





FACING THE BIOSAFETY CHALLENGE

Towards Effective Implementation of the Protocol

Decisions of the Second Meeting of the Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Cartagena Protocol on Biosafety

30 May to 3 June 2005
Montreal, Canada

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FOREWORD

When Parties to the Convention on Biological Diversity adopted the Cartagena Protocol on Biosafety in January 2000, they demonstrated a commitment to build an international framework for biosafety, to protect human health and the environment from the possible adverse effects of the products of modern biotechnology- which the Protocol refers to as living modified organisms (LMOs). The first meeting of the contracting Parties to the Protocol (known as the COP-MOP: Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Cartagena Protocol on Biosafety), held in February 2004 in Kuala Lumpur, Malaysia, laid the procedural and administrative basis of the Protocol and put in place the necessary operational tools to support and monitor implementation. The willingness of the international community to face the challenge of global biosafety was reinforced at the second meeting of the COP-MOP, which took place in Montreal, Canada from 30 May to 3 June 2005. Building on the momentum set at the first meeting of the COP MOP, Parties further elaborated the tools and mechanisms required to advance the practical implementation of the Protocol. This booklet contains the decisions that were adopted at the meeting.

The second meeting was a success in many respects. Parties adopted a total of fourteen forward-looking decisions on a number substantive and operational issues key to the effective implementation of the Protocol, including: the Biosafety Clearing-House, capacity-building, risk assessment and risk management, socio-economic considerations, public awareness and participation and documentation requirements for LMOs intended for contained use and for intentional introduction into the environment.

Among the operational issues, Parties approved the rules of procedure for the Compliance Committee which was established at the first meeting to promote compliance and to address cases of non-compliance. They also took note of the report of the first meeting of the Open-ended Ad Hoc Working Group on Liability and Redress held back-to-back with COP MOP 2 from 25 to 27 May 2005. The group was mandated to carry out the process of elaborating international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms pursuant to Article 27 of the Protocol.

Further elaborating on the mechanisms for implementation of the Cartagena Protocol on Biosafety, Parties adopted a comprehensive multi-year programme of work for the operation of the Biosafety Clearing-House (BCH). The programme of work aims to: 1) ease reporting and accessing information in the BCH; 2) increase the amount, and timely reporting, of information in the BCH; 3) broaden the range of information accessible through the BCH; 4) enhance the capacities of countries to access and use the BCH; and 5) ensure that the goals of the BCH are effectively achieved.

In view of the importance of informed decision-making as a prerequisite to enable Parties to live up to their obligations under the Protocol, capacity-building remained a top priority for the COP-MOP. Under this item the delegates considered the report on the capacity-building needs and priorities of countries and identified measures for addressing them. Governments were urged to prioritize the needs and measures,

develop national strategies for capacity-building, address the issue of sustainability of capacity-building and promote regional and subregional initiatives and approaches. The COP-MOP also reviewed progress in, and provided further guidance on measures to enhance, the implementation of the Coordination Mechanism. In addition, it adopted terms of reference, and outlined the process, for the comprehensive review and possible revision of the Action Plan for Building Capacities for the Effective Implementation of the Protocol. Related to this, COP-MOP reiterated its call to Parties and Governments to make nominations to the roster of experts on biosafety and to make effective of use of it.

On matters related to financial resources, COP-MOP encouraged all donors, as well as the Global Environment Facility to simplify their project-cycle requirements in order to expedite access to financial resources needed in the implementation of the Protocol. It also welcomes efforts of the GEF to expand its support for the implementation of national biosafety frameworks and encouraged it to further develop its funding modalities for the Protocol activities.

The successful implementation of the Protocol will require cooperation with other organizations, conventions and initiatives. In this regard the Parties requested the Secretariat to pursue efforts to obtain observer status with the World Trade Organization's Committees on Sanitary and Phytosanitary Measures and on Technical Barriers to Trade, and to reinforce cooperation with the Codex Alimentarius Commission, the Office International des Epizooties, the International Plant Protection Convention, the Secretariat of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters , as well as the World Customs Organization, the International Standardization Organization and other relevant customs and transport organizations.

Among the new substantive issues arising from the medium-term programme of work, the Parties considered options for implementing notification requirements under the Protocol (Article 8). COP-MOP agreed to keep this issue under review with a view to elaborating and developing, if appropriate, implementation modalities at its fourth meeting.

The Parties also discussed the issue of risk assessment and risk management, and agreed to establish an expert group to review the scope, relevance and gaps in existing approaches and guidance materials to risk assessment and risk management and to identify capacity limitations to the effective implementation of the risk assessment provisions of the Protocol. The expert group will submit a report to the third meeting of the COP-MOP.

Furthermore, the Parties addressed the issue of socio-economic considerations and called for continued cooperation on research and information exchange regarding socio-economic impacts of living modified organisms; including sharing of information through the BCH on research methods and results as well as experiences in taking into account socioeconomic impacts.

With regard to public awareness and education, the Parties encouraged the leveraging of opportunities for cooperation and development, and support for regional and subregional initiatives. Their decision called for the development and implementation of national awareness programmes, and encouraged the use of the media and other ongoing UN initiatives to promote awareness, and therefore action, for the implementation of the Protocol.

Not surprisingly, given all the publicity on the question of labelling and traceability of LMOs, it was the issue of handling, transport, packaging and identification of living modified organisms (Article 18.2) that took the centre stage at the meeting. Complementing decision BS I/6A-D, taken at COP-MOP 1, the Parties underlined further measures to ensure that documentation requirements for LMOs intended for contained use and for intentional introduction into the environment (Article 18, paragraphs 2(b) and 2(c)) are fully complied with. However, due to lack of consensus, they were unable to take a decision on the detailed requirements of identification of living modified organisms intended for direct use as food or feed, or for processing as stipulated in Article 18.2(a) of the Protocol. It is hoped that this issue will be resolved at the third meeting of the Parties scheduled to take place in Curitiba, Brazil in March 2006.

Overall, the second meeting of the Parties was an important milestone and a key step towards the full implementation of the Protocol. The decisions taken will go a long way in improving the operational effectiveness of the Protocol and in assisting Parties and other stakeholders in facing the global biosafety challenge. Nevertheless, much more still needs to be done in further clarifying the issues and elaborating the tools to facilitate the practical implementation of the Protocol, in particular with respect to the documentation requirements to accompany transboundary movements of LMOs.

Hamdallah Zedan,
Executive Secretary

DECISIONS ADOPTED BY THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE CARTAGENA PROTOCOL ON BIOSAFETY AT ITS SECOND MEETING

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BS-II/1.

Rules of procedure for meetings of the Compliance Committee

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Recalling its decision BS-I/7,

Recalling also paragraph 7 of section II of the procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety that requires the Compliance Committee to submit its rules of procedure to the Conference of the Parties serving as the meeting of the Parties to the Protocol for its consideration and approval,

Taking note of the report of the Compliance Committee under the Cartagena Protocol on Biosafety on the work of its first meeting (UNEP/CBD/BS/COP-MOP/2/2),

Approves the rules of procedure for the meetings of the Compliance Committee under the Cartagena Protocol on Biosafety as annexed to the present decision, with the exception of rule 18.

Annex

RULES OF PROCEDURE FOR THE MEETINGS OF THE COMPLIANCE COMMITTEE UNDER THE CARTAGENA PROTOCOL ON BIOSAFETY

I. PURPOSES

Rule 1

These rules of procedure shall apply to any meeting of the Compliance Committee under the Cartagena Protocol on Biosafety and shall be read together with and in furtherance of the procedures and mechanisms set out in decision BS-I/7 of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety.

Rule 2

The rules of procedure for meetings of the Conference of the Parties to the Convention on Biological Diversity, as applied, *mutatis mutandis*, to the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety, shall apply, *mutatis mutandis*, to any meeting of the Compliance Committee under the Cartagena Protocol on Biosafety, except as otherwise provided in the rules set out herein and in decision BS-I/7, and provided that rules 16 to 20, on representation and credentials of the rules of procedure for the meetings of the Conference of the Parties to the Convention on Biological Diversity shall not apply.

II. Definitions

Rule 3

For the purposes of these rules:

(a) "Protocol" means the Cartagena Protocol on Biosafety to the Convention on Biological Diversity adopted in Montreal on 29 January 2000;

(b) "Party" means a Party to the Protocol;

(c) "Conference of the Parties serving as the meeting of the Parties to the Protocol" means the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety as provided for under Article 29 of the Protocol;

(d) "Committee" means the Compliance Committee established by decision BS-I/7 of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

(e) "Chair" and "Vice-Chair" mean, respectively, the chairperson and the vice chairperson elected in accordance with rule 12 of the present rules of procedure;

(f) "Member" means a member of the Committee elected in accordance with paragraph 2 of section II of the compliance procedures or a replacement appointed in accordance with paragraph 2 of rule 10 of the present rules of procedure;

(g) "Secretariat" means the Secretariat referred to in Article 31 of the Protocol;

(h) "The Compliance Procedures" means the procedures and mechanisms on compliance under the Cartagena Protocol on Biosafety adopted by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol and set out in the annex to decision BS-I/7.

III. DATES AND NOTICE OF MEETINGS

Rule 4

The Committee shall decide on the dates and duration of its meetings.

Rule 5

The Secretariat shall notify all members of the Committee of the dates and venue of a meeting at least six weeks before the meeting is due to commence.

IV. AGENDA

Rule 6

The agenda of the Committee shall include items arising from its functions as specified in section III of the Compliance Procedures and other matters related thereto.

Rule 7

To the extent possible, the provisional agenda, together with supporting documents, shall be distributed by the Secretariat to all members of the Committee at least four weeks before the opening of the meeting.

V. DISTRIBUTION AND CONSIDERATION OF INFORMATION

Rule 8

1. Members of the Committee shall be informed immediately by the Secretariat that a submission has been received under paragraph 1 of section IV of the compliance procedures.

2. A submission received in accordance with paragraph 1 (a) of section IV of the Compliance Procedures shall be transmitted by the Secretariat to the members of the Committee as soon as possible but no later than ninety days of receipt of the submission. A submission received in accordance with paragraph 1 (b) and any response and information received under paragraph 3 of section IV of the Compliance Procedures shall be transmitted by the Secretariat to the members of the Committee as soon as practicable.

3. The information received in accordance with paragraph 2 of section V of the Compliance Procedures shall be transmitted by the Secretariat to the members of the Committee within fifteen days of receipt of such information. The Committee shall determine the relevance of the information before placing it on the agenda. Any such information that will be considered by the Committee shall, as soon as practicable, be made available to the Party concerned.

VI. PUBLICATION OF DOCUMENTS AND INFORMATION

Rule 9

The provisional agenda, reports of meetings, official documents and, subject to rule 8 above and paragraph 4 of section V of the Compliance Procedures, any other relevant documents shall be made available to the public.

VII. MEMBERS

Rule 10

1. The term of office of a member shall commence on 1 January of the calendar year immediately following his or her election and end on 31 December, two or four years thereafter, as applicable.

2. If a member of the Committee resigns or is unable to complete his or her term of office or to perform his or her functions, the Bureau of the Conference of the Parties serving as the meeting of the Parties to the Protocol shall, in consultation with the appropriate regional group, appoint a replacement to serve the remainder of that member's term of office.

Rule 11

Each member of the Committee shall, with respect to any matter that is under consideration by the Committee, avoid direct or indirect conflicts of interest. Where a member finds himself or herself faced with a direct or indirect conflict of interest, that member shall bring the issue to the attention of the Committee before consideration of that particular matter. The concerned member shall not participate in the elaboration and adoption of a recommendation of the Committee in relation to that matter.

VIII. OFFICERS

Rule 12

1. The Committee shall elect a Chair and a Vice-Chair for a term of two years. Subject to rule 10 of the present rules of procedure, they shall serve in those capacities until their successors take office.

2. No officer shall serve for more than two consecutive terms.

IX. PARTICIPATION IN PROCEEDINGS OF THE COMMITTEE

Rule 13

A Party in respect of which a submission is made or which makes a submission as referred to in paragraph 1 of section IV of the Compliance Procedures shall be invited to participate in the deliberations of the Committee. The Party concerned shall be given an opportunity to comment in writing on any recommendation of the Committee. Any such comments shall be forwarded with the report of the Committee to the Conference of the Parties serving as the meeting of the Parties to the Protocol.

X. CONDUCT OF BUSINESS

Rule 14

1. The Committee shall decide on whether it will meet in open or closed sessions. Such decisions, including reasoning, shall be reflected in the reports of the Committee.

2. The Party concerned is entitled to participate in the meetings of the Committee pursuant to paragraph 4 of section IV of the compliance procedures.

3. Any person invited by the Committee may attend the meetings of the Committee.

Rule 15

Electronic means of communication may be used by the members of the Committee for the purpose of conducting informal consultations on issues under consideration. Electronic means of communication shall not be used for making decisions on matters of substance.

Rule 16

Ten members of the Committee shall constitute a quorum.

XI. VOTING

Rule 17

Each member of the Committee shall have one vote.

Rule 18

[1. The Committee shall make every effort to reach agreement on all matters of substance by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, any decision shall, as a last resort, be taken by a two-thirds majority of the members present and voting or by eight members, whichever is the greater. Where consensus is not possible, the report shall reflect the views of all members of the Committee.

2. For the purposes of these rules, the phrase "members present and voting" means members present at the session at which voting takes place and casting an affirmative or negative vote. Members abstaining from voting shall be considered as not voting.]

XII. LANGUAGE

Rule 19

The working language of the Committee shall be English or any other official United Nations language agreed by the Committee.

Rule 20

The submissions from the Party concerned, the response and the information, as referred to in section IV of the Compliance Procedures, shall be made in one of the six official languages of the United Nations. The Secretariat shall make arrangements to translate them into English if they are submitted in one of the languages of the United Nations other than English.

XIII. AMENDMENTS TO RULES OF PROCEDURE

Rule 21

Any amendment to these rules of procedure shall be adopted by consensus by the Committee and submitted to the Conference of the Parties serving as the meeting of the Parties to the Protocol for consideration and approval.

XIV. OVERRIDING AUTHORITY OF THE PROTOCOL AND DECISION BS-I/7

Rule 22

In the event of a conflict between any provision in these rules and any provision in the Protocol or decision BS-I/7, the provisions of the Protocol or decision BS-I/7 shall prevail.

BS-II/2.

Operations and activities of the Biosafety Clearing-House

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol,

Having examined the note by the Executive Secretary (UNEP/CBD/BS/COP-MOP/2/3), reviewing the operation and development of the Biosafety Clearing-House,

Welcoming and taking into account the outcomes of the internal review of the operation of the Biosafety Clearing-House conducted by the Secretariat,

Welcoming with appreciation the transition of the pilot phase to the fully operational Biosafety Clearing-House, and the ongoing development of its Central Portal,

Emphasizing the need for capacity-building to enable developing countries to effectively use the Biosafety Clearing-House, including managing their obligations to report information, and welcoming in this regard the continuing efforts of the Global Environment Facility to expand its support to building capacity for effective participation in the Biosafety Clearing-House and its recent extension of country eligibility for this purpose,

Welcoming with appreciation the capacity-building activities of the Secretariat, such as the Biosafety Clearing-House training workshop, and *extending its thanks* to the Government of the Netherlands and the Global Industry Coalition for their generous sponsorship of this workshop, and the UNEP/GEF biosafety team for their collaboration,

Recalling that the Conference of the Parties serving as the meeting of the Parties to the Protocol at its first meeting encouraged the Organisation for Economic Co-operation and Development and other organizations involved in the development of unique identification systems for living modified organisms to initiate or enhance their activities towards the development of a harmonized system of unique identifiers for genetically modified micro-organisms and animals (decision BS-I/6 C, paragraph 3),

Noting that the provision of relevant information is essential for the effective operation of the Biosafety Clearing-House,

1. *Adopts* the multi-year programme of work contained in the annex to the present decision;

2. *Welcomes* the participation of Governments and international organizations that have provided information to the Biosafety Clearing-House, either directly through the Management Centre of the Central Portal, or through the development of nodes that are interoperable with the Central Portal of the Biosafety Clearing-House;

3. *Encourages* Parties, Governments and other users to continue to use the Management Centre to provide information, and/or to develop national, regional,

subregional and institutional nodes that are interlinked and interoperable with the Central Portal, as appropriate;

4. *Urges* all Parties, Governments and other users to provide relevant information to the Biosafety Clearing-House as soon as possible, including information pertaining to decisions on the release or import of living modified organisms and risk assessments taken prior to entry into force of the Protocol, and to undertake regular review of the information they have previously made available;

5. *Invites* Parties, Governments and other users to identify constraints on making information available in a timely manner, and to implement strategies to overcome these difficulties;

6. *Invites* Parties, Governments and international organizations to make relevant biosafety information available through the Biosafety Information Resource Centre;

7. *Calls upon* each Party that has not yet done so to designate an appropriate national focal point for the Biosafety Clearing-House;

8. *Invites* donor Governments and organizations to assist developing country Parties, in particular the least developed and small island developing States among them, and countries with economies in transition, as well as countries that are centres of origin and centres of genetic diversity, to access and use the Biosafety Clearing-House, particularly in the areas of improved capacity for data collection and data management at a national level, strengthening of core human resources at a national level, and the establishment of appropriate infrastructure to share information at both national, regional and international levels;

9. *Requests* the Executive Secretary to continue to support capacity-building efforts to meet the needs of developing countries, in particular the least developed and small island developing States among them, and countries with economies in transition, as well as countries with limited capacity that are centres of origin and centres of genetic diversity, to enable their active participation in the Biosafety Clearing-House.

Annex

MULTI-YEAR PROGRAMMME OF WORK FOR THE OPERATION OF THE BIOSAFETY CLEARING-HOUSE

Programme element 1: Structure and function of the central portal

Objective: Improve ease of reporting and accessing information in the Biosafety Clearing-House in response to identified needs of users.

Possible activities:

- Expand the general user base of the Biosafety Clearing-House by making it more accessible to novice users, for example by making the information more intuitively easy to find (while maintaining as much of the existing structure as is feasible), clustering search results, improving support functions such as an

interactive Biosafety Clearing-House user guide. *Main actor: Secretariat, with input from Governments and relevant organizations. Timeframe: ongoing.*

- Ensure that common formats are flexible enough to enable full reporting of information (for example, able to accommodate reporting of data produced prior to entry into force of the Protocol, such as risk assessments conducted outside the annex III format; able to accommodate data reported through product-based regulatory models), while maintaining backwards compatibility with existing information-exchange partners. *Main actor: Secretariat, with input from Governments and relevant organizations. Timeframe: annual review of common formats.*
- Expand controlled vocabularies as required to reflect changing technologies and types of information that are being reported to the Biosafety Clearing-House. *Main actor: Secretariat, with input from other organizations maintaining multilingual thesauri. Timeframe: annual.*
- Differentiate between null responses where information is not available because it does not exist, versus information that has not been reported on. *Main actor: Secretariat, with input from Governments and relevant organizations. Timeframe: December 2005.*
- Maintain support for interoperability options with partner Governments and organizations. *Main actor: Secretariat with input from Governments and relevant organizations. Timeframe: ongoing.*

Programme element 2: Information content and management

Objective: Increase the amount of information that is currently being reported to the Biosafety Clearing-House, and ensure it is provided in a timely manner.

Possible activities:

- Appoint national focal points (or, where appropriate, institutional focal points) for the Biosafety Clearing-House, to actively make information available through the Biosafety Clearing-House. *Main actor: Governments. Timeframe: To be appointed by mid-2005.*
- Collate information relating to obligations of Governments to provide certain data within particular time-limits and make this more visible through the Biosafety Clearing-House. *Main actor: Secretariat. Timeframe: To be made available by mid-2005.*
- Compile existing biosafety information required to be reported under the Protocol (see section A of the Modalities of Operation of the Biosafety Clearing-House) and ensure it has been made available to the Biosafety Clearing-House where appropriate. *Main actor: Governments. Timeframe: December 2005.*

- Review existing information in the Biosafety Clearing-House to ensure it has been accurately reported and categorized. *Main actor: Governments. Timeframe: quarterly.*
- Improve user documentation to assist focal points and other authorized users by providing clear examples and descriptions of data required in each field within the common formats. *Main actor: Secretariat, in collaboration with capacity-building organizations. Timeframe: as appropriate.*
- Identify constraints on making information available in a timely manner and implement strategies to overcome these difficulties. *Main actor: Governments. Timeframe: December 2005.*
- Share experiences with the use of the Biosafety Clearing-House, particularly by providing case-studies of experiences with national management and clearance of information ("validation"). *Main actor: Governments. Timeframe: December 2005.*
- Continue to encourage Governments to provide information to the Biosafety Clearing-House through, for example, reminders of information-exchange requirements and provision of tools to allow Governments to assess their performance in meeting their reporting requirements to the Biosafety Clearing-House. *Main actor: Secretariat. Timeframe: ongoing.*

Programme element 3: Sharing information on and experience with LMOs

Objective: Make a broader range of biosafety information accessible to users of the Biosafety Clearing-House.

Possible activities:

- Continue to develop the Biosafety Information Resource Centre. *Main actor: Secretariat. Timeframe: December 2005.*
- Collect information relevant to biosafety issues, and make it available through the Biosafety Information Resource Centre. *Main actor: Governments and relevant organizations. Timeframe: biannual.*
- Make use of information-sharing mechanisms such as discussion forums and online conference facilities through the Biosafety Clearing-House to facilitate a broad exchange of views on experience with LMOs. *Main actor: Secretariat with Governments and relevant organizations. Timeframe: as appropriate.*
- Consult among national, regional, subregional and institutional centres with relevant expertise, as well as non-governmental organizations and the private sector, to maximize use of existing experience and expertise. *Main actor: Secretariat with relevant organizations. Timeframe: Initial consultations to be completed by June 2006.*

Programme element 4: Capacity-building and non-Internet accessibility

Objective: Ensure that countries have the necessary capabilities to access the Internet-based central Portal and are able to access information through the Biosafety Clearing-House in a timely manner.

Possible activities:

- Continue to take into account the identified capacity-building constraints and financial limitations of developing countries with regard to effective participation in the Biosafety Clearing-House, placing a high priority on data collection and data management, strengthening of core human resources at a national level, and the establishment of appropriate infrastructure to share information at national, regional and international levels. *Main actor: Donor governments and relevant organizations. Timeframe: ongoing.*
- Incorporate the facility for users to download records from the central portal of the Biosafety Clearing-House to a local database in both the central portal and the simple national Biosafety Clearing-House application. *Main actor: Secretariat, if adequate resources are made available. Timeframe: mid 2006.*
- Examine the feasibility of expanding existing web features to enable distribution by e-mail and fax (for example, participation in discussion forums). *Main actor: Secretariat, if adequate resources are made available. Timeframe: December 2005.*
- Circulate regularly updated CD-ROM versions of information in the Biosafety Clearing-House to those users without good access to the Internet. *Main actor: Secretariat, if adequate resources are made available. Timeframe: biannual.*
- Take advantage of opportunities for providing training in the use of the Biosafety Clearing-House, such as meetings of the Parties to the Protocol, taking into account the need for the Biosafety Clearing-House to be used in the broader context of Protocol implementation. *Main actor: Secretariat, if adequate resources are made available. Timeframe: ongoing.*

Programme element 5: Review of activities

Objective: Ensure that the programme of work is achieving the goals of the Biosafety Clearing-House effectively.

Possible activities:

- Continue to review the operation of the Biosafety Clearing-House, including through the use of targeted follow-up surveys and usability studies, and by providing user feedback mechanisms directly on the Biosafety Clearing-House, subject to available resources. *Main actor: Secretariat with input from Governments and relevant organizations. Timeframe: ongoing.*

- Conduct a second review of the Biosafety Clearing-House, and compare improvements against existing baseline data, as part of the review of the implementation of the Protocol envisaged in the medium-term programme of work for the Protocol. *Timeframe: for consideration at the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol*

BS-II/3.

Status of capacity-building activities

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Recalling its decision BS-I/5 on capacity-building,

Welcoming the note prepared by the Executive Secretary on the status of capacity-building for the effective implementation of the Protocol (UNEP/CBD/BS/COP-MOP/2/4),

Reaffirming the critical importance of capacity-building for the effective implementation and compliance with the provisions of the Protocol by developing country Parties, in particular the least developed and small island developing States among them, as well as Parties with economies in transition,

Noting that the lack of adequate financial and technological resources is a significant constraint to effective capacity-building,

Reiterating the importance of adopting needs-based, country-driven and target-oriented approaches to capacity-building,

Noting the urgent need to enhance human resources development and recognizing the role of academic and other training institutions in addressing the needs of different countries in this regard,

Emphasizing the need to ensure the sustainability of capacity-building activities,

Acknowledging that a lack of information in the Biosafety Clearing-House (BCH) is an impediment to implementation of the Coordination Mechanism.

A. Coordination Mechanism

1. *Welcomes* the progress report on the implementation of the Coordination Mechanism prepared by the Executive Secretary (UNEP/CBD/BS/COP-MOP/2/4, section II);

2. *Urges* Parties, other Governments and relevant organizations to share their information through the Coordination Mechanism and the Biosafety Clearing-House and to ensure reliable quality of that information;

3. *Invites* regional and subregional institutions to contribute to capacity-building in biosafety and to actively participate in the Coordination Mechanism;

4. *Welcomes* the generous offer by the Government of Norway to sponsor and host a coordination meeting in early 2006 for representatives of Governments and organizations implementing or funding biosafety capacity-building activities;

5. *Takes note* of the report of the coordination meeting for academic and other institutions offering biosafety-related training and education programmes, which was organized and hosted by the Government of Switzerland in Geneva from 4 to 6 October 2004 (UNEP/CBD/COP-MOP/2/INF/9) and the report of the coordination meeting for Governments and organizations implementing or funding biosafety capacity-building activities, held in Montreal on 26-27 January 2005 (UNEP/CBD/COP-MOP/2/INF/10);

6. *Welcomes* the compendium of biosafety training and education courses developed by the above-mentioned coordination meeting for institutions offering biosafety-related training and education programmes made available through the Biosafety Clearing-House;

7. *Invites* Parties, other Governments and relevant organizations to submit for the compendium information on existing biosafety training courses and to use the compendium to identify and take advantage of available training and education opportunities in biosafety;

8. *Urges* countries to identify their biosafety training and education needs and communicate the information to the Biosafety Clearing-House to enable relevant institutions to design appropriate training programmes and packages;

9. *Invites* developed country Parties, other developed States, the Global Environment Facility and relevant organizations to:

(a) Provide financial resources and other support for training and education in biosafety, including the provision of scholarships and fellowships for students from developing countries, in particular the least developed and the small island developing States among them, and countries with economies in transition as well as support for "training-of-trainers" programmes and "re-training" courses;

(b) Assist countries to incorporate specific components on training and education in their capacity-building project proposals, for example for the implementation of the national biosafety frameworks;

10. *Encourages* Parties, other Governments and relevant organizations to:

(a) Endeavour to create opportunities and career paths for local professionals trained in biosafety, especially young graduates, in order for them to utilize their skills;

(b) Actively involve academic and training institutions in relevant national and international biosafety processes, including the development and implementation of national biosafety frameworks;

11. *Invites* institutions offering biosafety training and education courses to:

(a) Regularly update information in the compendium regarding their courses;

(b) Take into account the training needs of countries in order to develop appropriate (demand-driven) training programmes, including those targeted for specific audiences or addressing specific needs;

(c) Participate proactively in relevant biosafety processes at the national, regional and international levels in order to be acquainted with the emerging issues, needs and challenges in biosafety;

(d) Establish collaborative partnerships with other institutions, especially those in developing countries, with a view to transferring skills, sharing experience and course materials as well as fostering harmonization and mutual recognition of the course offerings;

(e) Develop and facilitate distance-learning tools, such as online courses;

12. *Requests* the Executive Secretary to further develop the Coordination Mechanism, including needs assessment and coordination, taking into account the Bali Strategic Plan for Technology Support and Capacity-Building adopted by the Governing Council of the United Nations Environment Programme in February 2005 with a view to creating synergies and avoiding unnecessary duplication of work;

B. Capacity-building needs and priorities and possible measures for addressing them

13. *Takes note* of the report on the needs and priorities for building capacities for the effective implementation of the Protocol (UNEP/CBD/BS/COP-MOP/2/INF/7) and requests the Executive Secretary to make it available to donor Governments and relevant organizations;

14. *Invites* developed country Parties, Governments and relevant organizations to consider the information contained in the report in the development of their assistance programmes;

15. *Reminds* Parties and other Governments that have not yet done so to submit to the Biosafety Clearing-House information on their capacity-building needs and priorities and all those that have done so to update their records on a regular basis;

16. *Invites* developed countries and relevant international organizations to provide support to developing country Parties, in particular the least developed and small island developing states among them, including countries among those that are centres of origin and centres of genetic diversity, as well as Parties with economies in transition, in the field of capacity-building, in particular for the development and implementation of national biosafety frameworks;

17. *Further* invites organizations and initiatives involved in biosafety capacity-building which have in-country infrastructure, such as biosafety projects funded by the Global Environment Facility, to assist countries in assessing and submitting their capacity-building needs and priorities to the Biosafety Clearing-House;

18. *Urges* Parties and other Governments to prioritize among the different possible measures for addressing their needs and gaps in building capacities for the effective implementation of the Protocol;

19. *Encourages* Parties and other Governments that have not yet done so to develop national strategies for capacity-building in biosafety, prioritizing the needs for capacity-building activities in the different components of the national biosafety frameworks, in order to facilitate a proactive, systematic and coordinated approach addressing the country capacity-building needs and gaps;

20. *Further encourages* Parties and other Governments to address the issue of sustainability of capacity-building by designing in their national capacity-building plans and programmes elements that may help them to incorporate follow-up actions as part of their regular national programmes;

21. *Urges* Parties and other Governments and relevant organizations to promote regional and subregional initiatives and approaches to address common needs and priorities and encourages them to make effective use of locally existing facilities and expertise, including through exchange of experts;

22. *Invites* donor countries and relevant organizations to assist developing countries, in particular the least developed and the small island developing States among them, and countries with economies in transition, including countries amongst these that are centres of origin and centres of genetic diversity, to build capacity for conducting independent biosafety-related research;

23. *Further invites* donor countries and organizations supporting capacity-building activities to:

(a) Consider simplifying the procedures for making resources available, and harmonize them to the extent possible, in order to improve access to resources for capacity-building by recipient countries;

(b) Provide training in project-proposal development to interested recipient countries;

(c) Consider requiring that countries seeking support for capacity-building initiatives provide information on other related ongoing initiatives in order to minimize duplication of capacity-building assistance;

C. Comprehensive of the review of the Action Plan

24. *Adopts* the terms of reference for the comprehensive review of the Action Plan for the Effective Implementation of the Cartagena Protocol on Biosafety contained in the annex to the present note;

25. *Invites* Parties, other Governments and relevant organizations to submit to the Secretariat, no later than three months prior to its third meeting, progress reports on their initiatives contributing to the implementation of the Action Plan, including their effectiveness, as well as views and suggestions on desired revisions to the Action Plan, taking into account the terms of reference for the review mentioned above;

26. *Requests* the Executive Secretary to prepare a questionnaire to assist Parties, other Governments and relevant organizations in submitting information requested in paragraph 25 above;

27. *Invites* relevant organizations and initiatives that have in-country contacts and infrastructure, such as the biosafety-related projects under the Global Environment Facility, to assist, in collaboration with the Executive Secretary, countries in responding to the questionnaire;

28. *Requests also* Executive Secretary to include in the questionnaire referred to in paragraph 26 above elements to assess the constraints encountered with the implementation of the Coordination Mechanism and the possible reasons behind the limited use of the roster of biosafety experts;

29. *Urges* Executive Secretary to complement the questionnaire referred to in paragraph 26 above with results available from other relevant assessments and evaluation studies of capacity-building programmes including, *inter alia,* the evaluation by the Global Environment Facility of the activities financed under its Initial Strategy for Assisting Countries to Prepare for the Entry into Force of the Cartagena Protocol and the ongoing assessment study by the United Nations University;

30. *Further requests* the Executive Secretary to prepare, on the basis of the submissions received, a background paper describing, *inter alia*, the progress in, and effectiveness of, the implementation of the Action Plan, the unmet needs/gaps and strategic recommendations to be taken into account in the possible revision of the Action Plan at the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

31. *Further requests* the Executive Secretary to prepare, depending on the outcome of the review, a draft revised Action Plan for consideration at the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

Annex

TERMS OF REFERENCE FOR THE COMPREHENSIVE REVIEW AND POSSIBLE REVISION OF THE ACTION PLAN FOR BUILDING CAPACITIES FOR THE EFFECTIVE IMPLEMENTATION OF THE PROTOCOL

A. Introduction

1. The Action Plan for Building Capacities for the Effective Implementation of the Cartagena Protocol was developed in 2002 by the Intergovernmental Committee for the Cartagena Protocol on Biosafety and was endorsed in February 2004 by the first meeting of the Conference of the Parties serving as the meeting of the Parties. At the time it was developed, a number of things were unclear. For example, the capacity needs of countries were not well understood and the coverage of the few then existing biosafety capacity-building projects was unknown. Since then, a number of developments have taken place. Many countries have assessed and submitted their needs and priorities to the Biosafety Clearing-House. As well, a number of capacity-building projects have been initiated and some operational experience gained.

2. In light of the new developments, it is important to review and, if necessary, revise the Action Plan so that it is relevant to the prevailing circumstances and response to the needs and priorities of countries, taking into account experience gained and the lessons learned.

B. Objectives of the review

3. The purpose of the review is to examine the way and the extent to which the Action Plan has been implemented, analyse the unmet needs and gaps, review the lessons learned and identify areas that need to be updated or streamlined. The ultimate objective is to ensure that the Action Plan is current, relevant and effective in providing a coherent framework for capacity-building efforts consistent with the needs and priorities of Parties and other Governments.

C. Process of collecting information to facilitate the review

4. The review will be based primarily on information provided by Parties and other Governments. Information submitted by relevant organizations will also be taken into account. A questionnaire will be used as the main tool for gathering the information. The Executive Secretary will design the questionnaire and send it to all Parties, Governments and relevant organizations. The questionnaire will be simple to complete and also easily accessible through the Biosafety Clearing-House. For example check-boxes and yes/no questions will be used. The preliminary set indicators for monitoring implementation of the Action Plan, which were adopted in decision BS-I/5 of the Conference of the Parties serving as the meeting of the Parties to the Protocol, will be used, as appropriate, in the design of the questionnaire.

5. Respondents will be invited to submit the completed questionnaire and any additional information to the Secretariat no later than three months prior to third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. In the preparation of their submissions, they will also be encouraged to use preliminary set indicators for monitoring implementation of the Action Plan

6. The Executive Secretary will collaborate with organizations and initiatives that have in-country contacts and infrastructure, such as the GEF biosafety-related projects, in order to assist countries in responding to the questionnaire so as to maximize the number and quality of responses. The Executive Secretary will make use of other relevant information, including reports and other information submitted by countries under the biosafety projects funded by the Global Environment Facility.

D. Type of information needed to facilitate the review

7. Respondents will be invited to submit information particularly related to the following aspects:

(a) Overview of the progress made in, and the effectiveness of, the implementation of the Action Plan, including the extent of coverage of its different elements, the specific achievements made, the experience gained and the lessons learned;

(b) Elements of the Action Plan successfully implemented and consequently considered to be secondary priorities;

(c) The gaps/weaknesses in the implementation of the Action Plan elements;

(d) The unmet and emerging needs and priorities requiring urgent attention;

(e) The main limitations and constraints encountered, including lack of institutional capacity;

(f) Constraints encountered with the implementation of the Coordination Mechanism and the possible reasons behind the limited use of the roster of biosafety experts;

(g) Existing opportunities that could be taken into account while reviewing the Action Plan;

(h) Views on the relevance of the different components of the current Action Plan in relation to the needs and priorities of countries;

(i) Suggestions on the desired revisions and improvements to the Action Plan, including elements, processes and activities of the current Action Plan should be removed or modified, and why, and new ones that should be added;

(j) Suggestions of measures to improve the delivery of capacity-building initiatives and to enhance their effectiveness in responding to the needs and priorities of countries.

E. Expected outcomes of the review

8. The main outcome of the review process prior to the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol will be a background paper prepared by the Executive Secretary, on the basis of the above-mentioned submissions, outlining strategic recommendations to be taken into account in the possible revision of the Action Plan in order to enhance the effectiveness, efficiency, timeliness and sustainability of capacity-building measures.

9. Depending on the submissions received, the Executive Secretary may prepare a draft revised Action Plan for consideration by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its third meeting.

BS-II/4.

Capacity-building (roster of experts)

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Recalling its decision BS-I/4 on the roster of experts on biosafety,

Reiterating the importance of the roster of experts in assisting developing country Parties, in particular the least developed and small island developing States among them, as well as Parties with economies in transition, to conduct risk assessment, make informed decisions, develop national human resources and promote institutional strengthening, associated with the transboundary movements of living modified organisms,

Reaffirming the need to ensure the regional and gender balance on the roster of experts,

Noting with concern the limited use to date of the roster of experts and of the Voluntary Fund for the Roster of Experts,

1. *Reiterates* its call to Parties and Governments to:

   (a) Submit nominations of experts to the Secretariat in accordance with the Interim Guidelines for the roster of experts on Biosafety, using the nomination form available through the Biosafety Clearing-House or from the Secretariat;

   (b) Update, or request their nominated experts to update, the information currently contained in the roster, for each field of the nomination form, with a view to providing sufficient detail to discern the particular areas of knowledge and specialization for each expert; and

   (c) Use the roster of biosafety experts in accordance with the Interim Guidelines for the Roster of Experts on Biosafety;

2. *Reminds* Parties and Governments to submit to the Executive Secretary reports on the assistance or advice provided by the experts in accordance with section J of the Interim Guidelines, with a view to contributing to the review of the roster that will be undertaken two years after the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

3. *Reiterates* its invitation to Governments and other donors to make contributions to the pilot phase of the Voluntary Fund for the Roster of Experts;

4. *Requests* the Executive Secretary to promote awareness about the roster of experts and publicize the available funding from the pilot phase of the Voluntary Fund for the Roster of Experts;

5. *Requests also* the Executive Secretary to include in the questionnaire for collecting information to facilitate the review of the Action Plan, referred to in paragraph 26 of decision BS-II/3, on the status of capacity-building activities, questions to assess the possible reasons behind the limited use of the roster of biosafety experts to facilitate the review of the roster in accordance with decision BS-1/4, annex I, section K.

BS-II/5.

Matters related to the financial mechanism and resources

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Recalling paragraph 2 (a) of decision III/5, paragraph 1 of decision V/13, paragraph 10 (b) of decision VI/17 and paragraphs 21-26 of decision VII/20, in which the Conference of the Parties to the Convention on Biological Diversity provided guidance to the financial mechanism in respect of capacity-building in biosafety,

Also recalling decision III/8 of the Conference of the Parties, concerning the Memorandum of Understanding between the Conference of the Parties to the Convention on Biological Diversity and the Council of the Global Environment Facility,

Having considered the note by the Executive Secretary on matters related to the financial mechanism and resources (UNEP/CBD/BS/COP-MOP/2/5),

Welcoming the statement made by the representative of the Global Environment Facility providing updates on its activities in response to biosafety-related guidance from the Conference of the Parties to the Convention on Biological Diversity,

Noting with appreciation the letter jointly signed by the Chief Executive Officer/ Chairman of the Global Environment Facility and the Executive Secretary of the Convention on Biological Diversity clarifying the procedures to be followed in the implementation of the eligibility criteria for the Parties to the Convention that are not yet Parties to the Protocol,

Taking note of the ongoing evaluation of the activities financed under the initial strategy approved by the Council for assisting countries to prepare for the entry into force of the Cartagena Protocol, which is being undertaken by the Office of Monitoring and Evaluation of the Global Environment Facility and which is expected to be completed in time for submission to the meeting of the Council of the Global Environment Facility in November 2005,

1. *Encourages* all donors and their agencies as well as the Global Environment Facility to simplify, to the extent possible, their project cycle requirements in order to expedite access, by developing country Parties, in particular the least developed and the small island developing States among them, and the Parties with economies in transition, to the financial resources needed to assist the implementation of the Protocol;

2. *Welcomes* the continuing efforts of the Global Environment Facility to expand its support for the national components of the Biosafety Clearing-House as well as for development and implementation of the national biosafety frameworks, taking into account lessons learned and experience gained from its initial biosafety strategy;

3 *Invites* the Office of Monitoring and Evaluation of the Global Environment Facility to make its biosafety-related review reports available to the Conference of the Parties to the Convention on Biological Diversity prior to the third meeting of the Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Cartagena Protocol on Biosafety;

4. *Invites* countries that have received funding from the Global Environment Facility for activities referred to in paragraph 21 (b) of decision VII/20 to report to the Executive Secretary of the Convention on actions being taken towards becoming Parties to the Protocol, and requests the Executive Secretary to compile the national reports that he receives and distribute the compiled reports to the Parties to the Convention on Biological Diversity and to the Council of the Global Environment Facility for information;

5. *Encourages* the Global Environment Facility and the Executive Secretary of the Convention to continue their strong collaboration in advancing support to the implementation of the Protocol;

6. *Also encourages* the Global Environment Facility to further develop its funding modalities for organizing its support to the Protocol in a systematic and flexible manner;

7. *Requests* the Executive Secretary, in collaboration with the Global Environment Facility and with the Coordination Mechanism for the implementation of the Action Plan for Building Capacities for the Effective Implementation of the Cartagena Protocol on Biosafety, to assess status of funding and promote coordination, coherence and synergies in financing for biosafety activities among donors and their agencies in order to facilitate the avoidance of duplication of work, identify gaps in funding activities and possible options to address them;

8. *Invites* the Executive Secretary to cooperate, upon request and subject to availability of financial resources, with relevant stakeholders in providing advice, know-how and expertise in respect of development and implementation as well as oversight and evaluation of biosafety-project activities.

BS-II/6.

Cooperation with other organizations, conventions and initiatives

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Having considered the note by the Executive Secretary on cooperation with other organizations, conventions and initiatives (UNEP/CBD/BS/COP-MOP/2/6),

Requests the Executive Secretary:

(a) To pursue efforts to obtain observer status for the Secretariat of the Convention on Biological Diversity with the World Trade Organization's Committees on Sanitary and Phytosanitary Measures and on Technical Barriers to Trade;

(b) To continue the involvement of the Secretariat of the Convention on Biological Diversity in discussions in the World Trade Organization's Committee on Trade and Environment on issues relevant to the Protocol;

(c) To reinforce cooperation with the Codex Alimentarius Commission, the Office International des Epizooties and the International Plant Protection Convention on issues of mutual relevance;

(d) To intensify cooperation with the Aarhus Convention secretariat in the United Nations Economic Commission for Europe on matters of public awareness and participation;

(e) To follow developments in competent regional and international organizations with a view to exchanging experience and building capacity on sampling plans and methods of analysis, through easy to handle, rapid, reliable and cost-effective detection techniques for living modified organisms;

(f) To establish cooperation with the World Customs Organization, the International Organization for Standardization (ISO), the United Nations Transport of Dangerous Goods Sub-Committee, the International Air Transport Association and other relevant customs and transport organizations where biosafety issues are considered, with a view to developing a harmonized approach for the packaging and transport of living modified organisms in preparation for the consideration at the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol of the need for and modalities of developing standards with regard to identification, handling, packaging and transport practices, in accordance with the medium-term programme of work.

BS-II/7.

Administration of the Cartagena Protocol and performance of the Protocol trust funds for the 2005-2006 biennium

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Having considered the report of the Executive Secretary on the administration of the Cartagena Protocol on Biosafety and the performance of the Protocol Trust Funds,

1. *Takes note* of the income and budget performance of the following trust funds established by the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety:

(a) The General Trust Fund (BG) for the Core Programme Budget of the Cartagena Protocol on Biosafety for the biennium 2005-2006;

(b) The Special Voluntary Trust Fund (BH) for Additional Voluntary Contributions in Support of Approved Activities for the Biennium 2005-2006;

(c) The Special Voluntary Trust Fund (BI) for Facilitating Participation of Developing Country Parties, for the biennium 2005-2006;

2. *Urges* Parties that have not yet done so to pay their 2005 contributions to the BG Trust Fund as soon as possible in order to enable the Secretariat to plan and execute the Protocol programme in a timely manner;

3. *Invites* all Parties to the Protocol to note that contributions to the core budget (BG Trust Fund) are due on 1 January of the year in which these contributions have been budgeted for, and to pay them promptly, and urges Parties in a position to do so to pay by 15 November 2005 for the calendar year 2006 the contributions required to finance the Protocol expenditures approved and, in this regard, requests that Parties be notified of the amount of their contributions by 15 October of the year preceding the year in which the contributions are due;

4. *Notes with concern* the shortfalls in contributions for supporting approved activities and participation of developing country Parties and Parties with economies in transition in meetings organized under the Protocol, and urges all Parties and States not Parties to the Protocol, as well as governmental, intergovernmental and non-governmental organizations and other sources, to contribute to the Special Voluntary Trust Funds (BH and BI) of the Cartagena Protocol on Biosafety to enable the Secretariat to implement approved activities in a timely manner.

BS-II/8.

Options for implementation of Article 8

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Recalling Article 8 of the Protocol,

Recalling also decision BS-I/12 on the medium-term programme of work which requires, at the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Convention, consideration of options for implementation of Article 8 with respect to requirements by a Party of export to ensure notification and the accuracy of information contained in notification by the exporter,

Recognizing the need to provide guidance to Parties on implementing notification requirements spelled out in Article 8 of the Protocol,

Noting that, pursuant to decision BS-I/9 on monitoring and reporting, Parties are requested to submit interim national reports on implementation of the Protocol no later than 11 September 2005 in which more information on national implementation of the advanced informed agreement procedure will become available,

Recalling also Articles 6 and 7 of the Protocol,

1. *Decides* to keep the item on notification referred to in decision BS-I/12 under review with a view to elaborating and developing, if appropriate, at its fourth meeting, modalities of implementation with respect to notification requirements under Article 8 of the Protocol, taking into account the information on national implementation and experiences on this matter gathered through interim national reports and the Biosafety Clearing-House;

2. *Recommends* to Parties to the Protocol to consider elements and options relevant to Article 8 of the Protocol, as well as the following elements, pending development of modalities referred to in paragraph 1 above:

   (a) Applying necessary measures to enforce the notification requirements;

   (b) Requiring the exporter to use the language as determined by the Party of import in the notification;

   (c) Acknowledging the right of a Party of transit to regulate the transport of living modified organisms through its territory, including requiring communication in writing to the competent national authority of the Party of transit if so required by the regulations of that Party of transit.

BS-II/9.

Risk assessment and risk management

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Noting the review of existing guidance materials relevant to risk assessment and risk management (UNEP/CBD/BS/COP-MOP/2/9), prepared by the Executive Secretary for the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Recalling its decision to consider, at its second meeting, the development of guidance and a framework for a common approach in risk assessment and risk management (decision BS-I/12, annex, paragraph 4 (b)), and noting that there are various approaches for guidance on risk assessment and risk management, as reflected in paragraph 8 of review of existing guidance materials (UNEP/CBD/BS/COP-MOP/2/9),

Acknowledging that any guidance on risk assessment and risk management developed by the Conference of the Parties serving as the meeting of the Parties to the Protocol should support a harmonized approach, in accordance with annex III of the Protocol, taking into account internationally agreed principles and techniques developed by relevant international organizations and bodies,

Recalling that risk assessment and other scientific and technical expertise, and risk management, have been identified as key elements requiring concrete action under the Action Plan for Building Capacities for the Effective Implementation of the Cartagena Protocol on Biosafety (decision BS-I/5, annex I, paragraph 3),

Recalling also its decision I/9, adopted at its first meeting, requesting Parties to submit interim national reports on implementation of the Cartagena Protocol on Biosafety two years after the entry into force of the Protocol, and noting that the format for reporting includes a section on risk assessment and risk management,

1. *Requests* the Executive Secretary to include the materials listed in the annex of the review of existing guidance materials (UNEP/CBD/BS/COP-MOP/2/9) in the Biosafety Information Resource Centre on the Biosafety Clearing-House, and *encourages* Parties, other Governments and relevant organizations to contribute further to the Biosafety Information Resource Centre on the Biosafety Clearing-House, by registering additional guidance materials and other scientific and technical information;

2. *Requests* the Executive Secretary to convene, prior to the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, and subject to the necessary financial resources being made available, regional workshops on capacity-building and exchange of experiences on risk assessment and risk management of living modified organisms, taking into account the results of the meeting of the Ad Hoc Technical Expert Group on Risk Assessment referred to in paragraph 4 below, and also taking into account experience and expertise in the context of relevant international agreements and bodies;

3. *Reminds* Parties to submit their interim reports on implementation of the Protocol by 11 September 2005, in accordance with decision BS-I/9, and *encourages* Parties to include, in accordance with the section of the reporting format related to risk assessment and risk management, information on experiences and progress in implementing Articles 15 and 16, including any obstacles or impediments encountered;

4. *Decides* to establish an Ad Hoc Technical Expert Group on Risk Assessment, according to the specific terms of reference annexed to the present decision, and *welcomes* the generous offer of the Government of Italy to provide the necessary financial support for a meeting of the Group prior to the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

5. *Requests* the Executive Secretary to compile the information on risk assessment and risk management submitted by Parties in their interim national reports, for inclusion in a synthesis report for consideration by the Ad Hoc Technical Expert Group referred to in paragraph 4 above;

6. *Requests* the Executive Secretary to prepare for the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, a pre-sessional paper regarding risk assessment and risk management that synthesizes:

(a) The findings of the meeting of the Ad Hoc Technical Expert Group on Risk Assessment referred to in paragraph 4 above;

(b) Information on experiences and progress in implementing Articles 15 and 16 received in the interim national reports under the Protocol, noting that this information will be reviewed in a synthesis report prepared in advance of the meeting of the Ad Hoc Technical Expert Group on Risk Assessment;

(c) The submissions on risk assessment and risk management received from Parties, other Governments and international organizations (UNEP/CBD/BS/COP-MOP/2/INF/2), as well as the synthesis of views and compilation of guidance materials (UNEP/CBD/BS/COP-MOP/2/9).

Annex

TERMS OF REFERENCE FOR THE AD HOC TECHNICAL EXPERT GROUP ON RISK ASSESSMENT

1. The Ad Hoc Technical Expert Group shall:

   (a) Include experts from relevant international organizations and bodies as observers;

   (b) Consider the nature and scope of existing approaches to risk assessment based on national experiences and existing guidance materials;

   (c) Evaluate the relevance of existing approaches and guidance materials to risk assessment under the Protocol, and identify gaps in those existing approaches and guidance materials;

   (d) Identify specific areas where limitations in capacity may be an impediment to effective implementation of the risk assessment provisions of the Protocol at national level, and where capacity-building activities may be particularly important;

   (e) Submit a report for consideration by the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

2. The deliberations of the Ad Hoc Technical Expert Group shall be based primarily on:

   (a) Information provided in the interim national reports referred to in paragraphs 3 and 5 of this decision;

   (b) Guidance materials listed in the annex to the review of existing guidance material relevant to risk assessment and risk management (UNEP/CBD/BS/COP-MOP/2/9);

   (c) Any other relevant materials made available by the Secretariat.

BS-II/10.

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

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Recalling paragraph 2 of decision BS-I/6 B, in which the Conference of the Parties serving as the meeting of the Parties to the Protocol invited Parties, other Governments and relevant international organizations to submit to the Executive Secretary information on their experience gained with the use of commercial invoices or other documents required or utilized by existing documentation systems, with a view to the future consideration of a stand-alone document,

Considering the information received from Parties, other Governments and relevant international organizations on their experience gained with the use of commercial invoices or other documents required or utilized by existing documentation systems,

1. *Takes note* of the efforts, with appreciation, that exporters of living modified organisms are making to implement the requirements specified under paragraphs 2 (b) and 2 (c) of Article 18 of the Protocol in accordance with the provisions of the Protocol as further elaborated by decision BS-I/6 B, other existing international or national requirements, and established practices;

2. *Urges* Parties to the Protocol and invite other Governments to take necessary measures, taking into account their specific capabilities, to make sure that those requirements of paragraphs 2 (b) and 2 (c) of Article 18 of the Protocol as elaborated by decision BS-I/6 B are fully complied with;

3. *Further urges* Parties, especially those Parties of import, to make available to the Biosafety Clearing-House information on their domestic requirements concerning imports of living modified organisms in general, and documentation requirements in particular, with respect to living modified organisms for contained use and for intentional introduction into the environment, as part of the requirement set out in paragraph 3 of Article 20 of the Protocol for each Party to make available its laws, regulations and guidelines relevant to the implementation of the Protocol;

4. Without prejudice to the future consideration of a stand-alone document at its third meeting, *decides* that the documentation requirements of Article 18 paragraphs 2 (b) and (c), and experiences in implementing them, will be considered in the context of the review of implementation of the Protocol as provided for under Article 35 of the Protocol.

BS-II/11.

Liability and redress (Article 27)

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Recalling Article 27 of the Cartagena Protocol on Biosafety,

Also recalling its decision BS-I/8, in which it decided to establish an Open-ended Ad Hoc Working Group of Legal and Technical Experts on Liability and Redress, with the terms of reference set out in the annex to the decision, to carry out the process pursuant to Article 27 of the Protocol,

Conscious of the provision in Article 27 of the Protocol that the Conference of the Parties serving as the meeting of the Parties to the Protocol shall endeavour to complete this process within four years of the first meeting of Conference of the Parties serving as the meeting of the Parties to the Protocol,

Noting the report of the Technical Group of Experts on Liability and Redress in the Context of the Cartagena Protocol on Biosafety, which met in Montreal from 18 to 20 October 2004 in preparation for the first meeting of the Open-ended Ad Hoc Working Group (UNEP/CBD/BS/COP-MOP/2/INF/5),

Having considered the report of the Open-ended Ad Hoc Working Group of Legal and Technical Experts on Liability and Redress on the work of its first meeting, held in Montreal from 25 to 27 May 2005 (UNEP/CBD/BS/COP-MOP/2/11),

Recalling that, in accordance with paragraph 5 of the terms of reference of the Working Group, at its first meeting held two years after the establishment of the Working Group, the Conference of the Parties serving as the meeting of the Parties to the Protocol to review progress and as necessary provide guidance to the Group,

1. *Takes note* of the report of the Open-ended Ad Hoc Working Group and the conclusions contained therein (UNEP/CBD/BS/COP-MOP/2/11, para. 44);

2. *Calls upon* Parties, other Governments and other stakeholders in a position to do so to provide financial resources for the organization of the meetings of the Working Group envisaged in the indicative work plan contained in decision BS-I/8;

3. *Agrees* that the second meeting of the Working Group should be convened before the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol and calls upon Parties, other Governments and other stakeholders in a position to do so to provide the necessary financial resources to enable the participation of developing country Parties and Parties with economies in transition as provided for in decision BS-I/10;

4. *Invites* the Working Group at its second meeting to develop, for the consideration of the third meeting of the Conference of the Parties serving as the meeting of the Parties, a report on the progress made to date.

BS-II/12.

Socio-economic considerations

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Recalling paragraph 2 of Article 26 of the Biosafety Protocol, which encourages Parties to cooperate on research and information exchange on socio-economic impacts of living modified organisms, especially on indigenous and local communities,

Taking note of the wide range of opportunities available for cooperation on research and information exchange regarding socio-economic impacts of modern biotechnology in general, and that of living modified organisms in particular,

1. *Invites* Parties and other Governments to continue to cooperate within relevant processes under other organizations and arrangements, such as those referred to in section III of the note by the Executive Secretary on socio-economic considerations: cooperation on research and information exchange (UNEP/CBD/BS/COP-MOP/2/12), which deal with socio-economic impacts of living modified organisms;

2. *Urges* Parties, other Governments and relevant organizations to provide more emphasis to research on socio-economic impacts of living modified organisms and to allocate resources for that purpose;

3. *Invites* Parties, other Governments and organizations with research activities related to socio-economic impacts of living modified organisms arising from the impacts of these organisms on the conservation and sustainable use of biological diversity, to share information with other Parties, other Governments, and other stakeholders through the Biosafety Clearing-House, on their research methods and results, both positive and negative;

4. *Further invites* Parties and other Governments to share, through the Biosafety Clearing-House, their information and experiences in taking into account socio-economic impacts including experiences in implementing the Akwé:Kon Voluntary Guidelines;

5. *Requests* Parties, other Governments and relevant international organizations to provide to the Executive Secretary not later than six months prior to the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, their views and case-studies, where available, concerning socio-economic impacts of living modified organisms;

6. *Requests* the Executive Secretary to prepare a synthesis of the views submitted in accordance with paragraph 5 above for consideration by the Conference of the Parties serving as the meeting of the Parties to the Protocol, at its fourth meeting.

BS-II/13.

Public awareness and participation

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Recalling Article 23 of the Protocol on public awareness and participation,

Emphasizing the importance of public awareness, education and participation in promoting transparency, public confidence and broad-based support for the effective implementation of the Protocol,

Underlining the importance of making the information concerning the safe transfer, handling and use of living modified organisms available to different stakeholders in comprehensible formats and adapting awareness materials to local languages and situations,

Emphasizing the need for cooperative efforts to promote education and public awareness to increase the knowledge and understanding concerning the safe transfer, handling and use of living modified organisms,

1. *Takes note* of the options for facilitating cooperation of Parties with other States and relevant international bodies in the promotion of public awareness, education and participation concerning the safe transfer, handling and use of living modified organisms contained in the note by the Executive Secretary on options for cooperation of Parties with other States and international bodies on the promotion and facilitation of public awareness, education and participation concerning living modified organisms (UNEP/CBD/BS/COP-MOP/2/13) prepared for the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

2. *Encourages* Parties and other States, as part of their efforts in implementing Article 23, paragraph 1 (a), to seek and leverage opportunities for cooperation with other Parties, other States and relevant international bodies at subregional, regional and international levels, taking into account the options referred to in paragraph 1 above;

3. *Urges* Parties and other States to develop and implement national programmes for public awareness, education and participation, including public access to information, concerning the safe transfer, handling and use of living modified organisms;

4. *Invites* the Global Environment Facility, donors, other funding institutions and relevant international bodies to provide financial and other support to developing country Parties, in particular the least developed and small island developing States among them, as well as Parties with economies in transition for the public awareness, education and participation projects and activities concerning the safe transfer, handling and use of living modified organisms;

5. *Further invites* Parties, other States, and relevant international bodies to share, through the Biosafety Information Resource Centre in the Biosafety Clearing-House, information, awareness materials and case-studies about their ongoing initiatives on

public awareness, education and participation, including major accomplishments, success stories, best practices and lessons learned as well as limitations experienced;

6. *Encourages* Parties and other States to make effective use of the media to promote public awareness and education concerning the safe transfer, handling and use of living modified organisms;

7. *Urges* Parties, other Government and relevant international bodies to develop and support subregional and regional public awareness and education initiatives concerning the safe transfer, handling and use of living modified organisms, including through educational systems and regional centres;

8. *Reminds* Parties and other States to submit to the Biosafety Clearing-House information regarding their capacity needs, gaps, programmes and priorities with respect to public awareness, education and participation;

9. *Encourages* Parties, other States and relevant international bodies to make effective use of the tools and mechanisms established under the Global Initiative on Communication, Education and Public Awareness (CEPA) under the Convention on Biological Diversity;

10. *Invites* Parties, other States and relevant international bodies to include in their programmes for implementing the United Nations Decade of Education for Sustainable Development specific activities related to promoting public awareness, education and participation concerning the safe transfer, handling and use of living modified organisms in relation to the conservation and sustainable use of biological diversity, taking into account also risks to human health;

11. *Invites* Parties, other States and concerned relevant international bodies to explore and maximize opportunities for cooperation in the promotion of public awareness, education and participation concerning living modified organisms through the frameworks provided by related national and international instruments, in particular the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters;

12. *Requests* the Executive Secretary to continue promoting public awareness and education on the Protocol, including through the Protocol website, the outreach strategy for the Cartagena Protocol on Biosafety (UNEP/CBD/BS/COP-MOP/1/INF/16) as well as publications such as a handbook reflecting developments in the Protocol process;

13. *Decides* to consider, and review progress on the implementation of Article 23, paragraph 1 (a), of the Protocol at its fifth meeting;

14. *Further* requests the Executive Secretary to prepare, on the basis of the submissions made in accordance with paragraph 5 above, a synthesis report on the status of implementation of Article 23, paragraph 1 (a), of the Protocol for consideration by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its fifth meeting.

BS-II/14.

Other scientific and technical issues that may be necessary for the effective implementation of the Protocol

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Having examined the note by the Executive Secretary (UNEP/CBD/BS/COP-MOP/2/14) on other scientific and technical issues that may be necessary for the effective implementation of the Protocol, and taking note of the submissions received on this issue,

Obligations and rights of transit States

1. *Invites* Parties, other Governments and relevant international organizations to submit views, not later than six months prior to the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, regarding clarification of the rights and/or obligations of transit States, particularly related to documentation, for inclusion in a synthesis report to be considered by the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

Exchange of information on biosafety research

2. *Encourages* Parties, other Governments and relevant organizations to share the results of public research related to biosafety through the Biosafety Information Resource Centre of the Biosafety Clearing-House;

Consideration of the need for a subsidiary body to address scientific issues including risk assessment and risk management

Recalling paragraph 2 of its decision BS-I/11, in which it decided to consider, at its third meeting, the need for designating or establishing a permanent subsidiary body that provides the Conference of the Parties serving as the meeting of the Parties to the Protocol with timely advice on scientific and technical issues arising in relation to the implementation of the Protocol,

Recognizing that consideration of risk assessment and risk management issues will be ongoing as particular issues arise, including but not necessarily limited to cooperation in the identification of living modified organisms and traits that may have adverse effects on the conservation and sustainable use of biological diversity, as envisaged by paragraph 5 of Article 16,

3. *Invites* Parties and other Governments to submit views to the Executive Secretary, in conjunction with the interim national reports under the Protocol that will be submitted in accordance with decision BS-I/9, regarding the need to designate or establish a permanent subsidiary body to provide the Conference of the Parties serving as the meeting of the Parties to the Protocol with timely advice on scientific and technical issues arising in relation to the implementation of the Protocol including risk assessment and risk management, and also views regarding the nature of any such body should it be

established and particular issues that it could address, such as issues related to paragraph 5 of Article 16, for inclusion in a synthesis report to be considered by the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

Annex II

STATEMENTS REQUESTED FOR INCLUSION IN THE REPORT OF THE SECOND MEETING OF THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE CARTAGENA PROTOCOL ON BIOSAFETY

A. Statement made by the European Community on behalf of its member States and Bulgaria and Romania at the 3rd (final) plenary session of the meeting under agenda item 12

The European Community and its member States and Bulgaria and Romania had come to this meeting with the sincere commitment to fulfil the mandate set out in paragraph 2 (a) of Article 18 of the Cartagena Protocol.

Despite our intense efforts during the past five days to reach out to other delegations and to find common ground, this meeting has failed to take a decision on the detailed requirements for transboundary movements of living modified organisms intended for direct use as food or feed, or for processing.

We are deeply disappointed by this outcome and we feel uncomfortable since this failure may have a negative impact on the achievement of the objectives of the Protocol. Moreover, we do not meet the needs of Parties, in particular developing countries, in relation to documentation requirements.

Having said this, we want to emphasize that in the absence of a decision the mandate in paragraph 2(a) of Article 18 still applies. The next Conference of the Parties serving as the meeting of the Parties to the Protocol, to be held in Brazil in March 2006, will therefore have to re-examine the issue of documentation requirements.

In the meantime, we will of course comply—as I am sure other Parties will—with the documentation requirements as set out in paragraph 2 (a) of Article 18 of the Protocol itself and developed by decision BS-I/6 of the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. As stated in that decision, these requirements will continue to apply until the decision referred to in the second sentence of paragraph 2 (a) of Article 18 on the detailed requirements is taken.

I would request that the text of this statement is attached to the formal record of this meeting.

In closing, I would like to thank you, the Chairs and Co-Chairs, the Secretariat and all other delegations that have constructively contributed to our work this week.

B. Statement by Brazil at the 3rd (final) plenary session of the meeting under agenda item 12

Mr. President,

Brazil also regrets that we come to the end of the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol without agreement on all issues of our agenda.

We feel, nonetheless, that important progress was made in our week spent together here.

My delegation participated proactively in all negotiations of the meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. We took part in all Working Group and contact group sessions, as well as in smaller Friends of the Chair groups in issues of critical importance such as compliance, risk assessment and documentation and identification.

In all negotiating contexts, we brought forth proposals and sought ways to move forward.

This reflects our commitment to implementing the provisions of the Cartagena Protocol on Biosafety.

Mr. President,

An adequate, gradual, realistic, step-by-step approach to the development of balanced and effective international rules requires negotiations based on a wide diversity of views.

Our decision to join the Biosafety Protocol, taken after a comprehensive domestic debate, reflected precisely our interest in contributing from within to the process of implementing the Protocol.

However, Mr. President, we feel compelled to express our strong reservations to the manner in which process was carried out in this meeting.

Finally, we look forward to welcoming all here to the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol in Curitiba next March and continuing to work together toward our common objective of strengthening the Protocol.

We also request this text to be annexed to the records of this meeting.

C. Statement by Australia at the 3rd (final) plenary session of the meeting under agenda item 17

Mr. President,

Thank you for giving me the floor to make this statement on behalf of the Government of Australia. We would also like to thank you, Mr. President, and other officials who have facilitated this second meeting of the Parties to the Biosafety Protocol.

Mr. President, it is not well known that Australia is a megadiverse country with about 10 per cent of the world's biodiversity. We have a strong and abiding interest in the conservation and sustainable use of biodiversity.

Australia is, and will continue to be, an active party to the Convention on Biological Diversity. We take very seriously our obligations under the Convention on Biological Diversity and other international environment conventions and agreements.

Australia is also a centre for research, development and investment in modern biotechnology. Therefore, Australia is pursuing the *responsible* management of biotechnology by maintaining a strong science-based domestic regulatory regime. We are watching with interest as many countries in the Asia-Pacific region, and many of our important trading partners, develop their biotechnology policy settings and approaches. And where possible, we would like to work together to maximize the mutual benefits of rigorous, science-based biosafety frameworks.

Australia has, therefore, a range of interests at stake in the discussions under the Caratgena Protocol on Biosafety. Although we are a non-Party, we have sought to better inform ourselves about the workings of this new international instrument. And we are closely following the progress towards implementation by Parties.

Mr. President, we recognize the spirit of compromise which delegations have shown during the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol in progressing the implementation of the Protocol, while pursuing their important national interests. My delegation has sought to contribute positively to the process, by drawing on our national experiences as a megadiverse nation with an effective biotechnology regulatory system.

We trust that this contribution to a better understanding of conventional and biotech exporter country positions, particularly the importance of practical, cost-effective outcomes that are consistent with other international obligations.

Mr. President, we have observed this week's proceedings with great interest and have developed a better understanding of the Protocol's and Parties' interests over the past week. But there are aspects of the process that has characterized this meeting, and some of the decisions agreed today, which Australia can not support. Many of our concerns are based on the view that effective implementation of existing commitments under the Protocol will achieve more practical progress towards the Protocol's objective of "contributing to ensuring an adequate level of protection in the safe transfer, handling and use of living modified organisms", than seeking to expand the agenda and workload of the Protocol.

We understand effective implementation to consist of measures that are science-based and avoid undue burdens and compliance costs. In that context, we welcome decisions which are based on practical experience.

This applies particularly in circumstances where many Parties are encountering challenges in developing their national regulatory frameworks and fully meeting their existing commitments. In particular, Mr. President, we are concerned about:

The apparent desire of many parties to reinterpret or expand closely negotiated text of the Biosafety Protocol, that ignores the intent and content of the compromises in the Protocol

Many Parties' willingness to expand their work into policy areas which we believe are not central to the Protocol, such as socio-economic considerations, and the potential duplication of work within existing international organizations such as the Codex Alimentarius or the International Plant Protection convention which develop recognized standards.

The unnecessary haste in pursuing the establishment of a liability and redress regime under the Protocol, without any common understanding of the nature of damage which might result from transboundary movements of living modified organisms or the scope of such a liability regime, and

Any suggestion that decision-making under the Protocol and its associated bodies should be anything other than based on consensus, with maximum transparency and due process for all concerned.

Mr. President, during the past week my delegation has highlighted the importance of governments taking responsibility for the effective implementation of the Biosafety Protocol at the national level. The Protocol is not a substitute for rigorous, science-based national biosafety frameworks. National, not international, action is required to establish robust institutional frameworks for legislative, science-based risk assessment and decision-making and border control measures.

Australia recognizes that effective capacity building can assist the many parties facing challenges in implementing their obligations under the Protocol. We have, therefore, been a significant contributor to the Global Environment Facility, committing 184 million Australian dollars since 1981. And we continue to work with countries in the Asia-Pacific region to develop their institutional biosafety capabilities.

In conclusion, Australia notes that Parties were not able to reach a decision on documentation requirements. Mr. President , no decision is better than a bad decision. Clearly parties have decided that more time and experience are necessary before making any decision on this important and complex subject. We believe this is wise. Decision taken by parties will have significant impacts on us all a s beneficiaries of the international trade in essential food, feed and fibre. Adventitious presence of genetically

modified organisms in non-genetically modified shipments should not be a trigger for documentation under Article 18 paragraph 2 (a). Australia remains willing to work with others on these important issues.

Mr. President, thank you for the opportunity to present Australia's views. I request that this statement be incorporated into the formal record of this meeting. Thank you.

Annex III

DRAFT DECISION ON HANDLING, TRANSPORT, PACKAGING AND IDENTIFICATION (ARTICLE 18, PARAGRAPH 2 (a)) SUBMITTED BY THE CHAIR OF WORKING GROUP I

The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety,

Recalling the second sentence of paragraph 2 (a) of Article 18, which requires the Conference of the Parties serving as the meeting of the Parties to the Protocol to take a decision on the detailed requirements of those elements specified in the first sentence of the same paragraph, including specification of the identity of the living modified organisms in question and any unique identification, no later than two years after the date of entry into force of the Protocol,

Recalling further decision BS-I/6 A of the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol,

Noting the revised Chair's text contained in the annex to the report of the Open-ended Technical Expert Group on Identification Requirements of Living Modified Organisms Intended for Direct Use as Food or Feed, or for Processing, convened from 16 to 18 March 2005,

Recognizing the potential role of thresholds for adventitious or technically unavoidable presence of authorized living modified organisms as a practical tool for implementing documentation requirements,

Recognizing that, pursuant to Article 2 paragraph 4 of the Protocol, nothing in the Protocol "shall be interpreted as restricting the right of a Party to take action that is more protective of the conservation and sustainable use of biological diversity than that called for in this Protocol, provided that such action is consistent with the objective and provisions of this Protocol and is in accordance with that Party's other obligations under international law",

1. *Requests* Parties to the Protocol and *urges* other Governments to take measures to ensure the use of a commercial invoice, or an annex to a commercial invoice, or a stand-alone document, or other document required or utilized by existing documentation systems, or documentation as required by domestic regulatory framework as documentation that should accompany living modified organisms that are intended for

direct use as food or feed, or for processing. Such documentation should allow for easy recognition, transmission, and effective integration of the information requirements, with consideration of the use of standard formats;

2. *Requests* Parties to the Protocol and *invites* other Governments to submit to the Executive Secretary, not later than six months prior to the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, information on experience gained with the use of documentation referred to in paragraph 1 above, including information on cost-benefit analyses where possible or appropriate, with a view to the future consideration of a stand-alone document or further harmonization of a documentation format to fulfil the identification requirements, and requests the Executive Secretary to compile the information and to prepare a synthesis report for consideration by the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

3 (a). *Requests* Parties to the Protocol and urges other Governments to take measures ensuring that documentation accompanying intentional transboundary movements of LMOs-FFP:

(i) Clearly identifies that the shipment may contain LMOs-FFP that have been approved in the Party of import;

(ii) States that the LMOs are not intended for intentional introduction into the environment;

(iii) Includes the common, scientific and, where available, commercial names of the living modified organisms;

(iv) Includes the unique identifier code of the living modified organisms if registered in the Biosafety Clearing-House, or in the absence of such code, the transformation event code of the living modified organisms;

(v) Provides the Internet address of the Biosafety Clearing-House for further information;

(vi) Provides the details of a contact point for further information: the exporter and the importer in the supply chain, and/or appropriate authority, when designated by a Government as the contact point;

3 (b). Requests Parties to the Protocol and urges other Governments to take measures ensuring that documentation accompanying intentional transboundary movements known to intentionally contain LMOs-FFP:

(i) Clearly states that the shipment contains LMOs-FFP and specifies the LMOs that are known to be in the shipment;

(ii) States that the LMOs are not intended for intentional introduction into the environment;

(iii) Includes the common, scientific and, where available, commercial names of the living modified organisms;

(iv) Includes the unique identifier code of the living modified organisms if registered in the Biosafety Clearing-House, or in the absence of such code, the transformation event code of the living modified organisms;

(v) Provides the Internet address of the Biosafety Clearing-House for further information;

(vi) Provides the details of a contact point for further information: the exporter and the importer in the supply chain, and/or appropriate authority, when designated by a Government as the contact point;

4. *Notes* that thresholds may be adopted or applied on a national basis, by a national authority under its domestic regulatory framework consistent with the objective of the Protocol, for the adventitious or technically unavoidable presence of living modified organisms that have been authorized for the placing on the market as living modified organisms for food, feed, or for processing in that country;

5. *Encourages* Parties and other Governments to cooperate in exchanging experiences and building capacities in the use and development of easy to use, rapid, reliable and cost-effective sampling and detection techniques for living modified organisms;

6. *Decides* to review, at its fourth meeting, available sampling and detection techniques, with a view to harmonization, taking into account the work of relevant regional and international organizations with a view to avoid duplication of efforts;

7. *Requests* Parties to the Protocol and *invites* other Governments, regional and international organizations and interested stakeholders, to submit to the Executive Secretary, not later than three months prior to the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, information on experience gained with the use of sampling and detection techniques, and requests the Executive Secretary to compile the information received and to prepare a synthesis report, including an analysis of existing gaps, for consideration by the fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

8. *Decides* to further consider, at its third meeting, the documentation requirements contained in this decision, taking into account experience gained, with a view to further elaboration of detailed requirements.