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INTERGOVERNMENTAL COMMITTEE FOR THE
CARTAGENA PROTOCOL ON BIOSAFETY
Third meeting
The Hague, 22-26 April 2002

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

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INTRODUCTION

1. The third meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety was held at the Netherlands Congress Centre in The Hague from 22 to 26 April 2002, at the kind invitation of, and with financial support from, the Government of the Netherlands, with additional financial support from the Governments of Germany, Japan, New Zealand, Norway and Sweden, as well as the European Community.

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
Barbados
Belarus
Belgium
Benin
Bhutan
Bolivia
Botswana
Brazil
Bulgaria
Burkina Faso
Burundi
Cambodia
Cameroon
Canada
Central African Republic
Chad
Chile
China
Colombia
Comoros
Congo
Cook Islands
Côte d'Ivoire
Croatia
Cuba
Czech Republic
Denmark
Djibouti
Dominica
Dominican Republic
Ecuador
Egypt
El Salvador
Eritrea
Estonia
Ethiopia
European Community
Federated States of Micronesia
Fiji
Finland
France
Gabon
Georgia
Germany
Ghana
Grenada
Guatemala
Guinea
Guinea Bissau
Guyana
Haiti
Holy See
Honduras
Hungary
India
Indonesia
Iran (Islamic Republic of)
Ireland
Italy
Jamaica
Japan
Jordan
Kazakhstan
Kenya
Kiribati
Kyrgyzstan
Lao People's Democratic Republic
Latvia
Lebanon
Liberia
Libyan Arab Jamahiriya
Lithuania
Malawi
Malaysia

Maldives
Mali
Mauritania
Mauritius
Mexico
Morocco
Mozambique
Namibia
Nepal
Netherlands
New Zealand
Niger
Nigeria
Norway
Oman
Palau
Panama
Paraguay
Peru
Philippines
Poland
Portugal
Republic of Korea
Republic of Moldova
Romania
Russian Federation
Rwanda
Saint Kitts and Nevis
Saint Lucia
Samoa
Sao Tome and Principe
Saudi Arabia
Senegal
Seychelles
Slovakia
Slovenia
Solomon Islands
South Africa
Spain
Sri Lanka
Sudan
Suriname
Swaziland
Sweden
Switzerland
Tajikistan
Thailand
The former Yugoslav Republic of Macedonia
Tonga
Tunisia
Turkey
Turkmenistan
Uganda
Ukraine
United Kingdom of Great Britain and Northern Ireland
United Republic of Tanzania
United States of America
Uruguay
Uzbekistan
Venezuela
Viet Nam
Yugoslavia
Zambia
Zimbabwe

3. Observers from the following United Nations bodies, Secretariat units, specialized agencies and convention secretariats also attended:

Global Environment Facility (GEF)
United Nations Environment Programme (UNEP)
UNEP-GEF
Food and Agriculture Organization of the United Nations (FAO)
United Nations Convention to Combat Desertification (UNCCD)
World Bank

4. The following other organizations were represented:

(a) *Intergovernmental organizations*:

African Centre for Technology Studies (ACTS)
Commonwealth Secretariat
European Federation on Biotechnology
European Parliament
International Centre for Genetic Engineering and Biotechnology (ICGEB)
International Service for National Agricultural Research
IUCN - The World Conservation Union
Organisation for Economic Co-operation and Development (OECD)
Permanent Court of Arbitration
Southern African Development Community (SADC)

South Pacific Regional Environment Programme (SPREP)

(b) *Non-governmental organizations*:

Acción Ecológica
ADT-TOGO
Africa Harvest Mission
Al-Hayat
Amsterdam Maastricht Summer University
ANPED - The Northern Alliance for Sustainability
ASEED Europe
Biotechnology Trust Zimbabwe
CAB International (CABI Bioscience)
Consorcio Cetap-Capa-Centro Ecologico RS-Brasil
CropLife International
ECONEXUS
ECOROPA
Ecosouthwest Blagoevgrad
Foundation for International Environmental Law and Development (FIELD)
Foundation The Court of Eden
Friends of the Earth International
Fundacion Sociedades Sustentables
Genetic Engineering Network
German Association of Biotechnology Industry
German League for Nature and Environment
Global Forest Coalition/E. Labore
Green Action-Croatia
Green Network of Vojvodina
Greenpeace
Greenpeace International
HATOF Foundation
HIVOS Magazine
Institute for Agriculture and Trade Policy (IATP)
Institute of Development Studies
Institute of Science in Society
International Economic Law Department, University of Göttingen
International Seed Trade Federation/International Association of Plant Breeders
Meridian Institute
Mitsubishi Kasei Institute of Life Sciences
Natuur Beleid
Plant Research International
Royal Institute of International Affairs
Soderma Sociedode de Defesa Regional do Meio Ambiente
Solagral
Sunshine Project - US Program Office
SWAN International
T.M.C. Asser Institute
The Edmonds Institute
Third World Network
Trent University
Umanotera
Union de Comunidades Zapotecas-Chinantecas
University of Massachusetts, Amherst
Washington Biotechnology Action Council
World Endangered Species Protection Association (WESPA)
World Resources Institute (WRI)
World Wide Fund for Nature (WWF)
Xminy Solidarityfunds

(c) *Industry*:

Monsanto Agrar Deutschland
Global Industry Coalition
Global Industry Coalition
Inter Nutrition
ArborGen
Biotechnology Industry Organization (BIO)
Global Industry Coalition
International Grain Trade Coalition

ITEM 1. OPENING OF THE MEETING

5. The meeting was opened at 10.20 a.m. on Monday, 22 April 2002 by Ambassador Philemon Yang (Cameroon), the Chairman of the Intergovernmental Committee. In his opening address, Ambassador Yang welcomed participants and said that the provisional agenda had been prepared with a view to facilitating further progress on those items of the work plan approved by the Conference of the Parties at its fifth meeting that clearly needed further consideration in order to facilitate decision-making

by the first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol.

6. He indicated that only 16 States had ratified the Protocol, although a further three were expected to do so imminently as their internal procedures for ratification had been completed. He therefore called on other countries to follow their example, so that the Protocol could enter into force in time for the World Summit on Sustainable Development. Some very useful inter-sessional work on some important items in the agenda prepared for the third meeting of the Committee had been done, especially at the meetings of the technical experts. He congratulated the Secretariat for all the work related to the development and implementation of the pilot phase of the Biosafety Clearing-House and the identification of the concomitant capacity-building needs and thanked the Governments that had provided financial resources to implement those activities and the countries which had hosted the various meetings in the inter-sessional period.

7. Opening statements were also made by Mr. Jan Pronk, Minister for Housing, Spatial Planning and the Environment of the Netherlands; Mr. Paul Chabeda on behalf of Mr. Klaus Töpfer, Executive Director of the United Nations Environment Programme; and Mr. Hamdallah Zedan, Executive Secretary of the Convention on Biological Diversity.

8. Mr. Pronk, said that the sixth meeting of the Conference of the Parties to the Convention on Biological Diversity had been an important gathering which had laid a sound basis for the meeting of the Committee and the forthcoming World Summit on Sustainable Development. Rules for the safe use, transfer and handling of living modified organisms were essential for the conservation and sustainable use of biodiversity. The Secretary-General of the United Nations had requested him to be his special envoy at the World Summit, which would focus on the progress made in implementing Agenda 21 and on the challenges that still lay ahead. The timing of the Committee meeting offered participants the opportunity to contribute to the deliberations in Johannesburg. Ratification of the Protocol would be the strongest signal that participants could send to Johannesburg that States were committed to making the Summit a success.

9. Turning to the crucial topics under the Protocol, he welcomed several initiatives taken in the field of capacity-building, as well as the fact that the recent International Conference on Financing for Development had reversed the downward trend in the transfer of technological resources. Similarly, handling, compliance and liability were all core issues on which he hoped that there would be a constructive discussion leading to the solution of outstanding difficulties.

10. Mr. Chabeda said there was an urgent need for Governments to expedite their ratification process for the Protocol in the run-up to the World Summit on Sustainable Development, so that it would be possible to deal with the transboundary movement of living modified organisms in a more responsible, equitable and ethical way. At its sixth meeting, the Conference of the Parties to the Convention on Biological Diversity had taken concrete action on many issues of great relevance to the work of the Intergovernmental Committee, and it was incumbent upon the Committee to ensure and enhance the complementarity, synergy, harmony and mutual supportiveness of those actions. To maintain the momentum, there was a need to ensure a significant replenishment of the Global Environment Facility in the context of the commitments made at the International Conference on Financing for Development.

11. Capacity-building for biosafety was essential for the effective implementation of the provisions of the Protocol, especially in developing countries. He was pleased to announce that the UNEP-GEF global project on the development of national biosafety frameworks was fully operational and that the implementation of the second component of the project, aimed at promoting regional and subregional collaboration and exchange of experience was well advanced. Three regional workshops had been organized and there were plans for two further rounds of such workshops focusing on technical capacity building. A steering committee on enhancing inter-agency cooperation had held its first meeting in

February 2002, and, in December 2002, the GEF Council had approved 12 medium-sized demonstration projects aimed at assisting countries to build the capacities they required to implement their national biosafety frameworks.

12. Mr. Zedan welcomed participants and expressed his gratitude to the Governments of Germany, Japan, New Zealand, the Netherlands, Norway and Sweden, as well as the European Community, who had contributed financially to enable the participation of developing countries and countries with economies in transition. He said that the third meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety came at a crucial moment between the sixth meeting of the Conference of the Parties to the Convention on Biological Diversity and the World Summit on Sustainable Development. As it provided an opportunity to maintain the momentum of the Convention process, he urged all the Parties to the Convention to ratify the Protocol as soon as possible. The Conference of the Parties had sent out strong signals in support of the Cartagena Protocol and the Protocol also figured prominently in the message being sent to the World Summit.

13. Having outlined the decisions of the Conference of the Parties of relevance to the Protocol, he said that although it was disappointing that the Protocol had not yet entered into force, the work accomplished by the Committee had been impressive: it had covered all the items in the work plan adopted by the Conference of the Parties at its fifth meeting and it had crafted a body of recommendations that would in itself serve as a firm basis for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. The inter-sessional period had been an extremely busy one for the Secretariat. He highlighted the work it had done with regard to the Biosafety Clearing-House and the two important technical expert meetings on Article 18, paragraph 2, of the Protocol, both of which had been held in Montreal with the support of Canada, France, Japan, Switzerland and the United States of America. The current meeting also coincided with the launch of a new book entitled *The Cartagena Protocol on Biosafety: Reconciling Trade in Biotechnology with Environment and Development*, which comprised a comprehensive review of the Protocol and the process leading up to its adoption. He hoped that the book would inspire the participants in their endeavours that week and beyond as they moved towards the completion of their task in preparing for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

14. Following those opening statements, introductory statements were also made by the representatives of Brazil (speaking of behalf of the Latin America and Caribbean Group), Cameroon (on behalf of the African Group), Japan, Latvia (on behalf of the Central and Eastern European Group), Mexico (speaking on behalf of the Group of Like-minded Megadiverse Countries), Norway, Spain (on behalf of the European Community and its member States), and the United States of America. All representatives who took the floor thanked the Government of the Netherlands for hosting the meeting and for its hospitality.

15. A statement was also made on behalf of the NGO Caucus.

16. The representative of Spain thanked the Secretariat of the Convention on Biological Diversity for the timeliness and quality of the documentation provided, and welcomed the progress report of the Executive Secretary on inter-sessional work. The European Community expected to complete its internal procedures for the ratification of the Protocol over the coming few months, in time for the World Summit on Sustainable Development. The Community's member States had either ratified, or were in the process of seeking ratification, as soon as possible. They were also advancing all the necessary work on internal legislation to ensure that objectives and obligations of the Protocol could be achieved. He hoped that many Governments would strive to conclude their ratification or accession processes by the time of the Summit and welcomed the decision VI/I, on the ICCP, adopted at the recent sixth meeting of the Conference of the Parties. At the current meeting, further progress had to be made on all the main issues, particularly those under agenda item 4.1. He considered that the issues under item 4.2 had already been dealt with sufficiently at previous meetings.

17. The representative of Norway stressed the need for discussions in the plenary to give clear guidance to the working groups.

18. The representative of Latvia praised the constructive spirit shown in the discussions at the second meeting of the Intergovernmental Committee and hoped that it would continue.

19. The representative of Cameroon stressed the serious need for capacity-building to enable the implementation of national legislation on the development, use and safe transboundary movement of living modified organisms. She pointed to the important assistance given under the UNEP/GEF project for national biosafety frameworks, and urged UNEP/GEF and other donors to provide more assistance to developing countries to help them build capacities. That would also encourage them to ratify the Protocol and provide the basis for its entry into force. She further called on UNEP/GEF to rapidly implement the recently adopted decisions of the sixth meeting of the Conference of the Parties to the Convention on Biological Diversity.

20. The representative of Japan said that his country was currently working on domestic legislation for the implementation of the Protocol as a priority, and stressed the importance of information-sharing in this regard. He asked the Secretariat to circulate the comments of Japan on several agenda items sent to the Secretariat in February 2002. In response to that request, those comments were subsequently circulated as an information document in the course of the meeting (UNEP/CBD/ICCP/3/INF/13).

21. The representative of Mexico stressed the importance of national-level actions to ensure compliance with the Protocol and expressed thanks to all the financial organizations and others who had provided assistance. He also praised the pilot phase of the Biosafety Clearing-House. He stressed the importance of Article 27 of the Protocol and pointed to the need to act very fast on that issue.

22. The representative of Brazil said that there was a need for more information on the Biosafety Clearing-House.

23. The representative of India called for an unambiguous statement that living modified organisms intended for direct use as food or feed, or for processing (LMO-FFPs) contained genetically modified organisms and for a mention of specific names of genes for living modified organisms for contained use and intentional introduction. India also insisted that the names of the transnucleic acids that were not genes but that were introduced to change the properties of the living modified organisms should also be mentioned in the accompanying documentation under Article 18, paragraphs 2 (a), (b) and (c). India further highlighted the need for consistency between Article 18, paragraph 2 (a), Article 11 (Procedure for living modified organisms intended for direct use as food or feed, or for processing) and Article 20 (Information-sharing and the Biosafety Clearing-House).

24. The representative of the United States of America said that, in February 2002, the United States Department of State had reported that the Administration was reviewing ratification of the Convention on Biological Diversity. He stressed his country's interest in pursuing partnerships that addressed biodiversity with interested Governments, non-governmental organizations and the private sector. The United States was actively engaged in establishing its domestic link to the Biosafety Clearing-House. It had been pleased to provide financial support for the recent technical expert group meetings on Article 18 held in Montreal and hoped to continue providing support for the implementation of the Protocol.

25. The representative of the NGO Caucus requested urgently that the serious threat to biological diversity from genetic contamination in crop centres of origin and/or diversity be placed on the agenda of the current meeting, since such contamination also had a significant potential impact on farmers, food security and the biological diversity of all countries. There was evidence that the Mesoamerican Center of Crop Genetic Diversity in Mexico had been contaminated with DNA from genetically modified plants.

He called upon the ICCP and countries to undertake a number of activities to address the issue as a matter of priority.

ITEM 2. ORGANIZATIONAL MATTERS

2.1. Adoption of the agenda

26. The Intergovernmental Committee adopted the following agenda on the basis of the provisional agenda that had been circulated as document UNEP/CBD/ICCP/3/1:

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 pursuant to recommendations of the Intergovernmental Committee at its previous meetings.

4. Substantive issues:

   4.1. Items requiring further consideration by the Intergovernmental Committee from the work plan adopted by the Conference of the Parties at its fifth meeting (decision V/1, annex), in order to further advance preparations for the first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol:

      4.1.1. Liability and redress (Article 27);

      4.1.2. Compliance (Article 34);

      4.1.3. Information-sharing (Article 20);

      4.1.4. Capacity-building (Article 22 and Article 28, paragraph 3);

      4.1.5. Handling, transport, packaging and identification (Article 18);

      4.1.6. Monitoring and reporting (Article 33);

      4.1.7. Consideration of other issues necessary for the effective implementation of the Protocol (e.g., Article 29, paragraph 4);

   4.2. Other items for consideration, as appropriate:

      4.2.1. Decision-making (Article 10, paragraph 7);

      4.2.2. Guidance to the financial mechanism (Article 28, paragraph 5, and Article 22);

      4.2.3. Secretariat (Article 31);

      4.2.4. 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).

5. Other matters.

6. Adoption of the report.

7. Closure of the meeting.

2.2. Officers

27. The Bureau of the ICCP continue to comprise:

Chair:	Ambassador Philemon Yang (Cameroon)
Vice-Chairs:	Mr. Eric Schoonejans (France) Mr. P.K. Ghosh (India) Mr. Javad Amin-Mansour (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)
Rapporteur:	Ms. Antonietta Gutiérrez Rosati (Peru)

2.3. Organization of work

28. 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 provisional organization of work in annex I to the annotations to the provisional agenda (UNEP/CBD/ICCP/3/1/Add.1).

29. 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 4.1.3 (Information sharing); 4.1.5 (Handling, transport packaging and identification); 4.1.6 (Monitoring and reporting) and 4.1.7 (Consideration of other issues necessary for the effective implementation of the Protocol) and Working Group II under the chairmanship of Mr. P.K. Ghosh, Vice-Chair from India, to consider agenda items 4.1.1 (Liability and redress); 4.1.2 (Compliance) and 4.1.4 (Capacity-building).

30. 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.

Work of the working groups

31. As decided at the 1st plenary session of the meeting, Working Group I met under the chairmanship of Mr. François Pythoud (Switzerland) to consider agenda items 4.1.3 (Information sharing); 4.1.5 (Handling, transport, packaging and identification); 4.1.6 (Monitoring and reporting) and 4.1.7 (Consideration of other issues necessary for the effective implementation of the Protocol). The Working Group held 8 meetings, from 22 to 25 April 2002. The Working Group adopted its report (UNEP/CBD/ICCP/3/L.12) at its 6th meeting, on 25 April 2002.

32. As decided at the 1st plenary session of the meeting, Working Group II met under the chairmanship of Mr. P.K. Ghosh, Vice-Chair from India, to consider agenda items 4.1.1 (Liability and redress); 4.1.2 (Compliance) and 4.1.4 (Capacity-building). The Working Group held 7 meetings, from 22 to 25 April 2002. The Working Group adopted its report (UNEP/CBD/ICCP/3/L.13) at its 7th meeting, on 25 April 2002, on the understanding that the Chair, assisted by the Secretariat, would be entrusted with the finalization of the last part of the proceedings.

33. At the 3rd plenary session of the meeting, the Intergovernmental Committee heard interim progress reports from the Chairs of both Working Groups.

34. The reports of the Working Groups are incorporated into the present report under the respective agenda items.

ITEM 3. REPORT OF THE EXECUTIVE SECRETARY ON INTER-SESSIONAL WORK PURSUANT TO RECOMMENDATIONS OF THE INTERGOVERNMENTAL COMMITTEE AT ITS PREVIOUS MEETINGS

35. Agenda item 3 was taken up by the Intergovernmental Committee at the 1st plenary session of the meeting, on 22 April 2002. In considering the item, the Committee had before it the report of the Executive Secretary on the implementation of inter-sessional activities (UNEP/CBD/ICCP/3/2). Introducing the item, the Secretary of the meeting said that section II of the report set out the current state of implementation of the inter-sessional activities with regard to the recommendations emanating from the second meeting of ICCP as at March 2002. Further details on each of the items covered were provided in the respective notes of the Executive Secretary for the corresponding subjects. Since the report had been finalized, the Governments of Grenada, Liberia, Mexico and Nigeria had nominated national focal points for the Biosafety Clearing-House. The biosafety roster of experts currently stood at 418, from 57 countries. Since section IV of the report had been finalized, the Governments of the Lao People's Democratic Republic and Uruguay had nominated competent national authorities. In addition, the Governments of the Central African Republic, Chad, Guatemala and the Lao People's Democratic Republic had nominated national focal points for the Protocol.

36. She further explained that, with respect to the items on the agenda of the current meeting, the corresponding notes of the Executive Secretary contained draft elements of recommendations for possible further action. Concerning the designation of national focal points and competent national authorities, she said that the Committee might wish to reiterate the call to Parties that had not yet done so to submit the information to the Secretariat as soon as possible, and in any event no later than the date of entry into force of the Protocol. She expressed thanks to all Parties and others that had provided the Secretariat with the information requested by the ICCP or the Conference of the Parties, which had allowed the Secretariat to carry out the corresponding inter-sessional work.

37. A statement was made by the representative of Argentina.

ITEM 4. SUBSTANTIVE ISSUES

4.1. Items requiring further consideration by the Intergovernmental Committee from the work plan adopted by the Conference of the Parties at its fifth meeting (decision V/1, annex), in order to further advance preparations for the first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol

4.1.1. Liability and redress (Article 27)

38. Agenda item 4.1.1 was taken up by the Intergovernmental Committee at the 1st plenary session of the meeting, on 22 April 2002. In considering the item, the Committee had before it a note prepared by the Executive Secretary on liability and redress (UNEP/CBD/ICCP/3/3). The Committee also had before it information documents containing a compilation of information on national, regional and international measures and agreements in the field of liability and redress for damage resulting from the transboundary

movements of living modified organisms (UNEP/CBD/ICCP/3/INF/1) and a compilation of views on the terms of reference for the open-ended ad hoc group of legal and technical experts under Article 27 of the Protocol (UNEP/CBD/ICCP/3/INF/2). Introducing the item, the representative of the Secretariat also drew attention to the decision on liability and redress under Article 14, paragraph 2, of the Convention on Biological Diversity adopted at the recent sixth meeting of the Conference of the Parties.

39. Statements were made by the representatives of China, Colombia and Ethiopia.

40. At the 3rd plenary meeting of the session, statements under the item were made by the representatives of the Natural Resources Committee of the Sierra Juárez de Oaxaca of Mexico (on behalf of the Indigenous Group) and of ANPED – The Northern Alliance for Sustainability (on behalf of the NGO Caucus).

41. Working Group II took up the item at its 1st meeting, on 22 April 2002. The representative of the Secretariat recalled that the ICCP at its second meeting had invited 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 (LMOs). The ICCP had further requested the Executive Secretary to prepare a synthesis report of the information received.

42. As at 10 February 2002, the Secretariat had received 17 submissions from Governments. Based on the submissions, the Secretariat had prepared a synthesis report (UNEP/CBD/ICCP/3/3), which summarized the information related to the main elements under a liability regime, with the aim of providing an overview of the relevant provisions across national legislation. The original submissions were available as an information document (UNEP/CBD/ICCP/3/INF/1).

43. The Secretariat wished to indicate that the national legislation submitted by most countries dealt with liability rules relating to LMO activities in a broad context, rather than specifically focusing on liability and redress for damage resulting from transboundary movements of LMOs. In some cases, countries had provided information on their general environmental law or gene-technology law, which might be applied to damage resulting from transboundary movements of LMOs.

44. In addition to the submissions on national legislation, the Secretariat had also received submissions from three countries regarding the terms of reference for the open-ended ad hoc group of legal and technical experts. Those submissions were also available as an information document (UNEP/CBD/ICCP/3/INF/2).

45. The representative of Canada wished the report of the meeting to reflect that, while her country had no national legislation dealing specifically with liability relating to LMOs, in the interest of information-sharing Canada had nonetheless submitted views to the Secretariat on liability and redress under the Protocol, as contained in the information paper compiled by the Secretariat (UNEP/CBD/ICCP/3/INF/1). She invited other countries to provide their views on the issue.

46. The Chair drew attention to the questionnaire contained in the annex to the note prepared by the Executive Secretary (UNEP/CBD/ICCP/3/3).

47. Statements were made by the representatives of Algeria, Argentina, Australia, Cameroon (on behalf of the African Group), Canada, Chile, China, Colombia, Ethiopia, Haiti, Hungary, the Islamic Republic of Iran, Japan, Kenya, Norway, the Philippines, the Republic of Korea, Spain (on behalf of the European Community and its member States), Switzerland, Turkey, the United Kingdom, the United States of America, Zambia and Zimbabwe.

48. A statement was also made by the representative of the Institute for Agriculture and Trade Policy.

49. At its 2nd meeting, on 23 April 2002, Working Group II resumed its consideration of the item. The Chair recalled that recommendation 2/1, adopted by the ICCP at its second meeting, also invited countries to submit their views to the Executive Secretary on elements of the terms of reference for the open-ended ad hoc legal and technical experts. Three submissions had been received from countries, and he underlined the need to invite countries to submit their views in accordance with the recommendation. He requested participants to comment primarily on the terms of reference for the expert group.

50. Statements were made by the representatives of Algeria, Argentina, Australia, Cameroon (on behalf of the African Group), Canada, Colombia, Côte d'Ivoire, Ethiopia, the European Community, Japan, Maldives, Namibia, Norway, New Zealand, the Republic of Korea, Spain (on behalf of the European Community and its member States), Togo and Zambia.

51. Building on the statements by some representatives, the representative of the Permanent Court of Arbitration said that the Court indeed had developed Arbitral Rules of Procedure that could be useful for a future liability regime under the Cartagena Protocol. The Permanent Court would be honoured to provide the Secretariat with further information if so desired.

52. At its 5th meeting, on 24 April 2002, Working Group II considered a Chair's text of a proposed draft recommendation on liability and redress.

53. Statements were made by the representatives of Argentina, Australia, Austria, Cameroon, Canada, Colombia, Ethiopia, the European Community, the Islamic Republic of Iran, Japan, Maldives, Mexico, New Zealand, Republic of Korea, Russian Federation, Togo, Turkey and the United States of America.

54. By way of clarification in answer to points raised, the representative of the Secretariat explained that the Secretariat would prepare a paper updating the information on international liability regimes that had been obtained from Parties, Governments and relevant international organizations and make it available to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. Concerning how Parties would know when the six-month deadline for submission of information was approaching, she said that the Executive Secretary was constantly reviewing the status of ratification of the Protocol and would report on its entry into force. A notification would be sent to all Parties, informing them of the dates by which information should be submitted.

55. The Working Group approved the body of the draft recommendation on liability and redress for transmission to plenary.

56. The representative of Colombia expressed concern that, once again, discussion on substantive issues related to liability and redress had been deferred on an issue of capital importance for the developing countries. The paragraph of the draft recommendation concerning workshops was identical to what had been agreed a year ago, and that showed how little progress had been made. She also regretted that no specific offers had been made to host a workshop on this issue.

57. At its 6th meeting, on 25 April 2002, Working Group II again took up its consideration of the draft recommendation on liability and redress submitted by the Chair in a conference room paper, focusing on the proposals made for the questions to be contained in the annex to the draft recommendation.

58. Statements were made by the representatives of Brazil (on behalf of the Latin American and Caribbean Group), Burkina Faso, Canada, Colombia, Estonia (on behalf of the Central and Eastern European Group), Islamic Republic of Iran, Namibia, Spain (on behalf of the European Community and its member States) and the United States of America.

59. The Working Group agreed to set up a group of friends of the Chair to consider outstanding issues of the questions to be annexed to the draft recommendation. The group comprised Brazil (on behalf of the Latin American and Caribbean Group), Cameroon (on behalf of the African Group), Canada, Colombia, Estonia (on behalf of the Central and Eastern European Group), the Islamic Republic of Iran, and Sweden (on behalf of the European Community and its member States) as Chair.

60. At its 7th meeting, on 25 April 2002, Working Group II considered a paper containing a proposed questionnaire on liability and redress for damage resulting from transboundary movements of living modified organisms, as an annex to the already approved draft recommendation.

61. A statement was made by the representative of Argentina.

62. The annex was approved for incorporation into the body of the draft recommendation, to be transmitted to plenary as document UNEP/CBD/ICCP/3/L.9.

63. At the 4th plenary session of the meeting, on 26 April 2002, the ICCP adopted recommendation UNEP/CBD/ICCP/3/L.9 as recommendation 3/1. The text of the recommendation is contained in the annex to the present report.

64. The representative of Brazil, speaking on behalf of the Latin American and Caribbean Group, wished the report of the meeting to reflect that the Group was eagerly awaiting the realization of the workshop on liability and redress that was still pending.

4.1.2. Compliance (Article 34)

65. Agenda item 4.1.2 was taken up by the Intergovernmental Committee at the 1st plenary session of the meeting, on 22 April 2002. In considering the item, the Committee had before it a note prepared by the Executive Secretary providing a summary of views or understandings of the text in square brackets in the draft procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety (UNEP/CBD/ICCP/3/4). The Committee also had before it an information document containing the full text of the submissions received by the Executive Secretary as at 10 February 2002 (UNEP/CBD/ICCP/3/INF/3).

66. Introducing the item, the Chair pointed to the importance of focusing the debate on the text contained within square brackets and endeavouring to produce a clear draft for the consideration of the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

67. Statements were made by the representatives of Argentina, Australia, Burkina Faso, Canada, Colombia, Ethiopia, Japan, Kenya, Mexico, Norway, Spain (on behalf of the European Community and its member States), Togo, Uganda and the United States of America.

68. Working Group II took up item 4.1.2 at its 2nd meeting, on 23 April 2002. The representative of the Secretariat said that the ICCP at its second meeting had invited Parties and Governments to submit to the Secretariat their views or understandings with respect to the contents in square brackets in the compliance text. As at 18 February 2002, the Secretariat had received seven submissions, which were compiled in an information document (UNEP/CBD/ICCP/3/INF/3).

69. The Chair also drew attention to the summary of the proposals in square brackets concerning the draft procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety, contained in the annex to the note prepared by the Executive Secretary (UNEP/CBD/ICCP/3/4). Recalling that the ICCP, in the report of its second meeting, had noted that all elements of the draft procedures and mechanisms on compliance would be subject to further discussion (UNEP/CBD/ICCP/2/15, para. 175), he invited participants to focus on the text in brackets. An opportunity to make comments on the

remainder of the draft proposals would be provided later in the debate, but he asked delegates not to propose any new language or insert additional brackets. He reported that the Bureau of ICCP wished to send a message that, in their consideration of this issue, participants should try not to go back over what had already been discussed at the second meeting of the ICCP, and he sought participants' views on that procedure.

70. Statements on the procedure were made by the representatives of Argentina, Colombia, Haiti, Mexico, New Zealand, Spain (on behalf of the European Community and its member States), Togo, Turkey and the United States of America.

71. In response to the Chair's call for comments on the bracketed text of paragraph 3 of section I (Objective, nature and underlying principles) of the draft procedures and mechanisms on compliance, statements were made by the representatives of Algeria, Argentina, Australia, Barbados, Burkina Faso, Cameroon, Colombia, Ethiopia, Ghana, the Islamic Republic of Iran, Japan, Kenya, Malaysia, Maldives, Mali, Mexico, New Zealand, Norway, Poland, the Republic of Korea, Spain (on behalf of the European Community and its member States), Switzerland, Togo, Turkey, the United Kingdom and Zimbabwe.

72. At its 3rd meeting, on 23 April 2002, the Working Group resumed its consideration of the item. The Chair explained that, when addressing text in square brackets, delegates could propose new language to replace what was contained in the brackets, as long as the concepts expressed were the same. He stressed the need to reduce, not increase, the number of options. Further statements concerning section I, paragraph 3, were made by the representatives of Armenia, Brazil, Cameroon, Chile, the Islamic Republic of Iran, Japan, Liberia and the United States of America.

73. In answer to a query, the representative of the Secretariat explained that the Protocol was legally binding, but that the procedures and mechanisms on compliance under the Protocol would be adopted by a decision of the meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, and such decisions were not generally legally binding in nature.

74. In the discussion on the bracketed text in paragraph 2 of section II (Institutional mechanisms), statements were made by the representatives of Argentina, Australia, Algeria, Barbados, Burkina Faso, Cameroon, Canada, Colombia, Ethiopia, Ghana, Honduras, the Islamic Republic of Iran, Japan, Malaysia, Maldives, Mexico, New Zealand, Norway, Peru, the Republic of Korea, Spain (on behalf of the European Community and its member States), Togo, Turkey, Ukraine, the United States of America, Zambia and Zimbabwe.

75. In the discussion on the bracketed text in section II, paragraph 3, statements were made by the representatives of Burkina Faso, Cameroon, the Islamic Republic of Iran, Mexico, Nigeria, Norway, Spain (on behalf of the European Community and its member States) and Zambia.

76. On a procedural question of whether to establish a contact group to help expedite consideration of the item, statements were made by Algeria, Argentina, Burkina Faso, Colombia, Ghana, the Islamic Republic of Iran, Norway, Spain (on behalf of the European Community and its member States) and Zambia.

77. The Working Group agreed to establish an open-ended contact group to address the outstanding areas of bracketed text of the draft procedures and mechanisms for compliance, to be chaired by Mr. Veit Koester (Denmark). Following statements by the representatives of Argentina, Burkina Faso, Cameroon, Chile, Denmark and Japan, it was agreed that the contact group would not meet in parallel with the Working Group and would have a mandate to address all the bracketed text, with the aim of resolving the outstanding issues. Its chair would report back to the Working Group on the results of its work.

78. At its 7th meeting, on 25 April 2002, Working Group II considered a paper prepared by the Chair, on the basis of the outcome of the deliberations in the contact group on issues of compliance.

79. Mr. Veit Koester (Denmark), chair of the contact group on compliance, reported to the Working Group on the results of its deliberations. He introduced the Chair's text, which contained a draft recommendation, to which was annexed the draft procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety. He was pleased to report that agreement had been reached on the previously bracketed language contained in section V, paragraphs 2 (a) and 2 (b), and section VI, paragraph 1 (c) and paragraph 2. He said that, although lengthy discussions had taken place, the contact group had been unable to agree on other bracketed text in the annex. He orally amended the text by proposing a further operative paragraph to the body of the draft recommendation.

80. In addition, the chair of the contact group drew attention to two proposed options which had been presented during its discussions, and which were not contained in the annex of the draft recommendation before the Working Group. They concerned section IV, paragraph 1 (b) and section VI, paragraph 2 (d). Pointing to the mandate of the contact group, which had been to consider bracketed text only, he made a proposal on a possible way to reflect the content of the two newly proposed options. He thanked all participants in the contact group for their hard work and commended the draft recommendation to the Working Group.

81. Statements were made by the representatives of Algeria, Argentina, Australia, Brazil, Burkina Faso, Canada, Colombia, Ethiopia, the Islamic Republic of Iran (on behalf of the Asian and Pacific Group), Japan, Kenya, the Maldives, New Zealand, Norway, the Republic of Korea, Seychelles, Spain (on behalf of the European Community and its member States), Turkey and the United States of America.

82. The Chair made a proposal for amendment of the draft recommendation, by creating a second annex, based on the note prepared by the Executive Secretary (UNEP/CBD/ICCP/3/4), containing all of the options regarding bracketed text, including the proposed two new options, in order to facilitate discussion on the issues at the Conference of the Parties serving as the meeting of the Parties.

83. Statements were made by the representatives of Argentina, Australia, Colombia, Denmark, Ethiopia, Japan, Kenya, New Zealand, Spain (on behalf of the European Community and its member States), and the United States of America.

84. The representative of Turkey wished the report of the meeting to reflect her view that there was a need to collect information on the cases and practices that were applicable under international trade agreements. She requested the Executive Secretary to prepare an information document, for submission to the Conference of the Parties serving as the meeting of the Parties, concerning the implementation of trade sanctions under international law in cases of non-compliance.

85. The Working Group approved the draft recommendation, as orally amended, for transmission to plenary as draft recommendation UNEP/CBD/ICCP/3/L.10.

86. Following the approval of the draft recommendation, one representative, subsequently supported by another representative, recalled that the ICCP, in the report of its second meeting, had noted that all elements of the draft procedures and mechanisms on compliance would be subject to further discussion (UNEP/CBD/ICCP/2/15, para. 175). She had hoped for time at the current meeting to discuss the elements that were without brackets, since helpful amendments to them could be made. She said that, in the contact group on compliance, a proposal had been made to incorporate the language of paragraph 175 of the report of the second meeting of the ICCP into the draft recommendation on compliance.

87. The representative of the Global Industry Coalition wished to express his concern that in section V, paragraph 2 (c) of the annex to the draft recommendation, the term "non-governmental

organizations" was used on its own. Following advice from the Secretariat that, within the Convention, the term "non-governmental organization" was used separately from the private sector, and considering that no mention was made of the private sector in the proposed option, he recommended that the option should read "non-governmental organizations and the private sector" or that it be deleted altogether.

88. Some representatives drew the attention of the Working Group to the statement made by the Chair of the Working Group regarding the report of the ICCP at its second meeting on the elements under discussion on compliance (see para. 69 above).

89. At the 4th plenary session of the meeting, on 26 April 2002 the ICCP adopted recommendation UNEP/CBD/ICCP/3/L.10 as recommendation 3/2. The text of the recommendation as adopted is contained in the annex to the present report.

90. The representative of Argentina, speaking also on behalf of the Governments of Brazil, Chile and Uruguay, wished the report of the meeting to reflect that those countries considered that Article 34 of the Protocol provided for the establishment of procedures and mechanisms to promote compliance. They considered that the punitive nature of the measures contained in the annex to the recommendation exceeded the mandate of the Protocol in that respect. On the other hand, and particularly in the initial stages of the functioning of the Protocol, measures such as those contained in the annex to the recommendation would hinder the participation of the developing countries.

4.1.3. Information-sharing (Article 20)

91. ICCP took up agenda item 4.1.3 at the 1st plenary meeting on 22 April 2002. In considering the item, the Committee had before it a note by the Executive Secretary containing a progress report on the Development and implementation of the pilot phase of the Biosafety Clearing-House (UNEP/CBD/ICCP/3/5), together with a summary of the independent review of the pilot phase of the Biosafety Clearing-House (UNEP/CBD/ICCP/3/5/Add.1), the third note by the Bureau of the Intergovernmental Committee on technical issues associated with the Development of the pilot phase, and preparation of the implementation phase of the Biosafety Clearing-House (UNEP/CBD/ICCP/3/5/Add.2), and a synthesis of capacity-building needs identified by the regions for the implementation of the pilot phase of the Biosafety Clearing-House (UNEP/CBD/ICCP/3/5/Add.3). It also had before it, as information documents, the report of the Central and Eastern Europe Regional Meeting on the Biosafety Clearing-House (UNEP/CBD/ICCP/3/INF/8), the report of the Asia and Pacific Regional Meeting on the Biosafety Clearing-House (UNEP/CBD/ICCP/3/INF/9), the full text of the independent review of the pilot phase of the Biosafety Clearing-House (UNEP/CBD/ICCP/3/INF/10), and OECD guidance for the designation of a unique identifier for transgenic plants (UNEP/CBD/ICCP/3/INF/12).

92. A representative of the Secretariat gave a brief presentation of the website of the pilot phase of the Biosafety Clearing-House.

93. Statements were made by the representative of Slovakia, who reported on the regional meeting for the Central and Eastern European countries on capacity-building for the Biosafety Clearing-House, which had been held in Nitra, Slovakia, from 5 to 9 February 2002 and by the representative of China who reported on the regional meeting on the Biosafety Clearing-House for Asia and the Pacific, which had been held in Beijing from 4 to 8 March 2002.

94. Working Group I took up agenda item 4.1.3 at its 3rd meeting, on 23 April 2002.

95. Introducing the item, the representative of the Secretariat said that section II of the progress report by the Executive Secretary elaborated on the progress of each element of the pilot phase. She also drew attention to the summary of the independent review of the pilot phase of the Biosafety Clearing-House, which had been commissioned by the Executive Secretary following the request of the second meeting of

the Intergovernmental Committee that it should be undertaken prior to the sixth meeting of the Conference of the Parties to the Convention on Biological Diversity. The recommendations in the third note from the ICCP Bureau on technical issues associated with the development of the pilot phase and preparations for the implementation phase of the Biosafety Clearing-House had been prepared by the Bureau in line with the mandate given to it by the first meeting of the ICCP to provide management oversight on the implementation and development of the pilot phase of the Biosafety Clearing-House. The note highlighted recommendations for further development of the Biosafety Clearing-House on the basis of the strengths and weaknesses identified in the report of the consultant who had conducted the independent review. It incorporated technical advice received from the liaison group of technical experts involved in the formulation of technical recommendations for the development and implementation of the pilot phase. The synthesis of the capacity-building needs identified by the regions was intended to assist the Intergovernmental Committee when it considered the possibility of establishing a capacity-building programme addressing those needs.

96. The representative of the Organisation for Economic Co-operation and Development (OECD) presented the OECD Guidance for the Designation of a Unique Identifier for Transgenic Plants (UNEP/CBD/ICCP/3/INF/12), which had been produced after two years of discussions. It had been decided that the unique identifier should comprise nine alphanumeric digits.

97. Statements under this agenda item were made by the representatives of Algeria, Antigua and Barbuda, Argentina, Australia, Brazil, Cameroon, Canada, China, El Salvador, Ethiopia, Ghana, Grenada, Hungary, the Islamic Republic of Iran, Japan, Kenya (on behalf of the African Group), Lebanon, Norway, Spain (on behalf of the European Community and its member States), the United Republic of Tanzania and the United States of America.

98. A statement was also made by the representative of the International Centre for Genetic Engineering and Biotechnology (ICGEB).

99. The representative of the Secretariat responded to a request for clarification in respect of the summary of the independent review of the pilot phase of the Biosafety Clearing-House.

100. The Chair said that he would prepare a recommendation on the basis of the comments made at the meeting. He would also convey to the Bureau the comments related to the note from the Bureau.

101. At its 6th meeting, on 25 April 2002, the Working Group took up a Chair's text containing a draft recommendation of the ICCP.

102. Statements were made by the representatives of Argentina, Australia, Brazil, Canada, Ethiopia, Grenada, Japan, Norway, Spain (on behalf of the European Community and its member States) and the United States of America.

103. The Chair said that he would submit a new text to reflect the comments made.

104. At its 7th meeting, on 25 April 2002, the Working Group took up a revised Chair's text incorporating the comments and proposals made in the discussion.

105. Statements on the revised text were made by the representatives of Algeria, Australia and Brazil.

106. The revised text submitted by the Chair was approved, as orally amended, for transmission to plenary as draft recommendation UNEP/CBD/ICCP/3/L.5.

107. At the 4th plenary session of the meeting, on 26 April 2002, the ICCP adopted draft recommendation UNEP/CBD/ICCP/3/L.5 as recommendation 3/3. The text of the recommendation as adopted is contained in the annex to the present report.

4.1.4. Capacity-building (Article 22 and Article 28, paragraph 3)

108. The ICCP took up agenda item 4.1.4 at the 1st plenary session of the meeting, on 22 April 2002. In considering the item, the Committee had before it the notes by the Executive Secretary on capacity-building and the operationalization of the roster of experts (UNEP/CBD/ICCP/3/6 and Add.1), together with an information document containing a compilation of views on capacity-building under the Cartagena Protocol (UNEP/CBD/ICCP/3/INF/4) and an information document on the UNEP/GEF project on the development of national biosafety frameworks (UNEP/CBD/ICCP/3/INF/11).

109. A statement under this item was made by the representative of the GEF.

110. A statement was also made by the representative of Argentina.

111. A representative of IUCN-The World Conservation Union also made a statement.

112. Working Group II took up item 4.1.4 at its 4th meeting, on 24 April 2002. Introducing the item, the representative of the Secretariat recalled that the ICCP at its second meeting had endorsed the Action Plan for Building Capacities for the Effective Implementation of the Cartagena Protocol on Biosafety. At that meeting, the ICCP also requested 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 and 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.

113. The note prepared by the Executive Secretary (UNEP/CBD/ICCP/3/6), to which the representative of the Secretariat made an editorial correction, contained proposals on elements of the coordination mechanism and on other measures to facilitate effective implementation of the Action Plan, including indicators for evaluating capacity-building measures, identification of the coverage and gaps in capacity-building initiatives and resources and the role of different entities in promoting capacity building. He also drew attention to the information document, containing a compilation of submissions from Parties and Governments and relevant organizations on the progress made in the implementation of the Action Plan (UNEP/CBD/ICCP/3/INF/4).

114. Recalling that, at its second meeting, the ICCP had recommended that the Conference of the Parties request the Global Environment Facility (GEF) and other donors to take into account the Action Plan in providing assistance to developing countries for the ratification and effective implementation of the Protocol, he pointed to decision VI/17 of the Conference of the Parties, in which the Conference of the Parties requested the GEF, as the institutional structure operating the financial mechanism, to provide financial resources for national capacity-building in biosafety, in particular for enabling effective participation in the Biosafety Clearing-House and for implementation of the Action Plan for Building Capacities. He invited participants to consider those issues, with a view to preparing a draft recommendation for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

115. He recalled that, at its second meeting, owing to lack of time, the ICCP had been unable to consider adequately a number of texts that the Open-ended Expert Meeting on Capacity-Building, held in Havana from 11 to 13 July 2001, had considered to be useful complements to the draft Action Plan, including appendix I (Rights and obligations) and appendix II (Preliminary list of key required capacities) to the Action Plan, and annex II to the report of the Havana meeting (Implementation tool kit). He invited

the ICCP to reconsider those attachments, which were reproduced for ease of reference as annexes III to V of the note by the Executive Secretary (UNEP/CBD/ICCP/3/6), and to make recommendations accordingly.

116. The Chair said that, under item 4.1.4, two separate but linked issues were involved: the issue related to implementation of the Action Plan; and the roster of experts, together with the guidelines for its voluntary trust fund. Concerning the Action Plan, in particular, he invited general comments on: the coordination mechanism for the implementation of the Plan; the functions of the Secretariat; the issues raised in the note prepared by the Executive Secretary (UNEP/CBD/ICCP/3/6), including the preliminary indicators for evaluating capacity-building measures; how to deal with annex II of that note; the role of different entities in capacity-building, and the material in annexes III to V; and the Biosafety Clearing-House.

117. Statements were made by the representatives of Argentina, Brazil, Burkina Faso, Cameroon, Canada, China, Eritrea, Ethiopia, Japan, Kenya, Lebanon, the Maldives, Mauritania, Mexico, Namibia (on behalf of the African Group), New Zealand, Norway, Peru, Spain (on behalf of the European Community and its member States), Togo, Tunisia, Turkey, the United Republic of Tanzania, the United States of America and Zambia.

118. A statement was also made by the representatives of GEF and of the International Centre for Genetic Engineering and Biotechnology.

119. The representative of Greenpeace also made a statement.

120. Concerning the second component of item 4.1.4, on operationalization of the roster of experts, the representative of the Secretariat said that, in its recommendation 2/9 B, the ICCP at its second meeting had recommended that the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol adopt the interim guidelines for the roster of experts. It had requested the Executive Secretary "as administrator of the roster, to implement the functions specified in the interim guidelines for the roster", and to prepare a report on the status of implementation of the roster of experts for consideration by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. Also in the same recommendation, the ICCP had called for 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. Furthermore, the ICCP had requested 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 on progress made to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

121. As requested by the ICCP at its second meeting, the Executive Secretary had prepared a note on operationalization of the roster of experts (UNEP/CBD/ICCP/3/6/Add.1), containing proposals on the development of the pilot phase of the fund and the interim guidelines for its use. At its sixth meeting, the Conference of the Parties, in decision VI/29, had established the trust fund on a pilot basis and had requested the Executive Secretary to seek submissions from Governments on the operation of the fund. He explained that the square brackets in the text of annex II of the note indicated that no submissions had been received from Governments concerning the specific areas in question, and the Secretariat had prepared the documentation with the options shown. He invited the ICCP to consider the draft recommendations contained in section IV of the note.

122. The Chair invited comments specifically addressing the issue of the roster of experts and stressed that, since the Conference of the Parties at its sixth meeting had endorsed the establishment of the pilot phase of the trust fund, participants might wish to focus on the proposed interim guidelines for the pilot

phase of the voluntary fund for the roster of experts on biosafety, contained in annex II of the note by the Executive Secretary (UNEP/CBD/ICCP/3/6/Add.1).

123. Statements were made by the representatives of Argentina, Australia, Canada, Eritrea, Estonia (on behalf of the Central and Eastern European Group), Ethiopia, Ghana, the Islamic Republic of Iran, Japan, Kenya, Namibia (on behalf of the African Group) and Togo.

124. A statement was also made by the representative of the Institute for Agriculture and Trade Policy.

125. The representative of the Global Industry Coalition also made a statement.

126. At its 6th meeting on 25 April 2002, Working Group II considered a conference room paper submitted by the Chair, containing a draft text on capacity-building (roster of experts). In answer to a query, the representative of the Secretariat clarified that the activities to be carried out by the Executive Secretary in the Chair's text could be carried out within existing budgetary resources and had no additional financial implications.

127. Statements were made by the representatives of Argentina, Brazil, Japan and Spain (on behalf of the European Community and its member States).

128. The Working Group approved the Chair's text on the roster of experts, as orally amended, for transmission to plenary as draft recommendation UNEP/CBD/ICCP/3/L.6.

129. At the 4th plenary session of the meeting, on 26 April 2002 the ICCP adopted draft recommendation UNEP/CBD/ICCP/3/L.6 as recommendation 3/4. The text of the recommendation as adopted is contained in the annex to the present report.

130. Also at its 6th meeting, the Working Group considered a Chair's text on capacity-building.

131. Statements were made by the representatives of Algeria, Burkina Faso, Cameroon, Chile, Ethiopia, the Islamic Republic of Iran (on behalf of the Asia and Pacific Group), Kenya, the Maldives, Mexico, Namibia (on behalf of the African Group), Norway, Spain (on behalf of the European Community and its member States), Togo, Turkey, the United Republic of Tanzania, the United States of America and Zimbabwe.

132. A statement was also made by the representative of GEF.

133. The representative of the Global Industry Coalition also made a statement.

134. The Working Group adopted the main body of the Chair's text, as orally amended, for transmission to plenary.

135. At its 7th meeting, the Working Group again took up consideration of the annex to the Chair's text on capacity-building. The Chair proposed several amendments to the annex.

136. A statement was made by the representative of the United States of America.

137. The annex to the Chair's text was approved, as orally amended, for transmission to plenary together with the previously approved portion of the text, as draft recommendation UNEP/CBD/ICCP/3/L.7.

138. At the 4th plenary session of the meeting, on 26 April 2002, the ICCP adopted draft recommendation UNEP/CBD/ICCP/3/L.7, as corrected by the Chair of Working Group II, as recommendation 3/5. The text of the recommendation is contained in the annex to the present report.

139. The representative of Brazil (speaking on behalf of the Latin American and Caribbean Group) wished the report of the meeting to reflect the view that the current mechanisms to facilitate access to available resources, specifically for the Caribbean countries, had been ineffective. The Latin American and Caribbean Group therefore called on the ICCP and the Secretariat to urgently seek to address this problem and to strengthen access and participation for all participating countries.

4.1.5. Handling, transport, packaging and identification (Article 18)

140. Agenda item 4.1.5 was taken up by the Intergovernmental Committee at the 2nd plenary session of the meeting, on 22 April 2002. In considering the item, the Committee had before it a note prepared by the Executive Secretary on handling, transport, packaging and identification of living modified organisms (Article 18) (UNEP/CBD/ICCP/3/7); the report of the Technical Expert Group on the Requirements of Paragraph 2 (a) of Article 18 of the Cartagena Protocol on Biosafety, held in Montreal from 18 to 20 March 2002 (UNEP/CBD/ICCP/3/7/Add.1), and the report of the second Meeting of Technical Experts on Handling, Transport, Packaging and Identification of Living Modified Organisms, held in Montreal from 13 to 15 March 2002 (UNEP/CBD/ICCP/3/7/Add.2). The Committee also had before it an information document compiling submissions on Article 18 of the Protocol that had been received by the Executive Secretary as at 10 February 2002 (UNEP/CBD/ICCP/3/INF/5). Introducing the item, the Chair expressed thanks to the Governments of Canada, France, Japan, Spain, Switzerland and the United States for having generously helped to finance the meetings of the technical expert meetings on Article 18 of the Protocol.

141. Mr. Desmond Mahon (Canada), Co-Chair of the Meeting of Technical Experts on the Requirements of Paragraph 2 (a) of Article 18 of the Cartagena Protocol on Biosafety, speaking also on behalf of the other Co-Chair of the meeting, Ms. Audia Barnett (Jamaica), reported on the work of the experts. In considering the first part of its mandate (to provide a recommendation on the implementation of the first sentence of Article 2 (a), on documentation to accompany transboundary movement of LMOs for use as food, feed or for processing), the participants had been able to build in part on the work of the technical expert meetings on paragraph 2 (b) and (c) of Article 18, held in Paris in June 2001 and Montreal in March 2002. The work had forced participants to advance their understanding on several aspects of the Protocol needed to permit Parties to fulfil their obligations on the entry into force of the Protocol with regard to the first sentence. Experts had had to consider the relationship between Articles 11, 18 and 20 as they related to both decisions and necessary information in the documentation, and also to consider the current state of the bulk commodity transportation system. Experts recognized the interim nature of the first sentence and accepted the difference between "good to have" and "need to have" in reaching their conclusion. The recommendation on implementing the first sentence at the time of entry into force of the Protocol was contained in the first paragraph of the recommendation of the meeting, contained in the annex to its report (UNEP/CBD/ICCP/3/7/Add.1).

142. Concerning the second part of its mandate, to identify issues for consideration prior to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, addressing a decision on the details of the documentation, as identified in the second sentence of Article 18, paragraph 2 (a), the experts looked to the time between the present and the adoption of future decisions by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol as a determining factor in how those issues and the mechanisms for their consideration would be elaborated as part of the basis for later decisions. The recommendations of the meeting on that subject were contained in the second paragraph of its recommendation. In addition, the experts had identified three issues that they felt were deserving of the attention of the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol in looking to effective and efficient operation of the Protocol, and of particular relevance to the decision referred to in the second sentence of paragraph 2 (a) of Article 18. Those issues were reflected in the third paragraph of the recommendation.

143. He reported that, in their deliberations, the experts had expressed a wide range of opinions and had been able to reach an agreed text on the understanding that it would identify that there was a wide range of opinion expressed on the topic of additional information. Those elements, of which there were two, were identified in the text by asterisks. He submitted for the consideration of the ICCP the recommendations of the meeting.

144. Mr. Eric Schoonejans (France), speaking on behalf of Mr. Paul Luu (France), the Chair of the Second Meeting of Technical Experts on Handling, Transport, Packaging and Identification of Living Modified Organisms, who apologized for being unable to attend, reported on the work of the experts, which had proceeded smoothly. In addition to considering paragraphs 2 (b) and 2 (c) of Article 18, the experts had also looked at its paragraph 3, and had been able to solve most of the outstanding issues. In their work, the experts had been assisted by the provision of several model documents. He said that the experts had developed modalities for the handling of LMOs under Article 18 when the Protocol entered into force. He drew attention to the recommendations of the experts, which were contained in the annex to the report of its second meeting (UNEP/CBD/ICCP/3/7/Add.2). After briefly describing the elements of the recommendations, he stressed the need for expeditious follow-up.

145. Statements were made by the representatives of Argentina, Australia, Canada, Egypt, Ethiopia, India, Norway and Spain (on behalf of the European Community and its member States).

146. Following the introduction of the item at the 1st plenary session of the meeting, Working Group I took up agenda item 4.1.5 at its 1st meeting, on 22 April 2002.

147. Introducing the item, the representative of the Secretariat said that at its second meeting, the ICCP had made a number of recommendations regarding Article 18. After the Meeting of the Technical Experts, held in Paris from 13 to 15 June 2001, the ICCP had invited several relevant international organizations to provide advice in writing on their ability to assist Parties to meet the requirements of Article 18 of the Protocol. For the purposes of paragraphs 2(b) and 2(c) of Article 18, ICCP had requested the Executive Secretary to develop model templates that could be used as stand-alone templates tailored on existing systems, or integrated into existing international documentation. It had further requested the Executive Secretary to convene a meeting of Government-nominated technical experts to make recommendations on the modalities of information requirements under paragraphs 2 (b) and 2 (c) of Article 18 based on the recommendations of the Paris technical experts meeting and the model template, and on linkages between those two paragraphs and paragraph 3 of the same Article.

148. With regard to paragraph 2 (a) of Article 18, the ICCP had requested Parties, Governments and relevant international organizations to provide the Executive Secretary with views and relevant information about the appropriate implementation of the requirement contained in the first sentence of paragraph 2 (a) of Article 18 by the time the Protocol entered into force and about the requirements of each element of paragraph 2 (a) of Article 18. The ICCP had requested the Executive Secretary to prepare a synthesis report of the views and relevant information and to convene a meeting of technical experts back-to-back with a meeting of technical experts on paragraphs 2 (b) and 2 (c) of Article 18. Accordingly those meetings had been convened in Montreal in March 2002. The reports of those meetings were before the Working Group (UNEP/CBD/ICCP/3/7/Add.1 and Add.2). A compilation of the full text of each submission of views and information received by the Executive Secretary from Parties, Governments and relevant international organizations in response to the request of the ICCP was also available (UNEP/CBD/ICCP/3/INF/5), together with a submission from Japan (UNEP/CBD/ICCP/3/INF/13).

149. The Chair invited participants first to focus their comments on the model template in the annex to the note of the Executive Secretary on handling, transport, packaging and identification of living modified organisms and on requirements under paragraphs 2 (b) and 2 (c) of Article 18.

150. Statements were made by the representatives of Argentina, Australia, Brazil, Canada, Norway, Spain (on behalf of the European Community and its member States), Switzerland, Uganda, the United States of America, and Zimbabwe.

151. The Chair then invited comments from the floor on the report of the Second Meeting of Technical Experts on Handling, Transport, Packaging and Identification (Article 18, paragraphs 2 (b) and 2 (c)) (UNEP/CBD/ICCP/3/7/Add.2), in particular on the recommendation contained in the annex thereto.

152. Statements were made by the representatives of Australia, Brazil, Cameroon, China, Cuba, Egypt, Eritrea, Ethiopia, the Islamic Republic of Iran, Japan, Mexico, Norway and Spain (on behalf of the European Community and its member States), Turkey, Uganda, the United States of America and Zimbabwe.

153. At the 2nd meeting of the Working Group, the Chair asked participants to comment on the recommendation contained in the report of the Meeting of Technical Experts on the Requirements of Paragraph 2 (a) of Article 18, and more especially on the parts of the text of the recommendation in the annex that were marked with an asterisk.

154. Statements were made by representatives of Algeria, Argentina, Australia, the Bahamas, Brazil, Canada, China, Egypt, Eritrea, Ethiopia, the Islamic Republic of Iran, Japan, Latvia, Norway, the Republic of Korea, Spain (on behalf of the European Community and its member States), Sudan, Switzerland, Turkey, Uganda, Ukraine, the United Republic of Tanzania, the United States of America, and Uruguay.

155. Statements were also made by representatives of the Institute of Science in Society (representing other independent scientists at the meeting), the International Grain Trade Coalition and the Global Industry Coalition.

156. The Chair said that an open-ended contact group on Article 18 would be set up. It would be co-chaired by Mr. Nematollah Khansari (Islamic Republic of Iran) and Mr. Eric Schoonejans (France). The contact group should examine the asterisked parts of paragraphs 1 (d) and (e) of the recommendation in the annex to the report of the Meeting of Technical Experts on the Requirements on Paragraph 2 (a) of Article 18 and the various issues mentioned in paragraph 3 of the recommendation, with a view to making recommendations on the manner in which those issues could be considered in the future. One possibility would be to see how some of those issues could be integrated in elements under paragraph 2 of the recommendation. He requested the contact group to report back to the Working Group at its meeting in the morning of 24 April 2002.

157. At its 4th meeting, on 24 April 2002, the Working Group heard a progress report from the two co-chairs of the contact group.

158. Mr. Eric Schoonejans (France) said that the contact group had met twice. In accordance with the instructions it had received from the Chair, it had focused on paragraphs 1 (d) and (e) and paragraph 3 of the recommendation contained in the annex to the report of the Meeting of the Technical Experts on the Requirements of Paragraph 2(a) of Article 18. Although the discussion had been constructive, views in the group were polarized and it wished to continue its work with a view to agreeing on a final text.

159. Mr. Nematollah Khansari (Islamic Republic of Iran) said that there had not been enough time for in-depth consideration of the asterisked text in the recommendation on paragraphs 2 (b) and (c) of Article 18. He therefore proposed that the contact group pursue its efforts to achieve consensus.

160. At its 5th meeting, on 24 April 2002, the Working Group heard a further progress report from the two co-chairs, who said that while some progress had been made, no agreement had been reached on the final texts.

161. At the 6th meeting of the Working Group, on 25 April 2002, Mr. Eric Schoonejans (France), the co-chair of the contact group, reviewed the group's deliberations with regard to Article 18, paragraph 2 (a).

162. Statements were made by the representatives of Argentina, Australia, Canada, China, the European Community, Egypt (on behalf of the African Group), Japan, New Zealand, Norway, Uganda and the United States of America.

163. In view of the difficulty in reaching agreement on the contentious issues, the Chair proposed that he draft a paper consisting of a short recommendation and two annexes, the first of which would contain the report of the Meeting of the Technical Experts on the Requirements of Paragraph 2 (a) of Article 18 of the Cartagena Protocol on Biosafety, and the second of which would comprise his summary of the discussions during the meeting of the Intergovernmental Committee. The operational decision would be to transmit the two annexes to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

164. Statements on the Chair's proposal were made by the representatives of Canada, Ethiopia, the European Commission, the Republic of Korea, Spain (on behalf of the European Community and its member States) and the United States of America.

165. The Chair said that he would hold an informal meeting of the Friends of the Chair group, which would consist of one representative from Argentina, Australia, the Bahamas, Canada, China, Egypt, the European Community, the Islamic Republic of Iran, Japan, Norway, Spain, Uganda, the United States of America and Yugoslavia.

166. Mr. Nematollah Khansari (Islamic Republic of Iran), co-chair of the contact group, presented a Chair's text on Article 18, paragraphs 2 (b) and (c).

167. Statements on the text were made by the representative of Algeria, Egypt (on behalf of the African Group), Ethiopia, the European Community, Norway, Spain (on behalf of the European Community and its member States) and the United States of America.

168. The Chair submitted a text at the 7th meeting of the Working Group, on 25 April 2002.

169. Statements were made on the revised paper by the representatives of Argentina, Australia, Canada, Egypt, the European Community, Ukraine and the United States of America.

170. Norway regretted that there had been no discussion of suitable templates or transport documentation for Article 18, paragraph 2 (a), (b) and (c). Recognizing the need for stand-alone transport documentation, Norway had prepared example templates for Article 18, paragraph 2 (a), (b) and (c). The templates had a heading that stated that it was transport documentation of living modified organisms, in accordance with Article 18, paragraph 2 (a) (b) and (c) of the Cartagena Protocol on Biosafety. They were built on existing templates, but were adapted to the Protocol. It had given those example templates to the Secretariat (see UNEP/CBD/ICCP/3/INF/14) and Norway offered to assist the Secretariat in further development of suitable templates.

171. The revised text submitted by the Chair was approved, as orally amended, for transmission to plenary as document UNEP/CBD/ICCP/3/L.11.

172. At the 4th plenary session of the meeting, on 26 April 2002, the ICCP adopted draft recommendation UNEP/CBD/ICCP/3/L.11 as recommendation 3/6. The text of the recommendation as adopted is contained in the annex to the present report.

4.1.6. Monitoring and reporting (Article 33)

173. The ICCP took up agenda item 4.1.6 at the 2nd plenary session of the meeting, on 22 April 2002. In considering the item, the Committee had before it the note on the subject prepared by the Executive Secretary (UNEP/CBD/ICCP/3/8) and an information document containing a compilation of views on monitoring and reporting under the Cartagena Protocol on Biosafety (UNEP/CBD/ICCP/3/INF/6).

174. No representatives took the floor under this item at the 2nd plenary session of the meeting.

175. Following the introduction of the item at the 1st plenary session of the meeting, Working Group I took up agenda item 4.1.6 at its 1st meeting on 22 April 2002.

176. Introducing the item in the Working Group, the representative of the Secretariat said that the Conference of the Parties had specified that the format and timing of report was the issue to be considered under the item "Monitoring and reporting (Article 33)" in the work plan of ICCP. The Executive Secretary had prepared a draft format for reporting for examination by the ICCP at its second meeting. In considering the item, the ICCP had supported the general format proposed and had invited Governments to provide written comments on the draft format by 15 January 2002. The Executive Secretary had received comments from six Governments, which were before the meeting (UNEP/CBD/ICCP/3/INF/6).

177. Statements were made by Antigua and Barbuda, Argentina, Australia, Canada, Cuba, Eritrea, Grenada, Japan, Kenya, Paraguay, Spain (on behalf of the European Community and its member States), Uganda, and the United States of America.

178. The Chair said that he would prepare a Chair's text for consideration by the Working Group at a subsequent session of the meeting.

179. At its 4th meeting on 24 April 2002, the Working Group considered a Chair's text on monitoring and reporting.

180. Statements were made by the representatives of the Bahamas and Cameroon.

181. The Chair's text was approved, as orally amended, for transmission to plenary as draft recommendation UNEP/CBD/ICCP/3/L.2.

182. At the 4th plenary session of the meeting, on 26 April 2002, the ICCP adopted draft recommendation UNEP/CBD/ICCP/3/L.2 as recommendation 3/7. The text of the recommendation as adopted is contained in the annex to the present report.

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

183. The ICCP took up agenda item 4.1.7 at the 2nd plenary session of the meeting, on 22 April 2002. In considering the item, the Committee had before it the note on the subject prepared by the Executive Secretary (UNEP/CBD/ICCP/3/9 and Add.1) and an information document containing a compilation of views on other issues necessary for the effective implementation of the Cartagena Protocol on Biosafety (UNEP/CBD/ICCP/3/INF/7).

184. No representatives took the floor under this item at the 2nd plenary session of the meeting.

185. Working Group I took up agenda item 4.1.7 at its 3rd meeting on 23 April 2002. Introducing the item, the representative of the Secretariat said that, at its second meeting, ICCP had considered other issues necessary for the implementation of the Protocol and had made several recommendations on the subject. The Intergovernmental Committee had invited Governments to submit comments on mechanisms to promote consideration of issues and the exchange of views and to offer guidance on issues requiring clarification that might arise during ratification and implementation of the Protocol. ICCP had also requested Parties to the Convention and other States to provide the Executive Secretary 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. In response to that request, the Executive Secretary had prepared the two above-mentioned documents. The comments received on mechanisms to promote the consideration of issues had covered a wide range of arrangements. The note by the Executive Secretary (UNEP/CBD/ICCP/3/9) put forward some recommendations for consideration at the third meeting of the ICCP. The annex to the synthesis of views on items to be included in a medium-term programme of work (UNEP/CBD/ICCP/3/9/Add.1) contained a draft programme of work of the Conference of the Parties serving as the meeting of the Parties to the Protocol, which had been prepared by the Secretariat also for consideration at the third meeting of the ICCP. The full text of submissions both regarding mechanisms to promote the consideration of other issues and a medium-term programme of work had been compiled in an information document (UNEP/CBD/ICCP/3/INF/7).

186. The Chair invited comments on mechanisms for promoting the consideration of other issues.

187. Statements were made by the representatives of Australia, Canada, Japan, Norway, Spain (on behalf of the European Community and its member States), Switzerland and the United States of America.

188. The Chair then proposed that delegates address the question of issues other than the above-mentioned mechanisms.

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

190. Finally, the Chair requested participants to express their views on the proposals for the medium-term programme of work.

191. Statements were made by the representatives of Australia, Canada, Mexico and Spain (on behalf of the European Community and its member States).

192. The Chair said that he would examine all the specific comments made under the item and would submit on a proposal on how to achieve further progress on that matter at the Working Group meeting in the morning of 24 April 2002.

193. The Working Group resumed its consideration of this item at its 4th meeting on 24 April 2002. Turning to the medium-term programme of work, the Chair said that he would prepare a text that took into account all the submissions from Governments, noted that few submissions had been received and invited more submissions. He had drawn up a list of mechanisms for inclusion in his text. He had identified five potential issues other than the mechanism. He outlined possible action that could be recommended with respect to the establishment of harmonized rules for unique identification, risk assessment and risk management and the assessment of reviews of procedures for the implementation of the Protocol. He then recommended that a group of Friends of the Chair should be set up to consider how to move forward on the questions of transboundary movement with non-Parties and the categorization of living modified organisms.

194. The Chair decided to convene an informal group of Friends of the Chair comprising Argentina, Australia, Brazil, Canada, China, Côte d'Ivoire, Ethiopia, Ghana, Japan, Norway, the Republic of Korea,

Switzerland, Mexico and the United States of America, and a representative from the European Community and its member States.

195. At the 5th meeting of the Working Group, the Chair reported that the informal group of Friends of the Chair had held one meeting. He was drafting a text, which he would finalize after the second meeting of the group.

196. At its 7th meeting, on 25 April 2002, the Working Group considered a Chair's text incorporating the comments and proposals made in informal consultations with the group of Friends of the Chair.

197. Statements were made by the representatives of Australia, Brazil (on behalf of the Latin American and Caribbean Group), Canada, Ethiopia, Spain (on behalf of the European Community and its member States) and the United States of America.

198. The Chair submitted a revised text at the 8th meeting of the Working Group, held on 25 April 2002.

199. Statements were made on the revised Chair's text by the representatives of Argentina, Australia, Brazil, Canada, Eritrea, Ethiopia, Norway, Spain (on behalf of the European Community and its member States), Ukraine and the United States of America.

200. The revised text submitted by the Chair was approved, as orally amended, for transmission to plenary as draft recommendation UNEP/CBD/ICCP/3/L.8.

201. At the 4th plenary session of the meeting, on 26 April 2002, the ICCP adopted draft recommendation UNEP/CBD/ICCP/3/L.8, as orally amended, as recommendation 3/8. The text of the recommendation as adopted is contained in the annex to the present report.

4.2. Other items for consideration, as appropriate

202. The ICCP took up agenda item 4.2 at the 2nd plenary session of the meeting, on 22 April 2002. No specific documentation had been prepared by the Secretariat under this item for the reasons outlined in paragraph 6 of the annotations to the provisional agenda (UNEP/CBD/ICCP/3/1/Add.1).

203. No representatives wished to take the floor concerning the items in the work plan of the ICCP not covered under agenda item 4.1, namely:

(a) Decision-making (Article 10, paragraph 7);

(b) Guidance to the financial mechanism (Article 28, paragraph 5, and Article 22);

(c) Secretariat (Article 31); and

(d) 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).

204. A statement was made by the representative of the Sunshine Project on the linkages between the Biosafety Protocol and the Biological Weapons Convention.

ITEM 5. OTHER MATTERS

Tribute to the Government and people of the Netherlands

205. At the 4th plenary session of the meeting, on 26 April 2002, the Intergovernmental Committee had before a draft recommendation submitted by the Bureau paying tribute to the Government and the people of the Kingdom of the Netherlands (UNEP/CBD/ICCP/3/L.3) for hosting the meeting. The draft recommendation was adopted as recommendation 3/10, the text of which is contained in the annex to the present report.

Draft resolution on genetic contamination of centres of origin and diversity

206. At the 4th plenary session of the meeting, on 26 April 2002, the representative of Ethiopia drew attention to a draft resolution on genetic contamination of centres of origin and diversity that had been prepared by the African Group.

207. The representative of Egypt, speaking on behalf of the African Group, said that with the increased flow of LMOs in international trade in breach of the provisions of the Protocol, African States were concerned that unless the situation was rectified rapidly, a situation might arise in which the contamination of world genetic resources might become extensive and irreversible. There was an urgent need for speedy ratification and implementation of the Protocol, and also for the speedy regulation of releases of LMOs at national level. Such concerns were exacerbated by possible illegal transboundary movements of LMOs.

208. The Intergovernmental Committee decided that, since there had been no opportunity to consider the contents of the draft resolution in advance, it could take no action on the text.

Entry into force of the Cartagena Protocol on Biosafety

209. At the 4th plenary session of the meeting, on 26 April 2002, the Intergovernmental Committee took up a draft recommendation submitted by the Bureau on entry into force of the Cartagena Protocol on Biosafety (UNEP/CBD/ICCP/3/L.4). The draft recommendation was adopted as recommendation 3/9. The text of the recommendation as adopted is contained in the annex to the present report.

Statements made on the conclusion of the work of the Committee

210. Also at the 4th plenary session of the meeting, on 26 April 2002, statements for the record were made by the representatives of Australia, Grenada (on behalf of the small island developing States represented at the meeting), the Islamic Republic of Iran (on behalf of the Asian and Pacific Group), and Spain (on behalf of the European Community and its member States).

211. The representative of Australia said that, in light of the possible entry into force of the Cartagena Protocol in the forthcoming year, which would have implications for both importers and exporters of living modified organisms, Australia urged countries to focus on narrowing the continuing gap between reality and theory in ICCP discussions. Detailed information requirements, for example, would not protect the environment or permit the transboundary movement of living modified organisms to continue without significant disruptions and increased costs in all markets. Technical activities by experts, based on sound risk assessment, were needed if the Protocol were to become operational. Australia would urge importing Parties to move quickly to get their domestic frameworks in order, so that the required and important education process could begin. Exporting and importing companies, customs officials, quarantine officers, shipping agents, freight forwarders and banks, among others, all needed to be educated on the provisions of the Protocol by the time of its entry into force, in order to ensure its implementation would be as smooth as possible.

212. The representative of Grenada said that the small island developing States represented at the meeting welcomed initiatives that addressed their specific concerns. Capacity-building was critical to their effective implementation of the Protocol and, while expressing appreciation to all States that had contributed to promote capacity-building in all facets for the small island developing States, he underscored the need for additional financial support to that end. In spite of some encouraging developments, he was particularly concerned at the slow progress made at the current meeting on a number of issues. He looked forward to the prompt resolution of outstanding issues, mindful of the potential adverse effects of LMOs on the environment and human health. He welcomed the Hague Ministerial Declaration, made during the recent sixth meeting of the Conference of the Parties to the Convention on Biological Diversity, particularly its call to countries to ratify the Cartagena Protocol on Biosafety.

213. The representative of the Islamic Republic of Iran said that the Asian and Pacific Group believed that a considerable amount of work had been done in the process of preparing the necessary documentation for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. He stressed the common responsibility to meet the challenges ahead in connection with implementing the provisions of the Protocol in general, and dealing with LMOs, in particular. The circumstances called for political will, understanding and cooperation. Despite the hard work at the current meeting to expedite the preparation process, little progress had been made in meeting the increasing expectations. It was necessary to emphasize the need for further flexibility and cooperation in the negotiating process.

214. The representative of Spain said that the European Community and its member States were disappointed by the lack of progress made at the third meeting of the Intergovernmental Committee on several issues on the agenda. In particular, they were ready to accept the delicate compromise reached on Article 18, paragraph 2 of the Protocol, but did not endorse either the recommendations of the Meeting of the Technical Experts or the Chairman's summary.

ITEM 6. ADOPTION OF THE REPORT

215. The present report was adopted at the 4th plenary session of the meeting, on 26 April 2002, on the basis of the draft report (UNEP/CBD/ICCP/3/L.1) that had been prepared by the Rapporteur, as amended, and the reports of Working Group I (UNEP/CBD/ICCP/3/L.12) and Working Group II (UNEP/CBD/ICCP/3/L.13), which were introduced and revised by their respective chairs and amended by the Intergovernmental Committee. 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

216. After the customary exchange of courtesies, the Chair declared the third meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety closed at 2.05 p.m. on Friday, 26 April 2002.

Annex

RECOMMENDATIONS ADOPTED BY THE INTERGOVERNMENTAL COMMITTEE FOR THE CARTAGENA PROTOCOL AT ITS THIRD MEETING
The Hague, 22-26 April 2002

3/1. Liability and redress (Article 27)

The Intergovernmental Committee on the Cartagena Protocol,

Recalling recommendation 2/1 adopted at its second meeting,

Recognizing the importance of capacity-building for developing country Parties, in particular the least developed and the small island developing States among them, and for Parties with economies in transition, to strengthen their capacity at the national and regional levels with regard to development and implementation of national legislative regimes, policy and administrative measures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms,

Reaffirming that information gathering and analysis on the issue of liability and redress pursuant to Article 27 of the Protocol should continue,

Having conducted an initial exchange of views on elements of the terms of reference for the open-ended ad hoc group of legal and technical experts that may be established by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol,

1. *Invites* Parties, Governments and relevant international organizations that had not provided the Executive Secretary with information on national, regional and international agreements in the field of liability and redress for damage resulting from transboundary movements of living modified organisms before the third meeting of the ICCP, to do so no later than six months before the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

2. *Requests* the Executive Secretary to continue gathering information on the issue of liability and redress in international law, to update the information contained in the note by the Executive Secretary regarding the international liability regimes (UNEP/CBD/ICCP/2/3) prepared for the second meeting of the Intergovernmental Committee, and to make it available at the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

3. *Invites* Parties, Governments and relevant international organizations to submit, on a voluntary basis, to the Executive Secretary information or initial understandings on the basis of the questionnaire annexed to this recommendation no later than six 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 a view to assisting Parties to develop understandings on issues relating to liability and redress for damage resulting from transboundary movements of living modified organisms;

4. *Requests* the Executive Secretary to compile the information submitted in accordance with paragraph 3 above and make it available at the first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol;

5. *Renews* the invitation that it had made in paragraph 4 of its recommendation 2/1 to Parties to the Convention, to organize workshops on liability and redress, as soon as possible but before the first meeting of the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol;

6. *Renews* the invitation that it had made in paragraph 7 of its recommendation 2/1 to Parties and Governments to submit their views to the Executive Secretary on elements of the terms of reference for the open-ended ad hoc group of legal and technical experts that may be established by the first meeting of the Conference of the Parties serving as the meeting of the Parties no later than six months prior to that meeting;

7. *Requests* the Executive Secretary to compile the views submitted by Parties and Governments in accordance with paragraph 7 of recommendation 2/1, on terms of reference for the open-ended ad hoc group of legal and technical experts that may be established by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, and prepare a synthesis report based on these views, for consideration at that meeting.

Annex

QUESTIONNAIRE ON LIABILITY AND REDRESS FOR DAMAGE RESULTING FROM TRANSBOUNDARY MOVEMENTS OF LIVING MODIFIED ORGANISMS

Notes

Nothing in this questionnaire is intended to prejudge the decision of the Conference of the Parties serving as the meeting of the Parties with respect to the process to be adopted pursuant to Article 27 of the Protocol.

The list in this questionnaire is not exhaustive. Parties, Governments and relevant international organizations are invited to raise or answer any other questions or issues that are deemed appropriate.

Questionnaire

1. What types of activities or situations covered under the Protocol are perceived as most likely to cause damage in your country and what kind of criteria are helpful in assessing damage to biodiversity resulting from transboundary movements of LMOs?

2. What types of activities or situations should be covered under the international rules and procedures referred to in Article 27 of the Protocol?

3. How should the concept of "damage resulting from transboundary movements of LMOs" be defined, valued and classified, and should this be different from the definition, valuation and classification of damage within the framework of Article 14 paragraph 2, of the Convention on Biological Diversity?

4. To whom should liability for damage resulting from transboundary movements of LMOs be channelled?

5. What should be the standard of liability for damage resulting from transboundary movements of LMOs, that is, should it be fault-based, strict or absolute?

6. Should there be any exemptions from liability? If so, under what circumstances?

7. Should the liability be limited in time and, if so, to what period?

8. Should the liability be limited in amount and, if so, to what amount?

9. How would judgments given pertaining to liability and redress be recognized or enforced in another country/jurisdiction?

10. What would be the relevance of arbitration in settling disputes arising with respect to damage in the field of liability and redress?

11. What purpose would the notion of State liability and State responsibility serve in a liability and redress regime within the framework of the Cartagena Protocol?

12. Who should have the right to make claims for damage resulting from transboundary movements of LMOs?

3/2. Procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety

The Intergovernmental Committee for the Catagena 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,

Having considered and further developed the text of the draft procedures and mechanisms on compliance under the Cartagena Protocol as contained in recommendation 2/11 adopted at its second meeting,

1. *Agrees* to forward the text of the draft procedures and mechanisms on compliance contained in annex I to the present recommendation to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol for its consideration;

2. *Also agrees* to forward annex II to the present recommendation, containing options regarding the bracketed text on draft procedures and mechanisms on compliance, to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol with a view to assisting that meeting in its consideration of this issue;

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

4. *Requests* the Executive Secretary to compile the views submitted in accordance with paragraph 3 above and make them available for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

Annex I

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, the Conference of the Parties of the Convention, the Conference of the Parties serving as the meeting of the Parties, and subsidiary bodies of the Convention on Biological Diversity and the Protocol;

(b) Relevant international organizations;

[(c) Non-governmental organizations, or],

[(d) 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, taking into account the capacity of the Party concerned, especially developing country Parties, in particular the least developed and small island developing States amongst them, and Parties with economies in transition, to comply, and such factors as the cause, type, degree and frequency 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; 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, taking into account the capacity of the Party concerned, especially developing country Parties, in particular the least developed and small island developing States amongst them, and Parties with economies in transition, to comply, and such factors as the cause, type, degree and frequency of non-compliance, 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.

Annex II

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].

Option 1

Retain the first bracketed text as it is, delete the second bracketed text.

Option 2

Delete the entire bracketed text.

Option 3

Delete the entire bracketed text in this section, but reflect the concept envisaged in the bracketed text in the chapeau of paragraphs 1 and 2 of section VI (see option 3 on paragraph 1 (c) and option 2 on the chapeau of paragraph 2 in section VI).

Option 4

Combine options 1 and 3 above.

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].

Option 1

Delete the bracketed text.

Option 2

Retain the bracketed text as it is.

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].

Option 1

Retain the bracketed text as it is.

Option 2

Delete the bracketed text.

Option 3

Amend the bracketed text as follows:

> and they shall serve in their individual capacity objectively and in the best interests of the Protocol.

Option 4

Replace the bracketed text with:

> and they shall represent their Governments

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]

Option 1

Delete the bracketed text.

Option 2

Amend the bracketed text as follows:

Any Party with respect to another Party, supported by corroborating information; or

Option 3

Amend the bracketed text as follows:

Any Party, if directly involved, with respect to another Party; or

Option 4

Add the following sentence in relation to subparagraph (b) at the end of paragraph 1:

The Committee may reject to consider any submission made pursuant to paragraph 1 (b) of this section that is *de minimis* or ill-founded.

(c) [The Conference of the Parties serving as the meeting of the Parties to the Protocol.]

Option 1

Retain the bracketed text as it is.

Option 2

Delete the bracketed text.

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.]

Option 1

Retain the bracketed text as it is.

Option 2

Delete the bracketed text.

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

(a) The Biosafety Clearing-House, the Conference of the Parties of the Convention, the Conference of the Parties serving as the meeting of the Parties, and subsidiary bodies of the Convention on Biological Diversity and the Protocol;

(b) Relevant international organizations;

[(c) Non-governmental organizations, or],

[(d) 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, taking into account the capacity of the Party concerned, especially developing country Parties, in particular the least developed and small island developing States amongst them, and Parties with economies in transition, to comply, and such factors as the cause, type, degree and frequency 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; 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, taking into account the capacity of the Party concerned, especially developing country Parties, in particular the least developed and small island developing States amongst them, and Parties with economies in transition, to comply, and such factors as the cause, type, degree and frequency of non-compliance, 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;]

Option 1

Retain the bracketed text as it is.

Option 2

Delete the bracketed text.

(c) [Publish cases of non-compliance; or]

Option 1

Retain the bracketed text as it is.

Option 2

Delete the bracketed text.

Option 3

Amend the bracketed text as follows:

Publish a declaration of non-compliance; or

or

Publish cases of possible non-compliance; or

or

Make reports of cases of non-compliance available to the public; or

Option 4

Change the bracketed text into a general provision and place it after section VI, which reads as follows:

The Conference of the Parties serving as the meeting of the Parties to the Protocol shall make reports of the meetings of the Compliance Committee and the Conference of the Parties serving as the meeting of the Parties to the Protocol available to the public.

(d) [Suspend the specific rights and privileges of the concerned Party under the Protocol [consistent with international law].]

Option 1

Retain the bracketed text but delete the words "consistent with international law".

Option 2

Delete the bracketed text.

Option 3

Replace the bracketed text with:

In appropriate cases, take additional measures consistent with international law as reflected in Article 60 of the Vienna Convention on the Law of Treaties.

Option 4

Replace the bracketed text with:

May take, in cases of repeated or continued non-compliance, additional stronger measures, excluding trade-related measures, within the framework of the Protocol and in accordance 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.

3/3. Information-sharing (Article 20)

The Intergovernmental Committee on the Cartagena Protocol on Biosafety,

Noting with appreciation the outcomes of the inter-sessional activities related to information-sharing recommended at its second meeting,

Recalling that the pilot phase of the Biosafety Clearing-House is an ongoing activity being implemented in accordance with the recommendations made at its first meeting,

Recalling also the interconnection between national capacities, effective use of the Biosafety Clearing-House, and successful implementation of the Protocol,

Recognizing the importance of gaining experience with the operation of the pilot phase as a necessary prerequisite for making a decision on the modalities of operation of the Biosafety Clearing-House at the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol,

1. *Urges* Governments to further participate in the development of the pilot phase by registering and retrieving information, and to submit their views on the transition between the pilot phase and the fully operational and functional Biosafety Clearing-House no later than five months prior to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

2. *Welcomes* the response from the Organisation for Economic Co-operation and Development to the Executive Secretary's request for views and proposals on unique identification systems, *takes note* of the adoption by the OECD of the Guidance for the Designation of a Unique Identifier for Transgenic Plants as a key to accessing in OECD product database and interoperable systems for the products of modern biotechnology which have been approved for commercial application, and *recommends* that OECD product database establish interoperability with the pilot phase of the Biosafety Clearing-House, incorporating the use of the OECD unique identifiers for transgenic plants, as appropriate and as they become available, and to further elaborate on its applicability for the Cartagena Protocol and to report on this 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 invite relevant national and international organizations to provide views on the development of unique identification systems for classes of living modified organisms and their harmonization, that may be applicable to the Biosafety Clearing-House for inclusion in a synthesis report for consideration by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

4. *Recommends* that a registry of any unique identification of living modified organisms used in the Biosafety Clearing-House be established under the central portal of the pilot phase;

5. *Notes* that the future development of the pilot phase of the Biosafety Clearing-House will be undertaken in accordance with the third note developed by the Bureau of the Intergovernmental Committee for the Cartagena Protocol on Biosafety on technical issues associated with the implementation of the pilot phase, as annexed to the present recommendation;

6. *Recognizes* the importance of developing a fully functioning Biosafety Clearing-House by the time of entry into force of the Protocol, and of meeting the capacity needs of all countries with respect to implementation and use of the Biosafety Clearing-House, and *invites* developed country Governments and other donors to provide financial support to ensure that, where appropriate, these recommendations and those contained in the third note of the Bureau can be implemented, including the

continuing development of regional activities and of essential tools and required equipment, such as the tool kit and the templates to assist countries to develop their own national databases that are interoperable with the Biosafety Clearing-House;

7. *Welcomes* the efforts made by relevant intergovernmental organizations, including the International Centre for Genetic Engineering and Biotechnology, in making the pilot phase a valuable tool for the retrieval of official information, particularly in the area of risk assessment, with a view to facilitating decision-making and assisting countries in building capacity.

Annex

THIRD NOTE ON TECHNICAL ISSUES ASSOCIATED WITH THE DEVELOPMENT OF THE PILOT PHASE

I. BACKGROUND

1. Subsequent to the completion of the independent review of the pilot phase of the Biosafety Clearing-House, 1/ the Bureau of the ICCP, in line with the mandate given to it by the first meeting of the ICCP to provide management oversight on the implementation and development of the pilot phase of the Biosafety Clearing-House, has adopted the present note in order to assist the ICCP at its third meeting in its efforts aimed at developing a fully functional Biosafety Clearing-House at the time of entry into force of the Protocol.

2. The present note contains recommendations for further development of the Biosafety Clearing-House, taking into account the strengths and weaknesses that were identified in the report of the consultant in conducting the independent review, taking also into account the recommendations arising from the regional meetings held on the Biosafety Clearing-House, as well as what has been specified in the relevant recommendations of the ICCP regarding the objectives and operation of the pilot phase and the guidance on its monitoring and review.

3. In preparing these recommendations, the Bureau considered the outcome of the report of the independent review, the lessons learned to date in the development and implementation of the pilot phase of the Biosafety Clearing-House, and sought technical advice from the technical experts that had participated in previous liaison group meetings involved in the formulation of technical recommendations for the development and implementation of the pilot phase so far.

4. The Bureau recalled that one main objective of the pilot phase was to build experience and provide feedback for the development of a functional and accessible Internet-based Biosafety Clearing-House, and considered that the pilot phase has been able to demonstrate that a primarily Internet-based system, using open protocols and standards in order to enable the setting of a distributed system, provides a useful and satisfactory model for efficient information exchange under the Biosafety Protocol.

5. The Bureau also noted that, while the pilot phase provides a technological solution to meet the needs of most countries, another main objective of the pilot phase was to identify and address the capacity needs of countries with respect to the Biosafety Clearing-House, and that increased participation of all countries, including the issue of capacities development, needs to be further addressed to enable full participation in the development and implementation of the pilot phase of the Biosafety Clearing–House, in order to achieve the objective of providing appropriate feedback on the development of the pilot phase.

1/ UNEP/CBD/ICCP/3/5/Add.1; UNEP/CBD/ICCP/3/INF/10.

6. The Bureau recognizes also that the issue of the non-Internet based component of the Biosafety Clearing-House needs to be appropriately addressed with a view to cover the interim period at the time of entry into force of the Protocol, until all capacities necessary for full participation in the Internet-based component are in place.

II. RECOMMENDATIONS

1. Continued use of the Internet for implementation of the Biosafety Clearing-House pilot phase

(a) Ensure the provision of up-to-date information in the Biosafety Clearing-House by encouraging and facilitating countries and organizations to remain custodians of their own data, and through enhanced and continued use of a distributed Internet-based system for sharing data during the pilot phase of the Biosafety Clearing-House, and thereafter.

(b) Provide access to information and documents available through the pilot phase of the Biosafety Clearing-House in different formats (such as HTML, XML, PDF, compressed files and other major document formats), where possible.

2. Central database

(a) Ensure security of the Biosafety Clearing-House databases through the use of 'best practice' procedures (e.g. firewalls, data encryption, etc.).

(b) Recalling the recommendation 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, ensure greater integrity of the Biosafety Clearing-House databases through standardization of validation procedures within partner organizations and user countries, and through the automated generation of reports relating to changes in the data to detect unauthorized registration or modification of data.

3. Participation in the pilot phase

(a) Continue to urge all Governments, relevant intergovernmental organizations and other participants to further contribute information to the pilot phase, as soon as possible, and to actively participate in its development and use, prior to the entry into force of the Protocol.

(b) Continue the use of open protocols and standards, and encourage partners to the Biosafety Clearing-House to adhere to and fully implement the interoperability guidelines for the Biosafety Clearing-House in initial and further development of their information systems.

(c) Promote collaboration between information-technology experts, national biosafety clearing-house focal points and partner organizations through, for example, the use of electronic discussion groups to facilitate cooperation and discussion.

(d) Continue the development and distribution of the offline Biosafety Clearing-House on CD-ROM.

(e) Develop templates and models (available online and on CD-ROM), to assist Governments in developing their own national biosafety databases that will be interoperable with the Biosafety Clearing-House.

4. Content of the Biosafety Clearing-House pilot phase

(a) Recognizing the role of the Biosafety Clearing-House in the implementation of the regulatory processes of the Protocol, ensure that access to information through the Biosafety Clearing-House (for example, scientific information) is provided on the basis of quality, neutrality, multidisciplinarity and relevance to the needs of Parties.

(b) Continue to seek partnerships with other international organizations (such as the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO)), or other scientific sources of information (such as that available through the clearing-house mechanism of the Convention, or ITIS or Species 2000) to add value and global relevance to the regulatory and scientific information provided through the Biosafety Clearing-House.

(c) Expand the capacity-building project database in the Biosafety Clearing-House (for example to include information on other available capacity-building opportunities, such as funding and training opportunities).

(d) To facilitate efficient retrieval of information, refer to existing harmonized unique identification systems for living modified organisms, on the basis of the work of other relevant international organizations, such as the OECD Guidance for the Designation of a Unique Identifier for Transgenic Plants.

5. Development of the Biosafety Clearing-House tool kit

(a) Continue to develop the links between specific sections of the Biosafety Clearing-House and the appropriate sections in the tool kit.

(b) Further develop the tool kit of the Biosafety Clearing-House to include more in-depth training materials, targeted for different audiences.

6. Capacity-building

(a) Recognizing that capacity-building is an ongoing process, and that capacity-building programmes should be developed with a long-term view to ensure sustainability, the Bureau noted that further development of capacity-building activities would be taken up by the ICCP at its third meeting.

(b) Encourage Governments to take into account the synthesis of capacity-building needs identified by the regions for implementation of the pilot phase of the Biosafety Clearing-House (UNEP/CBD/ICCP/3/5/Add.3) in the consideration of the agenda item on capacity-building (UNEP/CBD/ICCP/3/6).

(c) Invite the Global Environment Facility and other donors to take into account these identified needs 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.

(d) Collaborate with existing initiatives and organizations, such as the International Telecommunications Union, to assist in ensuring full and equitable access to the Internet by all regions of the world.

(e) Make available a telephone and fax hotline to offer uninterrupted access to, and dissemination of, information available on the Biosafety Clearing-House.

7. Administration

(a) Recalling the establishment of the Biosafety Clearing-House under paragraph 1 of Article 20 of the Protocol, as part of the clearing-house mechanism of the Convention, to facilitate the exchange of relevant information on living modified organisms, and to assist Parties to implement the Protocol,

(b) Recalling the recommendation of the first meeting of the ICCP that, given the distinctly different roles that the clearing-house mechanism and the Biosafety Clearing-House have, the latter shall be run, at the technical and operational level, as a distinct element, 2/

(c) The ICCP Bureau recommends that the Biosafety Clearing-House be administered and operated in a manner that allows Parties to the Protocol to clearly recognize its status and identity as a tool to implement obligations under the Biosafety Protocol.

8. Monitoring and review

(a) The Bureau will continue to provide management oversight on the implementation and development of the Biosafety Clearing-House, as well as technical guidance on the development of the pilot phase of the Biosafety Clearing-House, utilizing the advice of technical experts, where appropriate.

(b) The ICCP Bureau recommends that future review of the development of the Biosafety Clearing-House should aim to include consultation with a wide variety of countries and participating organizations.

2/ UNEP/CBD/ICCP/1/9, annex.

3/4. Roster of experts on biosafety

The Intergovernmental Committee for the Cartagena Protocol on Biosafety,

I. STATUS AND IMPLEMENTATION OF THE ROSTER OF EXPERTS ON BIOSAFETY

Recognizing that the roster of experts will be most useful if there is sufficient detail to discern the particular areas of knowledge and specialization for each expert,

1. *Requests* the Executive Secretary to send to national focal points the latest version of the nomination form for the roster of experts, with a view to facilitating the process of updating information currently contained in the roster;

2. *Urges* Governments to update, or to request their nominated experts to update, the information currently contained in the roster, for each field of the new nomination form;

3. *Requests* the Executive Secretary to send the Interim Guidelines for the Roster of Experts on Biosafety to each expert currently listed in the roster;

4. *Further urges* Governments that have not yet done so to nominate relevant experts to the roster in accordance with the interim guidelines for the roster of experts on biosafety, preferably before the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

II. PILOT PHASE OF THE VOLUNTARY FUND FOR THE ROSTER OF EXPERTS ON BIOSAFETY

Reaffirming the important role to be played by the voluntary fund in 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,

Noting and welcoming the decision of the Conference of the Parties, at its sixth meeting, to establish, pursuant to paragraphs 6 and 7, of recommendation 2/9 B of the Intergovernmental Committee for the Cartagena Protocol on Biosafety, and on a pilot-phase basis, a trust fund, to be administered by the Secretariat, for voluntary contributions from Parties and Governments for the specific purpose of supporting developing country Parties, in particular the least developed and the small island developing States among them, and Parties with economies in transition to pay for the use of experts selected from the roster of experts on biosafety; and to request the Executive Secretary to seek submissions from Governments on the operation of this Fund, and report thereon to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol,

5. *Recommends* that the Conference of the Parties serving as the meeting of the Parties to the Protocol adopt the Interim Guidelines for the Pilot Phase of the Voluntary Fund for the Roster of Experts on Biosafety annexed hereto;

6. *Invites* Parties and Governments to use the Interim Guidelines for the Pilot Phase of the Voluntary Fund for the Roster of Experts on Biosafety pending their adoption by the Conference of the Parties serving as the meeting of the Parties to the Protocol;

7. *Requests* the Executive Secretary to administer the pilot phase of the voluntary fund according to the Interim Guidelines for the Pilot Phase of the Voluntary Fund for the Roster of Experts on

Biosafety pending their adoption by the Conference of the Parties serving as the meeting of the Parties to the Protocol;

8. *Urges* Governments and other donors to make contributions to the pilot phase of the fund.

Annex

INTERIM GUIDELINES FOR THE PILOT PHASE OF THE VOLUNTARY FUND FOR THE ROSTER OF EXPERTS ON BIOSAFETY

A. Purpose of the pilot phase of the Voluntary Fund

The pilot phase of the Voluntary Fund for the Roster of Experts is hereby established to support 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.

B. Financing of the pilot phase of the Voluntary Fund

The pilot phase of the Voluntary Fund shall be financed from voluntary contributions. Annually, the Executive Secretary shall seek contributions to the Voluntary Fund from Governments, governmental, intergovernmental and non-governmental organizations, and other sources with the financial ability to do so, in accordance with the Financial Rules of the Convention and the Financial Regulations and Rules of the United Nations.

C. General administration of the Voluntary Fund

1. The pilot phase of the Fund shall be administered by the Executive Secretary in accordance with the interim guidelines for the roster of experts on biosafety annexed to recommendation 2/9 B of the Intergovernmental Committee for the Cartagena Protocol on Biosafety, and in accordance with the Financial Rules of the Convention.

2. The Bureau of the Intergovernmental Committee for the Cartagena Protocol on Biosafety shall advise the Executive Secretary on administrative and operational matters relating to the activities of the pilot phase of the Voluntary Fund.

3. The Secretariat of the Convention on Biological Diversity shall receive voluntary contributions and, upon request, distribute on a case-by-case basis, an agreed amount from the Voluntary Fund to eligible Parties in accordance with the eligibility criteria specified in section D below.

4. All administrative costs of the pilot phase of the Voluntary Fund shall be met by the Voluntary Fund. In accordance with the Financial Regulations and Rules of the United Nations, 13 per cent of the total amount disbursed shall be levied to cover the administrative costs.

5. The Secretariat shall prepare reports on the status, operation and use of the pilot phase of the Voluntary Fund for consideration by the Intergovernmental Committee for the Cartagena Protocol on Biosafety, as well as allocation reports and financial statements in accordance with the Financial Rules of the Convention. These reports shall be made available through the Biosafety Clearing-House.

6. Once a year, the Secretariat will report in its Quarterly Report for the fourth quarter the status of the use of the pilot phase of the Voluntary Fund, listing the value, purpose, and timing of approved requests and completed assignments. A summary of use of the Voluntary Fund by region will also be included. This report will be in the same Quarterly Report as the report required on use of the roster

itself, specified in section J, paragraph 2, of the interim guidelines for the roster of experts annexed to recommendation 2/9 B of the Intergovernmental Committee for the Cartagena Protocol on Biosafety.

D. Eligibility criteria

The eligibility criteria are defined as follows:

(a) *Eligible countries*: Funding requests will only be considered from developing country Parties, in particular the least developed and small island developing States among them, and Parties with economies in transition;

(b) *Eligible activities*: Funding requests shall be related to the use of experts from the roster, for purposes defined by decision EM-I/3 and the interim guidelines for the roster of experts on biosafety, annexed to recommendation 2/9 B of the Intergovernmental Committee for the Cartagena Protocol on Biosafety. These purposes include providing advice and support to Parties to conduct risk assessment, make informed decisions, develop national human resources, promote institutional strengthening, associated with transboundary movements of living modified organisms, or perform other functions approved by the Intergovernmental Committee in future, particularly in the field of capacity-building;

(c) *Eligible costs*:

(i) Eligible costs include professional fees, travel expenses, and other costs directly related to the use of experts. The pilot phase of the Voluntary Fund shall not be used to support broader activities or projects that comprise anything other than the use of experts;

(ii) The general United Nations daily rate for professional fees for experts shall apply, as appropriate. In cases where the normal daily rate for an expert from a particular country exceeds the United Nations daily rate, higher rates may be approved.

(d) *Criteria for assessment of funding requests*: The requests made by the eligible Parties shall be assessed on the basis of the following criteria:

(i) *Regional balance*: Preference shall be given to requests from Parties in regions where the Voluntary Fund has been underutilized;

(ii) *Satisfactory compliance for previous grants*: Consideration of new funding requests shall be conditional upon satisfactory compliance with outstanding reporting requirements for previous grants to the same Party under the Voluntary Fund;

(iii) *Timing of receipt of the request*: Requests will be assessed on a first-come-first-served basis. However, if the number and value of requests is high in relation to the funds available, the Bureau of the Intergovernmental Committee for the Cartagena Protocol on Biosafety may advise the Secretariat to gather all requests over a specified time period so that all can be assessed simultaneously;

(iv) Any other criteria that may be approved by the Intergovernmental Committee.

(e) *Maximum amount per funding request*: Subject to the availability of funds, the maximum amount to be requested from the Fund shall not exceed US$20,000.00;

(f) *Maximum disbursement per Party per year*: The maximum amount to be disbursed from the Fund to any one Party shall not exceed US$50,000.00 in a calendar year;

E. Procedures for application, processing of requests, disbursement of funds, and reporting

The following shall be the steps related to application for funding by Parties, processing of requests, disbursement of funds, and reporting:

(a) Funding requests from eligible Parties shall be endorsed by the competent national authority and submitted by the national focal point to the Executive Secretary. Each funding request shall be prepared using the attached funding request form (appendix A), and shall be submitted to the Secretariat at least 60 days prior to the intended date on which the assignment is to commence;

(b) The Secretariat shall acknowledge receipt of the funding application within two weeks of receipt of a completed funding request form;

(c) The funding request shall be evaluated by the Secretariat, in consultation with the Bureau of the Intergovernmental Committee for the Cartagena Protocol, according to the eligibility criteria defined in section D above, and a decision on the request shall be communicated within 30 days of receipt of the application;

(d) If funding is approved, the Secretariat shall prepare a memorandum of understanding, based on the template attached as appendix B, which specifies the purpose and extent of the assignment to be undertaken, the date of completion for the assignment, the reporting requirements and the obligations of the recipient Party regarding the use of the funds. This memorandum of understanding shall be signed by the Secretariat and delivered to the recipient Party for signature within 30 days of receipt of the application;

(e) The recipient Party shall return the signed memorandum of understanding to the Secretariat within 30 days;

(f) The Secretariat shall disburse 50 per cent of the approved funds, to the bank account nominated by the Party, within 30 days of receiving the signed memorandum of understanding from the recipient Party;

(g) Each recipient Party shall be required to submit to the Executive Secretary a copy of the final report of the expert(s), immediately upon completion of the assignment but not later than three months after completion of the assignment, and to report on the assignment using the reporting form attached as appendix C;

(h) Upon receipt of the final experts report from the recipient Party, the Secretariat shall transfer the outstanding balance;

(i) The Secretariat shall make all submitted reports on assignments available through the Biosafety Clearing-House.

Appendix A

REQUEST FOR FUNDING FROM THE PILOT PHASE OF THE VOLUNTARY FUND FOR THE ROSTER OF EXPERTS ON BIOSAFETY

Requesting Party:

Name(s) and organization(s) of expert(s):

Purpose of assignment:

Specific activities of the assignment:

Start date: _____ End date: _____

Expected costs (US dollars) (attach more details if necessary):

Item	Rate and # Units	Total
Professional fees[1]	___ days @ $_____ /day	
Travel		
Accommodation and subsistence[2]	___ nights @ $_____ /night	
Other (specify):		
Other (specify):		
TOTAL		

[1] Standard UN rates should be used; other rates must be justified and are subject to approval by the Executive Secretary

[2] Standard UN rates will apply

Representative of Competent National Authority

Name: _____ Organization: _____

Signature: _____ Date: _____

National Focal Point

Name: _____ Signature: _____ Date: _____

Appendix B

MEMORANDUM OF UNDERSTANDING FOR SUPPORT FROM THE PILOT PHASE OF THE VOLUNTARY FUND FOR THE ROSTER OF EXPERTS ON BIOSAFETY

1. This Memorandum of Understanding is made between

The Secretariat of the Convention on Biological Diversity (the Secretariat), and

Agency: _____, of
Country: _____ (the Recipient), which is the competent national authority with respect to implementation of the recommendations of the Intergovernmental Committee for the Cartagena Protocol on Biosafety to the Convention on Biological Diversity.

2. This memorandum of understanding addresses the responsibilities of both the Secretariat and the Recipient regarding the use of the pilot phase of the Voluntary Fund for the Roster of Experts on Biosafety to fund the use of the following expert(s) for the following period:

Name(s) and organization(s) of expert(s): _____

Start date: _____ End date: _____

3. The attached request for funding specifies additional details including the purpose of the assignment, the specific activities of the assignment, and the costs and value of the request.

4. The Secretariat agrees to fulfil its obligations with respect to the modalities for application, processing of requests, disbursement of funds, and reporting as specified in the interim guidelines for the pilot phase of the Voluntary Fund for the Roster of Experts on Biosafety.

5. The Recipient agrees to fulfil its obligations with respect to the modalities for application, processing of requests, disbursement of funds, and reporting as specified in the interim guidelines for the pilot phase of the Voluntary Fund for the Roster of Experts on Biosafety.

6. It is the responsibility of the Recipient, in discussion with the expert, to ensure that the expectations and terms of reference of the Party are clear, that these have been understood by the expert, and provided in written form to the expert at the outset of the assignment.

7. Specific conditions agreed to for this memorandum of understanding are the following:

Signatures

For the Secretariat

Name: _____ Signature: _____ Date: _____

For the Recipient

Name: _____ Signature: _____ Date: _____

Bank account details for transfer of funds:

Bank name: _____
Branch ID/Number: _____
Swift/Sort code: _____
Complete mailing and street address: _____
_____
_____

Account holder: _____
Account number: _____
Currency: _____

Appendix C

REPORTING FORM FOR WORK SUPPORTED BY THE PILOT PHASE OF THE VOLUNTARY FUND FOR THE ROSTER OF EXPERTS ON BIOSAFETY

Party:

Competent National Authority:

A. Specifications of the assignment

Name(s) and organization(s) of expert(s):

Purpose of assignment:

Specific activities of the assignment:

Start date: End date:

B. Assessment

Is the final report(s) of the work of the expert(s) attached? Yes No

Was the work finished in the time specified? If no, why not?

Did the work and associated products fulfil the purpose of the assignment? If no, why not?

Please report on the quality and standard of work performed by the expert(s).

C. Signatures

Representative of Competent National Authority

Name: _____ Organization: _____

Signature: _____ Date: _____

National Focal Point

Name: _____ Signature: _____ Date: _____

3/5. Capacity-building (Article 22 and Article 28, paragraph 3)

The Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Recalling its recommendation 2/9 A adopted at its second meeting,

Recognizing the critical need to build the capacity of developing countries, in particular the least developed and the small island developing States among them, and Parties with economies in transition, to enable them access the Biosafety Clearing-House and to ratify and implement the Cartagena Protocol on Biosafety,

Welcoming the initial gap analysis by the Executive Secretary of the capacity-building initiatives as an important step in identifying areas where further efforts would be needed,

Recognizing the roles played by different entities in supporting capacity-building for biosafety;

Stressing the need for coordination between various capacity-building efforts and funding initiatives at all levels to maximize complementarities and synergies, and promote partnerships,

Noting the varying requirements of countries and the need for capacity-building initiatives to be demand-driven,

1. *Welcomes* the decision of the Conference of the Parties at its sixth meeting, requesting the Global Environment Facility to provide financial resources for national capacity-building in biosafety, in particular for enabling effective participation in the Biosafety Clearing-House and in the implementation of the Action Plan for Building Capacities for the Effective Implementation of the Cartagena Protocol on Biosafety;

2. *Recommends* that the Conference of the Parties serving as the meeting of the Parties to the Protocol adopts the Coordination Mechanism for the implementation of the Action Plan for Building Capacities for the Effective Implementation of the Cartagena Protocol on Biosafety, contained in annex I to the present recommendation;

3. *Invites* developed country Parties and other donors to make voluntary financial contributions to the Secretariat to facilitate implementation of the Coordination Mechanism;

4. *Urges* Parties, Governments and relevant organizations to register information on their biosafety capacity-building initiatives in the Biosafety Clearing-House, including reports on the achievements, lessons learned and opportunities for cooperation;

5. *Invites* Parties, Governments and relevant organizations to address the gaps in implementation of the priority elements of the Action Plan and the geographic coverage of the capacity-building initiatives identified by the Executive Secretary, taking into account the indicative list of the roles of different entities in supporting capacity-building contained in annex II to the present recommendation;

6 *Requests* developed country Parties, donors and relevant organisations to provide assistance to developing countries, in particular the least developed and the small island developing States among them, and Parties with economies in transition, to organize workshops on capacity-building;

7. *Encourages* Parties, Governments and organizations to use, as appropriate, the relevant implementation tool kit contained in annex III to the present recommendation;

8. *Welcomes* the support already provided by the Global Environment Facility for demonstration projects on implementation of the national biosafety frameworks and *invites* the Global Environment Facility to extend such support to other eligible countries;

9. *Takes note* of the preliminary set of indicators for monitoring implementation of the Action Plan, contained in annex IV to this recommendation; *invites* Parties, Governments, and relevant organizations to submit their views and comments to the Executive Secretary 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; and *requests* the Executive Secretary to prepare, on the basis of these submissions, a revised set of indicators for consideration by that meeting;

10. *Requests* the Executive Secretary to discharge the functions, within existing resources, specified in annex I to the present recommendation, in collaboration with other relevant agencies, with a view to operationalizing the Coordination Mechanism.

Annex I

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

A. Objective

The overall goal of Coordination Mechanism is to facilitate exchange of information with a view to promoting partnerships and to maximize complementarities and synergies between various capacity building initiatives being undertaken in support of the Action Plan for Capacity Building for the Effective Implementation of the Cartagena Protocol on Biosafety.

B. Elements

The coordination mechanism for the implementation of the Action Plan consists of the following elements:

1. *A regionally-balanced liaison group on capacity building for biosafety:*

This shall be established by the Executive Secretary to provide expert advice to the Secretariat and the Intergovernmental Committee for the Cartagena Protocol on Biosafety/Conference of the Parties serving as the meeting of the Parties on ways and means to enhance the coordination and effective implementation of the Action Plan.

2. *The biosafety capacity-building projects database*:

The projects database currently maintained by the Secretariat on the Biosafety Clearing-House shall be strengthened and kept up-to-date to facilitate coordination and exchange of information, and also to serve as a tool for identifying the coverage, overlaps and gaps in the capacity-building activities and funding by different organizations.

3. *An information sharing and networking mechanism*:

An information sharing mechanism (including, an e-mail list-server) shall be established to facilitate regular and timely exchange of information and lessons learned between individuals in different countries, relevant organizations and donor agencies involved in promoting biosafety capacity-building. In addition, the Secretariat shall collaborate with the ad-hoc Inter-Agency Network for Safety in Biotechnology (IANB), coordinated by the Organisation for Economic Co-operation and Development, in promoting regular interaction and networking.

4. *Coordination meetings and workshops*:

Periodic coordination meetings, workshops or roundtables for government representatives, relevant organizations and donors agencies shall be organized on a regular basis, to promote dialogue, identify and promote synergies, encourage partnerships, address emerging common issues, promote greater understanding of evolving capacity needs of countries and encourage mutually supportive strategies across organizations involved in capacity-building for biosafety.

5. *Reporting mechanism*:

A central reporting mechanism, using existing databases, for major capacity-building projects and other initiatives using a uniform format, for example, a central portal or database linked to relevant national, regional or institutional nodes/ databases, shall be established to facilitate the identification of the coverage, progress and impact made, and major gaps, on the basis of the information received. The projects database maintained under the Biosafety Clearing-House shall be expanded and resourced to play this role.

C. *Administration of the Coordination Mechanism*

The Secretariat of the Convention on Biological Diversity and the Protocol shall administer the Coordination Mechanism. These functions of the Secretariat, as the administrator of the Mechanism shall, in pursuit of the above goal, include the following:

1. Maintain the capacity-building project database, including its regular updating based on submissions received from the participating Parties, Governments, relevant organizations and donors;

2. Develop and maintain in the Biosafety Clearing-House a page where countries can access information readily on available capacity-building support and those requiring support could indicate their specific capacity-building needs.

3. Facilitate the dissemination of relevant information and lessons learned on biosafety capacity-building initiatives through the Biosafety Clearing-House and information documents to the Conference of the Parties serving as the meeting of the Parties to the Protocol;

4. Prepare and disseminate synthesis of reports based on the submissions by Parties, Governments and relevant organizations on their progress in implementing various elements of the Action Plan, using a common format;

5. Convene and service meetings of the liaison group on capacity building on biosafety, as necessary;

6. Organize, subject to availability of funding, periodic coordination meetings and workshops for government representatives, relevant organizations and donors, in collaboration with GEF, UNEP and other relevant organizations;

7. Promote broad and common understanding of the capacity-building needs for the effective implementation of the Protocol.

Annex II

THE ROLE OF DIFFERENT ENTITIES IN SUPPORTING CAPACITY-BUILDING 3/

1. The present annex summarizes, in a point-by-point list form, the views of Parties and governments regarding the roles which different entities could play to facilitate capacity-building to assist countries in preparing for the entry into force of the Protocol received by the Secretariat in response to a questionnaire that was sent to all national focal points together with the notification of 12 January 2001. The countries and regional economic integration organizations that specifically addressed this issue in their responses to the questionnaire were: Argentina, Costa Rica, Cuba, Ecuador, the European Union, India, Jamaica, Japan, Switzerland, Turkey, United States of America and Uruguay.

2. *The role of the ICCP*:

(a) Assuming the overall responsibility for decisions regarding the establishment of the work programme related to capacity-building and evaluation of its implementation (as illustrated in document UNEP/CBD/ICCP/1/9);

(b) Setting norms for harmonization;

(c) Developing common formats to build capacity and encouraging consistency of standards in such matters as risk assessment and information exchange;

(d) Revising and updating the capacity-building framework in the light of responses to the questionnaire and the outcome of inter-sessional workshops and projects;

(e) Providing general guidelines from an international perspective;

(f) Gathering information required for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol to decide what capacity-building projects will be the most effective in assisting countries to implement the provisions of the Protocol, including information on national priority capacity needs and how to meet them;

3. *The role of the Secretariat*:

(a) Providing an administrative framework for creation of technical and scientific capacity;

(b) Implementing the pilot phase of the Biosafety Clearing-House, taking account of priority needs regarding the capacities of Governments for access to the Biosafety Clearing-House and the views of Governments on monitoring progress;

(c) Administering the Biosafety Clearing-House;

(d) Undertaking further synthesis and analysis of the identified needs of countries for implementation of the Protocol, and available means for assistance and information exchange;

(e) Serving as a focal point for organizations to submit information to be made public as regards capacity-building initiatives for the implementation of the Protocol, as well as for identifying needs for capacity-building;

(f) Facilitating the flow of information;

3/ UNEP/CBD/ICCP/3/6, annex II.

(g) Promoting synergies and keeping countries abreast of important developments and opportunities with respect to capacity-building – e.g., roster of experts;

(h) Facilitating the functioning of the roster of experts;

(i) Implementing the relevant recommendation of ICCP and later the decisions of the Conference of the Parties serving as the meeting of the Parties;

(j) Cooperating with the UNEP/GEF enabling project on national biosafety frameworks;

(k) Facilitating and promoting collaboration and coordination among existing initiatives on capacity-building; and

(l) Providing coordination and leadership and suggesting ways and means to build capacity in countries, taking into account the recommendations of the ICCP.

4. *Subject to the decisions of the Conference of the Parties, the role of the Global Environment Facility (GEF) includes*:

(a) Providing funds necessary to build legislative and administrative frameworks, and for training in risk assessment and risk management;

(b) Deciding on further areas for financial support for capacity-building in accordance with the identified priority needs of developing countries, including results of the first meeting of the ICCP, responses to the questionnaire, the outcomes of inter-sessional workshops, and its previous pilot project on biosafety;

(c) Implementing the GEF Initial Strategy adopted by the GEF Council in November 2000 to assist countries prepare for the entry into force of the Cartagena Protocol;

(d) Facilitating the provision of technical support; and

(e) Facilitating the use of existing and developing regional networks.

5. The role of other bilateral and multilateral donors:

(a) Providing funding to Parties, governments and to the Secretariat, for relevant activities;

(b) Co-financing or providing matching funds for building scientific capacity at the sub regional level, including sponsoring regional and sub-regional workshops;

(c) Providing short- or long-term experts to advise on identified needs and demands for assistance on specific issues, including those listed in Article 22 of the Protocol;

(d) Reinforcing collaboration among capacity-building projects on biotechnology and biosafety in order to avoid duplication and to efficiently use the limited resources available.

6. *The role of intergovernmental organizations*:

(a) Assisting national authorities of Parties to take decisions;

(b) Sharing "best practices", models and information pertinent to relations between obligations under trade agreements and obligations under the Protocol;

(c) Developing advice or standards on particular technical or regulatory issues: e.g., the work of the Organisation for Economic Co-operation and Development (OECD) on a unique identifier for LMOs and on Consensus Documents on common elements of risk assessment for particular species;

(d) Contributing to implementation of the project on *Development of National Biosafety Frameworks*, in line with the terms agreed by the GEF Council and relevant decisions taken at the first meeting of the ICCP;

(e) Providing access to databases containing information relevant to implementation of the Protocol: e.g. OECD's Biotrack, the International Centre for Genetic Engineering and Biotechnology (ICGEB), the UNIDO Biosafety Information Network and Advisory Service (BINAS);

(f) Developing common principles for public participation and access to information: e.g. the work of the United Nations Economic Commission for Europe under the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters;

(g) Ensuring coordination and mutual supportiveness with other bodies and conventions concerned with LMO issues: e.g., the International Plant Protection Convention (IPPC), the Office International des Epizooties (OIE), the Food and Agriculture Organization of the United Nations (FAO) and the Codex Alimentarius Commission;

(h) Reinforcing collaboration among capacity-building projects on biotechnology and biosafety in order to avoid duplication and to efficiently use the limited resources available; and

(i) Providing co-financing for capacity-building activities.

7. *The role of regional networks*:

(a) Promoting harmonization of technical, legal and scientific mechanisms in the countries;

(b) Identifying and disseminating information related to best practice in the development of national biosafety frameworks, procedures for risk assessment and risk management, decision-taking, information exchange, and the use of human resources;

(c) Developing regional centres that enable/ensure sharing of expertise and information as well as experiences and concerns;

(d) Participating in the development of the Biosafety Clearing-House; and

(e) Providing co-financing for capacity-building activities.

8. *The role of non-governmental organizations*:

(a) Cooperating in consensus-building and assisting in raising public education and awareness;

(b) Participating in and assisting in national and regional efforts to implement the Protocol, including helping to implement the Biosafety Clearing-House;

(c) Contributing to guidance on Protocol implementation issues;

(d) Integrating the views and interests of wider stakeholders, including indigenous and local communities, through increased public awareness, education and participation in decision-making and the development of policy and procedures;

(e) Representing specialist or sectoral interests in relation to risk assessment and risk management issues;

(f) Reinforcing collaboration among capacity-building projects on biotechnology and biosafety in order to avoid duplication and to efficiently use the limited resources available;

(g) Associating with capacity-building initiatives, ensuring public participation and promoting public awareness on biosafety issues; and

(h) Providing co-financing for capacity-building activities.

9. *The role of private sector/industry*:

(a) Participating in the effective implementation of the Protocol, including creation of awareness and provision of technical advice;

(b) Creating confidence with consumers;

(c) Developing techniques for identification, detection and analytical assessment and for monitoring;

(d) Developing systems for labeling, traceability and unique identifier;

(e) Improving capabilities of accessing and handling electronic information;

(f) Providing scholarships in the areas mentioned above;

(g) Undertaking risk assessment, and addressing information needs and concerns of industry;

(h) Associating with initiatives on capacity-building and sharing experience with risk assessment and management of LMOs; and

(i) Providing co-financing for capacity-building activities.

10. *The role of scientific/academic institutions*:

(a) Promoting public awareness and implementing training and education activities;

(b) Developing of centres of expertise and excellence for particular risk assessment and risk management issues;

(c) Providing participants for the roster of experts;

(d) Implementing exchange and scholarship programmes aimed at enhancing the teaching and research capacities of higher education and other private and public institutions in developing countries as regards biosafety related issues;

(e) Cooperating on research and information exchange on socio-economic impacts, especially on indigenous and local communities;

(f) Assisting in training and conducting risk assessment, research in GMOs for improved crop production;

(g) Participating in capacity-building initiatives as well as in other activities in relation with the implementation of the Protocol; and

(h) Providing co-financing for capacity-building activities.

Annex III

IMPLEMENTATION TOOL KIT 4/

This implementation tool kit provides a compilation, as a checklist, of obligations found in the Cartagena Protocol on Biosafety. These obligations are organized in the following categories:

- Administrative tasks (initial and future)
- Legal requirements and/or undertakings
- Procedural requirements (AIA and Article 11)

I. ADMINISTRATIVE TASKS

	Tasks	***Article***	*Ö*
	Initial actions		
1.	Designate one national authority responsible for liaison with the Secretariat and provide name/address to Secretariat.	19(1),(2)	
2.	Designate one or more competent authorities responsible for performing administrative functions under the Protocol and provide name(s)/address(es) to the Secretariat. If more than one, indicate the types of LMOs for which each competent authority is responsible.	19(1),(2)	
3.	Provide to the Biosafety Clearing-House: - any relevant existing laws, regulations or guidelines, including those applicable to the approval of LMO-FFPs; and - any bilateral, regional or multilateral agreements or arrangements.	20(3)(a)-(b), 11(5), 14(2)	
4.	Specify to the Biosafety Clearing-House cases in which import may take place at the same time as the movement is notified.	13(1)(a)	
5.	Specify to the Biosafety Clearing-House imports of LMOs exempted from the AIA procedures.	13(1)(b)	
6.	Notify the Biosafety Clearing-House if domestic regulations shall apply with respect to specific imports.	14(4)	
7.	Provide the Biosafety Clearing-House with a point of contact for receiving information from other States on unintentional transboundary movements in accordance with Article 17.	17(2)	
8.	Notify the Secretariat if there is a lack of access to the Biosafety Clearing-House and hard copies of notifications to the Clearing House should be provided.	(e.g., 11(1))	

4/ UNEP/CBD/BS/EM-CB/1/3, annex II.

	Tasks	*Article*	Ö
	Follow-up actions		
9.	Provide to the Biosafety Clearing-House: - Summaries of risk assessments or environmental reviews of LMOs generated by regulatory processes and conducted in accordance with Art. 15; - Final decisions concerning the import or release of LMOs; and - Article 33 reports.	20(3)(c)-(e)	
10.	Make available to the Biosafety Clearing-House information concerning cases of illegal transboundary movements.	25(3)	
11.	Monitor the implementation of obligations under the Protocol and submit to the Secretariat periodic reports at intervals to be determined.	33	
12.	Notify the Biosafety Clearing-House of any relevant changes to the information provided under part I above.		

II. LEGAL REQUIREMENTS AND/OR UNDERTAKINGS

	Tasks	*Article*	Ö
1.	Ensure that the development, handling, transport, use, transfer and release of LMOs are undertaken in a manner that prevents or reduces the risks to biological diversity, taking also into account risks to human health.	2(2)	
2.	Ensure that there is a legal requirement for the accuracy of information provided by domestic exporters for purposes of notifications for export to another country and by domestic applicants for domestic approvals for LMOs that may be exported as LMO-FFPs.	8(2) 11(2)	
3.	Ensure that any domestic regulatory framework used in place of the AIA procedures is consistent with the Protocol.	9(3)	
4.	Ensure that AIA decisions are taken in accordance with Article 15.	10(1)	
5.	Ensure that risk assessments are carried out for decisions taken under Article 10 and that they are carried out in a scientifically sound manner.	15(1),(2)	
6.	Establish and maintain appropriate mechanisms, measures and strategies to regulate, manage and control risks identified in risk assessments associated with the use, handling and transboundary movement of LMOs under the Protocol.	16(1)	
7.	Take appropriate measures to prevent the unintentional transboundary movements of LMOs, including measures such as requiring a risk assessment prior to the first release of an LMO.	16(3)	
8.	Endeavor to ensure that LMOs, whether imported or locally developed, have undergone an appropriate period of observation that is commensurate with its life cycle or generation time before it is put to its intended use.	16(4)	
9.	Take appropriate measures to notify affected or potentially affected States, the Biosafety Clearing-House, and, where appropriate, relevant international organizations, when there is an occurrence within its jurisdiction that leads or may lead to an unintentional transboundary movement of and LMO that is likely to have significant adverse effects on the sustainable use and conservation of biodiversity, taking also into account risks to human health in such States.	17(1)	
10.	Take necessary measures to require that LMOs that are subject to transboundary movement under the Protocol are handled, packaged and transported under conditions of safety, taking into account relevant international rules and standards.	18(1)	
11.	Take measures to require that documentation accompanying LMO-FFPs - clearly identifies that they "may contain" LMOs and are not intended for intentional introduction into the environment; and - provides a contact point for further information.	18(2)(a)	
12.	Take measures to require that documentation accompanying LMOs destined for contained use: - Clearly identifies them as LMOs; - Specifies any requirements for their safe handling, storage, transport and use; - Provides a contact point for further information; and	18(2)(b)	

	Tasks	*Article*	Ö
	- Provides the name and address of individuals or institutions to which they are consigned.		
13.	Take measures to require that documentation accompanying LMOs that are intended for intentional introduction in the environment and any other LMOs within the scope of the Protocol: - Clearly identifies them as LMOs - Specifies the identify and relevant traits and/or characteristics; - Provides any requirements for the safe handling, storage, transport and use; - Provides a contact point for further information; - Provides, as appropriate, the name and address of the importer and exporter; and - Contains a declaration that the movement is in conformity with the requirements of the Protocol.	18(2)(c)	
14.	Provide for the designation of confidential information by notifiers, subject to the exclusions set forth in Article 21(6).	21(1),(6)	
15.	Ensure consultation with notifiers and review of decisions in the event of disagreement regarding claims of confidentiality.	21(2)	
16.	Ensure the protection of agreed-upon confidential information and information claimed as confidential where a notification is withdrawn.	21(3),(5)	
17.	Ensure that confidential information is not used for commercial purposes without the written consent of the notifier.	21(4)	
18.	Promote and facilitate public awareness, education and participation concerning the safe transfer, handling and use of LMOs, taking also into account risks to human health.	23(1)(a)	
19.	Endeavor to ensure that public awareness and education encompass access to information on LMOs identified in accordance with the Protocol that may be imported.	23(1)(b)	
20.	In accordance with relevant domestic laws, consult with the public in decision making under the Protocol, while respecting confidential information.	23(2)	
21.	Endeavor to inform the public about the means of public access to the Biosafety Clearing-House.	23(3)	
22.	Adopt appropriate measures aimed a preventing and, if appropriate, penalizing transboundary movements in contravention of domestic measures to implement the Protocol.	25(1)	
23.	Dispose, at its expense, LMOs that have been the subject of an illegal transboundary movement through repatriation or destruction, as appropriate, upon request by an affected Party.	25(2)	

III. PROCEDURAL REQUIREMENTS: ADVANCED INFORMED AGREEMENT

	Tasks	*Article*	Ö
1.	Provide written acknowledgement of receipt of notification to notifier within 90 days, including:		
	- Date of receipt of notification;	9(2)(a)	
	- Whether notification meets requirements of Annex I;	9(2)(b)	
	- That the import may proceed only with written consent and whether to proceed in accordance with the domestic regulatory framework or in accordance with Article 10; **OR** - Whether the import may proceed after 90 days without further written consent.	10(2)(a), 9(2)(c) 10(2)(b)	
2.	Communicate in writing to the notifier, within 270 days of receipt of notification: - Approval of the import, with or without conditions; - Prohibition of the import; - A request for additional relevant information in accordance with domestic regulatory framework or Annex I; or - Extension of the 270 day period by a defined period of time; **AND**	10(3)(a)-(d)	
	Except where approval is unconditional, the reasons for the decision, including the reasons for the request for additional information or for an extension of time.	10(4)	

	Tasks	*Article*	Ö
3.	Provide in writing to the Biosafety Clearing-House the decision communicated to the notifier.	10(3)	
4.	Respond in writing within 90 days to a request by an Exporting Party for a review of a decision under Article 10 where there has been a change in circumstances or additional relevant scientific or technical information has been made available, providing the reasons for the decision upon review.	12(2),(3)	

IV. PROCEDURAL REQUIREMENTS: LIVING MODIFIED ORGANISMS FOR DIRECT USE AS FOOD, FEED OR FOR PROCESSING

	Tasks	*Article*	Ö
1.	Upon making a final decision regarding domestic use, including placing on the market, of LMOs that may be subject to transboundary movement for direct use as food or feed, or for processing, inform the Biosafety Clearing-House within 15 days of making that decision, including the information listed in Annex II.	11(1)	
2.	Except in the case of field trials, provide hard copies of the final decision to the National Focal Point of Parties that have notified the Secretariat in advance that they do not have access to the Biosafety Clearing-House.	11(1)	
3.	Provide additional information contained in paragraph (b) of Annex II about the decision to any Party that requests it.	11(3)	
4.	In response to the posting of a decision by another Party, a Party that decides to import may take a decision on the import of LMO-FFPs: - either as approved under the domestic regulatory framework consistent with the Protocol; **OR** - in the absence of a regulatory framework, on the basis of a risk assessment in accordance with Annex III within no more than 270 days. In this case, a declaration must be made to the Biosafety Clearing-House.	11(4),(6)	

Annex IV

A PRELIMINARY SET OF INDICATORS FOR THE ACTION PLAN TO BUILD CAPACITIES FOR THE EFFECTIVE IMPLEMENTATION OF THE CARTAGENA PROTOCOL ON BIOSAFETY

Key Capacity Building Element	**Input/Output Indicators (related to extent to which activities and processes have been implemented and the outputs produced)**	**Indicators of results (related to the overall positive changes/ improvement in implementing the Protocol).**	**Indicators of Impact (related to overall contribution to the realization of the Protocol's objectives)**
1. Institutional capacity-building			
a) Legislative and policy frameworks	• Number of countries that have ratified the Protocol • Number of countries that have developed biosafety national biosafety frameworks - NBFs (including biosafety strategies, laws, regulations and guidelines) • Level of clarity and comprehensiveness of the biosafety policies, legislation and guidelines developed • Level of stakeholder involvement in the development of NBFs • Existence of enforcement measures, standards and compliance mechanisms • Level of effectiveness in implementing/ enforcing biosafety agreements, laws, regulations and guidelines	• Majority of countries are Parties to the Protocol • Existence of National biosafety frameworks in all countries • Biosafety regulations effectively being implemented in a participatory manner • Improved implementation/ enforcement of biosafety laws and regulation • Increased levels of adherence to the biosafety guidelines by importers, researchers or users of LMOs. • Better biosafety policies in place in most countries	• Parties and governments complying effectively with the provisions of the Protocol. • Fewer incidences of illegal transboundary movement, handling and use of LMOs with adverse effects on biodiversity and human health. • Fewer or no cases of non-compliance.

Key Capacity Building Element	**Input/Output Indicators (related to extent to which activities and processes have been implemented and the outputs produced)**	**Indicators of results (related to the overall positive changes/ improvement in implementing the Protocol).**	**Indicators of Impact (related to overall contribution to the realization of the Protocol's objectives)**
b) Administrative Framework	• Number of countries with national institutional mechanisms (e.g. biosafety units, steering committees or advisory groups), with clear mandates, established to oversee biosafety • Number of national research and regulatory bodies with biosafety liaison offices/ committees at the institutional level • Level of clarity, and harmonisation, of institutional responsibilities for various national bodies dealing with biosafety • Level and quality of collaboration between different national institutions and processes • Level of coherence and effectiveness of the administrative processes and procedures, including approval of p ermits, acknowledgement of notification, review period, etc. • Existence of monitoring and enforcement mechanisms • Level of efficiency in administering the Advance Informed Agreement (AIA) procedure • Level of efficiency in decision-making	• Increased level of effectiveness and efficiency in administering the AIA procedure. • Improvements in administrative procedures and pragmatic delivery of services (faster and efficient). • Existence of fully staffed National Biosafety Agencies, Division or Units and functional National Biosafety Committees in all countries by COP-MOP.2 • Increased efficiency in decision-making • Improved quality of decisions on notifications and in cases of emergencies	• Streamlined and efficient administration of the AIA procedure motivating exporters to avoid illegal transactions, thus facilitating safer transboundary movement of LMOs. • Efficient decision-making systems and procedures leading to reduced non-compliance.
c) Infrastructure	• Existence of adequate infrastructure – office facilities, services and communications systems • Existence of necessary equipment and supplies, computers and transportation to support and facilitate daily work of individuals and institutions • Number of research laboratories and field stations established/ strengthened • Existence of border control and inspection facilities	• Availability of adequate office facilities, equipment and supplies for biosafety work • Improvement in the number and quality of research facilities (including well equipped laboratories, field stations, etc).	• Well equipped institutions effectively regulating the import and use of LMOs thus minimizing potential adverse effects of LMOs on biodiversity and human health

Key Capacity Building Element	**Input/Output Indicators (related to extent to which activities and processes have been implemented and the outputs produced)**	**Indicators of results (related to the overall positive changes/ improvement in implementing the Protocol).**	**Indicators of Impact (related to overall contribution to the realization of the Protocol's objectives)**
d) Funding	• Levels of total funding for biosafety, both national budgetary allocations and international contributions • Growth rate in expenditures on biosafety research and regulation • Percentage of expenditure (investment) on biosafety in relation to the overall annual government budget • Ratio of the total funding for biosafety work provided by the public sector to that provided by the private commercial sector • Relative ratio of expenditures on capital: personnel: operating costs: research costs • Level of mobilization and leverage of funds from different sources • Levels of sustainability of funding for biosafety	• Increased budgetary allocations for biosafety activities • Improved and timely release of funds • Increased availability and sustainability of financial resources for biosafety activities • Existence of diverse and secure source of funding for biosafety.	Availability of adequate, sustainable and easily accessible funding enabling timely implementation of biosafety measures thus increasing levels of preparedness and effectiveness in minimizing chances of adverse effects of LMOs on biodiversity and human health due to lack of preventative and timely action.
e) Monitoring and Assessment mechanism	• Number of countries that have established monitoring and enforcement mechanisms • Number of countries with mechanisms for border control and inspection of LMOs	• Reduced number of cases of illegal importation and use of LMOs. • Improved consumer confidence.	• Lower risk of adverse effects on biodiversity and human health due to illegal importation of LMOs
2. Human Resources Development and Training	• Number of biosafety training events (courses, seminars, internships, fellowships and study tours) organized • Number of institutions providing specialized in key biosafety areas • Number of experts trained at BSc., MSc. and PhD degree levels in different fields relevant to biosafety • Number of professional staff (administrators, policy makers, regulators, legislators, scientists) and technicians (e.g. laboratory technicians, biometricians, etc) appropriately deployed to work on biosafety issues • Number of experts registered in the rosters of experts at various levels • The ratio of technical staff to research staff to managerial staff	• Existence of a critical mass of well trained experts in biosafety available in each country or sub-region • More trained staff deployed approp riately and performing effectively • Existence of highly motivated and efficient permanent staff working in biosafety • Lower rates of staff turnover • Reduced demand for the use of experts from the Roster maintained by the Secretariat.	• Existence of well trained experts capable of regulating the importation and use of LMOs and conducting reliable risk assessments leading to minimization of potential adverse effects of LMOs on biodiversity and human health.

Key Capacity Building Element	**Input/Output Indicators (related to extent to which activities and processes have been implemented and the outputs produced)**	**Indicators of results (related to the overall positive changes/ improvement in implementing the Protocol).**	**Indicators of Impact (related to overall contribution to the realization of the Protocol's objectives)**
3. Risk assessment and other scientific and technical expertise	• Number of countries that have established and are effectively using risk-assessment frameworks and guidelines • Existence of risk assessment/risk management review processes and mechanisms (e.g. review bodies, directory of scientists) established • Level of effectiveness in reviewing risk assessment reports • Number of risk assessments effectively carried out or reviewed by local experts • Extent to which science based risk assessment methods and techniques are used effectively.	• Improved capacity in assessing risks of LMOs • Reduced incidences of "disguised" importation of LMOs with potential risks to the biodiversity and human health • Reduced incidences of inappropriate release of inadequately assessed LMOs with potential adverse effects on biodiversity and human health	• Minimized risks of adverse effects of LMOs on biodiversity and human health due to effective implementation of reliable, scientifically based risk assessments
4. Risk management	• Number of countries with clear risk management strategies and mechanisms • Existence of mechanisms for providing immediate assistance in case of emergencies that may arise from LMOs • Level of effectiveness in implementing risk management strategies.	• Improved monitoring and prevention of potential risks to the environment due to deliberate or unintentional release of LMOs • Improved level of preparedness to handle judiciously cases of emergencies that may arise from unintentional release of LMOs	• Minimized emergence of unpredicted adverse effects of LMOs on biodiversity and human health due to effective risk management strategies.

Key Capacity Building Element	**Input/Output Indicators (related to extent to which activities and processes have been implemented and the outputs produced)**	**Indicators of results (related to the overall positive changes/ improvement in implementing the Protocol).**	**Indicators of Impact (related to overall contribution to the realization of the Protocol's objectives)**
5. Awareness, education and participation	• Number of organizations involved in promoting awareness on biosafety • Number of awareness workshops, symposia, seminars and other dialogues organized at the national, sub-regional, regional and global levels on biosafety themes • Number of news agencies covering biosafety issues on a regular basis • Average number of news articles related to biosafety appearing in news papers weekly or monthly • Number and volume of awareness materials (posters, brochures, booklets, guidebooks) produced and disseminated to specific target audiences • Number and range of stakeholders participating effectively in national, regional and international biosafety meetings, processes and dialogues • Number of countries that have conducted stakeholder analyses (outlining the interests, strengths and limitations of relevant stakeholders) • Existence of formal stakeholder consultative mechanisms/ forums at various levels.	• Increased media coverage of biosafety issues • Policy briefs and fact sheets on emerging biosafety issues being produced and disseminated regularly • Increased public awareness and understanding of the provisions of the Protocol and of the necessary actions. • Increased political support for the Protocol at various levels • Existence of mechanisms for open dialogue in all countries • Increased level of stakeholder participation in biosafety activities/processes • Increased and transparent public involvement in risk assessment leading to increased objectivity • Increased and transparent involvement of the private sector in biosafety processes	• Increased awareness, informed public participation and the resulting Informed action and decision making enabling different stakeholders to comply with the obligations under the Protocol

Key Capacity Building Element	**Input/Output Indicators (related to extent to which activities and processes have been implemented and the outputs produced)**	**Indicators of results (related to the overall positive changes/ improvement in implementing the Protocol).**	**Indicators of Impact (related to overall contribution to the realization of the Protocol's objectives)**
6. Information Exchange and data management	• Number, and regional balance, of countries effectively participating in the Biosafety Clearing-House (BCH) • Number of national BCH nodes established and interoperable with the global BCH • Number of National BCH Focal Points registered • Number of countries with well maintained databases established and interoperable with others • Number of new information networks linking relevant national, regional and other international systems established • Number of requests for information by the public and other stakeholders handled by the BCH and the national nodes • Frequency of use of information in databases for planning and decision-making • Number of publications on biosafety – books, papers and journal articles – produced and disseminated • Level of participation in, and use of, relevant global scientific information systems	• Increased availability of, and accessibility to, reliable and science-based biosafety information at all levels • Effective documentation, information-exchange mechanisms and communication systems in place • Existence of effective mechanisms for the collection, processing and diffusion of data related to biosafety • Improved level of interoperability between different information systems and databases at various levels	• Increased availability of reliable information resulting in reduced cases of irrational inadvertent release of LMOs.

Key Capacity Building Element	**Input/Output Indicators (related to extent to which activities and processes have been implemented and the outputs produced)**	**Indicators of results (related to the overall positive changes/ improvement in implementing the Protocol).**	**Indicators of Impact (related to overall contribution to the realization of the Protocol's objectives)**
7. Scientific, technical and institutional collaboration	• Number of regional centres of excellence in biosafety established • Number of joint regional research and training programmes initiated • Level of harmonization of regulatory frameworks, including risk-assessment procedures, standards and guidelines • Level of mutual acceptance of the validity of biosafety data at various levels • Extent to which individual researchers and regulators are in contact and exchanging knowledge with appropriate peers at various levels • Existence of mechanisms for national, regional and international consultations and cooperation on biosafety issues that span beyond institutional or national boundaries • Extent to which existing regional organisations (e.g. OECD, ASEAN, AMCEN, etc) are engaged in promoting co-operation in biosafety • Existence of mechanisms for sharing information between countries within respective regions/ sub-region.	• Improved interaction and coordination between different countries and agencies • Increased harmonization of regulatory frameworks and efforts across sectors and regions • Improved partnerships and leverage of resources	Improved regional and institutional collaboration resulting in reduced in incidences of adverse impacts of LMOs on biodiversity across national boundaries.
8. Transfer of technology and know-how	• Number of countries that have clearly identified their technological needs • Number of joint North-South collaborative ventures established • Level and quality of transfer of technology and know-how	• Increased access to and transfer of relevant technologies from developed to developing countries • Increased accessibility to relevant technologies by most developing country Parties to the Protocol • Private sector actively facilitating transfer of relevant technologies to developing countries in accordance with the relevant provisions of the Protocol.	• Improved access to up-to-date technologies and know-how in all countries resulting in increased effectiveness and levels of preparedness in early detection and prevention/ minimization of negative effects of LMOs on the biodiversity and human health.
9. Identification of LMOs and LMO-FFPs	• Number of countries with clear and consistent procedures and mechanisms for identification of LMOs • Number of universally accepted LMO identification systems.	• Existence of clear and consistent LMO identification systems • Regulators, operators and users of LMOs in a better position to make informed choices.	• Existence of clear identification systems of LMOs resulting in reduced incidences of injudicious transfer, handling and use of those with potential adverse effects on biodiversity.

3/6. Handling, transport, packaging and identification (Article 18)

The Intergovernmental Committee for the Cartagena Protocol on Biosafey,

I. Paragraph 2(a) of Article 18

Noting the report and recommendations of the Meeting of Technical Experts on the Requirements of Paragraph 2 (a) Article 18, which took place in Montreal from 18 to 20 March 2002 (UNEP/CBD/ICCP/3/7/Add.1),

Recognizing that different views, as reflected in the report of the meeting of technical experts, as well as its recommendations, were expressed by a number of experts with regard to several aspects of the issues involved in paragraph 2 (a) of Article 18, in particular on the extent of information that may be necessary to be made available in the documentation in the context of implementing the first sentence of paragraph 2 (a) of Article 18,

Noting that a number of views have been expressed during the consideration of the recommendations of the meeting of technical experts with a view to providing alternative proposals and to resolve elements in the recommendations of the meeting of technical experts and that different views have been expressed, as reflected in the summary of the Chair of Working Group I at the third meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety, which is included as annex II to the present recommendation to be transmitted to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol,

Recognizing that these different views remain difficult to resolve at this stage,

Further recognizing the requirements to meet the obligations specified in the first sentence of paragraph 2 (a) of Article 18 at the date of entry into force of the Protocol, the lack of consensus on the recommendations of the technical expert group does not set aside the obligation to implement Article 18.2(a) of the Protocol,

1. *Submits* the report, including the recommendations, of the Meeting of Technical Experts on the Requirements of Paragraph 2 (a) Article 18, as contained in annex I to the present recommendation, for consideration by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

2. *Invites* Parties and other States to closely consider the issues and facilitate their resolution with a view to ensure the timely and effective implementation of the requirements contained in the first sentence of paragraph 2 (a) of Article 18;

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

Noting the recommendations of the Second Meeting of Technical Experts on Handling, Transport, Packaging and Identification of Living Modified Organisms (paragraphs 2(b) and 2(c) of Article 18), which took place in Montreal from 13 to 15 March 2002 (UNEP/CBD/ICCP/3/7/Add.2),

Recognizing that different views, as reflected in the report of the Meeting, were expressed by a number of experts with regard to the extent of necessary information according to paragraphs 2(b) and 2 (c) of Article 18 or the potential need for additional information that would assist further in the implementation of paragraphs 2 (b) and 2 (c) of Article 18,

Further recognizing that, except for those elements where unresolved issues were highlighted with an asterisk, the recommendations of the meeting of experts have not been fully reviewed at this meeting, and *noting* that reservations were expressed regarding issues that relate to the other elements of

the recommendations of the meeting of technical experts, such as items (i)-(iv), and (i) –(v) of elements 1 (b) and 2(c) of the recommendations, and the examples of templates respectively, and that suggestions were made to further consider these issues,

Noting also that these different views remain difficult to resolve,

Further recognizing the requirements to meet the obligations specified in paragraphs 2(b) and 2(c) of Article 18 at the date of entry into force of the Protocol, the lack of consensus on these recommendations does not set aside the obligations to implement paragraphs 2 (b) and 2 (c) of Article 18of the Protocol,

Submits the following for the consideration of the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol:

1. That the following information be provided to meet the requirements for documentation under paragraph 2 (b) of Article 18:

(a) Clear identification as "living modified organisms":

[(i) As destined for contained use;

(ii) Name of the organisms;]

(b) Specification of requirements for the safe handling, storage, transport and use:

(i) As provided under applicable existing international requirements, such as the United Nations Model Regulations on the Transport of Dangerous Goods;

(ii) As provided under domestic regulatory framework, if any;

(iii) Any other requirements agreed to by the importer and exporter; or

(iv) In the event there is no requirement, indicate that there is no specific requirement;

(c) Contact point for further information:

An individual or organization in possession of relevant information such as the exporter, importer or consignee, as appropriate, including contact details necessary to reach them as fast as possible especially in case of emergency;

(d) Name and address of the individual and institution to whom the living modified organisms are consigned.

2. The following information be provided to meet the requirements for documentation under paragraph 2 (c) of Article 18:

(a) Clear identification as "living modified organisms";

(b) Specification of identity and relevant traits and/or characteristics as specified in the Protocol and as identified in common practices:

(i) A brief description of the organisms, including category, name, relevant traits including transgenic traits, and characteristics such as event(s) of transformation;

[(ii) Where available and applicable:

- A reference to a system of identification, for instance:
  - A reference may be made to harmonized code such as unique identifier;
  - Notification under the advance informed agreement procedure;
  - Final decisions;
  - Notifications to the Biosafety Clearing-House;
- Other requirements in accordance with the regulatory status of the LMO in the Party of import.]

(c) Any requirements for the safe handling, storage, transport and use:

(i) As provided under applicable existing international requirements, such as the requirements under the OECD Seed Schemes;

(ii) As provided under domestic regulatory framework, if any;

(iii) Any other requirements agreed to by the importer and exporter;

(iv) As provided under the advanced informed agreement procedure if applicable; or

(v) In the event there is no requirement, indicate that there is no specific requirement;

(d) Contact point for further information:

An individual or organization in possession of relevant information such as the exporter or importer, as appropriate, including contact details necessary to reach them as fast as possible especially in case of emergency;

(e) Name and address of the exporter and importer;

(f) A declaration that the transboundary movement is in conformity with the requirements of the Cartagena Protocol on Biosafety applicable to the exporter.

3. In the context of the implementation of the provisions of paragraphs 2 (b) and 2 (c) of Article 18 as soon as the Protocol enters into force, the Intergovernmental Committee:

(a) Pending consideration of the need to develop a stand-alone template, *urges* Parties and Governments to take the necessary measures with a view to include information requirements pertaining to paragraphs 2 (b) and 2 (c) of article 18 indicated in recommendations 1 and 2 above, into existing documentation practices accompanying living modified organisms supplied by the originator of the shipment (e.g. commercial invoices). Examples of such possible integration are illustrated in the templates contained in annex III to the present recommendation;

(b) *Encourages* Parties to consider whether the provision of additional information, especially the intended use of the living modified organisms, e.g, “research” or “commercial”, if relevant

to biosafety, and if not already specified on the accompanying documentation, would facilitate implementation of paragraphs 2 (b) and 2 (c) of Article 18.

4. With regard to linkages of paragraphs 2(b) and 2(c) of Article 18 to paragraph 3 of Article 18, the Intergovernmental Committee:

(a) *Requests* the Executive Secretary to continue to collect and review existing information on standards, practices and rules relevant to handling, packaging, transport and identification of LMOs, including the ongoing processes on these matters under relevant international organizations, and operational experience of movements of LMOs under paragraphs 2 (b) and 2 (c) of Article 18 of the Protocol, with a view to assisting consideration of this issue by the Conference of the Parties serving as the meeting of the Parties to the Protocol at the appropriate time;

(b) *Invites* Parties and other Governments to examine unique identification systems such as the one being developed by the Organisation for Economic Co-operation and Development with a view to considering their applicability to the requirements of identification of living modified organisms, and their linkage to the Biosafety Clearing-House.

Annex I

REPORT OF THE MEETING OF TECHNICAL EXPERTS ON THE REQUIREMENTS OF PARAGRAPH 2 (a) OF ARTICLE 18 OF THE CARTAGENA PROTOCOL ON BIOSAFETY

INTRODUCTION

A. Background

1. At its second meeting in Nairobi, Kenya, from 1 to 5 October 2001, the Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP) recommended a number of actions relating to paragraph 2 of Article 18 with a view to facilitating the implementation of requirements contained in the paragraph once the Protocol enters into force. It invited, among other things, Parties to the Convention, Governments and relevant international organizations to provide the Executive Secretary with views and relevant information regarding:

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

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

2. The ICCP also requested the Executive Secretary to prepare a synthesis report of the views and information and to convene a meeting of technical experts with broad expertise covering all relevant aspects and disciplines for the implementation of paragraph 2 (a) of Article 18, taking into account the need for balanced regional representation, transparency and a stepwise approach.

3. Accordingly, and with generous financial contributions by the Governments of Canada, Spain, Switzerland and the United States of America, a meeting of the technical experts was held at the premises of the International Civil Aviation Organization (ICAO) in Montreal, from 18 to 20 March 2002.

B. Attendance

4. Participants in the Meeting were selected from among Government-nominated experts from each geographic region with a view to achieving a balanced regional distribution. In addition, representatives

of relevant intergovernmental and non-governmental organizations, as well as other stakeholders were invited to participate.

5. The Meeting was attended by experts nominated by the following Governments: Antigua and Barbuda, Argentina, Armenia, Australia, Belarus, Brazil, Cameroon, Canada, Croatia, Cuba, Democratic Republic of Congo, Denmark, Ecuador, Egypt, France, Germany, Ghana, Honduras, India, Iran (Islamic Republic of), Italy, Jamaica, Japan, Kenya, Lao People's Democratic Republic, Mexico, Mozambique, Namibia, Nepal, Niger, Nigeria, Norway, Pakistan, Palau, Poland, Republic of Korea, Spain, Sweden, Switzerland, Tunisia, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Venezuela, and Viet Nam.

6. A representative of the European Community also attended.

7. Representatives of the following intergovernmental and non-governmental organizations and other stakeholders also participated in the Meeting:

(a) *Intergovernmental organizations*: United Nations Environment Programme (UNEP)

(b) *Non-governmental organizations and other stakeholders*: International Grain Trade Coalition, Global Industry Coalition; International Seed Trade Federation (FIS/ASSINSEL); SOLAGRAL; Third World Network, Greenpeace International.

ITEM 1. OPENING OF THE MEETING

8. The meeting was opened by Mr. Hamdallah Zedan, Executive Secretary of the Convention on Biological Diversity, at 10 a.m. on Monday, 18 March 2002.

9. In his opening statement, Mr. Zedan welcomed, the participants to the meeting and expressed gratitude to the Governments of Canada, Spain, Switzerland and the United States of America for their support of participants from developing countries, and to the Government of Canada for hosting the Meeting. He noted that this meeting had been convened at the request of the ICCP, to consider the appropriate implementation of the requirements contained in the first sentence of paragraph 2(a) of Article 18, as well as the requirements of each element in that paragraph. He stressed that the recommendations from this meeting would contribute significantly to the preparations necessary for the implementation of the requirements of Article 18 upon entry into force of the Protocol.

10. An opening statement was also made by Mr. Barry Stemshorn, Deputy Assistant Minister of the Environment, Canada.

11. In his statement, Mr. Stemshorn welcomed the participants to Montreal and thanked the Secretariat for its work in preparing for the Meeting. He recalled the text of the Preamble to the Cartagena Protocol on Biosafety, and he stressed that trade and environmental agreements should be mutually supportive with a view to sustainable development. Mr. Stemshorn considered that this was probably the best general statement of the mission of this meeting of experts, which together with the themes of capacity development and system development, laid the groundwork for the strong challenge ahead of the meeting.

ITEM 2. ORGANIZATIONAL MATTERS

2.1. Election of officers

12. At the opening session of the Meeting, on 18 March 2002, the participants endorsed the nomination of the following officers for the Meeting:

Chair: Mr. Desmond Mahon (Canada)

Co-Chair: Ms. Audia Barnett (Jamaica)

Rapporteur: Ms. Nevenka Preradovic (Croatia)

2.2. Adoption of the agenda

13. The Meeting adopted the following agenda on the basis of the provisional agenda circulated as document UNEP/CBD/BS/TE-18.2a/1/1.

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. Consideration of views and relevant information on requirements of paragraph 2 (a) of Article 18 of the Protocol:

   3.1. Consideration of the modalities of implementation of the requirements contained in the first sentence of paragraph 2 (a) of Article 18 at the time of entry into force of the Protocol;

   3.2. Consideration of the identification of issues to be addressed beyond entry into force of the Protocol, in preparation for the decision referred to in paragraph 2 (a) of Article 18.

4. Recommendations.

5. Other matters.

6. Adoption of the report.

7. Closure of the meeting.

2.3. Organization of work

14. Following a discussion, the Meeting agreed to consider the items of the agenda in their customary order, and hold an initial general debate on item 3, in plenary. It was decided not to break into two groups to consider issues under agenda item 3.1 and agenda item 3.2 unless such an arrangement proved necessary.

ITEM 3. CONSIDERATION OF VIEWS AND RELEVANT INFORMATION ON THE REQUIREMENTS OF PARAGRAPH 2 (a) OF ARTICLE 18 OF THE PROTOCOL

15. Agenda item 3 was taken up in plenary at 1st session, on Monday, 18 March 2002

16. A representative of the Secretariat introduced the note of the Executive Secretary (UNEP/CBD/BS/TE-18.2a/1/2. He explained that section II of the note contained a synthesis of views and information on how to deal with the requirements of paragraph 2 (a) of Article 18. He observed that it also included information on existing practices, rules and standards relevant to paragraph 2 (a) of Article 18. With the exception of those limited cases where updated or new information had been added, all of the information on existing practices, rules and standards contained in section III of the note had been submitted by Parties, Governments and relevant international organizations and synthesized earlier for the purpose of the second meeting of the ICCP. Section IV of the note contained a list of some of the important issues that had been derived from the submissions, with a view to assisting the participants in focusing their deliberations. Finally, he explained that recommendations of a more general nature were suggested in section V, for the consideration by the participants. The representative of the Secretariat ended by explaining that full text of the submissions of the Parties, Governments and relevant international organizations had been circulated as an information document (UNEP/CBD/BS/TE-18.2a/INF/1).

17. The Chair thanked the Secretariat and asked the participants for general observations as to the elements involved in the consideration of the two sentences of paragraph 2 (a) of Article 18.

18. Opening statements were made by the experts from Argentina, Australia, Brazil, Canada, Egypt, India, Jamaica, Namibia, Nigeria, Norway, the Republic of Korea, Tunisia, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, as well as a representative from International Grain Trade Coalition.

19. The following main points were raised:

(a) That if a shipment is known to contain living modified organisms (LMOs) then the nature of these LMOs should be described;

(b) That a distinction should be made between shipments with LMOs and those without LMOs;

(c) That LMOs for food, feed or processing (FFP) are best considered as commodities;

(d) That there is a clear linkage between paragraph 2 (a) and paragraph 2 (c) or Article 18;

(e) That there is a linkage between paragraph 2 (a) and Article 11 of the Protocol;

(f) That LMOs-FFP have already been approved for intentional introduction into the environment;

(g) That there was a need to respect the wording of paragraph 2 (a);

(h) That if a shipment is known to contain LMOs, then there is no reason not to state this on any accompanying documents;

(i) That there was a need to identify the LMOs so that the Party of import could identify them and undertake testing to verify the contents of a shipment;

(j) That there was no need to undertake such testing, as a risk assessment would have already been done;

(k) That there was a need for a unique identifier linked to the Biosafety Clearing-House (BCH) to accomplish this;

(l) That the phrase “may contain” might be too vague;

(m) That the use of the phrase “may contain” might misrepresent the nature of a shipment of LMOs;

(n) That to avoid such misrepresentation there should be a threshold level established so that a developing country could perform the risk assessment under paragraph 6 of Article 11;

(o) That bulk commodities were at issue in consideration of paragraph 2 (a) of Article 18 and such was not the case with Article 11;

(p) That there was a need to protect biodiversity in a way that allows the movement of commodities in the least costly ways;

(q) That the transboundary movement of grain occurs on a large scale, and such trade is important in providing for the world’s food requirements.

20. The Chair thanked the participants for their general interventions. He noted that there was a need to proceed in a stepwise manner in consideration of some of these issues.

21. Statements were then made by the experts from Argentina, Australia, the Islamic Republic of Iran, Jamaica, Norway, the United Republic of Tanzania, as well as a representative from the International Grain Trade Coalition.

22. The following main points were raised:

(a) That there was a need to establish a relatively low threshold level for LMOs to protect biodiversity;

(b) That bulk commodities moved to certain grade specifications;

(c) That there can be no zero-tolerance with bulk shipping;

(d) That even a threshold of 5% adventitious material would involve increased costs;

(e) That there was a need to establish what threshold levels would be appropriate;

(f) That commodities shipped for one purpose, such as food or feed or for processing, are often used for another, such as planting;

(g) That the identification “may contain” living modified organisms could appear on a commercial invoice;

(h) That a decision to use a commercial invoice ought to depend on whether it were linked to a unique identifier and the Biosafety Clearing-House;

(i) That documents should be clear, simple and not misleading;

(j) That there was a need to state the contents of the LMOs to ensure that exporters were in compliance with the domestic law of the importer;

(k) That any documents should be easy to handle by those who would have to use them;

(l) That if commercial documents are used then they should state which LMOs are in the shipment and that this should be connected to a harmonized code with a linkage to the Biosafety Clearing-House.

23. The Chair noted that this discussion had raised several issues. He observed that the information to be included in shipping documents had been directly provided by the Protocol, although this information could be further refined by the ICCP or the Conference of the Parties.

24. Further statements were then made by the following experts from Brazil, Cuba, Egypt, the European Commission, France, Ghana, India, the Islamic Republic of Iran, Mexico, Namibia, Norway, Palau, Switzerland, Tunisia, the United Republic of Tanzania, and the United States of America, as well as representatives from the International Grain Trade Coalition and Third World Network.

25. The following additional points were made:

(a) That transhipment of bulk cargo meant that it was impossible to ensure cargo purity;

(b) That in the case of transhipment of bulk cargo, if all LMOs, including those that are unintentionally present, were required to be named then every subsequent country would also have the responsibility for accuracy of the description of the cargos leaving their borders;

(c) That the description of the contents of a cargo was not simply of use to port authorities but was also of use to the competent national authorities;

(d) That the environment should not have to support trade but that each should support the other;

(e) That the costs of trade should not be externalized on to the environment;

(f) That the costs should not be externalized on to the small producers and place them at a trade disadvantage;

(g) That those who cannot afford certified seed could use LMOs intended for FFP instead;

(h) That LMOs-FFP had already been in circulation for the past eight years;

(i) That if more detailed information was required in the shipping documents for all LMOs, including those that were unintentionally present, then all countries would have to adopt that requirement and shoulder the associated costs;

(j) That any further requirement for a description of the LMOs would be burdensome and stretch the capacity of the bulk trade system;

(k) That it was possible to assure a reasonable level of purity in shipments of grains;

(l) That documents should be clear and simple but also include the notification that the FFP was not intended for release into the environment;

(m) That additional information was not needed as such information was already with the Biosafety Clearing-House;

(n) That information was required for those LMOs-FFP that could spread and establish themselves in the environment;

(o) That LMOs were a fact of life for major exporters;

(p) That there was a need to discuss operational realities as the Protocol could be in force within six months;

(q) That, given the variety of documents in use, the commercial invoice that always accompanies a shipment should be used;

(r) That it was not clear that the commercial invoice was the best choice of documentation;

(s) That the generalized use of the term "may contain" LMOs would be too vague;

(t) That the burden should be on the exporter and grower to identify the LMOs, if Article 11 was to be implemented;

(u) That the term "may contain" was useful if one focused on the intent of the shipment;

(v) That recommendations had to be made to the ICCP and that the recommendations of the previous week could be a starting point.

26. The Chair observed that many ideas had been laid out which related to: the first sentence of paragraph 2 (a), the second sentence of paragraph 2 (a), Article 11 of the Protocol and the discussions of the previous week. He thanked the participants for their contributions and suggested that the Meeting could continue by discussing those elements essential to the first sentence and suggested that the participants wait to, to discuss in greater detail those elements appropriate to the second sentence, until after a consensus had been reached on the first sentence.

27. At the start of the second plenary session, the Chair summarized the work of the first session. He noted that the issue of the documentation had been discussed and that there seemed to be general agreement on the use of existing forms of documentation accompanying shipments, such as commercial invoices, with the caveat that we might revisit this in light of further comments, which may be made. He observed that that the issue of the Contact Point had not been raised and he noted that the requirement that a reference in a document that the shipment "may contain LMOs" needed to be discussed as statement of some form would have to appear in documents. He suggested that the participants address the first two points and then deal with the central issue of what "may contain" might mean later.

Documents to accompany LMO for food, feed and processing

28. Statements were made by the experts from Australia, the European Community, Namibia, and Norway, and by representatives from the International Grain Trade Coalition and Third World Network.

29. The following main points were raised:

(a) That commercial invoices could be used pending consideration of the need to develop stand alone documentation;

(b) That the use of a commercial document will depend upon the creation of a unique identifier;

(c) That commercial documentation was not controlled by national authorities or was not under the supervision of the Cartagena Protocol;

(d) That no unique identifier was as yet in operational existence;

(e) That the use of existing documentation was the only course currently open;

(f) That if the Conference of the Parties later revisited the issue, it would run up against a system of documentation already in place;

(g) That there were a number of certificates in international trade, but that the only document always accompanying a shipment was the commercial invoice;

(h) That the Secretariat was in contact with relevant international organizations about their systems of documentation;

(i) That while the Protocol created obligations between the Parties, a commercial invoice only bound the exporter and importer.

Contact point

30. The Chair then asked the participants to address the issue of the second element in the first sentence of paragraph 2 (a) of Article 18, the contact point. On the suggestion of one participant that the Meeting could adopt language along the lines of the recommendation on the issue approved by the Second Meeting of Experts on Paragraphs 2 (b) and 2 (c) of Article 18, the Chair asked the Secretariat to read to the participants the relevant recommendation.

31. Statements were made by the experts from Australia, Brazil, Canada, Ecuador, France, Germany, Ghana, India, the Islamic Republic of Iran, Jamaica, Namibia, Norway, Palau, Pakistan, Switzerland, Tunisia, and the United States of America, and by representatives from Third World Network and Greenpeace International.

32. The following main points were raised:

(a) That the contact point should be the exporter;

(b) That the contact point could be the exporter, the importer or any other person sufficiently knowledgeable about the shipment;

(c) That the most important issue was not which person but which person had the most knowledge;

(d) That the person or the institution with the most knowledge should be the contact point;

(e) That the Biosafety Clearing-House could be a contact point;

(f) That there could be more than one contact point;

(g) That the exporter and a competent authority should be contact points;

(h) That as the invoice always had both the exporter and importer listed, the best contact point was those directly involved in the shipment;

(i) That the contact point should be related to the elements in the documentation otherwise the Contact Point would be vague;

(j) That the contact point should lead to information at the Biosafety Clearing-House;

(k) That paragraph 2 (a) referred to commodities and trade and thus commercial invoices were the best documents and pointed to the importer and exporter;

(l) That the primary contact point should be the exporter with a competent authority as a secondary contact point;

(m) That a reference to national authorities as a contact point would rectify a weakness in using commercial invoices;

(n) That the language of paragraph 2 (a) did not refer to certification or competent authorities;

(o) That developing countries were not always easily able to access information at the Biosafety Clearing-House;

(p) That the contact point should be easily accessible in an emergency;

(q) That the contact point should be someone intimately involved in the shipment, such as the exporter or importer otherwise the discussion becomes one of import permit;

(r) That a contact point meant a national authority;

(s) That countries needed as much information as possible to make informed decisions about the import of LMOs-FFP;

(t) That the reference to a contact point should be read in light of Article 11 and Annex II of the Protocol;

(u) That there was a need for reliable information and that the exporter and the importer were those best placed to give such information.

33. The Chair noted that while the text of the provision required that there be a Contact Point, another consideration was whether it would be possible to have a primary Contact Point and secondary Contact Points. The Chair then asked the participants to begin to consider the issue of the statement that a shipment "may contain" living modified organisms. To this end he asked the participants to consider the case where an entire shipment would be comprised of living modified organisms.

Identification of living modified organisms intended for direct use as food or feed, or for processing

34. Statements were made by the experts from Argentina, Australia, Brazil, Cameroon, Canada, Croatia, Denmark, Egypt, the European Community, France, Ghana; Germany, India, Iran (Islamic Republic), Italy, Jamaica, Kenya; Mexico, Namibia, Nigeria, Norway, Pakistan, Palau, Poland, the Republic of Korea; Sweden; Switzerland, Tunisia, the United States of America, and Viet Nam; and by representatives from the International Grain Trade Coalition, Global Industry Coalition, Third World Network, and Greenpeace International.

35. The following main points were raised:

(a) That there was a need to take into consideration levels of literacy and establish an easily identifiable sign or logo; that there was a need to look for a standard threshold level;

(b) That the simple reiteration of the language of the Protocol would misrepresent the shipment in this case;

(c) That there was a need to be able to trace the shipment and know what it contained;

(d) That if the shipment were only of LMOs then the shipping document would say this anyway;

(e) That Article 18 of the Protocol had to be read in light of Article 11 and Annexes II and III to the Protocol in order to provide a link to the Biosafety Clearing-House;

(f) That the phrase "may contain" is a recognition in the Protocol that LMOs for FFP should be treated differently from those in paragraphs 2 (b) and 2 (c);

(g) That in the case of a known shipment of LMOs , then the nature of the LMOs should be stated;

(h) That there was a need to follow the language of the Protocol;

(i) That while the shipment may be known to contain LMOs the nature of the specific transformations would probably not be know;

(j) That consumers would have more confidence if tests were done on imported shipments and the results were known;

(k) That with bulk handling it was impossible to rule out the importation of any particular LMO;

(l) That where this information is available it should be given;

(m) That the LMOs had to be identified to ensure that they complied with those approved by the importing country;

(n) That where the shipment is known to contain LMOs countries should make a voluntary declaration to this effect;

(o) That there would never be a pure shipment of an LMO and that all bulk shipments of LMOs are, for all practical purposes, always commingled with other LMOs and non-LMOs;

(p) That because of the above-mentioned problem some countries refused to import certain produces;

(q) That the phrase "may contain" is an interim measure pending decision by the COP/MOP as provided for by the second sentence of paragraph 2 (a) of Article 18;

(r) That where material is transhipped that everyone must understand that LMOs might be involved;

(s) That where LMOs were known to be in a shipment the words "may contain" should be followed by a description of the LMOs involved;

(t) That there was a need to seek legal advice for clarification of the apparent contradictions in the first sentence of paragraph 2 (a) of Article 18;

(u) That there was a need for a precautionary approach;

(v) That there was a need to identify the LMOs including a reference to the transformational event and a unique identifier if available;

(w) That there was a need to protect biological diversity in a way which did not interrupt trade;

(x) That the listing of specific LMOs was needed to be able to reference these at the Biosafety Clearing-House;

(y) That the effect of some of the proposals was to shift the burden of verification on the developing countries which had no easy access to the Biosafety Clearing-House;

(z) That brokers and exporters would not, for all practical purposes, ship to those countries that would refuse a shipment of LMOs and that such information was at the Biosafety Clearing-House;

(aa) That there is a problem of the costs associated with having to withdraw products for circulation after they have entered a country;

(bb) That the problem of the centre of origin had to be considered and that consideration should be given to the problem of what threshold to establish, bearing in mind the increasing costs involved with lower thresholds.

36. The Chair noted that this was clearly a complex issue, but that there was general agreement that with bulk grain shipments there will be a mixture of varieties, and that it might be impossible to guarantee the absence of LMOs. He summarized the discussion and noted that the language "may contain" might be a useful starting point, which could cover a number of events, and that such information is useful to the recipient. However there was also a need to connect the "may contain" of paragraph 2 (a) to the Biosafety Clearing-House, and that while the "may contain" language might not work, it would be for the Conference of the Parties serving as the meeting of the Parties to the Protocol to correct this.

37. At the beginning of the 3rd session, the Chair circulated a status report of the discussion by the participants at the 1st and 2nd sessions. He stressed that the text was not intended to be a draft recommendation and that it was simply a summary of his understanding of the issues, as they had been expressed by the participants, and on which there seemed to be a high degree of clarity. He asked the participants for their comments, of a general nature, on the status report.

38. Statements were made by the experts from Argentina, Australia, Brazil, Cameroon, Canada, Denmark, Ecuador; Egypt, the European Community, France, Ghana, India, Italy, Jamaica, Japan, Kenya, Mexico, Namibia, Norway, Pakistan, Palau, the Republic of Korea, Spain, Sweden, the United States of America and Viet Nam, and by representatives from the International Grain Trade Coalition, Greenpeace International, Third World Network.

39. The following main points were raised:

(a) That references for LMOs-FFP should also include a reference to the transformation event;

(b) That documentation should be clear, informative, simple, precise and easy to use, and not misleading;

(c) That documentation should also be adequate and affordable;

(d) That any "may contain" language should be more precisely specified;

(e) That the “may contain” language is not strong enough;

(f) That “may contain” language was an interim measure and there was a need to stick to the language of the Protocol;

(g) That there was a need for a harmonized international approach;

(h) That such a harmonized approach did not yet exist;

(i) That there is at present no good way to detect the presence of adventitious/unintentional LMOs in a bulk shipment;

(j) That a simple approach is therefore needed for the first sentence of paragraph 2 (a) of Article 18 and that a reference to “may contain” is the best way to do this;

(k) That there was a need that information be informative to those who will use it;

(l) That it was not certain that the importer would be able to provide adequate information on LMOs-FFP and so the exporter or the exporter’s agent ought to be the Contact Point;

(m) That there was a need for recommendations which either suggested that the “may contain” language be addressed and/or clarified;

(n) That it should be noted that LMOs-FFP were for food, feed and processing only;

(o) That there was a need to capture the language of Article 11 with reference to LMOs-FFP;

(p) That there needed to be a linkage to the Biosafety Clearing-House;

(q) That a linkage to the BCH would not be useful;

(r) That there should be a transfer of technology to those who would need it, but did not yet have it;

(s) That existing commercial documents already indicated the country of origin together with a description of the material being shipped;

(t) That the description ought to include a description of the transformation event;

(u) That it was possible to include a reference to the transformation event at this time;

(v) That there was a need to boost consumer confidence and that the disclosure of such information would help;

(w) That it was the importers who needed such information;

(x) That there was a need for the name of the variety of the LMO to be specified in the documentation;

(y) That there was need for information on the host organism and the donor as well;

(z) That there was a need for thresholds;

(aa) That there was a need for the Conference of the Parties serving as the meeting of the Parties to establish threshold values to set baselines;

(bb) That it was not useful to go down this route;

(cc) That in the case of the specificity of the LMOs-FFP in a shipment, the lack of a threshold could be a problem;

(dd) That there should not be an unnecessary increase in the costs of commodities in bulk trade;

(ee) That no transboundary shipment could take place without a contract between the importer and exporter in which each of them would verify that the contract could be completed by the importer taking delivery of the shipment;

(ff) That there was a link between the elements to be flagged in a document and the need for development of internationally accepted standards;

(gg) That importers were better contact points as they would be certain to speak local languages and also be aware of the contents of the shipments;

(hh) That bulk commodities can contain LMOs with a number of different transformation events.

40. The Chair synthesized the discussion to this point. He thanked the participants for their observations on his status report and recalled that the participants could only make recommendations to the ICCP. He then asked the participants for their views on the linkage between the "may contain" language and the elaboration of the additional information that this might contain. He noted that a connection to the Biosafety Clearing-House could occur at this point, which could in turn lead to the competent national authorities. There was, however, also a need to examine the concept of thresholds; and while thresholds, were problematic, there was a need to explore this issue in order to make recommendations to the ICCP so that preparations could go ahead for the first meeting of the Conference of the Parties serving as the meeting of the Parties. The Chair then asked the participants for their views.

The issue of thresholds relating to the adventitious/unintentional presence of LMOs

41. Statements were made by the experts from Australia, Cameroon, Canada, the European Community, Norway, the United States of America, Venezuela, and Viet Nam, and by representatives from the International Grain Trade Coalition and Greenpeace International.

42. The following main points were raised:

(a) That the quality of commodities was controlled all along the line;

(b) That with bulk shipments there was generally an allowance for tolerances for adventitious/unintentional materials;

(c) That a lower level of tolerance would lead to a more expensive product;

(d) That the European Commission was investigating standards of tolerance for LMOs;

(e) That a five per cent threshold as suggested by the grain industry representative would be too high;

(f) That some domestic laws currently specified a 2 per cent or 3 per cent threshold;

(g) That there was a need to wait and see what experience had been gained before recommending a threshold to the ICCP;

(h) That the ICCP should request a synthesis of the international practices on thresholds;

(i) That there was a need for the Meeting to stick to its mandate and that the discussion of thresholds was not within that mandate.

43. At the 4th session of the meeting, the Chair asked the participants to address two further issues: the adventitious/unintentional introduction of LMOs into a shipment that should not contain them, and the consideration that the "may contain" language of Article 18 paragraph 2 (a) might affect technical ability of the Parties to implement the Protocol.

Adventitious/unintentional presence of LMOs in non-LMO shipments

44. Statements were made by the experts from Argentina, Brazil, Cameroon, Egypt, the European Community, Germany, India, the Islamic Republic of Iran, Jamaica, Namibia, Norway, Pakistan, Palau, Sweden, Switzerland, Tunisia, the United Republic of Tanzania, and the United States of America and representatives from the International Grain Trade Coalition and Third World Network.

45. The following main issues were raised:

(a) That the Protocol did not apply to cases of non-LMO shipments;

(b) That the above-mentioned issue was one that needed to be addressed under domestic legislation;

(c) That thresholds should be linked to the "may contain" language, and this should be linked to the Biosafety Clearing-House so as to not overload documents;

(d) That too much responsibility was being put on exporters when they could not assure that there would be a non-LMO shipment would be free of LMOs;

(e) That exporters had no control over the actual shipment once it had left their hands and could face liability for small amounts of unintentional presence of LMOs in shipments;

(f) That commingling could occur in the preparations for shipment;

(g) That there might be a disclaimer on documents that the exporter was not responsible for the consequences of contamination during shipment;

(h) That exporters should be expected not to violate the objectives of the Protocol;

(i) That if the exporter is not to be liable for the presence of the LMOs in a shipment, then the Party to the Protocol ought to be instead;

(j) That it might not be possible to assure that a shipment of non-LMO-FFP, such as wheat, was free of other LMOs from other species;

(k) That the purpose of the "may contain" language was to highlight that the LMOs are likely to be part of any bulk shipment;

(l) That as an interim measure a 5 per cent threshold ought to be considered, and that such a level would not be too costly;

(m) That the term "GMO-free" is a misnomer;

(n) That there was a premium to be paid for lower tolerances;

(o) That it was a practical impossibility to avoid contamination in a non-LMO shipment by LMOs;

(p) That there were no adequate tests to establish the extent of all the different kinds of contamination which might occur in a single shipment;

(q) That where mixing was unintentional, it would be uncontrollable, while if it were intentional then it would be controllable;

(r) That the documentation should state the level of uncertainty as to whether the shipment contained LMOs;

(s) That the problem was really a question of what balance should be struck between the exporter and importer, especially when the importer is in the developing world;

(t) That although there were different levels of risk, a baseline had to be established;

(u) That there should be zero tolerance of contamination by LMOs;

(v) That it was possible to indicate the transformation event;

(w) That the purpose of a threshold was to help encourage trade;

(x) That a blanket 5 per cent threshold could not be accepted;

(y) That thresholds should be decided between the buyer and the seller;

(z) That the exporter should not be blind to the likely presence of LMOs in a shipment;

(aa) That there should be sampling to verify compliance with national laws and an indication of the transformation events would help in this;

(bb) That there should be precautionary measures to isolate LMOs from non-LMOs;

(cc) That there was a need to use the "may contain" wording in combination with a list of transformation events;

(dd) That thresholds should only apply when there had been an intentional inclusion of LMOs in a shipment;

(ee) That the purpose of the Protocol was to protect biodiversity;

(ff) That industry should be encouraged to improve its practices;

(gg) That industry should not be intentionally blind to the effect of its practices;

(hh) That it was important to protect biodiversity, and exporters should give standardized data on any detected LMOs in a shipment;

(ii) That a study should be done of the threshold issue.

46. The Chair noted that a number of important elements had been aired. These included the implementation of the first sentence of paragraph 2 (a) of Article 18, and issues to be considered by the Conference of the Parties serving as the meeting of the Parties to the Protocol, including ongoing work in preparation for the Conference of the Parties, such as studies.

47. Statements were then made by the experts from Australia; Brazil, Denmark; Egypt, the European Community, France, Ghana; India, the Islamic Republic of Iran; Jamaica, Japan; Mexico, Namibia Spain, and a representative from the International Grain Trade Coalition.

48. The following additional points were raised:

(a) That a shipment might contain LMOs that were not authorized for import, or authorized ones but over a certain threshold and that they could be refused entry;

(b) That there may be LMOs authorized for one purpose, such as feed, which were not authorized for another, such as food;

(c) That the Secretariat ought to research the issue of thresholds;

(d) That a threshold of 5% seemed too high;

(e) That there was a need for industry to re-evaluate its practices;

(f) That a recommendation should be made to Industry to review its practices;

(g) That there should flexible thresholds;

(h) That most developed countries have a zero tolerance to unapproved LMOs;

(i) That zero tolerance was the only tolerance acceptable for the environment;

(j) That there should be a recommendation to the ICCP that it request more information on thresholds;

(k) That the exact transformation event in a shipment can often be stated;

(l) That not all shipments were bulk cargo such as grain;

(m) That the Meeting did not have a mandate to consider the unintentional transboundary movement of LMO-FFP;

(n) That LMOs-FFP would be useful to the economies of the developing world;

(o) That LMOs-FFP present different levels of risk, and that the risks increased when cross pollination was involved;

(p) That pending the development of standards for scientific sampling and detection techniques, there was a need for agreed tolerance levels;

(q) That adequate testing technologies were being developed.

Issues that may affect the technical ability of Parties to implement paragraph 2 (a) of Article 18

49. The Chair then asked the participants to consider what policy issues affecting the technical ability of the Parties to implement paragraph 2 (a) of Article 18 ought to be drawn to the attention of the ICCP.

50. Statements were made by the experts from Australia, Germany, India and Norway,

51. The following issues were raised:

(a) That any recommendations made on this issue be for consideration by the ICCP in preparation for consideration by the Conference of the Parties serving as the meeting of the Parties to the Protocol;

(b) That there was a need to develop a unique identifier connected to the Biosafety Clearing-House;

(c) That there was a need to get the advice of industry on the sampling of adventitious LMOs;

(d) That there was a need to get the advice of Governments and industry;

(e) That the "may contain" phrase involved thresholds;

(f) That the "may contain" phrase presented difficulties in identifying shipments known to contain LMOs-FFP; and

(g) That, while industry ought to develop methods of scientific methods of sampling and identification, transformational traits associated with LMOs that are subject to transboundary movement had to be disclosed as well, bearing in mind the need for the Conference of the Parties serving as the meeting of the Parties to the Protocol to develop scientific standards.

ITEM 4. RECOMMENDATIONS

52. At the 5th session of the meeting, on Wednesday, 20 March 2002, the experts considered the draft recommendations, prepared by the Chair on the basis of the discussions.

53. Following a discussion, in which a number of experts participated, the Chair informed the experts that he would redraft a part of the preamble to the recommendations.

54. At the 6th session of the meeting, the experts continued their discussion of the revised text of the recommendations, as amended to include a proposal of the expert from Egypt.

55. The experts approved the draft recommendations, as amended in the course of discussion, for transmission to the ICCP at its third meeting. The text of the recommendations is annexed to the present report.

56. The expert from Namibia expressed his view that there should be a reference to the final destination of shipments in paragraph 1 (f) of the recommendations.

57. The expert from India expressed his view, in connection with paragraph 3 (a) of the recommendations, that future consideration of the identification requirement contained in the first

sentence of paragraph 2 (a) of Article 18 should be put in context in that the phrase "clearly identifies them as they 'may contain' " needed to be looked at, not merely the "may contain" portion of it.

58. The expert from Australia expressed his view that the introductory sentence, or chapeau, of recommendation 3 should read "With regard to implementation of paragraph 2 (a) of Article 18, the Meeting of Technical Experts identified the following issues that may warrant future consideration by the Conference of the Parties serving as the meeting of the Parties to the Protocol".

ITEM 5. OTHER MATTERS

59. No other matters were raised for discussion.

ITEM 6. ADOPTION OF THE REPORT

60. The present report was adopted on 20 March 2002, on the basis the draft report presented by the Rapporteur.

ITEM 7. CLOSURE OF THE MEETING

61. Following the customary exchange of courtesies, the meeting was closed at 8:30 p.m. on Wednesday, 20 March 2002.

Annex

RECOMMENDATIONS OF THE OF THE MEETING OF TECHNICAL EXPERTS ON THE REQUIREMENTS OF PARAGRAPH 2 (a) OF ARTICLE 18 OF THE CARTAGENA PROTOCOL ON BIOSAFETY

The Meeting of Technical Experts on the Requirements of Paragraph 2 (a) of Article 18 of the Cartagena Protocol on Biosafety,

Noting the urgent need to provide guidance to Parties and States on the modalities for the implementation of the first sentence of paragraph 2(a) of Article 18 of the Cartagena Protocol on Biosafety,as a requirement for Parties upon entry into force of the Protocol,

Noting also the linkage between the implementation of Article 11 and implementation of paragraph 2(a) of Article 18, and, further, that the operation of the Biosafety Clearing-House and the capacity to utilize it is essential for the effective implementation of paragraph 2(a) of Article 18, especially for developing countries, in particular the least developed and small island States among them, and countries with economies in transition,

Noting further:

(a) The complexity of the issues involved in the implementation of paragraph 2 (a) of Article 18 of the Protocol;

(b) The information provided by industry on the transboundary movement of agricultural commodities including bulk grains, whilst recognizing that this is only one example of transboundary movements that may contain living modified organisms intended for direct use as food or food, or for processing;

(c) The current state of methodology for identification of LMO content in shipments; and,

(d) The challenges in implementing the "may contain" provision and the second sentence of paragraph 2 (a) of Article 18 of the Protocol,

Acknowledging that the recommendation on implementation of the first sentence of paragraph 2 (a) of Article 18 in no way affects the right of Parties:

(a) To reach a decision, under their domestic legislation and consistent with their other obligations under international law, regarding the import of living modified organisms intended for direct use as food or feed, or for processing;

(b) To take further measures consistent with Article 2, paragraph 4, and Article 11, paragraph 4, of the Protocol, including on identification,

Recognizing that implementation of the requirements contained in the first sentence of paragraph 2 (a) of Article 18 is on an interim basis, pending the decision referred to in the second sentence of paragraph 2 (a) of Article 18,

Further recognizing that, as reflected in the report of themeeting, different views were expressed by a number of experts with regard to the extent of necessary information according to the first sentence of paragraph 2 (a) of Article 18 or the potential need for additional information (in sections highlighted by an * in the text) that would assist further in the implementation of the first sentence of paragraph 2 (a) of Article 18,

Aware that the Conference of the Parties serving as the meeting of the Parties to the Protocol shall take a decision on the detailed requirements of documentation accompanying living modified organisms intended for direct use as food or feed, or for processing, including specification of their identity and any unique identification no later than two years after the date of entry into force of the Protocol,

Submits the following for consideration by the Intergovernmental Committee for the Cartagena Protocol on Biosafety:

1. Regarding modalities for the implementation of the requirements for the documentation accompanying transboundary movements of living modified organisms intended for direct use as food or feed, or for processing, contained in the first sentence of paragraph 2 (a) of Article 18, required upon the entry into force of the Protocol, the Meeting of Technical Experts recommends that:

(a) Pending consideration of the need to develop stand-alone documentation accompanying living modified organisms intended for direct use as food or feed, or for processing, measures should be taken by Parties and Governments to require integration of the information requirements of the first sentence of paragraph 2 (a) of Article 18 into existing documentation supplied by the originator of the shipment;

(b) The documentation should accompany all shipments for food or feed, or for processing, that intentionally contain LMOs;

(c) The documentation should be informative, clear, precise and easy to use;

(d) The documentation should state that the shipment "may contain LMOs intended for direct use as food or feed, or for processing, that are not intended for intentional introduction into the environment, * and that additional information on the living modified organisms intended for direct use as food or feed, or for processing, is available through the Biosafety Clearing-House";

(e) *In order to facilitate access to the information in the Biosafety Clearing-House, exporters be encouraged to provide additional information on the specific living modified organisms in

the shipment if known and not already provided elsewhere on the accompanying documentation, to facilitate implementation of paragraph 2 (a) of Article 18;

(f) The documentation should include information on a contact point for further information, who should be an individual or organization in possession of relevant information. The information should include contact details necessary to reach them as fast as possible especially in case of emergency. The contact point may be the exporter, importer, or any other appropriate individual, authority, or organization.

2. Regarding the issues to be addressed in preparation for the decision by the Conference of the Parties serving as the meeting of the Parties to the Protocol referred to in the second sentence of paragraph 2 (a) of Article 18, the Meeting of Technical Experts identified that the following issues need to be considered, and recommends that Parties, Governments, and other relevant stakeholders including industries and non-governmental organizations should be requested to submit information, views and advice on:

(a) Operational experience, including the relevance and usefulness of other international systems, standards and provisions, on the effectiveness and efficiency of the implementation of the first sentence of paragraph 2 (a) of Article 18 with regard to achieving the objective of the Protocol;

(b) The need for and the development of a harmonized/unique identification system applicable to LMOs under paragraph 2 (a) of Article 18 as a means to provide direct access to pertinent information;

(c) The need for and the development of affordable, accessible, internationally accepted standard methodology for the sampling, detection and identification of LMOs intended for direct use as food or feed, or for processing;

(d) Any linkages between paragraph 2 (a) and paragraph 3 of Article 18.

3. With regard to the implementation of paragraph 2(a) of Article 18, the Meeting og Technical Experts identified the following issues that may warrant future consideration:

(a) Clarification/elaboration on the application of the language in paragraph 2(a) of Article 18, specifically the “may contain” phrase, where the identity of the specific LMO(s) in a transboundary movement is known and verified;

(b) The issue of unintentional/adventitious presence of LMO(s) in the context of paragraph 2 (a) of Article 18;

(c) The lack of and possible need for an independent report on current practices in the handling and trans-boundary movements of products for food or feed, or for processing, as they impact on implementation of paragraph 2 (a) of Article 18, including an assessment of the possible costs of implementation including Identity Preservation systems for living modified organisms intended for direct use as food or feed, or for processing.

Annex II

SUMMARY BY THE CHAIR OF WORKING GROUP I OF THE DISCUSSION UNDER ITEM 4.1.5: HANDLING, TRANSPORT, PACKAGING AND IDENTIFICATION (ARTICLE 18, PARAGRAPH 2 (a))

1. The following is a summary of the points made by various delegations during the consideration by Working Group I of the agenda item on handling, transport, packaging and identification:

(a) A step-by-step approach over the two-year interim period to Article 18 is warranted.

(b) There is a need for reference to unique identification in the documentation.

(c) There is a need for accompanying documentation to clearly identify LMO-FFPs.

(d) There is a need to further clarify the application of the "may contain" provision, particularly when it is known that shipments will contain LMOs.

(e) Additional information requirements should not go beyond the negotiated text of the Protocol.

(f) There is a need to implement an international system of transparent and continuous flow of unambiguous information.

(g) Care must be taken not to duplicate existing standard-setting efforts.

(h) Article 18.2(a) is also intended to protect gene pools.

(i) There is a need for an independent study on the costs that would be incurred for separating LMOs and non-LMOs.

(j) Documentation requirements should not impede commodity trade.

(k) Accompanying documentation is intended for safe shipping and transport, not risk assessment.

(l) There is a need to focus on the necessary requirements at the time of entry into force, to allow time for industry to comply with the recommendations.

2. On this basis, a contact group was established to focus on the elements of the technical expert group recommendations that were preceded by an asterisk, as well as some of the elements of paragraph 3. The following is a summary of the outcomes of their deliberation.

3. In the contact group there was considerable discussion. Some views and concepts were discussed in attempting to improve the level of agreement. No agreed text was adopted. The following indicative list of further elements are presented for further consideration of the issues at a later stage:

(a) The acknowledgement that the decisions made in relation to paragraph 1 of Article 11, including placing on the market, will be available on the Biosafety Clearing-House and that this information will facilitate Parties' ability to initiate decisions regarding import under their domestic regulatory framework, or according to paragraph 6 of Article 11, fully and early, and that those decisions also will be made available on the Biosafety Clearing-House,

(b) The acknowledgement that the information to be provided pursuant to Annex II, along with the decisions referred above, will be a requirement by the time of entry into force.

(c) The recognition that if complete and accurate information on the accompanying documentation were not made available to Parties which are potential importers and which ask for it, it may impact on the import of the LMO shipments;

(d) The recognition of the absence of consensus, at this stage, on certain issues that may have implications on the implementation of obligations under paragraph 2 (a) of Article 18

(e) The recognition that any unresolved text (i.e., bracketed text) in ICCP recommendations does not affect the obligation of Parties to meet the requirements specified in the Protocol, including the first sentence of paragraph 2 (a) of Article 18, at the date of entry into force of the Protocol;

(f) The recognition that different views were expressed by a number of delegates with regard to the extent of necessary information according to the first sentence of paragraph 2 (a) of Article 18 or the potential need for additional information that would assist further in the implementation of the first sentence of paragraph 2 (a) of Article 18,

(g) The submission of the TEG recommendation and further elements of recommendation for consideration by the first Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol, to take a decision on the implementation of paragraph 2(a) of Article 18 in a step-wise approach.

(h) The possibility to revisit the issue of LMOs being "intentionally" contained in shipments may be envisaged in light of the outcome of an information gathering exercise on the issue of unintentional/adventitious presence of LMOs. The issues of trace amounts/ unintentional /adventitious presence of LMOs are however not referred to in paragraph 2 (a) of Article 18.

(i) The operative element that, without prejudice to more precise information, the documentation should state that the shipment "may contain" LMOs intended for direct use as food or feed, or for processing, that are not intended for intentional introduction into the environment.

(j) The operative element that, the documentation could/should also include any available identification to facilitate access to the information on these LMOs in the Biosafety Clearing-House according to Article 11 and Annex II.

(k) Regarding issues to be addressed in preparation for the decision by the Conference of the Parties serving as the meeting of the Parties to the Protocol referred to in the second sentence of paragraph 2 (a) of Article 18, the issue of whether it would be suitable that, where the identity of specific LMO(s) in a transboundary movement is known and verified, exporters shall be encouraged to state on the documentation that the shipment contains LMOs intended for direct used as food or feed or for processing and to include any available unique identification, where not already clearly indicated elsewhere in the accompanying documentation, in order to specify the identity of these LMOs, needed to be considered, and information, views and advice of Parties, Governments, and other relevant stakeholders including industries and non-governmental organizations be collected.

(l) Regarding issues to be addressed in preparation for the decision by the Conference of the Parties serving as the meeting of the Parties to the Protocol referred to in the second sentence of paragraph 2 (a) of Article 18, the issue of the identity of the LMOs in the shipment, including the taxonomic name, the gene modification inserted and traits or genes changed needed to be considered, and information, views and advice of Parties, Governments, and other relevant stakeholders including industries and non-governmental organizations be collected.

(m) The submissions on issues to be addressed in preparation for the decision by the Conference of the Parties serving as the meeting of the Parties to the Protocol referred to in the second sentence of paragraph 2 (a) of Article 18 should be forwarded to the Executive secretary no later than one month after the depositing of the fiftieth instrument of ratification or accession, in order to be compiled in an information document to be circulated to all Parties to the protocol and governments, for their consideration prior to the first meeting of the Conference of the Parties serving as the meeting of the Parties.

(n) The request to Parties, Governments and relevant international organizations to submit their views and information to the Executive Secretary, for further consideration on the issue of unintentional/adventitious presence of LMO(s) in the context of paragraph 2(a) of Article 18, and its linkages to Article 17 of the Protocol.

(o) The request to Parties, Governments and relevant international organizations to submit their views and information to the Executive Secretary, for further consideration on the issue of current practices in the handling and transboundary movements of products for food or feed, or for processing, as they impact on implementation of paragraph 2(a) of Article 18, including an assessment of the possible costs of implementation including Identity Preservation systems for living modified organisms intended for direct use as food or feed, or for processing.

(p) The request to the Executive Secretary to prepare a synthesis report of the views and information submitted on the issues of unintentional/adventitious presence of LMO(s) in the context of paragraph 2 (a) of Article 18, and its linkages to Article 17 of the Protocol and to submit it to the meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, in order to reach a decision within two years after entry into force.

(q) The request to the Executive Secretary to prepare a synthesis report of the views and information submitted on the issues of current practices in the handling and transboundary movements of products for food or feed, or for processing, as they impact on implementation of paragraph 2(a) of Article 18, including an assessment of the possible costs of implementation including Identity Preservation systems for living modified organisms intended for direct use as food or feed or for processing and to submit it to the meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, in order to reach a decision within two years after entry into force.

(r) The need to develop a template for a stand-alone document accompanying shipments of living modified organisms intended for direct use as food or feed or for processing under paragraph 2 (a) of Article 18.

Appendix 5/

EXAMPLES OF INTEGRATION OF INFORMATION REQUIREMENTS INTO EXISTING DOCUMENTATION

A. Blank example of template for Article 18.2 (b) of the Cartagena Protocol

COMPANY OR INSTITUTION LETTERHEAD

Invoice

Date _____

	EXPORTER	**IMPORTER/CONSIGNEE**	**CONTACT POINT** **Exporter** ☐ **Importer/Consignee** ☐ **Other** ☐
COMPANY OR INSTITUTION			
CONTACT PERSON			
STREET			
CITY, POSTAL CODE			
COUNTRY			
PHONE; FAX			
EMAIL			

Shipping details	**Shipper reference number**	**Shipper contact details**

Item	**Amount**	**Weight/Volume**	**Description**	**Value**
			Living modified organisms: Destined for contained use Name of the organisms Intended use e.g. research, others	

ANY REQUIREMENTS FOR SAFE HANDLING, STORAGE, TRANSPORT AND USE	• **As provided under applicable existing international requirements,** • **As provided under domestic regulatory framework, if any,** • **Any other requirements agreed to by the importer and exporter, or** • **In the event there is no requirement, indicate that there is no specific requirement**

5/ Information in the shaded portions of the present annex represent the wording of the Protocol stipulated in the respective paragraphs.

B. Example 1 of template for Article 18.2 (b) of the Cartagena Protocol

COMPANY OR INSTITUTION LETTERHEAD

Invoice

Date _____

	EXPORTER	**CONSIGNEE**	**CONTACT POINT** **Exporter** ☑ **Consignee** ☐ **Other** ☐
COMPANY OR INSTITUTION	**XXXX**	**YYYY**	
CONTACT PERSON			
STREET			
CITY, POSTAL CODE			
COUNTRY			
PHONE; FAX			
EMAIL			

Shipping details	**Shipper reference number**	**Shipper contact details**

Item	**Amount**	**Weight/Volume**	**Description**	**Value**
1	bag	50 g	**Living modified organisms**: Destined for contained use Papaya Research material seeds, PRSV (Papaya Ring Spot Virus) resistant	none

ANY REQUIREMENTS FOR SAFE HANDLING, STORAGE, TRANSPORT AND USE	**Should only be used in registered facilities**

C. Example 2 for Article 18.2 (b) of the Cartagena Protocol

Shippers Declaration of Dangerous Goods

Shipper: Name Company or Institution Address Phone number	Air Waybill No: 123456789 Page 1 of 1 Pages Shipper's Reference Number sso (optional)
Consignee : **Company or Institution** **Contact Person** **Street, City** **Postal Code, Country** **Phone, Fax** **Email**	Contact Point Shipper ☐ Consignee ☑ Other ☐ **Company or Institution** **Contact Person** **Street, City** **Postal Code, Country** **Phone, Fax**
Two Completed and signed copies of this Declaration must be handed to the operator	**WARNING**
TRANSPORT DETAILS Airport of Departure This shipment is within the limitations prescribed for: *delete non-applicable)* PASSENGER ~~CARGO~~ AND CARGO ~~AIRCRAFT~~ AIRCRAFT ~~ONLY~~ Airport of Destination:	Failure to comply in all respects with the applicable Dangerous Goods Regulations may be in breach of the applicable law, subject to legal penalties. This Declaration must not, in any circumstances, be completed and/or signed by a consolidator, a forwarder or an IATA cargo agent. Shipment Type: (*delete non-applicable*) NON-RADIOACTIVE ~~RADIOACTIVE~~

NATURE AND QUANTITY OF DANGEROUS GOODS

	Dangerous Goods Identification						
Proper-Shipping Name	Class or Division	UN or ID No.	Packing Group	Subsidiary Risk	Quantity and Type of Packing	Packing Instruction	Authorization
Infectious Substances Affecting Humans HIV gene bank in E.coli K12 Living modified organisms	6.2	UN 2814			1 Fiberboard Box ("Safe-T-Pak") x 25.0 mL	602	
Dry Ice	9	UN1845	III		1 x 12.4Kg 1 Overpack Used	904	

Additional Requirements for Safe Handling, Storage, Transport and Use

Prior Arrangements As Required By The IATA Dangerous Goods Regulations 1.3.3.1 Have Been Made. IATA/ICAO USED

This material is for contained use only in a certified Safety Level 2 Facility

24 hr. Emergency Contact Telephone No. Chemtrec 800/424-9300

I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations.

Name/Title of Signatory
Name/Title of Signatory
Place and Date
City, State, Country Date
Signature
(*see warning above)*

D. Blank Example Template for Article 18.2 (c) of the Cartagena Protocol

COMPANY OR INSTITUTION LETTERHEAD

Invoice

Date _____

	EXPORTER	**IMPORTER**	**CONTACT POINT** **Exporter** ☐ **Importer** ☐ **Other** ☐
COMPANY OR INSTITUTION			
CONTACT PERSON			
STREET			
CITY, POSTAL CODE			
COUNTRY			
PHONE; FAX			
EMAIL			

Shipping details	**Shipper reference number**	**Shipper contact details**

Item	**Amount**	**Weight/Volume**	**Description**	**Value**
			• **Living modified organism** • **Brief Description of the organisms including category, name, relevant traits including transgenic traits and characteristics such as event(s) of transformation** • Where available and applicable: ❖ Reference to a system of identification such as: o Harmonized code such as unique identifier o Notification under AIA o Final decisions o Notifications to the BCH ❖ Other requirements in accordance with the regulatory status of the LMO in the Party of import	

ANY REQUIREMENTS FOR SAFE HANDLING, STORAGE, TRANSPORT AND USE	· **As provided under applicable existing international requirements,** · **As provided under domestic regulatory framework, if any,** · **Any other requirements agreed to by the importer and the exporter,** · **As provided under the advance informed agreement procedure if applicable, or** · **In the event there is no requirement, indicate that there is no specific requirement.**

I declare that this transboundary movement/shipment is in conformity with the requirements of the Cartagena Protocol applicable to the exporter.

Signature of exporter_____ Date_____

E. Example 1 Template for Article 18.2 (c) of the Cartagena Protocol

COMPANY OR INSTITUTION LETTERHEAD

Invoice

Date _____

	EXPORTER	**IMPORTER**	**CONTACT POINT** **Exporter** ☐ **Importer** ☑ **Other** ☐
COMPANY OR INSTITUTION	**XXXX**	**YYYY**	
CONTACT PERSON			
STREET			
CITY, POSTAL CODE			
COUNTRY			
PHONE; FAX			
EMAIL			

Shipping details	**Shipper reference number**	**Shipper contact details**

Item	**Amount**	**Weight/Volume**	**Description**	**Value**
4	Bags	1 Kg	**Living modified organism**: **Rice, resistance against Xanthomonas campestris pv. Orizae , RI323, 327, 432 &726** Permit **RICE3434-02** for experimental release Research material	none

ANY REQUIREMENTS FOR SAFE HANDLING, STORAGE, TRANSPORT AND USE	• **See permit RICE3434-02**

I declare that this transboundary movement/shipment is in conformity with the requirements of the Cartagena Protocol applicable to the exporter.

Signature of exporter_____ Date_____

F. Example 2 Template for Article 18.2 (c) of the Cartagena Protocol

COMPANY OR INSTITUTION LETTERHEAD

Invoice

Date _____

	EXPORTER	**IMPORTER**	**CONTACT POINT** ☐ **Exporter** ☐ **Importer** ☑ **Other**
COMPANY OR INSTITUTION	**XXXX**	**YYYY**	**ZZZZ**
CONTACT PERSON			
STREET			
CITY, POSTAL CODE			
COUNTRY			
PHONE; FAX			
EMAIL			

Shipping details	**Shipper reference number**	**Shipper contact details**

Item	**Amount**	**Weight/Volume**	**Description**	**Value**
1	1000 bags	50'000 pounds	**Living modified organism**: **Soybean WSD 432, high oleic acid, HOA** Permit #GM21345/2002 for planting OECD UI: BI-ABC891-8 6/ Commercial seeds material	22'000 €

ANY REQUIREMENTS FOR SAFE HANDLING, STORAGE, TRANSPORT AND USE	**NO SPECIFIC REQUIREMENT**

I declare that this transboundary movement/shipment is in conformity with the requirements of the Cartagena Protocol applicable to the exporter.

Signature of exporter_____ Date_____

6/ See *OECD Guidance for the Designation of Unique Identifier for Transgenic Plants, 2002 – Key to accessing databases that provide additional information on the LMO.*

3/7. Monitoring and reporting (Article 33)

The Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Recognizing the important role of monitoring and reporting in the implementation of the Protocol,

Noting the comments received to date from various Governments on the reporting format (UNEP/CBD/ICCP/3/INF/6),

1. *Encourages* Governments that have not submitted comments pursuant to recommendation 2/2 of the Intergovernmental Committee for the Cartagena Protocol on Biosafety to review the reporting format and submit any comments to the Executive Secretary by no later than five 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;

2. *Requests* the Executive Secretary to continue to compile comments on the draft format, with a view to further developing the format 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.

3/8. Consideration of other issues necessary for the effective implementation of the Protocol (e.g., Article 29, paragraph 4)

The Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Recalling the request from the second meeting of the Intergovernmental Committee for Governments to submit comments 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,

Taking note of the draft medium-term programme of work proposed in the annex to the note by the Executive Secretary on other issues necessary for the effective implementation of the Protocol (UNEP/CBD/ICCP/3/9/Add.1), and the submissions by countries contained in the information paper compiling the views on those other issues (UNEP/CBD/ICCP/3/INF/7 and UNEP/CBD/ICCP/3/INF/13),

Noting the importance of applying the principles of transparency, timeliness, fairness and inclusiveness of participation in the consideration of issues necessary for the effective implementation of the Protocol,

1. *Recommends* that the Conference of the Parties serving as the meeting of the Parties to the Protocol utilize mechanisms under the Protocol or the Convention to consider, where appropriate, technical and scientific issues associated with implementation identified by Parties and other Governments as requiring clarification, exchange views and, where appropriate, seek and/or develop draft guidance or clarifications for the consideration of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

2. *Considers* that such mechanisms could include, *inter alia*:

(a) Meetings of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

(b) Monitoring and reporting in accordance with Article 33;

(c) Subsidiary bodies established in accordance with Article 30 and/or Article 29 paragraph 4 (b);

(d) Inter-sessional activities;

(e) The services and cooperation of, and information provided by international organizations and intergovernmental and non-governmental bodies with competence in biosafety issues;

(f) Periodic assessment and review of the Protocol and its annexes and adoption of amendments, in accordance with Article 35;

(g) Compliance procedures and mechanisms established in accordance with Article 34;

(h) The biosafety roster of experts;

(i) The Biosafety Clearing-House;

(j) The decision-making procedures and mechanism, for paragraph 7 of Article 10;

(k) Regional networks and centres of excellence with competence in biosafety issues; and

(l) Visits, and other informal liaison and exchange of views;

[3. *Notes* paragraphs 2 and 3 of recommendation 3/3, on information-sharing, regarding the development of unique identification systems for classes of living modified organisms and their harmonization, that may be applicable to the Biosafety Clearing-House;

4. *Notes* the request expressed by some countries for further guidance on the issue of risk assessment and risk management and *invites* Parties and Governments to provide their views on the issues no later than five months prior to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;]

5. *Notes* the request expressed by some countries for further guidance on certain issues, in particular transboundary movements of living modified organisms between Parties and non-Parties under Article 24, and categorization of living modified organisms;

6. *Further notes* that some countries do not consider there to be a need for further clarification of provisions of the Protocol at this stage, including Article 24;

7. *Takes into account* the importance of applying the provisions of Article 24 at the time of entry into force of the Protocol, and *invites* Parties to provide, through the Biosafety Clearing-House, information regarding [their application of Article 24 under] domestic laws, regulations or guidelines;

[8. *Recommends* that the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol consider the need for clarification, and provide guidance relating to transboundary movement between Parties and non-Parties towards the achievement of the objectives of the Protocol on the basis of the following elements, *inter alia*:

(a) Measures to encourage non-Parties, especially those that have signed the Protocol, to adhere to the Protocol, and to contribute appropriate information to the Biosafety Clearing-House in accordance with paragraph 2 of Article 24;

(b) Measures to assist Parties to address cases where non-Parties have not implemented a national biosafety framework consistent with the objectives of the Protocol, and to enter into bilateral, regional and multilateral agreements and arrangements with non-Parties.]

9. *Notes* that some countries expressed a need for criteria for categorization of LMOs according to their intended use, and *invites* Parties to provide their views on operational experience on this issue, gained following entry into force of the Protocol, including through the monitoring and reporting process under Article 33;

10. *Invites also* other Governments and international governmental organizations to share relevant information in this regard;

11. *Notes* that the number of submissions received by the Executive Secretary regarding items to be included in a medium-term programme of work in accordance with the request made at the second meeting of the Intergovernmental Committee was limited;

12. *Considers* that there is a need to solicit more views on items to be addressed in a medium-term programme of work, and *requests* Parties to the Convention and other States to further provide the Executive Secretary, no later than five months prior to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, with their views on items to be included in a medium-term programme of work for consideration at that first meeting;

13. *Welcomes* the deposit of instruments of ratification, acceptance, approval or accession in respect of the Cartagena Protocol on Biosafety, and *reiterates* the call of the Conference of the Parties to the Convention upon other Parties to the Convention to deposit such instruments as soon as possible;

14. *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;

15. *Recognizes* that measures are needed to assist developing countries, in particular the least developed and small island developing States among them, and countries with economies in transition, to prepare for adherence to the Protocol;

16. *Notes* 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, and, *recalling* the invitation to Parties made at the second meeting of the Intergovernmental Committee to clarify this matter for the Secretariat, *invites* non-Parties, when the Protocol enters into force, to nominate contact points.

3/9. Entry into force of the Cartagena Protocol on Biosafety

The Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Noting that, in paragraph 3 of its decision VI/1, the Conference of the Parties to the Convention on Biological Diversity, *inter alia*, requested the Executive Secretary in the event that the Protocol enters into force within one year of the sixth meeting of the Conference of the Parties, to convene the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol in conjunction with an extraordinary meeting of the Conference of the Parties, no later than eight months after the entry into force of the Protocol,

Expressing its appreciation to the Conference of the Parties for approving, in the core budget of the Convention for the biennium 2003-2004, funding for the convening of the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol in conjunction with an extraordinary meeting of the Conference of the Parties,

Expressing its appreciation also for the approval by the Conference of the Parties of a contingency of US$ 250,000 to meet the costs of the conference services if a second meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety takes place in 2004, back-to-back with the seventh meeting of the Conference of the Parties to the Convention, and in the event that the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol does not decide on budgetary arrangements to this end,

Recalling that, in The Hague Ministerial Declaration of the Conference of the Parties to the Convention on Biological Diversity, developed within the context of the preparations for the World Summit on Sustainable Development, to be held in Johannesburg from 26 August to 4 September 2002, the ministers responsible for the implementation of the Convention on Biological Diversity meeting in The Hague on 16-17 April 2002 referred to the need to urge all States to ratify and fully implement the Cartagena Protocol on Biosafety to the Convention on Biological Diversity,

Encouraged by the positive signal sent by a significant number of Parties during the current meeting regarding their processes for ratifying the Protocol and *conscious* of the desirability, as expressed by many participants during the sixth meeting of the Conference of the Parties and its ministerial segment, of obtaining, before the World Summit on Sustainable Development, the number of ratifications of the Cartagena Protocol required for its entry into force,

1. *Calls upon* all Parties to the Convention that have not yet done so to ratify, accept, approve or accede to the Cartagena Protocol at the earliest possible opportunity to enable it to 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 2003 in conjunction with an extraordinary meeting of the Conference of the Parties;

2. *Also calls upon* Parties to the Convention to provide financial resources for inter-sessional activities recommended by the Intergovernmental Committee to advance further the preparations for the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

3/10. Tribute to the Government and people of the Kingdom of the Netherlands

The Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Having met in The Hague from 22 to 26 April 2002, at the gracious invitation of the Government of the Kingdom of the Netherlands,

Deeply appreciative of the special courtesy and warm hospitality extended by the Government and the people of the Netherlands to the members of delegations, observers and members of the Secretariat attending the meeting,

Expresses its sincere gratitude to the Government of the Netherlands and to its people for the cordial welcome that they accorded to the meeting and to those associated with its work, and for their contribution to the success of the meeting.
