



**CONVENTION ON
BIOLOGICAL
DIVERSITY**

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**INTERGOVERNMENTAL COMMITTEE FOR THE
CARTAGENA PROTOCOL ON BIOSAFETY**

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**PRELIMINARY OBSERVATIONS ON THE RELATIONSHIP BETWEEN THE CONFERENCE
OF THE PARTIES (COP) TO THE CBD AND THE CONFERENCE OF THE PARTIES
SERVING AS THE MEETING OF THE PARTIES (COP/MOP) TO THE BIOSAFETY
PROTOCOL**

Information note by the ICCP Bureau

1. This note provides preliminary observations on the relationship between the Conference of the Parties to the Convention and the Conference of the Parties serving as the meeting of the Parties to the Protocol.
2. The Protocol is not a "stand-alone" treaty. It is derived from the Convention. Consequently, certain aspects of its operation are governed by the provisions of the Convention.
3. Article 29, paragraph 1, of the Protocol provides that the Conference of the Parties (COP) to the Convention shall serve as the meeting of the Parties to the Protocol and, by paragraph 4 of Article 29, constitutes the Conference of the Parties serving as the meeting of the Parties to the Protocol (hereinafter referred to as "the COP/MOP") as the supreme decision-making organ of the Protocol.
4. In terms of Article 29, paragraph 3, the Bureau of COP serves as the Bureau of COP/MOP. However, during meetings of COP/MOP a member of the Bureau representing a Party to the Convention who is not, at the same time, a Party to the Protocol shall be replaced by a member from a Party to the Protocol.
5. In accordance with paragraph 2 of Article 29, decisions by COP/MOP can only be taken by Parties to the Protocol. Parties to the Convention who are not Parties to the Protocol participate in COP/MOP only as observers. This provision is reinforced by Article 32, paragraph 2, of the Convention itself which states that decisions under any protocol shall be taken only by parties to that protocol.
6. An important instance where the operation of the Protocol is governed by the provisions of the Convention relates to decision-making with respect to the provision of guidance to the financial mechanism. According to Article 28 of the Protocol, the financial mechanism established by Article 21 of the Convention shall serve as the financial mechanism for the Protocol. However, Article 21 of the Convention provides that the financial mechanism shall function under the guidance and authority of, and be accountable to, the Conference of the Parties. Consequently, guidance to the financial mechanism on matters relating to the Protocol can only be effected through the COP. In view of this, Article 28,

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paragraph 3, of the Protocol states that COP/MOP provides guidance with respect to the financial mechanism "for consideration by the Conference of the Parties". The Conference of the Parties, therefore, remains the supreme authority with regard to decision-making relating to the financial mechanism. In this respect, COP/MOP can only make recommendations for consideration by the COP. This position is buttressed by paragraphs 6 and 26 of the Instrument for the Establishment of the Restructured Global Environment Facility (1994) which provide (with respect to those international environmental conventions for which the GEF operates a financial mechanism) that the GEF shall function under the guidance of, and be accountable to, the Conferences of the Parties which shall decide on the policies, program priorities and eligibility criteria for the purposes of the conventions.
