

## COP/MOP 5 HIGHLIGHTS: MONDAY, 11 OCTOBER 2010

The fifth 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 5) opened in Nagoya, Aichi Prefecture, Japan on Monday, 11 October. In a morning plenary, delegates heard opening statements and reports on the Compliance Committee, financial mechanisms and resources, cooperation administration and budgetary matters, and liability and redress. In the afternoon, delegates convened in two working groups (WGs). WG I addressed compliance, rights and obligations of parties of transit of living modified organisms (LMOs), assessment and review and monitoring and reporting. WG II considered the Biosafety Clearing-House (BCH) and capacity building.

### OPENING PLENARY

Wolfgang Köhler, Federal Ministry of Food, Agriculture and Consumer Protection of Germany and COP/MOP 4 President, said the time was right to adopt the supplementary protocol on liability and redress and other matters such as a decision on public awareness and education. Assuming the Presidency of COP/MOP 5, Michihiko Kano, Minister for Agriculture, Forestry and Fisheries, Japan, stressed the importance of achieving tangible results, especially regarding liability and redress, and called for capacity building for the Protocol's implementation.

Masaaki Kanda, Governor of Aichi Prefecture, said that biodiversity conservation should be embraced and owned by people around the world. He called on the citizens of Nagoya to learn from discussions on the transboundary movement of LMOs and genetically modified organisms. Takashi Kawamura, Mayor of Nagoya, gratefully acknowledged that the supplementary protocol on liability and redress will be co-named after his city. He highlighted the quality of the city's headwaters and progress made in the restoration of the Horikawa river. Balakrishna Pisupati, on behalf of UNEP Executive Director Achim Steiner, drew attention to UNEP's role in supporting the development of national biosafety frameworks and access to the BCH.

CBD Executive Secretary Ahmed Djoghlaif lauded the agreement reached on liability and redress, noting that the proposed name, the Nagoya-Kuala Lumpur protocol, highlights the need for a strong North-South partnership to save life on earth. He urged action on the COP/MOP's remaining challenges, including risk assessment. A group of children from Aichi Prefecture presented handmade wooden nameplates crafted by the Lumberkids Program, which seeks to increase awareness about forest and biodiversity conservation.

**ORGANIZATIONAL MATTERS:** Hidenori Murakami, advisor to the Japanese Minister of Agriculture, Forestry and Fisheries, speaking for the COP/MOP 5 President, noted that the Bahamas had replaced Haiti in the COP/MOP Bureau and invited Snežana Prokić (Serbia) to serve as the COP/MOP 5 rapporteur. Delegates adopted the agenda and organization of work (UNEP/CBD/BS/COP-MOP/5/1 and 1/Add.1), and approved Darja Stanič Racman (Slovenia) and James Seyani (Malawi) as Chairs of WG I and WG II, respectively.

**REPORTS:** Delegates then heard reports on: the Compliance Committee (UNEP/CBD/BS/COP-MOP/5/2); financial mechanisms and resources (UNEP/CBD/BS/COP-MOP/5/5 and UNEP/CBD/COP/10/6); cooperation with other organizations, conventions and initiatives (UNEP/CBD/BS/COP-MOP/5/6); and the Protocol's administration and budgetary matters and the proposed budget and work programme for the biennium 2011-2012 (UNEP/CBD/BS/COP-MOP/5/7 and 7/Add.1). The Global Environment Facility (GEF) reported on support provided for the Protocol's implementation. The COP/MOP established a budget contact group, chaired by Conrad Hunte (Antigua and Barbuda).

**LIABILITY AND REDRESS:** Jimena Nieto (Colombia), Co-Chair of the Group of Friends of the Co-Chairs on Liability and Redress, presented the group's report (UNEP/CBD/BS/COP-MOP/5/11), recalling that parties' decision to not adopt guidelines on civil liability does not preclude their potential elaboration at a later stage. Co-Chair René Lefeber (the Netherlands) expressed hope that the supplementary protocol, being the first agreement to be adopted in years, would provide an important impetus to multilateral environmental negotiations. He thanked all participants in the negotiations, the CBD Secretariat, and the *Earth Negotiations Bulletin* for their work during the negotiations. Delegates established a legal drafting group, co-chaired by Jimena Nieto and René Lefeber, to revise the text for clarity and consistency.

**STATEMENTS:** Indonesia, for the ASIA-PACIFIC GROUP, prioritized: a comprehensive and applicable Strategic Plan, coordination among parties, capacity building for developing countries and the financial mechanism, noting that the Strategic Plan must be fully financed. Malawi, for the AFRICAN GROUP, stressed further assistance, capacity building and financial resources to implement COP/MOP 5 decisions; technology transfer; information sharing and exchange of lessons learned. Ukraine, for CENTRAL AND EASTERN EUROPE (CEE), stressed compliance, capacity building, and improvements to the financial mechanism. The EU highlighted the Protocol's Strategic Plan. KENYA said that rich countries should not stand in the way of innovations like LMOs which can provide basic

needs for millions. INDIA offered to share knowledge and experience on capacity building and LMO regulation, inviting delegates to COP/MOP 6 to be held in India.

#### WORKING GROUP I

**COMPLIANCE:** Delegates considered the report of the Compliance Committee (UNEP/CBD/BS/COP-MOP/5/2) and a compilation of views on how to improve its supportive role (UNEP/CBD/BS/COP-MOP/5/2/Add.1). The EU supported a more active role of the Committee in cases where national reports are not submitted or reveal difficulties to comply. BRAZIL, ARGENTINA and CANADA emphasized the supportive role of the Committee and the non-adversarial nature of compliance procedures. Cameroon, on behalf of the AFRICAN GROUP, supported by INDIA and NORWAY, stressed capacity building, with JAPAN and NORWAY pointing out the limited availability of funds. MALAYSIA proposed wording on a GEF pilot project. COLOMBIA cautioned against making GEF funding conditional on compliance with reporting requirements.

**TRANSIT OF LMOs:** Delegates considered the rights and/or obligations of parties of transit of LMOs (UNEP/CBD/BS/COP-MOP/5/10). Cameroon, on behalf of the AFRICAN GROUP, highlighted that the lack of submissions by African states is due to the lack of experience and existence of national biosafety frameworks. KENYA said that national, regional and international requirements regarding transit of LMOs should be enforced.

**MONITORING AND REPORTING:** Delegates considered UNEP/CBD/BS/COP-MOP/5/14/Rev.1 including a new format for national reporting. Given the limited rate of submissions for the first national report, NEW ZEALAND cautioned that the increased information requirements in the new format could be challenging. The EU called for consistency across agenda items regarding calls on GEF to support national reports. CUBA, LIBERIA and the EU raised concerns on the time frames to submit the second national report considering the proposed information requirements. INDIA said information requirements on liability and redress should only apply after the supplementary protocol enters into force. GUATEMALA, supported by MALAYSIA and UGANDA, emphasized timely access to financial support to prepare national reports. ARGENTINA said that non-parties should be allowed to present voluntary national reports.

**ASSESSMENT AND REVIEW:** Delegates discussed the approach and criteria for assessment and review (UNEP/CBD/BS/COP-MOP/5/15). On criteria for selecting participants for an expert group to evaluate the Protocol's effectiveness, MEXICO proposed expertise, experience and regional representation, noting that the process should be transparent. BRAZIL suggested separate indicators to assess compliance with domestic frameworks and the Advanced Informed Agreement (AIA) procedure. The Public Research and Regulation Initiative (PRRI) proposed inquiring why some parties have not established domestic biosafety procedures.

#### WORKING GROUP II

**BCH:** The Secretariat introduced UNEP/CBD/BS/COP-MOP/5/3 on BCH operation and activities, highlighting improvements made to the BCH. Several developing country parties called for enhanced financial support for building capacities in using the BCH. Uganda, on behalf of the AFRICAN GROUP, MEXICO and JORDAN, called for expanding the number of parties participating in the UNEP-GEF BCH project.

INDIA, MEXICO and ARGENTINA recommended developing synergies between related databases, with ARGENTINA suggesting an expert group to standardize information. JAPAN and CHINA stressed that the BCH's priority is providing information to parties, while CHINA stressed it should make available information on LMOs from all countries. NORWAY urged countries to be mindful of budgetary

implications in making suggestions to improve the BCH. The EU stressed the timely manner of information reporting, particularly for risk assessment of LMOs and the AIA procedure.

The REPUBLIC OF KOREA proposed encouraging training activities on the national and sub-regional level. COLOMBIA stressed building capacities of customs and environmental agencies and training the public on providing and using information relevant to their countries. ARGENTINA offered to share its experience in online training. PRRI stressed the importance of accurate and complete information for public research and called on countries to provide information to the BCH.

#### CAPACITY BUILDING: Status of capacity-building

**activities:** The Secretariat introduced relevant documents (UNEP/CBD/BS/COP-MOP/5 and INF/3,4,7,8 and 9). The EU stressed identification and prioritization of capacity-building needs, regional capacity-building projects and toolkits for regional and sub-regional approaches. VIETNAM called for GEF support for capacity building. MEXICO and COLOMBIA called for broader developing country participation in online fora.

The EU, NEW ZEALAND, INDONESIA, ARGENTINA and the REPUBLIC OF KOREA considered it premature to convene an *ad hoc* expert group (AHEG) on capacity-building needs for research and information exchange on socio-economic impacts of LMOs, with the EU preferring to convene only an online forum. INDIA suggested narrowing the AHEG's mandate from "developing" to "documenting" criteria for evaluating which socio-economic criteria to include in their national decision-making frameworks.

The AFRICAN GROUP requested that the AHEG meet at least once before COP/MOP 6, with NIGERIA stressing the need to consider socio-economic issues. BOLIVIA recommended the creation of a working group focused on the value of LMOs with respect to their impacts on local communities. ARGENTINA referenced the challenges of including the issue in risk analysis. The REPUBLIC OF KOREA asked for more time for research. CHINA said the AHEG's terms of reference should be further discussed.

**Roster of Biosafety Experts:** Delegates considered UNEP/CBD/BS/COP-MOP/5/4/Add.1. The EU recognized the importance of assessing the roster. KENYA, supported by UGANDA, suggested awareness-raising at the experts' home institutions to facilitate their release. SOUTH AFRICA noted that some nominated experts are not employed by governments, making it difficult for them to assume responsibilities under the Protocol. UGANDA also proposed that parties furnish the Secretariat with experiences gained and challenges met in nominating experts, and requested that the nomination process be participatory. PRRI inquired about the vetting of nominated experts.

#### IN THE CORRIDORS

Only a few hours after the breakthrough on liability and redress, COP/MOP 5 opened in positive spirits despite the fact that numerous delegates were still bleary-eyed from the series of pre-meeting late night sessions to resolve the impasse over references to LMOs and their products. After spending several days defending their positions with regard to the supplementary protocol, delegates were relieved to switch to cooperative mode and to work together to enhance the Biosafety Protocol's effectiveness. One delegate quipped that "it feels like we are a family again."

In Working Group I, delegates raced through the text, finishing in a few hours that led some to wonder whether there was some mystery behind the "silent" solidarity in the meeting room. Others optimistically suggested the issues were not contentious because countries' contributions had already been reflected in the documents. One smiling delegate attributed the general lack and lag of response to jetlag, sleep deprivation and/or celebratory *sake*. Was finishing Liability a liability?