



## HIGHLIGHTS FROM THE

### SIXTH SESSION OF THE OPEN-ENDED AD HOC WORKING GROUP ON BIOSAFETY (BSWG-6) FRIDAY, 19 FEBRUARY-SUNDAY, 21 FEBRUARY

From Friday, 19 February through to Sunday, 21 February, delegates to the sixth session of the Open-ended *Ad Hoc* Working Group on Biosafety (BSWG-6) continued their efforts to finalize a biosafety protocol. Throughout the day on Friday and into the early hours of Saturday, the Friends of the Chair, as well as regional and informal groups, reviewed the Chair's draft text (UNEP/CBD/BSWG/6/L.2\*). In a Saturday morning plenary, the Chair announced that outstanding issues would be considered by a "Friends of the Minister" group, convened at the initiative of the Colombian Environment Minister Juan Mayr and including a few select representative countries. The Friends of the Minister continued their deliberations into the early hours of Sunday. Throughout the day on Sunday, delegates debated the text in informal discussions. Consultations were set to continue during the night, with the final BSWG plenary scheduled for 8:00 am Monday.

#### FRIDAY

Throughout the day, the Friends of the Chair discussed the Chair's revised text article by article and highlighted the outstanding issues. A sub-group was convened to deal specifically with Articles 4 (Scope), 5 (Application of the AIA Procedure), and 6 (Notification). The Friends of the Chair adjourned temporarily to allow for informal consultations and were expected to reconvene at 9:00 pm and continue discussions into the night. At 2:30 am, delegates were told that the group would not reconvene until later that morning.

#### SATURDAY

In a Saturday morning Plenary, Chair Koester informed delegates that, despite a good atmosphere, little progress had been made on Friday, either in the Friends of the Chair or in subsequent bilateral consultations. He reported that, in order to advance the process, Minister Mayr had decided to convene consultations with a limited group of delegates. The Friends of the Minister group, consisting of representatives of the Like-minded Group, the Miami Group, the EU and Japan, had first met on Saturday morning to take up Articles 4 (Scope), 5 (Application of the AIA procedure) and 6 (Notification). He said that this group would continue to meet throughout Saturday. Colombian Environment Minister Mayr expressed optimism that the protocol would be successfully concluded.

#### SUNDAY

On Sunday, the Friends of the Chair met in the morning. Chair Koester appealed for adoption of a revised Chair's text (UNEP/CBD/BSWG/6/L.2/Rev.1) that was distributed immediately prior to the meeting. He stated that the text was based on discussions in the Friends of the Minister group and other consultations. The revised Chair's text contained modified versions of Articles 4, 5, 6, 24 (Socio-economic considerations) and 25 (Liability and Redress). Delegates requested time to consider the text. Key new elements of the text were as follows:

**AIA:** The AIA procedure will apply "prior" to the first trans-boundary movement of LMOs for "intentional introduction into the environment." The specific reference to LMOs destined for "growth, reproduction and propagation" was deleted. LMOs intended for direct



use as food or feed, or for processing, are now excluded from AIA. Text excluding LMOs destined for placement on the market was deleted.

**Notification:** Language requiring the party of export to ensure “a legal responsibility” for the accuracy of information provided by the exporter was changed to “a legal requirement.”

**Socio-economic Considerations:** A requirement for parties’ decisions on import to be “consistent with their international obligations” was added. Socio-economic considerations arising from the “impact” of LMOs may now be taken into account (the original Chair’s text stated “adverse impacts”). The reference to “risks to human health” was deleted, and language highlighting impacts with regard to “indigenous and local communities as referred to in Article 8(j) of the Convention” was replaced by “the value of biological diversity to indigenous and local communities.” Concerning research and information exchange, a general reference to “any socio-economic impacts of LMOs, especially on indigenous and local communities” was included in place of earlier language on early warning and economic effects on local and indigenous communities.

**Liability and Redress:** The two paragraphs in the Chair’s text were merged, and a reference to “studies to be carried out” was deleted. The text now requires the first Conference of the Parties serving as the Meeting of the Parties to “*adopt a process with respect to the appropriate elaboration of international rules and procedures in the field of liability and redress, for damage resulting from transboundary movements of LMOs*” (new text in italics). Revised language requires the process to analyze and take due account of “the ongoing process in international law on these matters.” Parties shall endeavor to complete the process within four (previously six) years.

The Friends of the Chair then adjourned and planned to reconvene in the early afternoon. They reconvened at approximately 4:30 pm, at which time Chair Koester cancelled further Friends of the Chair meetings. He announced that the Chair’s text would be presented to Plenary at 10:00 pm and that informal negotiations were still in progress.

Plenary was subsequently postponed until 11:00 pm. At around 10:45 pm, a revised text was issued (UNEP/CBD/BSWG/6/L.2/Rev.2), the result of the work of the Legal Drafting Group, chaired by Lynn Holowesko (Bahamas). This text aimed to ensure legal coherence and consistency in the text without altering its substantive content.

At 11:45 pm, it was announced that the final BSWG plenary would convene at 8:00 am on Monday. Informal consultations were still underway and expected to continue all night.

## IN THE CORRIDORS

Optimism ran headlong into skepticism and confusion this weekend as the negotiations moved back and forth between intermittent meetings of the Friends of the Chair, Friends of the Minister and a myriad of other informal consultations among interest groups. Many delegates complained about the chaotic schedule of meetings and a lack of clear signals as to the current state of play. One participant characterized the competing discussions as operating in “parallel universes,” colliding only while in line for fresh juices and Colombian coffee.

By the evening, rumors abounded that the entire process had broken down and that some major groups were threatening to pull out. Continued deliveries of food and coffee to meeting rooms and the occasional messenger racing between the two negotiating camps provided the only signs that the talks were still underway. Environmental NGOs circulated a paper listing the categories of LMOs currently excluded from the draft protocol. One joked that the current scope was so narrow as to effectively create the Cartagena Protocol on Animal Vaccines.

A number of developing country delegates in particular expressed frustration over the lack of transparency and democracy in the negotiating process over the weekend. While many continued to be kept in the dark over progress or lack thereof, others with “insider connections” said that the light at the end of the tunnel was still dim.

## THINGS TO LOOK FOR

**REGIONAL GROUP MEETINGS:** Regional group meetings will be held at 7:00 am.

**BSWG PLENARY:** The BSWG Plenary will be held at 8:00 am.

**EXTRAORDINARY SESSION OF THE COP:** The First Extraordinary Session of the Conference of the Parties (COP) will begin at 10:00 am. For security reasons, anyone wishing to attend the COP must be in the Centre by 9:30 am as the doors will be locked thereafter.

Statements are expected to be delivered by:

- \* Colombian President Andres Pastrana;
- \* President of the Fourth Meeting of the Conference of the Parties;
- \* President of the First Extraordinary COP and Colombian Environment Minister Juan Mayr;
- \* Acting CBD Executive Secretary Hamdallah Zedan; and
- \* UNEP Executive Director Klaus Töpfer.