



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 4 June 2008

**10274/08
ADD 1**

**ENV 349
AGRI 170
RECH 202
ENER 179
PI 28
FORETS 30
PECHE 131
WTO 106
ONU 46**

ADDENDUM to NOTE

from : General Secretariat
to : Delegations

Subject : Ninth ordinary meeting of the Conference of the Parties (COP 9) to the Convention on Biological Diversity (CBD) and on the Fourth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety (COP-MOP 4) (Bonn, 12 to 30 May 2008)
– Information from the Commission

Delegations will find annexed information from the Commission on the above subject, which will be dealt with under "other business" at the meeting of the Council (Environment) on 5 June 2008.

Information Note by the Commission on the Outcomes of the Ninth Conference of the Parties to the UN Convention on Biological Diversity (COP 9) and the Fourth Meeting of the Parties to the Cartagena Protocol on Biosafety (MOP 4)

General Evaluation of the two Conferences

COP 9 was held from 19-30 May 2008 in Bonn, Germany. It was preceded by MOP 4, which was held in Bonn from 12-16 May 2008. The Parties reached agreement on all points on the agenda. The EU achieved almost all of its political objectives. The EU, including Germany as host country, was the driving force behind the success of MOP 4 and COP 9. Under the Slovenian Presidency EU, Member States and the Commission cooperated closely to ensure a positive and visible contribution by the EU to this important Conference.

Outcomes of COP 9

The achievements of COP 9 must be seen against the context of continuing loss of biodiversity. Despite COP 9, the global target of significantly reducing current rates of biodiversity loss by 2010 (set at the 2002 World Summit on Sustainable Development) will likely not be met. The landmark decisions adopted by COP 9 do, however, show an enhanced political will by the global community to address biodiversity loss. A number of the decisions taken by the COP deserve to be highlighted, as they also correspond to stated political priorities of the EU:

COP 9 adopted scientific criteria for the identification of marine protected areas in need of protection, particularly in the high seas, beyond national jurisdiction. This is a major step towards reaching the global target of establishing a global, representative network of marine protected areas by 2012. Governments also agreed to launch within the CBD a process for identifying marine areas that meet the adopted criteria. It also agreed to provide guidance for the assessment of the environmental impacts of economic activities undertaken in the high seas.

COP 9 also reached agreement on Biofuels. The decision establishes for the first time at global level that the production and use of biofuels should be sustainable in relation to biodiversity. It will now allow for the development of more specific guidance for policy frameworks at national, regional and international levels. It will also inform the ongoing development of policy tools, such as sustainability criteria.

COP 9 also agreed on a process that will allow the incorporation of biodiversity concerns into the ongoing climate negotiations under the UNFCCC.

COP 9 also adopted a de facto moratorium on ocean fertilisation as a climate change response measure.

COP developed a detailed roadmap for finalising negotiations on an international regime on access to genetic resources and the fair and equitable sharing of benefits arising from their use. COP also confirmed the basis and the 2010-deadline for this negotiation and gives clear instructions to negotiators on how to address the key political issue of the legal nature of the international ABS regime. Parties implicitly agreed that the international regime may include binding components. The Conference also gave political backing to the French initiative – supported by the Commission - that aims to establish an international science-policy interface modelled after the successful example of the IPCC (Intergovernmental Panel on Climate Change).

The Conference received the highest political backing from Chancellor Merkel who opened the Ministerial section together with President Barroso. Both of them identified the loss of biodiversity as, together with climate change, a major global challenge that is threatening human kind.

A recurrent theme of the political discussion was that, in addition to the moral imperative to conserve our natural heritage, there is increasing evidence that degraded ecosystems have negative impacts on social and economic development.

Chancellor Merkel made the announcement of a very substantial financial contribution from Germany to the conservation of global biodiversity, with a particular emphasis on Forests. €500 million per year will be generated from 2013 on-wards out of the proceeds from ETS auctioning. This announcement offers an example to the international community of new and innovative sources of funding for global public goods. It also endorses the proposal made by the Commission in the Climate and Energy package to use a part of the proceeds from the ETS auctioning to protect the environment.

Another major event during COP 9 was the publication of the interim report of the study: "The Economics of Ecosystems and Biodiversity (TEEB)". This work draws upon the example of the Stern Review on the economics of climate change and was initiated by the Commission and the German Government. It is being carried out by an independent scientific team led by professor Pavan Sukhdev. The main messages from the first phase of the study are (i) we are losing biodiversity and ecosystem services very rapidly; (ii) this is already having major economic impacts; (iii) the poor are the most at risk; and (iv) current economic tools and models do not take account sufficiently of the economic value of biodiversity. The study will be completed in 2009, with the aim of being presented at next COP CBD in 2010.

Outcomes of MOP 4, particularly regarding negotiations on liability and redress

The main outstanding issue in the Cartagena Protocol on Biosafety is the development of international rules and procedures on liability and redress for damage resulting from the transboundary movement of GMOs.

In June 2007, the Council had authorized the Commission to conduct these negotiations on behalf of the European Community and its Member States. On this basis the Commission negotiated for the EU during the Fourth and Fifth Meeting of the Liability and Redress Working Group as well as in informal negotiations before and during the fourth meeting of the Parties (MOP 4) to the Cartagena Protocol on Biosafety.

MOP 4 achieved a breakthrough in the negotiations on liability and redress, which is the main outstanding issue for the development of the Protocol as required under its Article 27. –

The negotiation process is not over, but Parties have agreed to finalise a legally binding instrument on liability and redress based on an administrative approach. Such an instrument, largely inspired by the EC environment liability directive, would empower national authorities to act on behalf of the collective good and ask operators to take remedial measures for damage to biodiversity from GMOs, a novelty particularly in many developing countries' jurisdictions. An agreement was also reached to insert in such an instrument a clause on the link between it and a set of guidelines on civil liability that Parties are also committed to adopt. Therefore, Parties have reached, after almost 10 years of controversy, an agreement on the legal nature of the instrument on liability and redress for damage from GMOs.

The texts of the two instruments could not be finalised as resolving the issue of their nature took very long. However, the negotiation text is very advanced and constitutes a good basis for the finalisation of the two instruments. A clear roadmap for further negotiations was established and there is now a common understanding among the Parties of the final objective of the negotiations. All this bodes extremely well for a positive outcome at Nagoya.

The text on the table preserves fully the EU position as reflected in the negotiating directives given to the Commission by the Council last year and updated in April 2008.

In order for the European Community to continue its role in the forthcoming negotiations, the Council will need to extend until MOP 5 in October 2010 its authorisation to the Commission to conduct the negotiations on behalf of the European Community and its Member States.

The most significant outcome, in addition to the agreement on liability and redress, is the decision of MOP 4 to establish an inter-sessional Expert Group on Risk Assessment and Risk Management.

This group is tasked with identifying the most relevant existing risk assessment guidance documents for different types of GMOs at each step of an environmental risk assessment. The experts will also address specific types and traits of GMOs that may have adverse effects on the environment such as GM trees, fish and animals.

The further sixteen decisions adopted by MOP 4 squarely focus on improving implementation of the Protocol by its Parties.
