendar year 2004 the contributions required to finance expenditures approved, and, in this regard, *requests* that Parties be notified of the amount of their contributions by 1 August of the year preceding the year in which the contributions are due;

(i) That all Parties and States not Parties to the Protocol, as well as governmental, intergovernmental and non-governmental organizations and other sources, be urged to contribute specific funding for the Protocol to the BY, BE and BZ trust funds;

(j) That the Executive Secretary has the authority to, in concurrence with the Bureau of the Conference of the Parties, to adjust the servicing of the programme of work, including postponement of meetings, if sufficient resources are not available to the Secretariat in a timely fashion;

(k) That the Executive Secretary prepares and submits a budget for the programme of work for the biennium 2005-2006 to the second meeting the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol, and report on income and budget performance as well as any adjustments made to the Protocol budget for the biennium 2003-2004;

(l) That the Executive Secretary enters into direct administrative and contractual arrangements with Parties and organizations – in response to offers of human resources and other support to the Secretariat – as may be necessary for the effective discharge of the functions of the Secretariat as it relate to the Protocol, while ensuring the efficient use of available competencies, resources and services, and taking into account United Nations rules and regulations. Special attention should be given to possibilities of creating synergies with relevant existing work programmes or activities that are being implemented within the framework of other international organizations in accordance with relevant decisions of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

2. *Recommends further* that the Conference of the Parties seek advice, as appropriate, from the first meeting of the Conference of the Parties serving as the meeting of the Protocol for any adjustments that may be needed to the figures reflected in the present recommendation.

*Table 1. Biosafety resource requirements from the core budget (BY Trust Fund)
(United States dollars)*

Expenditure	2003	2004
Staff costs	848 820	891 261
Biosafety bureau meetings	45 000	47 250
Travel on official business	70 000	73 500
Consultants/Sub-contracts	14 500	15 225
Biosafety Clearing-House	26 500	27 825
Second and third meetings of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol	525 000	250 000
Open-ended ad hoc meeting of legal and technical experts on liability and redress (1)	439 385	0
Expert/liaison group meetings.	43 000	45 150
Common services costs	148 500	155 925
<i>Subtotal</i>	2 160 705	1 506 136
<i>Programme support charges (13%)</i>	280 892	195 798
Total budget (US\$)	2 441 597	1 701 934

Table 2. Biosafety staffing requirements from the core budget

	2003	2004
A. Professional category		
P-5	1	1
P-4	2	2
P-3	4	4
Total Professional category	7	7
B. Total General Service category	3	3
TOTAL (A + B)	10	10

Annex I

BIOSAFETY RESOURCE REQUIREMENTS FROM THE SPECIAL VOLUNTARY TRUST FUND (BE) FOR ADDITIONAL VOLUNTARY CONTRIBUTIONS IN SUPPORT OF APPROVED ACTIVITIES THE 2003-2004 BIENNIUM

(in United States dollars)

<i>I</i>	<i>Description</i>	2003	2004
1.	<i>Meetings</i>		
	Regional meetings for the Biosafety Protocol	80 000	80 000
	Technical Expert Meetings (4)	160 000	160 000
	Regional workshops for the Biosafety Clearing House (4)	160 000	160 000
2.	<i>Consultants/Sub-contracts</i>		
	Biosafety Clearing House	20 000	20 000
	Subtotal	420 000	420 000
<i>II.</i>	<i>Programme support charges (13%)</i>	54 600	54 600
	Total Cost (I + II)	474 600	474 600

Annex II

BIOSAFETY RESOURCE REQUIREMENTS FROM THE SPECIAL VOLUNTARY TRUST FUND (BZ) FOR FACILITATING PARTICIPATION OF PARTIES IN THE CONVENTION PROCESS FOR THE 2003-2004 BIENNIUM

(in United States dollars)

Description	2003	2004
<i>I. Meetings</i>		
Regional meetings for the Biosafety Protocol (8)	300 000	300 000
Meetings of the Parties (2)	540 000	540 000
Open-ended Ad Hoc Working Group of Legal & Technical Experts on Liability and Redress(1)	270 000	0
<i>Subtotal I</i>	1 110 000	840 000
<i>II. Programme support charges (13%)</i>	144 300	109 200
Total Cost (I + II)	1 254 300	949 200

2/4. Guidance to the financial mechanism

The Intergovernmental Committee for the Cartagena Protocol on Biosafety

1. *Takes note of* the note by the Executive Secretary (UNEP/CBD/ICCP/2/5) concerning guidance for the financial mechanism;
2. *Acknowledges* the biosafety capacity-building initiatives currently being undertaken by UNDP/GEF and UNEP/GEF;
3. *Recognizes* the need to ensure that guidance to the financial mechanism will support in a balanced manner the objectives of the Convention and its Protocol;
4. *Stresses* the need for mutual information, coordination and regular monitoring in order to avoid duplications and to identify gaps and possible synergies because of the multitude of different actors undertaking various capacity building initiatives, and for an active role the Executive Secretary should play in the process.
5. *Considers* that guidance with respect to the financial mechanism for the Protocol can formally only be adopted by the Conference of the Parties to the Convention;
6. *Considers* the need to facilitate the process and therefore *invites* the Conference of the Parties to the Convention at its sixth meeting to consider the practical arrangements, outlined in the present guidance to the financial mechanism for the Protocol, to be implemented by the Global Environment Facility in a timely manner;
7. *Recommends* that the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol consider the following eligibility criteria for funding under the financial mechanism:

“All developing countries, in particular the least developed and small island developing States among them, and countries with economies in transition, which are Parties to the Protocol, are eligible for funding under the financial mechanism for the Protocol.

“All developing countries, in particular the least developed and small island developing States among them, and countries with economies in transition, which are Parties to the Convention and provide a clear political commitment towards becoming Parties to the Protocol, are also eligible for funding under the financial mechanism for the Protocol.”
8. *Recommends* that the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol consider guidance to the financial mechanism in the field of capacity building, including full participation in the Biosafety Clearing-House, and drawing upon the key elements requiring concrete action contained in section 2 of the Action Plan for Building Capacities for the Effective Implementation of the Cartagena Protocol on Biosafety (annex I of recommendation 2/9 A of the Intergovernmental Committee for the Cartagena Protocol on Biosafety) and any other issues identified by the Intergovernmental Committee for the Cartagena Protocol on Biosafety;
9. *Takes into account* Article 28, paragraph 5, of the Protocol, and *recommends* that first meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol requests the Conference of the Parties to the Convention and the Council of the Global Environment Facility to confirm that the arrangements between them provided for in the Memorandum of Understanding adopted

by the Conference of the Parties at its third meeting will apply, *mutatis mutandis*, for purposes of the Cartagena Protocol;

10. *Wishes* to provide the Council of the Global Environment Facility, so that it can take them into account at its first possible meeting, the key elements requiring concrete action contained in the Action Plan for Building Capacities for the Effective Implementation of the Cartagena Protocol on Biosafety, in accordance with recommendation 2/9 A adopted by the Intergovernmental Committee for the Cartagena Protocol on Biosafety at its second meeting.

2/5. Rules of procedure for meetings of the Conference of the Parties serving as the meeting of the Parties to the Protocol

The Conference of the Parties serving as the meeting of the Parties to the Protocol,

Noting that, according to Article 29, paragraph 5, of the Protocol, the rules of procedure of the Conference of the Parties to the Convention shall be applied, *mutatis mutandis*, under the Protocol, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to the Protocol,

Recognizing that, when the rules of procedure of the Conference of the Parties to the Convention are applied *mutatis mutandis* under the Protocol, Articles 29, 30 and 31 of the Protocol, in particular, will affect the application of the rules of procedure to the Conference of the Parties serving as meeting of the Parties to the Protocol,

Decides by consensus that:

(a) When rule 21 of the rules of the procedure for meetings of the Conference of the Parties to the Convention is applied to the Conference of the Parties serving as the meeting of the Parties to the Protocol, this rule shall be supplemented by the following paragraph:

“Where a member of the Bureau of the Conference of the Parties to the Convention representing a Party to the Convention but, at that time, not a Party to the Protocol, is substituted by a member elected by and from among the Parties to the Protocol, the term of office of the substitute member shall expire at the same time as the term of office of the member of the Bureau he or she substitutes.”

(b) When the rules of procedure of the Conference of the Parties of the Convention are amended by the Conference of the Parties to the Convention, those amendments shall not apply to the Conference of the Parties serving as the meeting of the Parties to the Protocol, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to the Protocol.

2/6. Consideration of other issues necessary for the effective implementation of the Protocol

The Intergovernmental Committee for the Cartagena Protocol on Biosafety

1. *Invites* Governments to submit comments to the Executive Secretary, by 15 January 2002, on mechanisms to promote consideration of issues, exchange views and, as appropriate, provide guidance on issues requiring clarification arising during ratification and implementation of the Protocol, for inclusion in a synthesis report. [Issues that might be addressed under such a mechanism could include, *inter alia*:

- (a) Categorization of living modified organisms;
- (b) Risk assessment and risk management;
- (c) Establishment of harmonised rules for unique identification systems;
- (d) Transboundary movements with non-Parties;]

2. *Requests* Parties to the Convention and other States to provide the Executive Secretary, three months prior to the first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol, with their views on the items to be included in a medium-term programme of work for the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol and its relevant subsidiary bodies that would be based on the following criteria:

(a) Cover the period from the second meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol to the fifth meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol;

(b) Be based on the provisions of paragraph 4 of Article 29;

(c) Rely upon the existing activities of other bodies and organizations relevant to the operation of the Protocol to the greatest extent possible; and

(d) Address the following issues in a timely manner:

(i) *Issues stipulated by the Protocol for consideration by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol*

- a. Facilitation of decision-making;
- b. Review of the modalities of operation of the Biosafety Clearing-House;
- c. Promotion of capacity-building;
- d. Promotion of compliance;
- e. Programme budget;
- f. Guidance to the financial mechanism;

- (ii) *Issues that need to be addressed by specific times after the entry into force of the Protocol:*
- g. Decision on detailed requirements for documentation accompanying living modified organisms that are intended for direct use as food or feed, or for processing, no later than two years after the entry into force of the Protocol;
 - h. Elaboration of international rules and procedures in the field of liability and redress, endeavouring to complete this process within four years;
 - i. Evaluation of the effectiveness of the Protocol, including an assessment of its procedures and annexes, five years after the entry into force of the Protocol;
 - j. Monitoring the implementation of obligations under the Protocol and, at intervals to be determined by the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol, reporting on measures taken to implement the Protocol;
- (iii) *Other issues for consideration:*
- k. Development and improvement of cooperation with other relevant bodies and organizations;
 - l. Cooperation, as appropriate, with other States and international bodies on the promotion and facilitation of public awareness, education and participation concerning the safe transfer, handling and use of living modified organisms in relation to the conservation and sustainable use of biological diversity, taking into account also risks to human health;
 - m. Cooperation on research and information exchange on any socio-economic impacts of living modified organisms, especially on indigenous and local communities.

3. *Urges* Parties to the Convention and other States that have not yet done so to submit to the Secretariat information on national focal points and competent national authorities as soon as possible, pursuant to Article 19, paragraph 1, of the Protocol;

4. *Noting* that the information provided to the Secretariat with respect to national focal points for the Intergovernmental Committee for the Cartagena Protocol on Biosafety may or may not apply to the requirements of Article 19, paragraph 1, *further invites* Parties to clarify this matter for the Secretariat, no later than the date of entry into force of the Protocol for each Party, in line with the provisions of paragraph 2 of Article 19 of the Protocol;

5. *Reiterates* the call of the Conference of the Parties to the Convention to deposit instruments of ratification, acceptance or approval or instruments of accession, as appropriate, at the earliest opportunity to enable the Protocol to enter into force as soon as possible;

6. *Reiterates also* the call of the Conference of the Parties to States that are not Parties to the Convention to ratify, accept, approve or accede to it, as appropriate, without delay, thereby enabling them also to become Parties to the Protocol;

7. *Invites* Parties to the Convention and other States to provide the Executive Secretary with input to development of the Strategic Plan of the Convention, particularly with respect to draft elements relating to the Protocol.

2/7. Decision-making (Article 10, paragraph 7, of the Protocol)

The Intergovernmental Committee for the Cartagena Protocol on Biosafety

Recommends the following draft decision and the annex thereto for the consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its first meeting:

“The Conference of the Parties serving as the meeting of the Parties,

Recalling Article 10, paragraph 7, of the Cartagena Protocol on Biosafety, which requires that the Conference of the Parties serving as the meeting of the Parties, at its first meeting, to decide upon appropriate procedures and mechanisms to facilitate decision-making by Parties of import,

Noting decision V/1 of the Conference of the Parties to the Convention with regard to the work plan of the Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Decides:

- (a) To adopt, pursuant to Article 10, paragraph 7, of the Protocol, the procedures and mechanisms to facilitate decision-making by Parties of import, as contained in the annex to this decision;
- (b) To continue to identify and build upon the mechanisms that will further facilitate capacity building;
- (c) To review, in line with Article 35 of the Protocol, the procedures and mechanisms referred to in paragraph 1 above, and take appropriate action.

Annex

**PROCEDURES AND MECHANISMS TO FACILITATE DECISION-MAKING BY PARTIES
OF IMPORT UNDER PARAGRAPH 7 OF ARTICLE 10 OF THE CARTAGENA
PROTOCOL ON BIOSAFETY**

A. Guidelines

1. The procedures and mechanisms, hereby defined pursuant to Article 10, paragraph 7, of the Protocol, are designed to facilitate decision-making by Parties of import, especially those encountering difficulties in the decision-making process under Article 10 of the Protocol.
2. In facilitating the decision-making under Article 10 of the Protocol, priority shall be given, within the framework of Article 22 of the Protocol, to capacity-building of developing country Parties, in particular the least developed and small island developing States among them, and Parties with economies in transition, and also taking into account centres of origin and centres of genetic diversity.
3. Parties shall cooperate with a view to ensuring that Parties of import, especially developing country Parties, in particular the least developed and small island developing States among them, and Parties with economies in transition, have access to the Biosafety Clearing House or to the information it houses for the purpose of facilitating decision-making. The decision on the modalities of the operation of

the Biosafety Clearing House pursuant to paragraph 4 of Article 20 should take into account the needs of Parties of import in decision-making as a matter of priority.

4. The procedures and mechanisms to facilitate decision-making shall be demand-driven by Parties of import.

5. While other mechanisms should be kept under consideration, the roster of experts and the Biosafety Clearing-House are among the main mechanisms to provide, upon request, the necessary support to Parties of import to facilitate decision-making by them under Article 10 of the Protocol. The modalities for use of the roster of experts for the purpose of facilitating decision-making by Parties of import shall follow the rules of procedure or guidelines to be adopted by the Conference of the Parties serving as the meeting of the Parties with regard to how the roster of experts should be used by Parties, including issues relating to selection of experts, covering the costs of the expert time and services and the establishment of duties to be undertaken by the experts.

B. Procedures

6. A Party of import, especially developing country Parties, in particular the least developed and small island developing States among them, and Parties with economies in transition may, at any time after having received notification from the Party of export or the notifier under Article 8 of the Protocol, seek, through the Secretariat, any relevant assistance from, among other mechanisms, the roster of experts to deal with the notification it received and to be able to make a decision.

7. In the case where no acknowledgement of receipt of notification or decisions are communicated by a Party of import that is a developing country Party or a Party with an economy in transition, under the time frame established under Articles 9 and 10 of the Protocol, and after the Party of export has sought clarification from the Party of import on the reason for lack of response or decision, the Party of export may, as appropriate, facilitate the Party of import to obtain the necessary assistance from, among other mechanisms, the roster of experts.

8. These procedures and mechanisms to facilitate decision-making by Parties of import shall be separate from, and without prejudice to the procedures and mechanisms established under Article 34 of the Protocol on compliance and the dispute-settlement procedures under Article 27 of the Convention.”

2/8. *Information-sharing*

The Intergovernmental Committee on the Cartagena Protocol on Biosafety,

Noting with appreciation that the inter-sessional activities related to information-sharing recommended at its first meeting (UNEP/CBD/ICCP/1/9 and Corr.1, annex I) have been successfully implemented by the Secretariat as requested,

Recognizing that the pilot phase is an ongoing activity being implemented in accordance with the recommendations made at its first meeting,

Recalling that the pilot phase of the Biosafety Clearing-House should be, *inter alia*, user-friendly, searchable, and understandable and open to all Governments,

1. *Proposes* that the future development of the pilot phase of the Biosafety Clearing-House also be undertaken in accordance with the second note from the Bureau on technical issues associated with the implementation of the pilot phase (reproduced in the annex to the present recommendation);

2. *Urges* Governments to nominate a national focal point for the Biosafety Clearing-House, which will be responsible for approving information registered on the Biosafety Clearing-House for that country, as elaborated in the annex to the present recommendation;

3. *Urges* Governments to participate in the development of the pilot phase of the Biosafety Clearing-House by registering and retrieving information, and submitting comments on their experiences to the Executive Secretary as the basis for the review of the effectiveness of the pilot phase of the Biosafety Clearing-House and as a necessary prerequisite for moving from the pilot phase to the fully operational Biosafety Clearing-House;

4. *Recommends* that Governments use the Biosafety Clearing-House tool-kit to assist in undertaking national assessments of capacity-building needs;

5. *Recognizes* the interconnection between national capacities, effective use of the Biosafety Clearing-House, and successful implementation of the Protocol, and *urges* developed country Governments and other donors to provide financial support and appropriate technical assistance to developing countries, in particular the least developed and small island developing States among them, and countries with economies in transition, as well as countries that are centres of origin and centres of genetic diversity, to enable them to access and use the pilot phase of the Biosafety Clearing-House;

6. *Notes with appreciation* the outcomes of the regional meetings on capacity-building needs for the Biosafety Clearing-House held for Africa and Latin America/Caribbean, and *encourages* Governments to support the implementation of the recommendations made at those meetings. The Intergovernmental Committee *further notes* that regional meetings are planned for Asia/Pacific and Central and Eastern Europe, and *recommends* that such regional capacity-building meetings be made an ongoing activity, subject to the necessary financial resources being made available;

7. *Requests* the Executive Secretary to develop and distribute of CD-ROMs of the pilot phase for training purposes, and to provide templates and guidance to facilitate the creation of national biosafety clearing-houses that are inter-operable with the Biosafety Clearing-House, subject to the necessary financial resources being made available;

8. *Requests* the Executive Secretary to facilitate access to, and use of, the biosafety roster of experts through the Biosafety Clearing-House, following final decision on the operation of the roster;

9. *Requests* the Executive Secretary to seek further cooperation with international, regional and subregional organizations, and with national biosafety clearing-houses, and to make the biosafety clearing-house inter-operable with their information exchange systems;

10. Invites any international organization, as appropriate:

(a) To make available to the Executive Secretary, as soon as possible, harmonized unique identification systems in relation to databases on living modified organisms;

(b) To facilitate the inclusion of relevant information on living modified organisms, including information from countries that may not be members of such organizations, in their own databases or in the pilot phase of the Biosafety Clearing-House;

11. *Recalls* the request made at its first meeting for the Executive Secretary to commission an independent and transparent review of the pilot phase of the biosafety clearing-house, utilizing feedback from the countries and indicators to measure success against the objectives of the pilot phase, and *recommends* that such review be undertaken prior to the sixth meeting of the Conference of the Parties to the Convention on Biological Diversity.

Annex

SECOND NOTE FROM THE BUREAU ON TECHNICAL ISSUES ASSOCIATED WITH THE IMPLEMENTATION OF THE PILOT PHASE OF THE BIOSAFETY CLEARING-HOUSE

Overview

The Bureau re-emphasized that the primary audience for the pilot phase of the Biosafety Clearing-House is the Governments that will register and retrieve data from the system, and noted that all participants should be encouraged to contribute information to the pilot phase and to actively participate in its development and use.

A. Development of the central portal and the central database

Central portal

- Use an interactive site map with explanatory text as an introductory page to better assist in the use and navigation of the Biosafety Clearing-House.
- Reorganize information categories to consolidate, wherever possible.
- Reconsider the format of the disclaimer on the entry of the central portal to make it shorter.

Management centre

- Recommend that countries establish a national focal point for the Biosafety Clearing-House, which will be responsible for validating data registered on the Biosafety Clearing-House for that country. Other authorized users will be able to register data on the Biosafety Clearing-House. However, to ensure authenticity of the information, the focal point for the Biosafety Clearing-House will be required to verify the accuracy of the record before it is made public. A copy of each record will also be sent to the ICCP/Biosafety Protocol national focal point for information.

- Facilitate registration of information by the use of automatic defaults whenever possible, and by linking fields with existing information.
- The registration of national focal points should be the responsibility of the Secretariat; however, contact details should be available for editing by authorized users of the Biosafety Clearing-House.

Central database

- Encourage the use of hyperlinks to existing information, to avoid duplication of work, such as applicant contact details.
- Where possible, make use of existing initiatives such as the Global Taxonomy Initiative (GTI), for example to link taxonomic data with common names of organisms. Special emphasis was also put on linking inserted genes with traits.

Related links

- Allow organizations undertaking biosafety-related activities to register relevant websites on the Biosafety Clearing-House, including brief descriptions and metadata (to be validated by the Secretariat before being made public).
- Review and examine the possibility of including other categories of information in the related websites category of the Biosafety Clearing-House, e.g. creation of a biosafety journal bibliography.

B. Linkage of central portal to national, regional and international databases/nodes

- Continue to encourage international, regional and subregional organizations, and national databases, to become interoperable with the Biosafety Clearing-House.

C. Common formats for registering information on the Biosafety Clearing-House

- Revise the common formats for registering information to enhance user-friendliness.
- Draft common format for registering summaries of risk assessments.
- Recognize the need for common formats to accommodate different categories of LMOs, such as plants, micro-organisms, animals, etc.

D. Development of the Biosafety Clearing-House tool-kit

- Further adapt the tool-kit with a search engine and elucidate the intended audience of each module in the tool-kit.
- Link specific sections of the Biosafety Clearing-House to the appropriate section in the tool-kit to better assist users and incorporate interactive components whenever possible.

E. Cooperation with other international organizations

- Make the guidelines for interoperability with the Biosafety Clearing-House better known to other international, regional, subregional organizations.

- Advise participants that they must ensure that mandatory information housed at other organizations is backed-up appropriately.

F. Alternatives to a Web-based information-sharing system

- Efforts to develop capacities should aim for full and equitable access to the Internet by all regions of the world. Where possible, make use of existing initiatives aimed at addressing the digital divide.
- Develop and disseminate CD-ROM versions of the pilot phase of the Biosafety Clearing-House, for training purposes.

G. Access to the roster of experts

- Pending the outcomes of the second meeting of the ICCP, incorporate the biosafety roster of experts in the Biosafety Clearing-House.

H. Identify and address the capacity needs of countries

- Assist Parties in the development of national databases by making the interoperability guidelines better known, and by developing and making available guidelines for the creation of a national Biosafety Clearing-House. This could include web page templates for the creation of national web sites, interoperable databases to register national information, etc.
- Where possible, encourage incorporation of training workshops on the Biosafety Clearing-House with other relevant biosafety-related meetings, and make regional training workshops an ongoing activity (subject to the necessary financial resources being made available).
- Redesign the “biosafety capacity-building projects” database along the lines of the Action Plan for Building Capacities for the Effective Implementation of the Cartagena Protocol on Biosafety, and include it in the pilot phase of the Biosafety Clearing-House to allow organizations to register information online.

I. Languages

- Develop and implement controlled vocabularies and keywords, based on multilingual international thesauri, wherever possible, to facilitate searching and retrieval of information in the official United Nations languages.
- Encourage countries to provide links to information that is available in the official United Nations languages.

J. Monitoring and review

- The future independent review should assess the effectiveness of the pilot phase, as perceived by the different users of the Biosafety Clearing-House, on the basis of the criteria identified in the first note by the Bureau on technical issues associated with the implementation of the pilot phase of the Biosafety Clearing-House.

2/9. Capacity-building and the roster of experts

A. Capacity-building

The Intergovernmental Committee for the Cartagena Protocol on Biosafety

1. *Takes note of* the document on capacity building prepared by the Executive Secretary (UNEP/CBD/ICCP/2/10), including the report of the Open-Ended Meeting of Experts on Capacity-Building for the Implementation of the Cartagena Protocol on Biosafety, which was held in Havana from 11 to 13 July 2001;
2. *Welcomes* the biosafety capacity-building initiatives currently being undertaken by UNEP/GEF and other donors;
3. *Endorses* the Action Plan for Building Capacities for the Effective Implementation of the Cartagena Protocol on Biosafety annexed to the present recommendation, including the possible sequence of actions in the appendix to the Action Plan;
4. *Invites* Parties, Governments, international and regional organizations, non-governmental organizations, private sector and scientific organizations and other relevant bodies to start implementing the Action Plan, taking into account the roles of different entities in facilitating capacity-building;
5. *Recommends* to the Conference of the Parties serving as the meeting of the Parties to the Protocol that the Conference of the Parties request the Global Environment Facility and other donors to take into account this Action Plan in providing assistance to developing countries, in particular the least developed and the small island developing States among them, and Parties with economies in transition, towards the ratification and effective implementation of the Cartagena Protocol on Biosafety;
6. *Requests* the Executive Secretary to develop a coordination mechanism for the implementation of the Action Plan with a view to promoting partnerships and to maximize complementarities and synergies between various capacity building initiatives;
7. *Requests* the Executive Secretary to prepare a report on the progress made in the implementation of the Action Plan, based on submissions from Parties and Governments and relevant organizations, for consideration by the first meeting of the Conference of the Parties serving as the meeting of the Parties.

Annex

ACTION PLAN FOR BUILDING CAPACITIES FOR THE EFFECTIVE IMPLEMENTATION OF THE CARTAGENA PROTOCOL ON BIOSAFETY

1. Objective of the Action Plan

1. The objective of this Action Plan is to facilitate and support the development and strengthening of capacities for the ratification and effective implementation of the Cartagena Protocol on Biosafety at the national, sub regional, regional and global levels in a timely manner. In this regard, the provision of financial, technical and technological support to developing countries, in particular the least developed and small island developing states among them, as well as countries with economies in transition, taking into account also countries that are centres of origin and centres of genetic diversity, is essential.

2. To achieve the objective, this action plan aims at identifying country needs, priorities, and mechanisms of implementation and sources of funding.

2. *Key elements requiring concrete action*

3. The following key elements are meant to be considered in a flexible manner, based on a demand-driven approach, taking into account the different situations, capabilities and stages of development of each country.

- (a) Institutional capacity-building:
 - (i) Legislative and regulatory framework;
 - (ii) Administrative framework;
 - (iii) Technical, scientific and telecommunications infrastructures;
 - (iv) Funding and resource management;
 - (v) Mechanisms for follow-up, monitoring and assessment;
- (b) Human-resources development and training;
- (c) Risk assessment and other scientific and technical expertise;
- (d) Risk management;
- (e) Awareness, participation and education at all levels including for decision makers, stakeholders and general public;
- (f) Information exchange and data management including full participation in the Biosafety Clearing-House;
- (g) Scientific, technical and institutional collaboration at sub regional, regional and international levels;
- (h) Technology transfer;
- (i) Identification.

3. *Processes/steps*

4. The following processes/steps should be undertaken within appropriate timeframes:

- (a) Identification of capacity needs, including the needs that are not covered prior to the second meeting of ICCP;
- (b) Prioritization of the key elements by each country prior to the first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol;
- (c) Sequencing of actions, including timelines for the operation of capacity-building prior to first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol;

(d) Identification of the coverage and gaps in capacity-building initiatives and resources that could support the ratification and implementation, prior to first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol, from the following:

- (i) Global Environment Facility (GEF);
- (ii) Multilateral agencies;
- (iii) Other international sources;
- (iv) Bilateral sources;
- (v) Other stakeholders;
- (vi) National sources;

(e) Enhancing the effectiveness and adequacy of financial resources to be provided by multilateral and bilateral donors and other donors to developing countries, in particular the least developed and small island developing States among them, as well as countries with economies in transition taking into account also countries that are centres of origin and centres of genetic diversity;

- (f) Enhancing synergies and coordination of capacity-building initiatives;
- (g) Development of indicators for evaluating capacity-building measures.

4. Implementation

5. The activities hereunder are not listed in any order of priority:

4.1 National level

- (a) Development of national regulatory frameworks on biosafety;
- (b) Development and/or strengthening of institutional, administrative, financial and technical capacities, including the designation of national focal points and competent national authorities;
- (c) Establishment of a mechanism to inform all stakeholders;
- (d) Appropriate participation of all relevant stakeholders;
- (e) A mechanism for handling requests or notifications, including risk assessment and decision-making, as well as public information and participation;
- (f) Mechanisms for monitoring and compliance;
- (g) A short- and long-term assessment for internal and external funding;

4.2 Subregional and regional levels

- (a) Regional and subregional collaborative arrangements
- (b) Regional and subregional advisory mechanisms
- (c) Regional and subregional centres of excellence and training

- (d) Regional and subregional website and database
- (e) Mechanisms for regional and subregional coordination and harmonization of regulatory frameworks, where appropriate.

4.3 International level

- (a) Effective functioning of the Biosafety Clearing-House;
- (b) Development/updating of international guidance (IUCN, UNEP, FAO etc.);
- (c) Strengthening South-South cooperation;
- (d) Development and effective use of the roster of experts
- (e) Regular review and provision of further guidance by the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol.

5. Monitoring and coordination

6. Because of the multitude of different actors undertaking different capacity building initiatives, mutual information, coordination and regular monitoring will be promoted in order to avoid duplications and to identify gaps. This exercise will lead to a focus of capacity building on biosafety, ratification, and implementation of the Cartagena Protocol on Biosafety. The Secretariat and the Biosafety Clearing-House will be actively involved in the process.

7. The Secretariat will prepare, on the basis of Governments' submissions, a report on the steps taken by countries, multilateral/bilateral and other international sources, towards implementation of the Action Plan and submit a report to the Conference of the Parties serving as the meeting of the Parties to the Protocol so that it identifies whether the actions listed under section 4 have been carried out successfully and effectively.

Appendix

POSSIBLE SEQUENCE OF ACTIONS

The Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Recognizing that the sequence of action necessary to ratify and implement the Protocol is to be decided by Parties according to their national needs,

Cognizant of the urgent need to build capacities in developing countries, in particular the least developed and small island developing States among them, as well as countries with economies in transition,

Building on the identified elements in the Action Plan and without prejudice to the timeframes indicated therein,

As an aid to assist countries to establish national priorities and to facilitate regional and sub-regional activities the following sequence of actions based on experience and past practice is proposed for consideration.

Possible sequencing of activities identified in the Action Plan

Each activity has associated with it specific objectives/tasks identified in the Indicative Framework and associated documents which will facilitate priority setting by countries and enable the establishment of a timetable for capacity development. This sequence does not establish priorities of action to be taken by countries.

A. National level

1. Assessment of effectiveness and adequacy of existing capacity.
2. Assessment of the short- and long-term requirements for internal and external funding.
3. Development of timelines.
4. Development of national regulatory frameworks on biosafety.
5. Development and/or strengthening of institutional, administrative, financial and technical capacities, including the designation of national focal points and competent authorities.
6. A mechanism for handling requests or notifications, including risk assessment and decision-making, as well as public information and participation.
7. Mechanisms for monitoring and compliance.
8. Establishment of a mechanism to inform all stakeholders.
9. Appropriate participation of all relevant stakeholders.

B. Regional and subregional levels

1. Assessment of national, bilateral and multilateral funding.
2. Regional website and database.
3. Mechanisms for regional and sub regional coordination and harmonization of regulatory frameworks, where appropriate.
4. Regional and subregional collaborative arrangements.
5. Regional and subregional advisory mechanisms.
6. Regional and subregional centres of excellence and training.

C. International level

1. Effective functioning of the Biosafety Clearing-House.
2. Enhancing the effectiveness and adequacy and coordination of financial resources to be provided by multilateral and bilateral donors and other donors to developing countries, in particular the least developed and small island developing States among them, as well as countries with economies in transition.
3. Development and effective use of the roster of experts.

4. Enhancing synergies and coordination of capacity-building initiatives.
5. Strengthening South-South cooperation.
6. Development/updating of international guidance (IUCN, UNEP, FAO etc.).
7. Regular review and provision of further guidance by the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol.

B. Roster of experts

The Intergovernmental Committee for the Cartagena Protocol on Biosafety

1. *Recommends* that the Conference of the Parties serving as the meeting of the Parties to the Protocol adopt the interim guidelines for the roster of experts, contained in the annex to the present recommendation;
2. *Invites* Parties and Governments to use the interim guidelines for the roster of experts pending their adoption by the Conference of the Parties serving as the meeting of the Parties to the Protocol;
3. *Urges* Parties and Governments that have not yet done so to submit their nominations of experts to the Secretariat as soon as possible in accordance with the interim guidelines, using the nomination form provided by the Secretariat and reproduced in appendix 1 to the annex to the present recommendation;
4. *Requests* the Executive Secretary, as the administrator of the roster, to implement the functions specified in the interim guidelines for the roster;
5. *Requests also* the Executive Secretary to prepare a report on the status of implementation of the roster of experts for consideration by the Conference of the Parties serving as the meeting of the Parties, at its first meeting;
6. *Recommends* the establishment of a voluntary fund, administered by the Secretariat, for the specific purpose of supporting developing country Parties, in particular the least developed and small island developing States among them, and Parties with economies in transition, to pay for the use of experts selected from the roster;
7. *Requests* the Executive Secretary to develop a pilot phase of the voluntary fund and seek submissions from Governments on the operation of the voluntary fund, and report to the Conference of the Parties serving as the meeting of the Parties to the Protocol, at its first meeting, on the progress made;
8. *Invites* the financial mechanism for the Protocol to assess whether it can have a role to play in the roster of experts;
9. *Requests* the Executive Secretary to seek submissions on financial support for use of the roster of experts, and provide a compilation report to the sixth meeting of the Conference of the Parties.

Annex

INTERIM GUIDELINES FOR THE ROSTER OF EXPERTS ON BIOSAFETY

A. Mandate of the roster

1. The mandate of the roster of experts shall be to provide advice and other support, as appropriate and upon request, to developing country Parties, in particular the least developed and small island developing States among them, and Parties with economies in transition, to conduct risk assessment, make informed decisions, develop national human resources and promote institutional strengthening, associated with the transboundary movements of LMOs. Moreover, the roster of experts should perform all other functions assigned to it by the Conference of the Parties serving as the meeting of the Parties to the Protocol in the future, in particular in the fields of capacity-building.

2. The roster of experts is an instrument to build capacities and to aid developing country Parties, in particular the least developed and small island developing States among them, and Parties with economies in transition until adequate capacities have been built.

B. Administration of the roster

The Secretariat of the Convention/Protocol shall administer the roster. These functions will include:

- (a) Establishing and reviewing, as necessary, the nomination form;
- (b) Maintaining an appropriate electronic database to allow easy access to the roster;
- (c) Maintaining a paper copy, updated at least once a year, of the roster;
- (d) Advising the Parties on coverage of all areas of expertise available through the roster, and on regional and gender balances on the roster from time to time;
- (e) Assisting Parties, on request, in identifying appropriate experts; and
- (f) Performing such other administrative functions as are set out in these Guidelines or as directed by the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol in other decisions;
- (g) Verifying the availability of experts as necessary.

C. Access to the roster

Access to the roster should be maintained through the Biosafety Clearing-House (via the Internet or non-electronic means). The Secretariat will publish once a year a written version of the roster for distribution to each Party, along with a description of how the different Internet search fields can be used to aid Parties to identify needed expertise. A Party may request any updated version in between these publications.

D. Membership on the roster of experts

1. Nomination of members

1. Roster members shall be nominated by Governments. Governments are responsible for ensuring that nominees possess the highest professional qualities and expertise in the fields for which they are nominated. Parties should consult with relevant stakeholders and seek interested individuals including from national and sub-national governments, research and academic institutions, industry and non-governmental organizations for the purpose of providing balanced, high-quality nominations.
2. The Parties are encouraged to consider retired experts with accumulated knowledge and experience, and with no current institutional affiliations, as potential nominees.

2. Mechanism for nomination

1. The nomination form attached to these guidelines as appendix I shall be used for all nominations. Electronic submissions of the form are encouraged. Nominating Governments should ensure the accuracy of the information submitted on all nomination forms. The Executive Secretary will undertake a review of the roster of experts nomination form with input from Governments and, in particular, to review the categories of expertise.
2. Governments shall endeavour to keep their nominations to the roster of experts up-to-date. Parties shall use their national reports to the Cartagena Protocol on Biosafety to confirm their nominations and, if necessary, update information of individual experts. Non-Parties are invited to confirm and update information with the same periodicity.

3. Maximum number of nominations

Each Government is recommended not to nominate more than 50 experts, and not more than five experts per area of specialization (as this term is used in the nomination form) may be nominated.

4. Balanced representation

1. All Governments are encouraged to nominate experts and to encourage regional balance in the roster. Governments should utilize regional centres of excellence in developing countries, in particular the least developed and small island developing States among them, and countries with economies in transitions, as sources for the nomination of experts. The Secretariat will ensure that the roster database allows for a regional breakdown of roster members as a primary “filter” in searching the list of members.
2. Governments are encouraged to promote gender balance in their nominations, as well as ensure appropriate expertise for the assessments referred to in Article 26 of the Cartagena Protocol.
3. The Executive Secretary shall report annually to the Parties on the sectoral, regional and gender balances in the roster.

5. Required information on experts

Information required for each nominee is set out in the nomination form. The Secretariat shall ensure each form is complete prior to listing a nominee on the roster.

6. *Institutions*

Involving experts from existing and independent institutions with relevant expertise in biosafety would allow access to a wide base of multidisciplinary knowledge. Therefore, experts are invited to indicate in the nomination form whether they are members of any institution.

E. Scope of expertise required

1. The areas of expertise required for members of the roster are identified on the nomination form in appendix 1.
2. The areas of expert advice and support that may be provided through the roster are set out in the indicative list contained in appendix 2 to these guidelines.

F. Choice of experts for assignments

1. Choice by requesting Party

The choice of experts for any given assignment is to be made by the requesting Party.

2. Assistance by Secretariat

When requested by a Party seeking an expert, the Secretariat shall provide assistance to the Party to identify experts listed in the specific area(s) of expertise in the roster. Where feasible, the Secretariat should include a list of potential experts that reflects regional and gender participation.

3. Secretariat facilitating initial contact

The Secretariat may facilitate the initial contact of a Party seeking assistance with any expert on the roster. When direct contact is made by a Party to an expert, the Party should report the contact and its result to the Secretariat in order to ensure that full records on the operations of the roster can be maintained.

G. Obligations of individuals on the roster

1. Ensuring complete and accurate information on nomination forms

Experts are responsible to ensure that the information on their nomination form is complete and accurate.

2. Agreement to release nomination form information to the public

All information on the nomination form should normally be made available to the public, including on the Biosafety Clearing-House, after a nomination is completed. However, a roster member may request the non-disclosure of direct contact information (telephone, address, fax and e-mail) if she or he chooses.

3. Acceptance or refusal of a request for assistance/advice

Members of the roster may accept or reject any proposed assignment.

4. *Declining to act if there is a real or perceived conflict of interest*

1. Experts should decline any assignment where an assignment may raise a real or perceived conflict of interest. Prior to undertaking any assignment through the roster, or to being put forward on a secretariat shortlist, each roster member will complete a conflict of interest declaration, indicating if they have any personal, institutional or other professional interests or arrangements that would create a conflict of interest or that a reasonable person might perceive creates a conflict.

2. If the declaration raises concerns, the Secretariat or Party concerned may seek further information from the expert. If legitimate concerns remain, it is recommended that any judgments as to whether a conflict exists should err on the side of caution, consistent with maintaining the highest level of credibility of the roster process.

5. *Acting in a personal capacity*

Each expert shall act solely in their personal capacity, regardless of any other governmental, industry, organizational or academic affiliation.

6. *Exhibiting highest professional standards*

Any expert carrying out an assignment is expected to comply with all applicable professional standards in an objective and neutral way, and to exhibit a high degree of professional conduct in undertaking an assignment. These standards should extend to any discussions that assist a Party in choosing an expert. Experts are expected to perform their duties in a timely manner.

7. *Contributing to training of local personnel when possible*

Experts may be asked, when appropriate, to contribute to on-the-ground-training and capacity-building of local personnel as part of their assignment.

8. *Confidentiality and transparency*

1. Unless otherwise authorized by the requesting Party concerned, experts on the roster undertaking assignments shall not divulge confidential information obtained through or as a result of performing their duties. Confidentiality should be as stipulated in the agreement between the Party and the expert.

2. The final written advice of the expert shall be made available through the Biosafety Clearing-House, respecting confidential information.

9. *Setting clear expectations*

It is the responsibility of the Party and the expert to ensure that the expectations and terms of reference of the Party are clear, and that these have been understood by the expert.

10. *Submitting a report*

Brief reports should be prepared by the expert following completion of the assignment, including overall assessment of the process, the results achieved and constraints encountered, as well as suggestions that might be considered for future assignments.

H. Payment of roster members

1. Pro bono assignments

Any expert may choose to undertake an assignment on a *pro bono* basis. The same principles relating to conflict of interest, acting in a personal capacity, and other obligations under section G would apply to such *pro bono* assignments.

2. Secondment

Any organization may permit experts affiliated with it to undertake an assignment as a secondment from their usual duties. Transparent and full disclosure of any such arrangements should be made. No government or institution is obligated to cover any or all of the cost of a nominated expert.

3. Payments fixed by contract with requesting Party

Legal arrangements for fees and/or expenses associated with an assignment should be addressed in contractual agreements between the Party and the expert in question.

I. Liability

Decisions taken by the requesting Party on the basis of advice provided will be the sole responsibility of the Party.

1. Liability of nominating Party

Nominating Governments shall not be liable for the personal conduct, inputs or results arising from or connected with the work of an expert it has nominated.

2. Liability of the Secretariat

The Secretariat shall not be liable for, or subject to any legal process arising from or connected with, the use or advice of an expert from the roster.

3. Liability of experts

Liability of the expert and the applicable law should be addressed in the contract between the Party seeking assistance and the expert.

J. Reports

1. Parties are encouraged to provide the Secretariat with an evaluation of the advice or other support provided by experts and the results achieved. Such evaluations should be made available through the Biosafety Clearing-House.

2. Once a year, the Quarterly Report prepared by the Secretariat will include a section on the operation of the roster, which should include factual information on the number of experts on the roster, regional, gender, discipline breakdowns of the roster, direct contacts initiated by Parties and their results or contacts facilitated by the Secretariat and their results, including the individual experts contracted by each requesting Party, a note on the topic and description of the assignment, results of the work undertaken and the availability of written products. These reports should be made available through the Biosafety Clearing-House.

K. Periodic review

The operation of the roster should be subject to independent periodic review. The first review should take place in two years. Periodic reviews should then take place in accordance with Article 35 of the Protocol. These periodic reviews should be broad-based, looking at appropriate balances in the roster membership, its uses, successes, failures, quality control of roster assignments, the need for additional advisory services in administering the roster, and other possible recommendations for revisions to the mandate or these rules of procedure to respond to the findings.

Appendix 1

NOMINATION FORM FOR THE BIOSAFETY ROSTER OF EXPERTS

A. To be completed by the expert

1. Family or last name:

2. Other name(s):

3. Sex: Male Female

4. Title: Ms. Mr. Dr.
 Professor Other: _____

5. Nationality:

6. Year of birth:

7. Current employer /
organization

Duration of time

EMPLOYED: _____

8. Organization type: Government IGO NGO
 Academic Industry Relevant Internet Site:
 Other: _____ Institution _____

9. Position / Job title:

Main areas of responsibility:

10. Mailing address:

11. Telephone number: Country code: _____ Area code: _____ Number: _____

12. Facsimile number: Country code: _____ Area code: _____ Number: _____

13. Email address:

14. Education and other
qualifications:

15. Main area(s) of expertise for
contribution to the Roster: Institutional Development Risk Assessment and Risk
Management
 Data Management and
Information-Sharing Social and Economic Sciences
 Legislation and Regulation Research and Development
 Public Awareness and
Participation Other: _____
 Education and Training

16. Area(s) of specialization:

Institutional Development

- Project administration
- Agricultural management
- Environmental management
- Human resources
- Infrastructure development
- Public health
- Resources management
- Other: _____

Database Management and Information-Sharing

- Database
- Environmental statistics
- Information exchange
- Information technology
- Information clearing-house
- Other: _____

16. Area(s) of specialization (continued):

Legislation and Regulation

- Biosafety regulation
- Intellectual property law
- International environmental law
- International trade law
- National environmental law
- National trade regulations
- Other: _____

Public Awareness and Participation

- Environmental education
- Public information
- Community participation
- Other: _____

16. Area(s) of specialization (continued):

Risk Assessment and Risk Management

- Agricultural ecology
- Agriculture
- Alien invasive species
- Analytical detection methods
- Animal ecology
- Animal pathology
- Aquaculture
- Biochemistry
- Biotechnologies
- Botany
- Entomology
- Environmental impact assessment
- Epidemiology
- Evolutionary biology
- Food sciences
- Forestry ecology
- Genetic engineering
- Genetics of natural populations

- Human biology
- Indigenous knowledge
- Marine biology/ecology
- Microbial Ecology
- Microbiology
- Molecular biology
- Mycology
- Pest management
- Plant pathology
- Plant physiology
- Population biology
- Risk assessment process design and application
- Soil biology
- Taxonomy
- Toxicology
- Virology
- Zoology

Other: _____

Organisms and traits: _____

16. Area(s) of specialization (continued):	<u>Social and Economic Sciences</u>	<u>Research and Development</u>
	<input type="checkbox"/> Agricultural economics <input type="checkbox"/> Environmental economics <input type="checkbox"/> Social sciences <input type="checkbox"/> Socio-economic factors <input type="checkbox"/> Sustainable development <input type="checkbox"/> Bioethics <input type="checkbox"/> Technology assessment <input type="checkbox"/> Life cycle assessment <input type="checkbox"/> Other: _____	<input type="checkbox"/> Biotechnology research <input type="checkbox"/> Biotechnology product development

16. Area(s) of specialization (continued):	<u>Education and Training:</u>	<u>Other:</u>
	Level: _____ Subject areas: _____	<input type="checkbox"/> Other: _____

17. Professional experience (Please attach separate sheets if necessary)

Information for the last three employers:

Name: _____
 Address: _____
 Main areas of responsibility: _____
 Duration of time employed: _____

Name: _____
 Address: _____
 Main areas of responsibility: _____
 Duration of time employed: _____

Name: _____
 Address: _____
 Main areas of responsibility: _____
 Duration of time employed: _____

18. Other relevant work experience (e.g. regional experience, further specialization, volunteer work experience, etc.): Note: Attach continuation on separate sheet if needed.	Main countries/regions worked and responsibilities:
---	---

19. List of publications: (Books; Peer-reviewed articles; Book chapters; Conference papers; etc.)
Please attach separate sheet if necessary.

20. Three most relevant publications:

- 1.
- 2.
- 3.

21. Knowledge of languages: Mother tongue: _____

Arabic: Speak well Read well Write well
 Chinese: Speak well Read well Write well
 English: Speak well Read well Write well
 French: Speak well Read well Write well
 Russian: Speak well Read well Write well
 Spanish: Speak well Read well Write well

Other: _____
 Speak well Read well Write well

22. Scientific awards, professional societies, honorary memberships, and membership in advisory committees/panels:

23. References (name and contact information):

- 1.
- 2.
- 3.

I hereby confirm that the above information is correct and agree for its inclusion in the Roster of Experts on Biosafety under the Cartagena Protocol on Biosafety and the Convention on Biological Diversity. I have no objection to this information being made publicly available.

Signature: _____ Date: _____

B. To be completed by the National Focal Points of the Government making the nomination

Focal Point Type: ICCP National Focal Point CBD National Focal Point

Government of: _____

Name: _____

Signature: _____ Date: _____

Appendix 2

INDICATIVE LIST OF AREAS OF ADVICE AND SUPPORT FOR THE ROSTER OF EXPERTS FOR IMPLEMENTATION OF THE CARTAGENA PROTOCOL

INSTITUTION BUILDING	RISK ASSESSMENT	RISK MANAGEMENT
<p><i>Needs assessment and biosafety framework planning</i></p> <p>(a) Inventory of existing and anticipated biotechnology programmes and practices</p> <p>(b) Capacity to develop present and future import/export data</p> <p>(c) Accurate understanding of industry biotechnology practices in relevant sectors</p> <p>(d) Capacity to compile and analyse existing legal and administrative biosafety regimes</p> <p>(e) Multi-disciplinary strategic planning capacity</p> <p>(f) Capacity to relate biosafety regime to other international obligations</p> <p><i>Biosafety regime development</i></p> <p>(a) Develop/strengthen legal and regulatory structures</p> <p>(b) Develop/strengthen administrative processes to manage risk assessment and risk management</p> <p>(c) Develop domestic/regional risk assessment capacity</p> <p>(d) Capacity to administer notification, acknowledgement and decision response process</p> <p>(e) Capacity to make and report decision on LMO import in required time frames</p> <p>(f) Emergency notification and planning and response capacity</p> <p>(g) Enforcement capacity at borders</p> <p><i>Long-term regime-building/maintenance</i></p> <p>(a) Capacity to monitor, review and report on the effectiveness of risk management programme, including legal, regulatory and administrative mechanisms</p> <p>(b) Capacity to monitor longer-term environmental impacts, if any (based on current baselines)</p> <p>(c) Establishment of environmental reporting systems</p>	<p><i>General risk assessment capacities</i></p> <p>(a) Ability to coordinate multi-disciplinary analyses</p> <p>(b) Enhancement of technological and institutional capacities for risk assessment</p> <p>(c) Capacity to identify and access appropriate outside expertise</p> <p>(d) Understanding of relevant biotechnology processes and applications</p> <p><i>Science and socio-economic capacities</i></p> <p>(a) Analyse risks to conservation and sustainable use of biodiversity</p> <p>(b) Undertake life-cycle analysis</p> <p>(c) Analyse risks to human health of effects on biodiversity</p> <p>(d) Analyse ecosystem effects of living modified organism introduction</p> <p>(e) Assess food security issues arising from risks to biodiversity</p> <p>(f) Value and roles of biodiversity to local and indigenous communities</p> <p>(g) Other socio-economic considerations related to biodiversity</p> <p>(h) Enhancement of related scientific, technical capacities</p> <p><i>Note: Specific types of scientific expertise required will vary from case to case, but broadly involve two areas:</i></p> <ul style="list-style-type: none"> - evaluation of genetic modifications - evaluation of interactions with the receiving environment 	<p><i>General risk management capacities</i></p> <p>Understanding of application of risk management tools to different biotechnology sectors</p> <p><i>Decision-making capacities</i></p> <p>(a) Identification and quantification of risks, including through sound application of the precautionary approach</p> <p>(b) Capacity to assess relative effectiveness of management options for import, handling and use, where appropriate</p> <p>(c) Capacity to assess relative trade impacts of management options, where appropriate</p> <p>(d) Impartial review of proposed management regime prior to decision-making</p> <p><i>Implementation of decisions</i></p> <p>(a) Identification and handling of living modified organisms at point of import and export</p> <p>(b) Monitoring of environmental impacts against expected impacts</p> <p>(c) Capacity to monitor, enforce and report on compliance</p>

INSTITUTION BUILDING	RISK ASSESSMENT	RISK MANAGEMENT
CROSS-CUTTING CAPACITIES		
<i>Data management and information-sharing</i>		
<ul style="list-style-type: none"> (a) Exchange of scientific, technical, environmental and legal information (b) Collection, storage and analysis of scientific, regulatory and administrative data (c) Communication to the Biosafety Clearing-House 		
<i>Human resources strengthening and development</i>		
<ul style="list-style-type: none"> (a) All aspects of regime development, evaluation and maintenance for risk assessment and risk management (b) Raising awareness of modern biotechnology and biosafety among scientists, government officials (c) Training and longer-term education (d) Procedures for safe handling, use and transfer of living modified organisms 		
<i>Public awareness and participation</i>		
<ul style="list-style-type: none"> (a) Administer and disseminate information on legal and administrative framework (b) Public awareness of/participation in scientific assessment process (c) Risks associated with handling and use 		
<i>Involvement of stakeholders e.g. non-governmental organizations, local communities, private sector</i>		
<ul style="list-style-type: none"> (a) Capacity to negotiate with and provide opportunity for private sector involvement (b) Processes for community, NGO consultation in development of risk assessment and management regimes (c) Processes for community, NGO consultation prior to decisions 		
<i>Regional capacity development</i>		
<ul style="list-style-type: none"> (a) Scientific assessment of risk (b) Harmonization of legal regimes (c) Training of human resources (d) Information sharing 		

Source: *Indicative Framework for Capacity-Building under the Cartagena Protocol on Biosafety*, (UNEP/CBD/ICCP/1/4).

2/10. Handling, packaging, transport and identification

The Intergovernmental Committee on the Cartagena Protocol,

I. Paragraphs 2(b) and 2(c) of Article 18

Welcoming the report and recommendations of the Meeting of Technical Experts on Handling, Packaging, Transport and Identification of Living Modified Organisms, held in Paris, from 13 to 15 June 2001,

Recognizing the pressing need for financial assistance for developing countries, in particular least developed and small island developing states among them, and countries with economies in transition, in implementing paragraphs 2 (b) and 2 (c) of Article 18,

1. *Invites* the Sub-Committee of Experts on the Transport of Dangerous Goods of the United Nations, the Interim Commission on Phytosanitary Measures, the Organisation for Economic Co-operation and Development, Codex Alimentarius Commission and other relevant international organizations to provide advice, in writing to the Executive Secretary, on their ability to assist Parties to meet the requirements of Article 18 of the Biosafety Protocol, and on their capacity to adjust their systems should adjustment be necessary;

2. *Requests* the Executive Secretary, subject to the necessary financial resources being made available, to convene a meeting of government-nominated technical experts in handling, transport, packaging and identification, taking into account the need for regional representation, transparency, equity and the need for cooperation with relevant international organizations, to consider and make recommendations on the modalities of information recommended by the meeting of technical experts on Article 18, paragraphs 2 (b) and 2 (c), held in Paris, from 13 to 15 June 2001, for:

- (a) Documentation accompanying living modified organisms destined for contained use;
- (b) Documentation accompanying living modified organisms intended for intentional introduction into the environment;
- (c) Linkages to paragraph 3 of Article 18.

3. *Requests* the Executive Secretary to develop a model template that could be used as a stand-alone template tailored on existing systems, or be integrated into existing international documentation, to be considered as a basis for discussion by the meeting of technical experts referred to in paragraph 2 above;

II. Paragraph 2(a) of Article 18 :

Having identified a set of elements in each of the first and second sentences of paragraph 2 (a) of Article 18 that need to be addressed in a timely manner,

Acknowledging the importance of appropriate implementation of the first sentence of paragraph 2 (a) of Article 18 at the time of entry into force of the Protocol, and the second sentence within two years of entry into force,

Recognizing the pressing need for financial assistance for developing countries, in particular least developed and small island developing states among them, and countries with economies in transition, in implementing paragraph 2 (a) of Article 18,

Noting the complexity of the issues involved and the usefulness of further technical clarifications;

4. *Requests* Parties, Governments and relevant international organizations to provide any views as well as relevant information to the Executive Secretary regarding:

(a) The appropriate implementation of the requirement contained in the first sentence of Article 18, paragraph 2 (a), by the time of entry into force of the Protocol;

(b) The requirements of each element of paragraph 2 (a) of Article 18 of the Protocol;

5. *Requests* the Executive Secretary to:

(a) Prepare a synthesis report of the views submitted in accordance with paragraph 4 above, with a view to making the report and the original submissions available prior to the meeting that would be convened in accordance with subparagraph (b) below;

(b) Convene, depending on the availability of appropriate financial resources, a meeting of technical experts with broad expertise covering all relevant aspects and disciplines for the implementation of Article 18 paragraph 2(a), taking into account the need for balanced regional representation, taking also into account the need for transparency and a stepwise approach:

(i) First, to consider the modalities, prior to entry into force, of the implementation of the requirement contained in the first sentence of paragraph 2 (a) of Article 18 of the Protocol;

(ii) And then to consider the identification of issues to be addressed beyond entry into force, in preparation for the decision referred to in paragraph 2 (a) of Article 18;

and to submit recommendations to the first meeting of the Conference of the Parties serving as the meeting of the Parties;

(c) Convene such a meeting back to back after any technical expert meeting on the continuation of the work on Article 18, paragraphs 2 (b) and 2(c), should such a meeting be convened.

2/11. Procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety

The Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Recalling Article 34 of the Cartagena Protocol on Biosafety, which requires that the Conference of the Parties serving as the meeting of the Parties to the Protocol shall, at its first meeting, consider and approve cooperative procedures and institutional mechanisms to promote compliance with the provisions of the Protocol and to address cases of non-compliance,

Recalling also decision V/1 of the Conference of the Parties to the Convention with regard to the work plan of the Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Having considered the report of the Open-ended Meeting of Experts on a Compliance Regime under the Cartagena Protocol on Biosafety, held in Nairobi from 26 to 28 September 2001 (UNEP/CBD/ICCP/2/13/Add.1) and the text of the draft procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety annexed to that report,

1. *Agrees* to forward that text, as contained in the annex to the present recommendation, to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol as a basis for further discussion;

2. *Invites* Parties to the Convention and other States to submit to the Executive Secretary their views or understandings with respect to the contents that are in square brackets in the annex referred to in paragraph 1 above no later than three months prior to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

3. *Requests* the Executive Secretary to compile the views submitted and make them available for the first meeting of the Conference of the Parties serving as the meeting of the Parties.

Annex

**DRAFT PROCEDURES AND MECHANISMS ON COMPLIANCE
UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY**

The following procedures and mechanisms are developed in accordance with Article 34 of the Cartagena Protocol on Biosafety and are separate from, and without prejudice to, the dispute settlement procedures and mechanisms established by Article 27 of the Convention on Biological Diversity:

I. Objective, nature and underlying principles

1. The objective of the compliance procedures and mechanisms shall be to promote compliance with the provisions of the Protocol, to address cases of non-compliance by Parties, and to provide advice or assistance, where appropriate.

2. The compliance procedures and mechanisms shall be simple, facilitative, non-adversarial and cooperative in nature.

3. The operation of the compliance procedures and mechanisms shall be guided by the principles of transparency, fairness, expedition, predictability, [and common but differentiated responsibilities] [and

take into account principle 7 of the Rio Declaration on Environment and Development, that States have common but differentiated responsibilities].

II. Institutional mechanisms

1. A Compliance Committee, hereinafter referred to as “the Committee”, is hereby established pursuant to Article 34 of the Protocol to carry out the functions specified herein.

2. The Committee shall consist of 15 members nominated by Parties and elected by the Conference of Parties serving as the meeting of the Parties to the Protocol on the basis of three members from each of the five regional groups of the United Nations [, and ensuring a balance between importing and exporting countries].

3. Members of the Committee shall have recognized competence in the field of biosafety or other relevant fields, including legal or technical expertise, [and they shall serve in their individual capacity].

4. Members shall be elected by the Conference of the Parties serving as the meeting of the Parties to the Protocol for a period of four years, this being a full term. At its first meeting, the Conference of the Parties serving as the meeting of the Parties to the Protocol shall elect five members, one from each region, for half a term, and ten members for a full term. Each time thereafter, the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol shall elect for a full term, new members to replace those whose term has expired. Members shall not serve for more than two consecutive terms.

5. The Committee shall meet twice a year, unless it decides otherwise. The Secretariat shall service the meetings of the Committee.

6. The Committee shall submit its reports including recommendations with regard to the discharge of its functions to the next meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol for consideration and appropriate action.

7. The Committee shall develop and submit its rules of procedure to the Conference of the Parties serving as the meeting of the Parties for its consideration and approval.

III. Functions of the Committee

1. The Committee shall, with a view to promoting compliance and addressing cases of non-compliance, and under the overall guidance of the Conference of the Parties serving as the meeting of the Parties to the Protocol, have the following functions:

(a) Identify the specific circumstances and possible causes of individual cases of non-compliance referred to it;

(b) Consider information submitted to it regarding matters relating to compliance and cases of non-compliance;

(c) Provide advice and/or assistance, as appropriate, to the concerned Party, on matters relating to compliance with a view to assisting it to comply with its obligations under the Protocol;

(d) Review general issues of compliance by Parties with their obligations under the Protocol, taking into account the information provided in the national reports communicated in accordance with Article 33 of the Protocol and also through the Biosafety Clearing-House;

(e) Take measures, as appropriate, or make recommendations, to the Conference of the Parties serving as the meeting of the Parties to the Protocol;

(f) Carry out any other functions as may be assigned to it by the Conference of the Parties serving as the meeting of the Parties to the Protocol.

IV. Procedures

1. The Committee shall receive, through the Secretariat, any submissions relating to compliance from:

- (a) Any Party with respect to itself;
- (b) [Any Party with respect to another Party; or]
- (c) [The Conference of the Parties serving as the meeting of the Parties to the Protocol].

2. The Secretariat shall, within fifteen days of receipt of submissions under paragraphs 1 (b) and (c) above, make the submissions available to the Party concerned, and once it has received a response and information from the concerned Party, it shall transmit the submission, the response and information to the Committee.

3. A Party that has received a submission regarding its compliance with the provision(s) of the Protocol should respond and, with recourse to the Committee for assistance if required, provide the necessary information preferably within three months and in any event not later than six months. This period of time shall commence on the date of the receipt of the submission as certified by the Secretariat. In the case where the Secretariat has not received any response or information from the concerned Party within the six months as referred to above, it shall transmit the submission to the Committee.

4. A Party, in respect of which a submission is made or which makes a submission, is entitled to participate in the deliberations of the Committee. This Party shall not participate in the elaboration and adoption of a recommendation of the Committee.

V. Information and consultation

1. The Committee shall consider relevant information from:

- (a) The Party concerned;
- (b) [The Party that has made a submission with respect to another Party.]

2. The Committee may seek or receive and consider relevant information, including from:

(a) The Biosafety Clearing-House [and other bodies of the Convention on Biological Diversity and the Protocol];

(b) [Non-governmental organizations, the private sector and other civil-society organizations and relevant intergovernmental organizations;]

(c) [The Secretariat.]

3. The Committee may seek expert advice from the biosafety roster of experts.

4. The Committee, in undertaking all of its functions and activities, shall maintain the confidentiality of any information that is confidential under Article 21 of the Protocol.

VI. Measures to promote compliance and address cases of non-compliance

1. The Committee may take one or more of the following measures with a view to promoting compliance and addressing cases of non-compliance:

- (a) Provide advice or assistance to the Party concerned, as appropriate;
- (b) Make recommendations to the Conference of the Parties serving as the meeting of the Parties to the Protocol regarding the provision of financial and technical assistance, technology transfer, training and other capacity-building measures;
- (c) Request or assist, as appropriate, the Party concerned to develop a compliance action plan regarding the achievement of compliance with the Protocol within a timeframe to be agreed upon between the Committee and the Party concerned, [taking into account its existing capacity to comply]; and
- (d) Invite the Party concerned to submit progress reports to the Committee on the efforts it is making to comply with its obligations under the Protocol.

2. The Conference of the Parties serving as the meeting of the Parties may, upon the recommendations of the Committee, and taking into account such factors as the cause, type, degree and frequency of non-compliance, [and the capacity of the Party concerned, in particular of developing country Parties in complying with the Protocol], also decide upon one or more of the following measures:

- (a) Provide financial and technical assistance, technology transfer, training and other capacity-building measures;
- (b) [Issue a caution to the concerned Party;]
- (c) [Publish cases of non-compliance; or]
- (d) [Suspend the specific rights and privileges of the concerned Party under the Protocol [consistent with international law].]

VII. Review of the procedures and mechanisms

The Conference of the Parties serving as the meeting of the Parties to the Protocol shall, in line with Article 35 of the Protocol, review the effectiveness of these procedures and mechanisms and take appropriate action.

2/12. Cooperation between the Cartagena Protocol on Biosafety and the International Plant Protection Convention regarding risk analysis procedures for phytosanitary risks that may be arising from living modified organisms

The Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Taking note of the report of the Open-ended Working Group of the Interim Commission on Phytosanitary Measures on Specifications for an International Standard for Phytosanitary Measures on Living Modified Organisms, which met in Rome from 12 to 14 September 2001,

Taking note also of the recommendations of the Open-ended Working Group that call upon the International Plant Protection Convention to coordinate its standard-setting process regarding risk analysis procedures for phytosanitary risks that may be arising from living modified organisms with the activities under the Cartagena Protocol on Biosafety, and stress the need for the Interim Commission on Phytosanitary Measures to invite representatives of the Protocol to cooperate on the development of specifications for pest risk analysis for living modified organisms,

Further taking note of the recommendation to formulate a draft standard providing guidance on the conduct of pest-risk analyses for living modified organisms, consistent with the relevant aspects of the Cartagena Protocol on Biosafety, taking into account annex III to the Cartagena Protocol on Biosafety,

Recalling decisions IV/15 and V/21 of the Conference of the Parties to the Convention on Biological Diversity, in which, *inter alia*, the Executive Secretary is requested to develop relationships with other processes, and to continue to coordinate and cooperate with the secretariats of relevant biodiversity-related conventions, institutions and processes,

1. *Welcomes* the recommendations of the Open-ended Working Group of the Interim Commission on Phytosanitary Measures on Specifications for an International Standard for Phytosanitary Measures on Living Modified Organisms, in particular to include expertise on the provisions and implementation of the Cartagena Protocol on Biosafety and on the requirement for consistency with the Protocol;

2. *Requests* the Executive Secretary to continue to maintain close cooperation with the Interim Commission on Phytosanitary Measures of the International Plant Protection Convention as regards the development of standards for plant pest risk analysis involving living modified organisms;

3. *Encourages* Parties to the Convention on Biological Diversity and Governments participating in the International Plant Protection Convention process to include experts on the Cartagena Protocol on Biosafety and the Convention on Biological Diversity in their delegations to meetings under the International Plant Protection Convention;

4. *Urges* the Interim Commission on Phytosanitary Measures to ensure that the international standards to be developed for the purpose of phytosanitary measures regarding living modified organisms are in harmony with the objective and all relevant requirements of the Cartagena Protocol on Biosafety.

2/13. *Need for further preparatory work by the Intergovernmental Committee for the Cartagena Protocol on Biosafety before the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol*

The Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Recalling its mandate given in decision EM-I/3 of the Conference of the Parties to undertake, with the support of the Executive Secretary, the preparations necessary for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, at which time the Intergovernmental Committee will cease to exist, taking into account the budgetary provisions adopted by the Conference of the Parties,

Recalling also its work plan set out in decision V/1 of the Conference of the Parties, in which it notes that all issues that the Conference of the Parties serving as the meeting of the Parties to the Protocol might wish to address at its first meeting should be reflected, and emphasizes the necessity to complete as early as possible the preparations for the entry into force of the Protocol,

Having held two meetings to consider the issues identified in its work plan,

Taking note that substantive progress has been made on several issues identified in its work plan, which provides the Conference of the Parties serving as the meeting of the Parties to the Protocol with a basis for decision taking at its first meeting,

Noting that some issues in its work plan will require further consideration with a view to facilitating decision-making by the first meeting of the Conference of the Parties serving as the meeting of the Parties,

1. *Mandates* the Bureau of the Intergovernmental Committee for the Cartagena Protocol on Biosafety, in consultation with the Bureau of the Conference of the Parties, to explore jointly the possibility of having a third meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety to further consider issues taken in the mandate of the Committee, including the possibility of holding that meeting in conjunction with the sixth meeting of the Conference of the Parties to the Convention, in the event that the fiftieth instrument of ratification, accession, approval or acceptance is not deposited by 8 January 2002;

2. *Requests* that these consultations referred to in paragraph 1 above take place as soon as possible, but no later than 8 January 2002, with a view to making appropriate arrangements with regard to convening of a third meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety, as the case may be.

Annex II

PROVISIONAL AGENDA FOR THE FIRST MEETING OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE PROTOCOL

1. Opening of the meeting.
2. Organizational matters:
 - 2.1. Election of officers;
 - 2.2. Adoption of the agenda;
 - 2.3. Organization of work.
3. Adoption of the rules of procedure for meetings of the Conference of the Parties serving as the meeting of the Parties to the Protocol.
4. Report of the Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP).
5. Report on the credentials of representatives to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.
6. Substantive issues:
 - 6.1. Decision procedure (Article 10, para.7);
 - 6.2. Information-sharing and the Biosafety Clearing-House (Article 20, para.4);
 - 6.3. Capacity-building (Article 22; Article 28, para.3);
 - 6.4. Handling, transport, packaging and identification (Article 18);
 - 6.5. Compliance (Article 34).
 - 6.6. Liability and redress (Article 27);
 - 6.7. Monitoring and reporting (Article 33);
 - 6.8. Secretariat (Article 31, para.3);
 - 6.9. Guidance to the financial mechanism (Article 28, para. 5, Article 22);
 - 6.10. Consideration of other issues necessary for the effective implementation of the Protocol (e.g., Article 29, para.4).
7. Medium-term programme of work of the Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Protocol.
8. Date and venue for the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

9. Other matters.
10. Adoption of the report.
11. Closure of the meeting.
