

**CONVENTION ON  
BIOLOGICAL DIVERSITY**

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CONFERENCE OF THE PARTIES TO THE  
CONVENTION ON BIOLOGICAL DIVERSITY  
Fourth meeting  
Bratislava, 4-15 May 1998  
Item 9 of the provisional agenda\*

ISSUES RELATED TO BIOSAFETY

Note by the Executive Secretary

I. INTRODUCTION

1. Article 19, paragraph 3, of the Convention provides that:

"The Parties shall consider 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."

2. At its first meeting, the Conference of the Parties established an Open-ended Ad Hoc Group of Experts on Biosafety to consider, inter alia, the need for and modalities of a protocol.

3. At its second meeting, the Conference of the Parties adopted decision II/5, in which it established an Open-ended Ad Hoc Working Group ("the Working Group") to negotiate a protocol on biosafety, specifically focusing on transboundary movement of any living modified organism resulting from modern biotechnology that may have an adverse effect on the conservation and sustainable use of biological diversity, and setting out for consideration, in particular, appropriate procedures for advance informed agreement.

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\* UNEP/CBD/COP/4/1.

4. At its third meeting, the Conference of the Parties adopted decision III/20, which dealt, *inter alia*, with the composition of the Bureau of the Working Group. The Conference of the Parties decided 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 and that the Working Group should hold sufficient meetings in 1998 to complete its work in 1998.

## II. PROGRESS

5. The Working Group has met four times: once in Aarhus, Denmark, in July 1996, and three times in Montreal, in May 1997, October 1997 and February 1998. Significant progress has been achieved, starting with the definition of issues and clarification of positions at the first meeting. The work progressed rapidly during the second and third meetings, resulting in the development of a consolidated draft text to serve as the basis for negotiations at the fourth meeting.

6. At its fourth meeting, the Working Group based its negotiations on a consolidated draft text. These negotiations resulted in refinements to, greater clarity about, or resolution of, several key issues. In the revised consolidated text (UNEP/CBD/BSWG/5/INF/1) there still remain several options for many of the key articles, but the Working Group concluded the meeting by expressing optimism about its ability to achieve the objective of having an agreed draft text for a protocol by the end of 1998.

7. The move from the development of a draft text inclusive of all positions to a process of negotiation, with a concomitant reduction in the number of options, has increased the urgency of ensuring participation of all Parties in the process. This is especially the case for developing countries, and the Working Group identified this issue as critical to the credibility and acceptability of the final protocol

8. At its fourth meeting, the Working Group felt that its work could be concluded in 1998, in accordance with the guidance received from the Conference of the Parties, provided that two further meetings were held: a fifth meeting in August 1998 with a duration of two weeks, and a final one-week meeting in late 1998. It requested the Conference of the Parties to take appropriate steps to ensure that the necessary financial arrangements are made to enable the meetings to take place. The recommendations of the Working Group also addressed questions pertaining to the adoption of the Protocol and the activities that would need to be undertaken in the period following adoption, but prior to implementation. The reports of the second, third and fourth meetings of the Working Group (UNEP/CBD/BSWG/2/6, UNEP/CBD/BSWG/3/6 and UNEP/CBD/BSWG/4/4) will be available at the fourth meeting of the Conference of the Parties.

## III. PROCEDURAL MATTERS

9. The Working Group noted that, in order to ensure timely completion of its work and subsequent adoption of the Protocol by the Conference of the Parties, it was necessary to comply with Article 28, paragraph 3, of the

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Convention (the six-month rule for consideration of draft protocols). In order to ensure that the Working Group will be able to consider all government submissions during its penultimate meeting, proposed for 17-28 August 1998, the Working Group has requested that the Conference of the Parties establish a deadline of 1 June 1998 for receipt of Government proposals for inclusion in the Protocol.

#### IV. FINANCIAL MATTERS

10. In its decision III/24, annex, part A.3 (Budget of the Trust Fund for the Convention on Biological Diversity for the biennium 1997-1998: Biosafety Protocol), the Conference of the Parties established a budget for two one-week meetings of the Working Group in 1998. However, in decision III/20, on issues related to biosafety, the Conference of the Parties decided that sufficient meetings should be held in 1998 to ensure completion of the work in 1998. In order to complete its work in 1998, the Working Group identified the need for additional consultations, which extended its first meeting in 1998 by three days, and which will require extending its second meeting in 1998 by five days. A further third meeting of the Working Group in 1998 will be required at the end of the year to complete the work in accordance with decision III/20.

11. The extended meetings and the additional third meeting in 1998 will require that additional funds are made available to the Secretariat for servicing the meetings and for ensuring full participation.

12. In addition, the Working Group recommended that a meeting of the Conference of the Parties be held immediately after the last meeting of the Working Group, for the adoption of the proposed Protocol. The Working Group has strongly urged that a meeting of the Working Group followed by a meeting of the Conference of the Parties for the adoption of the Protocol be held in 1998 and, in any event, no later than February 1999.

13. In the event that the Conference of the Parties decides to hold its meeting to adopt the Protocol early in January or February 1999 (an option identified by the Working Group as the less favoured alternative to holding this meeting in December 1998), the final meeting of the Open-ended Ad Hoc Working Group would be re-scheduled for the week preceding that meeting of the Conference of the Parties.

14. Rule 13 of the rules of procedure for meetings of the Conference of the Parties states that the provisional agenda for an extraordinary meeting shall consist only of those items proposed for consideration in the request for the holding of the extraordinary meeting. It shall be distributed to the Parties at the same time as the invitation of the extraordinary meeting.

15. In light of the foregoing should the fourth meeting of the Conference of the Parties decide to hold an extraordinary meeting for adoption of the Protocol, a provisional agenda for the extraordinary meeting would need to be distributed to Parties at the same time. A draft provisional agenda for such a meeting is annexed to the present note.

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V. RECOMMENDATIONS

16. The Conference of the Parties is therefore invited to consider the following points regarding the future work of the Ad Hoc Working Group on Biosafety:

(a) Chair and Bureau. The Conference of the Parties will need to decide upon on the composition of the Bureau of the Working Group, and on the Chair of the Working Group;

(b) The number, timing, duration and location of meetings of the Working Group in 1998. The Conference of the Parties will need to decide upon the number and duration of the meetings of the Working Group in to be held in 1998, and to make the appropriate financial arrangements;

(c) Venue and date of the meeting of the Conference of the Parties for the adoption of the Protocol. The Conference of the Parties will need to decide upon the date, type and location of a meeting of the Conference of the Parties for the adoption of the Protocol.

17. In response to the request by the Bureau of the third meeting of the Conference of the Parties, and the decision of the Open-ended Ad Hoc Working Group, to develop a draft decision, based on the recommendations contained in the report of the fourth meeting of the Open-ended Ad Hoc Working Group, the Conference of the Parties is invited to consider adopting the following decision:

"The Conference of the Parties,

"Recalling its decisions II/5 and III/20, on issues related to biosafety, in particular, that the Working Group should endeavour to complete its work in 1998,

"Recalling also part A of the annex to decision III/24, containing the budget of the trust fund for the Convention on Biological Diversity for the biennium 1997 and 1998, and, in particular, its item 3, which, under the line "Servicing meetings of the Open-ended Ad Hoc Working group on Biosafety", provided funds for two one-week meetings to be held in 1997 and 1998,

"Noting that the Open-ended Ad Hoc Working Group held a ten-day meeting in Montreal from 5 to 13 February 1998,

"Recognizing the difficulties imposed by the pressures on Governments with respect to administrative and travel requirements and the multiple calls on their time by other international commitments,

"1. Decides:

(a) That in order to complete its task, the Open-ended Ad Hoc Working Group on Biosafety should hold two further meetings in 1998, with a duration of two weeks and one week, respectively, and that appropriate financial arrangements be made in the budget of the Trust Fund;

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"(b) That the final meeting of the Open-ended Ad Hoc Working Group on Biosafety be followed immediately by a meeting of the Conference of the Parties to adopt the Protocol;

"(c) To establish a deadline of 1 June 1998 for the receipt of Government proposals for provisions to be included in the Protocol, in accordance with Article 28, paragraph 3, of the Convention to enable the Open-ended Ad Hoc Working Group to consider those proposals during its penultimate meeting."

Annex

DRAFT AGENDA FOR AN EXTRAORDINARY MEETING OF THE CONFERENCE OF THE PARTIES  
TO ADOPT A PROTOCOL ON BIOSAFETY

1. Opening of the meeting.
2. Organizational matters:
  - 2.1 Election of officers;
  - 2.2 Adoption of the agenda;
  - 2.3 Organization of work.
3. Report of the Chair of the Open-ended Ad Hoc Working Group on Biosafety.
4. Adoption of the Protocol.
5. Preparations for the first meeting of the Parties to the Protocol, with regard to, inter alia, interim arrangements.
6. Other matters.
7. Adoption of the report.
8. Closure of the meeting.

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