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5TH ANNIVERSARY OF THE ENTRY INTO FORCE OF THE PROTOCOL 11 September 2008

STATEMENT BY AHMED DJOGHLAF, SCBD EXECUTIVE SECRETARY

In the early morning hours of January 29, 2000 at 4.35 am in Montreal, the world witnessed the adoption of the Cartagena Protocol on Biosafety, the first major international environmental agreement of the twenty-first century.

Five years ago today, on 11 September 2003, the Protocol entered into force after receiving 50 ratifications. Since then, 147 countries and the European Community have become Parties to the Protocol. The speed at which the Protocol has been ratified is a clear demonstration of the importance that the world community attaches to the need for international cooperation in addressing issues related to biosafety.

I wish to pay tribute to all the 148 Parties for their clear political support for the Protocol. I also call upon all those countries that have not yet done so to ratify or accede to the Protocol as soon as possible.

Over the past five years, significant achievements have been made towards the implementation of the Protocol. In short, at the global level, the governing body of the Protocol has adopted more than 60 decisions elaborating tools and mechanisms to facilitate the effective implementation of the Protocol. For example the Biosafety Clearing-House has become operational and is facilitating the exchange of information on, and experience with, living modified organisms (LMOs). Other examples include the establishment of the compliance committee, implementation of the capacity-building action plan and the agreement to continue negotiations towards a legally binding international regime on liability and redress for damage resulting from the transboundary movements of LMOs.

At the national level, more than 100 countries have now developed legal and administrative frameworks and other measures necessary to implement the Protocol. They have also implemented projects to build and strengthen human and institutional capacities in the safe use of biotechnology. The impressive work undertaken in a very short period of time in translating the provisions of this unique legal instrument into reality is unprecedented. I wish to pay tribute to all Parties, to other Governments and to all stakeholders for their concerted effort in operationalising the Protocol.

The milestone achievements made under the Protocol to date have been a direct result of global cooperation and partnership among the Parties, other governments and other stakeholders. That is the why the theme selected for this the anniversary is: "The Cartagena Protocol on Biosafety: Five years of global cooperation towards sustainable development". This theme was selected to highlight the spirit of consensus and cooperation that has characterized the Protocol process to date and to underline the contribution of the Protocol to the implementation of Agenda 21, the global programme of action on sustainable development, which was adopted by the 1992 Earth Summit in Rio de Janeiro.

As we mark this fifth anniversary, I invite all Governments and other stakeholders to reflect on the accomplishment made

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Turkmenistan acceded to the Protocol on 21 August 2008. It will become the 148th Party to the Protocol on 19 November 2008 in accordance with Article 37(2) of the Protocol. The complete list of the status of ratification is available on line at: www.cbd.int/biosafety/signinglist.shtml

and the lessons learned so far and reaffirm their commitment towards the realization of the objective of the Protocol. Let us translate our good intentions into further concrete actions by working together to achieve full implementation of the Protocol to ensure the safe use of biotechnology for sustainable development.

I wish you a successful and memorable celebration of the fifth anniversary of the Protocol.

STATEMENT BY WOLFGANG KOEHLER, CURRENT PRESIDENT OF COP-MOP

Today marks the fifth anniversary of the entry into force of the Cartagena Protocol on Biosafety. This landmark event reminds all of us – Parties, governments and other stakeholders –, of our responsibility to ensure the safe transfer, handling and use of living modified organisms resulting from modern biotechnology that may have adverse effects on biological diversity. It is also an opportunity for us to celebrate our collective accomplishments towards the implementation of the Protocol and to share experiences and lessons learned so far.

Over the last five years, the world community has, in operationalizing the Protocol at the global and national levels, made history and has moved further forward towards achieving sustainable development.

From the negotiations of this instrument, at its entry into force on 11 September 2003, up to the present day, the Protocol has enjoyed tremendous support through joint collaboration of different stakeholders. Many governments and organizations have worked together to develop legal, administrative and other measures to implement the Protocol. The Biosafety Clearing-House (BCH) and the several national biosafety frameworks are but some of the many tools that have been developed to facilitate the implementation process.

At the last meeting of the Parties to the Protocol, the largest ever gathering under the Protocol process, which took place in May this year in Bonn, Germany, we made yet another historical step forward and agreed to work towards a regime on liability and redress for potential damage caused from the transboundary movements of living modified organisms. Let us use this anniversary to recommit ourselves to finalise the negotiations with a view to adopting the regime at our next meeting of the Parties in Nagoya, Japan. Let us also use this historic occasion to re-double our efforts to ensure that all the other decisions taken under the Protocol are implemented fully.

As Parties, governments and stakeholders, we should uphold the spirit of cooperation that has underpinned the Protocol process to date and continue to collaborate actively in sustaining the momentum towards full implementation of the Protocol. We should join forces to develop the necessary capacities and mobilize adequate financial, technical and other resources for the effective implementation of the Protocol.

As the current President of the governing body of the Protocol, I take this opportunity to thank all Parties, governments and other stakeholders for their continued efforts in implementing the Protocol. I urge all of you to continue making steady progress towards full implementation of the Protocol as we march towards achieving sustainable development.

I wish you successful celebrations of the fifth anniversary.

Dra. Francisca Acevedo
Mexico- Gasman (National Commission for the Knowledge and Use of Biodiversity)

Biol. Elleli Huerta Ocampo
Mexico-Ministry of Environment and Natural Resources

The First Five Years for Risk Assessment and Risk Management under the Cartagena Protocol on Biosafety

Risk assessment and risk management are core issues in the Cartagena Protocol on Biosafety. Decision II/5 of 17 November 1995 of the Conference of the Parties to the Convention on Biological Diversity (CBD) calls for developing a Protocol on biosafety, specifically focusing on transboundary movement of any living modified organism resulting from modern biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity. Additionally, Article 8(g) of the CBD indicates that each Party shall establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity, taking also

into account the risks to human health.

The objective of risk assessment under the Cartagena Protocol is to identify and evaluate the possible adverse effects of LMOs on the conservation and sustainable use of biodiversity. Furthermore, because the Protocol is an instrument under the CBD, the definitions in both texts are similar. Accordingly, in situ conservation is the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties. Moreover, sustainable use refers to the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations. It is through risk assessment that these two broad concepts must be kept in mind on a case-by-case basis.

Risk assessment and risk management are processes that enable informed decision-making regarding transboundary movement of LMOs. Risk assessment is used to identify (i) risks of adverse effects on the conservation and sustainable use of biodiversity , (ii) the likelihood of such adverse effects occurring and (iii) the consequences should they actually occur. Following the risk assessment process, risk management is a helpful tool for handling identified risks. Risk assessment and risk management are therefore intimately interlinked because risk management addresses the issues identified through the risk management process while the risk management results feed back into the risk assessment process.

The work on risk assessment in biosafety has been extensive both before and after the coming into force of the Cartagena Protocol. Recognizing the leading role of modern biotechnology, diverse academic, governmental, civil, private, national and international institutions have taken common approaches in identifying and managing risks. Many guidelines exist, and much experience has been gained, especially with regards to the first generation of LMOs that are commercially grown as agricultural crops. One very important issue that has been identified through meetings and workshops on risk assessment, convened by the CBD Secretariat, is the need to fill in the knowledge gaps related to specific aspects of risk assessment. This is particularly true of the second and third generation of LMOs which include species that are not for agricultural use.

The Secretariat has, in particular, put a great deal of energy and resources into the Biosafety Clearing-House (BCH), an information exchange mechanism on LMOs for both Parties and Non Parties, developers and interested public. Risk assessment and risk management are core issues under the Cartagena Protocol and are key to acquiring experience and knowledge on LMO activities. However, there have been some challenges encountered in submitting information on risk assessment to the Biosafety Clearing-House. For example, even though millions of hectares of agricultural land have been used for planting LMOs around the world, very little information related to the release of LMOs into the environment is reflected in the Biosafety Clearing-House. It is essential that information on risk assessment be submitted to the Biosafety Clearing-House in order for it to be genuinely useful to all. For example, experience can be gained through learning what others have done, especially when circumstances are similar. The Biosafety Clearing-House could be a starting point where users could go to examine particular circumstances that are on a case-by-case basis. However, while used by some, Parties and non-Parties have not yet had an opportunity to take full advantage of the Biosafety Clearing-House in this perspective.

The fourth meeting of Conference of the Parties serving as the meeting of the Parties (COP-MOP 4) decided to create an Ad Hoc Technical Expert Group (AHTEG) on risk assessment and risk management to meet twice before COP-MOP 5, in 2010. These two meetings are to follow a set terms of reference as outlined in the annex of decision BS-IV/11. It is important to take advantage of this decision, especially as it is the only AHTEG to be created by a decision of COP MOP 4 although several similar proposals were on the negotiation table.

The Cartagena Protocol and the CBD both highlight “the crucial importance to humankind of centers of origin and centers of genetic diversity”. Accordingly, one further challenge of risk assessment and risk management is addressing cases that involve a transboundary movement and/or a release into the environment of an LMO for which the recipient species of the biotechnological transformation has its origin in the intended receiving environment (which might also represent a site rich in diversity for that particular species). The question is then how do you strive for conservation and sustainable use of such species when modern biotechnology comes into play? These issues become increasingly difficulty when dealing with an open pollinated species, such as maize. For example, maize production is of economic interest to the world and Mexico where production of LMOs generate economic independence. It is in cases such as these that the link between risk assessment and risk management becomes even more relevant, especially considering that decisions regarding transboundary movements and release of LMOs.

Veit Koester
Chair of the Compliance
Committee of the Protocol

Some Insider Reflections on the Compliance Mechanism under the Cartagena Protocol on Biosafety

1. The Negotiations

The legal basis of the compliance mechanism of the Cartagena Protocol on Biosafety is Article 34. It was one of the less controversial provisions of the Protocol during the negotiations. But after the adoption of the Protocol, the details of the compliance procedures and the mechanism still had to be established. The latter was not as easy as agreeing on the enabling clause, i.e. Article 34 of the Protocol.

Negotiations on the compliance procedures and mechanisms started within an open-ended expert meeting that was convened back-to-back with the second meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP 2) in 2001, in preparation for the entry into force of the Protocol and the convening of the first meeting of the Parties to the Protocol. The negotiations continued at ICCP 2 and 3 and the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP-MOP 1). A number of issues, obviously the most contentious ones, were still outstanding at the start of COP-MOP 1. The fact that negotiations at COP-MOP 1 were very difficult is not surprising as this is a common pattern for all negotiations dealing with compliance mechanisms.

While compliance negotiations are always difficult, the reasons why this is the case, are not so easy to explain. It is certainly in the interest of all Parties that an agreement is being implemented and complied with. This is the essence of any agreement, be it an agreement between two persons or among States. Furthermore, most compliance mechanisms are forward-looking. Their main function is to help Parties fulfil their obligations, not to "punish" them or to be used as a vehicle for the provision of redress. In spite of the difficulties, and unlike some other negotiation processes on the same subject matter (e.g. the 2001 International Treaty on Plant Genetic Resources for Food and Agriculture), it was possible to find compromise and to resolve all outstanding issues with the exception of one (see below) where a decision was postponed until later. The mandate of Article 34 was thus fulfilled when COP-MOP 1 adopted decision BS-I/7 establishing the compliance procedures and mechanisms under the Protocol.

2. Establishment

Decision BS-I/7 established the Compliance Committee. In anticipation of the decision, Parties had been advised earlier through the Secretariat to come to COP-MOP 1 prepared to nominate suitable candidates for membership in the Compliance Committee. Accordingly, Parties elected 15 members of the Committee - three from each of the United Nations' regional groups at COP-MOP 1.

The compliance mechanism of the Protocol is in many respects quite traditional and has, like most other compliance mechanisms, its strengths and weaknesses. One of the strengths is the fact that members of the Committee serve in their personal capacity. This is not a common phenomenon in compliance mechanisms of other multilateral agreements. The importance of the independence of the Committee is further reinforced by the allocation of funding in the core budget of the Protocol to cover the costs of the regular meetings of the Committee, especially the travel costs and expenses of every member. The Committee, however, has no other financial means at its disposal.

One of the weaknesses of the mechanism is that the COP-MOP, leaving aside cautions and publication of cases of non-compliance in the Biosafety Clearing-House, has, as of yet, no measures available in cases of repeated non-compliance. This is the only outstanding issue that was not settled at the time the procedures and the mechanism were adopted at COP-MOP 1. The issue is left for consideration as part of the review of the effectiveness of the mechanism within the framework of the overall evaluation of the effectiveness of the Protocol in accordance with Article 35 of the Protocol. In response to a request from COP-MOP 3, the Committee prepared a report, including a series of observations on the experience of other multilateral environmental agreements, regarding more stringent measures in cases of repeated non-compliance. The report was considered at COP-MOP 4, however, the Parties agreed to postpone taking a decision on measures in cases of repeated non-compliance to a later stage.

3. Functions

The Compliance Committee under the Biosafety Protocol has two major areas of responsibility: (i) addressing cases of non-compliance, and (ii) reviewing general issues of compliance.

To date, the Committee has not received any submissions on non-compliance, be it from a Party with respect to itself or a Party in respect of another Party. This is not, however, an indication that the provisions of the Protocol are fully complied with by all Parties.

To the contrary, the Committee included in its reports to COP-MOP 3 and COP-MOP 4, in the context of general issues of compliance, a number of concerns relating to non-compliance with requirements of the Protocol. Parties are probably aware of the fact that the Protocol is a very difficult instrument to implement, in particular for developing country Parties, and that non-compliance could mainly be attributed to the lack of the necessary regulatory and administrative tools as well as the absence or inadequacy of scientific and technical capabilities and financial resources. This is also perhaps the reason why the Committee has not received any submissions. Given that no clear indication exists anywhere in the relevant decisions as to how a Party that may have difficulty in complying with the Protocol due to lack of financial resources could be given the assistance it needs, Parties do not seem to be motivated to come forward and trigger the compliance procedures with respect to themselves.

Although the Compliance Committee could, in theory, make recommendations to COP-MOP regarding the provision of financial assistance to a Party that has difficulty in complying with the Protocol, there is, at the same time, a perception shared by the Committee as well as Parties concerned that there will be a reluctance by COP-MOP to receive such recommendations favourably. COP-MOP 4, for example, disregarded a recommendation from the Committee suggesting that the Executive Secretary be authorized to use the balance of any funds that may be available in the budget allocated for two meetings of the Compliance Committee in any given year to cover the costs of participation of an eligible Party or Parties concerned in the consideration of any submission regarding their compliance before the Committee.

4. Recommendations of the Compliance Committee to COP-MOP

Most of the recommendations made by the Committee to COP-MOP are being accepted to date to the extent they have no immediate financial implications. A few other issues are also still pending. The rule on majority voting within the Compliance Committee, for instance, has yet to be settled. Since the Committee only makes recommendations and the ultimate authority to take a decision rests with COP-MOP, which operates on the basis of consensus, not letting the Committee adopt its recommendations by voting, when needed, is difficult to comprehend. The wisdom of COP-MOP is not always easy to grasp, and this is why the recommendation in favour of adopting majority voting rule in the rules of procedure for the Committee was included in the subsequent reports of the Committee. However, nothing has changed so far.

Overall the reception of the recommendations of the Committee by COP-MOP 3 and recently by COP-MOP 4 is satisfactory from the Committee's perspective. One point, however, requires further comment because it belongs to the essence of the functioning of the Committee. Under paragraph 1(d) of section III of the annex to decision BS-I/7, one of the tasks of the Committee is to review general issues of compliance by Parties with their obligations under the Protocol. In accordance with this duty and taking into account the failure of a number of Parties to submit national reports, in spite of the very clear obligations under Article 33 and relevant decisions, the Committee recommended to COP-MOP 4 to remind Parties of their obligation, emphasizing that failure to do so constituted non-compliance. This statement was a pure and simple factual statement, the truth of which was unquestionable. Nevertheless some delegations stated that it was not within the powers of the Committee to make such a statement as its role was facilitative in nature. This not only defies the reporting obligation under the Protocol but also overlooks the fact that the Committee had made the very same recommendation and statement earlier to COP-MOP 3 and that the latter had accepted and reflected the recommendation in decision BS-III/14 in relation to some Parties' failure to submit interim national reports two years after the date of entry into force of the Protocol. Notwithstanding this fact, however, the statements made by some delegations against the Committee's recommendation were completely wrong on several grounds. One could, for example, question how the facilitative role of the Committee ought to be expressed in the face of the failure of about 50 per cent of the Parties to fulfil one of their treaty obligations? Is it not non-compliance? What is a general issue of compliance if it is not about a situation of non-compliance without, of course, attributing it to any individual Party? It is regrettable that the concept of non-compliance was not included in decision BS-IV/14 on monitoring and reporting under the Protocol.

5. Concluding remarks

The Compliance Committee under the Cartagena Protocol on Biosafety has only been operational for a limited period of time. No submission on individual cases of non-compliance has been made so far. In May 2008, immediately after the fourth meeting of COP-MOP, an extensive submission was received through the Secretariat from a consortium of non-governmental organizations (NGOs) alleging non-compliance against a certain Party to the Protocol. In my capacity as the Chairperson of the Committee, I responded to the NGOs informing them that the compliance procedures under the Protocol could only be triggered by a Party and therefore the Committee had no mandate to consider their submission. It is interesting to note, however, that shortly after the receipt of the submission from the NGOs, the Party in question made available to the Biosafety Clearing-House new or updated information on a number of risk assessments and decisions taken over the past few years on living modified organisms intended for direct use as food or feed, or for processing.

The Compliance Committee has been active for four years but even so, it is probably too early to assess the effectiveness of the procedures and the mechanism in any meaningful manner. The recommendations of the Committee have, generally speaking, been well received by COP-MOP 3 and COP-MOP 4, and the recommendations that have been translated into decisions and integrated into various items in accordance with their relevance might already have resulted in some impact towards a better implementation of the requirements of the Protocol.

In my view, some interventions made at COP-MOP 4 in relation to the report and recommendations of the Committee were unduly strong, unnecessary and not helpful. For my colleagues and I who have been genuinely trying to help Parties in complying with their international obligations and for some of us who are also involved in other compliance mechanisms, the attitudes and some of the remarks we observed were really a source of frustration.

Finally, it is worth pointing out that over the past four years, the Committee has been extremely well served by the Secretariat. Members of the Committee have worked as a team in a good and constructive atmosphere which to some extent is probably linked to the fact that we are serving on the Committee in our personal capacity, and accordingly, have not been pursuing national agendas. Hopefully, the Committee is going to work in the same manner and the newly added members whose terms begin in 2009 will uphold the objective and the principles upon which the Committee was established, and contribute to Parties' efforts in complying with the objective and provisions of the Protocol.

Bather Kone
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the African Union Commission

Capacity-Building in Developing Countries under the Cartagena Protocol on Biosafety: Experience from Africa

1. Background

The fast progress that has been made in genetic engineering since the 1970s has led to increased public concern over genetically modified organisms (GMOs) derived from modern biotechnology. This concern centers primarily on the possible harmful effects of GMOs on health and the environment.

Prior to the Cartagena Protocol, other initiatives were undertaken regarding biosafety. Among these were the United Nations Industrial Development Organization (UNIDO) Voluntary Code of Conduct for the Release of Organisms in the Environment (1992), the Organisation for Economic Co-operation and Development (OECD) Safety Considerations for Biotechnology (1992), the Food and Agriculture Organization (FAO) Draft Code of Conduct on Biotechnology (1993), Agenda 21 of the Rio Declaration on Environment and Development calling for safety in biotechnology and the United Nations Environment Programme (UNEP) International Technical Guidelines for Safety in Biotechnology (1995).

Having been adopted in 2000 and entering into force in 2003, the Cartagena Protocol on Biosafety was adopted under the Convention on Biological Diversity (CBD) which entered into force 1993. The Protocol is linked to the CBD's Article 8(g) on "In situ Conservation", Article 19(4) on "Handling of Biotechnology and Distribution of its Benefits", Article 19(3) on which the negotiations of the Protocol were based and Article 28 on "Adoption of Protocols".

Article 22 of the Protocol on "Capacity Building" was one of the easier Articles to negotiate since all of the negotiators agreed that capacity-building is a key issue to the Protocol's implementation, particularly for African countries and other developing countries. It was therefore, in some cases, a useful tool for developing countries to negotiate.

The Protocol's primary articles that require capacity-building activities include risk assessment and risk management(Articles15&16),information sharing and the Biosafety Clearing-House (Article 20), public awareness and participation (Article 23) and monitoring and reporting (Article 33).

2. Capacity-Building Needs at the Entry Into Force of the Cartagena Protocol on Biosafety

Article 22(2) of the Protocol underlines the following general areas related to capacity-building:

- Scientific and technical training in the proper and safe management of biotechnology;
- Scientific and technical training in the use of risk assessment and risk management for biosafety; and
- Enhancement of technological and institutional capacities in biosafety.

These issues are all relevant to Africa and other developing countries.

3. Progress made under the Cartagena Protocol on Biosafety

Progress has been made under the Protocol through the Intergovernmental Committee for the Cartagena Protocol (ICCP), decision BS-I/5 from the first meeting of the Conference of the Parties serving as the Meeting of the Parties to the Protocol (COP-MOP 1), decision BS-II/3 from COP-MOP 2, decisions BS-III/3 and BS-III/4 from COP-MOP 3 and decision BS-IV/3 from COP-MOP 4. Each of these decisions reinforces one another, confirming that the issue of capacity building for the effective implementation of the Protocol is a continuous process with new challenges at each step. The above expert review made it possible to know more about the future needs.

Since ICCP, which was an interim body to the Protocol, there has been a list of elements adopted in 2001 as an Action Plan that requires action on capacity-building:

- Institutional capacity-building: legislative and regulatory framework; administrative framework; technical, scientific and telecommunication infrastructures; funding and resource management; and mechanisms of follow-up, monitoring and assessment;
- Human resource development and training;
- Risk assessment and other scientific and technical expertise;
- Risk management;
- Awareness, participation and education at all levels, including for decision-makers, stakeholders and the general public;
- Information exchange and data management, including full participation in the Biosafety Clearing-House;
- Scientific, technical and institutional collaboration at the subregional, regional and international level;
- Technology transfer;
- Identification; and
- Socio-economic considerations.

Despite progress being made, some challenges have arisen. With the exception of some countries in Africa, the primary problem for African countries at the entry into force of the Cartagena Protocol was that, even though the need to implement the Protocol was significant, the majority of them did not have biotechnology capacities

or any regulations on biosafety in place. Because the Protocol was a globally negotiated agreement, it left out specific important issues for Africa. These include the development of domestic GMOs, use in contained systems (e.g. laboratories and plant production), approval of deliberate releases into the environment, approval of food consisting of or derived from GMOs and the labeling of food consisting of or derived from GMOs. Another important consideration was the pressure on African countries by the promoters of GMOs.

In this context, in early 2001, the Organization of African Unity (now called African Union) launched initiatives such as the Model Law on Safety in Biotechnology which title was changed to Model Law on Biosafety in 2007 to better implement the Protocol in Africa.

Other ongoing initiatives by different stakeholders include:

- The United Nations Environment Programme-Global Environment Facility (UNEP-GEF) support for the effective implementation of the Protocol (the first partner for Africa on biosafety issues);
- The African Union-German Technical Cooperation (AU-GTZ) Biosafety Project within the African Union Commission;
- The Economic and Monetary Community of West African States - West African Economic and Monetary Union;
- Permanent Inter-State Committee for Drought Control in the Sahel (ECOWAS- WAEMU-CILSS) Initiatives;
- The Genøk training course providing sponsorship to Africans;
- The Program for Biosafety Systems (PBS);
- Biosafety Train;
- Regional Agricultural and Environmental Initiatives in Africa (RAEIN-Africa);
- The "Cours Interdisciplinaire de Biosécurité pour l'Afrique Francophone" (CIBAF), joint initiative between Université de Bamako and RIBios (Réseau Interdisciplinaire de Biosécurité);
- The African Biosafety Network of Expertise; and
- Other bilateral and multilateral cooperation initiatives.

In summary the actual status of biosafety initiatives is as follows:

- Very few countries have a functional national biosafety system;
- Most of the countries have their National Biosafety Framework prepared and have submitted draft laws to Parliament;
- BCH training and basic equipment have been provided to some countries with regional advisors selected and trained to support the BCH at regional level;
- Training courses in biosafety for human resources capacity-building has been provided by different partners;
- Some countries have started the commercial use of GMOs and/or are conducting trials;
- Some public awareness initiatives have been undertaken but there is need for improvement; and
- Regional and subregional initiatives on coordination/ harmonization are ongoing.

4. Lessons Learned

Among the main lessons learned from the development of National Biosafety Frameworks (NBFs), which are UNEP-GEF supported, are:

- Biosafety is a sustainable development issue to be linked with a country's development priorities;
- A country-driven process in preparing the NBF, with country budget contributions, is important;
- An inclusive approach ensures the involvement of all stakeholders;
- The NBFs not only provided the necessary legal instruments and other systems for the implementation of the CPB, it also started to build national capacity for the effective implementation of the Protocol. This will need to be sustained through both externally funded and nationally supported capacity-building efforts; and
- There is a need to harness national human and institutional resources (i.e. rather than rely upon outside expertise) and to strengthen national capacity in order to ensure the sustainability of the NBF.

The main lessons learned from the AUC-GTZ Initiative include:

- The regional approach is the most reasonable for Africa due to the porous nature of borders between the countries. Although it will require a lot of preparation, there is also a need to maximize the use of resources and to make the biosafety measures on the continent more efficient;
- Because common positions on biosafety and biotechnology are a big challenge for Africa, agreement on general guidelines on biosafety and biotechnology, with a strong emphasis on information sharing, is important;
- Communication, coordination, networking and collaboration at the regional level in Africa is still a big problem and requires a lot of improvement;
- the extreme positions held by stakeholders within the continent on the issues of biosafety and biotechnology is not helping the process; and
- There still a lot of work to do in the field of capacity-building for biosafety in Africa.

5. Challenges and the Way Forward

Unfortunately, the situation in Africa is still a long way from the strategic objectives adopted by the CBD strategic Plan. These objectives were to ensure that, by 2010:

1. The Cartagena Protocol on Biosafety is widely implemented;
2. Every Party has a regulatory framework in place and is working to implement it;
3. All Parties have available adequate capacity, as well as increased resources and technology transfer, to implement the Protocol; and
4. Every Party to the Cartagena Protocol on Biosafety is promoting and facilitating public awareness and education in support of the protocol.

In the context of Africa, significant progress has been made on the second strategic objective, less on the fourth one, and very little on the first and the third ones.

From the perspective of a regional approach on biosafety issues in Africa, there is a need for:

- Coordination/Harmonization: an effective coordination/harmonization mechanism (regional body and meeting) on biosafety/biotechnology issues is much needed with harmonization of the regulations being the biggest challenge in the continent;
- Monitoring and Reporting: an effective system is needed at the regional and sub-regional levels for communication and information exchange on the continent;
- African Countries to invest national funds for the sustainability of capacity-building and effective implementation of the Protocol;
- Stronger support for risks assessment and risks management, public awareness and participation, GMO detection capacities and socio-economic considerations;
- Effective implementation of the prepared NBFs and the national BCH; and
- Mid-way biosafety capacity building assessments, at the national, subregional, regional and international levels, to plan further biosafety activities.

Finally, an emerging important issue for Africa is that two ministerial conferences have adopted a recommendation on the need to institutionalize biosafety in the African Union Commission.

Marydelene Vasquez
UNEP-GEF Regional Adviser on BCH for the Caribbean Region

Building the Capacities of Caribbean Countries for Effective Participation in the BCH

Becoming a Party to the Cartagena Protocol on Biosafety is often the culmination of an involved and sometimes extended process for a country. Although it is a major milestone and a noteworthy accomplishment, it is also the start of a new set of challenges for Parties as they seek to fulfill their international commitments under this Multilateral Environment Agreement.

Information-sharing is a key commitment of Parties under the Protocol. In particular, Article 20 establishes the Biosafety Clearing-House (BCH) as the mechanism for countries to share information relevant to the implementation of the Protocol. Under this Article, Parties are obliged to use the BCH to share biosafety-related information on national contacts, laws, international agreements, risk assessments and decisions regarding the transboundary movements of LMOs. It is therefore essential that all Parties become adept at using the BCH to enter their information and access information entered by other countries.

To this end, at their first meeting, in February 2004, the Conference of the Parties serving as the meeting of the Parties to the Protocol (COP-MOP) approved the transition of the pilot phase of the BCH to the fully operational phase. To assist countries in fulfilling their information-sharing and public education obligations under the Protocol, the "Project for Building Capacity for Effective Participation in the Biosafety Clearing House of the Cartagena Protocol on Biosafety" was initiated. To date, the BCH Project has signed MOUs with 110 countries to build national capacity in using the BCH.

The truth is that the use of the BCH by Parties, especially by least developed States and small island developing States, has not taken off as quickly as was initially expected. The Caribbean subregion provides an interesting case study of the challenges and obstacles that Parties have faced, and are slowly overcoming, in fulfilling their information sharing obligations over the past five years.

When the Protocol entered into force, on 11 September 2003, four Caribbean nations were among the initial Parties. Today, five years later, thirteen Caribbean nations are Parties and two more have already expressed their intention to become Parties in writing and have already signed the Protocol.

Use of the BCH in the Caribbean region started slowly. Stephen Vitoria, a Regional Advisor in Information Technology for the BCH Project, who has participated in workshops in seven Caribbean countries over the past 1.5 years, attributes this slow start to the fact that the countries in this region have been struggling to define their National Biosafety Frameworks. With the assistance of the UNEP-GEF global project on the "Development of National Biosafety Frameworks (NBFs)", these have now been defined for many of the Caribbean countries. However, Stephen believes that many of them are still some years away from actually implementing them. He says that until the NBFs are implemented, and the national laws, structures and networks are in place for implementation, there simply won't be very much national information to enter (especially with regards to laws and decisions).

The good news is that, through the efforts of the BCH Project, there has been a noticeable increase in usage over the past 2 years. With project assistance, eleven Caribbean countries are receiving assistance to host national workshops on the use of the BCH and to purchase computer equipment and software to enable them to access the BCH. Additionally, two regional workshops have been held for the Caribbean subregion to reinforce the training received at the national level and also to foster networks and share experiences between nations.

Multiple national level workshops have been held in nine of these countries to

date and two more are in the planning. These workshops aim to teach national government personnel, as well as non-government stakeholders, how to enter the national information required under the Protocol and how to find information entered by other Parties.

Dr. Michael De Shield, CPB and BCH Focal Point for Belize surmises that it is just as well that the Caribbean has gotten off to a slow start, since many of the mechanics of Protocol implementation – the national biosafety frameworks, handling, transport, packaging and identification, liability and redress – are still being worked out in the international arena. Neither being at the forefront of biotechnology nor initiators of trade in GMOs, the Caribbean Parties, he says, have been looking to the more developed countries which have established NBFs to see what issues were arising that were affecting the operationalization of the NBFs. With the collective experience that the world has gained on these issues, he believes that this is now the opportune time for Caribbean Parties to start progressing more rapidly towards the implementation of their NBFs.

Despite the progress being made by Caribbean countries, many challenges remain if the region is to utilize the BCH fully. Sean Townsend, the BCH Focal Point for Jamaica, says that currently the primary obstacle to entering data is that his country is still in the process of preparing its Biosafety Policy, which would establish the national institutional framework of responsibilities. Until that is done, the full responsibility of data entry may lie solely with the BCH Focal Point. This may prove difficult if the volume of information to be registered is high or if the BCH Focal Point is not very familiar with the subject matter. Nevertheless, Sean says that their first national BCH workshop has had very positive results. First, it has raised the level of awareness on biosafety and the BCH among the key implementing agencies. Second, the participants who were trained have already taken on national training responsibilities within Jamaica. They will now be key to the nation's training and public awareness strategy. Furthermore, additional training courses are already being planned for additional stakeholder groups.

In sum, the key factors affecting the progress of Caribbean Parties in fulfilling their information sharing obligations using the BCH are (i) the need to implement their NBFs, (ii) the need to raise awareness; and (iii) train stakeholders and key personnel in the use of the BCH. Eleven Caribbean countries have already prepared and submitted draft NBFs. For many of these countries, official adoption of these NBFs by Governments will take several more months and full implementation may take years. Meanwhile, these countries are consolidating their national capacity in using the BCH, building public awareness on biosafety and registering their first national records in the BCH. Based on the foundation built over the past five years, the Caribbean region is now progressing steadily in its implementation of the Protocol.

THE CARTAGENA PROTOCOL ON BIOSAFETY: MAJOR MILESTONES

22 May 1992, Nairobi, Kenya
The Convention on Biological Diversity (CBD) is adopted under the auspices of the United Nations Environment Programme, including Article 19.4 providing for Parties to "consider the need for and modalities of a protocol, including advance informed agreement (AIA) in particular, to ensure the safe transfer, handling and use of living modified organisms (LMOs) derived from modern biotechnology that may have an adverse effect on biological diversity and its components".

3-14 June 1992, Rio de Janeiro, Brazil
The United Nations Conference on Environment and Development (UNCED) adopts Agenda 21, the global programme of action on sustainable development which, in chapter 16, calls for development of international mechanisms for cooperation to ensure safety in biotechnology development, application, exchange and transfer through international agreement on principles to be applied on risk assessment and management.

28 November - 9 December 1994, Nassau, Bahamas
The first meeting of the Conference of the Parties to the CBD (COP 1) establishes an Open-ended Ad Hoc Group of Experts on Biosafety to examine "the need for and modalities of a Protocol setting out appropriate procedures, including in particular advance informed agreement, in the field of the safe transfer, handling and use of any LMO resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity".

24-28 July 1995, Madrid, Spain
The Open-ended Ad Hoc Group of Experts on Biosafety supports the development of an international framework on biosafety under the CBD, including all activities related to LMOs that may have adverse effects on biodiversity, transboundary movement of LMOs, release of LMOs in centers of origin/genetic diversity, mechanisms for risk assessment and management, procedures for AIA, information exchange and capacity-building.

6-11 November 1995, Jakarta, Indonesia
The second meeting of the Conference of the Parties calls for a negotiation process to develop in the field of the safe transfer, handling and use of LMOs, a protocol on biosafety, specifically focusing on transboundary movement of any LMO that may have an adverse effect on biological diversity, setting out appropriate procedures for advance informed agreement". COP-2 establishes an Open-ended Ad Hoc Working Group on Biosafety (BSWG) to "elaborate, as a priority, the modalities and elements of the Protocol".

22 - 26 July 1996, Aarhus, Denmark
The first meeting of the Open-ended Ad Hoc Working Group on Biosafety (BSWG-1) provides a forum for defining issues and articulating positions, characteristic of a pre-negotiation process.

12 - 16 May 1997, Montreal, Canada
BSWG-2 discusses a range of issues, begins to move from generalities to specifics and takes steps towards developing possible elements of the protocol. Despite the progress, some fundamental differences of opinion remain, particularly regarding the scope of the Protocol, which threaten to derail the process.

13-17 October 1997, Montreal, Canada
BSWG-3 produces a consolidated draft text to serve as the basis for negotiation of a protocol on biosafety. The meeting establishes two sub-working groups to address the core articles of the Protocol and a contact group to discuss institutional matters and final clauses.

5-13 February, Montreal, Canada
BSWG-4 further consolidates options contained in the draft text, while beginning the process of negotiation to clearly define divergent positions and to identify common ground for moving forward. Delegates produce consolidated text on most of the articles for a Protocol on Biosafety, including provisions on highly contentious issues, such as scope, advance informed agreement, risk assessment, liability and redress and socio-economic impacts.

4 - 15 May 1998, Bratislava, Slovakia
The fourth meeting of the Conference of the Parties extends the deadline for the negotiation of a Protocol from the end of 1998 to early 1999 and establishes an extra meeting to be followed by an Extraordinary Conference of the Parties to the CBD to adopt the Protocol in 1999.

17-28 August 1998, Montreal, Canada
BSWG-5 develops a revised consolidated draft of 40 articles. Thirteen articles remain entirely bracketed, indicating that delegates still have not agreed on the elements of the protocol and the contents of the articles.

14-22 February 1999, Cartagena, Colombia
BSWG-6 attempts to finalize a protocol on biosafety for adoption by the extraordinary meeting of the COP (ExCOP). However, the delegates fail to reach consensus. The Chair's text is forwarded to the ExCOP still containing brackets around contentious issues mainly relating to trade aspects, such as treatment of commodities and relationship with the WTO agreements.

Juan Mayr, President of the Extraordinary meeting of the Conference of the Parties to the Convention on Biological Diversity

22-23 February 1999, Cartagena, Colombia
The first extraordinary meeting of the Conference of the Parties to the Convention on Biological Diversity (ExCOP) meets to adopt a protocol on biosafety. ExCOP President, Juan Mayr (the Colombian Environment Minister), establishes an informal working group, the "Group of 10", to debate the Chair's text adopted at BSWG-6. As no consensus is reached, the ExCOP finally decides to suspend its first meeting and to resume no later than the fifth meeting of the COP (May-June 2000). The ExCOP also decides to name the future Protocol the "Cartagena Protocol on Biosafety to the Convention on Biological Diversity"

1 July 1999, Montreal; 15-19 September 1999, Vienna, Austria
Informal consultation on the process to resume the Extraordinary Meeting of COP to adopt a protocol on biosafety are held on 1 July 1999 in Montreal between representatives of the negotiating groups to plan for the resumed session of the ExCOP. All representatives express their commitment to the conclusion of a Biosafety Protocol and agree to hold on 15-19 September 1999 in Vienna an open-ended informal consultation involving all Parties and Governments which participated in the earlier negotiations. Although a number of important outstanding issues remain, the groups make some progress on a conceptual basis.

20-28 January 2000, Montreal, Canada
The resumed session of the ExCOP negotiates the remaining core issues (including the scope, procedure relating to commodities, and relationship with other international agreements), as well as some other outstanding points. Finally, after the last minute compromise on the provision regarding documentation, delegates adopt the Cartagena Protocol on Biosafety 29 January 2000

Extraordinary Meeting of COP

15 - 26 May 2000
The Protocol is opened for signature at the United Nations Office at Nairobi. President Daniel arap Moi of Kenya signed the Protocol on 15 May, making Kenya its first signatory.

November 2000
The Council of the Global Environment Facility (GEF), as the financial mechanism for the Protocol, approves the GEF initial strategy for assisting countries to prepare for the ratification, entry into force and implementation of the Protocol.

The first meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP)

11-15 December 2000, Montpellier, France
The first meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP) recommends, among other things, that a pilot phase of the Biosafety Clearing-House (BCH) be developed and administered by the Secretariat under the oversight of the ICCP Bureau. ICCP-1 also invites UNEP and the Secretariat to organize an open-ended expert meeting to develop proposals on the implementation of capacity building provisions of the Protocol and requests the Secretariat to maintain the roster of experts and to make it available in the BCH.

5 April 2001
The Secretariat launches the pilot phase of the BCH online, taking into account recommendations of the liaison group meeting of technical experts on the BCH which was held 19-20 March 2001 in Montreal.

30 April 2001
The Secretariat operationalizes, through the Biosafety Clearing-House, the roster of biosafety experts established by the extra-ordinary meeting of the Conference of the Parties to the CBD (COP) in decision EM-I/3 to "provide advice and other support, as appropriate and upon request, to developing country Parties and Parties with economies in transition, to conduct risk assessment, make informed decisions, develop national human resources and promote institutional strengthening, associated with the transboundary movements of LMOs".

11-13 July 2001, Havana, Cuba
The Open-ended Meeting of Experts on Capacity-Building for the Implementation of the Biosafety Protocol develops a draft indicative action plan for building capacities for the effective implementation of the Cartagena Protocol for consideration by the ICCP at its second meeting

1-5 October 2001, Nairobi, Kenya
The second meeting of the ICCP develops recommendations on the following issues to be forwarded to the first meeting of the Conference of the Parties serving as the Meeting of the Parties to the Protocol (COP-MOP) for consideration: information sharing; capacity building; the roster of experts; guidance to the financial mechanism; decision-making procedures; handling, transport, packaging and identification; liability and redress; compliance; and monitoring and reporting.

22-26 April 2002, The Hague, Netherlands
The third meeting of the ICCP recommends to the first meeting of the COP-MOP draft procedures and mechanisms on compliance, a coordination mechanism for capacity-building initiatives and interim guidelines for the roster of biosafety experts. It also invites views on development of a unique identification system for LMOs and information on national, regional and international agreements in the field of liability and redress. It also forwards recommendations of the Technical Expert Meeting on Handling, Transport, Packaging and Identification of LMOs.

13 June 2003
The Protocol receives its 50th instrument of ratification from the Republic of Palau.

11 September 2003
The Protocol enters into force, making it the first legally binding international agreement governing the transboundary movement of LMOs resulting from modern biotechnology.

23-27 February 2004, Kuala Lumpur, Malaysia
The first meeting of the COP-MOP adopts a number of decisions elaborating rules, procedures and mechanisms to facilitate the implementation of the Protocol. These include the operational modalities for the BCH, the capacity-building Action Plan and its coordination mechanism, guidelines for the roster of biosafety experts and the compliance procedures and mechanisms, including a Compliance Committee. COP-MOP also establishes an Open-ended Ad Hoc Working Group of Legal and Technical Experts on Liability and Redress under the Protocol. Furthermore, it adopts identification requirements for documentation that should accompany LMOs for contained use and LMOs for intentional introduction into the environment and initiates a process to elaborate the detailed documentation requirements with respect to LMOs intended for direct use as food or feed, or for processing.

COP/MOP-1 President Dato' Seri Law thanked all delegates for participating in a fruitful meeting (Source: IISD/ENB)

14-16 March 2005 - Montreal, Canada
The Compliance Committee under the Protocol holds its first meeting to, for instance, review general issues of compliance by Parties with their obligations under the Protocol and develop draft rules of procedure for its meetings.

25-27 May 2005, Montreal, Canada
The First meeting of the Ad Hoc Open-ended Working Group of Legal and Technical Experts on Liability and Redress under the Biosafety Protocol embarks on process for the elaboration of international rules and procedures regarding liability and redress for damage resulting from transboundary movements of LMOs in the context of the Cartagena Protocol on Biosafety.


COP-MOP 2,Working Group II participants discuss a draft decision on notification requirements(Source: IISD/ENB)

30 May-3 June 2005, Montreal, Canada
The second meeting of the COP-MOP approves the rules of procedure for meetings of the Compliance Committee, adopts a multi-year programme of work for the BCH, establishes an Ad Hoc Technical Expert Group on Risk Assessment and urges governments to develop programmes and leverage opportunities for cooperation in the promotion of public awareness, education and participation concerning the safe transfer, handling and use of LMOs.

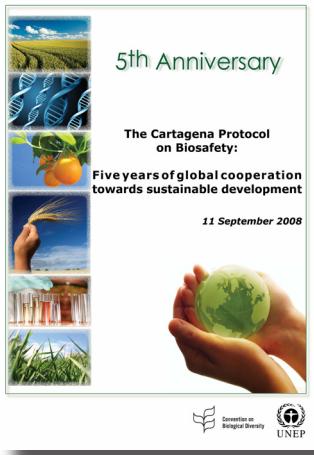
20-24 February 2006, Montreal, Canada
The second meeting of the Open-ended Ad Hoc Working Group on Liability and Redress reviews available information to develop a common understanding on a number of specific issues relating to liability and redress for damage resulting from transboundary movements of LMOs, analyzes general issues relating to potential and/or actual damage scenarios of concern and develops an indicative list of criteria for the assessment of the effectiveness of any rules and procedures referred to in Article 27 of the Protocol.

Fatimah Raya Nasron, COP MOP-3 President (Malaysia), declared the meeting officially open, and welcomed the opportunity to resolve outstanding issues by adopting the detailed documentation for living modified organisms for food, feed or processing (LMO-FFPs) (Source: IISD/ENB)

22-26 October 2007, Montreal, Canada
The fourth meeting of the Ad Hoc Open-ended Working Group on Liability and Redress streamlines the operational texts on approaches and options in the working document and revises the blueprint considered at the third meeting to reflect the agreed changes regarding the form and contents of some of the elements under consideration.

12-19 March 2008, Cartagena, Colombia
The fifth meeting of the Open-Ended Ad Hoc Working Group on Liability and Redress revises the working draft on the elaboration of options for rules and procedures, agrees to some core elements and reduces options for operational text identified pertaining to liability and redress.

7-9 May 2008, Bonn, Germany
Friends of the Co-Chairs of the fifth meeting of the Open-Ended Ad Hoc Working Group on Liability and Redress engage in closed door negotiations of proposed operational texts on liability and redress.



The Poster of the 5th Anniversary of the Protocol

For all related outreach material, please visit:
ttp://www.cbd.int/biosafety/anniversary/

13-17 March 2006, Curitiba, Brazil
The third meeting of the COP-MOP reaches consensus on the detailed identification requirements for documentation accompanying shipments of LMOs intended for direct use as food or feed, or for processing, adopts a revised Action Plan for Building Capacities for the Effective Implementation of the Protocol and also endorses a format for the first regular national reports on implementation of the Protocol and the schedule and process for their submission.

19-23 February 2007, Montreal, Canada
The third meeting of the Ad Hoc Open-ended Working Group on Liability and Redress develops a blueprint for a possible COP-MOP decision on international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of LMOs, discusses a synthesis of proposed operational texts on approaches, options and issues identified and integrates into the working draft additional operational texts submitted by several representatives.

COP-MOP 4 in Bonn, Germany, May 2008
The Contact Group on Liability and Redress ended their deliberations and formed the a Friends of the Chair Group on Liability and Redress. (Source: IISD/ENB)

12-16 May 2008, Bonn, Germany
The fourth meeting of the COP-MOP 4 agrees to work towards international rules and procedures in the field of liability and redress that would comprise legally binding provisions focusing on the administrative approach and some non-legally binding provisions on civil liability. Parties also adopt several other decisions, including new measures for improving the quality and effectiveness of the roster of experts; a revised set of indicators for monitoring the updated capacity-building Action Plan, measures to further improve the BCH and a comprehensive decision on risk assessment and risk management covering a series training activities and a process for elaboration of further guidance on specific aspects of risk assessment and risk management.

11 September 2008
Parties mark the fifth anniversary of the entry into force of the Protocol.

SNAPSHOTS

2008/2009 CALENDAR OF EVENTS:

11th September 2008
5th Anniversary of the Cartagena Protocol on Biosafety

6-17 Oct 2008
Online conference on national experiences with, and capacity-building needs for, environmental risk assessment and post-release LMO monitoring and evaluation

13-14 Nov 2008
Montreal, Canada
BCH IAC Meeting 2008

Sept / Nov 2008
Kuala Lumpur, Malaysia
5th meeting of the Compliance Committee under the Protocol

2009
23 - 27 February 2009
Mexico City, Mexico
1st meeting of the Group of the Friends of the Co-Chairs Concerning Liability and Redress in the Context of the Cartagena Protocol on Biosafety

For further information: http://www.cbd.int/biosafety/meetings-link.shtml

HAPPENINGS SINCE THE LAST ISSUE:

11 - 13 February 2008
4th Coordination Meeting for Governments and Organizations Implementing or Funding Biosafety Capacity-Building Activities in New Delhi, India

14 - 15 February 2008
5th meeting of the Liaison Group on Capacity-Building for Biosafety in New Dehli, India

12 - 19 March 2008
5th meeting of the Ad Hoc Working Group on Liability and Redress took place in Cartagena, Colombia

7 - 9 April 2008
Asia Sub-Regional Workshop on Capacity-Building and Exchange of Experiences on Risk Assessment and Risk Management of LMOsin Kuala Lumpur, Malaysia

7 - 9 May 2008
Meeting of the Friends of the Co-Chairs of the 5th meeting of the Working Group on Liability and Redress in Bonn, Germany

9 - 10 May 2008
BCH training workshop in Bonn, Germany

12 - 16 May 2008
COP-MOP 4 held in Bonn, Germany, side events co-organised by the Secretariat and a fair on experiences of implementing the Protocol.

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We would like to hear from you:

We are encouraging governments, particularly those that are Party to the Protocol and relevant stakeholders to send articles and digital photos on their implementation, awareness and outreach activities. Please send your contributions to secretariat@cbd.int or bch@cbd.int

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CBD UNEP ACHIEVING THE 2010 BIODIVERSITY TARGET