

**Committee on Trade and Environment**

MULTILATERAL ENVIRONMENTAL AGREEMENTS:  
RECENT DEVELOPMENTS

Note by the Secretariat

This Note provides Members of the Committee on Trade and Environment with an update of the recent developments in the context of the Convention on Biological Diversity and the Montreal Protocol on Substances that Deplete the Ozone Layer.

I. CONVENTION ON BIOLOGICAL DIVERSITY

The third meeting of the Conference of the Parties to the Convention on Biological Diversity was held in Buenos Aires (Argentina), from 4 to 15 November 1996. The Conference adopted twenty-seven Decisions.<sup>1</sup> Four of them contain explicit reference to the WTO (Decision III/11 on "Conservation and sustainable use of agricultural biological diversity", Decision III/14 on "Implementation of Article 8 (j)", Decision III/15 on "Access to genetic resources", Decision III/17 on "Intellectual property rights"). The Note also provides the text of certain Decisions which may be of additional interest to Members in view of the discussions held so far in the CTE.

The fourth meeting of the Conference of the Parties to the Convention on Biological Diversity will take place in Bratislava (Slovakia), from 4 to 15 May 1998. The work programme for this meeting will include, inter alia, measures for implementing the Convention, matters related to benefit-sharing, measures to promote and advance the distribution of benefits from biotechnology in accordance with Article 19, an overall review of the work done to date, and consideration to a longer-term programme of work (Decision III/22, "Medium-term programme of work for 1996-1997").

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<sup>1</sup>Doc. UNEP/CBD/COP/3/38 (11 February 1997). See also document WT/CTE/W/18 (12 January 1996), which reports on the second meeting of the Conference of the Parties to the Convention on Biological Diversity.

Text of certain decisions taken by the third Conference of the Parties to the Convention on Biological Diversity:

DECISION III/4: CLEARING-HOUSE MECHANISM TO PROMOTE AND FACILITATE TECHNICAL AND SCIENTIFIC COOPERATION<sup>2</sup>

The Conference of the Parties,

Recalling decision I/3 of the Conference of Parties, that a clearing-house mechanism should be established, in accordance with Article 18, paragraph 3, of the Convention, to promote and facilitate technical and scientific cooperation,

Recalling also decision II/3 of the Conference of Parties on the development of the clearing-house mechanism through the establishment of a pilot phase for 1996-1997 and related activities to promote technical and scientific cooperation,

Having examined the note by the Executive Secretary, contained in document UNEP/CBD/COP/3/4, which emphasizes the main features of the operational framework of the pilot phase of the clearing-house mechanism, namely, information linking and organization, visualization and the decision support function,

Noting that progress made to date in the implementation of the pilot phase has produced valuable insights as to the future development of the clearing-house mechanism and concerned that it is now time for these initial experiences to be brought together and advanced in a systematic manner so as to ensure that the clearing-house mechanism is expeditiously implemented in accordance with the expectations of the Parties,

Noting also:

(a) The crucial part played by technical and scientific cooperation on all aspects of biological diversity, including taxonomy and transfer of technology, in ensuring the capacity of the clearing-house mechanism to play an important role in the implementation of the Convention;

(b) The need for the clearing-house mechanism to be clearly focused on the implementation of the Convention;

(c) The need for the clearing-house mechanism activities to include information exchange modalities additional to the Internet to ensure the participation of Parties without Internet access;

(d) The need for capacity-building for the purposes of the clearing-house mechanism in developing countries, including training on information systems technologies that will allow developing countries to take advantage of the recent developments in electronic communication, including the Internet;

(e) The advantages of country-driven pilot projects focused on priority areas identified by the Conference of Parties which would enable developing countries to begin to implement the main features of the pilot phase of the clearing-house mechanism,

1. Decides that the pilot phase approved in its decision II/3 shall be extended for a further year, until December 1998;

2. Requests the Global Environment Facility to support the activities referred to in paragraphs (d) and (e) above as critical components in the implementation of the clearing-house mechanism at the national, subregional and regional levels, including in the pilot phase;

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<sup>2</sup>See also Decision III/5 "Additional guidance to the financial mechanism", Decision III/6 "Additional financial resources", Decision III/7 "Guidelines for the review of the effectiveness of the financial mechanism", and Decision III/8 "Memorandum of understanding between the Conference of the Parties to the Convention on Biological Diversity and the Council of the Global Environment Facility".

3. Further requests the interim financial mechanism to implement its revised operational criteria for enabling activities in relation to the clearing-house mechanism to give effect, as quickly as possible, to the recommendations contained in paragraph 2 above;
4. Also requests Governments and other bilateral and multilateral funding institutions, as far as possible and as appropriate, to provide funding for capacity-building related to the implementation of the clearing-house mechanism;
5. Requests Governments and relevant financial, scientific and technical institutions to facilitate, including through the provision of voluntary contributions, regional workshops with a view to attaining a clear definition of country and regional-level scientific and technical information needs and priorities identified and modalities to deliver information and evaluate national capacities for the implementation of the Convention. Such workshops should also review experience in scientific and technical cooperation in support of the objectives of the Convention, in order to identify ways by which the clearing-house mechanism can best facilitate such cooperation;
6. Emphasizes that the key characteristics of the clearing-house mechanism are, *inter alia*, that it should be compatible with national capacities, needs-driven and decentralized in nature, should provide access to meta-data, should provide support to the decision-making process, and should to the extent possible involve the private sector;
7. Recommends that the clearing-house mechanism should disseminate, in addition to scientific and technical information, information on policy and management issues relevant to the implementation of the Convention;
8. Endorses the proposal of the Secretariat for the publication of a clearing-house mechanism newsletter;
9. Recognizes that ownership of all information made available through the clearing-house mechanism shall remain with the provider of the information;
10. Agrees that the clearing-house mechanism shall be assisted in its functioning by an informal advisory committee, constituted and coordinated by the Executive Secretary in a transparent manner, which will guide and integrate the development of the pilot phase activities and endeavour to ensure that all Parties can participate in the pilot phase of the clearing-house mechanism;
11. Recommends that one important role of the clearing-house mechanism at the national level should be to provide relevant information linkages to the national focal points and relevant thematic focal points, in order to facilitate the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. Linkages to patent offices in each country for up-to-date information on new patent registrations and patents in the public domain provide an example of one mechanism;
12. Recommends that the work of the clearing-house mechanism at the international level focus on providing thematic focal points for linking to the activities at the national and regional level;
13. Recognizes that close cooperation is needed with other conventions and agreements, and requests the Secretariat to identify those activities and organizations which could support the clearing-house mechanism, and to provide appropriate advice to the Subsidiary Body on Scientific, Technical and Technological Advice at its next meeting;
14. Recognizes the role of the Secretariat in the coordination of the successful implementation of the clearing-house mechanism, and recommends that the clearing-house mechanism posts within the Secretariat should be filled as soon as possible;
15. Requests all Parties to designate their clearing-house mechanism national focal points and make them operational as soon as possible;

16. Requests those Parties with access to the Internet to connect their national clearing-house mechanism homepage to the Secretariat's clearing-house mechanism homepage on the Internet, where possible, and further requests the Executive Secretary and partners to collaborate on the provision of advice to Parties and others on, inter alia, the necessary layout and system specifications.

DECISION III/9: IMPLEMENTATION OF ARTICLES 6 AND 8 OF THE CONVENTION

The Conference of the Parties,

Reaffirming the great importance of the development and implementation by all Parties of national strategies, plans and programmes in accordance with Article 6 of the Convention,

Welcoming the work already undertaken by the Parties in implementing Article 6,

Recalling paragraph 5 of decision II/6, in which the Conference of the Parties requested the interim institutional structure operating the financial mechanism to facilitate urgent implementation of Article 6 of the Convention by making available to developing country Parties financial resources for projects in a flexible and expeditious manner,

Recalling also that in decision II/17 the Conference of the Parties decided that the first national reports by Parties would focus in so far as possible on measures taken for the implementation of Article 6,

Reaffirming that Article 8 of the Convention sets out a clear framework of the necessary elements for in situ conservation, which should be addressed in a coherent manner,

Noting that the reduction in the number of species and the fragmentation and degradation of ecosystems and habitats call not only for conservation but also for inter alia sustainable use and restoration of habitats, including their biological diversity components, together with other measures provided for by Article 8 of the Convention,

Noting the conclusions and recommendations of the United Nations-Norway Conference on Alien Species, Trondheim, Norway, 1-5 July 1996, and suggesting that Parties may wish to use these results in their implementation of Article 8 (h) of the Convention,

Believing that a central role of the clearing-house mechanism should be the sharing of experiences and dissemination of information relevant to Articles 6 and 8,

Emphasizing that the compilation and dissemination under the Convention of information relevant to the implementation of Articles 6 and 8 should complement and enhance existing efforts, rather than duplicate them,

1. Stresses the need for Parties to ensure the cross-border coordination of their respective strategies, on a bilateral as well as on a regional basis;
2. Urges Parties to include in their national plans or strategies and legislation measures for:
  - (a) The conservation of biological diversity both in situ and ex situ;
  - (b) The integration of biological diversity objectives in relevant sectoral policies in order to achieve conservation and sustainable use of biological diversity;
  - (c) The equitable sharing of benefits arising out of the use of genetic resources;
3. Further urges Parties to submit their first national reports on time;
4. Requests the interim financial mechanism under the Convention to make available to developing country Parties resources to enable them to facilitate urgent implementation of paragraphs 2 and 3 above;

5. Encourages all Parties to set measurable targets in order to achieve biological diversity conservation and sustainable use objectives;
6. Requests Parties to take action to achieve the restoration of habitats, including their biological diversity components;
7. Requests the Executive Secretary to explore ways of enhancing the collection and dissemination to Parties of information on the implementation of Articles 6 and 8 by involving in a more regular and systematic fashion organizations already concerned with the collection and dissemination of such information;
8. Requests the Executive Secretary to prepare a paper for consideration by the next meeting of the Subsidiary Body on Scientific, Technical and Technological Advice, identifying existing conventions and other international agreements relevant to the implementation of the various paragraphs of Article 8;
9. Recommends the development of a thematic approach in the further compilation and dissemination of information on the implementation of Articles 6 and 8 and commends the inclusion of the following work areas within this approach:
  - (a) Methodologies to evaluate and mitigate threats to biological diversity;
  - (b) Ways to suppress or mitigate perverse or negative incentives having a deleterious effect on biological diversity;
  - (c) Alien species; and
  - (d) Protected areas;
10. Encourages the Scientific Committee on Problems of the Environment and the Invasive Species Specialist Group of the World Conservation Union to continue their efforts to develop a global strategy and action plan to deal with the problem of alien invasive species;
11. Decides that the first national reports referred to in decision II/17 should be submitted no later than 1 January 1998, taking into account decision III/25 of the third meeting of the Conference of the Parties on the date and venue of its next meeting.

DECISION III/11: CONSERVATION AND SUSTAINABLE USE OF AGRICULTURAL BIOLOGICAL DIVERSITY

The Conference of the Parties,

Recalling resolution 3 of the Nairobi Final Act,

Also recalling decisions II/15 and II/16 of the second meeting of the Conference of the Parties,

Further recalling recommendation II/7 of the second meeting of the Subsidiary Body on Scientific, Technical and Technological Advice related to agricultural biological diversity,

Welcoming the outcome of the fourth International Technical Conference on the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture, held in June 1996 in Leipzig, and taking note of the follow-up process agreed in Leipzig and of the periodic updating of the report on the State of the World's Plant Genetic Resources for Food and Agriculture and the Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture by the Food and Agriculture Organization of the United Nations, as well as the implementation of the Global Plan of Action,

Considering the importance of biological diversity for agriculture and taking note of the interrelationship of agriculture with biological diversity as detailed in the basis for action attached hereto as Annex 1,

Believing that the field of agriculture offers a unique opportunity for the Convention on Biological Diversity to link concerns regarding biological diversity conservation and sharing of benefits arising from the use of genetic resources with the mainstream economy, taking into account the need for a balanced development of the three objectives of the Convention,

Recognizing the close relationship between agriculture and biological and cultural diversity and that the Conference of the Parties has a clear role and mandate to address issues relating to agricultural biological diversity within the framework of the Convention on Biological Diversity,

Further recognizing agricultural biological diversity as a focal area in view of its social and economic relevance and the prospects offered by sustainable agriculture for reducing the negative impacts on biological diversity, enhancing the value of biological diversity and linking conservation efforts with social and economic benefits,

Urging the expeditious provision of funds from appropriate sources necessary for the implementation of this decision,

Recognizing that traditional farming communities and their agricultural practices have made a significant contribution to the conservation and enhancement of biodiversity and that these can make an important contribution to the development of environmentally sound agricultural production systems,

Recognizing also that the inappropriate use of and excessive dependence on agrochemicals has produced substantial negative effects on terrestrial systems, including soil, coastal and aquatic organisms, thus affecting biological diversity in different ecosystems,

Reaffirming the sovereign rights of States over their own genetic resources, including their genetic resources for food and agriculture,

Urging Parties to establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity, taking also into account the risks to human health,

Considering that its activities in this field relating to the implementation of Article 6 (b) of the Convention should focus on the interface between agricultural sustainability and environmental issues and should promote the integration of social, economic and environmental objectives and facilitate the development of solutions to problems relating to agricultural biological diversity in the context of the Convention's provisions,

Further considering that the contributions of conservation and sustainable use of agricultural biological diversity to sustainable agriculture should be a key focal area within the context of terrestrial, freshwater and marine biological diversity, to be pursued in collaboration with, and with the cooperation and initiative of, relevant international organizations thus avoiding duplication,

1. Decides to establish a multi-year programme of activities on agricultural biological diversity aiming, first, to promote the positive effects and mitigate the negative impacts of agricultural practices on biological diversity in agro-ecosystems and their interface with other ecosystems; second, to promote the conservation and sustainable use of genetic resources of actual or potential value for food and agriculture; and third, to promote the fair and equitable sharing of benefits arising out of the utilization of genetic resources; and which, in support of the implementation of ongoing or the initiation of new policies, programmes and plans in the field of agrobiodiversity, will have the following components:

(a) The identification and assessment of relevant ongoing activities and existing instruments at the international level;

(b) The identification and assessment of relevant ongoing activities and existing instruments at the national level;

(c) The identification of issues that need to be addressed and relevant knowledge;

- (d) The identification of priority issues for further development of the programme;
  - (e) The identification and implementation of case studies on issues identified;
  - (f) The sharing of experiences and the transfer of knowledge and technologies;
2. Requests the Executive Secretary to invite the Food and Agriculture Organization of the United Nations, in close collaboration with other relevant United Nations bodies and regional and international organizations, to identify and assess relevant ongoing activities and existing instruments at the international level, choosing among the thematic areas in the indicative list in Annex 2. The results should be reported back on a phased basis to the Conference of the Parties through the Subsidiary Body on Scientific, Technical and Technological Advice;
3. Welcomes the offer by the Food and Agriculture Organization of the United Nations to continue serving countries in implementing the Convention on Biological Diversity in the area of agricultural biological diversity, and, referring to its earlier decisions, underlines the necessity of avoiding any duplication of work with respect to the activities being undertaken by the Food and Agriculture Organization of the United Nations in this programme of work;
4. Requests Parties, as far as possible and as appropriate, to identify and assess relevant ongoing activities and existing instruments at the national level and to report back to the Conference of the Parties;
5. Requests Parties, as far as possible and as appropriate, to identify issues and priorities that need to be addressed at the national level and to report back to the Conference of the Parties;
6. Suggests that, in carrying out the initiatives described in paragraphs 3 and 4 above, Parties consider the thematic areas in the indicative list in Annex 2, as appropriate;
7. Requests the Executive Secretary, in close collaboration with the Food and Agriculture Organization of the United Nations, as appropriate, to report the results, together with advice from the Subsidiary Body on Scientific, Technical and Technological Advice, of the above initiatives as a basis for setting priorities by the Conference of the Parties for further work within this programme of work using as criteria, inter alia:
- (a) The relevance of the issue to the objectives of the Convention;
  - (b) The extent to which work on the issue is not already being undertaken;
8. Requests that the clearing-house mechanism be used to promote and facilitate the development and transfer of technology relevant to the conservation and sustainable use of agricultural biological diversity by facilitating contacts among:
- (a) Groups needing solutions to specific problems;
  - (b) Holders of technologies developed and maintained by many sources;
  - (c) Technology-transfer brokers;
  - (d) Enabling agencies which fund technology transfer;
9. Encourages the Parties, in accordance with decision I/2 of the Conference of the Parties, to use and/or study and develop methods and indicators to monitor the impacts of agricultural development projects, including the intensification and extensification of production systems, on biological diversity and to promote their application;
10. Invites countries to share case-study experiences addressing the conservation and sustainable use of agricultural biological diversity, which, among other ways of sharing information, should be posted through the clearing-house mechanism of the Convention;

11. Encourages interested Parties and international agencies to conduct case studies on the two initial issues identified by the Subsidiary Body on Scientific, Technical and Technological Advice in recommendation II/7, described in Annex 3;

12. Instructs the Subsidiary Body on Scientific, Technical and Technological Advice to coordinate and assess the lessons learned from work on the topics described in Annex 3 and to report back thereon to the Conference of the Parties, as appropriate;

13. Recognizes that the successful implementation of policies aiming at the sustainable use of agrobiodiversity components largely depends on the degree of public awareness and understanding of its basic importance for society, and recommends Parties to establish or enhance mechanisms for information and education, including the use of the clearing-house mechanism, specific to groups of concern at national, regional and international levels;

14. Endorses the conclusions of the relevant sections of the 1995 Commission on Sustainable Development sectoral review of Agenda 21, which, inter alia, recognized the need for an integrated and multidisciplinary approach to the planning, development and management of land resources, and that the achievement of the multiple objectives related to sustainable agriculture and rural development requires a whole system approach that recognizes that it is not possible to focus on agricultural activities alone;

15. Encourages Parties to develop national strategies, programmes and plans which, inter alia:

(a) Identify key components of biological diversity in agricultural production systems responsible for maintaining natural processes and cycles, monitoring and evaluating the effects of different agricultural practices and technologies on those components and encouraging the adoption of repairing practices to attain appropriate levels of biological diversity;

(b) Redirect support measures which run counter to the objectives of the Convention regarding agricultural biodiversity;

(c) Internalize environmental costs;

(d) Implement targeted incentive measures which have positive impacts on agrobiodiversity, in order to enhance sustainable agriculture, in accordance with Article 11 and consistent with Article 22, as well as to undertake impact assessments in order to minimize adverse impacts on agrobiodiversity, in accordance with Article 14;

(e) Encourage the development of technologies and farming practices that not only increase productivity, but also arrest degradation as well as reclaim, rehabilitate, restore and enhance biological diversity and monitor adverse effects on sustainable agricultural biodiversity. These could include, inter alia, organic farming, integrated pest management, biological control, no-till agriculture, multi-cropping, inter-cropping, crop rotation and agricultural forestry;

(f) Empower their indigenous and local communities and build their capacity for in situ conservation and sustainable use and management of agricultural biological diversity, building on the indigenous knowledge systems;

(g) Encourage ex ante and/or ex post evaluation of impacts on biological diversity from agricultural development projects, to assure the use of best practices to promote the conservation and sustainable use of biological diversity;

(h) Integrate with other plans, programmes and projects relating to the conservation and sustainable use of other terrestrial, freshwater, coastal and marine ecosystems, in accordance with Article 6 (b) of the Convention on Biological Diversity;

(i) Promote partnerships with researchers, extension workers and farmers in research and development programmes for biological diversity conservation and sustainable use of biological diversity in agriculture.



To achieve this, countries should be encouraged to set up and maintain local level forums for farmers, researchers, extension workers and other stakeholders to evolve genuine partnerships;

(j) Promote at national and regional levels adequate and appropriate services to farmers and responsiveness of public research and extension services and development of genuine partnerships;

(k) Promote research into, and development and implementation of, integrated pest management strategies, in particular, methods and practices alternative to the use of agro-chemicals, that maintain biodiversity, enhance agro-ecosystem resilience, maintain soil and water quality and do not affect human health;

(l) Encourage the consideration of introducing necessary measures and/or legislation, as appropriate, to encourage appropriate use of and discourage excessive dependence on agro-chemicals with a view to reducing negative impacts on biological diversity;

(m) Study, use and/or develop, in accordance with decision I/2, methods and indicators to monitor the impacts of agricultural development projects on biological diversity, including intensification and extensification, of production systems on biological diversity, and to promote their application;

(n) Study the positive and negative impacts on ecosystems and biomes of agricultural transformation resulting from intensification or extensification of production systems in their countries;

16. Encourages Parties to develop national strategies, programmes and plans, which should focus on, inter alia:

(a) The key elements of the Global Plan of Action, such as broadening the genetic base of major crops; increasing the range of genetic diversity available to farmers; strengthening the capacity to develop new crops and varieties that are specifically adapted to local environments; exploring and promoting the use of underutilized crops; and deploying genetic diversity to reduce crop vulnerability;

(b) The development of inventories which consider the status of farm animal genetic resources and measures for their conservation and sustainable utilization;

(c) Micro-organisms of interest for agriculture;

17. Encourages Parties at the appropriate level, with the support of the relevant international and regional organizations, to promote:

(a) The transformation of unsustainable agricultural practices into sustainable production practices adapted to local biotic and abiotic conditions, in conformity with the ecosystem or integrated land use approach;

(b) The use of farming practices that not only increase productivity, but also arrest degradation as well as reclaim, rehabilitate, restore and enhance biological diversity;

(c) Mobilization of farming communities including indigenous and local communities for the development, maintenance and use of their knowledge and practices in the conservation and sustainable use of biological diversity in the agricultural sector with specific reference to gender roles;

18. Notes that the various options for the legal status of a revised International Undertaking on Plant Genetic Resources, which include a voluntary agreement, binding instrument, or protocol to the Convention on Biological Diversity, have not been decided upon by the Food and Agriculture Organization of the United Nations, requests the Food and Agriculture Organization of the United Nations to inform the Conference of the Parties of its deliberations, affirms its willingness to consider a decision by the Conference of the Food and Agriculture Organization of the United Nations that the International Undertaking should take the form of a protocol to this Convention once revised in harmony with this Convention and further requests the Executive Secretary to inform the Commission on Genetic Resources for Food and Agriculture accordingly;

19. Welcomes the contribution that the Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources, as adopted by the fourth International Technical Conference on Plant

Genetic Resources, provides to the implementation of the Convention on Biological Diversity in the field of plant genetic resources for food and agriculture and encourages Parties actively to implement the Global Plan of Action, in accordance with their national capacities, and endorses its priorities and policy recommendations; recognizes that several issues require further work in the context of the FAO Global System for the Conservation and Utilization of Plant Genetic Resources for Food and Agriculture, in particular: financing; the realization of Farmers' Rights as discussed in the Global Plan of Action; as well as terms of technology transfer to developing countries and access and benefit-sharing arrangements, in accordance with relevant provisions of the Convention. In this regard, calls for effective and speedy completion of the revision of the International Undertaking and strengthening of the FAO Global System;

20. Appreciates the importance of the country-based Global Strategy for the Management of Farm Animal Genetic Resources under the Food and Agriculture Organization of the United Nations and strongly supports its further development;

21. Draws the attention of Parties to Article 20.1 of the Convention, in the context of providing, in accordance with their capabilities, financial support and incentives for the conservation and sustainable use of biological diversity important to agriculture in accordance with national plans, priorities and programmes;

22. Draws the attention of international funding agencies to the urgent need to support the conservation and sustainable use of biological diversity important to agriculture and invites these agencies to provide information and feedback in this respect to the Conference of the Parties and in this context, requests the interim financial mechanism to give priority to supporting efforts for the conservation and sustainable use of biological diversity important to agriculture in accordance with this decision;

23. Encourages the United Nations Environment Programme/Food and Agriculture Organization of the United Nations process developed by the Intergovernmental Committee negotiating an international binding instrument for the application of the prior informed consent procedure on hazardous chemical substances, including pesticides;

24. Recalls paragraph 39 (g) from the World Food Summit Plan of Action and encourages the World Trade Organization through its Committee on Trade and Environment, in collaboration with other relevant organizations, to consider developing a better appreciation of the relationship between trade and agricultural biodiversity and, in this consideration, recommends the collaboration with the Convention on Biological Diversity and requests the Executive Secretary to convey this request to the World Trade Organization.

#### Annex 1

#### BASIS FOR ACTION

##### A. Impact of biological diversity on agriculture

1. Biological diversity has enabled farming systems to evolve since agriculture was first developed some 12,000 years ago, and an understanding of the dynamic evolutionary and environmental processes which shape and influence agricultural biodiversity is fundamental to improving the sustainable management and conservation of agricultural ecosystems today. In recent years, as the world's population continues to grow and agricultural production must meet the rising demand for food, agricultural expansion into forests and marginal lands, combined with overgrazing and urban and industrial growth, has substantially reduced levels of biological diversity over significant areas. Current patterns of agricultural land use based on limited numbers of species and varieties have also diminished the biological diversity within agricultural ecosystems and are undermining the long-term sustainability of agricultural production itself.

2. Agricultural intensification has the potential to balance the world's need for increasing food supplies while reducing pressures to expand agricultural areas still further, but it is also harmful when accompanied by excessive dependence on agrochemicals and external energy and water inputs. Agro-ecological forms of intensification can, however, blend improved knowledge about agricultural ecosystems, intercropping, uses of diverse species, integrated pest management and the efficient use of resources. Beneficial mixes of land use also raise the overall level of biodiversity in agricultural landscapes. These approaches currently represent a small but growing portion of intensification efforts. Meeting the imperative of increasing agricultural production in such sustainable ways while conserving and prudently using biological diversity is the major challenge which we must urgently address.

3. The importance of agrobiodiversity is of widespread and complex significance to society, encompassing socio-cultural, economic and environmental elements. It is essential to food security and poverty alleviation and much of the knowledge about agrobiodiversity is maintained by farmers themselves, many of whom are women. All domesticated crops and animals result from human management of biological diversity, which is constantly responding to new challenges to maintain and increase productivity. Biological diversity itself presents opportunities for naturally controlling pests and reducing the use of pesticides, while maintaining high yields, and a large proportion of crops depend on insect pollinators for good yields. Landraces and wild species of animals and plants are the essential source of genetic variability for responding to biotic and abiotic stress through genetic adaptation.

4. The biological diversity of the soil is responsible for nutrient circulation and fertility within agricultural ecosystems. Diversified agricultural production provides protection against uncertainties in the market, especially for less capitalized producers, and increases the opportunities to add value and exploit new markets. Farmers all over the world have also managed a variety of wild species and habitats which benefit the sustainability of both agricultural and natural ecosystems.

5. At the more fundamental level, the living organisms which constitute agricultural biodiversity play an important role in the resilience of all natural, life-support processes. They are essential agents for, *inter alia*, nitrogen, carbon, energy and water cycles. Moreover, the species composition and their relationships will affect the functioning and yields of agricultural ecosystems themselves. A diverse environment also offers a shield for agricultural ecosystems against perturbations, natural or man-made, contributing to their resilience and that of their surrounding ecosystems.

6. Agricultural production utilizes natural resources of diverse ecosystems worldwide and is the economic activity most representative as far as extensive land-use is concerned - nearly one third of the world's land area is used for food production. Serious adverse effects may occur on biological diversity at on and off-farm levels. Most of the world's biological diversity on land is harboured by areas under exploitation by humans; consequently, conserving biological diversity implies improving the ways in which agricultural ecosystems are managed.

#### B. Impacts of agriculture on biodiversity

7. Different agricultural practices lead to diverse impacts upon biological diversity. These impacts occur at the ecosystem, species and genetic levels.

(a) Unsustainable agricultural practices have caused negative impacts on biological diversity, world-wide, at all levels - ecosystem, species and genetic - on both natural and domestic diversity. They have resulted in the large-scale degradation of agrobiodiversity and habitats through the destruction of biotic and abiotic resources, as well as by threatening the natural resource base to agriculture and through socio-economic problems created by destruction of the local resource base. Inappropriate reliance on monoculture, over-mechanization, and misuse of agricultural chemicals diminish the diversity of fauna, flora and micro-organisms, including beneficial organisms. These practices normally lead to a simplification of the components of the environment and to unstable production systems. Expansion of agriculture to frontier areas, including forests, savannahs, wetlands, mountains, and arid lands, combined with overgrazing, and inadequate crop management and pest control strategies contribute to degradation of biological diversity, as well as to the loss of the cultural diversity of traditional communities.

(b) Agricultural practices have, however, also facilitated enhanced biodiversity as a result of both traditional and modern sustainable farming practices. Agricultural ecosystems can provide habitats for plants,

birds and other animals. Many agriculturalists have made strong efforts to preserve biological diversity important to agriculture, both *in situ* and *ex situ*. Currently, progress is being made in many regions of the world in implementing biological diversity-friendly agricultural practices in soil conservation, withdrawing production from marginal areas, mastering chemical and nutrient runoff, and breeding crop varieties which are genetically resistant to diseases, pests and abiotic stresses.

## Annex 2

### INDICATIVE LIST OF THEMATIC AREAS

1. Land resources
  - (i) soil erosion control;
  - (ii) sustainable tillage;
  - (iii) sustainable farming or cropping;
  - (iv) marginal land use;
  - (v) stock of agricultural land including pressures of urbanization;
  - (vi) integrated land and resource management;
  - (vii) restoration of degraded landscapes.
2. Water resources
  - (i) precipitation;
  - (ii) irrigation management;
  - (iii) sustainable use;
  - (iv) water quality;
  - (v) farm waste.
3. Plant, animal and microbial genetic resources
  - (i) *in situ*;
  - (ii) *ex situ*;
  - (iii) role of botanical gardens and zoos *vis à vis* agricultural biological diversity;
  - (iv) sustainable use.
4. Wildlife
  - (i) habitats;
  - (ii) populations (e.g., pollinators, nematodes, soil micro-organisms);
  - (iii) biocontrol organisms;
  - (iv) border habitats for natural organisms beneficial to agriculture.
5. Air and climate
  - (i) greenhouse gas emissions;
  - (ii) temperature and precipitation variability.
6. Farm inputs
  - (i) sustainable/water use efficiency;
  - (ii) energy use efficiency;
  - (iii) input costs;
  - (iv) pesticide use involving integrated pest management;
  - (v) nutrient balance including symbiotic soil micro-organisms.

7. Wild sources of food

- (i) wild relatives of domesticated species;
- (ii) other wild species.

8. Traditional knowledge

9. Marketing conditions for agricultural products

The relationship between biological diversity-friendly agricultural practices and market forces.

10. Land-use pressures

Examining land-use pressures which make it more difficult to maintain biodiversity-friendly practices, such as lack of services for rural people, and the artificial maintenance of some land far below productive capacity;

11. Agroforestry

Annex 3

INITIAL ISSUES FOR CONDUCTING CASE STUDIES

1. Pollinators, including consideration of the monitoring of the loss of pollinators worldwide; the identification of the specific causes of pollinator decline; the estimation of the economic cost associated with reduced pollination of crops; the identification and promotion of best practices and technologies for more sustainable agriculture; and the identification and encouragement of the adoption of conservation practices to maintain pollinators or to promote their re-establishment.
2. Soil micro-organisms in agriculture, including consideration of: the measurement and monitoring of the worldwide loss of symbiotic soil micro-organisms, in particular nitrogen-fixing bacteria and mycorrhizal fungi; the identification and promotion of the transfer of technologies for the detection of symbiotic soil micro-organisms and their use to enhance nitrogen fixation and phosphorous absorption; the estimation of the potential and actual economic gain associated with reduced use of nitrogen and phosphorus chemical fertilization of crops with the enhanced use and conservation of symbiotic soil micro-organisms; the identification and promotion of best practices for more sustainable agriculture; and the identification and promotion of conservation measures to conserve symbiotic soil micro-organisms or to promote their re-establishment.

DECISION III/14: IMPLEMENTATION OF ARTICLE 8 (J)

The Conference of the Parties,

Reaffirming the spirit and the intent of the Convention as expressed in Article 8 (j),

Recognizing that Article 8 (j) is closely linked with other articles of the Convention, in particular Articles 10 (c), 17.2 and 18.4,

Taking note of relevant activities within the United Nations system, in particular under the Commission on Human Rights, and of relevant international instruments, such as Convention 169 of the International Labour Organization,

Stressing the need for Contracting Parties to implement Article 8 (j) and related articles and to initiate a process toward this end,

Realizing the importance of biological diversity for indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity,

Emphasizing the need for dialogue with representatives of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity within the framework of the Convention,

Recognizing rights under national legislation of indigenous and local communities to control access to their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity,

Reaffirming the dynamic nature of traditional knowledge, innovations and practices,

Recognizing that traditional knowledge should be given the same respect as any other form of knowledge in the implementation of the Convention,

Emphasizing the need for Parties to initiate projects on capacity-building with indigenous and local communities to address concerns in the conservation and sustainable use of biological diversity and of equitable sharing of the benefits arising from the utilization of their knowledge, innovations and practices,

Recognizing that issues related to traditional knowledge, innovations and practices go beyond the scope of the Convention,

Expressing its sincere appreciation for the valuable contribution made by the participating representatives of the indigenous and local communities at the third meeting of the Conference of the Parties,

1. Requests those Parties that have not yet done so to develop national legislation and corresponding strategies for the implementation of Article 8 (j) in consultation particularly with representatives of their indigenous and local communities;

2. Urges Parties to supply information about the implementation of Article 8 (j) and related articles, for example, national legislation and administrative and incentive measures, and to include such information in national reports;

3. Invites Governments, international agencies, research institutions, representatives of indigenous and local communities and non-governmental organizations to submit case studies to the Executive Secretary in time for consideration by the workshop referred to in paragraph 9 below on measures taken to develop and implement the Convention's provisions relating to indigenous and local communities. These studies could highlight key areas of discussion and help in considering the implementation of Article 8 (j) and related articles, including, inter alia, interactions between traditional and other forms of knowledge relating to conservation and sustainable use of biological diversity; the influence of current laws and policies on knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity; and incentive measures;

4. Requests the Executive Secretary to remain informed as to relevant international processes and bodies, including, inter alia, those under the auspices of the Commission on Human Rights and the Commission on Sustainable Development, Convention 169 of the International Labour Organization, the World Intellectual Property Organization, the World Bank, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Social and Cultural Organization, and the World Trade Organization, and to provide periodic reports related to Article 8 (j) and related articles to the Conference of Parties;

5. Requests the interim financial mechanism to examine the support of capacity-building projects for indigenous and local communities embodying traditional lifestyles related to the preservation and maintenance of their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity with their prior informed consent and their participation;

6. Recommends that the indigenous knowledge post in the Secretariat should be filled as soon as possible;

7. Decides that an intersessional process should be established to advance further work on the implementation of Article 8 (j) and related provisions with a view to producing a report for consideration at the fourth meeting of the Conference of the Parties;

8. Decides that activities as part of the intersessional process referred to in paragraph 7 should include representation by Governments, indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biodiversity, and other relevant bodies;

9. Requests the Executive Secretary to arrange, as part of the intersessional process referred to in paragraph 7, a five-day workshop before the fourth meeting of the Conference of the Parties according to the terms of reference in the Annex;

10. Further requests the Executive Secretary to produce, in support of the intersessional process referred to in paragraph 7, a background document containing the following:

(a) The consideration of the linkages between Article 8 (j) and related issues including, inter alia, technology transfer, access to genetic resources, ownership, intellectual property rights, alternative systems of protection of knowledge, innovations and practices, incentives and Articles 6 and 7 and the remainder of Article 8;

(b) The elaboration of concepts of key terms of Article 8 (j) and related provisions such as Articles 10 (c), 17.2 and 18.4;

(c) A survey of the activities undertaken by relevant organizations and their possible contribution to Article 8 (j) and related articles;

11. Further requests the Executive Secretary to invite representatives of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biodiversity to provide input to the meeting;

12. Calls upon Parties to make additional voluntary contributions to help fund the workshop.

#### Annex

1. The workshop would seek:

(a) To identify the extent to which the various organizations, individually or collectively, could address interests in Article 8 (j), such as guidance to Governments on implementation;

(b) To identify any gaps which would help set future priorities of the Conference of the Parties;

(c) To consider the background document prepared by the Executive Secretary according to operative paragraph 9 to the present decision;

(d) To consider the input provided by the indigenous and local communities embodying traditional lifestyles according to paragraph 10 to the present decision;

(e) To consider the information provided by the Parties on national implementation under Article 8 (j) and related articles and seek to draw conclusions which will be of assistance in an assessment of priorities for future work by Parties and by the Conference of the Parties relevant to Article 8 (j) and related articles;

(f) To provide advice to the Conference of the Parties on the possibility of developing a workplan on Article 8 (j) and related articles including the modalities for such a workplan;

(g) To examine the need to establish an open-ended intersessional working group or a subsidiary body to address the role of traditional knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant to the conservation and sustainable use of biological diversity.

2. In organizing the workshop,

(a) The Executive Secretary will consult with the Centre for Human Rights and other relevant bodies on organizational considerations in sessions of the United Nations Working Group on Indigenous Populations in order to inform the process of organizing this workshop;

(b) The Parties shall, as far as possible and as appropriate, promote consultations among indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biodiversity in order for them to choose their representatives to the workshop;

(c) A set number of funded participants will be determined according to the amount of voluntary contributions received and will be allocated taking into account regional and gender representations;

(d) A core figure of US\$ 350,000 will be allocated in the budget of the Convention on Biological Diversity to cover the administrative costs of the workshop;

(e) Consideration could be given to holding it back-to-back with the third meeting of the Subsidiary Body on Scientific, Technical and Technological Advice or at a venue offered by a voluntary host.

DECISION III/15: ACCESS TO GENETIC RESOURCES

The Conference of the Parties,

Recognizing the importance of the implementation of Article 15 with all of its provisions,

Noting that the implementation of Article 15 is closely linked to that of other Articles, such as 8 (j), 11, 16.2, 16.5, 17.2, 19.1 and 19.2;

Taking note of the importance of national and regional efforts, as set out in its decision II/11,

Recalling the support expressed in decision II/15 for the harmonization of the International Undertaking on Plant Genetic Resources for Food and Agriculture with the Convention on Biological Diversity, and noting the linkages of Article 15 with the further development and implementation of the work by the Food and Agriculture Organization of the United Nations on the Global System,

Recognizing that there is a variety of approaches to managing access to genetic resources based on their diversity and other considerations,

Recalling decision II/18, that placed the distribution of the benefits from technology, including biotechnology, on the agenda of the fourth meeting of the Conference of the Parties,

1. Urges Governments, regional economic integration organizations and other international, regional and national competent organizations to send to the Secretariat, five months before the fourth meeting of the Conference of the Parties, information on:

(a) National, regional, and sectoral legislative, administrative and policy measures and guidelines for activities covered by Article 15, and in particular, on access and benefit-sharing, both adopted and under development, including information on their implementation;

(b) National participatory processes for the activities covered by Article 15, and in particular, ways by which access and benefit-sharing measures and guidelines, including related institutional arrangements, are developed and implemented;

(c) As appropriate, research programmes on genetic resources;



2. Requests the Executive Secretary, in time for the fourth meeting of the Conference of the Parties:
  - (a) To prepare a note based on information provided in response to paragraph 1, further summarizing legislative, administrative and policy measures, including guidelines and regional and sectoral measures for the activities covered by Article 15, and in particular on access and benefit-sharing, both under development and adopted. The note should include a summary of the scope of the genetic resources included and being considered; any national and regional interpretations of key terms; the elements included in access measures and consideration of the process by which such measures are prepared and implemented, including interim measures; and relevant national experiences in the development and implementation of such measures, including, as available, case studies;
  - (b) To disseminate this information, including through the clearing-house mechanism;
3. Urges Governments, regional economic integration organizations, the interim financial mechanism, and competent international, regional and national organizations to support and implement human and institutional capacity-building programmes for Governments, non-governmental organizations and local and indigenous communities, as appropriate, to promote the successful development and implementation of legislative, administrative and policy measures and guidelines on access, including scientific, technical, business, legal and management skills and capacities;
4. Invites Governments, regional economic integration organizations and competent international, regional and national organizations to conduct analyses of ongoing experiences of legislative, administrative and policy measures and guidelines on access, including regional efforts and initiatives, and to disseminate these widely to assist Parties and stakeholders involved in developing and implementing measures and guidelines on access;
5. Encourages Governments and regional economic integration organizations to explore and develop, in collaboration with relevant stakeholders, guidelines and practices to ensure mutual benefits to providers and users of access measures and to implement them effectively at the national, regional or international level, as appropriate;
6. Encourages Governments and regional economic integration organizations to identify and communicate to the Secretariat competent national authorities responsible for granting access to genetic resources and/or competent national authorities to provide information on the granting of access to genetic resources;
7. Urges Governments and regional economic integration organizations to bring to a rapid conclusion the negotiation for the adaptation of the International Undertaking on Plant Genetic Resources for Food and Agriculture, in harmony with the Convention on Biological Diversity, in particular, providing solutions to access to ex situ collections not acquired in accordance with the Convention;
8. Requests the Executive Secretary to cooperate closely with the World Trade Organization through the Committee on Trade and Environment to explore the extent to which there may be linkages between Article 15 and relevant articles of the Agreement on Trade-related Aspects of Intellectual Property Rights;
9. Urges the Executive Secretary to coordinate closely with the Food and Agriculture Organization of the United Nations, United Nations Conference on Trade and Development and other relevant organizations working on access to genetic resources to ensure complementary efforts.

DECISION III/16:           WAYS TO PROMOTE AND FACILITATE ACCESS TO AND TRANSFER AND DEVELOPMENT OF TECHNOLOGY, AS ENVISAGED IN ARTICLES 16 AND 18 OF THE CONVENTION

#### The Conference of the Parties

Recalling the provisions of the Convention as contained in paragraphs 16.1 and 16.2,

Taking note of document UNEP/CBD/COP/3/21 on promoting and facilitating access to and transfer and development of technology,

1. Takes note of decision II/4 of the second meeting of the Conference of the Parties, and recommendation II/3 of the second meeting of the Subsidiary Body on Scientific, Technical and Technological Advice;
2. Notes also that the issue of technology will be dealt with at its fourth meeting inter alia in the context of agenda item 7.4 on consideration of matters related to benefit-sharing, and specifically agenda item 7.4.1: Consideration of measures to promote and advance the distribution of benefits from biotechnology in accordance with Article 19 and agenda item 7.4.2: Consideration of benefit-sharing in the light of the present decision;
3. Endorses the recommendation II/3 of the second meeting of the Subsidiary Body on Scientific, Technical and Technological Advice, and requests the third meeting of the Subsidiary Body on Scientific, Technical and Technological Advice to conduct its work on technology transfer within sectoral themes related to the priority issues under its programme of work, as set out in recommendation II/12;
4. Emphasizes the importance of technology transfer in the achievement of each of the three objectives of the Convention.

DECISION III/17: INTELLECTUAL PROPERTY RIGHTS

The Conference of the Parties,

Recognizing that intellectual property rights are relevant to and may have implications for the implementation of the Convention and the achievement of its objectives,

Noting that intellectual property rights are the focus of other international agreements and organizations,

Recalling Article 16, paragraph 5, of the Convention,

Recognizing the importance of implementing intellectual property rights-related provisions of the Convention on Biological Diversity and of international agreements relating to intellectual property rights in a mutually supportive way,

Recalling decision II/12 of the second meeting of the Conference of the Parties,

1. Encourages Governments, and relevant international and regional organizations, to conduct and communicate to the Executive Secretary, for dissemination through means such as the clearing-house mechanism, case studies of the impacts of intellectual property rights on the achievement of the Convention's objectives, including relationships between intellectual property rights and the knowledge, practices and innovations of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity. Such studies could:

(a) Take into account the information and options for future work contained in the preliminary study prepared by the Executive Secretary, contained in document UNEP/CBD/COP/3/22;

(b) Take into consideration existing and potential interrelationships between intellectual property rights and other aspects of the Convention's implementation, including, for example, implementation of Articles 8 (j), 15 and 16;

(c) Involve, through consultation or cooperation, relevant international organizations, as well as relevant regional and national bodies, stakeholders, and others with relevant expertise, as appropriate;

(d) Consider the role and the potential of existing intellectual property rights systems in achieving the objectives of the Convention, including, inter alia, in facilitating technology transfer and in arrangements by which interested parties including indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and countries may determine access to and share equitably the benefits of genetic resources or knowledge, innovations and practices;

(e) Consider the development of intellectual property rights, such as *sui generis* systems/approaches, or alternative forms of protection that could promote achievement of the Convention's objectives, consistent with the Parties' international obligations;

(f) Reflect the importance of coordinating efficiently with work undertaken pursuant to other elements of the work programme of the Conference of the Parties and work programmes of other relevant organizations;

2. Notes that the possible establishment of a new international intellectual property rights regime for databases could have implications for scientific and technical cooperation related to conservation and sustainable use of biological diversity, and calls for an open and transparent evaluation of these implications;

3. Requests the Executive Secretary to contact relevant international organizations, particularly the World Intellectual Property Organization, to invite them to take into account in their development cooperation programmes, where appropriate, the need to build capacity to achieve the objectives of the Convention on Biological Diversity as related to intellectual property rights;

4. Requests the Executive Secretary to transmit to the Secretariat of the World Trade Organization, for use by appropriate World Trade Organization bodies, decisions of the third meeting of the Conference of the Parties, as well as the documents placed before the third meeting of the Conference of the Parties, and to endeavour to undertake further cooperation and consultation with the World Trade Organization Secretariat, as appropriate. The documents shall be accompanied by the note from the Conference of the Parties included as the annex to this decision;

5. Welcomes the decision of the Committee on Trade and Environment of the World Trade Organization to de-restrict and transmit documents to the Executive Secretary relating to its work, and invites the Committee on Trade and Environment to transmit future relevant documents to the Executive Secretary as they are produced;

6. Requests the Executive Secretary to apply for observer status in the Committee on Trade and Environment of the World Trade Organization, for the purpose of representing the Convention on Biological Diversity in meetings whose agendas have a relationship with the Convention;

7. Notes the potential mutual benefits of exchanging information related to Article 16 of the Convention on Biological Diversity and the laws and regulations received by the Council on Trade-related Aspects of Intellectual Property Rights pursuant to the notification requirement of Article 63 of the Agreement on Trade-Related Aspects of Intellectual Property Rights;

8. Recognizes that further work is required to help develop a common appreciation of 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, in particular on issues relating to technology transfer and conservation and sustainable use of biological diversity and the fair and equitable sharing of benefits arising out of the use of genetic resources, including the protection of knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity.

#### Annex

##### The Convention on Biological Diversity and the Agreement on Trade-related Aspects of Intellectual Property Rights

The Conference of the Parties hereby transmits to the Secretariat of the World Trade Organization, for use by appropriate bodies of the World Trade Organization, the decisions of the third meeting of the Conference of the Parties, as well as the documents placed before the third meeting of the Conference of the Parties. In particular, attention is drawn to document UNEP/CBD/COP/3/22, entitled "The impact of intellectual property rights systems on the conservation and sustainable use of biological diversity and on the equitable sharing of benefits from its use", and document UNEP/CBD/COP/3/23, entitled "The Convention on Biological Diversity and the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPs): Relationships and synergies".

These documents were prepared for the consideration of the Conference of the Parties and their inclusion does not imply full endorsement by the Conference of the Parties. They are offered as contributions to what is hoped will be a continuing process of consultation and cooperation, aimed at promoting the harmonious implementation of the two agreements.

DECISION III/20: ISSUES RELATED TO BIOSAFETY

The Conference of the Parties,

Recalling decision II/5 adopted at its second meeting,

Having considered the report and recommendations of the first meeting of the Open-ended Ad Hoc Working Group on Biosafety, which met in Aarhus, Denmark, from 22 to 26 July 1996,

Recalling paragraph 10 of the terms of reference for the Open-ended Ad Hoc Working Group, contained in the annex to decision II/5, which states that the process of developing a protocol shall be conducted as a matter of urgency and that the Open-ended Ad Hoc Working Group shall endeavour to complete its work in 1998,

Welcoming the adoption of the UNEP International Technical Guidelines for Safety in Biotechnology at the Global Consultation of Government-designated Experts, held in Cairo, Egypt, from 11 to 14 December 1995,

Affirming its support for a two-track approach through which the promotion of the application of the UNEP International Technical Guidelines for Safety in Biotechnology can contribute to the development and implementation of a protocol on biosafety, without prejudicing the development and conclusion of such a protocol,

1. Decides:

(a) That each of the five groups of States referred to in section 1, paragraph 1, of General Assembly resolution 2997 (XXVII), of 15 December 1972, shall send to the Secretariat nominations for two representatives to the Bureau as soon as possible, and in any event before the commencement of the second meeting of the Open-ended Ad Hoc Working Group established by the second meeting of the Conference of the Parties in decision II/5;

(b) That the Bureau shall remain in office, under the chairmanship of Mr. Veit Koester, (Denmark), until the fourth meeting of the Conference of the Parties;

(c) That two meetings of the Open-ended Ad Hoc Working Group will be held in 1997, and that a sufficient number of meetings will be held in 1998 to allow the Working Group to complete its work in 1998;

2. Endorses recommendation II/5 of the Subsidiary Body on Scientific, Technical and Technological Advice and, in particular:

(a) The realization of activities to promote the application of the UNEP International Technical Guidelines for Safety in Biotechnology, in accordance with paragraph 2 of recommendation II/5;

(b) The importance of funding for capacity-building in biosafety;

(c) The request to the interim institutional structure operating the financial mechanism to provide financial resources to developing country Parties for capacity-building in biosafety, in accordance with paragraph 3 of recommendation II/5, as set out in paragraph 2 (a) of decision III/5.

## II. MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER

The Eighth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer took place in San José (Costa Rica) from 25 to 27 November 1996. The Meeting adopted thirty Decisions.<sup>3</sup> Five of them, which may be of interest to Members, are reproduced below.

The Ninth Meeting of the Parties to the Montreal Protocol will take place in Montreal (Canada) in September 1997. The Open-Ended Working Group of the Parties to the Montreal Protocol will hold its fifteenth meeting in Nairobi from 3-6 June 1997 to consider, in particular, the report of the Technology and Economic Assessment Panel on the essential uses of ozone depleting substances, and viable alternatives for methyl bromide.

### Text of certain decisions taken by the Eighth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer:

#### DECISION VIII/4: REPLENISHMENT OF THE MULTILATERAL FUND AND THREE-YEAR ROLLING BUSINESS PLAN FOR 1997-1999<sup>4</sup>

1. To note with appreciation the report of the Executive Committee on the three-year rolling business plan and the report of the TEAP on replenishment;
2. To adopt a budget for 1997-1999 of US\$ 540,000,000 with the understanding that US\$ 74,000,000 of that sum will be provided by funds unallocated during 1994-1996: this US\$ 74,000,000 figure does not include sums listed as disputed in document UNEP/OzL.Pro.8/L.2, which appears as annex VIII to this report,
3. The agreed budget figure includes a sum of US\$ 10 million to enable Parties operating under Article 5 to apply the measures contained in paragraph 2 of decision VII/8 of the Seventh Meeting of the Parties and to assist those Parties to start the implementation of any recommendations that might arise from the Ninth Meeting of the Parties on this matter;
4. To adopt the scale of contributions for the Multilateral Fund based on a replenishment of US\$ 466,000,000 as set out in Annex I to this report of US\$155,333,333 for 1997, US\$ 155,333,333 for 1998 and US\$ 155,333,333 for 1999;
5. That the Executive Committee should take action to ensure as far as possible that the whole of the budget for 1997-1999 is committed by the end of 1999, and that Parties not operating under Article 5 should accordingly make timely payments;
6. That the Executive Committee should, over the next three years, work toward the goal of reducing agency support costs from their current level of 13 per cent to an average of below 10 per cent to make more funds available for other activities. The Executive Committee should report to the Parties annually on their progress, and the Parties may adjust the goal accordingly;
7. To agree that adjustments to the United Nations scale of assessment should not affect the rates of contributions of individual Parties during a replenishment period;
8. To agree that the contributions of Parties not operating under Article 5 which ratify the London Amendment during a replenishment cycle should be calculated on a pro-rata basis for the balance of

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<sup>3</sup>See doc. UNEP/OzL.Pro.8/12 (19 December 1996). See also doc. WT/CTE/W/19 (23 January 1996) which reports on the Seventh Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer.

<sup>4</sup>See also Decision VIII/5 on "Actions to improve the functioning of the Financial Mechanism" and Decision VIII/6 "Contributions to the Multilateral Fund".

the replenishment cycle, starting with the date on which the London Amendment entered into force for it. Contributions of such countries should be considered as additional resources during the replenishment cycle; such Parties should be formally added to the List of contributors and taken into account in the distribution of assessments during the next replenishment.

DECISION VIII/7: MEASURES TAKEN TO IMPROVE THE FINANCIAL MECHANISM AND TECHNOLOGY TRANSFER.

1. To note with appreciation the measures taken by the Executive Committee to improve the Financial Mechanism;
2. To request the Executive Committee to continue with further actions to implement decision VII/2 to improve the Financial Mechanism and report to the Meetings of Parties annually,
3. To note the status of preparation of the report on transfer of technology required by Action 21 of decision VII/2;
4. To set up an Informal Group consisting of four representatives of Parties not operating under Article 5 (1) (Australia, Italy, Netherlands, United States of America) and four representatives of Parties operating under Article 5 (1) (China, Colombia, Ghana, India) to assist the Executive Committee in identifying what steps can practically be taken to eliminate potential impediments to the transfer of ozone-friendly technologies to Parties operating under Article 5 under fair and most favourable conditions;
5. The Group may meet as necessary and shall submit its reports, if any, to the Executive Committee.
6. To review this matter at its Ninth Meeting.

DECISION VIII/15: CONTROL OF TRADE IN METHYL BROMIDE WITH NON-PARTIES<sup>5</sup>

To consider the issue of control of trade in methyl bromide with non-Parties at the Ninth Meeting of the Parties to the Montreal Protocol in 1997.

DECISION VIII/18: LIST OF PRODUCTS CONTAINING CONTROLLED SUBSTANCES IN GROUP II OF ANNEX C (HYDROBROMOFLUOROCARBONS)<sup>6</sup>

1. To note the conclusion of the Technology and Economic Assessment Panel on the elaboration of a list of products containing controlled substances in Group II of Annex C of the Protocol;
2. To decide not to elaborate the lists referred to in Article 4, paragraphs 3 ter and 4 ter of the Montreal Protocol.

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<sup>5</sup>See also Decision VIII/16 "Critical Agricultural Uses of Methyl Bromide".

<sup>6</sup>In paragraphs 3 ter and 4 ter of Article 4 of the Montreal Protocol ("Control of Trade with non-Parties"), Parties had agreed to elaborate in an annex a list of products containing controlled substances in Group II of Annex C of the Protocol, as well as, in another annex, a list of products, produced with, but not containing controlled substances in Group II of Annex C of the Protocol. The annexes were to be developed with a view to banning or restricting the import of those products from States not Party to the Protocol. However, the Technology and Economic Assessment Panel (TEAP) reported doubts regarding the feasibility of elaborating such lists for products containing HBFCs (See the report of the Technology and Economic Assessment Panel, UNEP, June 1996, Part V).

DECISION VIII/26: EXPORTS OF OZONE-DEPLETING SUBSTANCES AND PRODUCTS CONTAINING OZONE-DEPLETING SUBSTANCES<sup>7</sup>

1. To note that the links among exports of ozone-depleting substances and products containing such substances under the Montreal Protocol, illegal trade, and compliance with the Montreal Protocol were discussed at the Seventh Meeting of the Parties to the Montreal Protocol; and also to note that some aspects of this issue were briefly discussed again at the Eighth Meeting of the Parties to the Montreal Protocol in the context of document UNEP/OzL.Pro.8/CRP.1;
2. To note that the debate at the Seventh Meeting of the Parties to the Montreal Protocol and a brief discussion at the Eight Meeting of the Parties to the Montreal Protocol have demonstrated the importance, complexity and sensitivity of this issue; and also to note that, in addition, the debate and brief discussion revealed important aspects that require further deliberation including, *inter alia*, the need for controlling exports of ODS from Parties not operating under Article 5 found to be in non-compliance with their obligations under the Protocol to Parties operating under Article 5.
3. To recognize that this issue ultimately has a direct impact on the progress towards the elimination of ozone-depleting substances and the protection of the ozone layer;
4. To decide to include this issue on the agenda of the Fifteenth Meeting of the Open-ended Working Group of the Parties to the Montreal Protocol.
5. To encourage interested Parties to submit their views to the Secretariat by March 1997, for compilation and forwarding to Parties prior to the Fifteenth Meeting of the Open-ended Working Group of the Parties to the Montreal Protocol.

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<sup>7</sup>See also Decision VIII/20 on "Illegal Imports and Exports of Controlled Substances".