



ICCP-3 HIGHLIGHTS: TUESDAY, 23 APRIL 2002

Delegates to the third meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP) met in two Working Groups throughout the day. Working Group I (WG-I) discussed: handling, transport, packaging and identification; information sharing; and other implementation issues. Working Group II (WG-II) discussed liability and redress, and compliance. Contact groups on outstanding provisions regarding documentation in Article 18.2 and on compliance also met.

WORKING GROUP I

HANDLING, TRANSPORT, PACKAGING AND IDENTIFICATION: Delegations continued discussions on particular recommendations not agreed by the expert groups (UNEP/CBD/ICCP/3/7/Add.2 and 7/Add.3) on documentation regarding: living modified organisms (LMOs) for contained use (Article 18.2(b)); LMOs for intentional introduction (Article 18.2(c)); and LMOs for food, feed or processing (LMO-FFPs) (Article 18.2(a)). CHINA, CUBA, the EU, JAPAN and MEXICO supported retaining the recommendations without amendment. On Article 18.2(b), UGANDA, with ERITREA, supported identifying scientific and internationally used names, nature of modification and intended use. Egypt, for the AFRICAN GROUP, noted implications for liability in cases of incomplete information. MEXICO supported including information to enable searches in the Biosafety Clearing-House (BCH). JAPAN highlighted existing documentation practices for scientific research. The US stated that Article 18.2(b) only requires identification "as LMOs." On Article 18.2(c), the US requested deleting the unresolved provisions. ERITREA, IRAN, TURKEY, UGANDA and ZIMBABWE supported making such information mandatory. The AFRICAN GROUP and TURKEY supported a stand-alone document template. Several countries supported using the OECD's work on unique identification. ETHIOPIA requested consideration of LMOs in transit and pharmaceuticals for humans and animals.

On Article 18.2 (a), WG-I considered the recommendations by the technical experts' meeting contained in UNEP/CBD/ICCP/3/7/Add.1. Many supported unique identification for documentation, while others preferred a step-by-step approach over the two-year interim period. Several countries supported clear and precise documentation. NORWAY proposed linking the identification system with the BCH. ETHIOPIA noted that Article 18.2(a) is also intended to protect gene pools. The AFRICAN GROUP, supported by many others, recommended an independent study on costs for separating LMOs and non-LMOs. ERITREA and UGANDA highlighted relevance to Article 18.1 on avoiding adverse effects of

LMOs. JAPAN, supported by CHINA and the REPUBLIC OF KOREA, urged addressing issues regarding the phrase "may contain."

ARGENTINA, with BRAZIL and URUGUAY, stated that documentation should not prevent commodity trade, noting that the two-year period would allow countries to better determine necessary future requirements. AUSTRALIA, with CANADA and the US, noted that unique identification is for shipping and transport, not risk assessment. The US, supported by AUSTRALIA, opposed additional information requirements that would go beyond the Protocol's provisions. The GLOBAL GRAIN TRADE COALITION called upon governments to focus on necessary requirements at the Protocol's entry into force to allow time for industry to comply with information provisions.

In the afternoon, the contact group discussed Article 18.2(a) and the recommendation's two outstanding paragraphs. Some noted ties to a provision on documentation for LMO-FFPs that intentionally contain LMOs. The group also discussed elements for future consideration, particularly language on clarifying "may contain" where the LMO is known, and unintentional/adventitious LMOs. In the evening, the contact group considered proposed text from delegations on Article 18.2(a) and met into the night.

INFORMATION SHARING: The Secretariat introduced UNEP/CBD/ICCP/3/5 and 5/Add.1-3. WG-I Chair François Pythoud (Switzerland) noted ongoing demonstrations of the BCH's pilot phase, and the OECD highlighted its work on unique identifiers. Many delegates welcomed the Bureau's recommendations. The EU said the BCH should identify capacity needs, and Kenya, on behalf of the AFRICAN GROUP, supported by ARGENTINA and CHINA, called for financial resources for capacity building. The EU, with AUSTRALIA and NORWAY, called for data submission from governments to the BCH's pilot phase, with AUSTRALIA emphasizing risk assessments. AUSTRALIA and CANADA stressed that the operational phase of the BCH should not start before it is fully functional, while ETHIOPIA stressed that the pilot phase would end with the Protocol's entry into force.

The EU, with NORWAY, called for rules for use of unique identifiers, and NORWAY advocated an open-ended expert group to develop recommendations on the issue for the first Meeting of the Parties (MOP). CANADA suggested that national and international organizations provide options for unique identifier systems, and AUSTRALIA said the need for such a system should not be prejudged.

The AFRICAN GROUP, supported by many, stressed that the BCH should be part of the CBD's Clearing-House Mechanism (CHM). HUNGARY indicated that its BCH would be separate from the CHM. GRENADA emphasized the non-Internet-based

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component of the BCH, with GHANA suggesting a telephone hotline. While EL SALVADOR opposed a steering committee for the BCH, BRAZIL emphasized the committee's regional balance. Chair Pythoud noted that a decision to establish a steering committee would be made by the MOP.

OTHER IMPLEMENTATION ISSUES: Regarding consideration of other issues necessary for the Protocol's effective implementation, the Secretariat introduced documents UNEP/CBD/ICCP/3/9 and 9/Add.1. On proposed mechanisms suggested by the ICCP Bureau, CANADA recommended that mechanisms be inclusive and transparent with a broad scope and mandate. He also noted the connection between the mechanisms and medium-term programme of work. The US stated that it is premature to discuss potential bodies, and AUSTRALIA did not favor new official mechanisms. The EU supported the proposed mechanisms. SWITZERLAND supported establishing a standing advisory board to provide guidance to the MOP. NORWAY, supported by the EU, highlighted transboundary movement of LMOs between Parties and non-Parties and urged it be dealt with before the Protocol's entry into force. He highlighted the proposal contained in UNEP/CBD/ICCP/3/INF/7 on preparing countries to deal with non-Parties and suggested using it as a basis for discussion.

On the medium-term programme of work, the EU proposed developing guidance on relations between Parties and non-Parties. MEXICO supported developing a risk assessment framework. AUSTRALIA and CANADA could not support considering notification and risk assessment at MOP-2, and AUSTRALIA also said that ICCP-3 need not reach agreement on the work programme as it is to be decided by MOP-1.

WORKING GROUP II

LIABILITY AND REDRESS: On the expert group's terms of reference (TORs), many supported the group's open-ended composition, flexibility of its TORs and periodic reports to the MOP. Delegates highlighted the type, definition and threshold of damage. NORWAY underscored the nature and scope of redress, financial security and mutual recognition of judgments and, with JAPAN, supported focus on standards and limitation of liability, and access to justice. Cameroon, on behalf of the AFRICAN GROUP, stressed inter-generational damages and linked compliance to liability and redress. AUSTRALIA and NORWAY recommended coherence on definitions used under the Protocol's Article 27 and CBD Article 14.2 on liability and redress. AUSTRALIA said financial issues, time limits and insurance were not priorities, while IRAN stressed the need for a time frame. ARGENTINA recommended differentiation between LMOs, and between lawful and unlawful introduction, and stressed identification of risk managers. ZAMBIA stressed definition of illegal transboundary movement.

On information gathering, CANADA supported evaluating existing international regimes and, with many, recommended further information on national legislation. COLOMBIA and IRAN supported organizing workshops. ETHIOPIA stressed information on arbitration. On the questionnaire, AUSTRALIA, CANADA and JAPAN suggested that it be addressed at a later stage, following establishment of the expert group. COLOMBIA, the EU, NEW ZEALAND and TOGO supported its early circulation for information on governments' preliminary views. WG-II Chair P.K. Ghosh (India) noted that a draft would be prepared.

COMPLIANCE: The Secretariat introduced UNEP/CBD/ICCP/3/4 and INF/3. Delegates agreed to focus on bracketed text. On the section on objective, nature and underlying principles, many developing countries favored retaining reference to common but differentiated responsibilities and deleting the specific reference to Rio Principle 7. Some stressed different capacities and the

long-term process of capacity building. KENYA, supported by others, proposed a new option: referencing the principle in both the section on underlying principles and the section on measures to promote compliance. NEW ZEALAND opposed reference to common but differentiated responsibilities and to Rio Principle 7, but noted the need to consider different capacities and degrees of non-compliance. AUSTRALIA said including the reference would go beyond the Protocol's scope. Many delegates supported limiting reference to the concept in the section on measures to promote compliance.

On institutional mechanisms and the structure of the compliance committee, most delegates favored deleting text on balance between importing and exporting countries, preferring focus on regional representation, while ALGERIA, ARGENTINA, PERU and ZIMBABWE supported retaining it. Delegates also noted the potential dual status of countries as importers and exporters, and difficulties associated with defining importers and exporters for all products covered by the Protocol. The US suggested text ensuring that the committee possesses a broad range of practical experience. Others noted that the section on competence of committee members adequately addresses the issue. BARBADOS suggested including the phrase "net importing and net exporting countries."

Regarding the committee members, the EU supported retaining text on them serving in their individual capacity. IRAN and BURKINA FASO preferred deleting the reference, with IRAN stressing lack of adequate regional balance and BURKINA FASO noting that regional representation is addressed elsewhere. MEXICO and NORWAY supported text specifying that committee members serve in their individual capacity and in the Protocol's best interest. The AFRICAN GROUP, suggested that members represent their governments.

After lengthy discussions, the Chair convened a contact group chaired by Veit Koester (Denmark) to address bracketed text on compliance. The contact group met in the evening and debated: a Chair's compromise suggestion to draft language on common but differentiated responsibilities under the section on measures to promote compliance; whether committee members shall serve in their individual capacity or represent their government and the region that nominated them; and whether a Party could send submissions relating to compliance with respect to another Party. The group did not reach agreement on these issues. Delegates provisionally agreed on the committee receiving submissions from the COP/MOP and seeking information from the BCH, the COP/MOP and Convention's subsidiary bodies. They then started discussion on the committee considering information from NGOs, the private sector, other civil-society organizations and relevant intergovernmental organizations.

IN THE CORRIDORS

As WG-I delved into documentation and identification, many appreciated the inter-sessional efforts of the expert groups particularly in identifying points of contention. While this streamlined discussions, a few participants noted that many delegations' positions have not changed appreciably since the CBD ExCOP that adopted the Protocol. Others questioned whether this process has a clear imperative and sense of urgency to arrive at clean text before the next meeting, whether it be the MOP or ICCP-4.

THINGS TO LOOK FOR TODAY

WORKING GROUP I: WG-I will meet at 10:00 am in the Prins Willem Alexander Hall to discuss how to proceed.

WORKING GROUP II: WG-II will meet at 10:00 am in the Van Gogh Hall to discuss capacity building. The contact group on compliance will meet at 8:00 am in the Mondriaan Hall.