

THE CONVENTION ON BIOLOGICAL DIVERSITY AND ITS RELATION TO TRADE

Communication from the Executive Secretary of
the Convention on Biological Diversity

I. SUMMARY

1. The Convention on Biological Diversity (CBD) contains a set of legally binding commitments which aim to ensure that the world's biological diversity is maintained in perpetuity. The Convention also establishes an intergovernmental process to develop these commitments as needed in order to address the issues associated with the maintenance of biological diversity and to allow the regime to respond to emerging issues. The intergovernmental process includes the participation of 169 Parties, a further 18 states which are signatories, and the active involvement of major international organizations, such as the United Nations, the FAO, the World Bank, the Global Environment Facility, UNCTAD, UNDP and the OECD. As such, the Convention has become the central international instrument for addressing issues relating to biological diversity.

2. Biological diversity as defined by the Convention is a complex scientific concept which attempts to comprehensively describe the living resources of the planet. The theoretical basis for this concept embodied in the Convention relies on identifying and managing these living resources at three different, although interdependent, levels: the genetic diversity of species; the diversity of species themselves; and the variety of ecosystems or the assemblages that these species exist within.

3. The regime that the Convention embodies is based upon the concept of sustainable development, which in essence seeks to reconcile the requirements of development with the need to ensure that the natural environment of the planet and the services to society derived there from are maintained. This approach is based on the premise that only by realising both of these objectives will development be sustainable. As such the Convention represents one of the important products of the UNCED process and is a central element of this attempt by the international community to translate the principal of sustainable development into concrete actions.

4. The Convention adopts a holistic approach to meeting these aims, which means identifying and addressing all the impacts that society's activities have on biological diversity. This includes those activities which directly and indirectly have positive as well as negative impacts.

5. As such, realization of the Convention's objectives will not only be dependant upon addressing the negative impacts that trade may have on biological diversity but will also depend on harnessing the positive impacts. For example, sustainable use of biological diversity can only properly occur if the terms of trade of products which are dependant upon, and whose use has an impact on biodiversity are conducted in a manner which ensures that the relevant externalities can be internalized. This means not only addressing the causes of biodiversity loss, such as habitat conversion to support mono-cultural agricultural practises, but also encouraging uses which maintain biodiversity and which provide the necessary resources to stakeholders to allow them to properly maintain biodiversity.

6. As the Convention deals with all aspects of living resources, trade is an integral part of its area of concern. Provisions of major importance for trade are, for example, Article 11 of the CBD on incentive measures and Article 10 on the sustainable use of components of biodiversity, including its *litera* (e) which encourages cooperation between governmental authorities and the private sector in developing methods for sustainable use of biological resources.

7. The Decisions of the Conference of the Parties (COP), the supreme governing body of the Convention, have also raised a number of areas of relevance to the WTO. For example, the COP Decision on conservation and sustainable use of agricultural biodiversity calls for action by the Parties to address not only the causes of loss of biodiversity but also to consider the beneficial impacts that agriculture can have on biodiversity. In this Decision, Parties also recognized that ensuring the conservation and sustainable use of agricultural biodiversity will not be possible without understanding the role of trade. The Decision 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".

8. This note briefly outlines the purposes of the Convention, highlighting the relationship between the emerging regime under the Convention and trade issues generally. It is clear from this brief outline that coordination and cooperation between the CBD and the WTO are required if both regimes are to achieve their respective aims. This note therefore concludes with some observations on areas which will require cooperation in the immediate future and invites the WTO Committee on Trade and Environment to suggest ways to the forthcoming COP as to the most effective manner to implement this cooperation.

II. THE CONVENTION ON BIOLOGICAL DIVERSITY AND INTERNATIONAL TRADE

9. The Convention on Biological Diversity recognizes "the importance of biological diversity for evolution and maintaining life sustaining systems of the biosphere", and acknowledges that "conservation and sustainable use of biological diversity is of critical importance for meeting the food, health and other needs of the growing world population". According to its Preamble, the value of biological diversity is intrinsic and biodiversity and its components have ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values.

10. The term biological diversity is commonly used to describe the variety of living organisms of the planet. It is defined in terms of genes, species and ecosystems, which are the outcome of over 3000 million years of evolution. To date, an estimated 1.7 million species have been identified. The exact number of existing species, however, is still unknown. Estimates vary from 5 million to 100 million.

11. A greater part of biological diversity, however, is at significant risk of extinction in the foreseeable future. The crisis of biodiversity loss is well documented in recent literature. The estimates for the minimum numbers of globally threatened animal and plant species in 1994 were 5,366 animals and 26 106 plants. For individual groups, 11 per cent of birds, 18 per cent of mammals, 5 per cent of fish, and 8 per cent of plants are threatened. The current rate of biodiversity losses is estimated to be the highest in millions of years. The extinction of species and the erosion of genetic resources, as well as the depletion and destruction of unique ecosystems, continue at an unprecedented rate.

12. These losses are anthropogenic and stem from a diversity of direct and indirect economic, political, and social factors. Trade as one of the important activities of humankind has an impact on

biological diversity which is yet to be clearly understood. However, there is already good evidence and sound scientific findings for one direct impact of trade on biological diversity: the introduction of alien species into ecosystems. Transportation used in international trade contributes to the introduction of alien species through, for example, insects in timber, pests (bacteria, viruses and other microorganisms) in shipments, and the discharge of ballast water brought from abroad. Alien species can have catastrophic consequences as they destabilize the balance in the ecosystem and may lead to the extinction of a whole range of species.

13. The consequences of biodiversity loss are serious and include: the loss of sources of valuable pharmaceutical compounds, foods, and other goods; the loss of valuable ecological services provided by healthy ecosystems, such as flood control and water quality protection; and, possibly in the long run, widespread destabilization and destruction of ecologically and economically productive ecosystems.

14. The Convention translates its guiding principles of conservation, sustainable use and equitable sharing of the benefits of the use of genetic resources into binding commitments in its normative provisions contained in Articles 6 to 20. These Articles contain key provisions on: measures for the conservation of biological diversity, both *in situ* and *ex situ*; incentives for the conservation and sustainable use biological diversity; further research; education; assessing the environmental impacts of projects; regulating access to genetic resources and the technology to uses these resources; and finally, financial resources.

A. The Relationship Between Biodiversity and Trade

15. The following highlights some of the key provisions of the CBD as they relate to the relationship between biodiversity and trade.

16. Article 6 requires Parties not only to develop national conservation plans, programmes or strategies for conservation and sustainable use of biodiversity but obliges them to integrate biodiversity protection and its sustainable use into relevant sectoral and cross-sectoral plans and policies. Obviously, such efforts will need to address the role of trade in general, as well as trade sectors which have an impact on biological diversity.

17. Article 7 requires that processes and categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity be identified and monitored. Although there is evidence that trade and trade-related activities have an impact, more research is needed to determine the precise nature of these impacts.

18. Article 8(1) provides that where a significant adverse effect on biological diversity has been determined, the Contracting Parties to the CBD shall regulate or manage the relevant processes and categories of activities.

19. Article 2 defines sustainable use as "the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline in biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations". In order to achieve sustainable use, Article 11, for example, requires that Parties adopt economically and socially sound measures that act as incentives for the conservation and sustainable use of components of biological diversity. Article 8(e) calls for the promotion of environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas. Article 10(e) calls for the cooperation between governmental authorities and the private sector in developing methods for sustainable use of biological resources.

20. Indigenous and local communities embodying traditional lifestyles are the subject of a number of commitments by Parties under the Convention. In particular, Article 8(j) provides that Parties shall,

subject to their national legislation, "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 with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices". Article 10(d) reinforces and expands this commitment and calls for protection of the customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements. Article 18.4 provides further elaboration of these commitments with respect to scientific and technical cooperation between Parties.

21. The third objective of the CBD is the sharing of benefits arising out of the utilization of genetic resources. A principal means for achieving this is through the provisions of the Convention dealing with access to genetic resources. Article 15, which contains the principal elements of the CBD regime dealing with the use of genetic resources, recognizes the sovereign rights of States over their natural resources and, as a consequence, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.

22. This is, however, qualified by certain conditions. Article 15.2 provides that Parties "shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Convention". The Convention also contains provisions calling upon Parties to take the necessary measures aimed at sharing, in a fair and equitable way, the results of research and development and the benefits arising from the commercial and other utilization of genetic resources. Scientific research based on those genetic resources should be carried out with the full participation of, or even in, the country of origin.

23. Another form of benefit sharing is the transfer of technology, which includes biotechnology. The provisions of the Convention dealing with the transfer of technologies apply to those technologies which are relevant to the conservation and sustainable use of biological diversity, or make use of genetic resources and do not cause significant damage to the environment. These include technologies protected by patents and other intellectual property rights. However, such transfer shall be provided on terms which recognize the protection of intellectual property rights. In order to reconcile divergent interests that might be involved in the transfer of protected technology, Parties shall take measures aimed at the private sector to facilitate access to joint development and transfer of technology. As patents and other intellectual property rights may have an influence on the implementation of the Convention, Article 16.5 calls upon Parties to cooperate in order to ensure that such rights are supportive of and do not run counter to its objectives.

III. THE INSTITUTIONAL STRUCTURE OF THE CBD AND ITS OPERATION

24. The Convention establishes an intergovernmental process to develop the commitments cited above, as needed, in order to further address the issues associated with the maintenance of biological diversity and to allow the regime to respond to emerging issues. Indeed, any meaningful consideration of the nature of Parties' commitments under the Convention requires an understanding of the nature of the institutional structure which supports this intergovernmental process.

25. Article 23 establishes a Conference of the Parties (COP), which is the supreme body of the Convention. The principal function of the COP is to regularly review the CBD's implementation. In particular, the COP is established to consider and adopt amendments to the Convention; establish such subsidiary bodies, particularly to provide scientific and technical advice, as are deemed necessary for the implementation of the Convention; consider any information provided by such subsidiary bodies as well as reports by the Parties to the Convention as required by Article 26; and contact, through

the Secretariat, the executive bodies of conventions dealing with matters covered by the Convention with a view to establishing appropriate forms of cooperation with them. Article 23 requires the COP to meet on a regular basis. To date the COP has met three times: in the Bahamas from 28 November to 9 December 1994; in Jakarta from 6 November to 17 November 1995; and in Buenos Aires from 4 November to 15 November 1996. Its fourth meeting will be held in Bratislava from 4 to 15 May 1998. It is likely that future COPs will be held on a biannual basis.

26. Article 24 establishes a Secretariat whose principal functions are to prepare for and service meetings of the COP and other subsidiary bodies of the Convention and to coordinate with other relevant international bodies. The host institution of the permanent Secretariat is UNEP. The Secretariat currently has 55 positions and is located in Montreal.

27. Article 25 establishes an open-ended intergovernmental scientific advisory body called the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA). SBSTTA is a subsidiary body of the COP and reports regularly to the COP on all aspects of its work. Its functions include: providing assessments of the status of biological diversity; assessments of the types of measures taken in accordance with the provisions of the Convention; and responding to questions that the COP may put to the body. The SBSTTA has met three times: in Paris from 4 to 8 September 1995; and in Montreal from 2 to 6 September 1996 and from 1 to 5 September 1997. The Body develops much of its advice inter-sessionally through the use of small groups of experts. For example, the preparations on marine and coastal biodiversity, forest biodiversity and indicators have all benefited from such mechanisms.

28. Article 21 establishes a mechanism for the provision of financial resources to developing countries for the purposes of the Convention. In Article 20, developed countries undertake to provide "new and additional financial resources to enable developing country Parties to meet the agreed full incremental cost" of implementing the obligations of the Convention. Article 39 appointed the Global Environment Facility on an interim basis to operate the financial mechanism of the Convention. The mechanism is to function under the authority and guidance of, and be accountable to the COP. The first meeting of the COP adopted guidance for the financial mechanism. This guidance has been refined at each of the subsequent meetings of the COP. As of 1 May 1997 the financial mechanism has approved 87 projects with a total commitment of over US\$ 511 million. Pursuant to Article 20.3, developed country Parties may also provide such financial resources through bilateral and multilateral channels.

29. Paragraph 3 of Article 18 anticipated the establishment of a clearing-house mechanism to promote and facilitate technical and scientific cooperation. A Pilot Phase of the mechanism has been established pursuant to Decisions I/3 and II/3 of the COP.

A. Relations With Other International Organizations

30. The institutional structure of the Convention has already established a number of processes to develop the substantive elements of the Convention. These include: the establishment of an *Ad Hoc* Working Group of Experts on Biosafety to negotiate a protocol to the CBD; programmes of work on various thematic areas, including coastal and marine biodiversity, forest biodiversity and agricultural biodiversity; and an international process to further consider the rights of indigenous and local communities under the CBD. At its fourth meeting in May 1998, it will consider the biological diversity of inland waters. The COP has adopted an ecosystem approach to address the management of these thematic areas. This means that the approach to the conservation and sustainable use of biological diversity is a holistic one, which integrates abiotic and biotic elements and their interactions, as well as activities by human beings in all sectors and levels of society. The ecosystem approach was endorsed by the Special Session of the United National General Assembly three months ago in June 1997.

31. The COP has also covered a number of significant cross-cutting issues, including: access to genetic resources, technology transfer, monitoring of biological diversity, national strategies and the reporting requirements of Parties.

32. The nature of the issues which the Convention seeks to address means that its effectiveness is heavily dependant on the actions of other institutions. The need to develop institutional links with other international bodies, to develop cooperative relationships with such bodies, and hence mechanisms for coordinating these relationship, is fundamental to the implementation of the CBD. The importance of cooperation and coordination between the CBD and other conventions, institutions and processes of relevance has been affirmed at every meeting of the COP. Consequently, one should not conceive the institutional structure of the Convention simply in terms of those institutions established under the CBD process itself.

33. Institutional links have already been established with a wide range of other bodies. The Secretariat of the CBD participates in the Inter-Agency Task Force on Forests and the Inter-Agency Committee on Sustainable Development (IACSD) of the United Nations. Agreements on frameworks for developing institutional links and cooperation have been concluded between the Secretariat of the CBD and the Secretariats of the Ramsar Convention on Wetlands of International Importance; the Convention on International Trade in Endangered Species of Fauna and Flora; the Convention on Migratory Species; the Intergovernmental Oceanographic Commission, the World Bank, IUCN, UNCTAD and the FAO.

34. The COP has regularly adopted Decisions directed towards other processes and invited them to take an active role in implementing aspects of the Convention. For example, the third meeting of the COP invited the Convention on Wetlands of International Importance to cooperate as a lead partner in the implementation of activities related to wetlands under the CBD. The Ramsar Bureau has played an important role in the preparations for the consideration of the biological diversity of inland waters at the forthcoming COP. As a result, it is expected that the programme of work which the COP may establish to address the issue will invite the support and participation of the Convention on Wetlands of International Importance.

35. The institutional structure of the Convention involves a wide range of actors in the development of decisions of the COP, and consequently in the development of the commitments of the Convention.

36. At meetings of both the COP and the SBSTTA, the international community of biological diversity experts, stakeholders, interest groups and politicians is widely represented. Over 1,100 people attended the last COP in Buenos Aires in November 1996, including 453 representatives of 230 international and national non-governmental organizations and indigenous peoples. 427 experts attended the third SBSTTA in September 1997. This support was augmented by the SBSTTA drawing heavily on the results of meetings which were held along side SBSTTA. For example, the scientific network of DIVERSITAS, an international programme of biodiversity science supported by the International Union of Biological Sciences (IUBS), the Scientific Committee on Problems of the Environment (SCOPE), the United Nations Education, Science and Cultural Organization (UNESCO), the International Council of Scientific Unions (ICSU), the International Geosphere-Biosphere Programme (IGBP/GCTE) and the International Union of Microbiological Societies (IUMC) met for two days prior to the last meeting of SBSTTA and thereby provided significant scientific input to the meeting of SBSTTA.

B. Cooperation Between the CBD and the WTO

37. Most importantly for the purposes of this meeting of the CTE, is the request of the COP to the Executive Secretary to develop links with the World Trade Organization. In particular the COP, in Decision III/17, requested the Executive Secretary to transmit to the Secretariat of the WTO, for

use by appropriate WTO bodies, Decisions of the third meeting of the COP, as well as documents placed before the third meeting of the COP, and to endeavour to undertake further cooperation and consultation with the WTO Secretariat as appropriate. The COP in this Decision also requested the Executive Secretary to apply for observer status in the CTE. The COP welcomed the decision of the CTE to derestrict and transmit documents to the Executive Secretary relating to its work and invited the CTE to transmit future relevant documents to the Executive Secretary as they are produced. The COP also requested the Executive Secretary to contact relevant international organizations 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 CBD as related to intellectual property rights. The necessary actions to implement these requests have already taken place and the Executive Secretary wishes to acknowledge and thank the WTO Secretariat and the CTE for its cooperation and assistance in this respect.

IV. KEY ISSUES OF IMMEDIATE RELEVANCE FOR COORDINATION BETWEEN THE WTO AND THE CBD

38. As is evident from the above, there are overlaps in the respective mandates of the WTO and the CBD. The Executive Secretary recognizes that the CBD will need to be mindful of relevant developments in the WTO if duplication, variation and even inconsistency is to be avoided. Granting observer status to the Secretariat in the CTE is a concrete manifestation that the WTO also recognizes the need for cooperation with the CBD. Indeed, a fundamental purpose of both regimes, to harmonize legislation, can only be achieved between two different international regimes of universal standing if there is close cooperation and coordination.

39. Although there are a wide range of topics which fall within the scope of both processes and which therefore will require some degree of cooperation and coordination, the Decisions of the last meeting of the COP identify a number of priorities for this cooperation. The Executive Secretary of the CBD would like to bring these to the attention of the CTE. The Decisions of the third meeting of the COP which contain explicit reference to the World Trade Organization raise a number of issues which the Executive Secretary wishes to explore with the WTO in general, and the CTE in particular. These are: 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"; and Decision III/17 on "Intellectual property rights".

40. In addition to these Decisions, there are a number of other Decisions which even though they contain no specific reference to the WTO, the Executive Secretary feels that, in light of their subject matter and the nature of developments within the CBD, it is appropriate that they be brought to the attention of the CTE. These are: Decision III/4 on "Clearing-house mechanism to promote and facilitate technical and scientific cooperation"; and Decision III/20, "Issues related to biosafety".

41. These Decisions have been made available to the Members of the CTE in document WT/CTE/44. The Executive Secretary of the CBD invites the CTE to consider the most appropriate manner in which to develop the necessary cooperation in order to address the matters addressed in these Decisions.

42. In this regard, the Executive Secretary would like to take this opportunity to suggest the most immediate priorities with respect to the relationship between the Convention and the WTO.

A. Relevance of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

43. The relationship between the aims and the provisions of the Convention and intellectual property rights (IPRs) is complex and multidimensional. The role of IPRs within the framework of the Convention, and the bearing these would have on the work of the WTO from the viewpoint of the Convention process, was briefly described by the Executive Secretary in several notes to the third meeting of the COP, in particular, in documents UNEP/CBD/COP/3/22, "The Impact of Intellectual Property Rights Systems on Conservation and Sustainable Use of Biological Diversity and on the Equitable Sharing of Benefits from its Use" and UNEP/CBD/COP/3/23, "The Convention on Biological Diversity and the Agreement on Trade related Intellectual Property Rights (TRIPS): Relationships and Synergies". These documents have been transmitted by the COP as contributions to developing a process of consultation and cooperation aimed at promoting the harmonious implementation of the two agreements.

44. In Decision III/17 the COP also noted the potential mutual benefits of exchanging information related to Article 16 of the CBD and to the laws and regulations received by the TRIPS Council pursuant to the notification requirement of Article 63 of the TRIPS Agreement.

45. The COP also recognized in Decision III/17 that further work is required to help develop a common appreciation of the relationship between IPRs and the relevant provisions of the TRIPS Agreement and the CBD. The COP particularly identified 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 biodiversity.

46. The Executive Secretary was requested in Decision III/17 to apply for observer status in the CTE, for the purpose of representing the CBD in meetings whose agendas have a relationship with the Convention. In light of the issues raised by Decision III/17 and the institutional structure of the Convention, the Executive Secretary invites the CTE to consider the most appropriate institutional arrangements to continue the dialogue and cooperation called for by the COP on the issue of IPRs, in particular between the Executive Secretary and various relevant WTO bodies.

47. In light of the above description of the institutional structure of the Convention, the Executive Secretary also invites the CTE to consider how the WTO might best be represented in the discussions within the Convention which address the impact of IPRs.

B. Agricultural biological diversity

48. Decision III/11 on conservation and sustainable use of agricultural biological diversity initiates a multi-year programme of activities on agricultural biodiversity. It aims at promoting the positive effects and mitigating the negative impacts of agricultural practices on biological diversity in agro-ecosystems and their interface with other ecosystems. It also aims at promoting the conservation and sustainable use of genetic resources of actual or potential value for food and agriculture and the fair and equitable sharing of benefits arising out of the utilization of genetic resources.

49. Decision III/11 initiates a variety of activities to be taken by Parties to achieve these goals. Parties are to develop national strategies, programmes and plans which, *inter alia*, should redirect support measures which run counter to the objectives of the Convention. This Decision encourages Parties to promote 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; to use farming practices which not only increase productivity, but also halt degradation and reclaim, rehabilitate, restore and enhance biological diversity; to mobilize farming communities

for the development, maintenance and use of their knowledge, innovation and practices in the conservation and sustainable use of biological diversity in the agricultural sector, with specific reference to gender roles.

50. The CBD Secretariat understands the WTO Agreement on Agriculture aims to establish a fair and market-oriented agricultural trading system and initiates a reform process. Efforts by the WTO to improve predictability and security for importing and exporting countries in establishing new rules and commitments in market access, domestic support and export competition and less trade-distorting domestic support policies within the framework of the Agreement on Agriculture should take into account the provisions of the Convention and its work programme on agricultural biological diversity.

51. However, the COP recognized that for this to be possible, the relationship between trade and biodiversity needs to be better understood. Consequently, the COP recalled paragraph 39(g) of the World Food Summit *Plan of Action* and encouraged the WTO through its Committee on Trade and Environment to consider developing a better appreciation of the relationship between trade and agricultural biodiversity. The Executive Secretary is ready to assist the CTE, or any other relevant WTO body, in developing this understanding.

52. Recalling Decision III/17, the Executive Secretary also invites the CTE to consider ways that the relevant elements of Decision III/11 and the resulting work programme of the Convention can be brought to the attention of the relevant WTO bodies, in particular, if appropriate, the Committee on Agriculture of the Council for Trade in Goods. Moreover, the Executive Secretary recognizes the important role that the WTO can play in developing an effective work programme under the Convention and consequently invites the CTE to consider ways that this work programme can most effectively draw on WTO expertise and incorporate the work of relevant WTO bodies in the Convention's work programme on agricultural biodiversity.

C. Biosafety

53. Despite the considerable benefits which biotechnology may bring, technology also has the potential to cause harm to the environment and to human health. Mindful of these dangers, the COP established an *Ad Hoc* Working Group of Experts on Biosafety to develop an internationally legally binding protocol, specifically focusing on the transboundary movement of any living modified organism resulting from biotechnology that may have an adverse impact on the conservation and sustainable use of biodiversity. This Group met in July 1996 and May 1997. It will meet again in October 1997 and is charged with completing its work by the end of 1998.

54. At its last meeting, a range of topics, considered central to the protocol, were discussed including procedures for the transfer of living modified organisms, the Advanced Informed Assent (AIA) process, information sharing, competent authorities, risk assessment and risk management. Sections of draft text of a protocol are being prepared for consideration at the next meeting of the Group. Draft articles on a financial mechanism, institutional framework, jurisdictional scope and relationship with other international instruments will be considered in October, together with socio-economic issues associated with the proposed regime.

55. A central consideration in these negotiations is the relationship between the measures being developed under the future protocol and the international trade regime. The Executive Secretary, therefore, invites the CTE to consider how the relevant principals of the international trade regime can be most effectively fed into the negotiations to develop a protocol on biosafety.

D. Alien Species

56. The introduction of alien species has been identified by the SBSTTA, as well as by several other international fora, as a major threat to biodiversity. The third meeting of the COP endorsed the advice of the SBSTTA in this respect, noted the conclusions and recommendations of the United Nations-Norway Conference on Alien Species (Trondheim, Norway, 1-5 July 1996) and suggested that Parties may wish to use these results in their implementation of Article 8(h) of the Convention, which calls upon Parties to prevent the introduction of alien species which threaten ecosystems, habitats or species and to control and eradicate those alien species as far as possible. The COP in the same decision also encouraged 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. The financial mechanism of the Convention, the GEF, is currently considering providing financial support for these efforts to develop a global strategy and action.

57. Transportation has been identified by the United Nations-Norway Conference on Alien Species and the SBSTTA as a significant cause for the introduction of alien species through, for example, insects in timber; pests (bacteria, viruses and other microorganisms) in shipments; and the discharge of ballast water brought from abroad. The Strategy, consequently, will be to consider measures by which to minimize the impact this sector has on biodiversity through the introduction of alien species.

58. Aware that such deliberations would touch upon several issues of concern to the WTO, in particular the activities of the Committees on Sanitary and Phytosanitary Measures and Rules of Origin, the Executive Secretary invites the CTE to consider ways that the work of relevant WTO bodies can be brought to the attention of the Scientific Committee on Problems of the Environment and the Invasive Species Specialist Group of the World Conservation Union, through the Secretariat of the Convention on Biological Diversity, if appropriate, and the best way to inform relevant WTO bodies of the results of this strategy and action.

E. Dispute Resolution Procedures

59. The dispute resolution mechanism of the WTO is an important forum through which the obligations of the WTO are not only interpreted but also developed. Several matters which have come before this mechanism have had a significant impact on Members' understanding of their commitments under multilateral environmental agreements in general, including the Convention on Biological Diversity. The COP requested the Executive Secretary to transmit to the WTO Secretariat the Decisions of the third meeting of the COP, as well as the documents placed before that meeting for use by the appropriate WTO bodies. In this light and given the rapid pace of developments generally under the Convention, the Executive Secretary recognizes the need to ensure effective and efficient mechanisms to communicate these developments to the appropriate dispute resolution bodies within the WTO. The Executive Secretary, therefore, invites the CTE to consider appropriate ways that the institutions of the Convention may be able to support the effective and efficient communication of developments under the Convention to the dispute resolution mechanism of the WTO. In this light, the Executive Secretary would, if appropriate, be willing to explore with the relevant WTO bodies ways in which the WTO dispute resolution process could draw on the expertise of the SBSTTA, the CBD Secretariat, or perhaps a roster of experts established by the WTO together with the CBD.