



ICCP-3 HIGHLIGHTS: MONDAY, 22 APRIL 2002

At the opening Plenary of the third meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP), delegates heard opening remarks, addressed organizational matters, adopted the agenda and gave initial remarks on the meeting's substantive agenda. In the afternoon, Working Group I (WG-I) discussed monitoring and reporting, and handling, transport, packaging and identification (HTPI). Working Group II (WG-II) discussed liability and redress.

PLENARY

OPENING REMARKS: ICCP Chair Amb. Philémon Yang (Cameroon) highlighted the decision to convene a third meeting of the ICCP as a result of the non-entry into force of the Protocol in time to convene the first Meeting of the Parties (MOP). He reviewed the ICCP's mandate to facilitate discussions on matters necessary for decision-making for the first MOP, noting that, to date, 16 countries have ratified or acceded to the Protocol. Chair Yang then opened the meeting.

Jan Pronk, Minister of Environment of the Netherlands, welcomed participants. He stressed the importance of ratifying the Protocol and other environmental agreements to enable the World Summit on Sustainable Development (WSSD) to focus on implementation. He noted the importance of financing sustainable development efforts and highlighted key ICCP-3 issues, including HTPI, compliance and liability.

Paul Chabeda, UNEP, highlighted UNEP's inter-sessional biosafety-related activities, particularly the UNEP/Global Environment Facility (GEF) pilot capacity-building project for the preparation of the Protocol's entry into force, and called for further replenishment of the GEF in order to support enabling projects for developing countries.

Hamdallah Zedan, CBD Executive Secretary, also urged CBD Parties to ratify the Protocol, preferably before the WSSD. He reviewed COP-6's decisions focusing on biosafety issues and called for compliance with those decisions. He also reported on key inter-sessional activities, including completion of the Biosafety Clearing-House (BCH) pilot phase and technical experts' meetings on Article 18.2 on documentation. He also highlighted the book launch of *The Cartagena Protocol on Biosafety: Reconciling Trade in Biotechnology with Environment and Development*, a comprehensive review of the Protocol's process.

ORGANIZATIONAL MATTERS: Plenary adopted the meeting's agenda (UNEP/CBD/ICCP/3/1) and organization of work, and appointed: François Pythoud (Switzerland) as Chair of WG-I; P.K. Ghosh (India) as Chair of WG-II; and Antonietta Gutiérrez Rosati (Peru) as rapporteur. The Secretariat introduced the Executive Secretary's report on inter-sessional activities

(UNEP/CBD/ICCP/3/2), addressing: the BCH pilot phase and BCH national focal point designations; meetings of technical experts related to HTPI; the roster of government-nominated experts on capacity building; consideration of issues raised by COP-6; status of ratification; and other matters. Chair Yang invited comments from delegates.

STATEMENTS: Spain, on behalf of the EU, noted progress in completing ratification of the Protocol and developing necessary national legislation, and encouraged constructive cooperation. Latvia, on behalf of the CENTRAL AND EASTERN EUROPEAN COUNTRIES, noted commitments to ensure the Protocol's success. BRAZIL, on behalf of GRULAC, stressed capacity building, cooperation and the need to respect the stepwise approach regarding Article 18 (HTPI). CAMEROON highlighted recent ratification, the need for capacity building to enable implementation and the importance of GEF funding. MEXICO stressed the importance of the Monterrey Conference on Financing for Development, the BCH pilot phase, and Article 27 (Liability and Redress). The US emphasized partnerships among developing and developed countries, the private sector and NGOs. The NGO CAUCUS highlighted the controversy of maize contamination in Mexico, and called for establishing a retroactive compensation fund, an immediate ban on release of genetically modified organisms (GMOs) in centers of origin and/or diversity, and internationally standardized identifiers for living modified organisms (LMOs).

SUBSTANTIVE ITEMS: Plenary gave initial remarks on substantive items. On liability and redress (Article 27), the Secretariat summarized the COP-6 decision on liability under the CBD. Ethiopia, on behalf of the AFRICAN GROUP, noted the need for a liability regime under the Protocol and stressed its independence from the process under the CBD. On compliance, most delegates favored focusing discussions on bracketed language from ICCP-2's discussions on draft compliance procedures and mechanisms. AUSTRALIA and the US suggested addressing other issues in the text.

On information sharing, the Secretariat provided a brief demonstration of the BCH. SLOVAKIA and CHINA introduced reports of regional meetings on capacity building and the BCH for Central and Eastern Europe (Nitra, February 2002) and the Asia and Pacific Region (Beijing, March 2002), respectively. The priorities highlighted included: infrastructure and human resources; standards for databases and information exchange; regional and subregional nodes; adequate financial resources; and public and political support.

On capacity building, the GEF introduced some joint enabling projects with UNEP, UNDP and the World Bank to prepare for the Protocol's implementation. He highlighted the GEF's third replenishment and hoped that biosafety would be a significant compo-

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ment. ARGENTINA also stressed the importance of capacity building for the Protocol's implementation. IUCN presented its biosafety-related activities at the international and regional levels, including *An Explanatory Guide to the Cartagena Protocol on Biosafety*.

On HTPI, CANADA and FRANCE reported on the technical expert group meetings (March 2002, Montreal) on Articles 18.2(a) (on documentation for LMOs for food, feed or processing – LMO-FFPs) and 18.2(b) (on documentation for LMOs for contained use) and (c) (on documentation for LMOs for intentional introduction) respectively. INDIA called for an unambiguous statement that LMO-FFPs contain GMOs and for mention of specific names of genes for LMOs for contained use and intentional introduction. AUSTRALIA highlighted mutual supportiveness between environment and trade agreements, synergy of work on guidelines and standards, nature of liability, risk analysis, and with CANADA, capacity building and operation of the BCH. ETHIOPIA and EGYPT stressed that Article 18.2(c) also covers LMOs in transit and LMO pharmaceuticals not covered by other international processes. NORWAY called for early development of a unique identification system. CANADA and INDIA highlighted the need for consistency between Articles 18.2(a), 11 (Procedure for LMO-FFPs) and 20 (Information Sharing and the BCH).

On monitoring and reporting, Chair Yang noted ICCP-2's consideration of a draft format for reporting and an invitation for comments on its further development. Under other issues for consideration, stressing mutual supportiveness between the Protocol and the Biological and Toxin Weapons Convention, the SUNSHINE PROJECT called for a study on their inter-relation and for observer status for the Protocol in the Convention.

WORKING GROUP I

MONITORING AND REPORTING: The Secretariat introduced UNEP/CBD/ICCP/3/8, noting response from only six governments to ICCP-2's call for comments to the draft format for reporting. The EU, with many, supported the draft recommendation and underscored the link between capacity building and monitoring and reporting. GRENADA emphasized capacity building of small island developing States, and ERITREA highlighted least developed countries. The EU also proposed a first report immediately after the Protocol's entry into force and subsequently every fourth year. CANADA, supported by many, called for a clear format and deletion of repetitious questions. ARGENTINA and JAPAN stressed that the reporting format should not address information provided by the BCH. PARAGUAY emphasized financial support for implementation. Chair Pythoud said a draft recommendation would be prepared.

HANDLING, TRANSPORT, PACKAGING AND IDENTIFICATION: The Secretariat introduced documents UNEP/CBD/ICCP/3/7, 7/Add.1, 7/Add.2 and INF/5. Chair Pythoud requested comments on areas of disagreement in the expert meeting's recommendation on documentation requirements for Article 18.2(b) and (c) regarding LMOs for contained use and intentional introduction, respectively. The EU, supported by NORWAY, stated that references to documentation within the draft recommendation should be mandatory, particularly highlighting references to existing requirements and those agreed to by the importer and exporter. CANADA stated that such requirements are mandatory. Regarding Article 18.2(b), NORWAY called for detailed information on the LMO's name and suggested reference to unique identifiers. AUSTRALIA proposed deleting the recommendation's list of items on possible identifications, noting that Protocol language only requires identification "as LMOs." On Article 18.2(c), NORWAY expressed concern regarding the voluntary nature of the phrase "where available and applicable," and AUSTRALIA supported deleting the list of proposed items in the recommendation.

SWITZERLAND invited CBD Parties to use the model templates. NORWAY said that the templates should be stand-alone documentation and include more information. ARGENTINA, with AUSTRALIA and BRAZIL, called for simplifying required information as the BCH will contain such data. CANADA stated that the templates are merely examples since information can be incorporated into existing documentation. The US supported differentiating between required and non-required information under the Protocol.

WORKING GROUP II

LIABILITY AND REDRESS: The Secretariat introduced UNEP/CBD/ICCP/3/3, INF/1 and INF/2. Many delegates highlighted their national regimes. CANADA corrected the background document, stressing that they have no separate liability regime for LMOs. ARGENTINA said that most LMOs represent a low risk for biodiversity. AUSTRALIA noted that regimes dealing with inherently dangerous goods are not relevant. CHINA and others highlighted the difference among domestic approaches, and AUSTRALIA suggested their assessment in considering the need for an international liability regime. HAITI called for intermediary mechanisms for countries without liability regimes, while waiting for development of an international legal system. CAMEROON recommended a mix of civil and state liability, including that of importing countries, and, with the INSTITUTE FOR AGRICULTURE AND TRADE POLICY, suggested creating a compensation fund with contributions from the biotechnology industry. TURKEY supported a wide and comprehensive definition of damage, strict liability and, with CHINA, legal and financial assistance.

On the terms of reference for a potential *ad hoc* group of legal and technical experts, REPUBLIC OF KOREA suggested elaborating key terms, taking into consideration the best available scientific knowledge and, with HAITI, analyzing existing international regimes. COLOMBIA and IRAN recommended focus on national regimes. AUSTRALIA suggested focusing on the nature of damage. SWITZERLAND supported wide terms of reference.

On information gathering and a draft questionnaire for submission of initial views on liability and redress, AUSTRALIA and CANADA urged countries to submit information on their national systems and, with the US, said that a questionnaire is premature. COLOMBIA, NORWAY, SWITZERLAND and ZAMBIA welcomed the questionnaire. ETHIOPIA stressed information on criminal law regimes, enforcement of judgments involving trans-boundary GMO transactions, and criteria to assess damage.

WG-II agreed to continue discussion on the issue on Tuesday, 23 April.

IN THE CORRIDORS

As ICCP-3 got underway, many delegates were still talking of COP-6's closing Plenary discussions on consensus decision-making and the fact that the COP's voting procedures still remain unresolved. Some questioned whether this could dampen the "Montpellier Spirit" from ICCP-1, especially in contentious debates over compliance and identification. Others noted that the event has now prompted ongoing informal discussions to resolve items under the Rules of Procedure, an area which has not progressed since COP-1.

THINGS TO LOOK FOR

WORKING GROUP I: WG-I will meet at 10:00 am in the Prins Willem Alexander Hall to continue discussion on handling, transport, packaging and identification.

WORKING GROUP II: WG-II will meet at 10:00 am in the Van Gogh Hall to conclude discussions on liability and redress, and start addressing compliance.