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**Committee on Trade and Environment**

Original: English/  
anglais/  
inglés

**COMMUNICATION FROM THE SECRETARIAT OF THE CONVENTION ON  
BIOLOGICAL DIVERSITY**

The attached background note<sup>1</sup> has been received from the Secretariat of the Convention on Biological Diversity. It is being circulated to members of the CTE in preparation for the Committee Meeting on Trade and Environment to be held on 29-30 June 1999.

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**Comité du commerce et de l'environnement**

**COMMUNICATION DU SECRÉTARIAT DE LA CONVENTION  
SUR LA DIVERSITÉ BIOLOGIQUE**

La note d'information ci-jointe<sup>1</sup> a été reçue du Secrétariat de la Convention sur la diversité biologique. Elle est distribuée aux membres du Comité du commerce et de l'environnement en vue de la réunion que le Comité tiendra les 29 et 30 juin 1999.

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**Comité de Comercio y Medio Ambiente**

**COMUNICACIÓN DE LA SECRETARÍA DEL CONVENIO  
SOBRE LA DIVERSIDAD BIOLÓGICA**

La Secretaría del Convención sobre la Diversidad Biológica ha enviado el documento de base adjunto<sup>1</sup>, que se distribuye a los miembros del CCMA como parte de los preparativos para la reunión sobre comercio y medio ambiente que el Comité celebrará los días 29 y 30 de junio de 1999.

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<sup>1</sup> English only/En anglais seulement/En inglés solamente.

**RESPONSE OF THE EXECUTIVE SECRETARY OF THE CONVENTION ON  
BIOLOGICAL DIVERSITY TO THE REQUEST OF THE CAIR OF THE COMMITTEE ON  
TRADE AND ENVIRONMENT**

**I. MEMBERSHIP**

**A. WHICH COUNTRIES ARE PARTY TO THE MEA?**

1. There are 175 Parties to the Convention on Biological Diversity. A list of those Parties is contained in the Annex to this document.

**B. WHO, IN YOUR VIEW, ARE “KEY PLAYERS” THAT ARE NOT YET PARTY TO THE MEA?**

2. The objectives of the Convention are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the use of genetic resources. Accordingly, countries which contain significant amounts of biological diversity or important elements of this diversity may be considered as having a “key role” to play in the Convention and are thus “key players”. Moreover, in light of the latter objective, those countries which use or import biological diversity derived products are also important. Under these criteria all states that are not Parties to the Convention are in the view of the Secretariat “key players” that are not yet party to the MEA’.

**C. WHO ARE THE NON-PARTIES THAT ARE IN COMPLIANCE WITH THE MEA AND WHY HAVE THEY NOT JOINED?**

3. The Convention does not have a compliance procedure. Formal assessment of Parties or non-Parties compliance with the Convention has not occurred.

4. Article 26 of the Convention does, however, require Parties to present to the Conference of the Parties, reports on measures which they have taken to implement the provisions of the Convention and their effectiveness in meeting the objectives of the Convention. The Conference of the Parties requested that Parties submit their first report by 31 December 1998. In the absence of any compliance procedure, information regarding Parties' compliance with the Convention derives from their reports. One non-Party has submitted a report.

5. The Secretariat is aware of a variety of reasons why states have not become Parties to the Convention. Some non-Parties are currently undertaking the process of ratification and expect to have this completed in due course. Others are experiencing a level of domestic difficulties that prevent the necessary action to ratify the Convention. In other countries the necessary public or political support does not exist.

**II. TRADE MEASURES**

**A. WHAT ARE THE TRADE MEASURES (EXISTING AND PROPOSED) IN THE MEA?**

6. The text of the Convention does not explicitly refer to trade measures. Nor does the Convention generally prescribe specific measures. The provisions of the Convention, with a few exceptions, set goals. The specific measures required to achieve these goals are largely the prerogative of Parties.

7. The Convention does, however, contain a number of provisions that are generally understood to require measures by Parties that could have consequences for trade. Provisions of the Convention that are often characterized in this way include:

- (a) Paragraph (b), Article 6 which calls upon Parties to “[i]ntegrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programme and policies”;
- (b) Paragraph (c), Article 7 which calls upon Parties to “[i]dentify process and categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity, and monitor their effects”. Paragraph (l), Article 8 then provides that Parties shall as far as possible “regulate or manage the relevant processes and categories of activities” so identified;
- (c) Paragraph (b), Article 10 provides that Parties shall “[a]dopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity”;
- (d) Article 11 calls upon Parties to “adopt economically and socially sound measures that act as incentives for conservation and sustainable use of components of biological diversity”;
- (e) Article 14 requires Parties to introduce environmental impact assessment procedures;
- (f) Article 15, which establishes a basis for the regime use of genetic resources based on the fair and equitable distribution of their use;
- (g) Articles 16 and 19 require Parties to take measures to promote the transfer of relevant technologies; and
- (h) Paragraph 3 of Article 19 require Parties to consider the need for a protocol on biosafety.

8. How these and other aspects of the Convention relate to the issue of trade measures in general and the World Trade Organization (WTO) regime in particular has been described by the Secretariat to previous sessions of the Committee on Trade and Environment (CTE), (see documents WT/CTE/W/64 and WT/CTE/W/92).

**B. HAVE ANY DECISIONS BEEN TAKEN THAT CONTAIN ADDITIONAL TRADE MEASURES?**

9. The last ordinary meeting of the Conference of the Parties was in May 1998. The Secretariat submitted the decisions of this meeting along with a summary of those aspects of the decisions that are relevant to trade measures in document WT/CTE/W/92.

10. A summary of previous decisions of the Conference of the Parties was made in document W/CTE/W/64.

11. Since then the Conference of the Parties had an extraordinary meeting to consider a draft text for a protocol on biosafety. The results of this meeting are described below.

**C. HAVE NON-COMPLIANCE PROCEDURES BEEN ENFORCED ON PARTIES?**

12. The Convention does not establish a formal “compliance” procedure. As explained above Parties are, however, required to report on the measures they have taken to implement the Convention and their effectiveness. In many of these reports Parties have indicated that further measures are required in order to fully implement the Convention and /or meet its objectives.

13. Moreover, the Convention contains numerous mechanisms and provisions intended to assist developing country Parties implement the Convention. An important aspect of these commitments is the financial resources provided by the financial mechanism to developing country Parties. Article 5 also provides that Parties shall cooperate either directly or through competent international organisations. Further detail regarding such mechanisms is given below.

14. The Convention also contains a procedure for settling disputes between Parties (Article 27 and Annex II).

D. HAVE THE TRADE MEASURES ASSISTED IN ACHIEVING THE OBJECTIVES OF YOUR AGREEMENT, AND WHY?

15. Trade measures are a significant tool for achieving the aims of the Convention in a number of ways.

16. At the international level, the Conference of the Parties has considered trade measures in a number of decisions. One important example in this respect is the impact that trade measures and the international trading regime has had on the negotiations for the biosafety protocol (considered below).

17. Another important example of the effect of trade measures on the development of the Convention is seen in the work of the Conference of the Parties with respect to agricultural biological diversity. Decision III/11 on conservation and sustainable use of agricultural biological diversity establishes a multi-year programme of activities. The aim of this programme is to promote the positive effects and mitigate the negative impacts of agricultural practices on biological diversity. It also hopes to promote the conservation and sustainable use of genetic resources of actual or potential value for food and agriculture and the fair and equitable sharing of benefits arising out of the use of genetic resources. In this decision the Conference of the Parties acknowledged the importance that trade measures will play in achieving these aims. Accordingly, the Conference of the Parties encouraged the WTO through its Committee on Trade and Environment to consider developing a better appreciation of the relationship between trade and agricultural biodiversity. The Conference of the Parties at its fourth meeting reconfirmed the importance of trade measures by requesting the Secretariat to apply for observer status in the WTO Committee on Agriculture.

18. Numerous Parties have indicated in their national reports that they have considered the role that trade measures can play in achieving the aims of the Convention. Several have stated that they have taken trade measures to implement the aims of the Convention.

E. DOES THE MEA CONTAIN INCENTIVES TO ENCOURAGE COUNTRIES TO JOIN, AS WELL AS FACILITATE IMPLEMENTATION? (EXAMPLE: TECHNOLOGY TRANSFER, MARKET INCENTIVES, CAPACITY BUILDING)

19. The Convention, like the other UNCED agreements, recognizes that to achieve its aim developing countries need to be able to participate fully and effectively in the process. Due to capacity restraints most developing country Parties need assistance to ratify the Convention, implement its provisions and participate in its decision-making processes.

20. The fact that most biological diversity resides within developing countries has meant that the Convention contains an extensive array of provision addressing these needs. For example, the Convention contains provisions addressing: transfer of technology (e.g. Articles 16 and 19), market incentives (e.g. Articles 10 and 11), capacity building (e.g. Articles 12 and 18), financial support for implementing the Convention (Articles 20 and 21), as well as participating in its decision-making (e.g. decision IV/17, Table 4, Special Voluntary Trust Fund for the Facilitating Participation of Parties in the Convention Process for the Biennium 1999-2000), awareness raising (e.g. Article 13), scientific and technical cooperation (e.g. Article 18), research and training (e.g. Article 12), exchange of

information (e.g. Article 17), sustainable use of biological diversity (e.g. Article 10) and incentive measures (e.g. Article 11).

21. Indeed, the whole approach of the Convention is based on the principle of common but differentiated responsibility, as defined in paragraph 4 of Article 20, which provides that:

‘the extent to which developing country Parties will effectively implement their commitments under this Convention will depend on the effective implementation by developed country Parties of their commitments under this Convention related to financial resources and transfer of technology and will take fully into account the fact that economic and social development and eradication of poverty are the first and overriding priorities of the developing country Parties’.

F. HOW HAVE THESE INCENTIVES WORKED AND WHO HAS FUNDED THEM?

22. The Convention has been ratified by 175 Parties and enjoys almost universal support from developing and developed countries. By this measure the incentives to join the Convention have proved effective.

23. Assessing the effectiveness of such measure in facilitating implementation is a much more difficult and complex task. National reports on the implementation of the Convention have been received from 111 Parties and one non-Party. A preliminary synthesis of the information contained in these reports was provided to the fourth meeting of the Conference of the Parties in document UNEP/CBD/COP/4/11/Rev.1. The main conclusion of this document is that implementation of the Convention at the national level has been initiated in most countries and attention has also been given to regional cooperation. In the vast majority of countries national biodiversity strategies and action plans are being developed. The successful development and implementation of national biodiversity strategies and action plans is clearly linked to other key provisions of the Convention, the most prominent of which are public education and awareness and the adoption of appropriate incentive measures. The national reports identify the need for continued technical and financial support for both the planning and implementation phases. These needs involve capacity building, the sharing of information and experiences, and access to expertise and financial resources.

24. The financial mechanism of the Convention has played an important role in addressing these needs and providing incentives to Parties to join and implement the Convention. The mechanism is operated by the Global Environment Facility (GEF) and is funded by contributions from states. The GEF in its capacity as the financial mechanism has approved projects amounting to over \$600m. The Conference of the Parties undertook its first review of the effectiveness financial mechanism at its fourth meeting. The results of this review are contained in decision IV/11. The Conference of the Parties, although welcoming the efforts made to date by the GEF, did recognize that further improvements are needed for the effectiveness of the financial mechanism. In this respect the Conference of the Parties made a number of recommendations of a procedural nature for the GEF.

25. Paragraph 3 of Article 20 provides that developed country Parties may also provide financial resources related to the implementation of the Convention, through bilateral, regional and other multilateral channels. The Conference of the Parties requested Parties to include information on their financial support for the objectives of the Convention in their national reports. The information provided by developed country Parties in their national reports illustrates that the level of financial support provided bilaterally to developing country Parties is several times that provided through the GEF. These levels are even more significant in an environment of declining overall levels of aid assistance and indicate that biological diversity remains an important issue. It should be noted that funding from national budgets for domestic measures are considerably more than the support provided bilaterally and the GEF.

26. The obligation to support such incentives not only falls on developed country Parties: the Convention also contains references to international organisation and private entities. For example, Article 5 provides that Parties shall cooperate where appropriate through competent international organizations to achieve the purpose of the Convention. Paragraph 4 of Article 21 provides that Parties "shall consider strengthening existing financial institutions to provide financial resources for the purposes of the Convention".

27. Specific references to the private sector are found in paragraph (e) of Article 10 on sustainable use of components of biological diversity, paragraph 4 of Article 16 on access to and transfer of technology and paragraph 4 of Article 19 on handling of biotechnology and distribution of its benefits.

### **III. DISPUTE SETTLEMENT**

#### **A. HAS IT BEEN USED IN MATTERS DEALING WITH TRADE?**

28. The dispute settlement mechanism of the Convention, as provided in Article 27, has not been used for the settlement of matters dealing with trade or any other matter.

### **IV. BIOSAFETY PROTOCOL**

29. Paragraph 3, Article 19 of the Convention requires Parties to consider the need for and modalities of a protocol setting out appropriate procedures, including, in particular, advance informed agreement, in the field of the safe transfer, handling and use of any living modified organism resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity.

30. Decision II/5 of the Conference of The Parties established the Open-ended Ad Hoc Working Group on Biosafety to negotiate a protocol to address the concerns of Parties on those matters.

31. The Group met six times and reported the results of its work to the first extraordinary meeting of the Conference of the Parties on 22 February 1999.

32. The Working Group agreed to forward to the Conference of the Parties for its consideration, as a package, the draft articles proposed by the Chair of the Group as revised by the Legal Drafting Group. The Chair agreed to convey the outstanding concerns of the Parties to the Conference of the Parties as well.

33. The Open-ended Ad Hoc Working Group on Biosafety provisionally adopted following articles of the draft protocol: 16, on competent national authorities and national focal points; 19, on capacity-building; 26, on financial mechanism and resources; 27, on the Conference of the Parties serving as the meeting of the Parties; 28, on subsidiary bodies and mechanisms; 29, on the secretariat; 30, on the relationship with the Convention; 32, on monitoring and reporting; 33, on compliance; 34, on assessment and review; 35, on signature; article 36, on entry into force; 38, on withdrawal; and 39, on authentic texts. In addition, the Working Group had also provisionally adopted, under article 3, on the use of terms, the definitions of the terms "exporter", "importer", "living modified organism", "living organism", "modern biotechnology", and "regional economic integration organisation". It also provisionally adopted annex I on information required in notifications and annex II on risk assessment.

34. The Conference of the Parties used the package as the basis for further discussion and negotiation. Consensus among the Parties on the draft text was not achieved.

35. The Conference of the Parties therefore decided to suspend its first extraordinary meeting and to reconvene later. The Conference of the Parties agreed that the meeting should be reconvened as soon as possible and in any event no later than the fifth meeting of the Conference of the Parties, which is scheduled for May 2000. The specific date and venue are to be determined by the President of meeting and the Bureau of the Conference of the Parties. Subsequently, some Parties have indicated that the meeting should not be resumed until it is clear that consensus on a protocol is possible.

36. The Conference of the Parties decided to transmit the text of the draft protocol as proposed by the Open-ended Ad Hoc Working Group on Biosafety as well as the statements with respect to the text of the draft protocol contained in that report, to the resumed session of the extraordinary meeting.

37. The Conference of the Parties stressed the importance of concentrating on reaching a satisfactory resolution at the resumed session on the core issues and related issues as contained in the draft report of the first part of the meeting. The core issues and related issues that remained before the first extraordinary meeting of the Conference of the Parties, as identified in informal consultations under the chairmanship of the President and reported in the report of the meeting were articles: 4 on scope, 5 on application of the advanced informed agreement procedure, 6 on notification, 15 on handling, transport, packaging and identification, 21 on non-Parties, 22 on non-discrimination, 23 on illegal transboundary movements, 24 on socio-economic considerations and 31 on relationship with other international agreements. It was agreed by all the negotiating groups at the meeting that the essential core issues were articles: 4 on scope, 5 on application of the advanced informed agreement procedure and 31 on relationship with other international agreements.

**ANNEX I****CONVENTION ON BIOLOGICAL DIVERSITY**

Opened for signature at Rio de Janeiro on 5 June 1992

Entry Into Force: 29 December 1993, in accordance with Article 36 (1).

Registration: 29 December 1993, No. 30619.

TEXT: Doc. UNEP/Bio.Div/N7-INC.5/4 and depositary notification C.N.393.1993.TREATIES-11 of 7 February 1994 (*procès-verbal* of rectification of the authentic English text); and C.N.329.1996.TREATIES-2 of 18 March 1996 (*procès-verbal* of rectification of the authentic Arabic text).

STATUS: Signatories: 168. Parties: 175.

Note: The Convention was adopted by the Intergovernmental Negotiating Committee for a Convention on Biological Diversity, during its Fifth session, held at Nairobi from 11 to 22 May 1992. The Convention was open for signature at Rio de Janeiro by all States and regional economic integration organizations from 5 June 1992 until 14 June 1992, and remained open at the United Nations Headquarters in New York until 4 June 1993.

Table I

<b>Participant</b>	<b>Signature</b>	<b>Ratification Accession (a) Acceptance (A) Approval (AA)</b>
Afghanistan	12 Jun 1992	
Albania	5 Jan 1994	(a)
Algeria	13 Jun 1992 14 Aug 1995	
Angola	12 Jun 1992 1 Apr 1998	
Antigua and Barbuda	5 Jun 1992 9 Mar 1993	
Argentina	12 Jun 1992 22 Nov 1994	
Armenia	13 Jun 1992 14 May 1993	(A)
Australia	5 Jun 1992	
Austria	13 Jun 1992 18 Aug 1994	
Azerbaijan	12 Jun 1992	
Bahamas	12 Jun 1992 2 Sep 1993	
Bahrain	9 Jun 1992 30 Aug 1996	

Table I (cont'd)



<b>Participant</b>	<b>Signature</b>	<b>Ratification Accession (a) Acceptance (A) Approval (AA)</b>
Bangladesh	5 Jun 1992 3 May 1994	
Barbados	12 Jun 1992 10 Dec 1993	
Belarus	11 Jun 1992 8 Sep 1993	
Belgium	5 Jun 1992 22 Nov 1996	
Belize	13 Jun 1992 30 Dec 1993	
Benin	13 Jun 1992 30 Jun 1994	
Bhutan	11 Jun 1992 25 Aug 1995	
Bolivia	13 Jun 1992 3 Oct 1994	
Botswana	8 Jun 1992 12 Oct 1995	
Brazil	5 Jun 1992 28 Feb 1994	
Bulgaria	12 Jun 1992 17 Apr 1996	
Burkina Faso	12 Jun 1992 2 Sep 1993	
Burundi	11 Jun 1992 15 Apr 1997	
Cambodia	9 Feb 1995	(a)
Cameroon	14 Jun 1992 19 Oct 1994	
Canada	11 Jun 1992 4 Dec 1992	
Cape Verde	12 Jun 1992 29 Mar 1995	
Central African Republic	13 Jun 1992 15 Mar 1995	
Chad	12 Jun 1992 7 Jun 1994	
Chile	13 Jun 1992 9 Sep 1994	
China	11 Jun 1992 5 Jan 1993	
Colombia	12 Jun 1992 28 Nov 1994	
Comoros	11 Jun 1992 29 Sep 1994	
Congo	11 Jun 1992 1 Aug 1996	
Cook Islands	12 Jun 1992 20 Apr 1993	
Costa Rica	13 Jun 1992 26 Aug 1994	

**Table I (cont'd)**

<b>Participant</b>	<b>Signature</b>	<b>Ratification Accession (a) Acceptance (A) Approval (AA)</b>
Côte d'Ivoire	10 Jun 1992 29 Nov 1994	
Croatia	11 Jun 1992 7 Oct 1996	
Cuba	12 Jun 1992 8 Mar 1994	
Cyprus	12 Jun 1992 10 Jul 1996	
Czech Republic	4 Jun 1993 3 Dec 1993	(AA)
Democratic People's Republic of Korea	11 Jun 1992 26 Oct 1994	(AA)
Democratic Republic of the Congo	11 Jun 1992 3 Dec 1994	
Denmark	12 Jun 1992 21 Dec 1993	
Djibouti	13 Jun 1992 1 Sep 1994	
Dominica	6 Apr 1994	(a)
Dominican Republic	13 Jun 1992 25 Nov 1996	
Ecuador	9 Jun 1992 23 Feb 1993	
Egypt	9 Jun 1992 2 Jun 1994	
El Salvador	13 Jun 1992 8 Sep 1994	
Equatorial Guinea	6 Dec 1994	(a)
Eritrea	21 Mar 1996	(a)
Estonia	12 Jun 1992 27 Jul 1994	
Ethiopia	10 Jun 1992 5 Apr 1994	
European Community	13 Jun 1992 21 Dec 1993	(AA)
Fiji	9 Oct 1992 25 Feb 1993	
Finland	5 Jun 1992 27 Jul 1994	(A)
France	13 Jun 1992 1 Jul 1994	
Gabon	12 Jun 1992 14 Mar 1997	
Gambia	12 Jun 1992 10 Jun 1994	
Georgia	2 Jun 1994	(a)
Germany	12 Jun 1992 21 Dec 1993	
Ghana	12 Jun 1992 29 Aug 1994	

Table I (cont'd)

<b>Participant</b>	<b>Signature</b>	<b>Ratification Accession (a) Acceptance (A) Approval (AA)</b>
Greece	12 Jun 1992 4 Aug 1994	
Grenada	3 Dec 1992 11 Aug 1994	
Guatemala	13 Jun 1992 10 Jul 1995	
Guinea	12 Jun 1992 7 May 1993	
Guinea-Bissau	12 Jun 1992 27 Oct 1995	
Guyana	13 Jun 1992 29 Aug 1994	
Haiti	13 Jun 1992 25 Sep 1996	
Honduras	13 Jun 1992 31 Jul 1995	
Hungary	13 Jun 1992 24 Feb 1994	
Iceland	10 Jun 1992 12 Sep 1994	
India	5 Jun 1992 18 Feb 1994	
Indonesia	5 Jun 1992 23 Aug 1994	
Iran (Islamic Republic of)	14 Jun 1992 6 Aug 1996	
Ireland	13 Jun 1992 22 Mar 1996	
Israel	11 Jun 1992 7 Aug 1995	
Italy	5 Jun 1992 15 Apr 1994	
Jamaica	11 Jun 1992 6 Jan 1995	
Japan	13 Jun 1992 28 May 1993	(A)
Jordan	11 Jun 1992 12 Nov 1993	
Kazakhstan	9 Jun 1992 6 Sep 1994	
Kenya	11 Jun 1992 26 Jul 1994	
Kiribati	16 Aug 1994	(a)
Kuwait	9 Jun 1992	
Kyrgyzstan	6 Aug 1996	(a)
Lao People's Democratic Republic	20 Sep 1996	(a)
Latvia	11 Jun 1992 14 Dec 1995	
Lebanon	12 Jun 1992 15 Dec 1994	

Table I (cont'd)

<b>Participant</b>	<b>Signature</b>	<b>Ratification Accession (a) Acceptance (A) Approval (AA)</b>
Lesotho	11 Jun 1992 10 Jan 1995	
Liberia	12 Jun 1992	
Libyan Arab Jamahiriya	29 Jun 1992	
Liechtenstein	5 Jun 1992 19 Nov 1997	
Lithuania	11 Jun 1992 1 Feb 1996	
Luxembourg	9 Jun 1992 9 May 1994	
Madagascar	8 Jun 1992 4 Mar 1996	
Malawi	10 Jun 1992 2 Feb 1994	
Malaysia	12 Jun 1992 24 Jun 1994	
Maldives	12 Jun 1992 9 Nov 1992	
Mali	30 Sep 1992 29 Mar 1995	
Malta	12 Jun 1992	
Marshall Islands	12 Jun 1992 8 Oct 1992	
Mauritania	12 Jun 1992 16 Aug 1996	
Mauritius	10 Jun 1992 4 Sep 1992	
Mexico	13 Jun 1992 11 Mar 1993	
Micronesia (Federated States of)	12 Jun 1992 20 Jun 1994	
Monaco	11 Jun 1992 20 Nov 1992	
Mongolia	12 Jun 1992 30 Sep 1993	
Morocco	13 Jun 1992 21 Aug 1995	
Mozambique	12 Jun 1992 25 Aug 1995	
Myanmar	11 Jun 1992 25 Nov 1994	
Namibia	12 Jun 1992 16 May 1997	
Nauru	5 Jun 1992 11 Nov 1993	
Nepal	12 Jun 1992 23 Nov 1993	
Netherlands	5 Jun 1992 12 Jul 1994	(A)
New Zealand	12 Jun 1992 16 Sep 1993	

Table I (cont'd)

<b>Participant</b>	<b>Signature</b>	<b>Ratification Accession (a) Acceptance (A) Approval (AA)</b>
Nicaragua	13 Jun 1992 20 Nov 1995	
Niger	11 Jun 1992 25 Jul 1995	
Nigeria	13 Jun 1992 29 Aug 1994	
Niue	28 Feb 1996	(a)
Norway	9 Jun 1992 9 Jul 1993	
Oman	10 Jun 1992 8 Feb 1995	
Pakistan	5 Jun 1992 26 Jul 1994	
Palau	6 Jan 1999	(a)
Panama	13 Jun 1992 17 Jan 1995	
Papua New Guinea	13 Jun 1992 16 Mar 1993	
Paraguay	12 Jun 1992 24 Feb 1994	
Peru	12 Jun 1992 7 Jun 1993	
Philippines	12 Jun 1992 8 Oct 1993	
Poland	5 Jun 1992 18 Jan 1996	
Portugal	13 Jun 1992 21 Dec 1993	
Qatar	11 Jun 1992 21 Aug 1996	
Republic of Korea	13 Jun 1992 3 Oct 1994	
Republic of Moldova	5 Jun 1992 20 Oct 1995	
Romania	5 Jun 1992 17 Aug 1994	
Russian Federation	13 Jun 1992 5 Apr 1995	
Rwanda	10 Jun 1992 29 May 1996	
Saint Kitts and Nevis	12 Jun 1992 7 Jan 1993	
Saint Lucia	28 Jul 1993	(a)
Saint Vincent and the Grenadines	3 Jun 1996	(a)
Samoa	12 Jun 1992 9 Feb 1994	
San Marino	10 Jun 1992 28 Oct 1994	
Sao Tome and Principe	12 Jun 1992	

**Table I (cont'd)**

<b>Participant</b>	<b>Signature</b>	<b>Ratification Accession (a) Acceptance (A) Approval (AA)</b>
Senegal	13 Jun 1992 17 Oct 1994	
Seychelles	10 Jun 1992 22 Sep 1992	
Sierra Leone	12 Dec 1994	(a)
Singapore	10 Mar 1993 21 Dec 1995	
Slovakia	19 May 1993 25 Aug 1994	(AA)
Slovenia	13 Jun 1992 9 Jul 1996	
Solomon Islands	13 Jun 1992 3 Oct 1995	
South Africa	4 Jun 1993 2 Nov 1995	
Spain	13 Jun 1992 21 Dec 1993	
Sri Lanka	10 Jun 1992 23 Mar 1994	
Sudan	9 Jun 1992 30 Oct 1995	
Suriname	13 Jun 1992 12 Jan 1996	
Swaziland	12 Jun 1992 9 Nov 1994	
Sweden	8 Jun 1992 16 Dec 1993	
Switzerland	12 Jun 1992 21 Nov 1994	
Syrian Arab Republic	3 May 1993 4 Jan 1996	
Tajikistan	29 Oct 1997	(a)
Thailand	12 Jun 1992	
The former Yugoslav Republic of Macedonia	2 Dec 1997	(a)
Togo	12 Jun 1992 4 Oct 1995	(A)
Tonga	19 May 1998	(a)
Trinidad and Tobago	11 Jun 1992 1 Aug 1996	
Tunisia	13 Jun 1992 15 Jul 1993	
Turkey	11 Jun 1992 14 Feb 1997	
Turkmenistan	18 Sep 1996	(a)
Tuvalu	8 Jun 1992	
Uganda	12 Jun 1992 8 Sep 1993	
Ukraine	11 Jun 1992 7 Feb 1995	
United Arab Emirates	11 Jun 1992	
United Kingdom	12 Jun 1992 3 Jun 1994	

Table I (cont'd)

<b>Participant</b>	<b>Signature</b>	<b>Ratification Accession (a) Acceptance (A) Approval (AA)</b>
United Republic of Tanzania	12 Jun 1992 8 Mar 1996	
United States of America	4 Jun 1993	
Uruguay	9 Jun 1992 5 Nov 1993	
Uzbekistan	19 Jul 1995	(a)
Vanuatu	9 Jun 1992 25 Mar 1993	
Venezuela	12 Jun 1992 13 Sep 1994	
Viet Nam	28 May 1993 16 Nov 1994	
Yemen	12 Jun 1992 21 Feb 1996	
Yugoslavia	8 Jun 1992	
Zambia	11 Jun 1992 28 May 1993	
Zimbabwe	12 Jun 1992 11 Nov 1994	

## **DECLARATIONS**

(Unless otherwise indicated, the declarations were made upon ratification, accession, acceptance or approval.)

### **ARGENTINA**

Declaration:

The Argentine Government considers that this Convention represents a step forward in that it establishes among its objectives the sustainable use of biological diversity. Likewise, the definitions contained in Article 2 and other provisions of the Convention indicate that the terms "genetic resources", "biological resources" and "biological material" do not include the human genome. In accordance with the commitments entered into in the Convention, the Argentine Nation will pass legislation on the conditions of access to biological resources and the ownership of future rights and benefits arising from them. The Convention is fully consistent with the principles established in the "Agreement on Trade-Related Aspects of Intellectual Property Rights", including trade in counterfeit goods, contained in the Final Act of the Uruguay Round of GATT.

### **AUSTRIA**

Declaration:

"The Republic of Austria declares in accordance with Article 27, paragraph 3 of the Convention that it accepts both of the means of dispute settlement mentioned in this paragraph as compulsory in relation to any Party accepting an obligation concerning one or both of these means of dispute settlement."

## **CHILE**

Declaration:

The Government of Chile, on ratifying the Convention on Biological Diversity of 1992, wishes to place on record that the pine tree and other species that the country exploits as one of its forestry resources are considered exotic and are not taken to fall within the scope of the Convention.

## **CUBA**

Declaration:

The Government of the Republic of Cuba declares, with respect to Article 27 of the Convention on Biological Diversity, that as far as the Republic of Cuba is concerned, disputes that arise between Parties concerning the interpretation or application of this international legal instrument shall be settled by negotiation through the diplomatic channel or, failing that, by arbitration in accordance with the procedure laid down in Annex II on arbitration of the Convention."

## **EUROPEAN COMMUNITY**

Declaration:

"Within their respective competence, the European Community and its Member States wish to reaffirm the importance they attach to transfers of technology and to biotechnology in order to ensure the conservation and sustainable use of biological diversity. The compliance with intellectual property rights constitutes an essential element for the implementation of policies for technology transfer and co-investment.

For the European Community and its member States, transfers of technology and access to biotechnology, as defined in the text of the Convention on Biological Diversity, will be carried out in accordance with Article 16 of the said Convention and in compliance with the principles and rules of protection of intellectual property, in particular multilateral and bilateral agreements signed or negotiated by the Contracting Parties to this Convention.

The European Community and its Member States will encourage the use of the financial mechanism established by the Convention to promote the voluntary transfer of intellectual property rights held by European operators, in particular as regards the granting of licences, through normal commercial mechanisms and decisions, while ensuring adequate and effective protection of property rights."

## **FRANCE**

Upon signature:

Declaration:

With reference to Article 3, that it interprets that Article as a guiding principle to be taken into account in the implementation of the Convention;

With reference to Article 21, paragraph 1, that the decision taken periodically by the Conference of the Parties concerns the "amount of resources needed" and that no provision of the Convention authorizes the Conference of the Parties to take decisions concerning the amount, nature or frequency of the contributions from Parties to the Convention.

Upon ratification:



Declaration:

With reference to Article 3, that it interprets that Article as a guiding principle to be taken into account in the implementation of the Convention;

The French Republic reaffirms its belief in the importance of the transfer of technology and biotechnology in guaranteeing the protection and long-term utilization of biological diversity. Respect for intellectual property rights is an essential element of the implementation of policies for technology transfer and co-investment.

The French Republic affirms that the transfer of technology and access to biotechnology, as defined in the Convention on Biological Diversity, will be implemented according to Article 16 of that Convention and with respect for the principles and rules concerning the protection of intellectual property, including multilateral agreements signed or negotiated by the Contracting parties to the present Convention.

The French Republic will encourage recourse to the financial mechanism established by the Convention for the purpose of promoting the voluntary transfer of intellectual property rights under French ownership, inter alia, as regards the granting of licences, by traditional commercial decisions and mechanisms while ensuring the appropriate and effective protection of property rights.

With reference to Article 21, paragraph 1, the French Republic considers that the decision taken periodically by the Conference of the Parties concerns the "amount of resources needed" and that no provision of the Convention authorizes the Conference of the Parties to take decisions concerning the amount, nature or frequency of the contributions from Parties to the Convention.

**GEORGIA**

Declaration:

"The Republic of Georgia will use both means for dispute settlement referred to in the Convention:

1. Arbitral consideration in accordance with the procedure given in the enclosure II, Part I.
2. Submitting of disputes to the International Court."

**IRELAND**

Declaration:

"Ireland wishes to reaffirm the importance it attaches to transfers of technology and to biotechnology in order to ensure the conservation and sustainable use of biological diversity. The compliance with intellectual property rights constitutes an essential element for the implementation of policies for technology transfer and co-investment.

For Ireland, transfers of technology and access to biotechnology, as defined in the text of the Convention on Biological Diversity and in compliance with the principles and rules of protection of intellectual property, in particular multilateral and bilateral agreements signed or negotiated by the contracting parties to this Convention.

Ireland will encourage the use of the financial mechanism established by the Convention to promote the voluntary transfer of intellectual property rights held by Irish operators, in particular as

regards the granting of licences, through normal commercial mechanisms and decisions, while ensuring adequate and effective protection of property rights."

### **ITALY**

Declaration made upon signature and confirmed upon ratification:

"The Italian Government [. . .] declares its understanding that the decision to be taken by the Conference of the Parties under Article 21.1 of the Convention refers to the 'amount of resources needed' by the financial mechanism, not to the extent or nature and form of the contributions of the Contracting Parties."

### **LATVIA**

Declaration:

"The Republic of Latvia declares in accordance with Article 27 paragraph 3 of the Convention that it accepts both the means of dispute settlement mentioned in this paragraph as compulsory."

### **LIECHTENSTEIN**

Declaration:

"The Principality of Liechtenstein wishes to reaffirm the importance it attaches to transfers of technology and to biotechnology in order to ensure the conservation and sustainable use of biological diversity. The compliance with intellectual property rights constitutes an essential element for the implementation of policies for technology transfer and co-investment.

For the Principality of Liechtenstein, transfers of technology and access to biotechnology, as defined in the text of the [said] Convention, will be carried out in accordance with Article 16 of the said Convention and in compliance with the principles and rules of protection of intellectual property, in particular multilateral and bilateral agreements signed or negotiated by the Contracting Parties to this Convention.

The Principality of Liechtenstein will encourage the use of the financial mechanism established by the Convention to promote the voluntary transfer of intellectual property rights held by Liechtenstein operators, in particular as regards the granting of licenses, through normal commercial mechanisms and decisions, which ensuring adequate and effective protection of property rights."

### **PAPUA NEW GUINEA**

Declaration:

"The Government of the Independent State of Papua New Guinea declares its understanding that ratification of the Convention shall in no way constitute a renunciation of any rights under International Law concerning State responsibility for the adverse effects of Biological Diversity as derogating from the principles of general International Law."

## **SUDAN**

Understanding:

"With respect to the principle stipulated in Article 3, the Government of the Sudan agrees with the spirit of the Article and interprets it to mean that no state is responsible for acts that take place outside its control even if they fall within its judicial jurisdiction and may cause damage to the environment of other states or of areas beyond the limits of national judicial jurisdiction."

"The Sudan also sees as regards Article 14 (2), that the issue of liability and redress for damage to biological diversity should not form a priority to be tackled by the Agreement as there is ambiguity regarding the essence and scope of the studies to be carried out, in accordance with the above-mentioned Article. The Sudan further believes that any such studies on liability and redress should shift towards effects of areas such as biotechnology products, environmental impacts, genetically modified organisms and acid rains."

## **SWITZERLAND**

Upon signature:

Declaration:

The Swiss Government wishes to emphasize particularly the progress made in establishing standard terms for cooperation between States in a very important field: research activities and activities for the transfer of technology relevant to resources from third countries.

The important provisions in question create a platform for even closer cooperation with public research bodies or institutions in Switzerland and for the transfer of technologies available to governmental or public bodies, particularly universities and various publicly-funded research and development centres.

It is our understanding that genetic resources acquired under the procedure specified in Article 15 and developed by private research institutions will be the subject of programmes of cooperation, joint research and the transfer of technology which will respect the principles and rules for the protection of intellectual property.

These principles and rules are essential for research and private investment, in particular in the latest technologies, such as modern biotechnology which requires substantial financial outlays. On the basis of this interpretation, the Swiss Government wishes to indicate that it is ready, at the opportune time, to take the appropriate general policy measures, particularly under Articles 16 and 19, with a view to promoting and encouraging cooperation, on a contractual basis, between Swiss firms and the private firms and governmental bodies of other Contracting Parties.

With regard to financial cooperation, Switzerland interprets the provisions of Articles 20 and 21 as follows: the resources to be committed and the management system will have regard, in an equitable manner, to the needs and interests of the developing countries and to the possibilities and interests of the developed countries.

Upon ratification:

Declaration:

Switzerland wishes to reaffirm the importance it attaches to transfers of technology and to biotechnology in order to ensure the conservation and sustainable use of biological diversity. The

compliance with intellectual property rights constitutes an essential element for the implementation of policies for technology transfer and co-investment.

For Switzerland, transfers of technology and access to biotechnology, as defined in the text of the Convention on Biological Diversity, will be carried out in accordance with Article 16 of the said Convention and in compliance with the principles and rules of protection of intellectual property, in particular multilateral and bilateral agreements signed or negotiated by the Contracting Parties to this Convention.

Switzerland will encourage the use of the financial mechanism established by the Convention to promote the voluntary transfer of intellectual property rights held by Swiss operators, in particular as regards the granting of licences, through normal commercial mechanisms and decisions, while ensuring adequate and effective protection of property rights.

#### **SYRIAN ARAB REPUBLIC**

Upon signature:

Declaration:

It is being understood that the signing of this Convention shall not constitute recognition of Israel or leading to any intercourse with it.

#### **UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

Declaration made upon signature and confirmed upon ratification:

The Government of the United Kingdom of Great Britain and Northern Ireland declare their understanding that Article 3 of the Convention sets out a guiding principle to be taken into account in the implementation of the Convention.

The Government of the United Kingdom of Great Britain and Northern Ireland also declare their understanding that the decisions to be taken by the Conference of the Parties under paragraph 1 of Article 21 concern "the amount of resources needed" by the financial mechanism, and that nothing in Article 20 or 21 authorises the Conference of the Parties to take decisions concerning the amount, nature, frequency or size of the contributions of the Parties under the Convention.

Notes:

In respect of the United Kingdom of Great Britain and Northern Ireland, the Bailiwick of Jersey, the British Virgin Islands, the Cayman Islands, Gibraltar, St. Helena and St. Helena Dependencies.

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