

COP/MOP 4 HIGHLIGHTS: MONDAY, 12 MAY 2008

The fourth 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 4) opened in Bonn, Germany on Monday, 12 May. In the morning plenary delegates heard opening statements and reports on the compliance committee, the financial mechanism, the budget, and liability and redress. In the afternoon delegates convened in two working groups (WGs). WG I considered the compliance committee, handling transport packaging and identification (HTPI) of living modified organisms (LMO), and socioeconomic concerns. WG II addressed the Biosafety Clearing House (BCH), capacity building, and the biosafety roster of experts. A contact group on liability and redress met at lunchtime and in the evening.

OPENING PLENARY

Raymundo Rocha Magno, on behalf of Marina Silva, Brazil's Minister of the Environment, welcomed delegates and underscored that COP/MOP 4 constitutes an opportunity for reaching agreement on rules and procedures for liability and redress. Ursula Heinen, German Federal Ministry of Food, Agriculture and Consumer Protection described the Protocol as a historic step towards the sustainable use of modern biotechnology.

Speaking on behalf of UNEP Executive Director Achim Steiner, Maryam Niamir-Fuller (UNEP) detailed technical and financial assistance provided by UNEP to developing countries to implement biosafety frameworks, and outlined GEF funding available under its biosafety programme. Ahmed Djoghlafl, CBD Executive Secretary, highlighted progress made by the Friends of the Chair group on liability and redress which preceded COP/MOP 4 and urged parties to complete negotiations by Friday.

Alexander Schink, Ministry of the Environment and Conservation, Agriculture and Consumer Protection of the German State of North Rhine-Westphalia described its policies on protected areas and reducing the impact of economic development. Joachim Flasbarth, German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety, stated that genetically modified organisms are a political priority due to their wide use.

ORGANIZATIONAL MATTERS: Wolfgang Koehler (Germany) COP/MOP 4 President, reminded delegates that the COP Bureau serves as the COP/MOP Bureau, noting that bureau members from non-parties, namely Canada and Chile, would

be replaced by Norway and Mexico. Delegates elected Deon Stewart (Bahamas) as Rapporteur and approved the meeting's agenda and organization of work (UNEP/CBD/BS/COP-MOP/4/1 and Add.1). Delegates then elected Beate Berglund Ekeberg (Norway) and Reynaldo Alvarez Morales (Mexico) as Chairs of Working Group I and Working Group II.

REPORTS: Veit Koester (Denmark) presented the compliance committee report and recommendations (UNEP/CBD/BS/COP-MOP/4/2) highlighting, among other issues, the low number of national reports on Protocol implementation. Jaime Cavelier, Global Environment Facility (GEF), reported on the implementation of the strategy to support activities for building capacities for the effective implementation of the Protocol.

CBD Executive Secretary Ahmed Djoghlafl reported on the administration of the Protocol and the proposed budget for the biennium 2009-2010 (UNEP/CBD/BS/COP-MOP/4/7), emphasizing the need to increase staff to implement Protocol activities. He explained that zero budget growth would be inadequate. In response, JAPAN noted that its policy of zero nominal growth is supported by other delegations, while NORWAY expressed concern that this would reduce activities on biosafety. Slovenia, for the EU, called for a realistic budget reflecting policy decisions in the context of the declining dollar. Delegates decided to establish a contact group, chaired by Ositadinma Anaedu (Nigeria), to further discuss the budget.

Jimena Nieto, Co-Chair of the *Ad hoc* Open-ended Working Group on Liability and Redress presented the Working Group's final report (UNEP/CBD/BS/COP-MOP/4/11). She noted that the Friends of the Chair group had produced a streamlined compilation of proposed operational texts on approaches and options for rules and procedures for liability and redress (UNEP/CBD/BS/COP-MOP/4/11/Add.1). A contact group, co-chaired by Jimena Nieto (Colombia) and René Lefebvre (the Netherlands) was established to meet throughout the week in order to finalize the negotiations by Thursday 15 May.

STATEMENTS: Many delegates stressed the priority of reaching agreement on liability and redress, with MALAYSIA saying that delegates would otherwise fail the global community. INDONESIA supported a legally binding administrative approach, an enabling clause on civil liability, and mitigated strict liability. JAPAN noted that divergence stems from divergent views regarding biotechnology and committed to concluding negotiations during the meeting. The EU and INDIA highlighted the need to strengthen implementation through capacity building and the BCH.

WORKING GROUP I

COMPLIANCE: Delegates considered the compliance committee report (UNEP/CBD/BS/COP-MOP/4/2), and experiences of other multilateral environmental agreements regarding non-compliance (UNEP/CBD/BS/COP MOP/4/2/Add.1). Many expressed concern about the low number of national reports. JAPAN and BRAZIL opposed stating that failure to report constitutes non-compliance. Developing countries called for facilitated access to GEF support for national reporting and substantial increases in funding.

Many parties favored postponing discussion of procedures for addressing repeated non-compliance, since such cases have not been brought before the Committee. Several also suggested that the Committee meet only once a year. Developing country parties called for capacity building on: reporting, sampling and detection and for addressing illegal transboundary movements of LMOs. The EU and COLOMBIA supported developing a mechanism to replace Committee members who resign during the intersessional period. The EU, NORWAY, COLOMBIA, and PERU supported removing brackets around Rule 18 (voting) of the Committee's rules of procedure to allow decisions by two-thirds majority. A Chair's text will be prepared.

HTPI: On standards for HTPI (UNEP/CBD/BS/COP-MOP/4/8), many parties called for increased cooperation between the CBD and other organizations and supported the idea of an online conference to consider this issue. A number of delegates rejected establishment of a subsidiary body under the Protocol to consider scientific issues such as HTPI.

Regarding sampling and detection (UNEP/CBD/BS/COP-MOP/4/9), NORWAY supported harmonization of sampling and detection methods. Pointing to work of other international fora, the EU, COLOMBIA, BRAZIL and NEW ZEALAND opposed the establishment of an *ad hoc* technical expert group (AHTEG).

Delegates then discussed the use of a stand-alone document or existing documentation to fulfill identification requirements of Article 18 paragraphs 2(b) and 2(c) (UNEP/CBD/BS/COP-MOP/4/14). The EU and CUBA suggested deferring further discussion until a review can be undertaken on the basis of the second national reports. NORWAY opposed this, suggesting collection of further information for consideration by COP/MOP 5. JAPAN, NEW ZEALAND and the GLOBAL INDUSTRY COALITION preferred using existing documentation. A chair's text will be prepared.

SOCIOECONOMIC CONSIDERATIONS: Delegates considered socioeconomic considerations (UNEP/CBD/BS/COP-MOP/4/15). Many supported further research and information sharing through the BCH. COLOMBIA said that information should be based on scientific research and objective criteria. THAILAND supported capacity building on research and information exchange. NORWAY called for a subsidiary body under the Protocol or an AHTEG to consider research needs. The EU called for coordination with other fora and sharing different types of information through the BCH. EGYPT said that socioeconomic considerations relate to many impacts and depend on the specific conditions. Discussions will continue on Tuesday.

WORKING GROUP II

BIOSAFETY CLEARING HOUSE: Delegates commented on the operation and activities of the BCH (UNEP/CBD/BS/COP-MOP/4/3), with many interventions focusing on the lack of information provided by parties, and the need for continued capacity-building projects. The EU proposed standardization and structuring of data, and making the interface more user friendly. A Chair's text will be prepared.

CAPACITY BUILDING: On the status of capacity building activities (UNEP/CBD/BS/COP-MOP/4/4 and Add.1), many countries emphasized the importance of capacity building for

effective implementation of the Protocol. Uganda, on behalf of the AFRICAN GROUP, called for the integration of biosafety into broader sustainable development strategies and donor programmes. NORWAY emphasized civil society participation. JAPAN opposed the further development of the preliminary set of indicators for monitoring the implementation of the action for capacity-building. IRAN underlined the lack of risk assessment experts and called for financial and intellectual support for risk assessment and management. NEW ZEALAND opposed the revised set of indicators and favored incorporating the subset of preliminary indicators into a national reporting format. The EU emphasized complimentary and coordinated guidance on programming priorities to avoid delays during the fifth GEF replenishment period, and highlighted developing capacity on biosafety data gathering. A chair's text will be prepared.

ROSTER OF BIOSAFETY EXPERTS: The AFRICAN GROUP, EL SALVADOR and the EU expressed general support for the selection criteria for the roster of biosafety experts (UNEP/CBD/BS/COP-MOP/4/4/Add.2), proposing minor changes. JAPAN and NORWAY said the roster should be streamlined. A Chair's text will be prepared.

CONTACT GROUP

LIABILITY AND REDRESS: Delegates agreed to start their deliberations with the choice of instrument, noting that this is the most controversial issue that will also inform choices in other substantive sections. Delegates debated the following options: non-legally binding guidelines; a legally binding regime; and a two step-approach consisting of developing one or more non-binding instruments, evaluating the effects of the instrument(s), and then considering developing one or more legally binding instruments. Pointing to divergence of views and differences in domestic laws, some delegates opposed a legally binding regime, underscoring the lack of time and the complexity of such a regime. Many supported a legally binding instrument to encompass civil liability, while some proposed only making the administrative approach legally binding. Several delegates noted that the administrative approach had been proposed by countries opposed to a civil liability regime and, since it did not address certain important elements, making the administrative approach binding would not constitute a sufficient compromise.

During the evening session, many delegates supported, meeting in like-minded groups, including those parties who supported a legally binding civil liability regime to be approved at COP/MOP 4, to discuss possible compromises. Despite some delegates' concern about losing valuable negotiating time, the meeting was suspended until 11 pm to allow for consultations.

IN THE CORRIDORS

As delegates arrived in sunny Bonn for a week of negotiations on a wide range of biosafety issues, liability and redress was first and foremost on everybody's mind. Most delegates welcomed the open discussion on the choice of instrument in the contact group, which had been strategically avoided during previous negotiations, with one noting that "this will get things moving." Still, many found it hard to see a way out of the entrenched positions, despite the existence of some delegates who indicated flexibility, referred to by one delegate as "super-delegates." Pointing to the seating arrangements in the contact group room where the "friends of a legally binding civil liability regime NOW" were seated across from the "friends of non-legally binding rules and procedures on liability and redress," some delegates quipped that now that delegations had finally revealed their cards it is time for the "final showdown."