



CONVENTION ON BIOLOGICAL DIVERSITY

Distr.
GENERAL

UNEP/CBD/BS/COP-MOP/1/4
9 June 2003

ORIGINAL: ENGLISH

CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE PROTOCOL ON BIOSAFETY

First meeting

Kuala Lumpur, 23-27 February 2004

Agenda item 6.1 of the provisional agenda *

PROCEDURES AND MECHANISMS FOR FACILITATING DECISION-MAKING BY PARTIES OF IMPORT (ARTICLE 10, PARAGRAPH 7)

Note by the Executive Secretary

1. The Cartagena Protocol on Biosafety provides for an advance informed agreement (AIA) procedure, which applies prior to the first intentional transboundary movement of living modified organisms for intentional introduction into the environment of the Party of import. The trigger for the AIA procedure is a notification from the Party of export or the exporter to the competent national authority of the Party of import prior to the transboundary movement of a living modified organism. The Party of import is required, among other things, to take decision in accordance with Article 15 of the Protocol (Risk assessment), inform the notifier when the transboundary movement may proceed, and communicate its decision within a specific timeframe (270 days) of the date of receipt of notification. Appreciating what these requirements entail on the part of the Party of import, paragraph 7 of Article 10 of the Protocol stipulates that the Conference of the Parties serving as the meeting of the Parties to the Protocol should, at its first meeting, decide upon appropriate procedures and mechanisms to facilitate decision-making by Parties of import.

2. The first item included in the work plan of the Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP) was decision-making under paragraph 7 of Article 10. The work plan also specified that the issue that ICCP should consider under the item should be the identification of basic elements for appropriate procedures and mechanisms to facilitate decision-making by Parties of import, with a view to facilitate the consideration and adoption of such procedures and mechanisms by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its first meeting.

3. At its first meeting, ICCP invited Parties to the Convention and Governments to provide their views on procedures and mechanisms that they deem appropriate to facilitate decision-making by Parties of import, in accordance with paragraph 7 of Article 10 of the Protocol. At its second meeting, ICCP considered a synthesis of views communicated by Parties and Governments and draft procedures and

* UNEP/CBD/BS/COP-MOP/1/1.

mechanisms prepared by the Executive Secretary on the basis of the views, and, by recommendation 2/7, recommended that the draft procedures and mechanisms should be forwarded to the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol, together with a draft decision on the subject.

4. That recommendation, containing the draft decision and with the draft procedures and mechanisms annexed thereto, is reproduced in the annex to the present note.

*Annex***RECOMMENDATION 2/7 OF THE INTERGOVERNMENTAL COMMITTEE FOR THE
CARTAGENA PROTOCOL ON BIOSAFETY****2/7. Decision-making (Article 10, paragraph 7, of the Protocol)***The Intergovernmental Committee for the Cartagena Protocol on Biosafety,*

Recommends that the following draft decision and the annex thereto for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Protocol at its first meeting:

“The Conference of the Parties serving as the meeting of the Parties,

Recalling Article 10, paragraph 7, of the Cartagena Protocol on Biosafety, which requires that the Conference of the Parties serving as the meeting of the Parties, at its first meeting, to decide upon appropriate procedures and mechanisms to facilitate decision-making by Parties of import,

Noting decision V/1 of the Conference of the Parties to the Convention with regard to the work plan of the Intergovernmental Committee for the Cartagena Protocol on Biosafety,

Decides:

- (a) To adopt, pursuant to Article 10, paragraph 7, of the Protocol, the procedures and mechanisms to facilitate decision-making by Parties of import, as contained in the annex to this decision;
- (b) To continue to identify and build upon the mechanisms that will further facilitate capacity building;
- (c) To review, in line with Article 35 of the Protocol, the procedures and mechanisms referred to in paragraph 1 above, and take appropriate action.

*Annex***PROCEDURES AND MECHANISMS TO FACILITATE DECISION-MAKING BY PARTIES OF
IMPORT UNDER PARAGRAPH 7 OF ARTICLE 10 OF THE CARTAGENA PROTOCOL ON
BIOSAFETY****A. Guidelines**

1. The procedures and mechanisms, hereby defined pursuant to Article 10, paragraph 7, of the Protocol, are designed to facilitate decision-making by Parties of import, especially those encountering difficulties in the decision-making process under Article 10 of the Protocol.
2. In facilitating the decision-making under Article 10 of the Protocol, priority shall be given, within the framework of Article 22 of the Protocol, to capacity-building of developing country Parties, in particular the least developed and small island developing States among them, and Parties with economies in transition, and also taking into account centres of origin and centres of genetic diversity.

3. Parties shall cooperate with a view to ensuring that Parties of import, especially developing country Parties, in particular the least developed and small island developing States among them, and Parties with economies in transition, have access to the Biosafety Clearing House or to the information it houses for the purpose of facilitating decision-making. The decision on the modalities of the operation of the Biosafety Clearing House pursuant to paragraph 4 of Article 20 should take into account the needs of Parties of import in decision-making as a matter of priority.

4. The procedures and mechanisms to facilitate decision-making shall be demand-driven by Parties of import.

5. While other mechanisms should be kept under consideration, the roster of experts and the Biosafety Clearing-House are among the main mechanisms to provide, upon request, the necessary support to Parties of import to facilitate decision-making by them under Article 10 of the Protocol. The modalities for use of the roster of experts for the purpose of facilitating decision-making by Parties of import shall follow the rules of procedure or guidelines to be adopted by the Conference of the Parties serving as the meeting of the Parties with regard to how the roster of experts should be used by Parties, including issues relating to selection of experts, covering the costs of the expert time and services and the establishment of duties to be undertaken by the experts.

B. Procedures

6. A Party of import, especially developing country Parties, in particular the least developed and small island developing States among them, and Parties with economies in transition may, at any time after having received notification from the Party of export or the notifier under Article 8 of the Protocol, seek, through the Secretariat, any relevant assistance from, among other mechanisms, the roster of experts to deal with the notification it received and to be able to make a decision.

7. In the case where no acknowledgement of receipt of notification or decisions are communicated by a Party of import that is a developing country Party or a Party with an economy in transition, under the time frame established under Articles 9 and 10 of the Protocol, and after the Party of export has sought clarification from the Party of import on the reason for lack of response or decision, the Party of export may, as appropriate, facilitate the Party of import to obtain the necessary assistance from, among other mechanisms, the roster of experts.

8. These procedures and mechanisms to facilitate decision-making by Parties of import shall be separate from, and without prejudice to the procedures and mechanisms established under Article 34 of the Protocol on compliance and the dispute-settlement procedures under Article 27 of the Convention.”
