



COP/MOP-2 HIGHLIGHTS: THURSDAY, 2 JUNE 2005

Delegates to the second meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD) serving as the meeting of the Parties to the Cartagena Protocol on Biosafety (COP/MOP-2) convened in two working group sessions. Working Group I (WG-I) addressed conference room papers (CRPs) on risk assessment and risk management, and handling, transport, packaging and identification (HTPI). Working Group II (WG-II) considered a CRP on socioeconomic considerations. Both working groups approved their respective reports. A contact group discussed documentation for living modified organisms for food, feed or processing (LMO-FFPs). A Friends of the Chair group considered the rules of procedure of the Compliance Committee.

WORKING GROUP I

RISK ASSESSMENT AND RISK MANAGEMENT:

WG-I Chair Birthe Ivars (Norway) introduced a revised CRP, including reference to convening an *ad hoc* technical expert group (AHTEG) on risk assessment prior to COP/MOP-3 and an annex detailing its terms of reference. NEW ZEALAND highlighted the AHTEG's focus on capacity building. ITALY asked to reflect its offer to provide funding for the AHTEG. On developing guidance for a harmonized approach, BRAZIL proposed that COP/MOP take into account internationally agreed "guidelines" rather than "principles." After discussion, delegates agreed to "principles" in accordance with Protocol Annex III (Risk Assessment).

HTPI: Documentation for LMO-FFPs (Article 18.2(a)):

In the morning, contact group Co-Chair François Pythoud (Switzerland) reported on progress in the contact group, which was reconvened after WG-I completed its work. WG-I met briefly in the evening, and contact group Co-Chair Pythoud introduced a CRP, produced by the contact group, containing bracketed text in remaining areas of disagreement. WG-I Chair Ivars requested the contact group to resume to resolve them.

Fundacion Sociedades Sustentables, on behalf of LATIN AMERICAN CIVIL SOCIETY, expressed concern about Brazil's position in the negotiations on documentation for LMO-FFPs, calling upon them to stop blocking the emerging consensus around rules to implement Protocol Article 18.2(a).

WORKING GROUP II

SOCIOECONOMIC CONSIDERATIONS: WG-II Chair Orlando Santos (Cuba) introduced a CRP on socioeconomic considerations. On the preamble, SAUDI ARABIA called for a reference to Protocol Article 26.1 (incorporation of socioeconomic considerations into import decisions). The Netherlands, on behalf of the EU and BULGARIA, with MALAYSIA, SWITZERLAND and FIJI, supported the decision as presented. Delegates agreed to retain only reference to Article 26.2 (cooperation on research and information exchange on socioeconomic impacts of LMOs).

On operative text inviting Parties and governments to cooperate within relevant processes under other organizations and arrangements, BRAZIL called for identifying these processes, and delegates agreed to a reference to the background document section on socioeconomic considerations under other processes and arrangements (UNEP/CBD/BS/COP-MOP/2/12).

On text inviting Parties, governments and organizations to share research methods and results through the BCH, ARMENIA, opposed by CANADA and the EU, suggested adding a reference to LMO impacts on genetic resources as well as on biodiversity. AUSTRALIA proposed using a dedicated section or bulletin board on the Protocol website rather than the BCH. Delegates preferred using the BCH, as suggested in the CRP. On text inviting Parties and governments to use the BCH to share experience when taking into account socioeconomic considerations in the context of Article 26, BRAZIL, opposed by NORWAY and ARMENIA, proposed referring only to Protocol Article 26.2. He indicated that reference to Article 26 in its entirety would exceed the mandate of COP/MOP-2, which specifically refers to Protocol Article 26.2. Delegates agreed to remove reference to the Protocol provisions, and referred to socioeconomic "impacts" rather than "considerations" to ensure consistency with the text of Article 26.2.

Delegates then debated whether a request for submission of views and case studies on socioeconomic impacts of LMOs would also include possible modalities of incorporating socioeconomic considerations into import decisions. BRAZIL, ARMENIA, INDIA, ARGENTINA, NEW ZEALAND, AUSTRALIA and ALGERIA opposed such a reference, arguing that consideration of decision making under Protocol Article 26.1 exceeds the COP/MOP-2 mandate. AUSTRALIA



reiterated concern about the lack of an internationally-agreed definition of socioeconomic considerations. NORWAY, the EU, SWITZERLAND, NAMIBIA, MADAGASCAR, MEXICO and MALAYSIA requested retaining the reference, noting that it refers to information gathering and is thus in line with COP/MOP-2 mandate. SWITZERLAND drew attention to the close link between the two paragraphs of Article 26. The Secretariat noted that such information could facilitate discussions on decision making under Protocol Article 10.7 (decision-making procedures and mechanisms), mandated to COP/MOP-4.

Following informal consultations, delegates agreed to delete both reference to Protocol Article 26 and the request for information on modalities of incorporating socioeconomic considerations into import decisions, with the understanding that the wording does not prejudice nor limit information to be submitted.

CONTACT GROUP ON DOCUMENTATION FOR LMO-FFPS

The contact group met in the morning to discuss documentation requirements for shipments containing a mixture of LMO-FFPs. The Co-Chairs presented language according to which the Party of import would decide whether the documentation clearly states, when the shipment contains a mixture of LMO-FFPs: that the shipment may contain LMOs and, in this case, specifies which LMOs have been used to constitute the mixture; or, that the shipment may contain one or more of the LMOs of the commodity in question that are in commercial production in the country of export and are approved in the country of import. One country also suggested an additional option, allowing the Party of import to decide that documentation state that the shipment contains LMOs, and specify which LMOs may have been used to constitute the mixture.

These options were discussed extensively. Delegates also considered another “hybrid” proposal whereby documentation would clearly state that the shipment may contain LMOs and, in this case, specify which LMOs have been used to constitute the mixture, in so far as they are in commercial production in the country of export and are approved in the country of import. A small Friends of the Co-Chairs group was convened to attempt to reach compromise based on the “hybrid” option.

In the afternoon, the contact group reconvened to address other bracketed references. Delegates did not reach agreement on an operative paragraph noting that thresholds may be adopted or applied on a national basis, with one Party explaining that thresholds should relate only to adventitious or technically unavoidable LMOs, and not to Article 18.2(a). On sampling and detection techniques, delegates agreed to: review them at COP/MOP-4, with a view to harmonization; request submissions of information on experience gained with their use; request the Executive Secretary to compile the submissions and prepare, for COP/MOP-4, a synthesis report including an analysis of existing gaps; and delete a related preambular reference.

Co-Chair Nematollah Khansari (Iran) reported on the Friends of the Co-Chairs group, presenting text whereby documentation clearly states, in case of any mixture of LMO-FFPs, or any mixture of LMO-FFPs and non LMOs, that the shipment may contain LMOs and, in this case, specifies which LMOs have been or may have been used to constitute the mixture, in so far as they are in commercial production in the country of export and are approved in the country of import.

After lengthy debate on whether or not this text goes beyond the scope of the Protocol, delegates agreed to resume discussions on this issue, based on the Co-Chairs’ original proposal laying out two options. The contact group met again in the evening, to consider the CRP introduced in WG-I. The Co-Chairs introduced a new variation on their text proposed in the morning, which proposed, *inter alia*, referring to: the “shipment” instead of the “mixture;” and a shipment “drawn from” rather than containing “a mixture” of LMO-FFPs. Delegates discussed several variations on this text, and a five-Party Friends of the Co-Chairs group was convened to continue deliberations. After several hours, Co-Chair Pythoud reported to the contact group and presented a new proposal to seek guidance from the group on continuing negotiations in that direction in the Friend of the Co-Chairs group. He explained the proposal: still contains bracketed sections; is based on Decision BS-1/6 (HTPI); retains two separate operational paragraphs; and specifies the two options are not mutually exclusive. Some delegates noted their dissatisfaction with the proposal, while others asked it be adopted and discussed further in plenary. Delegates made some proposals on the text and agreed to reconvene the Friends of the Co-Chairs group to continue deliberations. Negotiations continued well past midnight.

IN THE CORRIDORS

Just as temperatures were rising in sunny Montreal, tensions were noticeably mounting at COP/MOP-2 in face of the looming deadline to reach agreement on documentation for LMO-FFPs. Several NGOs sought to exploit the ticking clock, lobbying specifically those delegates most likely to support their vision of a solution free of “may contain” language or any of its emerging substitutes. Delegates took umbrage as some Parties’ “flexible” positions appeared in fact to be solidly anchored rather than infused with the spirit of compromise.

While delegates plunged into the work of the contact group on HTPI, the corridors buzzed with news of the Friends of the Chair group having concluded its work on the Compliance Committee rules of procedure. The well-informed have it that contention still surrounds the rule on voting. As was clear from the declarations made in plenary on the first day of COP/MOP-3, two-thirds majority decision making in the absence of consensus does not elicit enthusiastic reactions from certain delegations. Some foresee that voting, due to be taken up again in plenary, will remain bracketed, as is still the case for the analogous rule of procedure of the CBD COP.

In any event, participants are already wondering whether or not the Committee will ever receive submissions on non-compliance with the Protocol. Given the emphasis placed on the need for capacity building at COP/MOP-3, a delegate noted that it will be particularly interesting to see whether Parties will make submissions on their own compliance problems, thus taking advantage of the Committee to request assistance and guidance on implementation.

THINGS TO LOOK FOR

ENB REPORT: The *Earth Negotiations Bulletin* report containing a summary and analysis of COP/MOP-2 and of the meeting of the *Ad Hoc* Group on Liability and Redress, held immediately prior to COP/MOP-2, will be available online on Monday, 6 June, at <http://www.iisd.ca/biodiv/bs-copmop2/>