

ICCP 3**Cartagena Protocol on Biosafety**

The Cartagena Protocol on Biosafety, negotiated under the Convention on Biological Diversity, was adopted in Montreal on 29 January 2000, after six years of preparatory discussions and negotiations.

It addresses the safe transfer, handling and use of Living Modified Organisms (LMOs) that may have an adverse effect on biological diversity, also taking into account effects on human health, and focuses on transboundary movements of LMOs.

'The Cartagena Protocol recognizes that biotechnology has an immense potential for improving human welfare, but that it could also pose risks to biodiversity and human health,' said Klaus Töpfer, Executive Director of UNEP, at the occasion of the third meeting of the Intergovernmental Committee on the Cartagena Protocol (ICCP). 'The Protocol promises to minimize these risks by establishing an effective system for managing the transboundary movement of living modified organisms.'

ICCP was established by the Conference of the Parties to the Convention on Biological Diversity, to prepare for the first meeting of the Parties to the Protocol. It first met in Montpellier (France) in December 2000 (see *Environmental Policy & Law*, Vol. 31 (2001) No. 1, at page 23) and again in Nairobi (Kenya) in December 2001 (see *Environmental Policy & Law*, Vol. 31 (2001) No. 6 at page 276). ICCP 3 met in the Hague (Netherlands) from 22 to 26 April 2002, immediately following the sixth meeting of the Conference of the Parties to its parent Convention.

It was attended by nearly 500 participants, with 147

States and some 100 intergovernmental, non-governmental, and industry organizations represented.

ICCP 3 continued the work of the two previous meetings in preparing for the entry into force of the Protocol, in particular in preparing for its first Meeting of Parties. It adopted 13 recommendations for consideration by this meeting.

Only 17 States, however, have ratified or acceded to the Protocol so far, making entry into force of the Protocol (90 days after the deposit of the 50th instrument of ratification or accession) unlikely in the near future, and virtually impossible before the World Summit on Sustainable Development (WSSD), a target which many had hoped would be met.

It is now planned to hold the first meeting of the Parties to the Protocol in conjunction with an extraordinary session of the Conference of the Parties to the Convention on Biological Diversity (CBD COP) if the Protocol enters into force within a year, or in conjunction with the 7th CBD COP in 2004, if later.

ICCP 3 was split into two Working Groups, which considered the following subjects:

- information sharing; handling, transport, packaging and identification (HTPI); monitoring and reporting; other issues for effective implementation (Working Group I); and
- liability and redress; compliance; capacity building (including the roster of experts) (Working Group II).

Among these subjects, HTPI, liability and compliance were the most difficult, and lengthy debates in the relevant Working Group and Contact Groups created to attempt resolving differences achieved little concrete progress, or at least less progress than hoped for.

Considering HTPI, discussions focused on the interpretation of the terms of Article 18.2, in particular on specifying the identification requirements for LMO-FFPs (as 'may contain LMOs'), for LMOs destined for contained use, and for LMOs for intentional introduction into the environment.

The recommendation adopted reflects divergence of views between those wishing a strict interpretation of the terms of Article 18.2, and those favouring a broader interpretation, requiring more identification information to be provided.

On liability and redress, the debate concentrated on process rather than substance, and many favoured an information-gathering approach, while others stressed that it was delaying substantive work on a liability regime. The recommendation adopted (with an appended questionnaire) is nevertheless a further step in nurturing a process which may lead to a common understanding of the elements of a future liability regime.

The draft procedures and mechanisms for compliance were further considered, and delegates agreed to concentrate on text remaining in brackets from the discussions at ICCP 2. A controversy arose in the final plenary as to

whether or not all elements (versus remaining bracketed text) of the draft would be subject to further discussions, a prospect which is likely to lead to the reopening of part of the text on which compromise had been reached earlier.

The recommendation forwards the annexed draft procedures and mechanisms with options regarding bracketed text to the first meeting of the MOP, and invites governments to submit comments on bracketed text no later than six months prior to MOP I.

Many participants were disappointed at the lack of 'real' progress at ICCP 3, and complained that the 'spirit of Montpellier' was fading away – an expression coined to reflect the atmosphere of goodwill which permeated ICCP 1 (and 2) discussions.

Others pointed out that this evolution is a natural one: Montpellier mapped the issues to be tackled in order to facilitate MOP 1. With each step taken to concretize action to be taken on these issues, it is only natural for debates to become more difficult and polarized. Above all, the nature of ICCP – as a facilitator for decisions to be taken by MOP 1 – limits its possibilities in the political context: it seems that the point has now been reached where a number of negotiators are more worried about keeping their political options open for MOP 1 than making progress in its preparation. (Françoise Burhenne-Guilmin)

Note: In addition to the official report of ICCP 3, a detailed report by ENB (Earth Negotiations Bulletin) of the meeting and its results is available at www.iisd.ca/linkages/biodiv/iccp3/.

