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MEETING OF TECHNICAL EXPERTS ON THE REQUIREMENTS OF PARAGRAPH 2 (a) OF ARTICLE 18 OF THE CARTAGENA PROTOCOL ON BIOSAFETY
Montreal, 18-20 March 2002
Item 3 of the provisional agenda*

A SYNTHESIS OF VIEWS AND RELEVANT INFORMATION ON THE REQUIREMENTS OF PARAGRAPH 2 (a) OF ARTICLE 18 OF THE CARTAGENA PROTOCOL ON BIOSAFETY

Note by the Executive Secretary

I. INTRODUCTION

1. The second meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP), which was held in Nairobi, Kenya, from 1 to 5 October 2001, requested Parties, Governments and relevant international organizations to provide to the Executive Secretary any views as well as relevant information regarding: (a) the appropriate implementation of the requirement contained in the first sentence of Article 18, paragraph 2 (a), by the time of entry into force of the Protocol; and (b) the requirements of each element of paragraph 2 (a) of Article 18 of the Protocol. ICCP requested the Executive Secretary to prepare a synthesis report of the views and information and submit it to a meeting of technical experts that the later should convene, back to back with any technical experts meeting on paragraphs 2 (b) and 2 (c) of Article 18.

2. The present note by the Executive Secretary, therefore, provides a synthesis of the views and information received from Parties, Governments and relevant international organizations as regards the requirements of paragraph 2 (a) of Article 18 of the Cartagena Protocol on Biosafety (section II). The note includes information on existing practices, rules and standards as far as paragraph 2 (a) of Article 18 is concerned that Parties, Governments and relevant international organizations submitted (section III). With the exception of those limited cases where updated or new information included, all the information in this section was submitted and synthesised earlier for the purpose of the second meeting of the ICCP. There is also a list of some important issues derived from the submissions with a view to assist the technical experts' meeting in its discussion regarding the requirements of paragraph 2 (a) of Article 18 (section IV), and finally, recommendations of a general nature are suggested for consideration (section V).

3. In line with the request of the ICCP, the present meeting of technical experts is required to consider, in a stepwise approach: first, the modalities, prior to entry into force, of the implementation of the requirement contained in the first sentence of paragraph 2 (a) of Article 18; and then, the identification

* UNEP/CBD/BS/TE-18.2a/1/1.

of issues to be addressed beyond entry into force, in preparation for the decision referred to in paragraph 2 (a) of Article 18. The meeting is expected to develop and submit its recommendations on these matters.

II. A SYNTHESIS OF VIEWS AND INFORMATION REGARDING THE REQUIREMENTS OF PARAGRAPH 2 (a) OF ARTICLE 18

4. In response to the request made at the second meeting of the ICCP, and the notifications issued by the Executive Secretary to all Parties to the Convention, Governments and relevant international organizations to provide views and information regarding:

(a) The appropriate implementation of the requirement contained in the first sentence of paragraph 2 (a), Article 18 by the time of entry into force of the Protocol; and

(b) The requirements of each element of paragraph 2 (a) of Article 18,

as at 10 February 2002, Argentina, Australia, Canada, Czech Republic, Equatorial Guinea, the European Union, the Republic of Korea, Norway, Slovenia, Switzerland, Tunisia, and the United States had submitted their views and information. Romania stated that it has not yet established a labelling system. Viet Nam indicated that it has no comments. The International Grain Trade Coalition also submitted its views and information as requested. Following is the synthesis of views and information received by the Executive Secretary and the full text of each submission is compiled and made available in document UNEP/CBD/BS/TE-18.2a/INF/1.

A. Implementation of the requirement contained in the first sentence of paragraph 2 (a) of Article 18

5. The submissions may generally be regarded as representing mainly two different approaches concerning modalities of implementation of the requirements contained in paragraph 2 (a) of Article 18 in general, and the requirement contained in the first sentence of the paragraph, in particular.

6. One of these two groups of submissions is generally in favour of implementing the requirement of identification of transboundary movements of living modified organisms intended for direct use as food or feed, or for processing (LMO-FFPs) contained in the first sentence of paragraph 2 (a) of Article 18, at the entry into force of the Protocol, by modifying, amending, or inserting language into existing commercial invoice or standard invoice or other documentation provided by the originator of the shipment or required by the existing international documentation systems. There is an indication made, in one of the submissions, that they would rather remain open in the future to consider the question of a Protocol-specific documentation.

7. Some of these submissions have gone further and proposed wording or language that may be specified in the accompanying documentation, including the following variants:

Suggested wording 1:

"This shipment may contain living modified organisms for direct use as food or feed, or for processing. This shipment is not intended for intentional introduction into the environment."

Suggested wording 2:

"*Cartagena Protocol on Biosafety information: This shipment is intended for direct use as food or feed, or for processing and may contain living modified organisms. This shipment is not intended for intentional introduction into the environment. Further information on this shipment may be obtained from the contact point(s) identified above*."

Suggested wording 3:

"Cartagena Protocol on Biosafety provision: This shipment may contain living modified organisms for direct use as food or feed, or for processing. This shipment is not intended for intentional introduction into the environment."

8. According to this group of submissions, the use of such modified commercial invoice would meet the requirements contained in the first sentence of the paragraph in question while satisfying the principles of making the accompanying documentation simple, visible and legible. It is also pointed out that this modality would have less interference with existing commercial international grain trade, which is complex in terms of volume, operation, and parties involved. Should additional information be required regarding, in particular the specific LMO-FFP that may be contained in any particular shipment, or any specific handling requirements, these submissions suggest that it should be drawn from the Biosafety Clearing House database. With regard to contact point, the proposals include to specify: (i) those who are responsible in a particular foreign trade operation (firms); (ii) be identified by the representative of the originating party; (iii) the exporter, as the generator of the accompanying documentation; or (iv) the last seller or the first buyer, as the most knowledgeable about the contents of the cargo.

9. One submission suggests that due to unavoidable adventitious presence of LMOs in bulk shipments, a non-LMO purity level of 95% be adopted and, as a temporary measure, shipments containing less than 5% of LMO-FFPs be exempted from the identification requirement of the Protocol. This submission has also indicated the importance of appropriate technology for sampling and testing in order to determine the presence of LMOs and suggested that testing protocols be developed outside of the Protocol through the use and cooperation of relevant international bodies. Another submission indicates a 1% and 3% thresholds of mandatory identification for genetically modified food products or derived food products, and for single feed products, additives, or conservative agents, respectively provided for in the relevant domestic law.

10. The other group of submissions generally supports the inclusion of more information, in particular the identity (the species, in case of a couple of submissions) of the specific LMOs contained within the LMO-FFP shipment and associated requirements, in accompanying documentation or in a label. In fact, according to one of these submissions, specifying the LMOs known to be present or may be present within shipments of bulk commodities is important, to allow importing countries to verify whether such LMOs have been approved and posted on the Biosafety Clearing-House and also whether they comply with the requirements of the domestic regulatory framework of the Party of import. According to this submission, the broad application of the wording "may contain" may not be the appropriate way to implement paragraph 2 (a) of Article 18 as such minimal wording may create uncertainty in certain cases. It is argued that the transboundary shipments known to contain LMO-FFPs can be identified as containing LMO-FFPs rather than merely "may contain".

11. The submission further argues that in the case of commingled bulk commodities where the maintenance of the original composition of the contents of the shipment cannot be assured, the determination of the identity of individual LMO-FFPs contained in the shipment would change from the list of LMO-FFPs "actually present" to the list of LMO-FFPs which are "known to be present" or "may be present" at the origin. Another submission suggests that if non-LMO products are likely to be mixed in the process, the shipment should be identified as "may contain", but when LMOs are included (knowingly?), in non-LMO products, the shipment should be identified as "contains LMOs". This submission further proposes that a certificate indicating the absence of LMOs prohibited in the Party of import be also included. Similarly, another submission supports a verification of the consent to import the specific LMO into the Party of import.

12. With regard to contact point for further information, it is suggested by one submission that such contact point should have an official character and its responsibilities, the type of information that may be considered as further required as opposed to that which should be made readily available, and the modalities how such information would be made available, need to be further clarified.

B. Requirements of each element of paragraph 2 (a) of Article 18

13. This aspect of the issue, which seems to deal with all the requirements of paragraph 2 (a) of Article 18, has been generally understood to mean addressing those elements of the second sentence of the paragraph. In the case of one submission, however, all elements of both sentences have been identified and discussed in the context of the linkages that exist among them.

13. Some of the submissions are of the view that the primary focus at this stage should be on creating a common and appropriate ground for the implementation of the requirement contained in the first sentence of paragraph 2 (a) of Article 18 at the time of entry into force of the Protocol. It is argued that some experience should be gained regarding the implementation of the requirement in the first sentence before considering the detailed requirements indicated in the second sentence.

14. One submission suggests that a process of feedback on the effectiveness of the implementation of the requirement in the first sentence might be constituted by the Conference of the Parties serving as the meeting of the Parties to the Protocol, to be used as a basis for considering the detailed requirements contained in the second sentence. The process of taking a decision under the second sentence is proposed to follow within the time frame specified, and on the basis of reviewing the effectiveness of measures taken in implementing the requirement in the first sentence. According to another submission, the Conference of the Parties serving as the meeting of the Parties to the Protocol, may consider, during the two year time following entry into force of the Protocol, through an expert committee, the effectiveness of the requirement in the first sentence to protect global biological diversity, and the operational and cost implications of different options to implement the unique identifier requirement contained in the second sentence of the paragraph.

15. Other submissions on the other hand argue that the implementation of the requirement in the first sentence is linked to the elements of the detailed requirements indicated in the second sentence. The need for specifying the identity and any unique identification of the LMO-FFP is emphasized. According to one submission, the question of specifying the identity of each LMO indicated in the second sentence is linked to Article 11 of the Protocol in that there is a need to ensure that only LMO-FFPs that are: (i) domestically approved; (ii) posted to the Biosafety Clearing-House; and (iii) those exclusively intended for direct use as food or feed, or for processing, and not those intended for intentional introduction into the environment, are contained in any transboundary shipment.

16. It is further suggested that for identity to be specified in an unambiguous manner, a global unique identification system need to be put in place taking into account the work of relevant international organizations, in particular that of the Organisation for Economic Co-operation and Development (OECD). According to this submission, unique identifier should be included as part of the accompanying documentation for each LMO-FFP which is known to be present or may be present, and this need to be implemented as soon as possible and ideally at the time of entry into force of the Protocol. The decision referred to in the second sentence required to be taken within two years after entry into force of the Protocol as regards detailed requirements, including unique identification is, therefore, suggested to be a priority item at this stage, so that it would be taken at the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. In this regard, another submission highlighted that all the requirements of paragraph 2 (a) of Article 18 would remain unclear until the decision envisaged in the second sentence of the paragraph is made by the Conference of the Parties serving as the meeting of the Parties to the Protocol.

17. There are also views suggesting that the Secretariat may be requested to prepare, on the one hand, a survey report on possible unique identification systems, and a template of documentation tailored to the requirements of paragraph 2 (a) of Article 18 on the other. It is suggested, in one other submission, that Parties to the Protocol need to get financial and technical assistance for taking measures and adjusting their systems, as appropriate, with a view to implement the requirements contained in the paragraph.

III. A SYNTHESIS OF INFORMATION ON EXISTING PRACTICES, RULES AND STANDARDS RELEVANT TO PARAGRAPH 2 (a) OF ARTICLE 18*

A. Handling

18. European Community directive 90/220/EEC on the deliberate release into the environment of genetically modified organisms has been in place since 1991 and provides a basis for handling provisions that exist under the legislation of member States. This directive has been recently revised and will be replaced by directive 2001/18/EEC. The new directive requires the conditions for placing a genetically modified organism on the market, including specific conditions of use and handling to form part of the information required in a notification.

19. The United Kingdom Genetically Modified Organisms (Deliberate Release) Regulations 1992, as amended in 1995 and 1997, which mainly implement the Environmental Protection Act 1990, part VI, and directive 90/220/EEC, requires the submission of information by applicants for the release of genetically modified organisms, to provide information on the labelling regarding measures that need to be taken in the event of escape of the organisms or in misuse and specific instructions or recommendations for storage and handling of the product.

20. Since the Swedish Ordinance (SFS 1994:901) on genetically modified organisms is meant to implement the directive 90/220/EEC, it may be assumed that the same requirements exist in Sweden.

21. In the United States of America, once the genetically engineered organisms (GEOs) destined for direct use as food or feed or for processing have successfully completed the federal review process they will be handled, transported, packaged and identified according to the same practices, regulations and standards that apply to their conventional counterparts. This is, in fact, true also for other GEOs, including those intended for intentional introduction into the environment. The agencies primarily responsible for regulating products of biotechnology, namely the United States Department of Agriculture (USDA), the United States Environmental Protection Agency (EPA), and the Food and Drug Administration (FDA) undertake their specific part of the review or evaluation of the product of the GEO prior to commercialization or importation, as appropriate, in accordance with the applicable regulations and guidelines. Once the product is found to comply with federal requirements that apply to conventional products, there will be no more requirements that exceptionally treat the GEOs.

B. Transport

22. No specific legislation that addresses the transport of living modified organisms intended for direct use as food or feed or for processing seems to exist in all the jurisdictions for which information was received.

23. At the European Community level, where there are laws on the transport of dangerous goods by road or by rail, no specific transport legislation exists for genetically modified organisms other than genetically modified micro-organisms (GMMs). European Union directive 94/55/EC on the approximation of the laws of the member States with regard to the transport of dangerous goods by road, and directive 96/49/EC on the approximation of the laws of the member States with regard to the transport of dangerous goods by rail, apply to the transport of genetically modified micro-organisms (GMMs). These directives require that transport operations involving GMMs, within or between member States, by road or by rail, to be in conformity with the European Agreement on the Transport of Dangerous Goods by Road (ADR) and the Agreement on the Transport of Dangerous Goods by Rail (RID), respectively. The provisions of the ADR and RID are, in turn, consistent with the United Nations Recommendations on the Transport of Dangerous Goods, as revised from time to time. The European

* It should be noted that the synthesis reproduces the terminology used in the original submissions to refer to products of modern biotechnology, i.e. "living modified organisms", "genetically modified organisms", "genetically engineered organisms".

Community directives provide for packing instructions and have special provisions for carriage, including operation, loading, unloading and handling of GMMs.

24. The Swedish regulation issued by the Swedish Board of Agriculture specifies the need to transport genetically modified animals in a cage, container or transport wagon. There are also other regulations in Sweden issued for the purpose of implementing the European Union directives issued to implement the ADR and RID.

C. Packaging

25. In most of the cases, packaging is addressed indirectly in connection with transport criteria and/or labelling or identification requirements. The Estonian Release into the Environment of Genetically Modified Organisms Act 1999, for instance, talks about the label on the package.

26. European Union directives 94/55/EC and 96/49/EC on the transport of GMMs include packing instructions and mixed packaging. However, these directives do not seem to apply to LMO-FFPs. The proposed European Community directive 2001/18/EC that replaces directive 90/220 and which is believed to apply also to LMO-FFPs, requires packaging of GMOs as or in products to be specified when placed on the Community's market.

27. The United Kingdom Genetically Modified Organisms (Deliberate Release) Regulations, as amended, however, requires that applications for consent to market LMOs and LMO-FFPs to include proposals for appropriate safe packaging.

28. The Indian Environmental Protection Act 1989 also refers to labelling of packages and standards for packaging. But the requirements of the Act are confined only to GMOs for research purposes. In fact, the information provided gives the impression that the provisions of the Environment Protection Act of India that are relevant to GMOs address only GMOs destined for contained use or those imported for research purpose only.

D. Identification

29. In Argentina, there is a voluntary system of certification of the quality of grains under regulation No. 61/2000, which established a System for the Promotion and Certification of Grain Specialities. Argentina also believes that it has the capacity and the regulatory framework necessary to differentiate organic products from non-organic ones.

30. Austria has an Ordinance issued in 1998 on the labelling of products that contain or consist of GMOs. In 1998 the Austrian Codex Alimentarius Commission has also adopted a guideline on criteria for labelling food, where appropriate, as "gene technology free".

31. The Canadian Environmental Protection Act, 1999, requires microorganisms not regulated under product specific legislation to be notified and assessed prior to import. All imported feeds are also subject to registration under the Federal Feeds Act. Proper labelling information is required for feed ingredients, registered feeds, and feeds exempt from registration. As per directive D-96-13 on Import Permit requirements for Plants with Novel Traits (Including Transgenic Plants), and Their Products, importation into Canada of living modified plants including fruit, tubers and grain, require a permit. Under the Canadian Environmental Protection Act, 1999, LMO animals (including livestock and fish) must be notified and assessed prior to import. A phytosanitary certificate must accompany most Canadian exports of agricultural products. Under the authority of the Canada Grains Act, a Certificate Final, which indicates the weight and grade of the cargo as well as the dockage to be separated from the grain, and the country of origin, where the grain was not grown in Canada, is issued for exports of grains. As far as current practice is concerned, in some limited cases, organisms intended for direct use as food or feed, or processing, including those which are LMOs, are produced and distributed as segregated or identity preserved product with a view to meeting contract specifications negotiated on a case-by-case basis between a buyer willing to pay the additional price and a seller prepared to incur the associated costs.

32. In the Czech Republic, the requirements for packaging, labelling and identification of GMOs and products are stipulated under Article 9 of Act No. 153/2000 on the Use of Genetically Modified

Organisms and Products. The conditions for import, export and transit of genetically modified organisms and products including accompanying documentation are specified in Article 10. Accordingly, imported and exported genetically modified organisms and products and genetically modified organisms and products in transit must have, on the packaging, a visible label clearly stating "genetically modified organism" or "this product contains a genetically modified organism". This text must also appear in the accompanying documents in the Czech language and in the language of the country of destination. In the case of a genetically modified organism or product that has not been registered for placing on the market in the Czech Republic, the accompanying documentation should contain a copy the decision on registration of the user in the List of Users and a copy of the decision on registration of the genetically modified organism in the relevant List of authorised GMOs an emergency response plan and the result of risk assessment. If a genetically modified organism or product registered for placing on the market in the Czech Republic is involved, the accompanying documents must contain all the information mentioned in the registration in the List for placing on the market. The Customs Authorities are under obligation to control consignments that are declared as genetically modified organisms or products at border crossing points to ensure that they are accompanied by appropriate documents pursuant to the Act and relevant regulations.

33. The Estonian 1999 Release into the Environment of Genetically Modified Organisms Act requires all products containing GMOs or consisting of GMOs to be labelled and specify on the package a text that reads: "This product contains genetically modified organism(s)". In case the presence of GMOs in the product is not certain, it should be stated that: "This product may contain genetically modified organism(s)". In addition, the Act requires the inclusion of the name of the genetically modified organism contained in the product, the name (company name) of the producer, and the properties of the product and information on the natural conditions suitable for the product.

34. The European Community directive 2001/18 imposes labelling requirements on GMOs as or in products intended for the placing on the European Community market. The words "This product contains genetically modified organisms" must appear either on the label or on the accompanying document. In cases where products, including bulk commodities, are not packaged and use of a label is not possible, operators have to ensure that this information is made available in the form of accompanying documentation. According to the directive, there is a possibility of establishing a minimum threshold below which products do not have to be labelled when adventitious or technically unavoidable traces of authorized GMOs cannot be excluded. The directive contains also a requirement to ensure traceability at all stages of the placing on the market of GMOs. A new proposal for a regulation concerning traceability and labelling of GMOs and traceability of food and feed products produced from GMOs and amending directive 2001/18 provides for the establishment of a system for the development and assignment of unique codes to GMOs, taking into account international developments. The proposed regulation seems to recognize developments under the OECD and also the Cartagena Biosafety Protocol and calls for, impliedly, coordination in the event unique codes or a system of unique identification of GMOs becomes part of the standard for identification at international level.

35. According to European Community regulation 258/97 on novel foods, foods and food ingredients consisting of or containing GMOs have to be labelled. Regulation 1139/98 on the labelling of foods produced from a genetically modified soya and genetically modified maize and regulation 50/2000 on the labelling of GMO additives and flavourings, specify labelling requirements. These regulations require labelling on the belief that the consumer should be informed of the presence in the food or feed ingredient of GMOs, and in case the food or food ingredient is no longer equivalent to an existing food or feed ingredient, an indication of the characteristics or properties modified, together with the method by which that characteristic or property was obtained. If less than 1% genetically modified material is present in the authorized genetically modified soya or maize, the products, according to regulation 49/2000, may not have to be labelled.

36. The Ministry of Agriculture and Forestry of the Republic of Korea has issued Guidelines for Labelling of Genetically Modified Agricultural Products in accordance with the relevant provisions of the Presidential Decree on the Agricultural and Fishery Products Quality Control Act. The Guidelines

provide for detail labelling standards for genetically modified agricultural products. The labels, "Genetically modified (the name of the agricultural product)", "Containing genetically modified (the name of the agricultural product)", and "It may contain genetically modified (the name of the agricultural product)" should be put on genetically modified agricultural products, on products containing genetically modified agricultural products, and on containers suspected to have genetically modified and non-genetically-modified agricultural products mixed. These labels must be shown on the packages, or when they are placed on the market without packages, at the sites where the genetically modified products are displayed for sale in a manner that can easily be read or recognized by the consumers, and should not easily be erased or detached. This labelling requirement is not applicable, for the time being, on agricultural products with less than 3% genetically modified content. This may be lowered to 1% taking into consideration the growing precision in the verification techniques and international trends. The Korean Food and Drug Administration also issued notification 2000-43 on labelling standards for genetically modified foods. The notification, which was required to come into effect on 13 July 2001, specifies foods and food additives that are subject to genetically modified labelling requirements.

37. The Swedish regulatory framework also requires GMOs intended to be released or placed on the market to be clearly labelled.

38. The Swiss Federal Law on Food Products and the related Ordinance regulate the identification or designation of food products. The Ordinance on Food Products regulates genetically modified organisms used as food products or for processing. Food products, additives or substances that are GMOs or that contain or are derived from GMOs must bear an indication that says, "made from X modified by genetic engineering" or "made from X genetically modified". "X" stands for the name of the GMO. No mandatory requirement exists for food products or derived food products with less than 1% of GMOs. The Federal Law on Agriculture and its related Ordinance on Feed Products regulate similarly the identification of genetically modified feed products. But the minimum threshold in the case of genetically modified feed products, in particular raw materials, single feed products, additives, and conservative agents is 3%.

39. The United Kingdom Genetically Modified Organisms (Deliberate Release) Regulations, as amended, requires labelling on the product or document supplied with the product. Adequate information on identification and detection is also required.

40. In the United States, a GEO product for food or feed is not required to be identified as a product of genetic engineering. If a living modified organism, as defined in the Cartagena Protocol on Biosafety, is imported for processing purposes, there is also no requirement for it to be identified as a product of genetic engineering unless it is subject to regulation under the Toxic Substances Control Act or the Federal Insecticide, Fungicide and Rodenticide Act, in which case EPA imposes labelling and other requirements on a case by case basis, in the same way that conventional chemicals are regulated.

IV. SOME MAJOR ISSUES ARISING FROM THE SUBMISSIONS

40. Based on the submissions regarding the requirements of paragraph 2 (a) of Article 18, the following issues may be raised and appropriately considered by the technical experts meeting in its efforts to address items 3 and 4 of its provisional agenda.

A. Regarding the first sentence of paragraph 2 (a) of Article 18:

41. The first sentence of paragraph 2 (a) of Article 18 reads:

> "Each Party shall take measures to require that documentation accompanying living modified organisms that are intended for direct use as food or feed, or for processing, clearly identifies that they "may contain" living modified organisms and are not intended for intentional introduction into the environment, as well as a contact point for further information."

42. As seen from section II above, quite diverse views have been expressed on how to proceed implementing this requirement. The issues that may be raised in this regard would include:

(a) Development of appropriate wording to convey the information required for identification in accompanying documentation as regards:

(i) "May contain" living modified organisms intended for direct use as food, or feed, or for processing;

(ii) Not intended for intentional introduction into the environment;

(iii) A contact point for further information;

(b) Specification of who, in particular is the appropriate contact point for further information;

(c) Clarification of whether the identification should be incorporated into existing documentation, whether it should be stand-alone, or whether either option is acceptable, and, if the information for identification is to be incorporated into existing documentation, which documentation in particular;

(d) Clarification of whether it is necessary to specify an appropriate minimum threshold which triggers the application of paragraph 2 (a) of Article 18, and if so, to specify that threshold or a mechanism for establishing such a threshold, in light of the commingling of LMO products into non-LMO products, and considering the following:

(i) The relationship between the minimum threshold which may be developed for implementation of paragraph 2 (a) of Article 18, and the varying thresholds for imports specified by national level legislation in particular countries, in light of the right of a Party to take a decision under its domestic regulatory framework as stipulated in paragraph 4 of Article 11;

(ii) Sampling and testing procedures and technologies needed to determine the presence of LMOs, or mechanisms for developing such procedures, taking into account the efforts, roles and achievements of others in this regard.

B. Regarding the second sentence of paragraph 2 (a) of Article 18:

43. The second sentence of the paragraph reads:

> "The Conference of the Parties serving as the meeting of the Parties to this Protocol shall take a decision on the detailed requirements for this purpose, including specification of their identity and any unique identification, no later than two years after the date of entry into force of this Protocol."

44. Issues that may need the focus of the meeting of technical experts, based on the views reflected in the submissions, include:

(a) Clarification of the implications of Article 11 for the nature and timing of implementation of the second sentence of paragraph 2 (a) of Article 18;

(b) Clarification of the specification of the identity and the appropriate form of any unique identification, in light of unique identification system(s) being developed under other international bodies;

(c) Clarification of the relationship of the issues in (a) and (b) above to the requirement contained in the first sentence of paragraph 2 (a) of Article 18.

C. Other issues

45. Other issues such as clarification of the phrase "each Party" with respect to exporting and importing Parties, and the types of "measures" that need be taken in the chapeau of paragraph 2 of Article 18, and the possible linkages of paragraph 2 (a) to paragraph 3 of Article 18, may be identified and elaborated in this process.

V. RECOMMENDATIONS

46. The meeting of technical experts may wish to:

(a) Consider the views and information contained in the submissions received and synthesised by the Secretariat;

(b) Address the issues arising from the submissions; and

(c) Make appropriate recommendations for consideration by the ICCP at its third meeting to be held in The Hague from 22 to 26 April 2002.
