



THE FIFTH SESSION OF THE *AD HOC* WORKING GROUP ON BIOSAFETY 17-28 AUGUST 1998

The fifth session of the Open-ended *Ad Hoc* Working Group on Biosafety (BSWG-5) will meet from 17-28 August in Montreal, Canada. Delegates will continue negotiating a biosafety protocol to the Convention on Biological Diversity (CBD). At BSWG-4 in February 1998, delegates agreed that BSWG-5 should continue with the same organizational structure, co-chairs and mandates. Two open-ended Sub-Working Groups to address the core articles of the protocol and two Contact Groups on definitions and annexes and on institutional matters and final clauses are therefore expected to convene during the two-week session.

Three documents were prepared to facilitate BSWG-5 negotiations. The first is the revised consolidated text of the draft articles (UNEP/CBD/BSWG/5/Inf.1). BSWG Chair Veit Koester (Denmark) told BSWG-4 that this consolidated text should be considered in square brackets, based on the principle that "nothing is agreed until everything is agreed." All items not addressed at BSWG-4 were to be included "as is" from the previous consolidated text. The second document is a compilation of new government submissions on provisions in the protocol (UNEP/CBD/BSWG/5/2 presents them by article; UNEP/CBD/BSWG/5/Inf.2 presents them by government). Finally, to provide for an informed discussion on living modified organisms (LMOs) and "products thereof," an information document has been prepared by the Secretariat, based on government submissions (UNEP/CBD/BSWG/5/Inf.3).

A BRIEF HISTORY OF THE BIOSAFETY PROTOCOL

Since the early 1970s, recombinant DNA technology – the ability to transfer genetic material through biochemical means – has enabled scientists to genetically modify plants, animals and micro-organisms. Modern biotechnology can also introduce a greater diversity of genes into organisms than traditional methods of breeding and selection. Organisms genetically modified in this way are referred to as living modified organisms (LMOs) derived from modern biotechnology. Although biotechnology has demonstrated its utility, there are concerns about potential risks to biodiversity and human health posed

by LMOs. Many countries with biotechnology industries already have domestic legislation to ensure the safe transfer, handling, use and disposal of LMOs and their products; these precautionary practices are collectively known as "biosafety." There are no binding international agreements addressing situations where LMOs cross national borders.

UNEP GUIDELINES

The United Nations Environment Programme (UNEP) Panel of Experts on International Technical Guidelines for Biosafety met in Cairo, Egypt in December 1995, to adopt a set of international technical guidelines for biosafety. The UNEP Guidelines are intended to provide a technical framework for risk management commensurate with risk assessment, without prejudice to the development of a biosafety protocol to the Convention on Biological Diversity.

An International Workshop to Follow-up the UNEP Guidelines was held in Buenos Aires in late 1996. The nineteenth meeting of the UNEP Governing Council, held in early 1997 in Nairobi, adopted Decision 19/16 on biosafety. The decision urges governments and subregional and regional organizations to designate focal points to promote the implementation of the Guidelines, and urges governments to contribute relevant information to UNEP's International Register on Biosafety.

BIOSAFETY UNDER THE BIODIVERSITY CONVENTION

The Convention on Biological Diversity, negotiated under UNEP's auspices, was adopted on 22 May 1992 and entered into force on 29 December 1993. There are currently 174 Parties to the Convention. Article 19.3 of the CBD provides for Parties to consider the need for and modalities of a protocol setting out procedures in the field of the safe transfer, handling and use of LMOs that may have an adverse effect on biodiversity and its components.

COP-1: The first Conference of the Parties (COP-1) to the CBD, held in Nassau, the Bahamas, from 28 November - 9 December 1994 established an Open-ended *Ad Hoc* Group of Experts on Biosafety, which met in Madrid from 24-28 July 1995. According to this meeting's report (UNEP/CBD/COP.2/7), most delegations favored development of an international framework on biosafety under the CBD. Elements favored unanimously for such a framework included: all activities related to LMOs that may have adverse effects on biodiversity; transboundary movement of LMOs; release of LMOs in

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centers of origin/genetic diversity; mechanisms for risk assessment and management; procedures for advance informed agreement (AIA); facilitated information exchange; capacity building and implementation; and definition of terms. Elements with partial support included: socio-economic considerations; liability and compensation; and financial issues.

COP-2: At the second meeting of the Conference of Parties in Jakarta, Indonesia, in November 1995, delegates considered the need for and modalities of a protocol on biosafety. Amidst debate over the protocol's scope, the COP adopted compromise language (Decision II/5) calling for "a negotiation process to develop in the field of the safe transfer, handling and use of living modified organisms, a protocol on biosafety, specifically focusing on transboundary movement of any LMO that may have an adverse effect on...biological diversity..." COP-2 also established an Open-ended *Ad Hoc* Working Group on Biosafety (BSWG) to elaborate the modalities of a protocol based on elements from the Madrid report. Other terms of reference for the BSWG state that it shall: elaborate key terms and concepts; consider AIA procedures; identify relevant categories of LMOs; and develop a protocol that takes into account the precautionary principle and requires that Parties establish national measures.

BSWG-1: At its first meeting, held in Aarhus, Denmark, from 22-26 July 1996, the BSWG elected Veit Koester as its Chair and began the elaboration of an international protocol on biosafety. Although the meeting produced few written results, it functioned as a forum for defining issues and articulating positions characteristic of the pre-negotiation process. Governments listed elements for a future protocol and outlined the information required to guide their future work.

COP-3: At COP-3, delegates adopted Decisions III/5 (additional guidelines to financial mechanisms) and III/20 (biosafety issues). In so doing, the COP affirmed its support for a two-track approach through which the promotion of the application of the UNEP Guidelines could contribute to the development and implementation of a protocol on biosafety, without prejudicing the development of such a protocol.

BSWG-2: Delegates to BSWG-2, held from 12-16 May 1997 in Montreal, discussed a range of issues, including: objectives; AIA; notification procedures for transfers of LMOs; competent authorities/focal points; information-sharing and a clearing-house mechanism; capacity building; public participation and awareness; risk assessment and management; unintentional transboundary movement; handling, transportation, packaging and transit requirements; and monitoring and compliance. BSWG-2 convened a contact group to consider definitions of key terms and directed the Secretariat to compile an alphabetical list of terms requiring definition, as submitted by countries, for consideration at BSWG-3.

BSWG-3: The third session of the BSWG met in Montreal from 13-17 October 1997. Delegates produced a consolidated draft text to serve as the basis for negotiation of a biosafety protocol. The meeting established two Sub-Working Groups to address the core articles of the protocol, as well as a contact group on institutional matters and final clauses. It also extended the mandate of the existing contact group on definitions to address annexes. Delegates also addressed outstanding issues in Plenary, including: socio-economic considerations; liability and compensation; illegal traffic; non-discrimination; trade with non-Parties; as well as objectives, general obligations, title and preamble for the protocol.

BSWG-4: At the opening of BSWG-4, which met in Montreal from 5-13 February 1998, Chair Koester underscored that the BSWG was entering the negotiation phase and that participants must attempt to reduce, through negotiated consensus, the number of options under each article. BSWG-4 followed the structure adopted at BSWG-3, using two open-ended Sub-Working Groups to address the core articles of the protocol and two Contact Groups on definitions and annexes and on institutional matters and final clauses. Delegates began consideration of several articles that had only received preliminary discussion at BSWG-3, including: principles/objectives, general obligations, non-discrimination, socio-economic considerations, and liability and compensation. Delegates also continued work on other issues previously addressed, including: matters relating to AIA, risk assessment and management, minimum national standards, emergency measures and capacity building. In Plenary, delegates adopted recommendations to COP-4 regarding the dates of the next two meetings of the BSWG and an extraordinary meeting of the COP to adopt the protocol; the deadline for government submissions for provisions to the protocol; and a request to ensure adequate financial support for the negotiating process.

COP-4: The Fourth Meeting of the Conference of the Parties took place from 4-15 May 1998 in Bratislava, Slovakia. In Decision IV/3, the COP provided for two more meetings to finalize the biosafety protocol, the first to take place from 17-28 August 1998 and the second in early 1999, followed by an extraordinary meeting of the COP to adopt the protocol. The decision also: determined that the BSWG Bureau, comprised of representatives from the Bahamas, Colombia, Denmark, Ethiopia, Hungary, India, Mauritania, New Zealand, the Russian Federation and Sri Lanka, should remain in office under the chairmanship of Veit Koester until the adoption of the protocol; established the agenda for the extraordinary COP; and set a deadline of 1 July 1998 for government submissions of comments on provisions in the protocol. Furthermore, the protocol shall be opened for signature at UN Headquarters no more than three months after adoption. The decision also called on Parties to consider voluntary contributions to facilitate participation of developing country Parties.

THINGS TO LOOK FOR AT BSWG-5

PLENARY: Chair Veit Koester (Denmark) is expected to open BSWG-5 at 10:00 am. CBD Executive Secretary Calestous Juma is expected to introduce the documents prepared for BSWG-5 and make brief comments.

SUB-WORKING GROUPS: The Sub-Working Groups are expected to convene after a brief Plenary session.

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