



## HIGHLIGHTS FROM BSWG-6 AND THE FIRST EXTRAORDINARY COP OF THE CBD MONDAY, 22 FEBRUARY

Delegates to the sixth session of the Open-ended *Ad Hoc* Working Group on Biosafety (BSWG-6) met in regional groups and a BSWG plenary in the early morning, followed by the opening ceremony of the First Extraordinary Session of the Conference of the Parties (ExCOP) to the Convention on Biological Diversity. In the final BSWG plenary, held in the afternoon, the Chair requested delegates to adopt the Chair's text and said he would record their comments in the report of the meeting. Many delegations expressed dissatisfaction with the text and said they could not accept it. Immediately thereafter, the ExCOP met in plenary. Delegates agreed to continue working through a limited membership working group, chaired by ExCOP President and Colombian Environment Minister Juan Mayr, to further consider the Chair's draft text. Discussions were expected to continue into the night.

### BSWG PLENARY

Chair Koester opened a plenary of the BSWG for information purposes at 8:30 am, noting that it was not the final BSWG plenary. He informed delegates that an opening ceremony of the ExCOP would start at 10:00 am with the attendance of the President of the Republic of Colombia, and the ExCOP would not start its work before the final plenary of the BSWG. Minister Mayr would continue his informal consultations on the outstanding issues to achieve consensus. Several speakers expressed concern over the lack of transparency in procedures during the last three days. One called for a decision on the process and another lodged a formal protest because he was asked to leave one of the meetings conducted by Minister Mayr. One delegate, calling for the highest degree of transparency, supported the continuation of negotiations.

### OPENING CEREMONY FOR THE EXCOP

In the opening ceremony of the ExCOP, COP-4 President Laszlo Miklós (Slovak Republic) called for a minute of silence to remember the victims of the recent earthquake in Colombia.

Colombian President Andres Pastrana commented on the international community's increasing awareness of both the immense technological progress achieved by humankind, and of its potential threats. He emphasized the global interrelationship between the quest for peace, social justice and environmental protection. Pointing to the rich biodiversity in many developing countries, he called for international

cooperation to enable these countries to make best use of that resource. President Pastrana urged delegates to agree on a biosafety protocol that would promote food security, health and equity.

COP-4 President Laszlo Miklós highlighted the different understandings among delegations on biodiversity and biosafety issues. He urged them to consider which options under negotiation would best promote biodiversity.

Juan Mayr, Colombian Environment Minister, was elected to preside over the ExCOP. He called for the support of delegates in his efforts to forge consensus.

Hamdallah Zedan, acting Executive Secretary of the CBD Secretariat, noted that, although no protocol text had yet been finalized, negotiations were only a few short steps away from consensus. He emphasized the significance of the negotiations for the CBD and sustainable development. Commenting that environment and trade agreements have overlapping mandates, he stated that the challenge was to make these agreements mutually reinforcing.

UNEP Executive Director Klaus Töpfer emphasized that reaching compromise on a protocol should not create winners and losers, but rather build a secure basis for addressing biosafety issues. He said the protocol could not solve all problems related to biosafety; but it should demonstrate that the international community could use modern biotechnology while taking responsibility for its repercussions.

After a break, the ExCOP Plenary adopted its provisional agenda (UNEP/CBD/ExCOP/1/1/Rev.1). ExCOP President Juan Mayr invited countries and regional groups to make statements. PERU on behalf of GRULAC, POLAND on behalf of the Central and Eastern European (CEE) countries, and SWITZERLAND on behalf of JUSS-CANZ, expressed hope for a balanced protocol by the meeting's end. GUYANA, on behalf of the G-77/CHINA, expressed disappointment with the current text, and along with MEXICO, KENYA and BRAZIL and EL SALVADOR, on behalf of the Central American countries, called for a transparent process. GERMANY, on behalf of the EU, stressed that a protocol should ensure mutual supportiveness with international trade rules and that WTO provisions should account for a high level of environmental protection. CHINA suggested that commercial profits not be pursued at the expense of biosafety, but cautioned against creating international trade barriers. ZAMBIA stated the need for a protocol on biosafety, not trade, and with BENIN, ECUADOR and TOGO, expressed concerns about the predominance of economic and financial concerns.



BRAZIL, ECUADOR, MEXICO, VENEZUELA and ZAMBIA supported a protocol covering all LMOs. The EU, KENYA, TOGO, VENEZUELA and ZAMBIA stressed the importance of the precautionary principle. MEXICO, TOGO and ZAMBIA requested inclusion of liability and redress. EL SALVADOR, the EU, TOGO and ZAMBIA emphasized the need for consideration of impacts on human health. ECUADOR called for a framework strong enough to enable further scientific, technical and political discussions under the protocol over the coming years. EL SALVADOR stressed the need for financial and technical support for developing countries and noted the threat of climate change. ZAMBIA said the protocol should at a minimum protect the weakest countries.

#### FINAL BSWG-6 PLENARY

At approximately 3:00 pm, BSWG Chair Veit Koester called the final plenary to order. He regretted that the informal consultations over the last few days had not resulted in consensus, but appealed to all members to adopt the protocol to present to the ExCOP as contained in UNEP/CBD/BSWG/6/L.2/Rev.1 and, with the Legal Drafting Group's modifications, in UNEP/CBD/BSWG/6/L.2/Rev.2. He appealed to delegates to consider the text as a whole, not article by article, noting that the package reflected a compromise, and said that future parties to the protocol could correct any shortcomings in this text based on Article 34 (Assessment and Review of this Protocol). He called for acceptance on the understanding that any party could register reservations on the text, in the BSWG-6 report, or on any article and noted that they could raise the same concerns in the ExCOP. The BSWG then adopted the text to be forwarded to the ExCOP and the floor was opened for comments. BRAZIL, ZIMBABWE, MEXICO, PERU, NORWAY, JAMAICA, VENEZUELA, ETHIOPIA, CANADA, INDIA, TURKEY, BARBADOS, BOTSWANA, CHILE, CHINA, HAITI, MALI, RUSSIAN FEDERATION, SEYCHELLES, CUBA, MAURITIUS, JAPAN, EL SALVADOR, the GAMBIA, MALAWI, TOGO, PANAMA, UGANDA, BANGLADESH, MALAYSIA, TUNISIA, ECUADOR, PARAGUAY, CAMEROON, EUROPEAN COMMISSION, MADAGASCAR, IRAN, LATVIA, EGYPT, BOLIVIA, SENEGAL, GUATEMALA, REPUBLIC OF KOREA, GUYANA, ALGERIA, KENYA, INDONESIA, MOROCCO, and ST. KITTS AND ST. NEVIS expressed concern over the text and many criticized the lack of transparency in the negotiating process. Many said the text did not adequately reflect certain basic concerns of delegations, some highlighting specific articles, including Articles 4 (Scope of the Protocol), 5 (Application of AIA Procedure) and 25 (Liability and Redress), and pointing to gaps that could undermine the protocol's effectiveness.

MAURITIUS expressed shock over the lack of transparency, and said the text was thrust down delegates' throats without any discussion. A number of delegates referred to the current text as a "biotrade" protocol, which would facilitate the trade of LMOs and not the conservation of biodiversity. Others noted that, although the text was not acceptable at the moment, it was a good basis for future negotiations. The SEYCHELLES supported the continuation of negotiations on the condition that they be carried out in a transparent manner. CANADA urged further efforts to compromise on outstanding issues. IRAN said it was open to continuing work in any manner of informal consultations to achieve consensus. MALI expressed hope that a conclusion would be reached in the near future.

Chair Koester confirmed that views expressed would be recorded in his report to the ExCOP, and emphasized his view that negotiations had been transparent and that the Chair's text represented a compromise. He highlighted the need to strike a balance between trade and the environment in order for an effective protocol to be concluded.

Chair Koester then introduced the BSWG report (UNEP/CBD/BSWG/6/L.1). The first sections were adopted without comment, the paragraphs on the adoption of the protocol were set aside, and an expression of thanks to Colombia was added. Chair Koester thanked

all those who had assisted him during the BSWG process. After urging Parties to continue seeking agreement, stating that even a basic protocol would be better than none, Chair Koester declared the final BSWG plenary closed.

#### EXCOP PLENARY

President Mayr opened the afternoon plenary by requesting Chair Koester to present the report of the BSWG. Chair Koester traced the history of the BSWG process and presented the outcome of BSWG's work (UNEP/CBD/BSWG/6/L.2/Rev.1 and Rev.2). President Mayr invited the ExCOP to adopt the report of the BSWG Chair. Delegates debated whether, in adopting that report, they would be adopting the protocol. VENEZUELA suggested that the report be noted rather than adopted. The Secretariat clarified that the BSWG Chairs report was contained in UNEP/CBD/BSWG/6/L.1 and the Chair's text of the protocol in UNEP/CBD/BSWG/6/L.2/Rev.1 and Rev.2.

The PHILIPPINES, on behalf of the COP-4 Bureau, presented a draft decision on the adoption of the Cartagena Protocol and on interim arrangements (UNEP/CBD/ExCOP/1/CRP.1). President Mayr suggested that the consideration of the draft decision and the BSWG Chair's report be postponed. He proposed establishing a small working group consisting of the "legitimate voices" of different groups with four to six spokespersons and their advisors, to review and revise the draft protocol text. Several countries applauded the initiative. ECUADOR, NORWAY, ETHIOPIA, EL SALVADOR and others suggested that this number of spokespersons would be inadequate. MEXICO, CHINA and others proposed that representation in the small working group be along the lines of the UN regional groupings. Several delegations, including IRAN, CHINA, MAURITIUS, ETHIOPIA and CAMEROON, suggested that further discussions focus exclusively on Article 4 (Scope of the Protocol) and 5 (Application of AIA Procedure). Others, including the US, URUGUAY and AUSTRALIA suggested that the entire "package" be discussed. President Mayr proposed that the working group consist of 10 spokespersons for groups of countries (each with two advisors): one representative each from the CEE, the EU, Central America and the Caribbean; two from the Miami group (one each from the North and South); and four from the Like-minded group. A final representative was added at Switzerland's suggestion to include the "compromise group."

#### IN THE CORRIDORS

In contrast to the cloudless skies outside the Centro de Convenciones, the weather inside was anything but sunny and the forecast was dismal. Following Plenary's deluge of dissatisfaction, some once-worried delegates seemed almost complacent, as if accepting "no protocol" as a *fait accompli*. However, as one participant noted, the opening of the COP signaled the final countdown and reminded all participants of the scant time remaining. More than one informal *tête à tête* between conference officials and heads of key delegations could be seen in remote corridors discussing the next steps. The informal group proposed by ExCOP President Mayr, a peace negotiator accustomed to placating warring factions, appeared to renew the optimism of many delegates eager for one last try. Many developing countries thought his proposed composition for the working group rectified the unbalanced representation of the previous consultations.

#### THINGS TO LOOK FOR

**EXCOP PLENARY:** ExCOP Plenary will meet at 9:00 am.