



# United Nations Environment Programme



Distr.  
GENERAL

UNEP/CBD/COP/1/4  
21 September 1994

ORIGINAL: ENGLISH

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CONFERENCE OF THE PARTIES TO THE  
CONVENTION ON BIOLOGICAL DIVERSITY  
First meeting

Nassau, 28 November - 9 December 1994  
Item 4 of the provisional agenda

REPORT OF THE INTERGOVERNMENTAL COMMITTEE ON THE  
CONVENTION ON BIOLOGICAL DIVERSITY

Report of the Intergovernmental Committee on the Convention  
on Biological Diversity on the work of its  
second session

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## 1. OPENING OF THE SESSION

1. The second session of the Intergovernmental Committee on the Convention on Biological Diversity was held at the United Nations office at Nairobi, from 20 June to 1 July 1994. Following consultations with Governments, the session was convened by the Executive Director of the United Nations Environment Programme (UNEP), in accordance with paragraph 2 of UNEP Governing Council decision 17/30 of 21 May 1993.

2. The Chairperson of the Committee, Mr. Vicente Sanchez (Chile), opened the session at the 1st plenary meeting, on 20 June 1994. In welcoming participants, he said that the Committee was meeting at the place of adoption of the Nairobi Final Act of the Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity, which had crowned more than two decades of unstinting efforts and arduous international negotiations aimed at the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of use of genetic resources. In this context, he paid tribute to the important contribution made by Dr. Mostafa K. Tolba, former Executive Director of the United Nations Environment Programme, in the adoption of the Convention. That event had marked the end of one phase and the beginning of a new one. Both phases were part of a process that required changes in the prevalent paradigms which guided civilizations, and it would also require a new spirit characterized by solidarity and partnership. The new phase must be defined by the effective implementation of the commitments made in the Convention. He noted that, according to the preamble of the Convention, the conservation of biological diversity was a common concern of humanity. However, it was equally important to cherish and sustain the human capital of the planet, since, without both human and biological capital, sustainable development would be meaningless and could not be possible.

3. Referring to the events that occurred since the first session of the Committee, the Chairman said that the rapid entry into force of the Convention, although a matter for satisfaction, had worked to restrict the period during which the Committee might have addressed the functions assigned to it. In such circumstances, the Committee must concentrate on its ultimate task - to contribute to the preparations for the first meeting of the Conference of the Parties which would be held from 28 November to 9 December 1994. The challenge was to establish some basis for the work of the Conference of the Parties because, in carrying out that part of its mandate, the Committee might have a pioneering role which could contribute to putting other useful legal instruments into operation. He noted that the Conference of the Parties to the Framework Convention on Climate Change would start its first meeting in March 1995, by which time its intergovernmental preparatory committee would have gained three years' experience and held six working sessions. In contrast, no meeting of the Intergovernmental Committee on the Convention on Biological Diversity was held until over one year after the negotiating committee finished its work. There were still points that needed clarification to be really accepted and implemented by all; on the other hand, there were many actions consistent with the Convention that had not been carried out. Those were responsibilities that the Committee must approach resolutely, keeping always in mind that it was working for the common interest and shared goals. To face that challenge, the Committee needed to concentrate on the matters that were essential to its task, leaving for the attention of the Parties those matters it was not required to prepare, despite their extreme importance. The proposed agenda and organization of work for the session reflected such a concentration. The Committee was expected, as far as possible, to make precise recommendations and suggestions to ensure the success of the first meeting of the Conference of the Parties by enabling it to put the Convention into operation.

4. Turning to some of the requests and recommendations made by the Committee at its first session, he said that the Open-Ended Intergovernmental Meeting of Scientific Experts on Biological Diversity had been held in Mexico City from 11 to 15 April 1994, upon the invitation of the Mexican Government. He wished to take the opportunity to put on record the appreciation of the Committee to the Government and people of Mexico for having made such a considerable contribution to advancing its work, as well as to all those Governments who contributed financially to the travel of delegates from developing countries and economies in transition. There was also the new instrument establishing a restructured Global Environment Facility, which had just been adopted by the Governing Council of UNEP. While not perfect, the agreement constituted an improvement in the Facility from its original conception and in the arrangements which applied in its pilot phase. It would allow the Committee to consider in full awareness, issues related to the financial mechanism under the Convention. Pursuant to the mandate given to him by the Committee, he had attended the three meetings of the GEF participants. In the first, he had informed participants of the Committee's views and concerns as expressed at its first session. As, unfortunately the Chairman of the GEF meeting had not given him the floor, he had informed the Chairperson of the GEF participants' meeting and some participants of what the Interim Secretariat and himself felt were some inconsistencies between the text of the Convention and that of the GEF Instrument. It was incumbent on the Committee at the current session to assess whether the Facility was adequately restructured for meeting the purposes of the Convention.

5. In conclusion, he said that the Committee at its current session would have the heavy responsibility of giving the Convention operational form through judicious preparations for the first meeting of the Conference of the Parties. He was sure that, through the cooperation of all present and the spokespersons of the regional groups, that the session would be a success. He expressed his thanks to the Executive Director for the collaboration of UNEP, to the Governments that had funded developing country participation and to the people of the Government of Kenya for their usual warm welcome.

6. In her opening address, the Executive Director of UNEP recognized the relevance of the recently celebrated World Environment Day and the theme "One Earth, One Family" to the Convention on Biological Diversity. She pointed out that that vision presupposed a new contract between people and nature on the one hand, and on the other, among different peoples and nations. Recognizing that nature knew no frontiers, no territorial borders in that it transcended ideological and political cleavages, she said it was the common heritage of humanity, indivisible, belonging to no one but to all. The Convention on Biological Diversity provided a unique opportunity and framework for achievement of these dual objectives. In working towards such new relationships, it was necessary to be always guided by the "spirit of Rio".

7. Recalling that she had described the Convention, on its entry into force, as "one of the most significant recent developments in international law and in international relations relating to environment and development", she said it represented a major political breakthrough and an unprecedented conceptual advance. The secretariat of UNEP was proud of its role as a catalyst in that endeavour. If so desired by member States, UNEP stood ready to continue to assist the further evolution of the Convention, which would be a challenging enterprise. To assist governments in that enterprise, a new relationship would be required among the various entities of the United Nations, including specialized agencies and the Bretton Woods institutions, to enhance complementarity and avoid duplication and overlapping of activities. UNEP was already committed to combining its

efforts with those of UNDP, and a joint statement of the two organizations had been presented to the recent session of the Commission on Sustainable Development. Experiences and respective capacities would be pooled in support of the implementation of Agenda 21 and the conventions.

8. UNEP was tailoring its programmes and activities to address the strategic needs of the Convention on Biological Diversity and would continue to provide support to countries for the implementation of the Convention on request, and also scientific, conceptual and strategic material as a basis for decision-making. UNEP's objectives were to set up a collaborative network of United Nations agencies, scientific institutions, regional centres and NGOs.

9. The Executive Director was pleased to note that the Executive Secretary had invited several of the United Nations agencies to assist her in the preparation for and support of the present meeting. Colleagues from UNESCO, UNDP, FAO and the Department for Policy Coordination and Sustainable Development complemented the small capacity of the Interim Secretariat to assist the work of the Committee. Such outreach had characterized the approach taken by the Interim Secretariat in carrying out its functions to date. She commended such an approach and recommended it to others.

10. The Convention on Biological Diversity was now preparing the way for its Conference of the Parties. That Conference would require not only its own vision and the support of a global partnership of agencies and organizations, but also political skill and political will. In that regard, the experience of high-level segments of regular meetings of the United Nations system had already proved very encouraging. In light of that, the Committee might wish to recommend to the first meeting of the Conference of the Parties the idea of convening high-level segments of that Conference, of short duration and at intervals to be agreed upon. Implementation of such a proposal might provide the political impetus required for the effective implementation of the Convention.

11. Concerning progress made in implementing the mandate entrusted to her in Article 23, paragraph 1, to convene the first meeting of the Conference of the Parties, she said that she had been extremely encouraged by the enormous interest shown by several countries to contribute their stature, goodwill, efforts and resources to the Conference. She had considered the possibility of convening the first meeting of the Conference of the Parties in the Bahamas, Kenya, Spain or Switzerland. In addition to the normal administrative requirements for considering and selecting a venue, three important considerations had been applied. First was the requirement that the host country be a Party to the Convention by the time the decision concerning the venue needed to be taken. In that context, she recalled that, in accordance with paragraph 3 of Article 36 of the Convention, for a country to be invited to the first meeting of the Conference of the Parties as a Contracting Party, it would need to have deposited its instrument of ratification, acceptance, approval or accession by 30 August 1994. The second factor, which she considered very important, was that the venue for the first meeting of the Conference of the Parties should not be prejudicial to the decision to be taken by the Conference later on the location of the permanent Secretariat. Third, it was important that the already agreed dates for convening the Conference be maintained and that the country bear the normal host country responsibilities for a United Nations meeting. After careful consideration she was pleased to announce that the first meeting of the Conference of the Parties would take place in Nassau, the Bahamas, from 28 November to 9 December 1994. She had made it clear to the authorities of the Bahamas that the fact that it had not expressed an interest in hosting the permanent Secretariat to the Convention had been a decisive factor in the choice of their candidature and she would therefore not expect such an offer to come from the Bahamas.

Paying tribute to the other countries which had offered to host the meeting or make their facilities available, she said that had been an encouraging indication of a sincere desire and commitment to contribute to implementing the objectives of the Convention, and that that augured well for its future.

12. The Executive Director expressed her appreciation for the generous financial assistance which Canada, Denmark, the European Community, Japan, Norway, Sweden, United Kingdom and United States had provided to make possible representation from 58 developing countries at the intergovernmental meeting of scientific experts, held two months ago in Mexico city. She also expressed her appreciation to Australia, Denmark, the European Community, Japan, Netherlands and Switzerland for financial support which had allowed about 120 participants to attend the present meeting. Finally, she wished to place on record her deep gratitude to the Government of Switzerland for its continuing generous financial support which had assisted UNEP in establishing the Interim Secretariat. She also wished to acknowledge the support and valuable advice which so many Governments had given to the Interim Secretariat since its establishment in October 1993. She wished to extend again her deep thanks to the Government of Kenya for its continued support of the Convention, and of the ongoing work of UNEP. The present second session of the Committee, in preparing for the first meeting of the Conference of the Parties, was called upon to build the foundations for putting the Convention into operation. She hoped and expected that the Convention would be established upon its solid work.

13. The representative of the Bahamas expressed thanks on the part of his Government for the selection of his country as the venue for the first meeting of the Conference of the Parties. That choice represented an opportunity to enhance the promotion of the environment and of the issue of biological diversity and its conservation and sustainable use. He concluded by giving an assurance that the Bahamas would not be seeking to host the permanent Secretariat of the Convention.

14. The representative of Algeria, speaking on behalf of the Group of 77 and China, assured the Chairman of the full cooperation of his delegation and of the members of the Group of 77 and China, and expressed appreciation for the efforts of the Executive Director of UNEP and the Executive Secretary of the Interim Secretariat. The second session of the Committee was particularly important in that it was the final step before the first meeting of the Conference of the Parties. There were many challenges before the Committee as a result of the rapid entry into force of the Convention. That must be taken into account in the organization of work by according importance to the considerations of items which, under the Convention, would be on the agenda of the first meeting of the Conference. In that connection, Algeria, like other members of the Group of 77 and China, attached growing importance to the items concerning the financial mechanism and financial resources. At the fourth special session of the Governing Council, the Group of 77 and China had expressed their shared views regarding the Instrument for the Establishment of the Restructured Global Environment Facility. He hoped that the session would result in practical recommendations for the Conference of the Parties. In that regard, he wished to stress that it was important to respect the letter and spirit of the Convention in that the sole criteria for preparing the list of countries to assume the obligations of developed countries was the voluntary agreement of the countries concerned. The Group of 77 and China also attached importance to the question of training, transfer of environmentally sound technology and the exchange of experience. The emergence of a global partnership depended on fulfilment by the developed countries of the commitments they had entered into with respect to those essential questions. Hence, the Group of 77 and China attached great importance to the early start-up of the Subsidiary Body for Scientific, Technical and Technological Advice.

## 2. ORGANIZATIONAL MATTERS

2.1. Attendance

15. The following States were represented at the session: Algeria, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bangladesh, Barbados, Belgium, Benin, Bhutan, Brazil, Burkina Faso, Burundi, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Comoros, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Czech Republic, Denmark, Dominica, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, France, Gabon, Gambia, Germany, Greece, Guinea, Guyana, Holy See, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Israel, Italy, Japan, Kazakhstan, Kenya, Kuwait, Latvia, Lesotho, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritius, Mexico, Micronesia (Federated States of), Mongolia, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Rwanda, Saint Lucia, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Slovakia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Tunisia, Turkey, Uganda, United Republic of Tanzania, United States of America, United Kingdom, Uruguay, Venezuela, Viet Nam, Western Samoa, Yemen, Zaire, Zambia, Zimbabwe. The European Community was also represented.

16. The following United Nations bodies and Secretariat units were represented:

United Nations Centre for Human Settlements (UNCHS (Habitat))  
 United Nations Development Programme (UNDP)  
 United Nations Sudano-Sahelian Office (UNSO)  
 Interim Secretariat of the United Nations Framework Convention on  
 Climate Change  
 Scientific and Technical Advisory Panel - Global Environment Facility  
 (STAP-GEF)

17. The following specialized agencies and other organizations in the United Nations system were represented:

Food and Agriculture Organization of the United Nations (FAO)  
 General Agreement on Tariffs and Trade (GATT)  
 International Finance Corporation (IFC)  
 United Nations Educational, Scientific and Cultural Organization  
 (UNESCO), Intergovernmental Oceanographic Commission  
 World Meteorological Organization (WMO)  
 World Bank

18. The following intergovernmental organizations were represented: Inter-Governmental Authority on Drought and Development (IGADD); International Development Research Centre (IDRC); Organization of African Unity (OAU).

19. In addition, the following non-governmental organizations were represented by observers: African Biodiversity Institute (ABI); African Centre for Technology Studies (ACTS); African Wildlife Foundation; Amigos de la Tierra/Ecodesarrollo; Amigos de la Tierra (Friends of the Earth)/Paraguay; Amigransa (Sociedad de Amigos en Defensa de la Gran Sabana); ARAMAT - The Programme for Conservation of Indigenous Forest in Maasailand; Association Congo Action Environnement (ACAE); Belgian Administration of Development Cooperation; Biodiversity Action Network (BIONET); BirdLife International; Cee Web; Centre for International Forestry Research (CIFOR); Centre for Science and Environment (CSE); Centre of Indigenous Knowledge and By Product (CIKSAP); Centro Internacional de Agricultura Tropical (CIAT); Christian Community Development Unit (CCDU); CIEL; Climate Network Africa; Cobase; Coop,

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Technico-Scientifica Di Base; Community Technology Development Assessment (COMMUTECH); Conaie - Accion Ecologica; Conservation International; Coordinadora de las Organizaciones Indigenas Cuenca Amazonas; Cultural Survival (Canada); Development Alternatives Network (DAN) - Kenya; Earthcare Africa Monitoring Institute (EAMI); Earth Council (Consejo de la Tierra); East African Wildlife Society; Ecofondo; Ecoterra; Environment Defense Fund; Environment Liaison Centre International (ELCI); Foundation for Sustainable Development; Genetic Resources Action International (GRAIN); German NGO Working Group on Biodiversity; Greenpeace International; Highlander Research Education Center (HREC); Indian Institute of Public Administration (IIPA); Institute for Development Research (IDR); International Academy of the Environment (IAE); International Center for Improvement of Maize and Wheat (CIMMYT); International Centre for Living Aquatic Resources Management; International Centre of Insect Physiology and Ecology (ICIPE); International Centre for Research in Agroforestry (ICRAF); International Institute for Applied Systems Analysis (IIASA); Institute of Sustainable Development (IISD); International Laboratory for Research in Animal Diseases; International Livestock Centre for Africa (ILCA); International Plant Genetic Resources Institute (IPGRI); IPHAE; International Petroleum Industry Environmental Conservation Association (IPIECA); IUCN - The World Conservation Union; Kenya Energy and Environmental Organization (KENGO); Loita Integral Development Project (LIDP); Loita Naimina Enkiyio Conservation Trust (LNECT); Mataatua Declaration Directorate; Melville Forest Landcare Group; Montaña Experimental Guises; Neosyntheis Research Centre; Netherlands Committee for IUCN; Nigeria Society for the Improvement of Rural People; Norwegian Institute for Nature Research (NINA); Rural Family Development - Kenya (RUFADK); Rural Advancement Fund International (RAFI); Rural Family Development; Service d'Appui aux Initiatives Locales de Développement; Sociedad Peruana de Derecho Ambiental; Sobrevivencia; Stockholm Environment Institute; The Green Africa Society International; Third World Network; Third World Institute (TWI); Woods Hole Research Center; Tree Shade Clubs of Kenya (TSCK); World Conservation Monitoring Centre (WCMC); World Industry Council for the Environment (WICE); World Resources Institute (WRI); World Industry Council for the Environment (WICE); World Wide Fund for Nature (WWF); Youth Wildlife and Environment Movement.

## 2.2. Adoption of the agenda

20. At the opening meeting of the session, the Chairman introduced the provisional agenda contained in document UNEP/CBD/IC/2/1.

21. The Chairman stated that, as the agenda was very heavy and long, it might be unrealistic to expect to deal with all items in depth. In the name of the Bureau, he recommended that the programme of work give priority to items 2 and 3, all items under 4.1, item 4.2.1, item 4.3.2 and item 6, as those were the most urgent issues for discussion. Items not of such high priority would be discussed in the second week of the meeting, subject to decision by a plenary session to be held on Monday 27 June 1994. In addition, since they were related, items 4.1.1 and 4.1.2 of the provisional agenda could be considered together; and the papers for items 4.2.6 and 4.2.7 of the provisional agenda could be read as background papers for item 4.1.6.

22. Several representatives said it was important to include in the agenda an item on the participation of the Convention on Biological Diversity in the third session of the Commission on Sustainable Development in 1995. One representative expressed concern over the prioritization outlined by the Chairman, saying that issues arising under agenda items that had not been considered for prioritization were important to his delegation. After discussion involving several representatives, it was agreed that items 4.1.1 and 4.1.2 of the provisional agenda would be merged, the papers

prepared for items 4.2.6 and 4.2.7 of the provisional agenda would be taken as background to item 4.1.5 (item 4.1.6 on the provisional agenda), and an item on preparation of the participation of the Convention on Biological Diversity in the third session of the Commission on Sustainable Development would be inserted to follow item 4.3.1. The Committee thus adopted the following agenda:

1. Opening of the session.
2. Organizational matters:
  - 2.1 Adoption of the agenda;
  - 2.2 Organization of work.
3. Adoption of the report of the Intergovernmental Committee on the work of its first session, including the reports of the Working Groups.
4. Preparation for the first meeting of the Conference of the Parties:
  - 4.1 Matters stipulated by the Convention for action by the Conference of the Parties at its first meeting to which the Intergovernmental Committee can contribute:

Institutional, legal and procedural matters

- 4.1.1 Rules of procedure for the Conference of the Parties, including periodicity of meetings of the Conference of the Parties;
- 4.1.2 Financial rules governing the funding of the Secretariat of the Convention;
- 4.1.3 Selection of a competent international organization to carry out the functions of the Secretariat of the Convention;

Scientific and technical matters

- 4.1.4 Clearing-house mechanism for technical and scientific cooperation;

Matters relating to the financial mechanism

- 4.1.5 Policy, strategy, programme priorities and eligibility criteria regarding access to and utilization of financial resources;
  - 4.1.6 Institutional structure to operate the financial mechanism under the Convention;
  - 4.1.7 List of developed country Parties and other Parties which voluntarily assume the obligations of developed country Parties;
- 4.2 Matters arising from the work of the Intergovernmental Committee at its first session:

Scientific, technical and legal matters

- 4.2.1 Report of the Open-ended Intergovernmental Meeting of Scientific Experts on Biological Diversity;
- 4.2.2 Consideration of the need for, and modalities of, a protocol on biosafety;
- 4.2.3 Ownership of, and access to, ex situ genetic resources;
- 4.2.4 Farmers' rights and rights of similar groups;
- 4.2.5 Status report by the Interim Secretariat on action taken in response to requests made at the first session of the Intergovernmental Committee:
  - 4.2.5.1 Examples and models for national legislation regulating access to genetic resources;
  - 4.2.5.2 Range of appropriate models for technology transfer;
  - 4.2.5.3 Catalogue of relevant databases and their gaps and linkages;
  - 4.2.5.4 Development of formats for data entries and related training;
  - 4.2.5.5 Mobilization of funds for regional workshops;
- 4.3 Other matters for action by the Conference of the Parties at its first meeting to which the Intergovernmental Committee can contribute:
  - 4.3.1 Draft provisional agenda for the first meeting of the Conference of the Parties;
  - 4.3.2 Preparation of the participation of the Convention on Biological Diversity in the third session of the Commission on Sustainable Development.
  - 4.3.3 Subsidiary Body on Scientific, Technical and Technological Advice: functions, terms of reference, organization and operation.
5. Other matters.
6. Adoption of the report.
7. Closure of the session.

2.3 Election of officers

23. At the 2nd meeting of the session, on 21 June 1994, the Committee elected Mr. J. Husain (Pakistan) as Rapporteur, to take the place of Mr. S. Ahmad, who had been elected Rapporteur at the first session of the Committee but was unable to attend the current session.

24. The Bureau of the Committee at its second session thus comprised:

Chairperson: Mr. V. Sanchez (Chile)

Vice-Chairpersons: Mr. V. Koester (Denmark)  
Mr. S.K. Ongerer (Kenya)  
Mr. G. Zavarzin (Russian Federation)

Rapporteur: Mr. J. Husain (Pakistan)

Working Group I

Vice-Chairperson: Mr. F. Urban (Czech Republic)

Working Group II

Vice-Chairperson: Mr. B.P. Singh (India)

25. Mr. S.K. Ongerer (Kenya) and Mr. V. Koester (Denmark), Vice-Chairpersons of the Committee, continued to serve as Chairpersons of Working Groups I and II, respectively.

2.4 Organization of work

26. At the opening meeting of the session, the Committee considered the organization of the work of the session in the light of the recommendations made by the Chairman concerning priorities and of the timetable of meetings and the distribution of the work set out in document UNEP/CBD/IC/2/1/Add.2/Rev.1. The provisional organization of work as contained in document UNEP/CBD/IC/2/1/Add.2/Rev.1 was adopted.

27. Subsequently, following its initial consideration of agenda item 4.1.1 at the 1st plenary meeting of the session, the Committee decided to revise the organization of work as contained in document UNEP/CBD/IC/2/1/Add.2/Rev.1 to include an evening meeting of plenary on 22 June to discuss the draft revised rules of procedure for the Conference of the Parties.

28. At the 5th plenary meeting of the session, on 27 June, the Chairperson of the Committee introduced a revised provisional organization of work for the second week of the session (UNEP/CBD/IC/2/1/Add.2/Rev.2). The revised text, which, like the earlier version (UNEP/CBD/IC/2/1/Add.2/Rev.1), was indicative, had been agreed upon by the extended Bureau at a meeting earlier that day. In particular, he drew attention to the scheduling of a plenary meeting on the morning of 28 June in order to accommodate the concerns of those delegations that had requested that the agenda item relating to the draft provisional agenda for the first meeting of the Conference of the Parties should be taken up as early as possible in the second week of the session.

29. The revised provisional organization of work for the second week of the session, as contained in document UNEP/CBD/IC/2/1/Add.2/Rev.2, was adopted.

2.5. Work of the Working Groups

30. Under the chairmanship of Mr. S.K. Ongerer (Kenya) Working Group I held 17 meetings between 20 and 30 June to consider the following agenda items:

- Item 4.1.3: Selection of a competent international organization to carry out the functions of the Secretariat of the Convention.
- Item 4.1.4: Clearing-house mechanism for technical and scientific cooperation.
- Item 4.2.2: Consideration of the need for, and modalities of, a protocol on biosafety.

- Item 4.2.3: Ownership of and access to *ex situ* genetic resources.
- Item 4.2.4: Farmers' rights and rights of similar groups.
- Item 4.2.5: Status report by the Interim Secretariat on action taken in response to requests made at the first session of the Intergovernmental Committee.
- Item 4.3.3: Subsidiary Body on Scientific Technical and Technological Advice: function, terms of reference, organization and operation.

31. As decided by the Intergovernmental Committee at its first session, Mr. F. Urban (Czech Republic) served as Vice-Chairperson of the Working Group and Mr. N. Roaldsøy (Norway) served as Rapporteur.

32. The Working Group adopted its report at its 17th meeting on 30 June 1994. The report of the Working Group (UNEP/CBD/IC/2/L.3 and Corr.1) was subsequently adopted by the Committee at its 9th meeting (see para. 314 below) and the adopted text has been incorporated into the present report under the relevant items.

33. Under the chairmanship of Mr. V. Koester (Denmark), Working Group II held 10 meetings between 20 and 30 June 1994 to consider the following agenda items:

- Item 4.1.2 : Financial rules governing the funding of the Secretariat of the Convention.
- Item 4.1.5 : Policy, strategy, programme priorities and eligibility criteria regarding access to and utilization of financial resources.
- Item 4.1.6 : Institutional structure to operate the financial mechanism under the Convention.
- Item 4.1.7 : List of developed country Parties and other Parties which voluntarily assume the obligations of developed country Parties.

34. As decided by the Intergovernmental Committee at its first session, Mr. B.P. Singh (India) served as Vice-Chairperson of the Working Group and Mr. Sulayman Samba (Gambia) served as Rapporteur.

35. The Working Group adopted its report at its 10th meeting, on 30 June 1994. The report of the Working Group (UNEP/CBD/IC/2/L.4) was subsequently adopted by the Committee at its 9th meeting (see para. 314 below) and the adopted text has been incorporated into the present report under the relevant agenda items.

3. ADOPTION OF THE REPORT OF THE INTERGOVERNMENTAL COMMITTEE  
ON THE WORK OF ITS FIRST SESSION, INCLUDING THE  
REPORTS OF THE WORKING GROUPS

36. At its 1st plenary meeting, on 20 June 1994, the Committee had before it a note by the Interim Secretariat (UNEP/CBD/IC/2/2) transmitting the draft report of the Committee on the work of its first session, as well as the reports of the two working groups at that session. It also had before it a conference room paper containing comments and proposed amendments to the reports submitted in writing by Governments.

37. The representative of Japan made an oral correction to the comment submitted by his Government to paragraph 33 of the report of Working Group II, to the effect that it should read: "One representative, supported by a few others, stressed the need to consider the possibility of reducing the number of official languages. In this connection, the Interim Secretariat was requested to prepare revised draft rules of procedure proposing an alternative to the original text".

38. The report of the Intergovernmental Committee on the work of its first session, together with the reports of the working groups, were adopted, with the amendments contained in the conference room paper, as orally corrected by the representative of Japan.

4. PREPARATION FOR THE FIRST MEETING OF THE  
CONFERENCE OF THE PARTIES

4.1. Matters stipulated by the Convention for action by the  
Conference of the Parties at its first meeting  
to which the Intergovernmental Committee  
can contribute

Institutional, legal and procedural matters

4.1.1. Rules of procedure for the Conference of the Parties,  
including periodicity of meetings of the  
Conference of the Parties

39. In considering the item, at its 1st to 8th plenary meetings, from 20 to 30 June 1994, the Committee had before it revised draft rules of procedure for the Conference of the Parties prepared by the Interim Secretariat on the basis of the amendments made during the first session of the Committee and the comments subsequently received in writing (UNEP/CBD/IC/2/3). It also had before it a note by the Interim Secretariat (UNEP/CBD/IC/2/4) on periodicity of meetings of the Conference of the Parties.

40. At the 1st plenary meeting, on 20 June 1994, the Committee decided, following a proposal by the Chairman and a discussion in which a number of representatives took part, that the item should first be considered at a subsequent meeting of plenary before any decision was taken on establishing informal groups to examine the issue.

41. At its 3rd meeting, on 22 June 1994, the Intergovernmental Committee resumed its consideration of the revised draft rules of procedure for the Conference of the Parties to the Convention on Biological Diversity (UNEP/CBD/IC/2/4). Introducing the discussion, the Chairperson said that, in addition to the amendments indicated in the document prepared by the Interim Secretariat, the Committee should recall the amendment proposed by one representative to rule 52 at the 1st plenary meeting of the session, on 20 June 1994 when the Committee considered paragraph 33 of the report of Working Group II on its work at the first session of the Committee (see para. 37 above). He further pointed out two amendments that had been

proposed by Governments but were not indicated in the text prepared by the Interim Secretariat: the first amendment would delete the phrase "either by the Head of State or Government or" in the last sentence of rule 18; and the second would insert the word "immediate" after the word "further" in the last sentence of rule 21, paragraph 2. Noting that the intended purpose of the meeting was to allow representatives to identify difficulties as well as points of divergence rather than to engage in a general debate on the draft rules, he suggested, and the Committee agreed, that comments should be made section by section rather than rule by rule.

42. One representative suggested that it might be useful if before the Committee took up a particular section of the draft, the Secretariat or the Chairperson could draw attention to any part of the text that represented a departure from established practice.

43. In response, the Executive Secretary stated that the original draft rules, submitted to the Committee at its first session, had drawn extensively on the existing rules of procedure for other bodies, in particular, the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. The draft currently before the Committee consisted of that original draft together with the amendments suggested at the first session of the Committee and those subsequently submitted in writing by Governments.

44. The representative of Algeria, speaking on behalf of the Group 77 and China, said that those countries attached great importance to the draft in view of the legally binding effect that the rules of procedure of the Conference of the Parties would have. He expressed his appreciation to the Interim Secretariat for the quality of the document, which accurately reflected the comments and amendments made by Governments. However, he wished to stress that the systematic inclusion of such comments or amendments in no way implied their acceptance. He suggested that, in its discussion, the Committee could draw on the experience of other forums, such as the General Assembly and its related organs. The Committee must, however, take into account the practice that seemed to be becoming increasingly established as a de jure rule for the conduct of intergovernmental meetings. For that reason, the Group of 77 and China believed that the rules concerning the conduct of business and voting procedure (rules 29-51) could be simplified and rationalized. In addition, he stressed the importance that the Group of 77 attached to respect for the official languages of the representative groups. Meetings of the Conference of the Parties involved the assumption of legally binding obligations, and precise use and full understanding of language was therefore essential. Therefore, any attempt to reduce arbitrarily the working languages of the Conference, even on the rationale of cost-effectiveness, was unacceptable for the Group of 77 as a whole.

45. The representative of a Government that had submitted amendments to rules 6, 16, 18, 19, 26, 28, 31, 39, and 40 said that the first seven of those amendments were of a technical nature and his delegation could accept any decision that might be taken on them by the Committee. With regard to paragraph 3 of rule 39, he said that, following consultations, his delegation now believed that the Conference of the Parties could rely upon the declaration made by regional economic integration organizations pursuant to Article 34, paragraph 3, of the Convention, and the amendment could therefore be withdrawn. The amendment to rule 40, however, posed more difficulties since there was some divergence of views on the requirement that the decisions should be adopted by consensus. His delegation therefore believed that that rule should be given further consideration outside plenary.

46. The Committee then proceeded to discuss the draft rules of procedure section by section.

47. With regard to rules 1-3, no comments were made.

48. With regard to rules 4-7, one representative noted that rule 4 assumed that meetings of the Conference of the Parties would be held every year, while no decision had yet been taken on periodicity of meetings. Another representative commented on the French text of the proposed addition to rule 6, paragraph 1. A number of representatives proposed amendments to rules 6 and 7, one suggesting that the two rules could be combined.

49. With regard to rules 8-15, comments were made on the proposed amendments to rule 9, paragraphs 2 and 5, one representative suggesting modifications in their wording and another expressing reservations concerning both of them. Comments were also made on the proposed amendments to rules 11 and 12 and the linkage between them.

50. With regard to rules 16-20, some representatives expressed the view that rule 16 should be consistent with rule 39 and make clear mention of regional economic integration organizations. Another representative suggested an amendment to the composition of delegations set out in rule 16. A number of representatives suggested amendments to rule 18, especially with regard to the issuance and submission of credentials. One representative pointed to the inconsistency between the proposed addition to rule 19 in the revised draft and the first sentence of rule 18. Two modifications were proposed to the proposed amendment to rule 19. A number of representatives expressed reservations on rule 20, especially with regard to its implications on the right of Parties to participate.

51. With regard to rules 21-25, one representative, supported by a number of others, suggested an amendment to rule 21 that would enlarge the Bureau to include two representatives from each regional group and one from the group of small island developing States. Amendments were also proposed to the last sentence of rule 21, paragraph 2, in order to clarify the restrictions on re-election of officers for further terms. One representative suggested an amendment to paragraph 3 of rule 21 that would oblige all members of the Bureau to act in that capacity in the meeting and not at the same time exercise the rights of representative of a Party. One representative, commenting on an amendment to rule 22 in the draft prepared by the Secretariat, said that effective chairmanship should not be undermined by doubts concerning the powers of the President. He would prefer the original text to remain.

52. Because of time constraints, the remaining sections of the draft were not taken up at the 3rd plenary meeting.

53. Concluding the 3rd plenary meeting, the Chairperson proposed, and it was agreed, that a Contact Group should be established to attempt to reach agreement on the amendments proposed in document UNEP/CBD/IC/2/3 and resolve the specific difficulties that had been identified during the meeting and to report back to the Committee. The Chairperson nominated Mr. Patrick Szell of the United Kingdom delegation to be the coordinator of the Contact Group. The Committee would review the remaining sections of the draft at a subsequent plenary meeting.

54. At the 4th plenary meeting of the session, on 24 June 1994, the Intergovernmental Committee resumed its consideration of the revised draft rules of procedure for meeting of the Conference of the Parties to the Convention on Biological Diversity. Before inviting comments on the draft rules that had not been taken up at the previous meeting, the Chairperson informed the Committee that the Contact Group established at the 3rd plenary meeting had met the previous evening to consider the issues identified during the 3rd meeting. The Group had examined the first 25 rules, and the outcome of the meeting had been very encouraging. He

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encouraged the Group to continue its work and to report to the Committee at its 5th plenary meeting, to be held on Monday, 27 June 1994.

55. Before the Committee proceeded to consider the remaining rules, the Chairperson reiterated that the consideration of the item in the plenary meeting was not meant to be a negotiating process but had the purpose of identifying possible difficulties as well as points of divergence. Presentation of the rationale behind any such concerns raised, as well as the complete negotiating and drafting exercise, would take place in the Contact Group.

56. The Committee then proceeded to take up the remaining rules in the revised draft that had not been considered at the 3rd plenary meeting.

57. With regard to rule 26, one representative suggested that the first sentence of paragraph 1 should contain a reference to Article 23, paragraph 4 (g), of the Convention and that that sentence should be split into two.

58. There were no comments on rules 27 to 38.

59. With regard to rules 39-51, one representative, speaking on behalf of a regional economic integration organization and its member States, reiterated the understanding of that organization and its member States regarding Article 21, paragraph 1, as stated at the time of adoption of the text of the Convention, and its consequent support for the proposed additions to rule 40, paragraph 1, as contained in the revised draft. Other representatives reiterated their opposition to the inclusion of those proposed additions, as reflected in the footnote to rule 40, paragraph 1, in the revised draft.

60. With regard to rules 52-57, one representative recalled the statement in connection with rule 52 made by his delegation at the 1st plenary meeting of the session. Another representative expressed his support for the statement made on behalf of the Group of 77 and China at the 3rd plenary meeting of the session regarding the use of all six official languages of the United Nations at meetings of Conference of the Parties.

61. At the 5th plenary meeting, on 27 June, the Coordinator of the Contact Group on the rules of procedure for the meetings of the Conference of the Parties introduced proposed draft rules of procedure submitted by the Group for the consideration of the Committee. He said that the draft had been prepared on the basis of amendments proposed at and after the first session of the Intergovernmental Committee (as recorded in document UNEP/CBD/IC/2/3) and the comments made at the 3rd and 4th plenary meetings of the session, on 22 and 24 June, and the discussions in the Contact Group. The substantive changes from the revised draft rules submitted by the Interim Secretariat (UNEP/CBD/IC/2/3) fell into two categories: the first related to proposals on which it had not been possible to achieve consensus within the Contact Group, while the second concerned proposals on which the Contact Group had been able to reach agreement, mainly by relying on established precedents. With regard to the first category, the Coordinator of the Contact Group drew particular attention to the bracketed text in draft rule 21, rule 40, paragraph 1, and rule 52. With regard to rule 21, the Coordinator explained that the proposal for the Conference of the Parties to have an eleven-member Bureau, with one Vice-President being a representative from the small island developing States, was a sensitive one, and the Contact Group had not considered it in depth. However, informal consultations were under way in an attempt to produce an agreed text. With regard to rule 40, paragraph 1, the Contact Group had been unable to resolve the difference on views of whether or not consensus would be required for decisions relating to Article 21, paragraphs 1 and 2, of the Convention. During the Group's consideration of the rule, an

additional proposal had been launched, whereby a consensus would also be required for the adoption of any protocol relating to Article 19 of the Convention. A majority of the Group did not support that proposal but, at the request of the proposer, it was reflected in the conference room paper before the Committee. Similarly, with regard to rule 52, a proposal had been made to reduce the number of official languages of the Conference to three, the actual languages to be used not being specified. The Group had not been in a position to take the matter forward and had simply recorded the proposal in the paper it had submitted to the Committee. Of the matters that had been resolved by the Contact Group, the Coordinator drew particular attention to the wording of rule 4, paragraph 1, which allowed for changes in the periodicity of meetings of the Conference of the Parties to be made by decision of the Conference. The Group had also decided to leave the original wording of rule 18, on credentials, in the light of advice issued by the United Nations Legal Counsel in connection with a proposed change to the corresponding rule in the rules of procedure for Meetings of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. Other rules on which amendments had been suggested and on which the Contact Group had reached agreement were: rule 17; rule 19; rule 21; paragraph 3; rule 22, paragraph 1; rule 26, paragraph 1; rule 30; and rule 35. The agreement reached on rule 26; paragraph 1, had entailed not only an amendment of the text of the rule itself but also the introduction of an inclusive definition of "Subsidiary bodies" in rule 2.

62. Following the report of the Coordinator of the Contact Group, the Chairperson of the Committee said that it would appear difficult for plenary to discuss the outstanding issues relating to the draft rules of procedure. The outstanding issues would be examined in the framework of the next meeting of the extended Bureau.

63. Also following the report of the Coordinator of the Contact Group, at the 5th plenary meeting of the session, one representative, supported by another, expressed opposition to the proposal to reduce the number of official languages of the Conference of the Parties. He said that the proposal ran counter to one of the basic principles of the United Nations and would hinder the effective participation of certain groups of States in the work of the Conference of the Parties.

64. At the 6th plenary meeting of the session, on 28 June 1994, the Committee resumed consideration of this item. Introducing the discussion, the Chairperson said that most problems encountered in the discussion of the rules of procedure had been resolved within the Contact Group that had been established. He expressed his thanks to the Chairperson of that Group, Mr. Szell, and to the members of the Group who had assisted him. The Chairperson then requested that the Committee should authorize him to hold bilateral consultations with specific delegations that still had difficulties with regard to certain of the rules of procedure. After his consultations, he would then discuss the outcome at the following day's meeting of the Extended Bureau and would report on the results to the next plenary session of the Committee.

65. At the 7th and 8th plenary meetings of the session, on 29 and 30 June 1994, the Intergovernmental Committee continued its consideration of the revised draft rules of procedure for the Conference of the Parties to the Convention on Biological Diversity submitted by the Contact Group for the consideration of the Committee (UNEP/CBD/IC/2/CRP.3). Introducing the discussion at the 7th plenary meeting, the Chairperson said that, as announced at the 6th plenary meeting, he had held extensive and very useful consultations with delegations with specific reservations about certain of the rules of procedure, and had been encouraged by their flexibility and sincere desire to find an acceptable compromise on the outstanding issues. The meeting of the Extended Bureau that morning, had been devoted to attempting to reach consensus on the outstanding issues and had been able

to delete almost all of the bracketed text. He therefore submitted for the consideration of the Committee the outcome of all the consultations undertaken.

66. With regard to rule 6 concerning observers, with the agreement of the sponsor of the proposal, the phrase within square brackets in paragraph 1 was deleted. The sentiment expressed in that phrase was to be included in a footnote, whereby an asterisk would be added after the words "specialized agencies" and at the bottom of that page the following footnote would be inserted: "The notification would also be made to any institutional structure referred to in Article 21 of the Convention".

67. With regard to rule 21, concerning officers, he said that during his extensive consultations, all the delegations concerned had been sympathetic to the need to ensure adequate representation of the small island developing States. Thus, it had been agreed to translate into rule 21, paragraph 1, the spirit and letter of the seventeenth preambular paragraph of the Convention on Biological Diversity, which noted the special conditions of small island developing States. Reference to the special conditions of that category of States was also contained in paragraph 6 of Article 20 of the Convention. However, all delegations involved had been fully aware of the need to respect established practice and the agreed categories of regional groups within the United Nations. Concern had been expressed that any agreement on rule 21 should not set a precedent for the future and should not be the subject of renegotiation at the Conference of the Parties. Despite possible differences, the proposal to increase the number of officers in the Bureau to 10 had the merit of increasing the opportunity for adequate representation by the small island developing States in their respective regions. It was therefore proposed that in the first sentence of rule 21, paragraph 1, the "three Vice-Presidents" be replaced by "eight Vice-Presidents" and, in the second sentence the phrase "as well as to the need to ensure adequate representation of the small island developing States" be added after the words "equitable geographical representation".

68. Concerning rule 40, on voting, he was pleased to announce that the delegation concerned had decided to withdraw its amendment concerning the adoption by consensus of any protocol which related to Article 19 of the Convention. Thus, the two references in square brackets in paragraph 1 of rule 40, to the adoption by consensus of any protocol, were to be deleted. However, in that same paragraph, the bracketed references to the adoption by consensus of decisions under paragraphs 1 and 2 of Article 21 of the Convention would have to be discussed at a later date, since it had not been possible to find a compromise on that issue.

69. Finally, concerning rule 52, on languages, the Chairperson said he was pleased to announce that a compromise solution had been found on that delicate issue. The proposed new draft rule 52 would thus read: "The official and working languages of the Conference of the Parties shall be those of the United Nations Organization".

70. Following the introduction by the Chairperson at the 7th plenary meeting, a number of representatives stated that they would have to reserve their position on some or all of the proposals as they were awaiting instructions from their Governments.

71. Concerning the proposal for rule 6, paragraph 1, one representative supported by another said that the proposed footnote should follow the language of the Convention and use the words "the institutional structure" instead of "any institutional structure". Another representative questioned the purpose of the footnote to be inserted and requested clarification of its actual legal status.

72. There were no specific comments regarding the withdrawal of the amendment to rule 40, paragraph 1.

73. With regard to the proposed change to the draft rule 52, the representative of Japan, the sponsor of the original amendment to that rule, said that he would have no objection to the proposal of the Chairperson being sent to the Conference of the Parties. However, since he was still awaiting instructions from his Government, his delegation would reserve its position on the draft rule.

74. The representative of the Syrian Arab Republic, speaking on behalf of the Arab Group, said that that Group of States categorically rejected any discussion of issues related to the reduction of official languages. The six languages mentioned in the original wording of the rule had been used on an equal footing in both the negotiations for the Convention and in the work of the Intergovernmental Committee, as well as all United Nations bodies. The proposal to reduce the number of languages could be detrimental to the work of United Nations organizations and agencies in that it might slow down the activities and deprive certain Groups of the possibility of participating in their work. The Arab Group supported the retention of draft rule 52 as it stood in document UNEP/CBD/IC/2/3 without change. The languages concerned should be mentioned by name to avoid difficulties in future.

75. Following clarification from the Chairperson that the list of languages in the original draft was implicit in the phrase "official and working languages of the United Nations Organization", the representative of the Syrian Arab Republic said that he could accept the proposal since the languages of the United Nations system were those referred to in rule 52 of the draft submitted by the Interim Secretariat (UNEP/CBD/IC/2/3).

76. Several representatives expressed their support for the statement made on behalf of the Arab Group. One representative however, while supporting the statement, said that the legal implications of the amendment proposed by the Chairperson needed to be clarified and that the matter should not be discussed at the current session but at the first meeting of the Conference of the Parties.

77. In addition to the proposals by the Chairperson, amendments were also introduced at the 7th plenary meeting to draft rules 4 and 35.

78. With regard to rule 4, paragraph 1, one representative, speaking on behalf of a regional economic integration organization and its member States, introduced an amendment to provide that, for the first three years, ordinary meetings of the Conference of the Parties would be held at yearly intervals, while subsequent ordinary meetings would be held as decided by the Conference of the Parties at its third ordinary meeting.

79. With regard to rule 35, one representative, supported by a number of others, proposed that the words "in exceptional circumstances" be added after the words "the President may" in the final sentence of that rule. Supporting that proposal, another representative proposed the addition of the words "in cases of urgency" after the words "in exceptional circumstances". Other representatives, while supporting those proposals, also proposed that the word "all" should be inserted before the words "the official languages" in the same sentence. One of those representatives proposed that the sentence should also include the words "with the consent of the linguistic groups concerned". One representative, however, objected to the latter amendment, saying that the Chairperson's discretion would be reduced to nought.

80. At the 8th plenary meeting of the session, on 30 June, the Chairperson reported that the Extended Bureau had again met to discuss the outstanding issues on the draft rules of procedure.

81. The Committee then proceeded to consider those outstanding issues.

82. With regard to paragraph 1 of rule 4, the Committee agreed, following statements on behalf of the Group of 77 and China and on behalf of the European Community and its member States, that the text in the draft submitted by the Contact Group and that proposed at the 7th plenary meeting should both be placed in square brackets. The draft to be submitted to the Conference of the Parties would thus read:

"1. [Ordinary meetings of the Conference of the Parties shall be held once every year unless the Conference of the Parties decides otherwise.]

" [For the first three years, ordinary meetings shall be held at yearly intervals. Thereafter, ordinary meetings shall be held as decided by the Conference of the Parties at its third ordinary meeting.] "

83. With regard to paragraph 1 of rule 6, the representative of Australia, the original sponsor of the amendment and of the revision thereto, withdrew his proposal. In doing so, he said that the idea had been to make it procedurally clear that the institutional structure referred in article 21 of the Convention would participate in the Conference of the Parties under rule 6, by which participation was unqualified, rather than under rule 7. The proposal had, however, become complicated by other issues and his delegation was withdrawing it in order to have as clean a text as possible for submission to the Conference of the Parties.

84. Paragraph 1 of rule 6 as agreed by the Committee thus read:

"1. The Secretariat shall notify the United Nations, its specialized agencies and the International Atomic Energy Agency as well as any State not a Party to Convention of meetings of the Conference of the Parties so that they may be represented as observers."

85. With regard to rule 21, the Chairperson drew attention to the amendment introduced by the small island developing States and the subsequent amendments thereto introduced at the 7th plenary meeting. A number of delegations, however, had difficulties in accepting that the Bureau should have more than five members. He therefore proposed, and the Committee agreed, that the text of rule 21, as submitted by the Coordinator of the Contact Group, should be forwarded to the Conference of the Parties.

86. With regard to rule 35, the Chairperson said that all the amendments introduced at the 7th plenary meeting, with the exception of the inclusion of the words "with the consent of the linguistic groups concerned", appeared acceptable. The Committee agreed to transmit to the Conference of the Parties the text of rule 35, as submitted by the Coordinator of the Contact Group, with the final sentence amended to read:

"Nevertheless, the President may, in exceptional circumstances and in cases of urgency, permit the discussion and consideration of proposals, amendment to proposals or of procedural motions even though these proposal, amendments or motions have not been circulated or have been circulated only the same day or have not been translated into all the official languages of the Conference of the Parties."

87. With regard to rule 40, paragraph 1, the Chairman recalled that the amendments concerning the adoption of protocols relating to article 19 of the Convention had been withdrawn by their sponsor. Following a short discussion, the Committee agreed that there was no need to include a footnote to rule 40 with a cross-reference to the financial rules referred

to in paragraph 3 of article 23 of the Convention, since the relationship between the two texts was already explicitly stated within rule 40, paragraph 1, itself. Paragraph 1 of rule 40, as agreed by the Committee for submission to the Conference of the Parties, thus read:

"1. The Parties 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 reached, the decision [, except a decision under paragraph 1 or 2 of article 21 of the Convention,] shall, as a last resort, be taken by a two-thirds majority vote of the Parties present and voting, unless otherwise provided by the Convention, the financial rules referred to in paragraph 3 of article 23 of the Convention, or the present rules of procedure. [Decisions of the Parties under paragraphs 1 and 2 of article 21 of the Convention shall be taken by consensus.]"

88. With regard to rule 52, the Chairman announced that his proposal introduced at the 7th plenary meeting had been agreed upon by the Extended Bureau. He said, however, that Japan still reserved the right to revert to the proposal that it had introduced in the draft submitted by the Coordinator of the Contact Group. The Committee thus agreed that the text of rule 52 to be submitted to the Conference of the Parties should read:

"The official and working languages of the Conference of the Parties shall be those of the United Nations Organization."

89. The Committee then approved for submission to the Conference of the parties the complete draft rules of procedure, as submitted by the Coordinator of the Contact Group. The draft rules of procedure as approved by the Committee are attached to the present report as annex I.

90. The Committee thus concluded its consideration of agenda item 4.1.1.

4.1.2. Financial rules governing the funding of the Secretariat of the Convention

91. As decided by the Committee at its 1st plenary meeting, on 20 June 1994, agenda item 4.1.2 (Financial rules governing the funding of the Secretariat of the Convention) was taken up in Working Group II. In considering the item, the Working Group had before it a note by the Interim Secretariat on draft financial rules governing the funding of the Secretariat of the Convention (UNEP/CBD/IC/2/5).

92. Introducing the item, the Chairperson explained that the question stemmed originally from Article 23, paragraph 3, of the Convention and the request made in Working Group II at the Committee's first session that draft financial rules governing the funding of the Secretariat should be drafted by the Interim Secretariat for consideration by the Committee at the current session (see UNEP/CBD/COP/1/3, annex I, para.34).

93. He then stated that the agenda item comprised four components: (a) the means by which the Secretariat was to be funded; (b) the draft financial rules prepared by the Interim Secretariat (UNEP/CBD/IC/2/5, annex II); (c) the nature of the Secretariat's budget; and (d) the time at which funding of the Secretariat should commence.

94. With regard to the system by which the Secretariat was to receive funds, the Working Group discussed the source of such contributions, whether contributions should be mandatory, and how any scale for determining the size of contributions might be devised.

95. One representative, supported by a few others, proposed that, as an alternative to the suggestions in the Interim Secretariat's paper, the regular United Nations budget should serve as the source of Secretariat funds. That, he said, would provide for predictability and fairness in the assessment of contributions. The question was, however, raised by another representative whether non-Parties to the Convention would contribute under such a mechanism; another representative stated that such contributions should be made since all countries would benefit from the Convention's provisions. Some representatives suggested that the host organization of the permanent Secretariat might fund some or all of the administrative costs in the early years of the Convention. Most representatives, however, favoured a contribution scheme whereby funds would flow directly to the Secretariat from country Parties or other States or Parties.

96. Some representatives stated that only a system of voluntary contributions was acceptable, expressing the view that such systems were found under many other international environmental conventions. Several representatives felt, however, that a system of mandatory contributions would provide the most predictable source of funds for the Secretariat, and that that would facilitate the Secretariat's undertaking of relatively long-term projects and plans. Some representatives noted that a scale of assessments could be adopted without making contributions strictly mandatory. The Chairperson suggested that adoption of financial rules by consensus would make contributions under such rules non-mandatory in character. The Chairperson also noted that the Ramsar Convention might provide a useful model for wording that ensured Governments which did not accept the notion of a mandatory contribution would provide funds on a voluntary basis.

97. Representatives favouring contributions based on a scale of assessments thought that the United Nations scale would serve as a useful starting point. Various representatives noted that modifications to the scale could be made through setting ceilings on contributions, and an assessment cut-off point under which it would not be cost-effective to collect funds. Several representatives supported the formulas outlined in annex II to the note by the Interim Secretariat (UNEP/CBD/IC/2/5). The Chairperson noted particular support for the formula including both a ceiling and cut-off point, while some other representatives did not support the setting of a ceiling. One representative proposed that the scale could also be adjusted corresponding to countries' capacity to pay. He suggested that no developing country should be required to contribute more than any developed nation. Many representatives felt that the rules should permit voluntary contributions over and above assessed sums.

98. One representative, speaking on behalf of the European Community, noted that the European Community could contribute up to 2.5% of the administrative costs for the Convention. Such a contribution would be additional to sums provided to the Secretariat from its member States.

99. The issue of the period for which contributions should be made also arose. It was noted, however, that the matter related, *inter alia*, to periodicity of meetings of the Conference of the Parties, which was to be discussed later in the session.

100. The draft financial rules prepared by the Interim Secretariat (UNEP/CBD/IC/2/5, annex I) were then discussed. Several amendments to the draft text were proposed. Particular concerns included the extent to which the body hosting the Secretariat would influence its financial arrangements, the amount of time Parties would have before the Conference of the Parties to review a projected budget, clarification of how funds might be shifted within subsidiary body budgets, and whether agreement on the budget should be by consensus and what possible alternatives to consensus might exist. Representatives supporting funding of the

Secretariat through the regular United Nations budget made a clear distinction between that approach and the trust-fund orientation of the draft.

101. The nature of the budget to be proposed by the Interim Secretariat to the first meeting of the Conference of the Parties was then discussed. Many representatives expressed the view that having a rough estimate of the funds required would assist with programming resources from their national budgets for 1995. In response to a question as to whether the Interim Secretariat had any preliminary estimates of possible expenditures, a member of the Interim Secretariat replied that very rough numbers were available, although these would depend in large part upon the tasks required of the Secretariat, its location and the cost of meetings of the Conference of the Parties.

102. At the suggestion of one representative, the Chairperson established a small, open-ended subgroup to further assess the matters discussed at the session. He named a core group consisting of the representatives of Australia, Brazil, Bahamas, India, Sweden and Zimbabwe and chaired by Mr. Martin Uppenbrink (Germany). He then provided the subgroup with flexible terms of reference revolving around the question of funding through the United Nations budget, capacity to pay, the draft financial rules, and the future workload and budget of the Secretariat. He noted that considerations regarding the Secretariat could benefit from discussions on the Secretariat's functions that would take place in both Working Groups during the course of the session. The Interim Secretariat would provide the subgroup with a first tentative list and costing of items to be included in the budget of the Secretariat.

103. The Chairperson of the subgroup on agenda item 4.1.2 subsequently reported back to the Working Group on the progress made. He noted that the subgroup had the mandate to work, inter alia, on draft financial rules for a trust fund for the Convention and a draft budget for the Secretariat. He thanked the representatives on the subgroup for their participation and their painstaking effort.

104. He said that, due to lack of time, the subgroup could not discuss the question of funding the Secretariat through the regular budget of the United Nations.

105. The Chairperson of the subgroup introduced draft financial rules for the administration of the Trust Fund for the Convention on Biological Diversity (UNEP/CBD/IC/2/WG.II/L.1) as the product of the work of the subgroup, which, he stated, with the exception of three sets of brackets on some points, reflected the agreement of the subgroup on the issue. He noted that the subgroup's work had been facilitated by document UNEP/CBD/IC/2/5, by precedents from other environmental conventions, and by the input of an expert on financial rules from UNEP. He stated that the document produced by the subgroup could be applicable whether or not the Trustee or the organization or organizations hosting the Secretariat were within the United Nations system.

106. The Working Group agreed to recommend to the Conference of the Parties that the draft rules, which are attached to the present report as annex II, be used as the basis for its deliberations on this matter, noting also the alternative proposal made by some representatives on funding through the regular budget of the United Nations.

107. The Chairperson of the subgroup further reported that the subgroup had also discussed matters related to the budget for the Secretariat of the Convention. As a result of the deliberations on this issue, the subgroup prepared a list of indicative budget components for the Secretariat of the Convention on Biological Diversity (see annex III A to the present report)



and an outline of the types of functions and activities anticipated (see annex III B to the present report). The subgroup was not in a position either to quantify the number of staff or to cost the indicative budget components, as several issues regarding the Secretariat were still under discussion. Such issues include the location of the Secretariat, institutional arrangements, and the functions and tasks to be provided. However, the subgroup identified indicative budget components listed in annex III A, which correspond to typical secretariat functions.

108. Working Group II agreed to recommend that the Interim Secretariat prepare a detailed draft budget, based on the functions and tasks likely to be assigned to it by the Conference of the Parties, and formatted along the lines of the indicative components listed in annex III A to the present report. Since the functions and tasks would not be known with certainty until decisions on, inter alia, a medium-term work programme had been taken by the Conference of the Parties, the Working Group recommended that the Interim Secretariat analyse carefully the outcome of the second session of the Intergovernmental Committee and compile a preliminary list of functions and tasks on which to base the draft budget. All items in the draft budget should be appropriately justified.

109. It was further recommended that, together with the draft budget, the Interim Secretariat also prepare a document listing expected income sources. In order to give Parties which had deposited their instruments of ratification, acceptance, approval or accession before 30 August 1994 an indication of the relative size of their expected contributions, the Interim Secretariat should, for illustrative purposes, draw up alternative scales of assessments for such Parties based on the different sets of assumptions found in paragraph 4 of the draft financial rules contained in annex II to the present report. This document should be revised, if necessary, by the Interim Secretariat shortly before the first meeting of the Conference of the Parties to incorporate those depositing their instruments after 30 August 1994.

110. The Working Group recommended that the draft budget be distributed to Parties and potential Parties as far in advance of the first meeting of the Conference of the Parties as practicable, in order to allow them adequate time to examine and consider their positions. The Interim Secretariat should also make the draft budget available to organizations expressing interest in hosting the Secretariat for the Convention. Those organizations should be invited to provide comments on the budget and, in particular, on their willingness to contribute to meeting the administrative costs of the Convention in the early years.

4.1.3. Selection of a competent international organization to carry out the functions of the Secretariat of the Convention

111. As decided by the Committee at the 1st plenary meeting of the session, agenda item 4.1.3 (Selection of a competent international organization to carry out functions of the Secretariat of the Convention) was taken up in Working Group I. In considering the item, the Working Group had before it a note on the subject prepared by the Secretariat (UNEP/CBD/IC/2/6). Working Group I took up this item under the following headings:

- (a) Attributes of competent international organizations;
- (b) Procedure for receiving offers from interested organizations;
- (c) Other matters relevant to the establishment of the Secretariat.

112. With regard to sub-item (a) in paragraph 111 above, the Working Group agreed that the Secretariat would operate only under the authority of the

Conference of the Parties and not as a closed group of experts, but maintain active consultation with relevant entities at the local, national and international levels. The Group agreed also that the Committee should recommend to the Conference of the Parties the following list of attributes:

(a) Relevance of the mandate, general objectives and substantive activities of the organization to the purpose and objectives of the Convention;

(b) Extent to which the organization could provide technical support to the substantive work to be undertaken under the Convention and coordinated by the Secretariat;

(c) Past and/or current involvement in the process associated with the development or operation of the Convention; or other indicators of familiarity with the Convention;

(d) Demonstrated effectiveness of the organization in its own sphere of activities;

(e) The organization as a context for establishing effective working relationships with other conventions and their secretariats, especially those related to conservation of biological diversity and sustainable development;

(f) Experience in providing secretariat functions to an intergovernmental process;

(g) Existing organizational infrastructure - information systems, communication instruments - and financial and administrative framework conducive to the discharge of the Secretariat functions;

(h) The extent to which the organization would ensure autonomy and independence of the Secretariat, particularly in terms of governance and budget. High overhead costs paid to a host organization should be avoided. Instead, administrative services should be provided cost-effectively. It was suggested that the head of the Secretariat be appointed by the Conference of the Parties;

(i) The expertise of the organization in matters of the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the utilization of genetic resources;

(j) The organization's ability to operate on the global, regional and national levels; the ease of its accessibility by and collaboration with Governments and non-governmental organizations; the efficiency of its communications system and of its information-gathering capacity;

(k) The organization's ability to accommodate any future decision by the Conference of the Parties as to the location of the Secretariat.

113. The Working Group, realizing the need to ensure the autonomy of the Secretariat, recommended that an interested organization shall also indicate to the Conference of the Parties:

(a) The support it would be able to provide for the operations of the Secretariat, for example, in the aspects of recruitment, fund management, administrative support, assistance with organization and servicing of meetings organized under the Convention; and whether there would be a charge to the Secretariat budget for such services;

(b) Its ability to support, through its own budgetary possibilities and mechanisms, the operations of the Convention and the activities of the

Secretariat; and its ability to make temporary cash advances to guarantee the Secretariat's cash flow;

(c) The stature of the Secretariat within its organization;

(d) The degree of operational autonomy for the Secretariat within the organization's system of governance in carrying out the decisions, and in responding to the requests and needs, of the Conference of the Parties;

(e) The extent to which the head of the Secretariat will be able to take, following the decisions of the Conference of the Parties, independent decisions on administrative, budgetary, and personnel matters and decisions that affect the functioning of the Secretariat;

(f) The organization's willingness to accommodate any future decision by the Conference of the Parties as to the location of the Secretariat, in consultation with the country concerned;

(g) What approval process will be required from its governing authority, and the possible time frame for such approval to be obtained;

(h) How soon it could be prepared to establish the Secretariat and undertake the responsibility for the discharge of the Secretariat functions.

114. With respect to the procedure for receiving offers from interested organizations, there was discussion whether, under Article 24 paragraph 2 of the Convention, interested international organizations should contact the Interim Secretariat on their own initiative or whether the Interim Secretariat should undertake the task of contacting relevant organizations who might be willing to carry out the Secretariat functions under the Convention. The Working Group agreed to recommend that, in accordance with Article 24, paragraph 2, of the Convention, all interested competent international organizations should notify their interest to the Interim Secretariat before 15 August 1994, accompanied by the details, including administrative costs, of their offer.

115. Several existing international organizations were mentioned as possible competent organizations which could carry out the functions of the Secretariat and which might express their interest in hosting the Secretariat. These organizations were: the United Nations Environment Programme (UNEP), put forward by a large number of delegations, the Food and Agriculture Organization of the United Nations (FAO), the United Nations Department of Policy Coordination and Sustainable Development (DPCSD), the United Nations Development Programme (UNDP), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and its Intergovernmental Oceanographic Commission (IOC), and the World Conservation Union-IUCN. However, it was noted, that the specification of these organizations in the Working Group's report should not prejudice the selection process by the Conference of the Parties.

116. Some representatives proposed that the Conference of the Parties might be in a position also to consider the option that the Secretariat be established jointly by a consortium of agencies and bodies within the United Nations family and suggested that the following organizations may be considered: UNEP, FAO, UNESCO, UNDP and DPCSD. Other representatives considered that the Conference of the Parties might also be in a position to consider the option that one organization be chosen to carry out the Secretariat functions, with other agencies possibly participating in the Secretariat. Therefore, the submission of offers should be sufficiently flexible to accommodate such an option.

117. The Working group did not follow up on the proposition by one representative to discuss the process by which the Conference of the Parties might evaluate the bids from interested organizations and select

the organization or organizations that will carry out the Secretariat functions.

118. With regard to the sub-item in paragraph 111 (c) above, it was agreed that the choice by the Conference of the Parties of the organization or organizations that will carry out the secretariat functions should not preclude it from determining the most suitable location for the Secretariat.

119. One representative proposed that the Secretariat for the Convention on Biological Diversity should be "co-located" with the secretariats of other environment conventions for improved efficiency, cooperation and cost savings, as well as greater ability for the respective staff members to interact, while the independence and identity of each secretariat could be maintained. A number of representatives either supported the idea or stated that they would study it further. Other representatives questioned the necessity for co-location when modern communications could easily link offices and staff to make possible a process of decentralization. Of those representatives, one stated that the process of selection of the organization should not prejudge the question of the location of the Secretariat.

120. The Working Group also agreed that the Committee should recommend periodical review of the performance of the Secretariat by the Conference of the Parties and that, in the event of inadequate performance of the Secretariat, the Conference of the Parties should consider alternative arrangements including whether to choose another organization to carry out the Secretariat functions if necessary. It was, however, pointed out that such a review should not disrupt the continuity of the Secretariat's work.

121. The Working Group noted that Article 40 of the Convention stated that the Interim Secretariat would function until the first meeting of the Conference of the Parties, and that some time would be needed beyond that meeting for the designated organization or organizations to make arrangements for the establishment of the Secretariat. The Working Group agreed, therefore, that the Committee should recommend to the Conference of the Parties the extension of the Interim Secretariat's term beyond the first meeting of the Conference of the Parties for as long as it was essential to ensure a smooth transition to the Secretariat and maintain the continuity of work.

122. In addition to the discussion on this item in the Working Group, a number of representatives, speaking at the 9th plenary meeting of the session, on 1 July 1994, expressed the view that it may not be feasible for the first meeting of the Conference of the Parties to proceed with selection of the Secretariat since no process had been outlined to facilitate the Conference of the Parties in the matter. It was felt that it was first necessary to select the competent organization to provide the Secretariat, and to decide on a process by which the Secretariat would be selected. Those questions could be decided upon at the first meeting of the Conference of the Parties, leaving the selection of the Secretariat for the second meeting of the Conference of the Parties. It was consequently recommended that selection of the Secretariat be addressed at the second meeting of the Conference of the Parties, and that the Interim Secretariat, given the high quality of its performance, be extended until that second meeting. It was pointed out that that proposal was different to that recorded in paragraph 121 above. It was also suggested that, with respect to choosing the head of the Secretariat, the Conference of the Parties at its first meeting needed to consider the role of the head of the organization selected in the selection process for the head of the Secretariat.

123. The representative of Spain reiterated the offer by his Government to host the Secretariat and drew attention to correspondence between the Permanent Representative of Spain to the United Nations Office at Geneva

and the Interim Secretariat, which had been circulated as document UNEP/CBD/IC/2/20.

124. The representative of Kenya said that he was proud and grateful that Governments had concluded the work of the Intergovernmental Committee on the Convention on Biological Diversity in Kenya. He reiterated the interest of Kenya in hosting the Secretariat of the Convention.

Scientific and technical matters

4.1.4. Clearing-house mechanism for technical and scientific cooperation

125. As decided by the Committee at the 1st plenary meeting of the session, agenda item 4.1.4 (Clearing-house mechanism for technical and scientific cooperation) was taken up by Working Group I. The Working Group devoted one meeting to this item. In its consideration of the item, the Working Group decided to organize its work under the following headings:

- (a) Characteristics of the clearing-house mechanism;
- (b) Functions;
- (c) Modalities for establishment;
- (d) Potential range of subject areas covered;
- (e) Further tasks for the Interim Secretariat.

126. With regard to point (a) in paragraph 125 above, the Working Group expressed support for the recommendation made by the Open-ended Intergovernmental Meeting of Scientific Experts to have a clearing-house mechanism, including regional network systems, in the form of an electronic data network that would utilize existing institutions, allow for open access to the network and have a decentralized and transparent structure (see UNEP/CBD/IC/2/11, para. 30 (d)). The clearing-house mechanism to be recommended by the Working Group should take the form of a clearing-house of clearing-houses or a switching-centre with a decentralized network of national, regional and global centres based, as far as possible, on existing structures, and should operate within the framework of the Convention. The Group considered, however, that other additional means of dissemination of information may be appropriate. One representative recommended the development of a legal and institutional framework to allow the clearing-house mechanism to discharge its functions adequately.

127. The following elements, the Group stressed, were also required for a successful clearing-house mechanism for promoting and facilitating scientific and technical cooperation:

- (a) Adequate meta-data and reliability of the information collected and disseminated;
- (b) Well-focused subject areas and a mechanism driven by the real needs of Contracting Parties and other relevant organizations working for it, taking into account programme priorities;
- (c) Small in the initial phase, but capable of further development based on demand and resources availability.

128. The clearing-house mechanism could be established to promote and facilitated technical and scientific cooperation, by identifying and recognizing sources of information in areas including third world academies

of science, various national science academies, centres of excellence, universities and other institutions involved in training and education, organizations which facilitate exchanges of technologies, and existing national, regional and international databases.

129. The Working Group agreed on the need to establish a clearing-house mechanism with adequate financial resources to promote and facilitate technical and scientific cooperation, and recommended that the mechanism be based on existing experience and structures, avoiding duplication, maximizing cost-effectiveness and efficiency. In addition, new institutions could be considered where there is a clear demand and such structures do not currently exist. Existing mechanisms included, inter alia, major national, regional and international databases, including meta-databases, relating to the provisions of the Convention such as the Food and Agriculture Organization of the United Nations (FAO), the INFOTERRA Programme Activity Centre of the United Nations Environment Programme (UNEP), the World Health Organization (WHO) for pharmaceuticals or the United Nations Industrial Development Organization (UNIDO) biotechnology centres, and non-governmental institutions such as the World Conservation Union-IUCN and the World Conservation Monitoring Centre and international agricultural research centres. It was considered important also to build upon the experience of other relevant conventions. Some representatives indicated that the transparency of the mechanism could be ensured if the clearing-house were established within a United Nations organization. Many representatives stressed that new and additional financial resources were necessary to strengthen and adapt existing mechanisms to the objectives of the Convention.

130. The range of subject areas of the proposed clearing-house mechanism should be based upon the objectives of the Convention as set out in Article 1, i.e. the conservation of biological diversity and the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. These subject areas should include national strategies, plans and programmes on the conservation and sustainable use of biological diversity components, based upon country needs and available resources, covering knowledge gaps, technologies and traditional knowledge (see UNEP/CBD/IC/2/11, annexes). The mechanism should be at the forefront of identifying sources of information on advanced technologies and techniques associated with those functions, including biotechnology, ecosystem and species management, and data collection and evaluation, in order to promote technological cooperation and partnership among nations. It was noted that some important databases already existed in relation to the conservation of biological diversity and the sustainable use of its components. It was generally accepted that information in the area of the fair and equitable sharing of the benefits arising from application of technology to the genetic resources of developing countries and their utilization needed to be more adequately covered in clearing-house mechanisms.

131. While acknowledging that the objective of the clearing-house mechanism would be to facilitate the exchange of information and cooperation among Parties, the Group recognized the need to ensure that documentary information handled by the clearing-house mechanism would be covered by appropriate copyright or similar mechanisms that protected the rights of the source of that information.

132. The Group emphasized the need for and importance of building national capacities and establishing focal points, particularly in developing countries, to ensure their proper participation in the clearing-house mechanism. With regard to suggested modalities and elements to strengthen national capacities, the Group referred to the report of the Open-ended Intergovernmental Meeting of Scientific Experts on Biological Diversity (UNEP/CBD/IC/2/11, paragraphs 31 (b) and (c)), including the application of biotechnologies. Within the framework of strengthening capacity-building,

the provision of training opportunities and financial and technical support was particularly emphasized. Consortia and joint ventures between existing mechanisms could facilitate the functioning of the clearing-house mechanism for the Convention.

133. With regard to point (e) in paragraph 125 above, the following tasks were requested of the Interim Secretariat:

(a) Continue the survey of clearing-house mechanisms, databases and other relevant instruments and institutions, including those of the international agricultural research centres;

(b) Continue the collection of information from all countries to identify gaps and linkages between existing databases, and further investigate the needs of Contracting Parties, as mentioned in paragraphs 127 (b) and 130 above;

(c) Examine any possible legal implications in relation to the clearing-house mechanism;

(d) Examine the relationship between the clearing-house mechanism and the Conference of the Parties, and the Subsidiary Body on Scientific, Technical and Technological Advice;

(e) Examine the relationship between the clearing-house mechanism and any associated regional centres.

Matters relating to the financial mechanism

4.1.5. Policy, strategy, programme priorities and eligibility criteria regarding access to and utilization of financial resources

134. As decided by the Committee at the 1st plenary meeting of the session, agenda item 4.1.5 (Policy, strategy, programme priorities and eligibility criteria regarding access to and utilization of financial resources) was taken up in Working Group II. In considering the item, the Working Group had before it a note by the Interim Secretariat on policy, strategy, programme priorities and eligibility criteria regarding access to and utilization of financial resources (UNEP/CBD/IC/2/8). In addition, as decided at the 1st plenary meeting of the session, the Committee also had before it, as background documentation, a note by the Interim Secretariat on methodologies that might be used to estimate funding needs (UNEP/CBD/IC/2/16) and a note by the Interim Secretariat on agreed full incremental costs: some methodologies and a draft indicative list of incremental costs for the purpose of the Convention (UNEP/CBD/IC/2/17).

135. In introducing the item, the Chairperson recalled that the basis for the agenda item was Article 21 of the Convention on Biological Diversity. He also stressed that there was a difference between the financial mechanism and the institutional structure operating that mechanism, and that keeping that distinction in mind could perhaps facilitate the deliberations of the Working Group.

136. The Chairperson suggested that the Working Group should address four major issues outlined in the note by the Interim Secretariat (UNEP/CBD/IC/2/8): (a) operational measures to give effect to policy and strategy; (b) eligibility criteria and guidelines; (c) programme priorities; and (d) monitoring and evaluation.

137. The Chairperson then initiated the discussions by asking representatives to consider what recommendations they could provide the Conference of the Parties regarding measures to be taken to ensure that the financial mechanism functioned under the authority of the Conference of the Parties.

138. There was general acceptance that the notion "under the authority" meant that the Conference of the Parties was the supreme body of the Convention with respect to the provisions contained in the Convention including the provisions dealing with the Convention's financial mechanism. No other body could exercise the authority of the Conference of the Parties without the approval of the Conference of the Parties. The institutional structure should be accountable to the Conference of the Parties, and it should report to the Conference of the Parties so as to ensure this accountability. A number of representatives stated that the Conference of the Parties should not micro-manage the financial mechanism. Several representatives requested information on how the Meeting of the Parties of the Montreal Protocol on Substances that Deplete the Ozone Layer exercised its authority over the Protocol's financial mechanism and on the means that had been discussed in the Intergovernmental Negotiating Committee for the Framework Convention on Climate Change by which that Convention's Conference of the Parties might fulfil that responsibility. In response to that request, relevant extracts from the Montreal Protocol and the climate change convention were made available to the representatives during the meeting.

139. Various views were expressed regarding the extent to which the Conference of the Parties should actively exercise its authority, with some representatives calling for a subsidiary body or governing council of the Conference of the Parties to review and guide the mechanism's operations between meetings of the Conference of the Parties. Some representatives stated explicitly that no subsidiary body was needed. Referring to the question of micro-management, other representatives said that the responsibility for ensuring that the guidance of the Conference of the Parties was followed should rest with the institutional structure operating the mechanism. Some representatives stated that the best way of ensuring that the authority of the Conference of the Parties was exercised over the financial mechanism was for the Conference of the Parties to create its own institutional structure. Other representatives were opposed to the creation of any institutional structure.

140. On the issue of how to ensure that the institutional structure operated in a democratic and transparent manner, there was agreement to advise that the determination as to the nature of the institutional structure should be made at the time the structure was selected and through future evaluation. The criterion of transparency should be fulfilled through two-way communication between the mechanism and the Conference of the Parties, and reporting would be a valuable part of that communication. In addition, one representative stated that the Conference of the Parties should closely follow the operations of the institutional structure. The notion of democracy was agreed to include, inter alia, that all opinions could be expressed and taken into consideration.

141. With regard to the predictability of the flow of funds and the timing of the decisions of the Conference of the Parties on the amount of resources needed, the only comment was that that question should not necessarily be linked to the periodicity of meetings of the Conference of the Parties but rather to what might be most practical.

142. No views were expressed on how to ascertain that contributions were new and additional and how to ensure that funds enabled developing countries to meet the agreed full incremental costs to them of implementing measures fulfilling the obligations of the Convention and to benefit from its provisions. One representative, however, stated his differences with the draft indicative list of incremental costs developed by the Interim Secretariat. It was agreed to recommend that the matter of agreed full incremental costs be addressed in the framework of the Conference of the Parties at its earliest convenience.



143. On the issue of how to encourage voluntary contributions from countries not party to the Convention and from other sources, a number of representatives expressed the view that selecting a range of institutions to operate the financial mechanism could provide potential contributors with options that would encourage resource mobilization. Other representatives were opposed to that view and said that the main priority should be that the institutional structure worked with such effectiveness as to attract voluntary contributions.

144. On the matter of the eligibility criteria for countries that the Conference of the Parties was to establish for the financial mechanism, there was agreement that only developing country Parties should be eligible, but that it would be unproductive to develop new lists for that purpose. There was further agreement to recommend to the Conference of the Parties that the established United Nations approach be relied upon. One representative, however, stated that it could be appropriate to direct available resources to the poor countries and therefore to define additional eligibility criteria for countries. It was further agreed to recommend that least developed countries (Art. 20, para. 5) should be identified according to the lists prepared by the United Nations and that small island developing States (Art. 20, para. 6) could be identified by their participation in the Global Conference on the Sustainable Development of Small Island Developing States recently held in Barbados on their concerns. The consideration that shall be given to countries in accordance with Article 20, paragraphs 5, 6 and 7, should be taken into account in programme priorities and project selection.

145. On the issue of eligibility criteria for access to grants vis-à-vis concessional finance, there was general agreement to recommend that there was no need at present to identify such criteria, because grants had been and would be the normal means of financing. Criteria for access to concessional finance could be developed at a later date if necessary. One representative expressed the view, however, that general guidelines and procedural notions could be presented to the first meeting of the Conference of the Parties.

146. Turning to paragraph 11 (b) of the note by the Interim Secretariat (UNEP/CBD/IC/2/8), the Working Group considered whether the basis of eligibility criteria should be Articles 6 to 19 of the Convention. One representative stated that Article 6 seemed more relevant to programme priorities than other Articles. Another expressed the view that activities under Articles 6 to 14 could be most appropriate for financing through the institutional structure, and that Articles 15 to 19 may be better suited for financing through other channels when these activities are distinct from those listed in Articles 6 to 14. There was agreement to recommend that a detailed discussion of eligibility criteria should be taken up in the framework of the Conference of the Parties.

147. On the matter of programme priorities, some representatives stated that the prioritization of actions by States in fulfilment of Convention obligations should be decided upon by States themselves. There was agreement to recommend that dialogue should take place in the Conference of the Parties on how countries could carry out action for achieving the conservation and sustainable use of components of biological diversity.

148. Several representatives made statements regarding possible programme priorities and the importance of providing the necessary direction to the institutional structure. Some representatives noted the relevance of several items in paragraphs 14(a)-(f) of the note by the Interim Secretariat (UNEP/CBD/IC/2/8), particularly the relevance of paragraphs 14(a) and (b), as well as the priorities outlined in the joint draft proposal of the Group of 77, China and the Nordic countries that had been presented, but not discussed or agreed upon, at the first session of the

Intergovernmental Committee. However, amendments to some of the items in the note by the Interim Secretariat were suggested by some of the representatives. Some representatives supported a strong role for technology transfer and development. One representative thought that technology transfer and development might be funded more appropriately through channels other than the financial mechanism. Other representatives expressed the view that the priorities suggested in many of the interventions should be reduced to a relatively brief list of initial priorities for the consideration of the Conference of the Parties. Another commented that priorities should be in conformity with the spirit of the Convention. It was also pointed out by some representatives that any recommendation containing a list of programme priorities should underline that the list could not be considered exhaustive or final.

149. The Working Group agreed with the Chairperson's proposal that a list be made of all the programme priorities suggested by representatives including the priorities outlined in paragraph 14 of the note by the Interim Secretariat, as amended by some representatives for the use of the Group in its further deliberations, with a view to formulating a recommendation to the Conference of the Parties containing, *inter alia*, a relatively brief list of initial priorities. The aim of such a recommendation would also be - possibly in an introduction - to reflect the general points of agreement found during the discussions.

150. The Working Group decided to establish an open-ended subgroup to discuss the range of questions pertaining to agenda item 4.1.5. The subgroup would work in English, without interpretation or translation. A core group was named to the subgroup, consisting of Antigua and Barbuda, Australia, Austria, Brazil, China, France, India, Japan, Malaysia, Nigeria, Uganda, United Kingdom, United States and Uruguay; the subgroup would be chaired by Mr. Juan Mateos (Mexico).

151. The Chairperson of the subgroup subsequently reported back to the Working Group upon the conclusion of the subgroup's deliberations. He stated that the nature of the important topics given to the subgroup led to divergence of interests, and he expressed his gratitude to the members of the subgroup for the spirit of understanding and dedication which they applied to the subgroup's work.

152. With regard to the issue of programme priorities for access to and utilization of financial resources, the subgroup presented to the Working Group a document (UNEP/CBD/IC/WG.II/L.2), which represented the report on the deliberations of the subgroup on the subject. The Chairperson of the subgroup introduced the report on the work of the subgroup as a concise document and the product of many hours of work. The document was divided into two parts: (i) an introduction and (ii) a list of priorities. The Chairperson said that square brackets existed on some points in the text to indicate issues upon which it was still difficult to reach full agreement, and he noted that agreement had been reached on the majority of points in the text.

153. The Working Group agreed to recommend to the Conference of the Parties that the document, which is contained in annex IV to the present report, be used by it as the basis for further discussions. The Chairperson of the Working Group noted a question of whether the Subsidiary Body on Scientific, Technical and Technological Advice should consider programme priorities within its mandate. It was agreed not to make a recommendation to the Conference of the Parties on that issue.

4.1.6. Institutional structure to operate the financial mechanism under the Convention

154. As agreed at the 1st plenary meeting of the session, agenda item 4.1.6 (Institutional structure to operate the financial mechanism under the Convention) was taken up at the 2nd plenary meeting (see paragraphs 155 to 176 below) and in Working Group II (see paragraphs 177 to 200 below).

155. At the 2nd plenary meeting of the session, on 21 June 1994, the Chairperson recalled, that, at its first session, the Committee had highlighted the possibility for multiple sources of funding and had recommended that the Interim Secretariat should invite financial institutions other than the one operating the financial mechanism for the Convention on an interim basis to meet with the Intergovernmental Committee at its current session. Following consultations between himself and the Interim Secretariat, some international financial institutions such as regional development banks and multilateral banks, large national banks, foundations, and bilateral funding institutions had been invited to attend the meeting. Some of them had been invited to make a presentation on their institution in relation to the Convention on Biological Diversity. In addition, since the subject of financial resources and mechanisms had been under discussion within the Commission on Sustainable Development, the Department of Policy Coordination and Sustainable Development (DPCSD) had also been invited to make a presentation on the subject.

156. Following the introduction by the Chairperson, presentations were made by representatives of DPCSD, the African Development Bank, the World Wide Fund for Nature, the United Nations Development Programme, and the Third World Network.

157. The representative of the Department for Policy Coordination and Sustainable Development of the United Nations, on behalf of Mr. Nitin Desai, Under-Secretary-General, reported to the Committee on the discussions on financial resources and mechanisms for the financing of Agenda 21 at the second session of the Commission on Sustainable Development. The Commission had noted that despite some positive developments, such as the restructuring and replenishment of the Global Environment Facility, the conclusion of the Uruguay Round, the Barbados Declaration and Programme of Action for Small Island Developing States, and the increase in private financial flows to developing countries, the overall financing of Agenda 21 and sustainable development fell short of expectations and requirements.

158. The Commission had reiterated the need for increased efforts to implement all financial commitments made in Agenda 21, including the need to bring ODA levels in line with the 0.7 per cent target, as soon as possible. The conservation of biological diversity, including its financing, would be reviewed by the Commission at its third session, in 1995. The Commission considered that it would be useful to develop a matrix of policy options and financial instruments and mechanisms, using innovative approaches where possible, to facilitate the formulation of optimal financial strategies for the sectors under review and to encourage private sector funding.

159. The representative of the African Development Bank said that the cumulative environmental degradation in Africa, in the face of persistent external debts, declining terms of trade and other adverse international economical conditions, was seriously threatening the continent's capacity to preserve the wealth of natural resources for future generations. He was, however, encouraged that the great majority of African Governments and their peoples were committed to safeguarding environmental conditions in Africa. The African Development Bank took cognizance of the major problems facing Africa. It had succeeded in building goodwill to ensure that environmental implications of development were adequately taken into account. Up to the end of 1993, it had financed projects with positive implications for the conservation of biological diversity costing

approximately US\$ 275 million. The Bank, however, realized that natural resource depletion in Africa was not rooted in logging or clearing for agriculture but in widespread poverty and under-development. Therefore, natural resource management strategies must incorporate the issues of poverty, under-development and population growth if they were to succeed.

160. The Bank also recognized that the success of the Convention on Biological Diversity would, to a large extent, depend on the financial resources and mechanisms to support its implementation. The effort by ICCBD to arrange the current meeting was therefore timely. It should, however, be emphasized that the resources had to be managed properly if an impact was to be made. It would be important for sound professional and cooperative linkages to be established between the Convention and the regional development banks, particular in Africa where biological diversity was abundant but threatened. Another area in which the Bank could provide a valuable contribution was the integration of issues concerning the conservation of biological diversity in the overall regional, subregional and national planning processes in the African region. The Bank had the ability to distribute resources if they were made available. The linkages with institutions like the regional development banks should be systematic and established at an early stage with provision for adequate information. The Bank would thus be able to plan its own projects and resources taking into full account the objectives of the Convention. In conclusion, he expressed the hope that the meeting would result in pragmatic and more sound recommendations on financial resources to be presented to the Conference of the Parties. For its part, the African Development Bank would continue to put special focus on the management of the overall environment which had a direct bearing on biological diversity in its concessional resources portfolio. The Bank would also make its expertise available to African countries in managing the resources that might become available to the region.

161. The representative of the World Wide Fund for Nature (WWF) pointed out that the Fund was a nature conservation agency and not a funding body, and, outlining its broad scope and diverse activities, identified its main investment priorities, which included the creation of protected areas, the promotion of sustainable development, the conservation of species, measures to reduce consumption and pollution by influencing government policy, the promotion of international environmental conventions and treaties and the development of environmental education and capacity-building. Referring to specific projects implemented by WWF, in which local populations were involved in the sustainable use of biological diversity, the representative stressed the importance of integrating policy and field work and the need to follow a decentralized process in which a major part was played by national offices.

162. Noting the importance of biological diversity not merely from the political or scientific viewpoint, but as the common property of humanity which affected all members of society, she supported the establishment of an additional biological diversity conservation fund which would channel voluntary contributions from other sources towards the attainment of the Convention's goals.

163. The representative of the United Nations Development Programme (UNDP) said that UNDP had a mandate for sustainable human development and a commitment to capacity-building, both of which closely related to biological diversity. UNDP strongly supported the Convention on Biological Diversity and would do its utmost to assist it, working through its 132 country offices. UNDP had long been interested in activities related to implementation of the Convention and devoted significant funds to country initiatives for biological diversity, promoting its conservation and sustainable use. UNDP was also one of the three implementing agencies for

GEF, concentrating on technical assistance and capacity-building for conservation and sustainable use of biological diversity. In addition, through its regular country programmes, UNDP directly and indirectly promoted conservation and uses of biological diversity. The main areas of concentration were sustainable agriculture and sustainable forestry, to each of which UNDP devoted approximately US\$ 100 million and US\$ 50 million a year respectively, and its activities in natural resource management associated with the United Nations Sudano-Sahelian Office (UNSO), to which UNDP devoted US\$ 85 million a year. In addition, projects had to meet environmental management guidelines. UNDP was the leading agency in the implementation of Capacity 21, and generated and implemented strategies for it. The biological diversity element of that programme was important, currently receiving US\$ 50 million, which was expected to rise to US\$ 100 million in eighteen months. All its programmes, including GEF, were accessible through its Resident Representatives, who had a critical role in all UNDP development assistance. UNDP was currently preparing a biological diversity strategy to ensure that biological diversity was directly supported by its country programmes and would introduce special activities for the implementation of the Convention.

164. The representative of the Third World Network stressed that financial institutions contributing to biological diversity conservation should fit their conditions to the principles and framework of conservation and sustainable development, since, if biological diversity projects had to be framed to fit the normal requirements of the financial institutions and their commercial principles, increased funding could, perversely, promote the loss of biological diversity and fail to benefit sustainable development.

165. In addition, the representative of the Third World Network drew attention to the undervaluing of biological diversity and its components, which were immensely valuable economic assets and should result in large financial flows to the biodiversity-rich countries and communities of the South. He regretted, therefore, the omission of the agricultural gene banks from the main text of the Convention and urged the Committee to ensure that the issue was given priority on the agenda of the Conference of the Parties. The genetic materials in the collections under the Consultative Group on International Agricultural Research (CGIAR) system of research institutions and the national gene collections were worth billions of dollars - far exceeding any financial resources which might accrue to the Convention through aid. Recognition should be given to the rights of the South to the assets themselves and to a fair share of the financial benefits accruing from them, which could be used to finance activities under the Convention.

166. In that context, great concern was caused by reports that the World Bank was endeavouring to take control of the genetic resources in the CGIAR group, which accounted for 40 per cent of the worldwide collections of agricultural genetic materials. The Bank had allegedly offered to forgive the US\$ 5.6 million debt of CGIAR and to augment its funding in return for structural and administrative arrangements which would place the bank in a position of control over the assets of the CGIAR system. Those moves would constitute a serious obstacle to the complex process of placing the genetic collections of agricultural research centres under the trusteeship of a democratic intergovernmental mechanism such as the Commission on Plant Genetic Resources, within the framework of the convention on biological diversity. If those reports were true, he wondered what measures the Bank would take to ensure full representation of the developing countries in the government structures of the CGIAR system and in control and access to its genetic materials. In addition, he asked what measures would be taken to ensure equitable sharing of the benefits deriving from genetic materials of the CGIAR system collected both before and after the entry into force of the Convention; whether the Bank would allow the negotiations between the Food and Agriculture Organization of the United Nations (FAO) and the members of CGIAR, concerning control over genetic materials, to continue and, finally, whether the Bank's measures were consistent with the

principles of sovereign rights over biological resources and equitable sharing of benefits with the countries of origin, established in the Convention. To allay fears shared by many non-governmental organizations, he sought reassurances that the Bank and CGIAR would ensure that any decisions concerning genetic materials would be taken only with the approval of the Conference of the Parties.

167. Following the presentations, several representatives expressed appreciation and support for the points raised by the representative of the Third World Network. One representative expressed concern over what had been said concerning the World Bank attempt to gain control of the collections within the Consultative Group on International Agricultural Research (CGIAR) saying it represented a dawn raid and, if true, would compromise the basis on which the collections had been built up. What had been intended to be used for science was now being used for commercial purposes. Efforts were being made within the Food and Agriculture Organization of the United Nations (FAO) to bring the collections into the intergovernmental system and she hoped that process would be allowed to continue.

168. Another representative said that, following the entry into force of the Convention on Biological Diversity, changes had become necessary within the CGIAR system. Resolution 3 of the Nairobi Final Act recognized the need to seek solutions to the outstanding question of access to ex situ collections acquired before the Convention entered into force. In the negotiations of the International Undertaking on Plant Genetic Resources that would start later in the year in the FAO Commission on Plant Genetic Resources and were due to be concluded in 1996, the issue of mutually agreed terms of access to genetic resources for food and agriculture was on the agenda. Those resources were preserved and made available through a global network, mainly constituted of national collections, but also including collections held by international institutes, which was organized under the auspices and jurisdiction of the FAO. In order to integrate the genebank collections of the International agricultural research centres of the CGIAR into the global network in harmony with the Convention, democratic governance of them was necessary. The Convention on Biological Diversity demanded a democratic intergovernmental governance of those collections. That would be provided by the governing body of the 1996 International Conference on Plant Genetic Resources. The representative hoped that that agreement would be accepted as a protocol to the Convention on Biological Diversity, with its own governing body and its own secretariat.

169. Another representative said that it was very important for the Conference of the Parties to address the issue of germplasm transferred for research purposes and subsequently used for commercial purposes. He suggested the possibility of an embargo on the commercialization of genetic material transferred in that manner. Another representative deplored what he alleged was the injustice suffered as a result of the technical frameworks that had been woven into the Convention on Biological Diversity. He drew attention to a list of 26 biomaterials collected from his country prior to the entry into force of the Convention, which had been patented, thus excluding his country from sharing in the immense profits generated by their commercial use.

170. One representative, while welcoming the meeting with financial institutions as a major first step in the process of dialogue, suggested that a further meeting with wider representation of financial institutions should be held after the Conference of the Parties, by which time countries would be in a better position to articulate their priorities. Another representative said he hoped that at the next such meeting as many financial institutions and donors would be present as possible since, in

terms of policy guidance, that would benefit all countries and all agencies.

171. The same representative said that every project for the conservation and sustainable use of biological diversity had global benefits. If the Global Environment Facility shared that approach, it could cover all kinds of projects in the developing countries. But GEF was limited, and more resources were needed through multilateral and bilateral sources.

172. The representative of a non-governmental organization urged the Committee to consider a range of further sources of funding, including: contributions from individuals, corporations, trusts, NGOs and similar bodies to a biodiversity fund, independent of GEF; a biological diversity cess or tax on the global pharmaceutical and seed industry; and an international personal income tax on the rich classes of the world for services provided by ecosystems and biological diversity.

173. One representative, suggesting that there should be a long-term link between the economic use of biological diversity and the funding of activities under the Convention, supported the idea of a tax on all international trade in a list of commodities based on a use of biomaterials, levied by the Conference of the Parties, to enable the Convention to become self-financing.

174. Another representative, while agreeing that a broad process of dialogue involving as many organizations and institutions as possible was desirable, said that the primary responsibility of government representatives was to ensure that funds from official sources were used efficiently and with a minimum of administrative costs. He therefore cautioned that an openness to all possibilities could hinder the solving of the main task, which was to implement Article 21 of the Convention.

175. One representative requested a macroeconomic scientific assessment of the sound utilization of biological diversity, which he considered would be useful for the developing countries.

176. Summarizing the decision on the item at the 2nd plenary meeting, the Chairperson said that there was an urgent need to develop a dialogue on various sources of funding among the Parties to the Convention. He further noted that the question of access to ex situ collections could be taken up again later in the session within the framework of agenda item 4.2.3

177. In considering agenda item 4.1.6, Working Group II had before it a note by the Interim Secretariat on (UNEP/CBD/IC/2/9). It also agreed that paragraphs 15-18 of the note by the Interim Secretariat submitted under item 4.1.5 (UNEP/CBD/IC/2/8), could be discussed in connection with item 4.1.6.

178. The Chairperson of the Working Group asked the Chairperson of the Intergovernmental Committee to give a briefing in relation to the recommendation made by the Committee at its first session that the Chairperson of the Committee should liaise with the institutional structure operating the financial mechanism on an interim basis for the exchange of information between the Committee and the institution.

179. The Chairperson of the Intergovernmental Committee informed the Working Group that he had participated at three restructuring meetings of the GEF (November 1993, December 1993, and March 1994). He had not been allowed by the Chairman of the GEF Participants' meeting formally to address the December 1993 or the March 1994 meetings, but he had held discussions with delegates and the Chairman of the Participants' meeting and had been able to clarify some of the concerns related to the provisions under the Convention on Biological Diversity. That was reflected in the

Instrument for the restructured GEF. That being said, the Chairperson of the Intergovernmental Committee outlined the following points which he considered to be inconsistencies between formulations in the GEF Instrument and the provisions outlined in the Convention on Biological Diversity regarding the relationship between the institutional structure and the Conference of the Parties:

(a) In paragraph 6 and paragraph 27 of the GEF Instrument, it was stated that: "The GEF shall be, on an interim basis, the institutional structure which carries out the operation of the financial mechanism for the implementation of the Convention on Biological Diversity, in accordance with such cooperative arrangements and agreements...", while Article 21, paragraph 2, of the Convention stated that: "The Conference of the Parties shall decide on the arrangements to give effect to paragraph 1 above after consultation with the institutional structure entrusted with the operations of the financial mechanism". The inconsistency there was that cooperative arrangements could be interpreted as arrangements made between two equal partners;

(b) Paragraph 6 of the GEF Instrument stated that "the GEF shall function under the guidance of, and be accountable to, the Conference of the Parties", while Article 21, paragraph 1, of the Convention on Biological Diversity stated that: "The mechanism shall function under the authority and guidance of, and be accountable to, the Conference of the Parties". The inconsistency there was that the notion "under the authority" was missing in the GEF Instrument.

180. The Chairperson of the Intergovernmental Committee concluded that the GEF restructuring was an important step forward and that it would facilitate the work of the first meeting of the Conference of the Parties.

181. Based on the note by the Interim Secretariat (UNEP/CBD/IC/2/9), the Chairperson proposed that the Working Group should divide the discussions into three subjects: (a) selection of the institutional structure entrusted with the operation of the financial mechanism; (b) relation with other financial institutions; and (c) arrangements between the Conference of the Parties and the institutional structure.

182. It was recalled by many representatives that GEF now had been restructured with the participation of many countries present at the current session. One representative recalled also that the GEF Instrument had just been approved by the UNEP Governing Council, thereby showing the adherence, according to him, of the international community to the result of the restructuring process. Many representatives felt that GEF was satisfactorily restructured and that it should be chosen by the Conference of the Parties at its first meeting as the institutional structure to operate the financial mechanism outlined under Article 21 of the Convention on Biological Diversity. Many other representatives emphasized that it was too early to judge the recently restructured GEF and that the Conference of the Parties would need more time before it could take a decision regarding the choice of institutional structure; GEF could continue as an interim institutional structure, in accordance with Article 39 of the Convention. Some delegations recalled that the provision of financial resources was among the obligations of the developed countries under the Convention. A few representatives believed that GEF was unsuitable as the institutional structure because it was not satisfactorily restructured and that no decision actually had been taken on whether or not GEF had been satisfactorily restructured to function as the institutional structure on an interim basis and, therefore, according to them, the Conference of the Parties should discuss the establishment of a biodiversity fund. Others called for an early recommendation to select GEF as the institutional structure to allow the Intergovernmental Committee to get on with the task



of developing recommendations on guidance and appropriate arrangements between the Conference of the Parties and GEF; a few of those representatives pointed out the disadvantages of the continuation on an interim basis, in particular the risk of disincentive for donors to contribute to GEF.

183. Some representatives said that they would prefer to see an independent financial institution be set up and entrusted with the operation of the financial mechanism. Others stressed that a complementary institutional structure might not receive as many funds for the purpose of the Convention as GEF was likely to receive. Some others strongly believed that no new and additional resources would be made available to other institutions. A number of representatives reiterated that a supplementary structure was needed in order to attract voluntary contributions, while others felt that no supplementary structure was either needed or useful.

184. There were different interpretations of provisions in the Convention regarding the issue of whether or not there could be only one institutional structure, or if several structures could operate the financial mechanism. One representative pointed out that at least the Spanish, French and Russian versions of the Convention were unambiguous with reference to the institutional structure to operate the financial mechanism.

185. Addressing that question, the Chairperson mentioned the possibility of having a special trust fund in connection with the financial rules governing the funding of the Secretariat. One representative, supported by several others, suggested that the Intergovernmental Committee could recommend that the Conference of the Parties invite UNEP to investigate the establishment of a UNEP trust fund for the purpose of the Convention. The trust fund would operate outside the framework of the financial mechanism and would receive contributions separate from those received under the Convention. Some other representatives were against that suggestion.

186. An observer from a non-governmental organization commented that the Convention could enhance resource mobilization through designating entities besides the GEF which could receive voluntary contributions from non-Parties, including private companies, individuals, and NGOs.

187. Linked to the issue of designating only one or more institutional structures was also the question of the relative merits of having a single institution operating the financial mechanism, or several institutions in the search for, reception and channelling of multiple funding sources. Different views were expressed in that regard. Some representatives expressed the view that additional channels would not necessarily mean more financial resources going through them and would rather mean additional administrative expenditures.

188. One representative noted that even if a new institution was set up, the Conference of the Parties would have to deal with all the same issues about structure, voting etc., that had been addressed in GEF.

189. A representative of the GEF Administrator's Office, World Bank, was invited to address the Working Group. He informed the representatives that the first meeting of the restructured GEF would be held from 12 to 13 July 1994, and that the text of the Instrument outlining the restructured GEF was available to all representatives at the current session.

190. The Chairperson summed up the discussion by presenting three possible alternatives: (a) the services of GEF could be terminated, provided that the contracting Parties could agree on that; (b) GEF could be chosen as the institutional structure operating the financial mechanism at the first

meeting of the Conference of the Parties, provided that the contracting Parties could agree on that; or (c) GEF would be the interim institutional structure, provided that: (i) the Parties could agree on that, or (ii) following the provisions in the Convention, as long as the Parties could not agree on either solution (a) or (b). Considering the different positions, it was the view of the Chairperson that solution (c) (ii) seemed for the time being to be the only realistic one.

191. As to the question whether there could only be one institution in connection with the institutional structure, or if the Convention allowed several institutions to participate, the Chairperson suggested that the issue was more of a political than a legal nature and that that aspect might be taken into consideration in further deliberations.

192. Turning to the second subject area under item 4.1.6, "Relation with other financial institutions", the Chairperson then introduced a review of section 3 of the note by the Interim Secretariat (UNEP/CBD/IC/2/9). The Chairperson mentioned the relevance of the Committee's discussion on the topic at its 2nd plenary meeting (see paras. 155-176 above), particularly the presentation by the representative of the African Development Bank (paras. 159-160).

193. One representative suggested that, as a first step in the implementation of Article 20, paragraph 3, and Article 21, paragraph 4, of the Convention, the Conference of the Parties should be informed of activities, strategies, and policies of other financial institutions relevant to the Convention. That idea was supported by several other representatives. One representative suggested that the task could be allocated to the institutional structure operating the financial mechanism. Many representatives stressed that, in order to give full effect to Article 21, paragraph 4, of the Convention, information and general guidance should flow from the Conference of the Parties to relevant financial institutions for their consideration.

194. There was general agreement to recommend to the Conference of the Parties that a survey of other financial institutions be undertaken. The survey should include the role and nature of the activities of the institutions relevant to the conservation and sustainable use of biological diversity; the extent to which their current policies, programmes and projects were consistent with the aims and objectives of the Convention; as well as what they might add to the process of implementing the Convention. The Conference of the Parties should decide whether to address that issue at its first or subsequent meetings. When the Conference of the Parties did address the matter, it could examine means of developing a two-way flow of information between such institutions and the Conference of the Parties. That was of particular importance since funding from the financial mechanism should complement activities of these other institutions.

195. Turning to the third subject area under agenda item 4.1.6, "Arrangements between the Conference of the Parties and the institutional structure", the Chairperson drew attention to section 4 of the note by the Interim Secretariat (UNEP/CBD/IC/2/9). He reminded the Working Group that it would have to deal in this context with the issue of monitoring and evaluation of the financial mechanism (see document UNEP/CBD/IC/2/9, paras. 16-18).

196. One representative, supported by some other representatives, suggested that the arrangements could be elaborated in a Memorandum of Understanding. Items that could be addressed in such a document could include the content, form, and time of reporting to the Conference of the Parties; monitoring of the utilization of financial resources; form and process of communication between the Conference of the Parties and the mechanism; the

process for review of compliance with the authority of the Conference of the Parties; and the form of day-to-day linkages between the Secretariat of the Convention and the institutional structure operating the financial mechanism.

197. In the context of monitoring and evaluation, one representative differed with paragraph 17 of the note by the Interim Secretariat (UNEP/CBD/IC/2/9), expressing the view that monitoring and evaluation should not fall within the mandate of a Subsidiary Body on Scientific, Technical and Technological Advice. An observer from a non-governmental organization suggested that commissioning independent evaluations similar to the evaluation that had been conducted of GEF would be useful. One representative stated that the institutional structure operating the financial mechanism would be likely to undertake its own independent evaluations; he further suggested that the Conference of the Parties could take part in such evaluations, possibly with the assistance of the Subsidiary Body on Scientific, Technical and Technological Advice. One other representative stated that the question of monitoring and evaluation was not urgent, as that should be preceded by implementation of the Convention, although the Conference of the Parties could also monitor process and implementation activities while they were going on.

198. It was agreed to recommend that the arrangements between the Conference of the Parties and the institutional structure be a formal one that, at the same time, should allow a certain flexibility such as a memorandum of understanding. The exact form of the instrument concerning the arrangements was to be investigated further. It was agreed to request the Interim Secretariat to draft a document containing, *inter alia*, a non-exhaustive list of elements based on the discussions to be considered when formalizing the arrangements. Some representatives underlined the necessity of entering into consultations with the institutional structure at an early stage of the process of the elaboration of a draft instrument.

199. The Chairperson of the Working Group referred agenda item 4.1.6 to the open-ended subgroup chaired by Mexico.

200. The Chairperson of the subgroup subsequently reported back to the Working Group that the subgroup had not produced a document on the issue but that a fruitful dialogue had taken place. Therefore, the Committee was not in a position to make any recommendation on this subject to the first meeting of the Conference of the Parties.

4.1.7. List of developed country parties and other Parties which voluntarily assume the obligations of developed country Parties

201. As decided by the Intergovernmental Committee at the 1st plenary meeting of the session, agenda item 4.1.7 (List of developed country parties and other Parties which voluntarily assume the obligations of developed country Parties) was taken up in Working Group II. In considering the item, the Working Group had before it a note prepared by the Interim Secretariat on the list of developed country Parties and other Parties which voluntarily assume the obligations of developed country Parties (UNEP/CBD/IC/2/10 and Corr.1).

202. The Chairperson recalled that agenda item 4.1.7 was drawn from Article 20, paragraph 2, of the Convention, which stated that the Conference of the Parties shall at its first meeting establish a list of developed country Parties and other Parties which voluntarily assume the

obligations of the developed country Parties. He said that there were several ways of addressing this issue and stressed that, as a matter of principle, it might be unfair to deal with non-Parties in the same context.

203. The Chairperson reviewed the existing list of Parties and identified Australia, Canada, Denmark, Germany, Italy, Japan, Luxembourg, New Zealand, Norway, Spain, Sweden, and the United Kingdom as developed country Parties. He wondered if the Interim Secretariat could be asked to update the list as additional developed countries became party to the Convention, provided that there was no doubt regarding their status as developed countries. Such a list could then serve as a background document at the first meeting of the Conference of the Parties.

204. Other approaches discussed include the following. A number of representatives suggested that lists of developed countries established in the context of other conventions, in particular the climate change convention and the Montreal Protocol on Substances that Deplete the Ozone Layer, could be useful as a basis. Some representatives stressed that these lists had been drawn up under different conditions than those prevailing within the framework of the Convention on Biological Diversity, and that they therefore were unsuitable. One representative referred to the lists prepared by the World Bank, and another to the list prepared by UNCTAD. Other representatives cited the relevance of lists of developed countries used in several United Nations agencies. A reference was made to the UNDP list in that regard.

205. Several other representatives suggested that the list could be derived from the list of contracting Parties that were donors but not recipients within the framework of GEF named for operating the financial mechanism on an interim basis. Some representatives stressed, in relation to that proposal, that such an approach could lead to developed country Parties that were not donors to GEF not being listed among the developed country Parties. Several representatives did not agree at all to this approach. A few representatives also stressed that the provisions in Article 20, paragraph 2, stated that developed countries were donor countries, not that donor countries were developed countries. Some representatives suggested that only countries themselves could judge if they were developed or not.

206. It was proposed by some representatives that a criterion such as national income level should be used in the identification of developed countries, countries with economies in transition, and other countries that assume the obligations of the developed country Parties.

207. It was agreed to recommend that "other Parties" in the context of the list would refer to regional economic integration organizations, countries with economies in transition and developing countries provided they voluntarily assumed the obligations of developed countries.

208. The Working Group decided that agenda item 4.1.7 should be further discussed in the open-ended subgroup chaired by Mexico.

209. The Chairperson of the subgroup subsequently reported back to the Working Group that the subgroup had discussed the list of developed countries and other Parties that voluntarily assumed the obligations of developed country parties. The subgroup had requested him to collaborate with the Chairperson of the Working Group to develop such a list, which the Chairperson of the subgroup introduced.

210. The Working Group adopted the list for recommendation to the Conference of the Parties as a basis for its discussions on this topic. The list as adopted is contained in annex V to the present report.

#### 4.2. Matters arising from the work of the Intergovernmental

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Committee at its first session

Scientific, technical and legal matters

4.2.1. Report of the Open-ended Intergovernmental Meeting of Scientific Experts on Biological Diversity

211. At its 2nd plenary meeting, on 21 June 1994, the Committee took up its consideration of agenda item 4.2.1 (Report of the Open-ended Intergovernmental Meeting of Scientific Experts on Biological Diversity). In considering this item, the Committee had before it the report of the Open-ended Intergovernmental Meeting of Scientific Experts on Biological Diversity (UNEP/CBD/IC/2/11) and a note by the Secretariat transmitting the agenda for scientific and technological research prepared as a result of the Meeting (UNEP/CBD/IC/2/Inf.2). Introducing the item, the Chairperson expressed his thanks to the Government of Mexico for hosting the meeting from 11-15 April 1994 and to Professor José Sarukhan for his able chairing of that meeting.

212. The representative of Mexico, conveying apologies on behalf of Professor Sarukhan who was unable to attend the meeting, expressed his thanks to the Chairperson, the Executive Director, the Executive Secretary, and the whole staff for their efforts in Mexico. His Government, he said, hoped to have a further opportunity to contribute to the process of work under the Convention on Biological Diversity.

213. The Chairperson said he did not believe it necessary to enter into a plenary discussion of the report of the open-ended intergovernmental meeting, but recommended that the Working Groups draw upon it in their discussion of various items on the agenda, particularly item 4.3.3 on the Subsidiary Body on Scientific, Technical and Technological Advice. Expressing his regret that Professor Sarukhan was unable to attend the meeting to present the report, the Chairperson invited the Chairpersons of Subcommittees I and II of the Mexico meeting to make a presentation of the item.

214. The Chairperson of Subcommittee II said that the meeting had had the task of providing scientific ideas to help the Intergovernmental Committee in its work to prepare recommendations on scientific and technical matters for the Conference of the Parties. The major results of the meeting had been derived from the three elements of its terms of reference. The first was the identification of scientific programmes and international cooperation in research and development related to the conservation and sustainable use of biological diversity (see UNEP/CBD/IC/2/11, paras.24-36). The second area involved organization of the preparation of an agenda for scientific and technological research on the conservation of biological diversity and the sustainable use of its components, including possible institutional arrangements ad interim for scientific cooperation among Governments for the early implementation of the provision of the Convention on Biological Diversity (see UNEP/CBD/IC/2/11, paras.37-46). Those two issues had been dealt with by Subcommittee I.

215. The third element in the terms of reference had been the identification of innovative, efficient and state-of-the-art technologies and know-how relating to the conservation and sustainable use of biological diversity and the ways and means of promoting development and/or transferring such technologies. That was covered in paragraphs 47-73 of the meeting's report and in its annexes II to IX.

216. There were linkages, he continued, between the results of the Scientific Meeting and the agenda of the current session of the Committee. The first of those was the clearing-house mechanism for technical and scientific cooperation, which was to be considered by the Committee under

agenda item 4.1.4. In that connection, paragraph 30(d) of the report was relevant. The second linkage concerned the Subsidiary Body on Scientific, Technical and Technological Advice: functions, terms of reference, organization and operation. That was incorporated under agenda item 4.3.3. In that connection, the Intergovernmental Committee might wish to consider elements for an agenda for scientific programmes and international cooperation in research and development relating to the conservation and sustainable use of components of biological diversity, included in paragraphs 37-46 and in annexes II to IX of document UNEP/CBD/IC/2/11 and in document UNEP/CBD/IC/2/Inf.2. Those linkages were also illustrated in the note by the Secretariat on the Subsidiary Body (UNEP/CBD/IC/2/19, paras.11-15). There were, he said, many similarities to be found between the open-ended scientific meeting and the Subsidiary Body on Scientific, Technical and Technological Advice.

217. The next linkage concerned the range of appropriate models for technology transfer, which was to be considered under agenda item 4.2.5.2. Another linkage existed regarding the catalogue of relevant databases, and their gaps and linkages, which was to be considered under item 4.2.5.3. In that connection, the scientific meeting had provided advice on data-collection management and transfer, which could be found in annex IX to the report of the Meeting. The Interim Secretariat could take that advice into consideration in preparing its catalogue of databases.

218. The next linkage concerned the development of formats for data entries and related training, which was to be considered under agenda item 4.2.5.4. Discussion of that item could also benefit from consideration of annex IX of the report of the Scientific Meeting. The final linkage was in the mobilization of funds for regional workshops on Biological Diversity and the Convention on Biological Diversity, which came under agenda item 4.2.5.5. The Scientific Meeting had emphasized the need for regional workshops to identify common needs and to promote scientific cooperation among Governments for the early implementation of the provisions of the Convention. In that connection, paragraph 44 and annex VII of the report were relevant. Those workshops, he said, could also promote progress in other items on the agenda, e.g., Farmers' Rights, which came under item 4.2.4 of the agenda of the present meeting.

219. There were also linkages with agenda item 4.1.5 (Policy, strategy, programme priorities and eligibility criteria regarding access to and utilization of financial resources). In its deliberations on that item, the Working Group II might wish to consider the programme areas referred to in the report of the Meeting and in document UNEP/CBD/IC/2/Inf.2.

220. Introducing document UNEP/CBD/IC/2/Inf.2, the agenda for scientific and technological research, the Chairperson of Subcommittee I of the Mexico meeting said that the discussion of the subject was reflected in the report of the meeting. The intention had originally been to incorporate that agenda into the main report, but due to time constraints that had not been possible. The representatives present at the Mexico meeting had been asked to submit written comments on the subject to the Interim Secretariat before 1 May 1994. The Interim Secretariat had then drawn up a consolidated paper based on the comments made at the Meeting and those received subsequently in writing (UNEP/CBD/IC/2/Inf.2). The document had the same nature as annexes II to IX of the report, but for formal reasons it had been prepared as an information paper.

221. Some representatives, expressing their satisfaction at document UNEP/CBD/IC/2/Inf.2, said they considered that it should not be just an information document, but should be an annex to the report itself. Moreover, they believed its title should be changed to read "Elements of an Agenda for Scientific and Technological Research". In reply, the Chairperson said that the Chairpersons of Subcommittees I and II of the

Mexico meeting would hold further discussions on the suggestions made concerning the document.

4.2.2. Consideration of the need for, and modalities of, a protocol on biosafety

222. As decided by the Intergovernmental Committee at the 1st plenary meeting of the session, agenda item 4.2.2 (Consideration of the need for, and modalities of, a protocol on biosafety) was taken up in Working Group I. At the outset of the Working Group's discussion of the item, the Chairperson of the Working Group introduced a note prepared by the Interim Secretariat on consideration of the need for, and modalities of, a protocol on biosafety (UNEP/CBD/IC/2/12) and initiated discussion on the following topics:

(a) General consideration on biotechnology and the safe transfer, handling and use of living modified organisms (LMOs) resulting from biotechnology;

(b) The need for, and modalities of, a protocol;

(c) Consideration of guidelines and codes of conduct.

223. With regard to first topic listed in paragraph 222 above, there was general agreement in the Working Group on the need for adequate and transparent safety and border-control procedures to manage and control the risks associated with the use and release of LMOs resulting from biotechnology, to enable the potential benefits of biotechnology to be maximized, and to gain widespread public acceptance, especially in developing countries. There was agreement to put into place these measures, in accordance with Article 19 of the Convention, as soon as possible.

224. Several representatives, especially from developing countries, pointed out that biotechnology was evolving more rapidly than the capacity of their countries to install effective safety procedures for the handling and use of living modified organisms. Some representatives drew attention to ethical considerations and socio-economic concerns raised by the development of modern biotechnology. One representative drew attention to the possibility that, in the open environment, LMOs would mutate and change with time and raised the need to examine the question of accountability in the case of local or national disaster.

225. Two representatives referred to the vulnerability of local ecosystems to harmful or invasive alien species and expressed the view that the scope of any international biosafety considerations should be sufficiently broad to include alien species.

226. With regard to the need for, and modalities of, a protocol, Article 19, paragraph 3, of the Convention requires the Conference of the Parties to consider the need for, and modalities of, a protocol on the safe transfer, handling and use of LMOs resulting from biotechnology. A small drafting group was set up to suggest a formulation that would reflect the discussions of the Working Group on the need for, and modalities of, a protocol on biosafety. The small drafting group presented the following: A significant number of representatives expressed support for immediate work on a protocol, while others expressed support for the Conference of the Parties establishing a step-by-step process to consider the need for, and modalities of, a protocol. In reaction to that proposal, the Group of 77 and China and some other delegations stressed that they were of the unanimous view that immediate work on a protocol on biosafety should begin. Several representatives stated that any consideration of the need for a protocol under the Convention should be based on existing scientific work prepared by bodies such as the Food and Agriculture Organization of the United Nations (FAO), the United Nations Industrial Development Organization (UNIDO) and the Organisation for Economic Cooperation and

Development (OECD), particularly as relevant to the conservation and sustainable use of biological diversity. The need for a system of advance informed agreement in the process of transfer of LMOs was particularly stressed. One representative noted that the clearing-house mechanism to be recommended within the framework of the Convention could facilitate exchange of information relating to the safe transfer, handling and use of LMOs resulting from biotechnology. One representative considered that a protocol was not warranted under the Convention, but looked forward to beginning to fulfil the obligations outlined in Article 19, paragraph 3, of the Convention.

227. Several representatives expressed the view that there should be a process through which technical guidelines on safety in biotechnology should be developed rapidly without prejudging the need for a protocol, to enable experience to be gained with the application of such guidelines. They stressed, however, that guidelines should not be seen as a substitute for the introduction of internationally agreed and legally binding safety measures within the framework of the Convention and that such measures should be guided by the precautionary principle.

228. Several representatives pointed out the need to establish and enhance, as soon as possible, effective national biosafety capacities for the development of technical guidelines. They considered that international guidelines might make a significant contribution to the development of national biosafety capacities, which the working group highlighted as one of the most pressing needs, especially within developing countries. In that regard, several representatives also welcomed the regional meetings on international cooperation on safety in biotechnology held in Harare in October 1993 and Cartagena in June 1994, as well as a prospective workshop to be held in Asia in 1995 as a valuable contribution to national capacity-building efforts.

229. There was general agreement that the Committee should recommend that the issue of biosafety should be on the agenda of the first meeting of the Conference of the Parties to initiate the process specified in Article 19, paragraph 3. Some representatives suggested that the Interim Secretariat might be requested to outline a process for consideration by the Conference of the Parties at its first meeting and that any such effort should take into account the Report of Expert Panel IV of UNEP (UNEP/Bio.Div/Panels/Inf.4) and existing documentation on biosafety. Other representatives noted the need to avoid overburdening the Interim Secretariat in the period leading up to the first meeting of the Conference of the Parties, and stressed that the Interim Secretariat's work should focus clearly on the process and avoid extensive detail. One representative suggested that an open-ended ad hoc working group be established by the first meeting of the Conference of the Parties, to assess the need for, and modalities of, a protocol and to report to the second meeting of the Conference of the Parties. Some other representatives proposed that the Conference of the Parties establish an expert group with regional representation to draft a protocol.



230. With regard to the consideration of guidelines and codes of conduct (para. 222 (c) above), the Working Group's attention was drawn to the recent collaboration between the Governments of the United Kingdom and the Netherlands to develop draft international technical guidelines on safety in biotechnology as a contribution to the implementation of Agenda 21. Those were welcomed by the Working Group as a contribution towards the consideration of a possible international agreement on technical aspects of biosafety measures. However, several representatives felt that those guidelines should not substitute for such internationally agreed measures or for any process that would lead to the assessment of the need for a protocol to the Convention. A number of representatives considered that guidelines of this kind should now be developed within the framework of the Convention, one option being that they be developed by UNEP or FAO, upon invitation from the Conference of the Parties. Others suggested that they might be developed under the auspices of UNEP.

231. The representative of FAO drew attention to the negotiated draft of the FAO International Code of Conduct on Plant Biotechnology as it Affects the Conservation and Utilization of Plant Genetic Resources. That draft Code of Conduct, which was being developed by the Commission on Plant Genetic Resources, addressed inter alia the promotion of biosafety to minimize environmental risks throughout the world. The FAO Conference had recommended that, in order to avoid duplication, the biosafety component of the draft code of conduct could constitute an input to the work of the Conference of the Parties on that matter. The FAO representative reiterated his Organization's willingness to develop complementarity and cooperation between the Convention on Biological Diversity and the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture in developing an international framework for biosafety. Attention was also drawn to other relevant bodies of work, such as the Report of Expert Panel IV of UNEP, the Voluntary Code of Conduct for the Release of Organisms into the Environment published by the Secretariat of UNIDO, and the OECD Safety Considerations for the Use of Genetically Modified Organisms.

232. Representatives of three non-governmental organizations drew attention to the need for the introduction of a legally binding international biosafety protocol as a matter of urgency to combat risks inherent in applying biotechnology without adequate safeguards, especially in developing countries. They stressed the urgent need for a protocol because of the serious risks posed by the transboundary nature of the export of LMOs, and examples were given of Northern companies that had already started carrying out hazardous genetic engineering experiments in the South. They also asked that the serious destabilizing socio-economic aspects of biosafety form part of such a protocol.

#### 4.2.3. Ownership of, and access to, ex situ genetic resources

233. As decided by the Intergovernmental Committee at the 1st plenary meeting of the session, agenda item 4.2.3 (Ownership of, and access to, ex situ genetic resources) was taken up in Working Group I. Article 15, paragraphs 1 and 2, of the Convention on Biological Diversity calls upon the contracting Parties to endeavour to create conditions to facilitate access to genetic resources. Resolution 3 of the Nairobi Final Act recognizes the need to seek solutions to the outstanding matter of access to ex situ collections not acquired in accordance with the Convention and the question of farmers' rights within the FAO Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture. For the consideration of this item and to facilitate its discussions, Working Group I had before it a note by the Interim Secretariat on the subject (UNEP/CBD/IC/2/13). Various representatives of Governments and intergovernmental bodies, and representatives of NGOs made statements. The following points were made:

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(a) Many representatives stated that any multilateral agreement on access to genetic resources should take into account ex situ collections which existed before the Convention entered into force. Such an agreement should be in accordance with the objectives of the Convention on Biological Diversity, in particular the fair and equitable sharing of benefits arising from the utilization of genetic resources and should be properly examined by Governments for their consideration. Many representatives referred to Article 9 of the Convention which states that ex situ conservation should be undertaken preferably in the country of origin;

(b) Many representatives supported the work of the Commission on Plant Genetic Resources, which is an intergovernmental forum established within the FAO, in addressing the issue of plant genetic resources for food and agriculture. Reference was made to the negotiations among Governments for the adaptation of the International Undertaking on Plant Genetic Resources in harmony with the Convention on Biological Diversity, for consideration of the issue of access on mutually agreed terms to plant genetic resources, including ex situ collections not acquired in accordance with the Convention as well as for the issue of realization of Farmers' Rights. The Conference of the Parties should be continuously informed about the progress in these negotiations. It was stressed that the Conference of the Parties should provide guidance to the interpretation and further development of these issues. There was strong general support for the renegotiation process of the International Undertaking on Plant Genetic Resources, bringing it within the framework of the Convention on Biological Diversity, possibly in the form of a protocol developed on a step by step basis to be finalized by the time of the 4th International Technical Conference on Genetic Resources, organized by the FAO under the guidance of its Commission on Plant Genetic Resources, to be held in Germany in 1996. One representative stressed that the FAO's International Undertaking on Plant Genetic Resources could not become, in any form, a legal instrument under the Convention on Biological Diversity because the Convention had no such provisions;

(c) Many representatives addressed the issue of the ex situ genetic resources for food and agriculture held in trusteeship by the International Agricultural Research Centres (IARCs) of the Consultative Group on International Agricultural Research (CGIAR) system. They strongly supported the efforts to bring these resources under the auspices of FAO. Delegates expressed strong support for finalizing the agreement between the FAO and the International Research Centres as soon as possible. It was pointed out, however, that the concept of trusteeship should be clarified. The representatives of FAO and CGIAR confirmed that they intended to conclude the agreement within the next few months. Some representatives stated that any attempt to create obstacles for the early conclusion of the agreement was unacceptable. One representative requested that that message be carried to the Chairman of the CGIAR by the Chairperson of ICCBD;

(d) Some representatives expressed the important role of the CGIAR system in capacity-building assistance for their national breeding programmes, which was a cornerstone of food security policies in their countries. Many representatives, acknowledging the past contributions of IARCs, recommended that those centres continued to provide the same assistance to countries on conservation and sustainable use of plant genetic resources;

(e) Many representatives stressed that duplicates of germplasm samples held in international collections should be repatriated, upon request, to countries from which the material had been collected, and the need for a system of the sharing of the benefits accruing from the utilization of those resources. Several delegations pointed out that traditional farmers or indigenous and local communities were often the original providers of germplasm to international collections, and one

delegation expressed the view that repatriation to countries did not imply repatriation to the original suppliers. That being a complicated problem, further study should be done on the issue of repatriation;

(f) Some representatives suggested that the Interim Secretariat identify the existing microbial and animal collections at the national and international level;

(g) Some representatives stressed the close relationship between Farmers' Rights and the issue of the ownership of and access to ex situ genetic resources to achieve the fair and equitable sharing of benefits;

(h) Some representatives suggested that the issue of ownership and access to ex situ genetic resources acquired prior to the entry into force of the Convention should be included in the agenda of the first meeting of the Conference of the Parties. Other representatives contended that this was not a priority for the first meeting, but that it should be on the agenda with a view to its inclusion in the medium-term work programme of the Conference of the Parties;

(i) It was agreed that, in order to ensure cooperation and complementarity with the work being carried out by the Commission on Plant Genetic Resources to implement resolution 3 of the Nairobi Final Act, FAO should be invited to present a progress report on this subject to the first Conference of the Parties. Several representatives suggested that there should be reciprocal attendance by the Secretariats of the CPGR and the Convention in meetings of each other's intergovernmental bodies;

(j) Some representatives called for a study, with the thrust on the equitable sharing of benefits, to be initiated on the impact of intellectual property rights on the objectives of the Convention on Biological Diversity, as a means of clarifying Article 16, paragraph 5, of the Convention;

(k) A number of non-governmental organizations made statements. Some drew attention to perceived shortcomings in the current international processes in the ownership of and access to existing ex situ international collections of genetic resources and supply figures showing how it worked to the disadvantage of the original owners of these resources, namely the farmers, the indigenous people and the countries of the South, and benefitted the North in the main. They proposed that the Conference of the Parties give priority in discussing and determining the status as to ownership, control and rights of ex situ collections of biological material. In such a determination, the rights of farmers, indigenous people, and the countries originally providing the resource should be recognized and formally established.

234. In addition to the discussion in the Working Group, one representative, speaking at the 9th plenary meeting of the session, on 1 July 1994, expressed support for the proposal for an in-depth study on the relationship between intellectual property rights and the objectives of the Convention, focusing on equitable sharing of benefits, as there was no higher right than the inherent right of a country to share in the benefits accruing from its own biological diversity and genetic resources.

#### 4.2.4. Farmers' Rights and rights of similar groups

235. As decided by the Intergovernmental Committee at the 1st plenary meeting of the session, agenda item 4.2.4 (Farmers' Rights and rights of similar groups) was taken up by Working Group I. Article 8 (j) of the Convention calls upon contracting Parties, within their national legislation, to respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities. Furthermore, resolution 3

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of the Nairobi Final Act addresses the question of Farmers' Rights. The Interim Secretariat had prepared a paper on this topic as a background document (UNEP/CBD/IC/2/14). The following points were raised during the discussion:

(a) There was agreement on the importance of recognition of innovations of local communities and indigenous people;

(b) Several representatives suggested that possible new approaches should be developed to enable indigenous people and local communities to be compensated for their contributions to the conservation and sustainable use of biological diversity. One representative suggested that a Community Gene Fund should be established, in order to protect the rights of farmers and local communities;

(c) Many representatives also stated that incentives were necessary in recognition of the contribution of traditional farmers to the domestication of genetic resources;

(d) Some representatives suggested that intellectual property rights might constitute a basis for the fair and equitable sharing of benefits. Other options should also be explored. One representative stressed that it was not appropriate to deal with this notion, Farmers' Rights, as a kind of intellectual property rights, due to its nature;

(e) Many representatives noted that work in hand within FAO, the United Nations Working Group on Indigenous Populations and the World Intellectual Property Organization on the issue should be taken into consideration by the Interim Secretariat in order to avoid duplication or overlap;

(f) Some representatives expressed the need to develop a legally binding instrument such as a protocol within the framework of the Convention on Biological Diversity to protect Farmers' Rights and the rights of similar groups. One representative stressed the need that such a legally binding instrument should amplify that the rights of farmers are inviolable and cannot be dispensed with by an intellectual property regime relating to genetic resources;

(g) One representative noted that the issue of indigenous rights and intellectual property was a complex and difficult one and that there was a need for extensive constructive discussion of this issue;

(h) Some representatives suggested that the issue of existing and new intellectual property rights in the context of the objectives of the Convention should be included on the agenda of the first meeting of the Conference of the Parties. Some representatives suggested that the further implementation of the provisions of the Convention on Biological Diversity relating to indigenous and local communities be addressed by the first meeting of the Conference of the Parties in the consideration of the medium-term programme of work;

(i) One representative requested a clarification of the term "embodying traditional lifestyles" in Article 8 (j);

(j) Some representatives proposed that the Interim Secretariat should undertake a study on how to move forward on the issue of Farmers' Rights and the rights of similar groups, bearing in mind the complexity of the issue, in order to outline options for implementing Article 8 (j) of the Convention. Other representatives suggested that the question of a study should be addressed by the Conference of the Parties at its first meeting in the consideration of its medium-term programme of work;

(k) It was recognized that the concept of Farmers' Rights had been negotiated by Governments in the Commission on Plant Genetic Resources and unanimously adopted by the FAO Conference;

(l) Some representatives and several NGOs made statements underlining the need for the full involvement of local and indigenous communities in any ongoing activities under the authority of the Conference of the Parties.

4.2.5. Status report by the Interim Secretariat on action taken in response to requests made at the first session of the Intergovernmental Committee

236. As decided by the Intergovernmental Committee at the 1st plenary meeting of the session, agenda item 4.2.5 (Status report by the Interim Secretariat on action taken in response to requests made at the first session of the Intergovernmental Committee) was taken up in Working Group I. At the first session of the Intergovernmental Committee, the Working Group had requested work to be undertaken by the Interim Secretariat on the following matters:

- (a) Examples and possible models for national legislation regulating access to genetic resources;
- (b) Range of appropriate models for technology transfer;
- (c) Catalogue of relevant databases and their gaps and linkages;
- (d) Formats for data entries and related training;
- (e) Mobilizations of funds for regional workshops on biological diversity and the Convention on Biological Diversity.

237. For the second session of the Committee, the Interim Secretariat prepared a note (UNEP/CBD/IC/2/15) summarizing the ongoing tasks in order to fulfil the requests of the ICCBD at its first session. During a short discussion in the Working Group the following points were raised with regard to points (a) to (e) in paragraph 236 above:

- (a) The need for an early conclusion of the Interim Secretariat's work to examine and report on existing examples and possible models for national legislation, with due attention to its potentially conflictual nature and for agreements and other practices for regulating access to genetic resources. Work by the Interim Secretariat on this item should not be confined to regulating access;
- (b) The importance of facilitating access to and joint development and transfer of technologies for assisting developing countries to fulfil the objectives of the Convention. It was requested that this item should be included on the agenda of the first Conference of the Parties;
- (c) The need for a general framework on how to build up a database on projects and programs rather than identifying the existing projects and programs at the national, regional and international levels;
- (d) It was premature to identify software at this stage. That was not a priority. It was also considered that training was a very important aspect of that activity;
- (e) Regional workshops were a valuable contribution to the preparations for the Conference of the Parties and implementation of the Convention. In that connection, it was noted that a regional workshop among the South Asian Association for Regional Cooperation (SAARC) ASEAN

and some other countries at Bangalore, India, was being held on 22-23 August 1994. It was also noted that UNEP and the Interim Secretariat should encourage organizing and supporting such workshops subject to availability of funds.

4.3. Other matters for action by the Conference of the Parties at its first meeting to which the Intergovernmental Committee can contribute

4.3.1. Draft provisional agenda for the first meeting of the Conference of the Parties

238. At its 6th plenary meeting, on 28 June 1994, the Committee took up its discussion of agenda item 4.3.1, "Draft provisional agenda for the first meeting of the Conference of the Parties". In its consideration of the item, the Committee had before it a note on the subject prepared by the Interim Secretariat (UNEP/CBD/IC/2/18). Introducing the item and the draft provisional agenda contained in that document, the Chairperson said that the provisional agenda would need to be adjusted to take account of the decisions taken by the Committee concerning the agenda for its current session. Therefore, provisional agenda item 4.5, covering the periodicity of the meetings of the Conference of the Parties, would be included with item 2.2, "Adoption of the rules of procedure". The Chairperson pointed out that item 4 of the provisional agenda concerned matters stipulated in the Convention for action by the Conference of the Parties at its first meeting. Item 5 was proposed to include matters which the Committee might wish to recommend that the Conference consider at its first meeting. As that first meeting of the Conference would be of only two weeks duration, the Committee might consider recommending that matters listed under item 5 be addressed by the Conference only when work had been completed on matters under item 4. Drawing attention to rule 8 of the draft rules of procedure for the Conference of the Parties, which stated: "In agreement with the President, the Secretariat shall prepare the provisional agenda", he said that he and the Secretariat would take note of any suggestions made and would consider them during the course of preparing the work for the first meeting of the Conference of the Parties, including the provisional agenda.

239. The Chairperson of Working Group I, pointing to the importance which discussions in the Working Group had accorded to the establishment of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA), requested that an item on SBSTTA be included under item 4 of the draft provisional agenda, in the subsection on scientific and technical matters. A number of representatives supported that proposal. One of them said that it was an important proposal, since biological diversity was an essentially scientific area and the SBSTTA should become operational as soon as possible. One other representative pointed out that the SBSTTA did not need to be established, since it had been established by the Convention.

240. One representative, speaking on behalf of a regional economic integration organization and its member States, proposed the following additions and amendments to the items listed on the provisional agenda contained in document UNEP/CBD/IC/2/18: "Determination of format, structure and intervals of reporting duties by the institutional structure to the Conference of the Parties"; "Development of national strategies, plans or programmes (Article 6) and determination of intervals, format and structure of reporting duties by Contracting Parties to the Conference of the Parties (Art. 26); "Consideration of possible mechanisms for safety in biotechnology, including an approach to determining need for and modalities of a protocol"; "Selection of a competent international organization or a consortium thereof to carry out the functions of the Secretariat of the Convention"; "Determination of guidelines and periodicity of meetings of the Subsidiary Body on Scientific, Technical and Technological Advice

(SBSTTA) and election of the Chairperson thereof"; and insertion of an item entitled "Adoption of a budget for the financial period until the second meeting of the Conference of the Parties".

241. Further proposed amendments and additions, he continued, were: "Input to the CSD"; "Determination of the agenda for the next Conference of the Parties meeting and a medium-term framework programme to be carried out under the Convention"; "Cooperation with international bodies and conventions". He concluded by saying an item entitled "Venue and date of the first meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA)" should be included. The way in which he had listed those items, he said, implied no ranking.

242. A number of representatives expressed support for the statement made on behalf of the regional economic integration organization and its member States and for the amendments and additions proposed for the draft provisional agenda for the first meeting of the Conference of the Parties. Several representatives underlined the need to include on the agenda an item on inputs into the CSD Working Group session of 1995. One representative, expressing his basic support for the proposals made on behalf of the regional economic integration organization and its member States, said that in Working Group I there had been consensus about consideration of an approach to determining the need for and modalities of a protocol on biosafety. However, there had been no consensus concerning the possible mechanism of a protocol, and he therefore had some difficulty in accepting the suggestion made in that connection.

243. One representative requested the inclusion of an item entitled "Establishment of a preparatory process for the deliberations of the Conference of the Parties on the rights of indigenous and local communities embodying traditional lifestyles". That proposal was supported by several other representatives.

244. One other representative wished to see on the draft provisional agenda an item on adoption of a budget for the period until the next ordinary meeting of the Parties, as required under Article 23 of the Convention. In addition, she considered that under item 5 it would be useful to consider the process of reporting by Parties, as covered by Article 26 of the Convention. For that item the Interim Secretariat could prepare a paper setting out the scope and objectives of such reports.

245. Several representatives pointed to the need to include an item on the issue of access to genetic resources. One of them felt that it should be a standing item at all sessions. Some others wished to see the issue of intellectual property rights addressed by the Conference of the Parties. Several representatives considered that access to and transfer of technology should be on the agenda of the Conference of the Parties. One of them said that progress on that front was a prerequisite for implementation of the Convention by developing countries.

246. A number of representatives said it was necessary to discuss the long-term programme of work, and one of them said the establishment of such a work programme was the chief concern of his delegation. One representative said that it was necessary to allow Governments to identify priorities and plans for a forward looking programme, and that need should be reflected in the agenda of the Conference of the Parties. Another representative said that a medium-term work programme would make it easier for Governments to report in a focused way and would provide a sound basis for the work of the Subsidiary Body on Scientific, Technical and Technological Advice.

247. One representative said that a longer-term programme of work would reflect the spirit and intention of the Convention. While it was important to set in place the necessary machinery for the implementation of the

Convention, consideration of that machinery must be balanced by preparation of a long-term programme of work. The first meeting of the Conference of Parties should send a signal to the world about the tasks which the entire Convention machinery was intended to accomplish. Another representative specified capacity-building, in situ conservation and national strategies as priority issues to be addressed, one at a time, in the medium- and long-term agenda. A third representative said that each session should focus on a number of sectoral and cross-sectoral issues, mentioning in particular the biodiversity dimension of agriculture and integrated coastal management.

248. One representative, subsequently supported by another, said that what was needed was a kind of rolling agenda, focusing on a different area of conservation and sustainable use of biological diversity each year. While recognizing Rule 8 of the draft rules of procedure being considered for recommendation to the Conference of the Parties, Governments had a role to play in supporting the Secretariat in the preparation of an agenda for the long term. In that context, he suggested the establishment of a working group to make proposals, or the submission of written statements by Governments to the Secretariat. In reply, the Chairperson said that the agenda for the first meeting of the Conference of the Parties needed to be distinguished from any long-term agenda. One representative suggested that the Interim Secretariat be asked to circulate informal proposals to which Governments could reply in writing. Another representative expressed concern about the volume of work requested of the Interim Secretariat in preparation for the Conference of the Parties.

249. With regard to suggestions pertaining to the inclusion of additional items on the agenda or the reordering of items already included, so as to give them greater prominence, one representative strongly supported the proposal that the agenda should include the issue of the transfer of technology to developing countries. In addition, he noted that, while agenda items 4.1 and 4.2 referred to the structures and mechanisms for the Conference's future work, there was no indication of the necessary link between them and the Conference of the Parties. In view of the fundamental importance of the financial mechanism to the Conference and to the implementation of the Convention, and the need to establish sound structures and mechanisms at the first meeting of the Conference, he suggested the inclusion of a new agenda item, specifically on the link between the financial mechanism and the Conference of the Parties, possibly as a new agenda item 4.3.

250. One representative stressed the need for consideration to be given to the important issue of rules of procedure, which should be examined in depth and should, therefore, be taken up as the first issue under agenda item 4. Another representative pointed out that item 6 on the status of ratification on the Convention, was merely an item of information and belonged more appropriately between items 3 and 4.

251. Many representatives as well as the Chairperson of the Committee and the Executive Secretary of the Interim Secretariat cautioned against over-loading the agenda of the first meeting of the Conference of the Parties. A number of them said efforts should be made to prioritize issues and first establish the necessary administrative structure and machinery to deal with issues. One representative said that the first meeting had on its agenda financial and organizational matters that must receive priority at the initial stage.

252. One representative said that, while the Conference of the Parties, faced with a big agenda, would not be able to address the key issues in depth, it should not devote all its time to administrative and institutional issues and should at least establish guidelines on how to



proceed with outstanding substantive issues. The second meeting could then evaluate the results of the intersessional work.

253. Another representative pointed out that the Conference would be political, attended not by experts, as was the case of the current meeting, but by plenipotentiary representatives of Governments, and it was therefore essential that the documents for adoption should be detailed and organized around substantive issues. In addition, a steering committee would be required and the meeting should consider criteria for the appointment of its members.

254. The Executive Secretary of the Interim Secretariat said that the first meeting of the Intergovernmental Committee had not produced sufficient guidance about the issues which should comprise a medium-term programme under the Convention on which the Secretariat could base a paper for this session, and she was therefore gratified by the numerous suggestions made by delegations. She assured the meeting that all suggestions would be taken into account in the preparation of a programme of work for the consideration of the first meeting of the Conference of the Parties, which would underpin the proposed budget of the Secretariat.

255. She stressed the need for a clear distinction to be maintained between the agenda for the first meeting of the Conference and its future work programme. She understood the Committee's objectives to be that the first meeting of the Conference would not aim to deal in depth with all the items suggested, but would consider them and identify the priorities for the future performance of work.

256. Finally, she welcomed the offer of assistance to the Interim Secretariat and proposed an informal discussion with all delegations who wished to contribute further to identifying principles for the future work programme.

257. The Chairperson suggested that the Interim Secretariat should list and circulate all the proposals put forward by delegations.

258. One representative supported the Chairperson's suggestion that all items proposed should be listed and circulated to delegations, but objected to any private discussion between the Interim Secretariat and some Governments on this matter. The informal discussions should be open to all delegations since it was vital that the preparation of the future agenda should be a transparent process.

259. The representative of a country which was participating for the first time in the work of the Intergovernmental Committee commended all those concerned on the high quality of preparations for and organization of the meeting. His country belonged to the group of so-called countries in transition and had suffered from the large scale and wilful destruction of its natural resources and the flouting of its local traditions. Two severely affected areas of the country had been declared environmental disaster zones. The regime of secrecy which had previously obtained meant that the authorities lacked baseline data and had been unable to prepare a sound strategy for addressing the consequences of those environmental disasters.

260. In consequence, he proposed that the recommendations of the first meeting of the Conference of the Parties should make special provision for the countries in transition and that, since there were substantial differences between those countries in respect of their economic level and nature conservation policy, legislation and infrastructure, the special benefits accorded to developing countries under certain articles of the Convention, particularly those relating to the provision of aid, should also be extended to certain of the countries in transition. Those special

provisions should obtain in respect of such issues covered by the Convention as: the elaboration of guidelines for the identification, creation and rational use of protected areas or areas in which special measures should be adopted for the conservation of biological diversity; the implementation of scientific and technical programmes for the training of personnel in the identification, conservation and sustainable use of biological diversity and its components; measures to ensure privileged access to the results and benefits deriving from biotechnologies based on genetic resources; and the issue of the provision of new and additional resources for the fulfilment of the obligations under the Convention.

261. In addition, at the 9th plenary meeting, on 1 July 1994, one representative, speaking on behalf of the Group of 77 and China, said that, as an input for the preparation of an agenda for the first meeting of the Conference of the Parties, his Group had submitted to the Interim Secretariat a proposal reflecting the suggestions made by the countries of his Group.

4.3.2. Preparation of the participation of the Convention on Biological Diversity in the third session of the Commission on Sustainable Development

262. At the 4th plenary meeting of the session, the Chairperson informed the Committee that he had been requested by the spokesperson of one regional group to move forward to the beginning of the following week the consideration of the draft provisional agenda for the first meeting of the Conference of the Parties. The rationale for this was to allow more time for consideration of the additional item on the agenda: preparation of the participation of the Convention on Biological Diversity in the third session of the Commission on Sustainable Development. He recalled that, during the 1st plenary meeting, it was agreed that this new agenda item would be considered in connection with the draft provisional agenda for the first meeting of the Conference of the Parties. He proposed that the Committee discuss that item during its next plenary meeting.

263. The Chairperson advised the Committee that the principal reason behind the decision of the Commission on Sustainable Development at its second session to entrust the preparation of all the sectoral issues, including biological diversity, on the agenda of its third session to the ad hoc, open-ended intersessional working group was precisely to avoid a proliferation of meetings and to learn from the experience of the last intersessional period of the Commission, when most of the preparations were undertaken outside that institutional framework, without coordination. Furthermore, he had been advised that the task manager (UNEP) on the theme of biological diversity for the preparation of the next session of the Commission had been designated by the Secretary-General of the United Nations. Finally, he wished to clarify that the Committee and the Conference of the Parties were not required to report to the Commission on Sustainable Development: the Conference of the Parties to the Convention was a sovereign body, and the exercise in which the Committee would engage under agenda item 4.3.2 should not be seen as a matter of preparing a report for submission to the Commission.

264. At the 6th plenary meeting of the session, on 28 June, the Chairperson recalled the statement he had made at the 4th plenary meeting, on 24 June (see paras.262-263 above). He wished to emphasize the following additional elements: first, the Conference of the Parties was the supreme body of the Convention, while the Commission on Sustainable Development was the institutional mechanism to follow up Agenda 21, including its chapter on the conservation of biological diversity; secondly, while there should be adequate coordination between the two bodies, it was essential to avoid putting the Conference of the Parties in a position whereby it could be perceived as an organ reporting to the Commission as the Conference of the

Parties was not a subsidiary body of the Commission; thirdly, although no contribution from the Conference of the Parties could be renegotiated or amended by another intergovernmental body, a contribution from the Secretariat was, however, not only needed but was essential, and he had been advised that such a contribution was already contemplated. He understood the legitimate desire of the Committee to contribute to the discussion of the item on biological diversity at the third session of the Commission. However, he sincerely believed that the foregoing elements must be taken fully into account and that the objective the Committee had in mind could be met through the mechanism established by the Commission on Sustainable Development for receiving inputs into its deliberations.

265. Representatives taking the floor following the Chairperson's introductory remarks stressed the importance of establishing linkages between the Conference of the Parties and the Commission on Sustainable Development. That relationship was not, however, a hierarchical one. One representative recalled that the original draft of chapter 15 of Agenda 21 had been completely revised in the light of the negotiations on the Convention on Biological Diversity and that decisions adopted by the Conference of the Parties had a higher status than those in the Commission as they were adopted within a legally binding framework. The discussion in the Commission should therefore be guided by the work of the Conference of the Parties. Another representative, speaking on behalf of a regional economic integration organization and its member States, said that, although reporting by the Conference to the Commission was in no way obligatory, the mandate of the Commission should be acknowledged. Another representative said that the extraordinary series of meetings scheduled in connection with the Commission's consideration of the cluster of issues that included biological diversity, provided an opportunity for all to make progress. The whole process was linked to the programme of work that the Conference of the Parties might adopt and he hoped that it would result in a much improved agenda for the conservation and sustainable use of biological diversity. Another representative said that his delegation was less concerned about how the Conference of the Parties was linked to the Commission on Sustainable Development than with the rationale for so doing. He agreed that the process provided an important opportunity to influence a wider agenda, to remind the Commission of the common goals of the two bodies, and to look for opportunities to coordinate action. The opportunity should be used to establish alliances rather than demonstrate independence. A number of representatives stressed the fact that the conservation and sustainable use of biological diversity was a major component of sustainable development. Those linkages between the Commission and the Convention, including the common objective of eradicating poverty, must be kept intact.

266. One representative, speaking on behalf of a regional economic integration organization and its member States, said that there was an urgent need for the Committee to discuss the modalities and content of the contribution of the Conference of the Parties to the Commission's third session. Priority should be given to a discussion of the issue at the current session, to be followed by further preparations by the Interim Secretariat for submission to the Conference of the Parties for consideration and approval and subsequent transmission to the Commission on Sustainable Development. Several representatives said that it was important that any contribution regarding the Convention by the Secretariat must be based on inputs by Governments. Some representatives suggested that an ad hoc working group or a workshop should be convened prior to the Conference of the Parties in order to discuss the possible input to the Commission on Sustainable Development. The representative of Spain said that his Government was willing to consult the Secretariat and consider hosting such a workshop, with regional representation. He would provide further details at a later date. Other representatives, however, were opposed to the idea of additional meetings, some believing that, since the

first input from the Conference of the Parties to the Commission could not be substantive, there was no necessity to devote a large amount of resources to it. A number of representatives supported the idea of having Governments submit their views in writing to the Interim Secretariat, and a subsequent discussion at the Conference of the Parties on the inputs from the Secretariat. Another representative suggested that the Interim Secretariat could assist by following up on contributions by Governments and prepare a draft for consideration in New York by delegations attending the General Assembly. Such a procedure would allow for input from Governments before the draft went to the Conference of the Parties. Some representatives believed that the important thing was not so much to submit a report but rather to provide the Commission on Sustainable Development with information on what was taking place within the framework of the Convention. That information was to be gathered by the ad hoc intersessional committee group and should be forwarded by the Conference of the Parties through the appropriate channels.

267. With regard to the suggestion that an ad hoc open-ended working group be convened to prepare recommendations for the Conference of the Parties; the Chairperson said that that would require a further session of the Intergovernmental Committee to receive the group's report. He further noted that the Intergovernmental Committee had been convened by the Executive Director of UNEP, which was both the host organization for the Interim Secretariat and the task manager for biological diversity. UNEP was therefore in a position to receive governmental inputs for the report of the Interim Secretariat and could hold consultations with Governments within UNEP.

268. Speaking in response, the Executive Director said that UNEP had been designated as task manager for biological diversity in the Commission on Sustainable Development. The previous week, discussions had been held at the Inter-Agency Committee on Sustainable Development on the timetable and means of reporting, in light of the fact that the decision to establish an intersessional committee to receive inputs had had an impact on the schedule and work of the task managers. The Inter-Agency Committee also discussed the need to have a way of reflecting the views of Governments in the report of the task manager. As task manager, UNEP could organize consultations in cooperation with the Interim Secretariat to ensure that the views of Governments were reflected in the task manager's report.

269. Speaking at the conclusion of the Committee's consideration of the item at its 6th meeting, the Executive Secretary noted the importance which the Committee attached to a substantive relationship between the Conference of the Parties to the Convention and the Commission on Sustainable Development as well as the sense of process with which that relationship will need to be viewed. She said that the Interim Secretariat had recognized the need to make an input on behalf of the Convention to the task manager's report. She therefore proposed that preparation of that input to the report of the task manager would be facilitated if it received inputs from Governments. It would then prepare the same material for the Conference of the Parties to give the Governments an opportunity to consider it, make the necessary modifications and submit it for the Commission on Sustainable Development. Such a process, using the mechanism already set up by the Commission, would be easier than embarking on a series of meetings; it would also give Governments an opportunity to discuss input to the Commission by the Conference of the Parties and would maintain the distinction between the report of the task manager and that of the Conference of the Parties.

270. Following the statement by the Executive Secretary, one representative said that it would be more useful for the Interim Secretariat to note the statements made by Governments made at the current meeting and to put

forward proposals rather than informing the Committee of how it had intended to proceed.

271. Another representative, however, supported the preparatory process outlined by the Executive Secretary.

272. Summarizing the discussion at the 6th plenary meeting, the Chairman said that it was clear that links had to be maintained with the Commission on Sustainable Development. That did not, however, mean mandatory reporting. There was also a clear desire to have a substantive governmental input to the Commission. The point was now whether governments would make comments in writing, whether they would meet and discuss concrete ideas, or whether consultations would be held with Governments within the framework of UNEP. He also noted the offer by Spain to hold a seminar on the subject. Taking account of the options he proposed, the Committee agreed that the item would be raised at the meeting of the Extended Bureau to be held the next day and the Chairperson would report back to plenary so that it could discuss the procedure to be used.

273. At its 8th plenary meeting, on 30 June 1994, the Intergovernmental Committee resumed its consideration of preparations for participation of the Convention on Biological Diversity in the third session of the Commission on Sustainable Development (CSD). Introducing the discussion, the Chairman said that, following discussions in the meeting of the Extended Bureau earlier that morning, he wished to propose the following procedure for the preparation of contributions for the Conference of the Parties to consider with regard to participation in the third session of CSD. First, Governments would be invited to submit written suggestions, not exceeding two pages in length, by 15 August to the Interim Secretariat. To assist Governments, the Interim Secretariat would circulate a short document the following day indicating what it hoped to receive from Governments. Second, the meeting should accept the generous offer by the Government of Spain to organize a workshop or seminar in Madrid, in September 1994, with a maximum of 20 experts, participating in their personal capacity and acting in consultation with their Governments. Participation would be by invitation from the Government of Spain, which would seek guidance from Governments and from UNEP on whom to invite. Thirdly, the contributions submitted by Governments to the Interim Secretariat, as well as any material forthcoming from the Madrid workshop, would be used by the Interim Secretariat to prepare its own paper for submission to the Conference of the Parties, while the submissions from Governments would also be available as information documents.

274. Many representatives welcomed the offer by the Government of Spain to host a workshop/seminar. One representative pointed out that the Conference of the Parties would have a high-level segment with ministerial participation, and that, in general, the Conference would have high visibility with intense media and non-governmental interest. It was therefore important that it should not be exclusively concerned with technical matters. For that reason, the Spanish workshop/seminar would be very useful in providing the basis for a substantive input to the session of the Commission on Sustainable Development.

275. One representative suggested that a realistic annotated agenda might be prepared so that the limited time available for the workshop/seminar could be used to best effect.

276. A non-governmental organization (NGO) expressed the hope that NGOs would be invited to contribute to the workshop/seminar to be hosted by Spain and suggested that the terms of reference might include: identification of the provisions of the Convention on Biological Diversity that were of direct relevance to the CSD clusters being considered in 1995; identification of processes whereby the Convention could foster the

conservation and sustainable use of biological diversity within those clusters; transmission of the results of the deliberations to the first Conference of the Parties. One representative expressed support for the participation of NGOs in the event and also for the suggested terms of reference. Another representative said that if NGOs were to be invited, such organizations from developing countries should be included.

277. One representative urged that care should be taken to ensure that certain countries did not feel left out when invitations to the seminar/workshop were issued. Noting that no more than 20 high-level experts were to be invited, another representative urged that subregional criteria should be borne in mind when deciding whom to invite. He felt that Governments should be consulted in that connection.

278. One representative asked for clarification of the dates of the workshop/seminar and wondered what financial implications it would have for the Interim Secretariat, UNEP and the participants.

279. The Executive Director of UNEP, describing the offer by Spain as a generous one, stated that UNEP would play a facilitating role and would take account of the workshop/seminar and of whatever was received concerning it from the Interim Secretariat. She wished to emphasize that it had been a Spanish initiative, and while UNEP was happy to provide consultative advice, it would not choose the participants or set the agenda.

280. The representative of Spain said that his country believed that the seminar would make an effective contribution to CSD. Consultations with interested Governments would begin immediately, and he assured delegates that participation of NGOs and agencies such as UNEP and FAO was envisaged in his country's proposal. Regarding the timing of the workshop/seminar, he could not give exact dates, but consideration was being given to mid-September to allow sufficient time both for its preparation and for the dissemination of the outcome. His country had organized other international meetings successfully within shorter time spans than the present one. He added that funds were available for financing the participation of representatives of developing countries.

281. Two representatives stressed that the workshop/seminar should be of an informal nature, placing no obligation on Governments attending the Conference of the Parties. The invitation to the seminar was private and should be treated as such. One of them noted the benefit of holding similar seminars at a regional level and regretted that time constraints rendered such an undertaking impracticable.

282. In reply to a request for clarification from one representative the Executive Secretary said that the Interim Secretariat's report would draw principally on the inputs from Governments and would also be submitted to the Task Manager under the mechanism established by CSD. In addition, it would help the Conference of the Parties if a draft statement for transmission to the third session of CSD were to be prepared for discussion at the Conference.

283. One representative pointed out that a possible additional source of information was the Subsidiary Body on Scientific, Technical and Technological Advice, which had been established by the Convention. In that connection, he drew attention to the report of the Open-ended Intergovernmental Meeting of Scientific Experts on Biological Diversity, held in Mexico City from 11 to 15 April 1994, which contained an enormous amount of information and represented a further basis for inputs by the Conference of the Parties to CSD.

284. Another representative stressed that the Conference of the Parties had a clear mandate for its contribution to CSD and should avoid encroaching on the fields of competence of other bodies. The fact that CSD was a political body should also be borne in mind in preparing the input.

285. In reply to a request for clarification from two representatives, the Chairperson confirmed that the document to be prepared by the Interim Secretariat would be submitted to the Conference of the Parties for consideration and that it was for the Conference to decide on the final version and on whether to transmit it to the third session of the Commission on Sustainable Development.

4.3.3. Subsidiary Body on Scientific, Technical and Technological Advice: functions, terms of reference, organization and operation

286. As decided by the Intergovernmental Committee at the 1st plenary meeting of the session, agenda item 4.3.3 (Subsidiary Body on Scientific, Technical and Technological Advice: functions, terms of reference, organization and operation) was taken up in Working Group I. Article 25 of the Convention on Biological Diversity establishes a Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) to provide the Conference of the Parties and, as appropriate, its other subsidiary bodies with timely scientific, technical and technological advice relating to the implementation of the Convention. Paragraph 1 of Article 25 states that this body shall be multidisciplinary and open to participation by all Parties. For the consideration of this item and to facilitate its discussion, the Working Group had before it a note on the subject prepared by the Interim Secretariat (UNEP/CBD/IC/2/19).

287. It was made clear by several representatives that the success of the implementation of the Convention would largely depend on the advice and competence of SBSTTA. They therefore felt that SBSTTA should be put into operation by the Conference of the Parties as soon as possible. At the same time the representatives felt that SBSTTA should respond to, but not lead, the Conference of the Parties. The Working Group agreed to recommend to the Committee to include a recommendation on putting into operation SBSTTA as an item on the agenda for the first meeting of the Conference of the Parties.

288. The Working Group organized its consideration of that item as follows:

- (a) Functions of SBSTTA;
- (b) Guidelines for its operation; and
- (c) Multidisciplinary nature of the SBSTTA.

289. Many representatives stressed that Article 25, paragraphs 2 (a) to 2 (e), provided a satisfactory framework for the functions of the SBSTTA. There was general agreement that that was well elaborated in the note of the Interim Secretariat (UNEP/CBD/IC/2/19). A number of representatives pointed out that the note presented such a comprehensive set of possible tasks for the SBSTTA that it would be impossible to undertake them all. Accordingly, the Conference of the Parties might wish to set priorities for the initial period of the SBSTTA work programme, as well as to review the performance of SBSTTA periodically.

290. There was consensus that SBSTTA might wish to draw on the report of the Open-ended Intergovernmental Meeting of Scientific Experts on Biological Diversity (UNEP/CBD/IC/2/11) and on the Agenda for Scientific and Technological Research (UNEP/CBD/IC/2/Inf.2) in its future work. The Working Group also recommended the incorporation of UNEP/CBD/IC/2/Inf.2 into the report of the Scientific Meeting (UNEP/CBD/IC/2/11) as an annex and that both documents be put forward to the Conference of the Parties as guidance for the future work of SBSTTA. The Working Group agreed that the Committee recommend to the Conference of the Parties a list of priority tasks for SBSTTA consisting of sub-paragraphs (a), (c) and (d) of Article

25, paragraph 2, of the Convention, including priority advice on capacity-building for carrying out activities under the Convention.

291. It was agreed that SBSTTA should provide scientific and technical advice, including on policy issues related to scientific and technical programmes and international cooperation in research and development, and that it should not be concerned with other policy issues. Some representatives stressed that it should have no direct relationship to the financial mechanism of the Convention.

292. There was general agreement that the Body should respond to - but not anticipate - the needs of the Conference of the Parties but, as guided by the Conference, it should be able to identify emerging issues in close cooperation with other relevant bodies.

293. With regard to the operation of SBSTTA, many representatives expressed the following views:

(a) The rules of procedure of the Conference of the Parties, which include those provisions for SBSTTA, might be adapted to suit the specific needs of that Body;

(b) Meetings should be held annually or with the same frequency as the meetings of the Conference of the Parties. More frequent meetings might be necessary to give the body sufficient opportunity and flexibility to implement its work programme. As concerned timing of the meetings, some representatives suggested that SBSTTA could possibly meet back-to-back with the Conference of the Parties, while others considered that meetings should be held far enough in advance of the Conference of the Parties so that SBSTTA could finalize and distribute its report;

(c) It was reiterated that SBSTTA was to be composed of government representatives and open to participation by all Parties, as stated in Article 25, paragraph 1, of the Convention. Several representatives expressed concern about the resulting size of the Body, since it might compromise the effectiveness of its work. The following options were explored as possible preliminary suggestions for structuring SBSTTA to facilitate the discharge of its functions, including the establishment of:

- (i) Panels to deal with specific issues;
- (ii) A small multidisciplinary steering committee or bureau with equitable regional representation that could meet more frequently than the entire Body; some delegations expressed serious reservations about this option;
- (iii) A two-tier body, of which the first tier would be open-ended, and the second tier would comprise representation of any one or any combination of the following: geographic regions, biomes, eco-regions or scientific disciplines relevant to the implementation of the Convention, including socio-legal and economic sciences; some delegations expressed serious reservations about this option. There were some delegations who proposed that SBSTTA should also draw upon regional expert groups for discharging its functions;
- (iv) For the fulfilment of its mandate and activities, SBSTTA should involve experts and institutions at regional or national level, based on equitable regional representation, upon request of SBSTTA, that could assist it in special tasks;



(d) The Working Group noted that the successful operation of SBSTTA would depend on the availability of funds. For that reason it was agreed to recommend a separate budget line for SBSTTA within the budget of the Secretariat of the Convention.

294. In discussing the organization of SBSTTA, the Working Group noted that the body would be multidisciplinary, as Article 25 of the Convention required. An informal sub-working group was set up to elaborate upon the various disciplines that would need to be represented in SBSTTA to enable it to discharge its functions effectively.

295. The informal group agreed that it was crucial to have expertise in SBSTTA covering, in a way that reflected its tasks as specified in Article 25, paragraph 2, all the main objectives of the Convention.

296. It was also agreed that, in addition to the coverage of the tasks given to SBSTTA under Article 25, paragraphs 2(a) to 2(e), it was essential to have broad expertise on the various obligations and actions which the Parties would undertake under the Convention. In that connection, the provisions of Article 25, paragraph 2(c), which provide advice on the ways and means of promoting development and/or transferring technologies, were highlighted. Articles 7-19 set out a number of actions that required expertise drawn from several disciplines and were spelled out in annexes II, III, IV, V, VI, VII, VIII and IX of the report of the Open-ended Intergovernmental Meeting of Scientific Experts (UNEP/CBD/IC/2/11 and UNEP/CBD/IC/2/Inf.2). Assessment, identification, monitoring, inventory and technology transfer were among the needs to be covered in the main fields of expertise referred to in paragraph 293 above.

297. The subgroup also discussed ways of reducing the need for all types of expertise in each SBSTTA meeting. One way of doing that would be to focus on a limited number of topics at each meeting. That should also be done at the regional level. Alternatively, the expertise of parallel bodies of other conventions or institutions could be drawn upon.

## 5. OTHER MATTERS

### 5.1 Commemoration of the 30th anniversary of the creation of the Group of 77

298. At the 5th meeting of the session, on 27 June, the representative of Algeria, speaking on behalf of the Group of 77 and China, said that the 30th anniversary of its creation of the Group of 77 was taking place at a time of political uncertainty and upheaval. The Group was, however, to be commended on its ability to adapt in those difficult conditions and to preserve its vision. On behalf of the Group of 77 and China, he expressed the sincere wish that the association of UNEP with the furthering of the implementation of the Convention would be pursued and strengthened in the future. In that context, the Group of 77 and China also welcomed with satisfaction the announcement that UNEP was prepared to continue to assist the implementation of the Convention. The Group 77 and China fully supported that initiative. In conclusion, he said that the Group of 77 and China had an increasingly important role to play in promoting cooperation and international negotiation for the attainment of a global partnership and equitable development for all. The serious danger that a new iron curtain based on poverty and exclusion would be raised to divide the world, could only be averted through true global partnership for sustainable development. The Convention on Biological Diversity, and in particular its provisions on new and additional financial resources and the transfer of environmentally sound technologies, offered an opportunity for the attainment of precisely such partnership in the service of humanity.

299. Following the statement by the representative of Algeria on behalf of the Group of 77 and China, the Chairperson said that, having been for many years closely associated with the Nairobi chapter of the Group of 77, in his capacity as his Government's Permanent Representative to UNEP, he wished to attest to the remarkable contribution of that chapter to the consolidation of the Group, particularly by bringing together, in unity, the countries of the South to pursue the goal of sustainable development. One of its major successes had been without doubt its important contribution not only to convening of the Earth Summit, but also in the elaboration and adoption of the Convention on Biological Diversity. That remarkable contribution had assured the inclusion of environment and development issues among the priority agenda items for multilateral negotiations. Paying tribute to the founding fathers of the Group of 77, whose ideas and strategies led the Group to affirm itself as a full and equal partner in international negotiations, he said that their work for the cause of development was continuing and evolving through the actions of the Group, as had been testified by its active participation in the deliberations of the current session of the Committee.

300. The Executive Director of UNEP offered her congratulations to the Group of 77 on behalf of the secretariat. She said that she was very pleased to be associated with the commemoration of such an important milestone not only for the member States of the Group of 77 but for the entire United Nations family. She paid tribute to the significant contribution the Group had made in consolidating the United Nations framework for multilateral cooperation and in giving life to the principle of universality, without which the United Nations would not be the organization that it now was. Ever since the Group of 77 had been created, there had been a dynamic relationship between it and the United Nations. Noting that the commemoration of the anniversary also provided an opportunity to reflect on future progress, she said that she believed that there was reason to be optimistic that the Intergovernmental Committee would fulfil the mandate entrusted to it to prepare the foundations for the first meeting of the Conference of the Parties to the Convention on Biological Diversity. The achievement of that goal would be the first embodiment of the global partnership called for in the negotiations for the Convention. That would be the best possible gift the Committee could offer to the Group of 77 on its anniversary.

#### 5.2 Status of ratification of the Convention on Biological Diversity

301. The representative of Greece announced that Greece had ratified the Convention.

302. The representative of Cameroon reported that his country intended to ratify the Convention and that the relevant bill was before Parliament for final approval.

#### 5.3 Regional matters

303. One representative, speaking on behalf of the African group, sought clarification from the Executive Director of UNEP on the status of the request, submitted by the African group on the occasion of the first session of the Intergovernmental Committee, for a regional meeting of African ministers on the issue of biological diversity to be held at some stage during 1994, preferable before the first meeting of the Conference of the Parties.

304. The Executive Director confirmed that such a meeting had been scheduled but had to be postponed for want of funding. However, UNEP, with the support of the Interim Secretariat had organized for an African position paper to be developed as the first stage of preparation. The

intention remained to organize such a meeting before the first meeting of the Conference of the Parties.

305. The representative of Peru informed the meeting that his Government intended to organize a regional intergovernmental meeting of Latin American and Caribbean countries before the first meeting of the Conference of the Parties to consider the problems of those countries, with the participation of non-governmental organizations and scientific institutes of the region. The Interim Secretariat was assisting in conceptualizing the workshop and in seeking funding.

306. The representative of Kuwait informed the meeting of his Government's intention to organize a regional seminar on biological diversity towards the end of 1994.

307. The representative of the Netherlands drew attention to the development by the Council of Europe of a pan-European biological and landscape diversity strategy, as part of the preparation for the European Ministerial Conference to be held in 1995 in Sofia, Bulgaria. His Government considered the development of such a strategy to be of major importance in the light of the Convention on Biological Diversity.

308. The representative of the Czech Republic, speaking on behalf of the Eastern European group, pointed out that the problems of biological diversity were global and that those faced by the countries of Eastern Europe were not less significant than those of the developing countries. He gave assurances that the countries of the Eastern European group would endeavour to give effect to the Convention as soon as possible and to implement it to the extent possible in those countries.

#### 6. ADOPTION OF THE REPORT

309. At the 5th plenary meeting of the session, on 27 June, the Committee heard reports from the Chairpersons of Working Group I and II on the progress to date in their respective Groups on the agenda items allocated to them.

310. Also at its 5th plenary meeting, on 27 June, the Committee took up its consideration of the those parts of its draft report covering its 1st, 2nd, and 3rd plenary meetings (UNEP/CBD/IC/2/L.1 and Add.1 and 2).

311. Introducing those sections of the draft report, the Rapporteur recalled that, at the 1st plenary meeting of the session, the Committee had established a Group of the Friends of the Rapporteur, composed of two designated representatives from each regional group to assist the Rapporteur in preparing the report. He said that the following delegations had been designated by their respective regional groups: Argentina, Antigua and Barbuda, Cote d'Ivoire, Hungary, Indonesia, Japan, Kenya, Latvia, the United Kingdom, and the United States of America. The Group of the Friends of the Rapporteur had considered those parts of the draft report that were before the Committee and they agreed to recommend them to plenary for adoption, with a number of minor amendments.

312. The amendments proposed by the Group of the Friends of the Rapporteur were read out by the Secretary of the Committee.

313. The Committee then adopted those parts of the draft report contained in document UNEP/CBD/IC/2/L.1 and Add.1 and 2, with the amendments introduced by the Group of the Friends of the Rapporteur.

314. At the 9th plenary meeting of the session, on 1 July 1994, the Committee, after hearing remarks and oral corrections from the Chairpersons

of Working Groups I and II, adopted the reports of those Working Groups as contained in documents UNEP/CBD/IC/2/L.3 and Corr.1 and UNEP/CBD/IC/2/L.4, respectively.

315. Also at its 9th meeting, the Committee took up consideration of the remaining parts of its draft report, as contained in documents UNEP/CBD/IC/2/L.1/Add.3 and Corr.1 (Arabic only) and 2, Add.4 and Corr.1, Add.5 and Corr.1 and Add.6.

316. One representative wished to have included in the report a statement by the Consultative Group on International Agricultural Research (CGIAR), relating to access to genetic resources, to the effect that, if requested by the Conference of the Parties, CGIAR centres stood ready to participate in the development of a clearing-house mechanism for information on biological diversity for food, forestry and agriculture.

317. One other representative said, with reference to agenda item 4:1.7 (List of developed Country Parties and other Parties which voluntarily assume the obligations of developed country Parties), that the classification of developed countries made by the United Nations Conference on Trade and Development (UNCTAD) was not relevant to the Convention on Biological Diversity.

318. It was agreed that those submissions would be noted in the discussion under the item but could not be included in the report of the Working Group, as that report had already been adopted by the Working Group.

319. The Committee then adopted its report, on the understanding that the secretariat and the Rapporteur would be entrusted with the finalization of the report on its final plenary meeting.

#### 7. CLOSURE OF THE SESSION

320. In their statements concerning the work on the Committee, some representatives said that, while much had been achieved in the current session, which would be the Committee's last, much more remained to be done. Political will and the courage to change old habits and old concepts were necessary for successful endeavours under the Convention.

321. Several representatives said that, while the session had succeeded in drawing up an agenda for the first meeting of the Conference of the Parties, a number of important issues still required further negotiation, in particular: the financial mechanism, the eligibility criteria, the protocol on biosafety, indigenous peoples' rights, the clearing-house mechanism and the rules of procedure. One representative expressed his disappointment at the resistance of certain countries to the proposals regarding the increase in the size of the Bureau and the need for representation of small island developing States.

322. One representative, speaking on behalf of the Western European and Others Group (WEOG), expressed gratitude to the Executive Director and secretariat of UNEP, the President and the Bureau of the meeting and the Interim Secretariat for their efforts in contributing to the success of the meeting. The meeting, he added, had marked progress in paving the way towards the common goal of implementation of the Convention on Biological Diversity.

323. The representative of Algeria, speaking on behalf of the Group of 77 and China, complimented the Chairperson of the Committee and Chairpersons of the Working Groups. He commended the leadership of the Executive Director and the Executive Secretary and expressed gratitude for the efforts of all those who had contributed to the success of the meeting.

324. One observer, speaking on behalf of all non-governmental organizations registered as observers at the session, made a statement conveying their views, although he pointed out that the views expressed were not necessarily held by all non-governmental organization present. Noting that the Intergovernmental Committee had made impressive progress on some points, he regretted that work on others had been rather disappointing. Those were first, the root causes of biological diversity loss, namely the international economic and political system and its fundamental inequities remained largely ignored; second, it was vital that indigenous and local communities should be given greater opportunities to make inputs into the formal Convention process; (in this context, the non-governmental organizations supported the proposals to consider a legally binding regime of Farmers' Rights, efforts to analyse objectively the relationship between intellectual property rights and the objectives on the Convention, as well as proposals to place ex situ collections under the authority of the Parties to the Convention and welcomed the support for attempts of FAO to bring the gene collections of the centres of the CGIAR system under intergovernmental control); third, the critical issue of biosafety which warranted immediate work on a protocol on biosafety; fourth, the failure to reach agreement on the vital issue of the financial mechanism (in this context, he said that the non-governmental organizations felt strongly that the Global Environment Facility (GEF) was an inappropriate institution to serve the Convention and had therefore suggested a number of alternative funding sources and mechanisms, including contributions from individuals and non-governmental sources into an independent fund and appropriate international taxation). Finally, the non-governmental organizations congratulated Governments on outlining preliminary arrangements for establishing the Subsidiary Body on Scientific, Technical and Technological Advice and suggested that an open-ended body with a secretariat and regional subgroups would provide the optimum arrangement.

325. The Executive Director of UNEP, in her closing remarks, expressed gratification at the spirit of cooperation which all representatives had demonstrated throughout the Committee's deliberations, a spirit which augured well for the success of the first meeting of the Conference of the Parties. She thanked the United Nations agencies whose staff had assisted the secretariat of the meeting, as well as the Executive Secretary and the staff of the Interim Secretariat. Noting that a number of important issues remained outstanding, she hoped that the intervening period before the first meeting of the Conference of the Parties would enable delegations to pursue purposeful negotiations. As a means of facilitating the work of the first meeting of the Conference of the Parties and in her capacity as convener of that meeting, she proposed that informal consultations be held on 27 November 1994 on outstanding issues in the rules of procedure and on the selection of offices of the meeting.

326. The Executive Director recalled that conservation of nature, wildlife and genetic resources, as well as support to international conventions, were listed among the priority areas of UNEP's first action plan. UNEP currently provided secretariat services for six global conventions and thirteen regional instruments in the field of the environment. She indicated that, were the first meeting of the Conference of the Parties to so decide, UNEP would be receptive to a request for the provision of the Secretariat for the Convention on Biological Diversity, and would be pleased to put its experience and competence at the disposal of Governments in their implementation of the Convention.

327. The Executive Secretary of the Interim Secretariat expressed on behalf of her colleagues their gratification about the achievements of the second session of the Committee. The session had been the third major intergovernmental meeting which the Interim Secretariat had supported in the nine months of its existence. Since the opening of the session, four more countries had ratified the Convention. She urged other signatories to

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accelerate their ratification to ensure their participation in the first meeting of the Conference of the Parties.

328. In response to the request of the first session of the Intergovernmental Committee to assist in obtaining funds for regional workshops on biological diversity, she was pleased to inform the Committee that several workshops had already been scheduled and others were under preparation. She hoped for positive responses from countries and agencies to approaches for funding. She expressed her gratitude to the Missions in Geneva and Nairobi for their valuable contributions to the Interim Secretariat's preparations for the current session and thanked colleagues from the five agencies of the United Nations system who had worked with the Interim Secretariat in support of the meeting.

329. The Executive Secretary felt that she and her colleagues were at once honoured and humbled to have the opportunity to make a modest contribution to the goals for humanity which the Convention enshrined. Finally, she thanked the Chairman of the Committee, the Chairmen of the Working Groups and the Rapporteur for their assistance; the Executive Director for her leadership and support; and the Committee for its generous appreciation of the work of the Interim Secretariat.

330. In his concluding remarks, the Chairman stated that although a valuable foundation had been laid by the Committee, some issues remained outstanding. He felt that much remained to be done to implement the Convention, and endorsed the statement made by the representative of Brazil about the need for constructive partnerships to develop under the Convention. He thanked all those who had assisted in that effort, in particular the Chairmen of the Working Groups, the representatives of the regional groups, the staff from the United Nations agencies who had assisted, the contribution from non-governmental organizations and all those who had supported the meeting. He expressed appreciation for the intensive efforts the Interim Secretariat had made in consulting with the Bureau and delegations, and to the Executive Director for her participation in the meetings of the Bureau and for her suggestions for solutions to matters which arose. Finally, he thanked the Government and people of Kenya for their hospitality. He then declared the second session of the Intergovernmental Committee closed.

Annex I

DRAFT RULES OF PROCEDURE FOR MEETINGS OF THE  
CONFERENCE OF THE PARTIES TO THE CONVENTION  
ON BIOLOGICAL DIVERSITY

PURPOSES

Rule 1

These rules of procedure shall apply to any meeting of the Conference of the Parties to the Convention on Biological Diversity convened in accordance with article 23 of the Convention.

DEFINITIONS

Rule 2

For the purposes of these rules:

(a) "Convention" means the Convention on Biological Diversity adopted in Nairobi on 22 May 1992 and opened for signature in Rio de Janeiro on 5 June 1992;

(b) "Parties" means Parties to the Convention;

(c) "Conference of the Parties" means the Conference of the Parties established in accordance with article 23 of the Convention;

(d) "Meeting" means any ordinary or extraordinary meeting of the Conference of the Parties convened in accordance with article 23 of the Convention;

(e) "Regional economic integration organization" has the same meaning as that assigned to it in article 2 of the Convention;

(f) "President" means the President elected in accordance with rule 21, paragraph 1, of the present rules of procedure;

(g) "Secretariat" means the Secretariat established under article 24 of the Convention;

(h) "Subsidiary bodies" includes committees and working groups.

PLACE OF MEETINGS

Rule 3

The meetings of the Conference of the Parties shall take place at the seat of the Secretariat, unless the Conference of the Parties decides otherwise or other appropriate arrangements are made by the Secretariat in consultation with the Parties.

DATES OF MEETINGS

Rule 4

1. [Ordinary meetings of the Conference of the Parties shall be held once every year, unless the Conference of the Parties decides otherwise.]  
[For the first three years, ordinary meetings shall be held at yearly intervals. Thereafter, ordinary meetings shall be held as decided by the Conference of the Parties at its third ordinary meeting.]

2. At each ordinary meeting, the Conference of the Parties shall decide on the date and duration of the next ordinary meeting.

3. Extraordinary meetings of the Conference of the Parties shall be convened at such times as may be deemed necessary by the Conference of the Parties, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

4. In the case of an extraordinary meeting convened at the written request of a Party, it shall be convened not more than ninety days after the date at which the request is supported by at least one third of the Parties in accordance with paragraph 3 of this rule.

#### Rule 5

The Secretariat shall notify all Parties of the dates and venue of a meeting at least two months before the meeting is due to commence.

#### OBSERVERS

#### Rule 6

1. The Secretariat shall notify the United Nations, its specialized agencies and the International Atomic Energy Agency as well as any State not Party to the Convention of meetings of the Conference of the Parties so that they may be represented as observers.

2. Such observers may, upon invitation of the President, participate without the right to vote in the proceedings of any meeting unless at least one third of the Parties present at the meeting object.

#### Rule 7

1. The Secretariat shall notify any body or agency, whether governmental or non-governmental, qualified in fields relating to the conservation and sustainable use of biological diversity, which has informed the Secretariat of its wish to be represented, of meetings of the Conference of the Parties so that they may be represented as observers unless at least one third of the Parties present at the meeting object.

2. Such observers may, upon invitation of the President, participate without the right to vote in the proceedings of any meeting in matters of direct concern to the body or agency they represent unless at least one third of the Parties present at the meeting object.

#### AGENDA

#### Rule 8

In agreement with the President, the Secretariat shall prepare the provisional agenda of each meeting.

#### Rule 9

The provisional agenda of each ordinary meeting shall include, as appropriate:

(a) Items arising from the articles of the Convention, including those specified in article 23 of the Convention;

(b) Items the inclusion of which has been decided at a previous meeting;

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- (c) Items referred to in rule 15 of the present rules of procedure;
- (d) Any item proposed by a Party and received by the Secretariat before the provisional agenda is produced;
- (e) The proposed budget as well as all questions pertaining to the accounts and financial arrangements.

Rule 10

The provisional agenda, together with supporting documents, for each ordinary meeting shall be distributed in the official languages by the Secretariat to the Parties at least six weeks before the opening of the meeting.

Rule 11

The Secretariat shall, in agreement with the President, include any item which is proposed by a Party and has been received by the Secretariat after the provisional agenda has been produced, but before the opening of the meeting, in a supplementary provisional agenda.

Rule 12

The Conference of the Parties shall examine the provisional agenda together with any supplementary provisional agenda. When adopting the agenda, it may add, delete, defer or amend items. Only items which are considered by the Conference of the Parties to be urgent and important may be added to the agenda.

Rule 13

The provisional agenda for an extraordinary meeting shall consist only of those items proposed for consideration in the request for the holding of the extraordinary meeting. It shall be distributed to the Parties at the same time as the invitation to the extraordinary meeting.

Rule 14

The Secretariat shall report to the Conference of the Parties on the administrative and financial implications of all substantive agenda items submitted to the meeting, before they are considered by it. Unless the Conference of the Parties decides otherwise, no such item shall be considered until at least forty-eight hours after the Conference of the Parties has received the Secretariat's report on the administrative and financial implications.

Rule 15

Any item of the agenda of an ordinary meeting, consideration of which has not been completed at the meeting, shall be included automatically in the agenda of the next ordinary meeting, unless otherwise decided by the Conference of the Parties.

REPRESENTATION AND CREDENTIALS

Rule 16

Each Party participating in a meeting shall be represented by a delegation consisting of a head of delegation and such other accredited representatives, alternate representatives and advisers as it may require.

Rule 17

A representative may be designated as an alternate head of delegation. An alternate representative or an adviser may act as a representative upon designation by the head of delegation.

Rule 18

The credentials of representatives and the names of alternate representatives and advisers shall be submitted to the Executive Secretary of the Conference of the Parties or the representative of the Executive Secretary if possible not later than twenty-four hours after the opening of the meeting. Any later change in the composition of the delegation shall also be submitted to the Executive Secretary or the representative of the Executive Secretary. The credentials shall be issued either by the Head of State or Government or by the Minister for Foreign Affairs or, in the case of a regional economic integration organization, by the competent authority of that organization.

Rule 19

The Bureau of any meeting shall examine the credentials and submit its report to the Conference of the Parties for decision.

Rule 20

Pending a decision of the Conference of the Parties upon their credentials, representatives shall be entitled to participate provisionally in the meeting.

[OFFICERS

Rule 21

1. At the commencement of the first session of each ordinary meeting, a President, [three Vice-Presidents] [nine Vice-Presidents (including a representative from the small island developing States)] and a Rapporteur are to be elected from among the representatives of the Parties present at the meeting. They will serve as the Bureau of the meeting. In electing its Bureau, the Conference of the Parties shall have due regard to the principle of equitable geographical representation. The offices of President and Rapporteur of the meeting of the Conference of the Parties shall normally be subject to rotation among the five groups of States referred to in section I, paragraph 1, of General Assembly resolution 2997 (XXVII) of 15 December 1972, by which the United Nations Environment Programme was established.

2. The President, the Vice-Presidents and the Rapporteur elected at an ordinary meeting shall remain in office until their successors are elected at the next ordinary meeting and shall serve in that capacity at any intervening extraordinary meetings. No officer may be re-elected for a third consecutive term.

3. The President shall participate in the meeting in that capacity and shall not at the same time exercise the rights of a representative of a Party. The Party concerned shall designate another representative who shall be entitled to represent the Party in the meeting and to exercise the right to vote.]

Rule 22

1. In addition to exercising the powers conferred upon the President elsewhere by these rules, the President shall declare the opening and closing of the meeting, preside at the sessions of the meeting, ensure the observance of these rules, accord the right to speak, put questions to the vote and announce decisions. The President shall rule on points of order and, subject to these rules, shall have complete control of the proceedings and over the maintenance of order thereat.

2. The President may propose to the Conference of the Parties the closure of the list of speakers, a limitation on the time to be allowed to speakers and on the number of times each representative may speak on a question, the adjournment or the closure of the debate and the suspension or the adjournment of a session.

3. The President, in the exercise of the functions of that office, remains under the authority of the Conference of the Parties.

Rule 23

The President, if temporarily absent from a session or any part thereof, shall designate a Vice-President to act as President. A Vice-President acting as President shall have the same powers and duties as the President.

Rule 24

If an officer of the Bureau resigns or is otherwise unable to complete the assigned term of office or to perform the functions of the office, a representative of the same Party shall be named by the Party concerned to replace the said officer for the remainder of that officer's mandate.

Rule 25

At the first session of each ordinary meeting, the President of the previous ordinary meeting, or in the absence of the President, a Vice-President, shall preside until the Conference of the Parties has elected a President for the meeting.

SUBSIDIARY BODIES

Rule 26

1. In addition to the subsidiary body on scientific, technical and technological advice established under article 25 of the Convention, the Conference of the Parties may establish other subsidiary bodies. It may also establish committees and working groups if it deems it necessary for the implementation of the Convention. Where appropriate, meetings of subsidiary bodies shall be held in conjunction with meetings of the Conference of the Parties.

2. The Conference of the Parties may decide that any such subsidiary bodies may meet in the period between ordinary meetings.

3. Unless otherwise decided by the Conference of the Parties, the chairperson for each such subsidiary body shall be elected by the Conference of the Parties. The Conference of the Parties shall determine the matters to be considered by each such subsidiary body and may authorize the President, upon the request of the chairperson of a subsidiary body, to make adjustments to the allocation of work.

4. Subject to paragraph 3 of this rule, each subsidiary body shall elect its own officers.

5. Unless otherwise decided by the Conference of the Parties, these rules shall apply *mutatis mutandis* to the proceedings of subsidiary bodies, except that:

(a) A majority of the Parties designated by the Conference of the Parties to take part in the subsidiary body shall constitute a quorum, but in the event of the subsidiary body being open-ended, one quarter of the Parties shall constitute a quorum;

(b) The chairperson of a subsidiary body may exercise the right to vote; and

(c) Decisions of subsidiary bodies shall be taken by a majority of the Parties present and voting, except that the reconsideration of a proposal or of an amendment to a proposal shall require the majority established by rule 38.

#### SECRETARIAT

##### Rule 27

1. The head of the Secretariat of the Convention shall be the Executive Secretary of the Conference of the Parties. The Executive Secretary or the representative of the Executive Secretary shall act in that capacity in all meetings of the Conference of the Parties and of subsidiary bodies.

2. The Executive Secretary shall provide and direct the staff required by the Conference of the Parties or subsidiary bodies.

##### Rule 28

The Secretariat shall, in accordance with these rules:

- (a) Arrange for interpretation at the meeting;
- (b) Receive, translate, reproduce and distribute the documents of the meeting;
- (c) Publish and circulate the official documents of the meeting;
- (d) Make and arrange for keeping of sound recordings of the meeting;
- (e) Arrange for the custody and preservation of the documents of the meeting; and
- (f) Generally perform all other work that the Conference of the Parties may require.

#### CONDUCT OF BUSINESS

##### Rule 29

1. Sessions of the Conference of the Parties shall be held in public, unless the Conference of the Parties decides otherwise.

2. Sessions of subsidiary bodies shall be held in public unless the subsidiary body concerned decides otherwise.

Rule 30

The President may declare a session of the meeting open and permit the debate to proceed if at least one third of the Parties to the Convention are present and have any decisions taken when representatives of at least two thirds of the Parties are present.

Rule 31

1. No one may speak at a session of the Conference of the Parties without having previously obtained the permission of the President. Subject to rules 32, 33, 34 and 36, the President shall call upon speakers in the order in which they signify their desire to speak. The Secretariat shall maintain a list of speakers. The President may call a speaker to order if the speaker's remarks are not relevant to the subject under discussion.

2. The Conference of the Parties may, on a proposal from the President or from any Party, limit the time allowed to each speaker and the number of times each representative may speak on a question. Before a decision is taken, two representatives may speak in favour of and two against a proposal to set such limits. When the debate is limited and a speaker exceeds the allotted time, the President shall call the speaker to order without delay.

Rule 32

The chairperson or rapporteur of a subsidiary body may be accorded precedence for the purpose of explaining the conclusions arrived at by that subsidiary body.

Rule 33

During the discussion of any matter, a representative may at any time raise a point of order which shall be decided immediately by the President in accordance with these rules. A representative may appeal against the ruling of the President. The appeal shall be put to the vote immediately and the ruling shall stand unless overruled by a majority of the Parties present and voting. A representative may not, in raising a point of order, speak on the substance of the matter under discussion.

Rule 34

Any motion calling for a decision on the competence of the Conference of the Parties to discuss any matter or to adopt a proposal or an amendment to a proposal submitted to it shall be put to the vote before the matter is discussed or a vote is taken on the proposal or amendment in question.

Rule 35

Proposals and amendments to proposals shall normally be introduced in writing by the Parties and handed to the Secretariat, which shall circulate copies to delegations. As a general rule, no proposal shall be discussed or put to the vote at any session unless copies of it, translated into the official languages of the Conference of the Parties, have been circulated to delegations not later than the day preceding the session. Nevertheless, the President may, in exceptional circumstances and in cases of urgency, permit the discussion and consideration of proposals, amendments to proposals or of procedural motions even though these proposals, amendments or motions have not been circulated or have been circulated only the same day or have not been translated into all the official languages of the Conference of the Parties.

#### Rule 36

1. Subject to rule 33, the following motions shall have precedence, in the order indicated below, over all other proposals or motions:

- (a) To suspend a session;
- (b) To adjourn a session;
- (c) To adjourn the debate on the question under discussion; and
- (d) For the closure of the debate on the question under discussion.

2. Permission to speak on a motion falling within (a) to (d) above shall be granted only to the proposer and, in addition, to one speaker in favour of and two against the motion, after which it shall be put immediately to the vote.

#### Rule 37

A proposal or motion may be withdrawn by its proposer at any time before voting on it has begun, provided that the motion has not been amended. A proposal or motion withdrawn may be reintroduced by any other Party.

#### Rule 38

When a proposal has been adopted or rejected, it may not be reconsidered at the same meeting, unless the Conference of the Parties, by a two-thirds majority of the Parties present and voting, decides in favour of reconsideration. Permission to speak on a motion to reconsider shall be accorded only to the mover and one other supporter, after which it shall be put immediately to the vote.

#### VOTING

#### Rule 39

1. Except as provided for in paragraph 2 of this rule, each Party shall have one vote.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

#### Rule 40

1. The Parties 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 reached, the decision [, except a decision under paragraph 1 or 2 of article 21 of the Convention] shall, as a last resort, be taken by a two-thirds majority vote of the Parties present and voting, unless otherwise provided by the Convention, the financial rules referred to in paragraph 3 of article 23 of the Convention, or the present rules of procedure. [Decisions of the Parties under paragraphs 1 and 2 of article 21 of the Convention shall be taken by consensus.]

2. Decisions of the Conference of the Parties on matters of procedure shall be taken by a majority vote of the Parties present and voting.

3. If the question arises whether a matter is one of procedural or substantive nature, the President shall rule on the question. An appeal against this ruling shall be put to the vote immediately and the President's ruling shall stand unless overruled by a majority of the Parties present and voting.

4. If on matters other than elections a vote is equally divided, a second vote shall be taken. If this vote is also equally divided, the proposal shall be regarded as rejected.

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

Rule 41

If two or more proposals relate to the same question, the Conference of the Parties, unless it decides otherwise, shall vote on the proposals in the order in which they have been submitted. The Conference of the Parties may, after each vote on a proposal, decide whether to vote on the next proposal.

Rule 42

Any representative may request that any parts of a proposal or of an amendment to a proposal be voted on separately. The President shall allow the request unless a Party objects. If objection is made to the request for division, the President shall permit two representatives to speak, one in favour of and the other against the motion, after which it shall be put immediately to the vote.

Rule 43

If the motion referred to in rule 42 is adopted, those parts of a proposal or of an amendment to a proposal which are approved shall then be put to the vote as a whole. If all the operative parts of a proposal or amendment have been rejected the proposal or amendment shall be considered to have been rejected as a whole.

Rule 44

A motion is considered to be an amendment to a proposal if it merely adds to, deletes from, or revises parts of that proposal. An amendment shall be voted on before the proposal to which it relates is put to the vote, and if the amendment is adopted, the amended proposal shall then be voted on.

Rule 45

If two or more amendments are moved to a proposal, the Conference of the Parties shall first vote on the amendment furthest removed in substance from the original proposal, then on the amendment next furthest removed therefrom, and so on, until all amendments have been put to the vote. The President shall determine the order of voting on the amendments under this rule.

Rule 46

Voting, except for election, shall normally be by show of hands. A roll-call vote shall be taken if one is requested by any Party. It shall be taken in the English alphabetical order of the names of the Parties participating in the meeting, beginning with the Party whose name is drawn

by lot by the President. However, if at any time a Party requests a secret ballot, that shall be the method of voting on the issue in question.

Rule 47

The vote of each Party participating in a roll-call vote shall be recorded in the relevant documents of the meeting.

Rule 48

After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. The President may permit the Parties to explain their votes, either before or after the voting. The President may limit the time to be allowed for such explanations. The President shall not permit proposers of proposals or of amendments to proposals to explain their vote on their own proposals or amendments, except if they have been amended.

Rule 49

All elections shall be held by secret ballot, unless otherwise decided by the Conference of the Parties.

Rule 50

1. If, when one person or one delegation is to be elected, no candidate obtains in the first ballot a majority of the votes cast by the Parties present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among three or more candidates obtaining the largest number of votes, a second ballot shall be held. If a tie results among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the procedure set forth in paragraph 1 of this rule.

Rule 51

1. When two or more elective places are to be filled at one time under the same conditions, those candidates, not exceeding the number of such places, obtaining in the first ballot the largest number of votes and a majority of the votes cast by the Parties present and voting shall be deemed elected.

2. If the number of candidates obtaining such majority is less than the number of persons or delegations to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot, to a number not more than twice the places remaining to be filled, provided that, after the third inconclusive ballot, votes may be cast for any eligible person or delegation.

3. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.



## LANGUAGES

### Rule 52

The official and working languages of the Conference of the Parties shall be those of the United Nations Organization.

### Rule 53

1. Statements made in an official language shall be interpreted into the other official languages.

2. A representative of a Party may speak in a language other than an official language, if the Party provides for interpretation into one such official language.

### Rule 54

Official documents of the meetings shall be drawn up in one of the official languages and translated into the other official languages.

## SOUND RECORDS OF THE MEETINGS

### Rule 55

Sound records of the meetings of the Conference of the Parties, and whenever possible of its subsidiary bodies, shall be kept by the Secretariat in accordance with the practice of the United Nations.

## AMENDMENTS TO RULES OF PROCEDURE

### Rule 56

These rules of procedure may be amended by consensus by the Conference of the Parties.

## OVERRIDING AUTHORITY OF THE CONVENTION

### Rule 57

In the event of any conflict between any provision of these rules and any provision of the Convention, the Convention shall prevail.

Annex II

DRAFT FINANCIAL RULES FOR THE ADMINISTRATION OF THE TRUST FUND  
FOR THE CONVENTION ON BIOLOGICAL DIVERSITY

1. The Conference of the Parties of the Convention shall designate an organization (hereinafter referred to as the Trustee) which shall establish and manage the Trust Fund for the Convention on Biological Diversity (hereinafter referred to as the Trust Fund) in accordance with these rules.

2. The Trust Fund shall be used for funding the administration of the Convention including the functions of the Secretariat.

[3A. The Trust Fund shall be financed from:

(a) Contributions made by Parties to the Convention in accordance with a scale of assessments;

(b) Additional contributions made by such Parties;

(c) Contributions from States not Parties to the Convention, as well as governmental, intergovernmental and non-governmental organizations, and other sources.]

[3B. The Trust Fund shall be financed from:

(a) Contributions made by Parties to the Convention based on an indicative scale of assessments;

(b) Contributions made by Parties and States that are not Parties outside the indicative scale of assessments referred to in subparagraph (a) above;

(c) Contributions made by governmental, intergovernmental and non-governmental organizations, and other sources.]

4. It is for the Conference of the Parties to determine the scale of assessments referred to in paragraph 3 (a) above. The scale of assessments is to be based on the United Nations scale of assessments for the apportionment of the expenses of the United Nations [adjusted to provide that no one contribution shall exceed 25 per cent of the total, [and] no contributions shall be required when the United Nations scale provides for a contribution of less than 0.1 per cent], [and no developing country Party shall be required to pay more than any developed country Party]. The contributions referred to in paragraph 3 (a) shall be due on 1 January of each calendar year.

5. All contributions shall be paid in United States dollars or its equivalent in a convertible currency and into a bank account to be specified by the Trustee.

6. Accounting records shall be kept in such currency or currencies as the Trustee deems necessary.

7. (a) Budget proposals expressed in United States dollars covering the expenditure and income from contributions referred to in paragraph 3 (a) above shall be prepared by the head of the Secretariat (hereinafter referred to as the Executive Secretary) for periods of two calendar years at the minimum. At least 90 days before the date fixed for the opening of each ordinary meeting of the Conference of the Parties, these budget proposals shall be dispatched by the Executive Secretary to all Parties to the Convention.

(b) The budget shall, in accordance with Rule 15, be approved by the Conference of the Parties and, if necessary, be revised at an ordinary or extraordinary meeting of the Parties.

8. Contributions referred to in paragraphs 3 (b) and (c) shall be used in accordance with any terms and conditions agreed between the Executive Secretary and the respective contributor. At each ordinary meeting of the Conference of the Parties, the Executive Secretary shall present a report on contributions received and expected as well as their sources, amounts, purposes and conditions.

9. The Executive Secretary may commit resources against the Trust Fund only if such commitments are covered by contributions already received. In the event that the Trustee anticipates that there might be a shortfall in resources over the financial period as a whole, it shall notify the Executive Secretary, who shall adjust the budget so that expenditures are at all times fully covered by contributions received.

10. Contributions referred to in paragraph 3 (a) above from States and regional economic integration organizations that become Parties to the Convention after the beginning of a financial period shall be made pro rata temporis for the balance of that financial period. Consequent adjustments shall be made at the end of each financial period for other Parties.

11. Contributions not immediately required for the purposes of the Trust Fund shall be invested and any interest so earned shall be credited to the Trust Fund.

12. It is for the Conference of the Parties and the Trustee to agree on an administrative support charge to be paid to the Trustee.

13. At the end of each calendar year, the Trustee shall transfer any balance to the following calendar year and submit to the Conference of the Parties, through the Executive Secretary, the certified and audited accounts for that year as soon as practicable.

14. In the event that the Conference of the Parties decides to terminate the Trust Fund, a notification to that effect shall be presented to the Trustee at least six months before the date of termination selected by the Conference of the Parties. The Conference of the Parties shall decide, in consultation with the Trustee, on the distribution of any unspent balance after all liquidation expenses have been met.

[15A. The Parties shall reach agreement by consensus on:

- (a) The scale of assessments and any subsequent revision to it;
- (b) The budget.]

[15B. The Parties shall make every effort to reach agreement on the budget by consensus. If all efforts to reach consensus on the budget have been exhausted and no agreement has been reached, the budget shall, as a last resort, be adopted by a [two-thirds] [four-fifths] majority vote of the Parties present and voting representing a [two-thirds] [four-fifths] majority vote of the developing country Parties present and voting and a [two-thirds] [four-fifths] majority vote of the other Parties present and voting.]

16. Any amendments to these rules shall be adopted by the Conference of the Parties by consensus.

Annex III

A. BUDGET FOR THE SECRETARIAT FOR THE CONVENTION ON BIOLOGICAL DIVERSITY:  
INDICATIVE COMPONENTS

<b>Indicative Components</b>
<b>Personnel</b>
▶ Professional staff
▶ Support staff
▶ Consultants (short term, highly specialized)
<b>Meetings</b>
▶ Conference of the Parties (COP)
▶ Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA)
▶ Other meetings decided by COP or SBSTTA
▶ Informal expert workshops
▶ Bureau
▶ Consultative mechanisms
<b>Travel</b>
▶ Travel, general
▶ Travel of Bureau members to Bureau meetings
▶ Travel of staff to COP
▶ Travel of staff to SBSTTA
▶ Travel of staff to meetings decided by COP or SBSTTA
▶ Staff relocation
<b>Premises</b>
▶ Rent
▶ Building maintenance, insurance
▶ Security services
▶ Utilities, fixtures
<b>Equipment</b>
▶ Office equipment (computers, printers, network hardware, software, audio-visual equipment, fax machines, photocopiers, furniture)
▶ Maintenance
<b>Information Material and Communication</b>
▶ Library acquisitions of reference material
▶ Development of communication materials
▶ Education/promotion materials

<b>Indicative Components</b>
▶ Translation services
▶ Printing
▶ Mailing, post, phone, fax, e-mail
<b>Services and Supplies</b>
▶ Stationery and office supplies
▶ Transportation
<b>Miscellaneous</b>
▶ Hospitality
<b>Contingencies</b>
▶ Start-up costs (e.g. staff recruitment)
<b>Administrative Overhead</b>

B. ANTICIPATED FUNCTIONS AND ACTIVITIES TO BE CARRIED OUT BY THE  
SECRETARIAT FOR THE CONVENTION ON BIOLOGICAL DIVERSITY

<b>Management and Coordination</b>
▶ Executive direction and management; Overall coordination - internal and external
▶ Establishment and coordination of consultative mechanisms
▶ Fund mobilization and budget management
▶ Planning of inter-governmental process
▶ External relations
▶ Encouragement of ratification, acceptance or approval of the Convention
<b>Legal Support</b>
▶ General legal advice and analysis
▶ Legal support to overall programme
<b>Programme Activities</b>
▶ Analysis, organization and support for activities under the Convention
<b>Consultative/Liaison Support</b>
▶ Preparation for and convening of meetings: COP, SBSTTA, Bureau, expert workshops
▶ Liaison with Parties, the institutional structure operating the financial mechanism, relevant convention secretariats
<b>Information Management, Analysis and Communication</b>
▶ Provision of information to bodies decided by the COP
▶ Collection and analysis of information on biological diversity activities of Parties, UN system and other bodies
▶ Development of communication materials and their dissemination
▶ Organization of library services

Annex IV

PROGRAMME PRIORITIES FOR ACCESS TO AND  
UTILIZATION OF FINANCIAL RESOURCES

I

The conservation and sustainable use of biological diversity is one of the key elements in achieving sustainable development [as well as an instrument to combat poverty].

All the actions contemplated in the Convention will have to be carried out at the national and international level, as appropriate. However, for the purpose of enabling the COP to give direction to the institutional structure operating the financial mechanism, the programme priorities suggested below may be considered by the COP. This list is not exhaustive or final and it may be supplemented and revised as necessary by the COP.

Programme priorities should promote utilization of regional and local expertise and be flexible to accommodate national priorities and regional needs within the aims of the Convention.

II

Article 21, paragraph 2, of the Convention calls upon the COP at its first meeting to determine, inter alia, programme priorities for access to and utilization of the financial resources under the Convention. In discussing this matter, taking into account relevant articles of the Convention, in particular Article 20, the Intergovernmental Committee identified the following programme priorities for consideration by the COP:

(a) Projects and programmes that have national priority status and that fulfil the obligations of the Convention;

(b) Development of integrated national strategies, plans or programmes for the conservation and sustainable use of biological diversity in accordance with Article 6 of the Convention;

(c) [Strengthening conservation, management and sustainable use of ecosystems and habitats identified by national Governments in accordance, where appropriate, with Article 7 of the Convention;]

[Strengthening conservation, management, and sustainable use of ecosystems and habitats particularly those identified in Article 7 and in Annex I of the Convention;]

(d) Identification and monitoring of wild and domesticated biodiversity components, in particular those under threat and implementation of measures for their conservation and sustainable use;

(e) Capacity-building, including human resources development and institutional development and/or strengthening, to facilitate the preparation and/or implementation of national strategies, plans for priority programmes and activities for conservation and sustainable use of biological diversity;

(f) [Projects that promote access to and transfer of technology for conservation and sustainable use of biological diversity. Promotion of cooperation for the development and utilization of technologies shall be accorded priority;] (Group of 77 and China)

[Projects to achieve the conservation and sustainable use of biological diversity in which access to and transfer of technology are essential, integral components, which build capacity and for which funding is necessary under the financial mechanism, first taking into account alternative sources of funding;]

(g) Projects that promote the sustainability of project benefits; that offer a potential contribution to experience in the conservation and sustainable use of biological diversity which may have application elsewhere; and that encourage scientific excellence;

(h) Activities that leverage other international, national and/or private sector funds and scientific and technical cooperation;

(i) [[Innovative measures, in particular in the field of economic incentives, aiming at conservation and/or sustainable use of biological diversity,] [including assisting countries address issues such as the opportunity costs incurred by local communities,] in accordance with Article 11 of the Convention;]

(j) Projects that strengthen the involvement of local and indigenous people in conservation and sustainable use of biological diversity;

(k) Projects that promote the conservation and sustainable use of biological diversity of coastal and marine resources under threat. Also, projects which promote the conservation and sustainable use of biological diversity in other environmentally vulnerable areas such as arid and semi-arid and mountainous areas;

(l) Projects that promote the conservation and/or sustainable use of endemic species;

(m) [Projects aimed at the conservation and sustainable use of biological diversity which contribute positively to the eradication of poverty.]



Annex V

LIST OF DEVELOPED COUNTRY PARTIES AND OTHER PARTIES  
THAT VOLUNTARILY ASSUME THE OBLIGATIONS OF  
DEVELOPED COUNTRY PARTIES

Possible lists of country Parties that may be included in  
the categories mentioned in Article 20, paragraph 2,  
of the Convention on Biological Diversity

Developed countries

Andorra  
Australia\*  
Austria  
Belgium  
Canada\*  
Denmark\*  
Finland  
France  
Germany\*  
Greece  
Iceland  
Ireland  
Israel  
Italy\*  
Japan\*  
Liechtenstein  
Luxembourg\*  
Monaco\*  
Netherlands  
New Zealand\*  
Norway\*  
Portugal\*  
San Marino  
Spain\*  
Sweden\*  
Switzerland  
United Kingdom of Great Britain and Northern Ireland\*  
United States of America

Countries undergoing the process of transition to a market economy

Albania\*  
Armenia\*  
Azerbaijan  
Belarus\*  
Bulgaria  
Czech Republic\*  
Estonia  
Georgia\*  
Hungary\*  
Kazakhstan  
Kyrgyzstan  
Latvia  
Lithuania  
Poland

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\* Party to the Convention on Biological Diversity.

Republic of Moldova  
Romania  
Russian Federation  
Slovakia  
Tajikistan  
Turkmenistan  
Ukraine  
Uzbekistan

Possible list of other Parties that may voluntarily assume the obligations  
of developed country Parties.