



# Earth Negotiations Bulletin

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## THE THIRD SESSION OF THE SUBSIDIARY BODY FOR SCIENTIFIC, TECHNICAL AND TECHNOLOGICAL ADVICE TO THE UN CONVENTION ON BIOLOGICAL DIVERSITY 1 - 5 SEPTEMBER 1997

The Third Session of the Subsidiary Body for Scientific, Technical and Technological Advice (SBSTTA-3) to the United Nations Convention on Biological Diversity (CBD) will open at 10:00 am on 1 September 1997 at the International Civil Aviation Organization (ICAO) headquarters in Montreal, Canada. Delegates to SBSTTA-3 will consider, *inter alia*: the clearinghouse mechanism; biodiversity in inland waterways; marine and coastal biodiversity; indicators and monitoring; forest and agricultural biodiversity; and a progress report on the effectiveness of SBSTTA's advice since 1995.

### RECENT MEETINGS

#### SEVENTH SESSION OF THE COMMISSION ON GENETIC RESOURCES FOR FOOD AND AGRICULTURE:

The Seventh Session of the Commission on Genetic Resources for Food and Agriculture (CGRFA-7) was held at FAO Headquarters in Rome from 15-23 May 1997. During the meeting, delegates continued negotiations on the revision of the International Undertaking on Plant Genetic Resources in harmony with the CBD. The Commission also established the mechanisms that will allow it to carry out its broadened mandate effectively, considered reports from FAO and international organizations, and addressed follow-up to the Fourth International Technical Conference on Plant Genetic Resources (ITCPGR-4), which was held in Leipzig, Germany, from 17-23 June 1996.

Two Working Groups addressed various aspects of the International Undertaking. Most delegates agreed that CGRFA-7 marked the beginning of real negotiations toward revising the IU. However, the level and seriousness of the negotiations were not consistent across issue areas: while deliberations on Farmers' Rights remained largely rhetorical, scope and access were the subject of intelligent and detailed discussion.

The Working Group on Scope and Access worked on the principles and procedures that might underlie systems of access to plant genetic resources for food and agriculture (PGRFA). Progress on this issue since the last negotiating session was most clearly reflected by the fact that a vast majority of the participants agreed, in principle, to establish a multilateral system to facilitate access to PGRFA in an efficient, effective and transparent way.

While a Working Group was constituted to negotiate both scope and access, the scope issue, which was the focus of much attention at CGRFA-EX-3 in December, was almost absent from the discussions.

While considering the article on scope in the Working Group, delegates quickly accepted a Bureau formulation, arising out of regional group submissions, which stated that "the IU relates to PGRFA".

Some delegates attributed this formulation to an informal agreement reached during regional consultations not to add qualifiers to PGRFA. Such qualifiers could include or exclude particular categories of PGR such as forest or medicinal resources, or pre- or post-CBD collections of genetic material. A developing country delegate noted that with "plant genetic resources" still undefined, this agreement signaled a decision to defer these discussions until later, when both PGR and PGRFA would have to be defined under Article 2 of the IU. This strategy allowed delegates to focus their full attention on access issues, where debate centered around the system(s) and conditions of access, and benefit sharing within an access regime.

The Working Group on Farmers' Rights clarified positions as countries gained a better understanding of the precise objectives of various groups and the logical limits of those objectives. Given that negotiations on the International Undertaking took up the bulk of substantive debate, it is not surprising that the Commission agreed to call for another extraordinary session devoted exclusively to the IU as a matter of first priority.

The Commission also entered into negotiations on Farmers' Rights (FR) as it began to seek a better understanding of the objectives of various regional groups and the boundaries of those objectives, aided in part by a consolidated text that assisted in delineating the parameters of the debate. This was also the first time discussions on FR went beyond the entrenched positions of OECD and G-77 blocks.

While a precise definition of FR remains elusive, some delegates consider that it may be possible to reach a common understanding of the meaning of FR by specifying who recognizes such rights, where, and under what circumstances, and whether their realization requires the creation of an international fund.

**OPEN-ENDED AD HOC GROUP ON BIOSAFETY:** The second meeting of the Open-ended *Ad Hoc* Working Group on Biosafety (BSWG-2) met from 12-16 May 1997 in Montreal and continued its discussions on the elaboration of a protocol on safety in biotechnology. Working from aide-memoires tabled by the Chair, delegates discussed a range of issues, including: objectives; procedures for transfer of living modified organisms; competent authorities, information sharing and a clearinghouse mechanism; capacity building; and risk assessment and management. BSWG-2 also convened contact groups to consider the proposals on definitions of key terms and studies to be completed by the Secretariat in preparation for BSWG-3.

Delegates agreed to a structure for discussions and the programme of work for this meeting as well as future meetings. After previous meetings characterized by some as "talk shops," many BSWG-2 delegates left Montreal satisfied they had at last begun to move from gener-

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alities to specifics and taken substantial steps toward a protocol. Despite this progress, some fundamental disparities of opinion, particularly on the scope of the protocol, remain. Considerable debate centered on advanced informed agreement (AIA), wherein delegates considered: whether AIA will be required for all living modified organism (LMO) imports or only under certain conditions; whether importing or exporting countries will be responsible for assessing and managing risks from LMOs; which party will be responsible for notifying and taking action in case of unintended movements; whether there will be any legal requirement for compensation or liability placed on producers or exporters of LMOs; and whether LMO-containing commodities will be treated under this protocol at all. Equally lengthy debates are also looming over risk assessment and management, responsibility for unintended movements of LMOs, compensation and liability, and treatment of commodities produced with LMOs.

Delegates also discussed competent authorities and whether: the protocol should require Parties to designate competent authorities or focal points or both; there should be a single competent authority or focal point per Party; and there should be an option for regional focal points. The aide-memoire also noted possible responsibilities such as: receiving notifications; transmitting information to other Parties; evaluating risk assessment; taking decisions on notifications under AIA; transmitting decisions on AIA; and enforcement. The aide-memoire also asks when the competent authorities or focal points should be designated. In the final Plenary, delegates accepted a Chair's draft element paper on competent authority(ies)/focal point(s) that outlined the options presented by delegates regarding the number and type of competent authority(ies)/focal points, the time by which they should be designated and their responsibilities. Delegates also discussed information sharing and the clearinghouse mechanism, capacity building and public participation, risk assessment and management, unintentional transboundary movements, monitoring and compliance.

The Chair invited delegates, for the next meeting, to submit legal texts on some of the items discussed and said the Secretariat will propose text as well, which will hopefully take the process one step further toward a protocol. However, as the potential commitments become more focused, so too must the subjects to which they apply and, as seen at this meeting, consensus is anything but clear. There are a number of difficult questions awaiting future BSWG meetings and whether any or all of them are dealt with at the next meeting remains to be seen.

**AD HOC LIAISON GROUP ON FOREST BIOLOGICAL DIVERSITY:** The meeting of the *Ad Hoc* Liaison Group on Forest Biological Diversity was convened in Helsinki from 25-28 May by the Secretariat of the Convention on Biological Diversity (CBD) to identify priority elements for a work programme on forest biological diversity under the Convention. The programme is being prepared in close cooperation with the Secretariat of the Intergovernmental Panel on Forests (IPF). The meeting focused on forest ecosystem management, criteria and indicators for best forest management practices, development of technology and traditional knowledge. These areas were identified by the third meeting of the Conference of the Parties as the basis for a focused work programme on forest biological diversity under the Convention. Participants recommended that the CBD should promote research in ecologically-sound forest management.

The four-day meeting was hosted by the Government of Finland and attended by representatives from Canada, Colombia, France, Ghana, Kyrgyzstan, Madagascar, Mali, Mozambique, Nepal, the Philippines, Poland, Peru, the Russian Federation, Slovakia, Sri Lanka, Trinidad and Tobago, the UK and the US. It was facilitated by Professor Jukka Salo (Finland) and Ms. Amelia Torres Cuadros (Peru). A number of UN agencies, treaty bodies, non-governmental and research organizations were also represented at the meeting. For information contact the Secretariat of the CBD; tel.: +1-514-288-2220; fax: +1-514-288-6588; e-mail: [biodiv@mtl.net](mailto:biodiv@mtl.net). Also try <http://www.biodiv.org>.

**INTERNATIONAL CONFERENCE OF ENVIRONMENTAL MINISTERS ON BIODIVERSITY AND TOURISM:** This conference, held in Berlin from 6-8 March 1997, was attended by representatives from 18 countries and six international organizations, including

UNEP, GEF, the CBD Secretariat and the World Tourism Organization. The meeting resulted in the Berlin Declaration, which notes that tourism increasingly turns to areas where nature is relatively undisturbed so that a substantial number of the world's remaining natural areas are being developed for tourism activities. The Declaration also expressed concern that tourism may contribute significantly to socio-economic development but can degrade the natural environment, social structure and cultural heritage, and expresses the conviction that sustainable forms of tourism have the potential to contribute to the conservation of biological diversity outside and inside protected areas. Participants agreed to general and specific principles.

In general, tourism activities should be environmentally, economically, socially and culturally sustainable and those that contribute to the conservation of biological diversity and benefit local communities should be promoted. Regarding specific principles, participants agreed, *inter alia*, that: inventories of tourism activities and attractions should be developed; coordinated efforts should be undertaken to agree on criteria to measure and assess the impacts of tourism on nature and biodiversity; tourism activities that are likely to have significant impacts on nature and biological diversity should be subject to prior environmental impact assessment; and tourism activities should be planned with a view to integrate socio-economic, cultural and environmental considerations and should be based on environmentally-friendly concepts.

The Ministers participating in the conference: recommended that the COP to the CBD develop guidelines or rules for sustainable tourism development on a global level; agreed to submit the "Berlin Declaration" to COP-4 of CBD; called upon UNGASS to support this initiative under the CBD and include the subject of sustainable tourism in the future work programme of the CSD; and called on the bilateral and multilateral funding organizations to take into account the principles and guidelines of the "Berlin Declaration." For more information contact: the Permanent Mission of Germany to the UN; tel: +1-212-856-6200; fax: +1-212-856-6280.

**CONFERENCE ON THE COMMERCIAL ISSUES OF BIODIVERSITY:** This conference, held from 7-10 April 1997 in San Jose, Costa Rica, was sponsored by the Scientific American and Scherago International and brought together approximately 60 participants from the pharmaceutical industry, academia, environmental groups and government. Conference participants heard 21 presentations, including Jose Maria Figueres (President of Costa Rica), Thomas Lovejoy (Smithsonian Institute) and Ismail Serageldin (World Bank) and engaged in panel discussions. The presentations covered commercial aspects of, *inter alia*: biotechnology; bioprospecting; investments; intellectual property rights; bioethics; and indigenous collective rights and the CBD.

Participants stressed that industries who are bioprospecting, or searching for valuable natural substances, in the tropics should contribute to the protection of forests and the development of neighboring communities. Participants also discussed Costa Rica's National Institute for Biodiversity (INBio), which is currently working with companies that are bioprospecting in the region. In exchange for samples of specific plants and animals, INBio receives a percentage of any profit made from marketable substances that result from that research. A number of developing country participants expressed interest in developing similar programmes in their countries. For more information contact Scherago International; tel: +1-212-643-1750; fax: +1-212-643-1758; e-mail: [biodiversity@scherago.com](mailto:biodiversity@scherago.com). Also try <http://www.scherago.com/biodiv.html>.

## THINGS TO LOOK FOR TODAY

**PLENARY:** SBSTTA-3 is expected to convene in Plenary at the ICAO Conference Centre.