OPENING STATEMENTS: BSWG Chair Veit Koester (Denmark) opened the meeting, introduced the Bureau and noted COP-4 decisions accepting the BSWG-4 recommendations, in particular to convene an extraordinary meeting of the COP in February 1999 to adopt the protocol.

Executive Secretary Calestous Juma stressed that the urgency to finalize the protocol should not be at the expense of developing an effective instrument enjoying international support. Juma announced he would not renew his contract as Executive Secretary, citing personal considerations. He thanked UNEP, Montreal, Quebec, Canada and the Secretariat staff. Koester said he would miss Juma’s able presence and stewardship.

On behalf of the UNEP Executive Director, Hamdallah Zedan emphasized the need for the timely conclusion of negotiations. Zedan said the Executive Secretary’s presence would be missed.

COLOMBIA extended an official invitation to host BSWG-6 and the extraordinary meeting in February 1999.

ORGANIZATIONAL ITEMS: Delegates appointed Alexander Golikov (the Russian Federation) as Rapporteur. Delegates also adopted the provisional agenda (UNEP/CBD/BSWG/5/1).

Chair Koester expressed hope that BSWG-5 would arrive at a single proposal for each article, although brackets may remain in the text. He said subjects of vital importance should be dealt with as a matter of priority. Koester said NGOs may not initiate direct interaction with delegates or pass them written materials during the session and any Party may ask the co-chairs to restrict access to a meeting. He urged all delegations to ensure as much transparency as possible.

Noting “products thereof” implicates the broader issue of scope, as does the definition of and relevant categories of LMOs. Koester stressed progress cannot be made until these core issues are resolved.

HIGHLIGHTS OF BSWG-5
MONDAY, 17 AUGUST 1998

Delegates to the fifth session of the Open-ended Ad Hoc Working Group on Biosafety (BSWG-5) met in a brief morning Plenary, following which they assembled in two Sub-Working Groups, two Contact Groups and newly formed drafting groups to consolidate options in the draft biosafety protocol.

EXECUTIVE SECRETARY

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He also noted a workshop sponsored by the UK and the European Commission during the intersessional period on liability and compensation, the results of which are available as a non-paper.

SUB-WORKING GROUP I

Eric Schoonejans (France) chaired the discussion on Article 4 (Notification). Several developing country speakers preferred placing responsibility for notification on Parties or governments. Some developed countries suggested the AIA procedure should be triggered by the exporter. One delegate suggested the exporter provide information to the national competent authority and a clearing-house.

One developed country suggested the exporter be responsible for the accuracy of information. Another said the Party of export should make the exporter responsible. Another said the importer is best placed to provide accurate information to the importing authority, although information sharing with the exporter and possibly the exporting Party could be necessary. A developing country suggested distinguishing between who would initiate notification and who would be responsible for its contents. A developed country cautioned against establishing excessive bureaucratic requirements. The Co-Chair asked if delegations could delete the option calling for no provision on responsibility for accuracy. One speaker supported retention of that option pending further discussion on the obligations of exporting and importing countries. One delegate called for a drafting group to continue considering the text, which was agreed.

Sandra Wint (Jamaica) chaired discussion on Article 5 (Response to Notification). A few delegates supported option zero, that no acknowledgment of receipt be required, but clarified that lack of receipt should not mean consent. Other delegates preferred option one, which requires acknowledgment of receipt of notification, in varied forms. Several delegations stressed that Article 5 be limited to acknowledgment of notification of receipt, and many supported modifying the title of the Article to reflect this. One delegation said it initially supported option zero, because any response other than the decision would be overly bureaucratic, but would consider option one if the procedure were simple.

Under option one, paragraph one, several delegations preferred acknowledgment of receipt within a specific timeframe, citing 30 days. Others said a reasonable timeframe was sufficient. Many delegations agreed with paragraph 3, that failure to acknowledge will not imply consent. One delegate added that only explicit consent was sufficient. Another proposed including language from Article 6, para-

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...whether it is in the correct form) and 5 (importing Party shall inform the Secretariat of a change in focal point; if a Party shall inform the Secretariat of the focal point on the Protocol's date of entry into force or within three months of that date; whether Parties should inform the Secretariat of a change in focal point “immediately” or within a set timeframe; and whether a biosafety database or CH should disseminate this information.

Regarding Article 19 (Information Sharing/Biosafety Clearing-House), delegates considered three options, which varied in specificity of information and modalities of the mechanism. Discussion focused on whether references to “publicly available” information should be retained; if a CH should be established or if the CBD CH Mechanism should be used; and whether it should be a CH or database. In the first option, one delegation requested deletion of text requiring that terms of reference and functioning of the CH be determined at the first meeting of the Parties. One delegation opposed the second option as it implies that the Secretariat serve as the CH. Another delegation requested deleting a bracketed reference to monitoring and implementation in the third option, stressing that this is not the task of the CH.

CONTACT GROUP I

Contact Group I (CG-I) on Definitions and Annexes, co-chaired by P.J. Van der Meer (the Netherlands) and Gert Willemsen (South Africa), began working on the definition of LMOs. The following definition, which contains a selection of elements from the consolidated text (UNEP/CBD/BSWG5/INF.1), served as the basis for discussion: “LMO means any biological entity capable of replication or of transferring genetic material, that contains genetic material which has been modified by in vitro technologies and of which the resulting genotype is unlikely to occur in nature.” Delegates were encouraged to focus on three elements of the definition: living organism, means of modification and end result.

CONTACT GROUP II

The Contact Group on Institutional Matters and Final Clauses (CG-II), co-chaired by John Ashe (Antigua and Barbuda) and Katharina Kummer (Switzerland) reviewed and forwarded to Plenary Articles including 29, 32, 33, 35, 37, 38, 39, 40, 42 and 43.

IN THE CORRIDORS

Many delegates indicated no surprise at the Executive Secretary's decision not to renew his contract, given prior rumors of his resignation, but some still expected more warning or consultation before the announcement. Some indicated they did not think this decision would affect the BSWG-5 negotiation process, but they expressed some concern about the continuity between this session and the final meeting in Colombia in February 1999.

THINGS TO LOOK FOR

SUB-WORKING GROUPS (SWG): SWG-I and II are expected to meet throughout the day. SWG-I will begin discussing risk assessment, risk management and minimum national standards. SWG-II will continue discussions on Article 19 and will proceed sequentially.

CONTACT GROUPS (CG): CG-I will continue formulating the definition of LMO. CG-II will meet at 1:00 pm to continue discussions on Article 30 and start on 28.