
Committee on Trade and Environment

**RECENT DEVELOPMENTS IN THE CONVENTION
ON BIOLOGICAL DIVERSITY (CBD)**

Note by the Secretariat

I. INTRODUCTION

The fifth meeting of the Conference of the Parties (COP) to the Convention on Biological Diversity (CBD) took place in Nairobi from 15-26 May 2000.¹ A number of Decisions were adopted at the meeting which could be of interest to Members and are reproduced below.² They include: (1) Decision V/5 on *Agricultural Biological Diversity*; (2) Decision V/8 on *Alien Species that Threaten Ecosystems, Habitats or Species*; (3) Decision V/16 on *Article 8(j) and Related Provisions*, and (4) Decision V/26 on *Access to Genetic Resources*.³ Specific reference to the WTO is made in Decision V/5 in paragraph 14 of Section (1); Decision V/16 in paragraph 14; and Decision V/26 in paragraphs 2, 3 and 4 of Section (B). The sixth meeting of the COP will take place in The Hague, the Netherlands, in the second quarter of 2002.

**II. DECISION V/5: AGRICULTURAL BIOLOGICAL DIVERSITY: REVIEW OF
PHASE I OF THE PROGRAMME OF WORK AND ADOPTION OF A MULTI-YEAR
WORK PROGRAMME⁴**

THE CONFERENCE OF THE PARTIES

1. Programme of work

1. WELCOMES the assessment of ongoing activities and instruments (UNEP/CBD/SBSTTA/5/INF/10) and its main findings as presented in the note by the Executive Secretary on agricultural biological diversity: review of phase I of the programme of work and adoption of a multi-year programme of work (UNEP/CBD/COP/5/11);

2. TAKES NOTE of the decision on agriculture adopted by the Commission on Sustainable Development at its eighth session, held in New York from 24 April to 5 May 2000;

3. ENDORSES the programme of work on agricultural biological diversity contained in the annex to the present decision, contributing to the implementation of decision III/11;

¹ See document UNEP/CBD/COP/5/23, dated 22 June 2000, for the full report of the meeting. The document is posted on the CBD website at <<http://www.biodiv.org/Cop5>>.

² Several Decisions were also adopted on financial resources and incentive measures that Members may wish to consult: Decision V/11 on *Additional Financial Resources*, Decision V/12 on the *Second Review of the Financial Mechanism*, Decision V/13 on *Guidance to the Global Environment Facility*, and Decision V/15 on *Incentive Measures*. Decision V/18 on *Impact Assessment, Liability and Redress* may also be of interest to Members.

³ As several of these Decisions contain long annexes, only those annexes of possible interest to Members are reproduced. When an annex has been omitted, this is indicated in a footnote to the title of the Decision.

⁴ The Annex on the *Programme of Work on Agricultural Biodiversity* is not reproduced in this Note.

4. URGES Parties, Governments, international and regional organizations, civil society organizations and other relevant bodies to promote and, as appropriate, carry out the programme of work and to promote regional and thematic cooperation within this framework;
5. RECOGNIZES the contribution of farmers, indigenous and local communities to the conservation and sustainable use of agricultural biodiversity and the importance of agricultural biodiversity to their livelihoods, EMPHASIZES the importance of their participation in the implementation of the programme of work, and RECOGNIZES the need for incentives, in accordance with Article 11 of the Convention on Biological Diversity and consistent with its Article 22, and support for capacity-building and information exchange to benefit farmers, indigenous and local communities;
6. Recalling decision III/11, REQUESTS the Executive Secretary to invite the Food and Agriculture Organization of the United Nations to support the development and implementation of the programme of work, and also to expand cooperation by inviting other relevant organizations (such as the United Nations Development Programme, the United Nations Environment Programme, the World Bank, regional development banks, the centres of the Consultative Group on International Agricultural Research and other international agricultural research centres, and IUCN-The World Conservation Union), in supporting the implementation of the programme of work, and to avoid duplication of activities;
7. REQUESTS the Executive Secretary to undertake the necessary steps for the full implementation of the programme of work;
8. REQUESTS the Executive Secretary to prepare a progress report and proposals for the further implementation of this programme of work for consideration by the Subsidiary Body on Scientific, Technical and Technological Advice prior to the sixth meeting of the Conference of the Parties on the basis of which the Conference of the Parties may provide further guidance, for example, in the form of:
 - (a) A timetable for implementation of activities, including milestones;
 - (b) a schedule for reporting on further progress;
 - (c) resource requirements; and
 - (d) responsibilities of partners and collaborators;
9. INVITES Parties, in accordance with Article 20 of the Convention, and bilateral and international funding agencies to provide support for the implementation of the activities of the programme of work on agricultural biological diversity, in particular, for capacity-building and case-studies in developing countries and countries with economies in transition;
10. INVITES Parties, Governments and relevant organizations to support actions to raise public awareness in support of sustainable farming and food production systems that maintain agricultural biodiversity;
11. RECOGNIZES the potential contribution that the revised International Undertaking on Plant Genetic Resources, in harmony with the Convention, would have to assist in the implementation of this programme of work;
12. While noting the report of the Chairman of the Commission on Genetic Resources for Food and Agriculture of the Food and Agriculture Organization of the United Nations (UNEP/CBD/COP/5/INF/12), URGES the Commission to finalize its work as soon as possible. The

International Undertaking is envisaged to play a crucial role in the implementation of the Convention on Biological Diversity. The Conference of the Parties AFFIRMS its willingness to consider a decision by the Conference of the Food and Agriculture Organization of the United Nations that the International Undertaking become a legally binding instrument with strong links to both the Food and Agriculture Organization of the United Nations and the Convention on Biological Diversity, and CALLS UPON Parties to coordinate their positions in both forums;

13. WELCOMES the adoption of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and URGES Parties and Governments to ratify this Convention;

14. ENCOURAGES Parties and Governments to support the application of the Executive Secretary of the Convention on Biological Diversity for observer status in the Committee on Agriculture of the World Trade Organization, in line with paragraph 9 of decision IV/6 of the Conference of Parties;

2. International initiative for the conservation and sustainable use of pollinators

CONSIDERING decision III/11, in which the Conference of the Parties established the programme of work on agricultural biodiversity, and called for priority attention to components of biological diversity responsible for the maintenance of ecosystem services important for the sustainability of agriculture, including pollinators,

CONSIDERING the recommendations of the Sao Paulo Declaration on Pollinators, based on the results of the Workshop on the Conservation and Sustainable Use of Pollinators in Agriculture, with an Emphasis on Bees, held in Sao Paulo, Brazil, from 7 to 9 October 1998, presented by the Brazilian Government at the fifth meeting of the Subsidiary Body on Scientific, Technical and Technological Advice,

CONSIDERING the urgent need to address the issue of worldwide decline of pollinator diversity, and considering recommendation V/9 of the Subsidiary Body on Scientific, Technical and Technological Advice,

15. DECIDES to establish an International Initiative for the Conservation and Sustainable Use of Pollinators as a cross-cutting initiative within the programme of work on agricultural biodiversity to promote coordinated action worldwide to:

- (a) Monitor pollinator decline, its causes and its impact on pollination services;
- (b) address the lack of taxonomic information on pollinators;
- (c) assess the economic value of pollination and the economic impact of the decline of pollination services;
- (d) promote the conservation and the restoration and sustainable use of pollinator diversity in agriculture and related ecosystems;

16. REQUESTS the Executive Secretary to invite the Food and Agriculture Organization of the United Nations to facilitate and coordinate the Initiative in close cooperation with other relevant organizations and to consider establishing a coordination mechanism, with geographical balance and with leading relevant organizations, to prepare a proposal for a plan of action taking into account the recommendations in the Sao Paulo Declaration on Pollinators, as well as on contributions submitted by countries and relevant organizations, for submission to and review by the Subsidiary Body on

Scientific, Technical and Technological Advice and consideration by the Conference of the Parties at its sixth meeting;

17. INVITES leading relevant organizations, such as IUCN-The World Conservation Union, the International Bee Research Association and the International Commission for Plant-Bee Relationships, the International Centre of Insect Physiology and Ecology, the international agriculture research centres of the Consultative Group on International Agricultural Research and other relevant regional and international bodies, to collaborate in supporting actions in Parties and countries subject to pollinator decline;

18. REQUESTS the Executive Secretary, the Subsidiary Body on Scientific, Technical and Technological Advice and the financial mechanism to support the development and implementation of the Initiative and INVITES Parties and Governments to collaborate and compile case-studies and implement pilot projects, making use of the clearing-house mechanism, and to report to the Conference of the Parties at its sixth meeting.

3. Genetic use restriction technologies

19. DECIDES to continue the work on genetic use restriction technologies under the umbrella of, and integrated into, each of the four elements of the programme of work on agricultural biological diversity and INVITES the Subsidiary Body on Scientific, Technical and Technological Advice to report to the Conference of the Parties at its sixth meeting;

20. Desiring to make the most efficient use of resources by avoiding duplication of effort and being cognizant of the work being undertaken and the expertise available in different forums, in particular, the Food and Agriculture Organization of the United Nations and its Commission on Genetic Resources for Food and Agriculture, INVITES the Food and Agriculture Organization of the United Nations, in close collaboration with the United Nations Educational, Scientific and Cultural Organization, the United Nations Environment Programme and other member organizations of the Ecosystem Conservation Group, and other competent organizations and research bodies, to further study the potential implications of genetic use restriction technologies for the conservation and sustainable use of agricultural biological diversity and the range of agricultural production systems in different countries, and identify relevant policy questions and socio-economic issues that may need to be addressed;

21. INVITES the Food and Agriculture Organization of the United Nations and its Commission on Genetic Resources for Food and Agriculture and other competent organizations to inform the Conference of the Parties at its sixth meeting of their initiatives in this area;

22. Recognizing the need to better understand the intellectual property rights implications of genetic use restriction technologies, INVITES relevant organizations to study the impact of technologies on the protection of intellectual property in the agriculture sector, and its appropriateness for the agricultural sector, and to make assessments of the technologies concerned available through the clearing-house mechanism;

23. RECOMMENDS that, in the current absence of reliable data on genetic use restriction technologies, without which there is an inadequate basis on which to assess their potential risks, and in accordance with the precautionary approach, products incorporating such technologies should not be approved by Parties for field testing until appropriate scientific data can justify such testing, and for commercial use until appropriate, authorized and strictly controlled scientific assessments with regard to, *inter alia*, their ecological and socio-economic impacts and any adverse effects for biological diversity, food security and human health have been carried out in a transparent manner and the conditions for their safe and beneficial use validated. In order to enhance the capacity of all

countries to address these issues, Parties should widely disseminate information on scientific assessments, including through the clearing-house mechanism, and share their expertise in this regard.

24. ENCOURAGES Parties and Governments to consider how to address generic concerns regarding such technologies as genetic use restriction technologies under international and national approaches to the safe and sustainable use of germplasm;

25. Reaffirming the need of Parties and Governments for additional information, and recalling Article 8(g) of the Convention on Biological Diversity, which calls on Parties and Governments to establish or maintain procedures for regulating, managing or controlling risks associated with the use and release of living modified organisms resulting from biotechnology, INVITES Parties to carry out and disseminate the results through the clearing-house mechanism and submit scientific assessments on, *inter alia*, ecological, social and economic effects of genetic use restriction technologies taking into account such information, as available, as:

- (a) The molecular biology information available;
- (b) the genetic constructs and inducers used;
- (c) effects at the molecular level, such as site-specific effects, gene-silencing, epigenesis and recombination;
- (d) potential positive applications of the variety-specific genetic use restriction technologies on limiting gene flow, and possible negative impacts of genetic use restriction technologies on small populations of threatened wild relatives;

and to make these assessments available through, *inter alia*, the clearing-house mechanism;

26. FURTHER ENCOURAGES Parties and Governments to identify ways and means to address the potential impacts of genetic use restriction technologies on the *in situ* and *ex situ* conservation and sustainable use, including food security, of agricultural biological diversity;

27. URGES Parties and Governments to assess whether there is a need to develop, and how to ensure the application of, effective regulations at national level which take into account, *inter alia*, the specific nature of variety-specific and trait-specific genetic use restriction technologies, in order to ensure the safety of human health, the environment, food security and the conservation and sustainable use of biological diversity and to make this information available through, *inter alia*, the clearing-house mechanism;

28. REQUESTS the Executive Secretary to prepare a report, to be considered by the Subsidiary Body on Scientific, Technical and Technological Advice at a future meeting prior to the sixth meeting of the Conference of the Parties, on the status of development of genetic use restriction technologies and of relevant initiatives at international, regional and national levels on the basis of information provided by organizations, Parties and Governments;

29. Recognizing the importance of indigenous and local communities in the conservation and sustainable use of plant genetic resources according to Article 8(j) of the Convention, and taking into account the revision of the International Undertaking on Plant Genetic Resources for Food and Agriculture, REQUESTS the Executive Secretary to discuss with those organizations with relevant expertise and representatives of indigenous and local communities on the potential impacts of the application of genetic use restriction technologies on those communities and on Farmers' Rights in keeping with the revision of the aforementioned International Undertaking to keep, use, exchange and sell seed or propagating material and to prepare a report to be considered by the Conference of the Parties.

III. DECISION V/8: ALIEN SPECIES THAT THREATEN ECOSYSTEMS, HABITATS OR SPECIES⁵

THE CONFERENCE OF THE PARTIES:

30. URGES Parties, Governments and relevant organizations to apply the interim guiding principles contained in Annex I to the present decision, as appropriate, in the context of activities aimed at implementing Article 8(h) of the Convention on Biological Diversity, and in the various sectors;

31. ENDORSES the outline for case-studies contained in Annex II to the present decision;

32. URGES Parties, Governments and relevant organizations to submit case-studies to the Executive Secretary, particularly focusing on thematic assessments, on the basis of the outline contained in the annex to the present decision;

33. REQUESTS the Convention's clearing-house mechanism to disseminate and compile these case-studies;

34. REQUESTS Parties, other Governments, relevant bodies and other relevant international and regional binding and non-binding instruments, in the light of discussions by the Subsidiary Body on Scientific, Technical and Technological Advice at its fifth meeting, to submit to the Executive Secretary written comments on the interim guiding principles, to be taken into account, together with the case-studies, in the further elaboration of the interim guiding principles, to be considered by the Subsidiary Body prior to the sixth meeting of the Conference of Parties, and REQUESTS the Executive Secretary to distribute those comments through the national focal points;

35. URGES Parties, other Governments and relevant bodies to give priority to the development and implementation of alien invasive species strategies and action plans;

36. STRONGLY ENCOURAGES Parties to develop mechanisms for transboundary cooperation and regional and multilateral cooperation in order to deal with the issue, including the exchange of best practices;

37. URGES Parties, other Governments and relevant bodies, such as the Global Invasive Species Programme, in their work on alien invasive species, to give priority attention to geographically and evolutionarily isolated ecosystems, and to use the ecosystem approach and precautionary and biogeographical approaches, as appropriate;

38. ENCOURAGES Parties to develop effective education, training and public awareness measures, as well as to inform the public about the different aspects of the issue, including the risks posed by alien invasive species;

39. REQUESTS the Global Invasive Species Programme, in developing a global strategy to deal with alien invasive species, to ensure consistency with the provisions on alien invasive species in Article 8(h) of the Convention and relevant provisions within other articles, including Article 14, taking into full account considerations on alien invasive species within relevant decisions of the Conference of the Parties on, for example, the conservation and sustainable use of inland water, marine and coastal and forest biological diversity, and the biodiversity of dry and sub-humid lands;

⁵ Annex II on the *Outline for Case-Studies on Alien Species* is not reproduced in this Note.

40. REQUESTS the Executive Secretary to cooperate with other international bodies and other relevant international and regional binding and non-binding instruments, such as the Convention on the Conservation of Migratory Species of Wild Animals, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar), the Convention on the Conservation of European Wildlife and Natural Habitats, the International Plant Protection Convention and regional plant protection organizations, Codex Alimentarius, DIVERSITAS, the Office International des Epizooties, the United Nations Educational, Scientific and Cultural Organization, and the organizations mentioned in paragraph 14 of the present decision, with the aim of coordinating work on alien invasive species, and to report on potential joint programmes of work to the Subsidiary Body on Scientific, Technical and Technological Advice;

41. INVITES the Parties, Governments, the Global Invasive Species Programme and other relevant bodies, to disseminate publicly available information which they hold or acquire, including databases of alien species, through the Convention's clearing-house mechanism;

42. INVITES the Global Invasive Species Programme to report on its September 2000 meeting on the "synthesis of GISP phase 1" to the Subsidiary Body on Scientific, Technical and Technological Advice prior to the sixth meeting of the Conference of Parties, RECOGNIZING the need to continue the work of the Global Invasive Species Programme through the prompt development of the second phase of the Global Invasive Species Programme, with emphasis on ecosystems vulnerable to alien species invasions;

43. REQUESTS the Executive Secretary to collaborate with the Global Invasive Species Programme, the Food and Agriculture Organization of the United Nations, the International Maritime Organization, the World Health Organization and other relevant organizations, and other relevant internationally and regionally binding and non-binding instruments to assist the Parties to the Convention in:

- (a) Developing standardized terminology on alien species;
- (b) developing criteria for assessing risks from introduction of alien species;
- (c) developing processes for assessing the socio-economic implications of alien invasive species, particularly the implications for indigenous and local communities;
- (d) furthering research on the impact of alien invasive species on biological diversity;
- (e) developing means to enhance the capacity of ecosystems to resist or recover from alien species invasions;
- (f) developing a system for reporting new invasions of alien species and the spread of alien species into new areas;
- (g) assessing priorities for taxonomic work;

44. REQUESTS the Executive Secretary, in collaboration with the Global Invasive Species Programme, the Food and Agriculture Organization of the United Nations, the International Maritime Organization, the World Health Organization and other relevant organizations and instruments to develop a paper for consideration by the Subsidiary Body on Scientific, Technical and Technological Advice and the Conference of the Parties at its sixth meeting, comprising:

- (a) A comprehensive review on the efficiency and efficacy of existing measures for prevention, early detection, eradication and control of alien invasive species and their impacts;
- (b) a progress report on the matters listed in paragraphs 5 and 14 of the present decision;
- (c) all options for future work on alien invasive species under the Convention on Biological Diversity, which would provide practical support to Parties, Governments and organizations in the implementation of Article 8(h) of the Convention and lead to the full and effective implementation of Article 8(h);

45. DECIDES that, at its sixth meeting, the Conference of the Parties, on the basis of the information referred to in paragraphs 5 and 15 of the present decision, will consider options for the full and effective implementation of Article 8(h) including the possibilities of:

- (a) Further developing the guiding principles on the prevention of introduction, and mitigation of the impacts, of alien invasive species;
- (b) developing an international instrument; and/or
- (c) other options;

46. INVITES the Global Environment Facility, Parties, Governments and funding organizations to provide adequate and timely support to enable the Global Invasive Species Programme to fulfil the tasks outlined in the present decision.

ANNEX I

INTERIM GUIDING PRINCIPLES FOR THE PREVENTION, INTRODUCTION AND MITIGATION OF IMPACTS OF ALIEN SPECIES

It should be noted that in the interim guiding principles below, terms are used for which a definition has not yet been developed, pending a decision by the Conference of Parties on the development of a standardized terminology on alien species, as mentioned in paragraph 5 of recommendation V/4. In the interim and for the purpose of these interim principles, to avoid confusion the following definitions are used: (i) "alien" or "alien species" refers to a species occurring outside its normal distribution; and (ii) "alien invasive species" refers to those alien species which threaten ecosystems, habitats or species.

A. GENERAL

Guiding principle 1: Precautionary approach

Given the unpredictability of the impacts on biological diversity of alien species, efforts to identify and prevent unintentional introductions as well as decisions concerning intentional introductions should be based on the precautionary approach. Lack of scientific certainty about the environmental, social and economic risk posed by a potentially invasive alien species or by a potential pathway should not be used as a reason for not taking preventative action against the introduction of potentially invasive alien species. Likewise, lack of certainty about the long-term implication of an invasion should not be used as a reason for postponing eradication, containment or control measures.

Guiding principle 2: Three-stage hierarchical approach

Prevention is generally far more cost effective and environmentally desirable than measures taken following introduction of an alien invasive species. Priority should be given to prevention of entry of alien invasive species (both between and within States). If entry has already taken place, actions should be undertaken to prevent the establishment and spread of alien species. The preferred response would be eradication at the earliest possible stage (principle 13). In the event that eradication is not feasible or is not cost-effective, containment (principle 14) and long-term control measures (principle 15) should be considered. Any examination of benefits and costs (both environmental and economic) should be done on a long-term basis.

Guiding principle 3: Ecosystem approach

All measures to deal with alien invasive species should be based on the ecosystem approach, in line with the relevant provisions of the Convention and the decisions of the Conference of the Parties.

Guiding principle 4: State responsibility

States should recognize the risk that they may pose to other States as a potential source of alien invasive species, and should take appropriate actions to minimize that risk. In accordance with Article 3 of the Convention on Biological Diversity, and principle 2 of the 1992 Rio Declaration on Environment and Development, States have the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction. In the context of alien invasive species, activities that could be a risk for another State include:

- (a) The intentional or unintentional transfer of an alien invasive species to another State (even if it is harmless in the State of origin); and
- (b) the intentional or unintentional introduction of an alien species into their own State if there is a risk of that species subsequently spreading (with or without a human vector) into another State and becoming invasive.

Guiding principle 5: Research and monitoring

In order to develop an adequate knowledge base to address the problem, States should undertake appropriate research on, and monitoring of, alien invasive species. This should document the history of invasions (origin, pathways and time-period), characteristics of the alien invasive species, ecology of the invasion, and the associated ecological and economic impacts and how they change over time. Monitoring is the key to early detection of new alien species. It requires targeted and general surveys, which can benefit from the involvement of local communities.

Guiding principle 6: Education and public awareness

States should facilitate education and public awareness of the risks associated with the introduction of alien species. When mitigation measures are required, education and public-awareness-oriented programmes should be set in motion so as to inform local communities and appropriate sector groups on how to support such measures.

B. PREVENTION

Guiding principle 7: Border control and quarantine measures

1. States should implement border control and quarantine measures to ensure that:
 - (a) Intentional introductions are subject to appropriate authorization (principle 10);
 - (b) unintentional or unauthorized introductions of alien species are minimized.
2. These measures should be based on an assessment of the risks posed by alien species and their potential pathways of entry. Existing appropriate governmental agencies or authorities should be strengthened and broadened as necessary, and staff should be properly trained to implement these measures. Early detection systems and regional coordination may be useful.

Guiding principle 8: Exchange of information

States should support the development of database(s), such as that currently under development by the Global Invasive Species Programme, for compilation and dissemination of information on alien species that threaten ecosystems, habitats or species, to be used in the context of any prevention, introduction and mitigation activities. This information should include incident lists, information on taxonomy and ecology of invasive species and on control methods, whenever available. The wide dissemination of this information, as well as national, regional and international guidelines, procedures and recommendations such as those being compiled by the Global Invasive Species Programme should also be facilitated through, *inter alia*, the clearing-house mechanism.

Guiding principle 9: Cooperation, including capacity-building

Depending on the situation, a State's response might be purely internal (within the country), or may require a cooperative effort between two or more countries, such as:

- (a) Where a State of origin is aware that a species being exported has the potential to be invasive in the receiving State, the exporting State should provide information, as available, on the potential invasiveness of the species to the importing State. Particular attention should be paid where exporting Parties have similar environments;
- (b) agreements between countries, on a bilateral or multilateral basis, should be developed and used to regulate trade in certain alien species, with a focus on particularly damaging invasive species;
- (c) States should support capacity-building programmes for States that lack the expertise and resources, including financial, to assess the risks of introducing alien species. Such capacity-building may involve technology transfer and the development of training programmes.

C. INTRODUCTION OF SPECIES

Guiding principle 10: Intentional introduction

No intentional introduction should take place without proper authorization from the relevant national authority or agency. A risk assessment, including environmental impact assessment, should be carried out as part of the evaluation process before coming to a decision on whether or not to

authorize a proposed introduction. States should authorize the introduction of only those alien species that, based on this prior assessment, are unlikely to cause unacceptable harm to ecosystems, habitats or species, both within that State and in neighbouring States. The burden of proof that a proposed introduction is unlikely to cause such harm should be with the proposer of the introduction. Further, the anticipated benefits of such an introduction should strongly outweigh any actual and potential adverse effects and related costs. Authorization of an introduction may, where appropriate, be accompanied by conditions (e.g., preparation of a mitigation plan, monitoring procedures, or containment requirements). The precautionary approach should be applied throughout all the above-mentioned measures.

Guiding principle 11: Unintentional introductions

1. All States should have in place provisions to address unintentional introductions (or intentional introductions that have established and become invasive). These include statutory and regulatory measures, institutions and agencies with appropriate responsibilities and with the operational resources required for rapid and effective action.

2. Common pathways leading to unintentional introductions need to be identified and appropriate provisions to minimize such introductions should be in place. Sectoral activities, such as fisheries, agriculture, forestry, horticulture, shipping (including the discharge of ballast waters), ground and air transportation, construction projects, landscaping, ornamental aquaculture, tourism and game farming, are often pathways for unintentional introductions. Legislation requiring environmental impact assessment of such activities should also require an assessment of the risks associated with unintentional introductions of alien invasive species.

D. MITIGATION OF IMPACTS

Guiding principle 12: Mitigation of impacts

Once the establishment of an alien invasive species has been detected, States should take steps such as eradication, containment and control, to mitigate the adverse effects. Techniques used for eradication, containment or control should be cost-effective, safe to the environment, humans and agriculture, as well as socially, culturally and ethically acceptable. Mitigation measures should take place in the earliest possible stage of invasion, on the basis of the precautionary approach. Hence, early detection of new introductions of potentially invasive or invasive species is important, and needs to be combined with the capacity to take rapid follow-up action.

Guiding principle 13: Eradication

Where it is feasible and cost-effective, eradication should be given priority over other measures to deal with established alien invasive species. The best opportunity for eradicating alien invasive species is in the early stages of invasion, when populations are small and localized; hence, early detection systems focused on high-risk entry points can be critically useful. Community support, built through comprehensive consultation, should be an integral part of eradication projects.

Guiding principle 14: Containment

When eradication is not appropriate, limitation of spread (containment) is an appropriate strategy only where the range of the invasive species is limited and containment within defined boundaries is possible. Regular monitoring outside the control boundaries is essential, with quick action to eradicate any new outbreaks.

Guiding principle 15: Control

Control measures should focus on reducing the damage caused rather than on merely reducing the numbers of the alien invasive species. Effective control will often rely on a range of integrated techniques. Most control measures will need to be regularly applied, resulting in a recurrent operating budget and the need for a long-term commitment to achieve and maintain results. In some instances, biological control may give long-term suppression of an alien invasive species without recurrent costs, but should always be implemented in line with existing national regulations, international codes and principle 10 above.

IV. DECISION V/16. ARTICLE 8(J) AND RELATED PROVISIONS

THE CONFERENCE OF PARTIES:

RECALLING its decision IV/9,

RECOGNIZING the need to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application,

NOTING the need for a long-term approach to the programme of work on implementation of Article 8(j) and related provisions of the Convention on Biological Diversity, within a vision to be elaborated progressively, in line with the overall objectives set out in Article 8(j) and related provisions,

EMPHASIZING the fundamental importance of ensuring the full and effective participation of indigenous and local communities in the implementation of Article 8(j) and related provisions,

NOTING the importance of integrating with the full and effective participation of indigenous and local communities the work on Article 8(j) and related provisions into national, regional and international strategies, policies and action plans,

RECOGNIZING the vital role that women play in the conservation and sustainable use of biodiversity, and emphasizing that greater attention should be given to strengthening this role and the participation of women of indigenous and local communities in the programme of work,

FURTHER NOTING the linguistic and cultural diversity among indigenous and local communities as well as differences in their capacities,

NOTING existing declarations by indigenous and local communities to the extent they relate to the conservation and sustainable use of biodiversity, including, *inter alia*, the Kari Oca Declaration, the Mataatua Declaration, the Santa Cruz Declaration, the Leticia Declaration and Plan of Action, the Treaty for Life Forms Patent Free Pacific, the Ukupseni Kuna Yala Declaration, the Heart of the Peoples Declaration on Biodiversity and Biological Ethics, the Jovel Declaration on Indigenous Communities, Indigenous Knowledge and Biodiversity, the Chiapas Declaration, other relevant declarations and statements of Indigenous Forums, as well as Convention 169 of the International Labour Organization, Agenda 21 and other relevant international conventions,

RECOGNIZING the role that the International Indigenous Forum on Biodiversity has played since the third meeting of the Conference of the Parties in addressing the Conference of the Parties on the implementation of Article 8(j) and related provisions,

REAFFIRMING the importance of making Article 8(j) and related provisions of the Convention and provisions of international agreements related to intellectual property rights mutually supportive,

FURTHER NOTING that there are existing international agreements, intellectual property rights, current laws and policies that may have influence on the implementation of Article 8(j) and its related provisions,

NOTING ALSO that the methods of implementation of Article 8(j) and related provisions differ among regions and countries in approach and capacity,

1. ENDORSES the programme of work as contained in the annex to the present decision, which shall be subject to periodic review during its implementation;
2. DECIDES to implement the programme of work giving priority to tasks 1, 2, 4, 5, 8, 9 and 11, as well as 7 and 12, which shall be initiated following completion of tasks 5, 9 and 11;
3. URGES Parties and Governments in collaboration with relevant organizations, subject to their national legislation, to promote and implement this programme of work, and to integrate the tasks identified into their ongoing programmes as appropriate to national circumstances, taking into account the identified collaboration opportunities;
4. REQUESTS Parties, Governments and relevant organizations to take full account of existing instruments, guidelines, codes and other relevant activities in the implementation of the programme of work;
5. ENCOURAGES the participation of indigenous and local communities in the work of the Ad Hoc Open-Ended Working Group on Access and Benefit-Sharing on the development of guidelines and other approaches to ensure the respect, preservation and maintenance of knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity;
6. TAKES into account the importance of the proposals for action on traditional forest-related knowledge of the Intergovernmental Panel on Forests/Intergovernmental Forum on Forests as an important part of this programme of work;
7. REQUESTS Parties, Governments, and international, regional and national organizations to provide appropriate financial support for the implementation of the programme of work;
8. REQUESTS the Executive Secretary to facilitate the integration of the relevant tasks of the programme of work in the future elaboration of the thematic programmes of the Convention on Biological Diversity and provide a report on the progress of the thematic programmes to the Ad Hoc Open-Ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity;
9. DECIDES to extend the mandate of the Ad Hoc Open-Ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity to review progress in the implementation of the priority tasks of its programme of work according to reports provided by the Executive Secretary, and the Parties to the meeting of the Working Group and recommend further action on the basis of this review. The Working Group should further explore ways for increased participation by indigenous and local communities in the thematic programmes of work of the Convention on Biological Diversity. The Working Group should report to the Conference of the Parties at its sixth meeting;
10. REQUESTS Parties, Governments, subsidiary bodies of the Convention, the Executive Secretary and relevant organizations, including indigenous and local communities, when implementing the programme of work contained in the annex to the present decision and other

relevant activities under the Convention, to fully incorporate women and women's organizations in the activities;

11. INVITES Parties and Governments to support the participation of the International Indigenous Forum on Biodiversity, as well as relevant organizations representing indigenous and local communities, in advising the Conference of the Parties on the implementation of Article 8(j) and related provisions;

12. URGES Parties and Governments and, as appropriate, international organizations, and organizations representing indigenous and local communities, to facilitate the full and effective participation of indigenous and local communities in the implementation of the Convention and, to this end:

- (a) Provide opportunities for indigenous and local communities to identify their capacity needs, with the assistance of Governments and others, if they so require;
- (b) include, in proposals and plans for projects carried out in indigenous and local communities, funding requirements to build the communications capacity of indigenous and local communities to facilitate dissemination and exchange of information on issues related to traditional knowledge, innovations and practices;
- (c) provide for sufficient capacity in national institutions to respond to the needs of indigenous and local communities related to Article 8(j) and related provisions;
- (d) strengthen and build capacity for communication among indigenous and local communities, and between indigenous and local communities and Governments, at local, national, regional and international levels, including with the Secretariat of the Convention on Biological Diversity, with direct participation and responsibility of indigenous and local communities through their appropriate focal points;
- (e) use other means of communication in addition to the Internet, such as newspapers, bulletins, and radio, and increasing the use of local languages;
- (f) provide case-studies on methods and approaches that contribute to the preservation of traditional knowledge, innovations and practices, including through their recording where appropriate, and that support control and decision-making by indigenous and local communities over the sharing of such knowledge, innovation and practices;

13. EMPHASIZES ONCE AGAIN the need for case-studies developed in conjunction with indigenous and local communities requested in paragraphs 10 (b) and 15 of its decision IV/9, to enable a meaningful assessment of the effectiveness of existing legal and other appropriate forms of protection for the knowledge, innovations and practices of indigenous and local communities;

14. RECOGNIZES the potential importance of *sui generis* and other appropriate systems for the protection of traditional knowledge of indigenous and local communities and the equitable sharing of benefits arising from its use to meet the provisions of the Convention on Biological Diversity, taking into account the ongoing work on Article 8(j) and related provisions, and TRANSMITS its findings to the World Trade Organization and the World Intellectual Property Organization, as suggested in paragraph 6 (b) of recommendation 3 of the Inter-Sessional Meeting on the Operations of the Convention (UNEP/CBD/COP/5/4, annex);

15. INVITES Parties and Governments to exchange information and share experiences regarding national legislation and other measures for the protection of the knowledge, innovations and practices of indigenous and local communities;

16. RECOGNIZES that the maintenance of knowledge, innovations, and practices of indigenous and local communities is dependent on the maintenance of cultural identities and the material base that sustains them and INVITES Parties and Governments to take measures to promote the conservation and maintenance of such identities;

17. REQUESTS Parties to support the development of registers of traditional knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity through participatory programmes and consultations with indigenous and local communities, taking into account strengthening legislation, customary practices and traditional systems of resource management, such as the protection of traditional knowledge against unauthorized use;

18. INVITES Parties and Governments to increase the participation of representatives of indigenous and local community organizations in official delegations to meetings held under the Convention on Biological Diversity;

19. EMPHASIZES the need for arrangements controlled and determined by indigenous and local communities, to facilitate cooperation and information exchange among indigenous and local communities, for the purposes of, *inter alia*, helping to ensure that such communities are in a position to make informed decisions on whether or not to consent to the release of their knowledge, and, in this respect:

- (a) REQUESTS the Executive Secretary, to fully utilize the clearing-house mechanism, to cooperate closely with indigenous and local communities to explore ways in which such needs may best be addressed;
- (b) INVITES Parties to consider ways and means of providing the necessary resources to enable the Secretariat to undertake the above-mentioned tasks;

20. FURTHER REQUESTS Parties and international financial institutions to explore ways of providing the necessary funding for these activities.

ANNEX

PROGRAMME OF WORK ON THE IMPLEMENTATION OF ARTICLE 8(J) AND RELATED PROVISIONS OF THE CONVENTION ON BIOLOGICAL DIVERISTY

Objectives

The objective of this programme of work is to promote, within the framework of the Convention, a just implementation of Article 8(j) and related provisions, at local, national, regional and international levels and to ensure the full and effective participation of indigenous and local communities at all stages and levels of its implementation.

1. General principles

1. Full and effective participation of indigenous and local communities in all stages of the identification and implementation of the elements of the programme of work. Full and effective participation of women of indigenous and local communities in all activities of the programme of work.

2. Traditional knowledge should be valued, given the same respect and considered as useful and necessary as other forms of knowledge.

3. A holistic approach consistent with the spiritual and cultural values and customary practices of the indigenous and local communities and their rights to have control over their traditional knowledge, innovations and practices.

4. The ecosystem approach is a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use of biological diversity in an equitable way.

5. Access to traditional knowledge, innovations and practices of indigenous and local communities should be subject to prior informed consent or prior informed approval from the holders of such knowledge, innovations and practices.

2. Tasks of the first phase of the programme of work

Element 1: Participatory mechanisms for indigenous and local communities

Task 1: Parties to take measures to enhance and strengthen the capacity of indigenous and local communities to be effectively involved in decision-making related to the use of their traditional knowledge, innovations and practices relevant to the conservation and sustainable use of biological diversity subject to their prior informed approval and effective involvement.

Task 2: Parties to develop appropriate mechanisms, guidelines, legislation or other initiatives to foster and promote the effective participation of indigenous and local communities in decision-making, policy planning and development and implementation of the conservation and sustainable use of biological diversity at international, regional, subregional, national and local levels, including access and benefit-sharing and the designation and management of protected areas, taking into account the ecosystem approach.

Task 4: Parties to develop, as appropriate, mechanisms for promoting the full and effective participation of indigenous and local communities with specific provisions for the full, active and effective participation of women in all elements of the programme of work, taking into account the need to:

- (a) Build on the basis of their knowledge;
- (b) strengthen their access to biological diversity;
- (c) strengthen their capacity on matters pertaining to the conservation, maintenance and protection of biological diversity;
- (d) promote the exchange of experiences and knowledge;
- (e) promote culturally appropriate and gender-specific ways in which to document and preserve women's knowledge of biological diversity.

Element 2: Status and trends in relation to Article 8(j) and related provisions

Task 5: The Executive Secretary to prepare, for the next meeting of the Ad Hoc Working Group, an outline of a composite report on the status and trends regarding the knowledge, innovations and practices of indigenous and local communities, a plan and a timetable for its preparation, based, *inter alia*, on advice submitted by Parties, Governments, indigenous and local communities and other relevant organizations regarding sources and availability of information on these matters. Parties, Governments and indigenous and local communities and other relevant organizations to submit the information and advice to address the requirements of this task and to Parties include in their national reports the current state of implementation of Article 8(j).

Element 4: Equitable sharing of benefits

Task 7: Based on tasks 1, 2 and 4, the Working Group to develop guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure: (i) that indigenous and local communities obtain a fair and equitable share of benefits arising from the use and application of their knowledge, innovations and practices; (ii) that private and public institutions interested in using such knowledge, practices and innovations obtain the prior informed approval of the indigenous and local communities; (iii) advancement of the identification of the obligations of countries of origin, as well as Parties and Governments where such knowledge, innovations and practices and the associated genetic resources are used.

Element 5: Exchange and dissemination of information

Task 8: Identification of a focal point within the clearing-house mechanism to liaise with indigenous and local communities.

Element 6: Monitoring elements

Task 9: The Working Group to develop, in cooperation with indigenous and local communities, guidelines or recommendations for the conduct of cultural, environmental and social impact assessments regarding any development proposed to take place on sacred sites and on lands or waters occupied or used by indigenous and local communities. The guidelines and recommendations should ensure the participation of indigenous and local communities in the assessment and review.

Element 7: Legal elements

Task 11: The Working Group to assess existing subnational, as appropriate, national and international instruments, particularly intellectual property rights instruments, that may have implications on the protection of the knowledge, innovations and practices of indigenous and local communities with a view to identifying synergies between these instruments and the objectives of Article 8(j).

Task 12: The Working Group to develop guidelines that will assist Parties and Governments in the development of legislation or other mechanisms, as appropriate, to implement Article 8(j) and its related provisions (which could include *sui generis* systems), and definitions of relevant key terms and concepts in Article 8(j) and related provisions at international, regional and national levels, that recognize, safeguard and fully guarantee the rights of indigenous and local communities over their traditional knowledge, innovations and practices, within the context of the Convention.

3. Tasks of the second phase of the programme of work

Element 1: Participatory mechanisms for indigenous and local communities

Task 3: On the request of the Executive Secretary, Parties and Governments, with the full participation of indigenous and local communities, would establish a roster of experts based on the methodologies used by the Conference of Parties, to allow the experts to support the implementation of this programme of work.

Element 3: Traditional cultural practices for conservation and sustainable use

Task 6: The Ad Hoc Working Group to develop guidelines for the respect, preservation and maintenance of traditional knowledge, innovations and practices and their wider application in accordance with Article 8(j).

Task 13: The Ad Hoc Working Group to develop a set of guiding principles and standards to strengthen the use of traditional knowledge and other forms of knowledge for the conservation and sustainable use of biological diversity, taking into account the role that traditional knowledge can play with respect to the ecosystem approach, *in situ* conservation, taxonomy, biodiversity monitoring and environmental impact assessments in all biodiversity sectors.

Task 14: The Ad Hoc Working Group to develop guidelines and proposals for the establishment of national incentive schemes for indigenous and local communities to preserve and maintain their traditional knowledge, innovations and practices and for the application of such knowledge, innovations and practices in national strategies and programmes for the conservation and sustainable use of biological diversity.

Task 15: The Ad Hoc Working Group to develop guidelines that would facilitate repatriation of information, including cultural property, in accordance with Article 17, paragraph 2, of the Convention on Biological Diversity in order to facilitate the recovery of traditional knowledge of biological diversity.

Element 5: Exchange and dissemination of information

Task 16: The Executive Secretary to identify, compile and analyse, with the participation of indigenous and local communities, existing and customary codes of ethical conduct to guide the development of models for codes of ethical conduct for research, access to, use, exchange and management of information concerning traditional knowledge, innovations and practices for the conservation and sustainable use of biological diversity.

Element 6: Monitoring elements

Task 10: The Ad Hoc Working Group to develop standards and guidelines for the reporting and prevention of unlawful appropriation of traditional knowledge and related genetic resources.

Task 17: The Executive Secretary to develop, in cooperation with Governments and indigenous and local communities, methods and criteria to assist in assessing the implementation of Article 8(j) and related provisions at the international, regional, national and local levels, and reporting of such in national reports in conformity with Article 26.

4. Ways and means

In developing and implementing the programme of work, the Executive Secretary shall solicit information from Parties, Governments, indigenous and local communities and other relevant organizations, and consult with the liaison group on Article 8(j) and related provisions.

The Executive Secretary to develop, in consultation with indigenous and local communities, Parties, Governments, and relevant international organizations, a questionnaire, as a basis for the provision of information concerning: (i) existing instruments and activities relevant to the tasks of the programme of work; (ii) gaps and needs concerning the guidelines referred to in task 6 above; and (iii) priorities for the further development of the programme of work.

The Executive Secretary to consult with and invite relevant international organizations to contribute to the implementation of this programme of work, also with a view to avoiding duplication and to encouraging synergies.

This programme of work shall, as relevant, take into account the work of the Ad Hoc Open Ended Working Group on Access and Benefit-Sharing, and, as far as possible, be carried out in

collaboration with other relevant organizations, including the World Intellectual Property Organization (WIPO).

Parties, Governments, and international, regional and national organizations to provide appropriate financial support for the implementation of the programme of work.

V. DECISION V/26: ACCESS TO GENETIC RESOURCES⁶

A. ACCESS AND BENEFIT-SHARING ARRANGEMENTS

THE CONFERENCE OF THE PARTIES:

1. REQUESTS Parties to designate a national focal point and one or more competent national authorities, as appropriate, to be responsible for access and benefit-sharing arrangements or to provide information on such arrangements within its jurisdiction;
2. REQUESTS Parties to notify the Executive Secretary of the names and addresses of its focal points and competent authorities;
3. URGES Parties to ensure that national biodiversity strategies as well as legislative, administrative or policy measures on access and benefit-sharing contribute to conservation and sustainable-use objectives;
4. RECOGNIZING the importance for Parties to promote trust-building and transparency in order to facilitate the exchange of genetic resources, particularly with regard to the implementation of Article 15 of the Convention:
 - (a) URGES Parties to pay particular attention to their obligations under Articles 15, 16 and 19 of the Convention, and REQUESTS them to report to the Conference of the Parties on the measures they have taken to this effect;
 - (b) NOTES that legislative, administrative or policy measures for access and benefit-sharing need to promote flexibility, while recognizing the need for sufficient regulation of access to genetic resources to promote the objectives of the Convention;
 - (c) NOTES that all countries are providers and recipients of genetic resources, and URGES recipient countries to adopt, appropriate to national circumstances, legislative, administrative or policy measures consistent with the objectives of the Convention that are supportive of efforts made by provider countries to ensure that access to their genetic resources for scientific, commercial and other uses, and associated knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity, as appropriate, is subject to Articles 15, 16 and 19 of the Convention, unless otherwise determined by that provider country;
 - (d) RECOGNIZING the complexity of this issue, with particular consideration of the multiplicity of prior informed consent considerations, INVITES Parties to cooperate further to find practical and equitable solutions to this issue;

⁶ Annex I on the *Elements for a Questionnaire on Ex-Situ collections*, and Annex II on the *Questionnaire on Ex-Situ Collections*, are not reproduced in this Note.

5. NOTES that the promotion of a comprehensive legal and administrative system may facilitate access to and use of genetic resources and contribute to mutually agreed terms in line with the aims of the Convention;

6. NOTES that, in the absence of comprehensive legislation and national strategies for access and benefit-sharing, voluntary measures, including guidelines, may help ensure realization of the objectives of the Convention, and to that end invites the Parties to consider promotion of their use;

7. STRESSES that it is important that, in developing national legislation on access, Parties take into account and allow for the development of a multilateral system to facilitate access and benefit-sharing in the context of the International Undertaking on Plant Genetic Resources, which is currently being revised;

8. NOTES the report of the Chairman of the Commission on Genetic Resources for Food and Agriculture of the Food and Agriculture Organization of the United Nations (UNEP/CBD/COP/5/INF/12) and URGES the Commission to finalize its work as soon as possible. The International Undertaking is envisaged to play a crucial role in the implementation of the Convention on Biological Diversity. The Conference of the Parties AFFIRMS its willingness to consider a decision by the Conference of the Food and Agriculture Organization of the United Nations that the International Undertaking become a legally binding instrument with strong links to both the Food and Agriculture Organization of the United Nations and the Convention on Biological Diversity, and CALLS UPON Parties to coordinate their positions in both forums;

9. NOTES the common understandings of the Panel of Experts on Access and Benefit-Sharing with respect to prior informed consent and mutually agreed terms as contained in paragraphs 156 to 165 of its report (UNEP/CBD/COP/5/8);

10. DECIDES to reconvene the Panel of Experts on Access and Benefit-Sharing with a concrete mandate and agenda. The Panel will conduct further work on outstanding issues from its first meeting, especially:

- (a) Assessment of user and provider experience in access to genetic resources and benefit-sharing and study of complementary options;
- (b) Identification of approaches to involvement of stakeholders in access to genetic resources and benefit-sharing processes;

and will include additional expertise. The Panel will submit its report to the Ad Hoc Open-Ended Working Group on Access and Benefit-Sharing referred to in paragraph 11 below;

11. DECIDES to establish an Ad Hoc Open-Ended Working Group, composed of representatives, including experts, nominated by Governments and regional economic integration organizations, with the mandate to develop guidelines and other approaches for submission to the Conference of the Parties and to assist Parties and stakeholders in addressing the following elements as relevant to access to genetic resources and benefit-sharing, *inter alia*: terms for prior informed consent and mutually agreed terms; roles, responsibilities and participation of stakeholders; relevant aspects relating to *in situ* and *ex situ* conservation and sustainable use; mechanisms for benefit-sharing, for example through technology transfer and joint research and development; and means to ensure the respect, preservation and maintenance of knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, taking into account, *inter alia*, work by the World Intellectual Property Organization on intellectual property rights issues.

The above-mentioned elements should, in particular, serve as inputs when developing and drafting:

- (a) Legislative, administrative or policy measures on access and benefit-sharing; and
- (b) Contracts or other arrangements under mutually agreed terms for access and benefit-sharing.

The results of the deliberations of the Working Group, including draft guidelines and other approaches, shall be submitted for consideration by the Conference of the Parties at its sixth meeting.

The work of the Working Group shall take into account the reports of the Panel of Experts on Access and Benefit-Sharing and other relevant information.

The Working Group will be open to the participation of indigenous and local communities, non-governmental organizations, industry and scientific and academic institutions, as well as intergovernmental organizations.

The Working Group shall maintain communication and exchange of information with the Working Group on Article 8(j) and Related Provisions of the Convention on Biological Diversity.

In order to build capacity for access and benefit-sharing, the Open-Ended Working Group shall consider issues of capacity-building, including those needs identified in paragraphs 14 (a), (b), (c) and (d) below;

12. NOTES that information is a critical aspect of providing the necessary parity of bargaining power for stakeholders in access and benefit-sharing arrangements, and that, in this respect, there is a particular need for more information regarding:

- (a) User institutions;
- (b) the market for genetic resources;
- (c) non-monetary benefits;
- (d) new and emerging mechanisms for benefit-sharing;
- (e) incentive measures;
- (f) clarification of definitions;
- (g) *Sui generis* systems; and
- (h) "Intermediaries";

13. REQUESTS the Executive Secretary to compile the information referred to in paragraph 12 above and disseminate it through the clearing-house mechanism and relevant meetings, and REQUESTS Parties and organizations to provide such information to assist the Executive Secretary;

14. NOTES that further development of capacities regarding all aspects of access and benefit-sharing arrangements is required for all stakeholders, including local governments, academic institutions, and indigenous and local communities, and that key capacity-building needs include:

- (a) Assessment and inventory of biological resources as well as information management;
- (b) Contract negotiation skills;
- (c) Legal drafting skills for development of access and benefit-sharing measures;
- (d) Means for the protection of traditional knowledge associated with genetic resources;

15. NOTING that the Panel of Experts on Access and Benefit-Sharing was not able to come to any conclusions about the role of intellectual property rights in the implementation of access and benefit-sharing arrangements, and that the Panel developed a list of specific issues that require further study (UNEP/CBD/COP/5/8, paras. 127-138):

- (a) INVITES Parties and relevant organizations to submit to the Executive Secretary information on these issues by 31 December 2000;
- (b) REQUESTS the Executive Secretary, on the basis of these submissions and other relevant material, to make available for the second meeting of the Panel, or the first meeting of the Ad Hoc Open-Ended Working Group, a report on these specific issues;
- (c) RECALLS recommendation 3 of the Inter-Sessional Meeting on the Operations of the Convention, and REQUESTS the Executive Secretary to prepare his report in consultation with, *inter alia*, the Secretariat of the World Intellectual Property Organization;
- (d) INVITES relevant international organizations, including the World Intellectual Property Organization, to analyse issues of intellectual property rights as they relate to access to genetic resources and benefit-sharing, including the provision of information on the origin of genetic resources, if known, when submitting applications for intellectual property rights, including patents;
- (e) REQUESTS relevant international organizations, for example, the World Intellectual Property Organization and the International Union for the Protection of New Varieties of Plants, in their work on intellectual property rights issues, to take due account of relevant provisions of the Convention on Biological Diversity, including the impact of intellectual property rights on the conservation and sustainable use of biological diversity, and in particular the value of knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity;
- (f) REQUESTS the Executive Secretary to explore experience and possibilities for synergistic interactions resulting from collaboration in research, joint development and the transfer of technology following access to genetic resources.

B. THE RELATIONSHIP BETWEEN INTELLECTUAL PROPERTY RIGHTS AND THE RELEVANT PROVISIONS OF THE AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS AND THE CONVENTION ON BIOLOGICAL DIVERSITY

THE CONFERENCE OF THE PARTIES:

NOTING recommendation 3 of the Inter-Sessional Meeting on the Operations of the Convention, concerning the relationship between intellectual property rights and the relevant

provisions of the Agreement on Trade-related Aspects of Intellectual Property Rights and the Convention,

1. REAFFIRMS the importance of systems such as *sui generis* and others for the protection of traditional knowledge of indigenous and local communities and the equitable sharing of benefits arising from its use to meet the provisions of the Convention, taking into account the ongoing work on Article 8(j) and related provisions;
2. INVITES the World Trade Organization to acknowledge relevant provisions of the Convention and to take into account the fact that the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights and the Convention on Biological Diversity are interrelated and to further explore this interrelationship;
3. REQUESTS the Executive Secretary to transmit the present decision to the secretariats of the World Trade Organization and the World Intellectual Property Organization, for use by appropriate bodies of these organizations, and to endeavour to undertake further cooperation and consultation with these organizations;
4. RENEWS its request to the Executive Secretary of the Convention to apply for observer status on the Council for the Trade-related Aspects of Intellectual Property Rights, and REQUESTS him to report back to the Conference of the Parties on his efforts.

C. EX SITU COLLECTIONS ACQUIRED PRIOR TO THE ENTRY INTO FORCE OF THE CONVENTION AND NOT ADDRESSED BY THE COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE

THE CONFERENCE OF THE PARTIES:

1. DECIDES to continue the information-gathering exercise on *ex situ* collections acquired prior to the entry into force of the Convention and not addressed by the Commission on Genetic Resources for Food and Agriculture of the Food and Agriculture Organization of the United Nations initiated by decision IV/8;
 2. REQUESTS the Executive Secretary to gather available information of the type described in the annexes to the present decision, as appropriate, from Parties, Governments and relevant organizations and forums through questionnaires;
 3. INVITES relevant organizations and forums already involved in consideration of these issues to provide this information to the Executive Secretary;
 4. INVITES Parties, Governments and other organizations to provide capacity-building and technology development and transfer for the maintenance and utilization of *ex situ* collections;
 5. REQUESTS the Executive Secretary to report to the Conference of the Parties at its sixth meeting on the implementation of the present decision.
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