



**CONVENTION ON
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OPEN-ENDED AD HOC WORKING
GROUP ON BIOSAFETY
Fourth meeting
Montreal, 5-13 February 1998

ANNOTATED PROVISIONAL AGENDA

1. The Open-ended Ad Hoc Working Group on Biosafety was established by decision II/5 of the Conference of the Parties to the Convention on Biological Diversity (UNEP/CBD/COP/2/19). To date, it has met three times, in Aarhus, Denmark, from 22 to 26 July 1996, and in Montreal, from 12 to 16 May 1997 and from 13 to 17 October 1997. The report of the third meeting is contained in document UNEP/CBD/BSWG/3/6. The fourth meeting of the Open-ended Ad Hoc Working Group on Biosafety will be held in Montreal from 5 to 13 February 1998.

Item 1. Opening of the meeting

2. The meeting will take place at the International Civil Aviation Organization (ICAO) building, in Montreal. The meeting will be opened at 10 a.m. on Thursday, 5 February 1998, by the Chairman of the Working Group, Mr. Veit Koester (Denmark).

Item 2. Adoption of the agenda

3. The provisional agenda (UNEP/CBD/BSWG/4/1) will be before the Working Group for its consideration and adoption.

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Item 3. Organization of work

4. The Open-ended Ad Hoc Working Group may wish to agree on the organization of its work with a view to fulfilling the mandate entrusted to it within the time frame agreed upon by the Conference of the Parties, keeping in mind that to this end the Working Group has to prepare a draft text for submission to the fourth meeting of the Conference of the Parties, to be held in May 1988.

5. At the third meeting of the Working Group, the Chairman proposed that the two Sub-Working Groups and the two Contact Groups established at that meeting should be maintained for the fourth meeting, with minor amendments to their mandates to move from merely consolidating to producing legal text with options to the negotiation of precise language.

Item 4. Elaboration of a Protocol on Biosafety in accordance with
decision II/5 of the Conference of the Parties

6. At its third meeting, the Working Group established a mechanism to enable Governments to develop consolidated text upon which future negotiations would be based. The consolidated text of draft articles that emerged from that meeting is contained in annex I to the Group's report.

7. It is envisaged that, at the fourth meeting, Sub-Working Group I will continue with the mandate of further reducing Articles 3-13 and Sub-Working Group II Articles 14-22 and in addition Articles 1, 1 bis and 23-27. Contact Group 1 will continue with the mandate on Definitions (Article 2) and Annexes and Contact Group 2 on Institutional Matters and Final Clauses (Articles 28-43).

8. In pursuance of the decisions taken by the Ad Hoc Working Group at its third meeting, the Secretariat has prepared the following documents to assist the Group in its deliberations:

(a) Compilation of government submissions of draft text on selected items: Articles 1, 1 bis and 23-27 (UNEP/CBD/BSWG/4/2);

(b) Compilation of government submissions of draft text on items other than Articles 1, 1 bis and 23-27 (UNEP/CBD/BSWG/4/3).

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Item 5. Dates and venues of meetings of the Open-ended Ad Hoc Working Group on Biosafety in 1998

9. In adopting the terms of reference of the Open-ended Ad Hoc Working Group at its second meeting, the Conference of the Parties agreed that the Open-ended Ad Hoc Working Group should endeavour to complete its work in 1998.

10. To facilitate the preparation of future meetings, the Open-ended Ad Hoc Working Group may wish to agree on the dates, duration and venues of its fifth and sixth (including the extraordinary meeting of the Conference of the Parties) meetings in 1998. At the third meeting of the Working Group, it was proposed that a two-week meeting be held at the end of June or in the second half of July 1998, the provisional dates being 29 June to 10 July 1998 in Montreal. The duration of the meeting could be reduced in the light of the results achieved at the fourth meeting. It was further proposed that a one-week meeting be held around the beginning of December 1998, followed by a two-day extraordinary meeting of the Conference of the Parties, at a location to be determined.

Item 6. Adoption of the report

11. The Open-ended Ad hoc Working Group on Biosafety will consider and adopt its report, which will be presented by the Chairman to the Conference of the Parties at its fourth meeting, in accordance with paragraph 10 of the annex to decision II/5 of the Conference of the Parties.

Item 7. Closure of the meeting

12. The meeting will be closed on Friday, 13 February 1998.

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Annex I

BACKGROUND INFORMATION ON ORGANIZATIONAL MATTERS

A. The Bureau

1. In paragraph 1 of its decision III/20, the Conference of the Parties to the Convention on Biological Diversity decided, inter alia:

"(a) That each of the five groups of States referred to in section 1, paragraph 1, of General Assembly resolution 2997 (XXVII), of 15 December 1972, shall send to the Secretariat nominations for two representatives to the Bureau as soon as possible, and in any event before the commencement of the second meeting of the Open-ended Ad hoc Working Group established by the second meeting of the Conference of the Parties in decision II/5;

"(b) That the Bureau shall remain in office, under the chairmanship of Mr. Veit Koester (Denmark), until the fourth meeting of the Conference of the Parties,".

2. During the second meeting of the Working Group, the Bureau was constituted on the basis of the nominations made at the Conference of the Parties and those received thereafter by the Secretariat. In accordance with decision III/20, paragraph 1 (b), the Bureau shall remain in office until the fourth meeting of the Conference of the Parties, to be held in May 1998. The Bureau members are:

Mr. Veit Koester (Denmark) (Chairman)
Mr. Behren Gebre Egziabher Tewelde (Ethiopia)
Mr. Sateev Seebaluck (Mauritius)
Mr. Diego Malpede (Argentina)
Mrs. Sandra Wint (Jamaica)
Dr. Ervin Balazs (Hungary)
Dr. Alexander Golikov (Russian Federation)
Dr. Antonio G.M. La Vina (Philippines)
Mr. Jong Ho Choi (Republic of Korea)
Mr. David Gamble (New Zealand)

B. Organization of work

3. The terms of reference for the Open-ended Ad Hoc Working Group are set out in the annex to decision II/5. Paragraph 2 (a) of this Annex requires the

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Working Group to elaborate, as a priority, the modalities and elements of a protocol based on appropriate elements from Sections I, II and III, paragraph 18 (a) of annex I of the report of the Open-ended Ad Hoc Group of Experts on Biosafety" (see document UNEP/CBD/COP/2/7: the Madrid report") and endorsed by decision II/5 adopted by the second meeting of the Conference of the Parties. Paragraph 2 (b) of this annex requires the Working Group to consider the inclusion of the elements from Section III, paragraph 18 (b), and other elements, as appropriate".

4. In addition, paragraph 3 of the annex to decision II/5 requires that the development of the draft protocol shall, as a priority:

"(a) elaborate the key concepts and terms that are to be addressed in the process;

"(b) include consideration of the form and scope of advance informed agreement procedures;

"(c) identify relevant categories of LMOs resulting from modern biotechnology."

C. Elaboration of a Protocol on Biosafety in accordance with decision II/5 of the Conference of the Parties

5. At its second meeting, held in Jakarta, from 6 to 17 November 1995, the Conference of the Parties agreed to seek solution to the concerns related to biosafety through 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 living modified organism resulting from modern biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity, setting out for consideration, in particular, appropriate procedure for advance informed agreement". To this end, the Conference of the Parties decided to establish the Open-ended Ad Hoc Working Group under the Conference of the Parties.

D. Organization of work at the third meeting of the Working Group

6. At its third meeting, the Working Group decided to establish two open-ended sessional Sub-Working Groups: Sub-Working Group I, co-chaired by Dr. Eric Schoonejans (France) and Mrs. Sandra Wint (Jamaica), and Sub-Working Group II, co-

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chaired by Ms. Hira Jhamtani (Indonesia) and Mr. David Gamble (New Zealand).

7. It was also decided that the Sub-Working Groups would meet concurrently, but not at the same time as plenary sessions. In addition, to help offset the problems faced by small delegations and to ensure adequate regional representation in both the Sub-Working Groups, it was decided that each regional group would designate four representatives to attend each Sub-Working Group. The following core representatives were designated:

(a) Sub-Working Group I:

- (i) From the African Group: Ethiopia, Guinea, Kenya, Seychelles;
- (ii) From the Asia and Pacific Group: India, Japan, Malaysia, Republic of Korea;
- (iii) From the East and Central European Group: Belarus, Czech Republic, Hungary, Lithuania;
- (iv) From the Latin America and Caribbean Group: Argentina, Bahamas, Brazil, Colombia;
- (v) From the Western European and Others Group: Australia, Canada, European Commission, Norway;

(b) Sub-Working Group II:

- (i) From the African Group: Egypt, Ghana, Mali, Zimbabwe;
- (ii) From the Asia and Pacific Group: China, Iran (Islamic Republic of), Philippines, Singapore;
- (iii) From the East and Central European Group: Bulgaria, Poland, Russian Federation;
- (iv) From the Latin America and Caribbean Group: Brazil, Colombia, Costa Rica, Venezuela;
- (v) From the Western European and Others Group: Canada, European Commission, United Kingdom of Great Britain and Northern Ireland,

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United States of America.

8. It was agreed that Sub-Working Group I would have the following mandate:

"With the objective of developing a consolidated draft negotiating legal text for proposed articles numbers 3 to 14 inclusive, excluding article 11, as identified in the Secretariat compilation of government submissions (UNEP/CBD/BSWG/3/3),

"Working under the guidance of the Co-Chairs, and under a modus operandi developed by the Co-Chairs and accepted by the participating Governments in the Sub-Working Group,

"The participants of the Sub-Working Group shall:

"Taking into account the views of participants, review the submissions of Governments, and any additional information, and attempt to reach consensus on the content of a consolidated text which may contain agreed options for each draft article.

"It is expected that the Sub-Working Group will discuss the views of the participants, and the content of the government submissions, to identify what could be included in the consolidated text.

"The main objective of the work is to achieve a consolidated text for negotiation.

"The draft consolidated text developed in the Sub-Working Group will be presented to plenary not later than Thursday evening by the Co-Chairs for adoption for inclusion in the report of the meeting."

9. It was agreed that Sub-Working Group II would have the following mandate:

"With the objective of developing a consolidated draft negotiating legal text for proposed articles numbers 11 and 15 to 22 inclusive, as identified in the Secretariat compilation of government submissions (UNEP/CBD/BSWG/3/3),

"Working under the guidance of the Co-Chairs, and under a modus operandi developed by the Co-Chairs and accepted by the participating Governments in

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the Sub-Working Group,

"The participants of the Sub-Working Group shall:

"Taking into account the views of participants, review the submissions of Governments, and any additional information, and attempt to reach consensus on the content of a consolidated text which will contain agreed options for each draft article.

"It is expected that the Sub-Working Group will discuss the views of the participants, and the content of the government submissions, to identify the various options that could be included in the consolidated text.

"The main objective of the work is to achieve a consolidated text for negotiation.

"The draft consolidated text developed in the Sub-Working Group will be presented to plenary not later than Thursday evening by the Co-Chairs for adoption for inclusion in the report of the meeting."

10. The Open-ended Ad Hoc Working Group also decided to establish two open-ended Contact Groups, meeting outside normal working hours, and reporting back to the plenary: Contact Group 1, co-chaired by Mr. Willemse (South Africa) and Mr. Piet van der Meer (Netherlands), and Contact Group 2, co-chaired by Mr. John Ashe (Antigua and Barbuda) and a representative nominated by the Western European and Others Group.

11. It was agreed that Contact Group 1 would have the following mandate:

"With the objective of developing a consolidated draft negotiating legal text of a protocol on biosafety,

"Working under the guidance of the Co-Chairs, and under a modus operandi developed by the Co-Chairs and accepted by the participating Governments in the Contact Group, the participants in the Contact Group on Definitions and Annexes shall:

"Taking into account the views of participants, review the information in the submissions of Governments and any additional information and attempt to reach consensus on recommendations on the content of a consolidated text which will contain agreed options for both definitions and annexes.

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"It is expected that the Contact Group will discuss the views of the participants and the content of the government submissions, to identify the various options that could be included in the consolidated text.

"The main objective of the work is to achieve a consolidated text (i.e. one definition per item with or without square brackets) for negotiation, rather than to negotiate a final text."

12. It was agreed that Contact Group 2 would have the following mandate:

"With the objective of providing advice to the Working Group on issues related to institutional and financial matters, as well as final clauses, that would assist in the development of a consolidated draft negotiating legal text of a protocol on biosafety,

"Working under the guidance of the Co-Chairs, and under a modus operandi developed by the Co-Chairs and accepted by the participating Governments in the Contact Group,

"The participants of the Contact Group will consider the draft Articles contained in document UNEP/CBD/BSWG/3/4 and Add.1 as they pertain to financial and institutional matters.

"As a matter of priority, following initial review of the matters if the Contact Group identifies topics that need discussion, these items should be recommended for discussion to the plenary no later than the evening of Tuesday, 14 October 1997.

"Also as a matter of priority, the Contact Group should also consider, on the basis of the discussion in plenary of the work of the second meeting of the Working Group and the element paper contained in the report of that meeting (UNEP/CBD/BSWG/2/6, pp. 55-56) on monitoring and compliance, what recommendations to make to the plenary on how to progress on the work on this item.

"Taking into account the views of participants, the Contact Group shall review the submissions of Governments and any additional information, and formulate recommendations to the Working Group on these items.

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"It is expected that the Contact Group will discuss the views of the participants and the content of the government submissions, to identify the various options that could be included in the consolidated text.

"The main objective of the work is to achieve a consolidated text for negotiation.

"Any item that the Working Group recommends for discussion in the plenary should be contained in an aide-m●oire, identifying the specific questions that, in the Contact Group's opinion, should be put to the plenary."

13. The Working Group decided that the principle of the meetings of both Sub-Working Groups and the two Contact Groups to be open to the full participation by all, implied that any decision to limit the effective/full participation of all delegates (e.g., speaking rights, right to attend the meeting, or right to be a member of any drafting group) would need to build on a consensus decision by all governmental members of the relevant group.

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Annex II

LIST OF DOCUMENTS FOR THE FOURTH MEETING OF THE
OPEN-ENDED AD HOC WORKING GROUP ON BIOSAFETY

<u>Symbol</u>	<u>Title</u>
UNEP/CBD/BSWG/4/1	PROVISIONAL AGENDA
UNEP/CBD/BSWG/4/1/Add.1	ANNOTATED PROVISIONAL AGENDA
UNEP/CBD/BSWG/4/2	COMPILATION OF GOVERNMENT SUBMISSIONS OF DRAFT TEXT ON SELECTED ITEMS: ARTICLES 1, 1 <u>BIS</u> AND 23-27
UNEP/CBD/BSWG/4/3	COMPILATION OF GOVERNMENT SUBMISSIONS OF DRAFT TEXT ON ITEMS OTHER THAN ARTICLES 1, 1 <u>BIS</u> AND 23-27
