

SECTION IX

NAIROBI FINAL ACT OF THE CONFERENCE FOR
THE ADOPTION OF THE AGREED TEXT OF THE
CONVENTION ON BIOLOGICAL DIVERSITY

Nairobi Final Act of the Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity

1. The Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity was convened by the Executive Director of the United Nations Environment Programme (UNEP) pursuant to decision 15/34, adopted by the Governing Council of UNEP on 25 May 1989, which, *inter alia*:

“6. *Authorizes* the Executive Director, on the basis of the final report of the Ad Hoc Working Group of Legal and Technical Experts, to convene, in consultation with Governments and within available resources, an ad hoc working group of legal and technical experts with a mandate to negotiate an international legal instrument for the conservation of the biological diversity of the planet;

“... ”

“8. *Requests* the Executive Director, subject to the availability of resources, to expedite the work of the ad hoc working groups as a matter of urgency with the aim of having the proposed new international legal instrument ready for adoption as soon as possible;”

2. The Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity met at UNEP Headquarters, Nairobi, at the kind invitation of the Government of Kenya on 22 May 1992.

3. All States were invited to participate in the Conference. The following States accepted the invitation and participated in the Conference:

Algeria, Argentina, Australia, Austria, Bahamas, Bangladesh, Barbados, Belgium, Bhutan, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Comoros, Congo, Costa Rica, Cote D’Ivoire, Cuba, Czechoslovakia, Denmark, Djibouti, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Finland, France, Gambia, Germany, Ghana, Greece, Guinea, Guinea-Bissau, Guyana, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Japan, Jordan, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Malta, Mauritius, Mexico, Morocco, Mongolia, Mozambique, Myanmar, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Rwanda, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Thailand, Turkey, Uganda, United Kingdom of

Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia and Zimbabwe.

4. The European Economic Community also participated.
5. Observers from the following United Nations bodies, specialized agencies, inter-governmental and non-governmental organizations also attended the Conference:

Secretariat of the United Nations Conference on Environment and Development (UNCED), United Nations Environment Programme/CMS Secretariat, United Nations Sudano-Sahelian Office (UNSO), United Nations Centre for Human Settlements (Habitat), Food and Agriculture Organization of the United Nations (FAO), United Nations Educational Scientific and Cultural Organization (UNESCO), World Bank, International Board for Plant Genetic Resources (IBPGR), Regional Gene Bank of the Southern African Development Coordination Conference (SADCC), African Centre for Technology Studies (ACTS), Asian-African Legal Consultative Committee (AALCC), Defenders of Wildlife, Environmental Liaison Centre International (ELCI), Friends World Committee for Consultation (QUAKERS), Greenpeace International, International Organization of Consumers Unions (IOCU), South Pacific Regional Environment Programme, World Conservation Monitoring Centre, World Conservation Union (IUCN), World Resources Institute (WRI) and World-Wide Fund for Nature (WWF).

6. The Conference had been preceded by three meetings of technical experts and seven negotiating sessions, held between November 1988 and May 1992. Pursuant to Governing Council decision 14/26 of 17 June 1987, the Ad Hoc Working Group of Experts on Biological Diversity was established and held three sessions between November 1988 and July 1990. On the basis of the final report of the Ad Hoc Working Group of Experts, the Governing Council, pursuant to decision 15/34 of 25 May 1989, established the Ad Hoc Working Group of Legal and Technical Experts, with a mandate to negotiate an international legal instrument for the conservation and rational use of biological diversity. The Ad Hoc Working Group held two negotiating sessions in Nairobi in November 1990 and in February/March 1991. By decision 16/42 of 31 May 1991, the Governing Council of UNEP renamed the Ad Hoc Working Group of Legal and Technical Experts on Biological Diversity the “Intergovernmental Negotiating Committee (INC) for a Convention on Biological Diversity”, which held the following meetings: the third negotiating session/first session of INC in Madrid, Spain, from 24 June to 3 July 1991; the fourth negotiating session/second session of INC in Nairobi, Kenya, from 23 September to 2 October 1991; the fifth negotiating session/third session of INC in Geneva, Switzerland, from 25 November to 4 December 1991; the sixth negotiating session/fourth session of INC in Nairobi, Kenya, from 6 to 15 February 1992; and the final negotiating session in Nairobi, Kenya, from 11 to 22 May 1992.

7. The Conference was formally opened by Dr. Mostafa K. Tolba, the Executive Director of UNEP. In the course of the Conference, statements were made by

Central African Republic, Uruguay, Nigeria, United Republic of Tanzania, Malaysia, Norway (on behalf of the Nordic countries), Sweden, Uganda, Germany, Indonesia, Spain, Ethiopia, Venezuela, Guinea-Bissau, Lesotho, Burundi, Portugal (on behalf of the European Community and its member States), Colombia, Costa Rica, Algeria, Denmark, Russian Federation (on behalf of the Group of Eastern European States), Ghana, Kenya, the Food and Agriculture Organization of the United Nations, and the World Conservation Union.

8. Dr. Mostafa K. Tolba served as Secretary-General of the Conference and Ms. Iwona Rummel-Bulska (UNEP) served as Executive Secretary.

9. The Bureau of the INC continued as the Bureau of the Conference and comprised the following members:

CHAIRMAN:	H.E. Mr. V. Sanchez (Chile)
VICE-CHAIRMEN:	Mr. V. Koester (Denmark) Mr. J. Muliro (Kenya) Mr. G. Zavarzin (Russian Federation)
RAPPORTEUR:	Mr. J. Hussain (Pakistan)

10. The Conference adopted the following agenda:

1. Opening of the Conference.
2. Bureau of the Conference.
3. Adoption of the agenda.
4. Organization of the work of the Conference.
5. Credentials of representatives:
 - (a) Appointment of the Credentials Committee;
 - (b) Report of the Credentials Committee.
6. Adoption of the agreed text of the Convention.
7. Adoption of resolutions.
8. Adoption of the Final Act of the Conference.
9. Signature of Final Act.
10. Closure of the Conference.

11. The Conference decided that the rules of procedure adopted by the Ad Hoc Working Group of Legal and Technical Experts at its session from 25 February to 6 March 1991 (UNEP/Bio.Div/WG.2/2/5) would apply *mutatis mutandis* for the work of the Conference.

12. The Conference decided that its Bureau would execute the functions of the Credentials Committee.

13. The main document which was before the Conference for adoption was the draft Convention on Biological Diversity (UNEP/Bio.Div/CONF/L.2).

14. In addition, the Conference had before it a number of draft resolutions for its consideration and adoption.

15. The Conference approved the recommendation of its Credentials Committee that the credentials of the representatives of the participating States as listed in paragraph 3 should be recognized as being in order.

16. The Conference, on 22 May 1992, adopted the agreed text of the Convention on Biological Diversity. The Convention, which is appended to this Final Act, will be open for signature during the Plenipotentiary Conference on the Convention on Biological Diversity, convened at the time of the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, on 5 June 1992 and will remain open for signature at Rio de Janeiro from 5 June 1992 to 14 June 1992, and at United Nations Headquarters in New York from 15 June 1992 to 4 June 1993.

17. The Conference also adopted four resolutions, the texts of which are attached to this Final Act.

18. At the time of the adoption of this Final Act, several States made declarations, the texts of which are attached to this Final Act.

IN WITNESS WHEREOF the representatives have signed this Final Act.

DONE in Nairobi this twenty-second day of May one thousand nine hundred and ninety-two in one original in the Arabic, Chinese, English, French, Russian and Spanish languages, each language version being equally authentic. The original text will be deposited with the Secretary-General of the United Nations.

Resolutions Adopted by the Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity

RESOLUTION 1 | Interim Financial Arrangements

The Conference,

Having agreed upon and adopted the text of the Convention on Biological Diversity at Nairobi on 22 May 1992,

Considering that preparations should be made during the period between the opening of the Convention for signature and its entry into force for early and effective implementation of the relevant provisions of the Convention once it has entered into force,

Noting that financial support and a financial mechanism during the period between opening of the Convention for signature and its entry into force are necessary for the early and effective operation of the Convention,

1. *Invites* the Global Environment Facility of the United Nations Development Programme, the United Nations Environment Programme and the International Bank for Reconstruction and Development to undertake the operation of the financial mechanism in accordance with Article 21 on an interim basis for the period between the opening of the Convention for signature and its entry into force and, for the purposes of Article 39, until the first meeting of the Conference of the Parties to the Convention;

2. *Calls upon* the United Nations Development Programme, the International Bank for Reconstruction and Development, the regional development banks, the United Nations Environment Programme and other United Nations bodies and agencies such as the Food and Agriculture Organization of the United Nations and the United Nations Educational, Scientific and Cultural Organization to provide financial and other resources for the provisional implementation of the Convention on Biological Diversity on an interim basis for the period between the opening of the Convention for signature and its entry into force and for the purposes of Article 39, until the first meeting of the Conference of the Parties.

Adopted on 22 May 1992

RESOLUTION 2 | International Cooperation for the Conservation of Biological Diversity and the Sustainable Use of its Components Pending the Entry Into Force of the Convention on Biological Diversity

The Conference,

Having agreed upon and adopted the text of the Convention on Biological Diversity at Nairobi on 22 May 1992,

Noting that preparations are required for an early and effective operation of the Convention once it has entered into force,

Noting further that, in the interim arrangements, involvement in the negotiations of all Governments, particularly those that participated in the Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity, is desirable,

Noting with appreciation the work so far undertaken under the auspices of the United Nations Environment Programme in the first set of country studies conducted with national, bilateral and multilateral support,

Recognizing the ongoing joint programmes of the United Nations Environment Programme and other organizations that have mobilized the involvement, in each region, of all sectors to explore options for the conservation of biological diversity and the sustainable use of its components,

Further recognizing that the preparation of biological diversity country studies is the first systematic attempt to assist countries in establishing baseline information on their biological diversity and is the basis for national action programmes on conservation of biological diversity and the sustainable use of its components,

1. *Calls upon* all States and regional economic integration organizations entitled to consider signing the Convention during the United Nations Conference on Environment and Development in Rio de Janeiro or at the earliest subsequent opportunity and thereafter to consider the ratification, acceptance, approval of or accession to the Convention;

2. *Invites* the Governing Council of the United Nations Environment Programme to consider requesting the Executive Director of the Programme to convene meetings of an Intergovernmental Committee on the Convention on Biological Diversity starting in 1993, to consider the following issues:

- (a) Assistance to Governments, upon request, in further work in the preparation of country studies in recognition of their importance in the development of their national biological diversity strategy and action plans, *inter alia*:
 - (i) To identify components of biological diversity of importance for its conservation and the sustainable use of its components including the collection and evaluation of data needed for effective monitoring of those components;
 - (ii) To identify processes and activities which have or are likely to have an adverse impact on biological diversity;

- (iii) To evaluate the potential economic implications of the conservation of biological diversity and the sustainable use of biological and genetic resources and to ascribe values to biological and genetic resources;
 - (iv) To suggest priority action for the conservation of biological diversity and the sustainable use of its components;
 - (v) To review and, where appropriate, suggest revision of the draft guidelines for country studies on biological diversity;
 - (vi) To identify modalities for providing support to countries, in particular developing countries, undertaking studies;
- (b) Organization of the preparation of an agenda for scientific and technological research on conservation of biological diversity and the sustainable use of its components, including possible institutional arrangements *ad interim* for scientific cooperation among Governments for the early implementation of the provisions of the Convention on Biological Diversity before it has entered into force;
 - (c) Consideration of the need for and modalities of a protocol setting out appropriate procedures including, in particular, advance informed agreement, in the field of the safe transfer, handling and use of any living modified organism resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity;
 - (d) Modalities for the transfer of technologies, in particular to developing countries, relevant to the conservation of biological diversity and the sustainable use of its components, as well as technical cooperation in support of national capacity-building in those areas;
 - (e) Provision of policy guidance to the institutional structure invited to undertake the operation of the financial mechanism in accordance with Article 21 of the Convention on an interim basis for the period between the opening of the Convention for signature and its entry into force;
 - (f) Modalities for bringing into early effect the provisions of Article 21;
 - (g) Development of the policy, strategy and programme priorities, as well as detailed criteria and guidelines for eligibility for access to and utilization of the financial resources, including monitoring and evaluation on a regular basis of such utilization;
 - (h) Financial implications of and relevant arrangements in support of international cooperative action before the entry into force of the Convention, including voluntary contributions in cash and kind required for the operation of an interim secretariat and the meetings of the Intergovernmental Committee on the Convention on Biological Diversity;
 - (i) Other preparations for the first meeting of the Conference of the Parties to the Convention;

3. *Further requests* the Executive Director of the United Nations Environment Programme to provide the secretariat on an interim basis until the Convention has entered into force and also requests the Executive Director to seek the full and active

involvement of the Food and Agriculture Organization of the United Nations and the United Nations Educational, Scientific and Cultural Organization in the establishment and operations of the Interim Secretariat, as well as full cooperation with the secretariats of relevant conventions and agreements and the Consultative Group on International Agricultural Research, the World Conservation Union and other relevant international organizations, taking into account relevant decisions of the United Nations Conference on Environment and Development.

4. *Invites* the Food and Agriculture Organization of the United Nations and the United Nations Educational, Scientific and Cultural Organization to provide full support to the establishment and operations of the interim secretariat;
5. *Also requests* the Executive Director of the United Nations Environment Programme to contribute to the financing of the costs of the preparations for and the holding of the meetings, subject to the availability of resources in the Environment Fund;
6. *Invites* Governments to contribute generously to the functioning of the interim secretariat and the successful conduct of the meetings of the Intergovernmental Committee on the Convention on Biological Diversity and to assist financially with a view to ensuring full and effective participation of developing countries;
7. *Further invites* Governments to inform the meetings of national action taken for the conservation of biological diversity and the sustainable use of its components consistent with the provisions of the Convention and pending its entry into force;
8. *Also invites* the secretariats of major international and regional environmental conventions, agreements and organizations to provide information to the Intergovernmental Committee on their activities, and the Secretary-General of the United Nations to provide the relevant sections of Agenda 21 that will be adopted at the United Nations Conference on Environment and Development in Rio de Janeiro.

Adopted on 22 May 1992

RESOLUTION 3 | The Interrelationship Between the Convention on Biological Diversity and the Promotion of Sustainable Agriculture

The Conference,

Having agreed upon and adopted the text of the Convention on Biological Diversity at Nairobi on 22 May 1992,

Recognizing the basic and continuing needs for sufficient food, shelter, clothing, fuel, ornamental plants and medicinal products for peoples of the world,

Emphasizing that the Convention on Biological Diversity stresses the conservation and sustainable use of biological resources,

Recognizing the benefits from the care and improvement by the peoples of the world of animal, plant and microbial genetic resources to supply those basic needs and from the institutional research on and development of those genetic resources,

Recalling that broadly-based consultations in international organizations and forums have studied, debated and achieved consensus on urgent action for the security and sustainable use of plant genetic resources for food and agriculture,

Noting that the Preparatory Committee of the United Nations Conference on Environment and Development has recommended that policies and programmes of priority for *in situ*, on-farm and *ex-situ* conservation and sustainable use of plant genetic resources for food and sustainable agriculture, integrated into strategies and programmes for sustainable agriculture, should be adopted not later than the year 2000 and that such national action should include, *inter alia*:

- (a) Preparation of plans or programmes of priority action on conservation and sustainable use of plant genetic resources for food and sustainable agriculture based, as appropriate, on country studies on plant genetic resources for food and sustainable agriculture;
- (b) Promotion of crop diversification in agricultural systems where appropriate, including new plants with potential value as food crops;
- (c) Promotion of utilization of, as well as research on, poorly known but potentially useful plants and crops, where appropriate;
- (d) Strengthening of national capabilities for utilization of plant genetic resources for food and sustainable agriculture, plant breeding and seed production capabilities, both by specialized institutions and farmers' communities;
- (e) The completion of the first regeneration and safe duplication of existing *ex-situ* collections on a world-wide basis as soon as possible; and
- (f) The establishment of *ex-situ* base collection networks,

Noting further that the Preparatory Committee for the United Nations Conference on Environment and Development has recommended:

- (a) The strengthening of the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture operated by the Food and Agriculture Organization of the United Nations in close cooperation with the International Board for Plant Genetic Resources, the Consultative Group on International Agricultural Research and other relevant organizations;
- (b) The promotion of the Fourth International Technical Conference on the Conservation and Sustainable use of Plant Genetic Resources for Food and Sustainable Agriculture in 1994 to adopt the first State-of-the-World Report and the first Global Plan of Action on the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture; and
- (c) The adjustment of the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture in line with the outcome of the negotiations on a Convention on Biological Diversity,

Recalling the agreement in the Preparatory Committee for the United Nations Conference on Environment and Development on provisions regarding conservation and utilization of animal genetic resources for sustainable agriculture,

1. *Confirms* the great importance of the provisions of the Convention on Biological Diversity for the conservation and utilization of genetic resources for food and agriculture;
2. *Urges* that ways and means should be explored to develop complementarity and cooperation between the Convention on Biological Diversity and the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture;
3. *Recognizes* the need for the provision of support to the implementation of all activities agreed upon in the programme area on conservation and sustainable utilization of plant genetic resources for food and sustainable agriculture and in the programme area on conservation and utilization of animal genetic resources for sustainable agriculture in the Agenda 21 proposed to be adopted at the United Nations Conference on Environment and Development in Rio de Janeiro;
4. *Further recognizes* the need to seek solutions to outstanding matters concerning plant genetic resources within the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture, in particular:
 - (a) Access to *ex-situ* collections not acquired in accordance with this Convention; and
 - (b) The question of farmers' rights.

Adopted on 22 May 1992

RESOLUTION 4 | Tribute to the Government of the Republic of Kenya

The Conference,

Having met in Nairobi on 22 May 1992 at the gracious invitation of the Government of the Republic of Kenya,

Deeply appreciative of the courtesy and hospitality extended by the Government of the Republic of Kenya and the City of Nairobi to the members of the delegations, observers and the secretariat attending the Conference,

1. *Expresses its sincere gratitude* to the Government of the Republic of Kenya, to the authorities of the City of Nairobi and, through them, to the Kenyan people for the cordial welcome which they accorded to the Conference and to those associated with its work and for their contribution to the success of the Conference;
2. *Decides*, as a further sign of appreciation, to call the Final Act of the Conference the "Nairobi Final Act."

Adopted on 22 May 1992