

CBD COP 10 HIGHLIGHTS WEDNESDAY, 27 OCTOBER 2010

The high-level segment convened throughout the day. Working Group I addressed draft decisions on the GTI, incentive measures, IAS, agricultural biodiversity and climate change. Working Group II considered draft decisions on the financial mechanism, SBSTTA effectiveness and the strategic plan. ABS negotiations focused on compliance, TK, and the draft COP decision. Several contact and informal groups met during the day and into the night.

HIGH-LEVEL SEGMENT

OPENING: Ryu Matsumoto, Minister of the Environment of Japan, opened the high-level segment. Joseph Deiss, President of the UN General Assembly, conveyed expectations from the high-level meeting of the UN General Assembly on biodiversity for an agreement on ABS, the adoption of a strategic plan, and the timely establishment of IPBES.

In a video message, UN Secretary-General Ban Ki-moon, also urged parties to adopt an international regime on ABS and the strategic plan, and commended Japan's call for a UN Decade on Biodiversity. Ali Bongo Ondimba, President of Gabon, reported on the Pan-African Conference on Biodiversity and Poverty Alleviation, and supported the establishment of IPBES, proposing an African committee be set up to contribute to Africa's scientific and technical capacities.

Ali Mohammed Mujawwar, Prime Minister of Yemen, on behalf of G-77/China, stated the need to adopt the revised strategic plan but said that no success will be achieved without adequate financial resources. Robert Zoellick, World Bank President, pointed towards the Global Tiger Initiative as an example of successful conservation engaging a broad range of government and community stakeholders.

Achim Steiner, UNEP Executive Director, stressed that science and economics must play a key role in providing independent advice and illustrating how conventional models of growth have resulted in extraordinary impoverishment. Monique Barbut, GEF CEO and Chairperson, pointed to the 50% increase in GEF funding and initiatives for making GEF funds more accessible through a range of new partnerships. Ahmed Djoghlaif, CBD Executive Secretary, implored parties to act on behalf of future generations and reach an agreement on the ABS protocol. Naoto Kan, Prime Minister of Japan, announced the Life in Harmony Initiative, which will disperse US\$2 billion over three years, to assist developing country development and implementation of NBSAPs.

STATEMENTS: In the afternoon, a number of participants, including SWEDEN, NAMIBIA, and PORTUGAL, noted the opportunity for adopting a revised strategic plan and an ABS protocol, to make up for the missed 2010 target. LUXEMBOURG and AUSTRIA added that failing to reach agreement would jeopardize the credibility of the CBD, and MEXICO described COP 10 as an historic tipping point for the Convention. The UK, BRAZIL, FINLAND, THAILAND and INDONESIA said that the revised strategic plan, an ABS protocol, and resource mobilization formed mutually supportive objectives.

SWEDEN, JAPAN, the REPUBLIC OF KOREA, PORTUGAL and others singled out an agreement on ABS as a key issue, while MEXICO and others said that an effective ABS compliance regime was essential. CANADA said that an ABS protocol should be reasonable, transparent, and balance the obligations of users and providers of genetic resources. The PHILIPPINES and FINLAND suggested that a new strategic plan should be strong and ambitious, while INDONESIA and the UK said that it should be based on clear and measurable targets.

BRAZIL, the EU, MAURITANIA and others noted the importance of devising an effective strategy for resource mobilization. MALAYSIA and PALAU stressed that adequate and effective resource mobilization would be required to meet future targets. FINLAND, the UK, and the US noted their increased contributions to the GEF. JAPAN highlighted its Satoyama Initiative, for which SUDAN and TUNISIA expressed appreciation. Several countries noted the need to explore innovative financial mechanisms, including from both the public and private sectors.

The EU, SINGAPORE and SRI LANKA highlighted TEEB and the need to incorporate economics into decisions affecting biodiversity and natural resources. The REPUBLIC OF KOREA, BENIN and the US supported IPBES as a valuable tool for filling the gap between science and policy-making.

Several participants, including the EU, invoked the spirit of compromise as critical for advancing negotiations, while BRAZIL and GRENADA added that flexibility and mutual understanding were needed to avoid endless future meetings. Many stressed that biodiversity loss was not a sectoral issue, and could only be addressed alongside climate change, desertification, poverty reduction, and other issues. ANGOLA, PANAMA and others pointed towards the need to pursue synergies between the CBD and other international agreements.

WORKING GROUP I

Delegates heard reports from contact groups on marine biodiversity and biofuels. Chair Hufler requested both groups to continue as Friends of the Chair groups; and to reconvene the Friends of the Chair group on REDD+, requesting Japan to report on the outcomes of Tuesday's ministerial panel on REDD+.

GTI: PERU reiterated the need to require PIC for accessing ILCs' taxonomic knowledge. After deliberations, delegates agreed to make reference to the CBD objectives and, where applicable, PIC and/or approval and involvement of ILCs, as well as relevant national legislation. On exchange of taxonomic voucher specimens for non-commercial research, the AFRICAN GROUP reiterated that the reference remains bracketed pending adoption of the ABS protocol. PERU and GUATEMALA requested adding reference to PIC for uses other than taxonomy. Chair Hufler suggested inserting "with due regard for the need to address changes in use and intent," with the understanding that brackets will be removed once the ABS protocol is adopted. Delegates approved the draft decision as amended.

INCENTIVES: On perverse incentives, the EU proposed, and delegates agreed, to include a reference to sectors that potentially affect biodiversity. On sustainable consumption and production patterns, the EU requested referring to procurement policies that are in line with the CBD objectives. Delegates approved the draft decision with these amendments.

IAS: BELARUS suggested that the Secretariat compile and distribute existing information on IAS and related management responses, including guidelines on IAS. GUINEA proposed new text promoting transboundary cooperation on IAS management, particularly in river basin regions.

Regarding the annexed TORs for the AHTEG, NEW ZEALAND suggested replacing early warning systems with early detection and rapid response systems. The draft decision was approved as amended, with the exception of text referencing IAS used in biofuel production under consideration by the Friends of the Chair group on biofuels.

AGRICULTURAL BIODIVERSITY: Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.10). They agreed to remove brackets on references to the revised strategic plan. On collaboration with the CGRFA on analyzing impacts of intellectual property rights (IPRs), PERU, opposed by CANADA, suggested adding analysis of the use of species important for food security in other sectors. The EU, opposed by the CBD ALLIANCE and NORWAY, requested deleting reference to impacts of IPRs on small-scale farmers. Following informal consultations, delegates agreed to review trends on the extent of IPRs over genetic resources, including relevant forest and rangeland genetic resources, including, where appropriate, the impact on food security when genetic resources are patented or IPRs are acquired for other sectors such as pharmaceutical, cosmetics and other types of industries.

On a Chair's proposal regarding promoting opportunities for sustainable productivity increases through maintaining functioning of agricultural ecosystems, their biodiversity and services, the EU suggested adding "including conservation and sustainable use of genetic resources." Delegates agreed to delete language on compiling and disseminating information on the impact of trade-related incentives. Delegates also supported an IIFB request to invite parties to support "farmers" in *in situ* conservation of "local," in addition to traditional, varieties, with BRAZIL requesting consistency with the CBD and relevant international obligations. The draft decision was adopted as amended.

CLIMATE CHANGE: Delegates considered a draft decision (UNEP/CBD/COP/10/WG.1/CRP.11). Delegates agreed to: delete a call to provide climate funding for addressing climate change impacts on biodiversity; and refer to "enhancing cooperation" rather than "building synergies" between the Rio Conventions.

NORWAY and the EU requested reference to co-benefits, opposed by BOLIVIA who preferred listing specific benefits. Delegates agreed to refer to multiple benefits, including ecological, social, cultural and economic ones. BRAZIL requested deleting text on ensuring that no areas of high conservation value or species richness are used or converted for renewable energies, while AUSTRALIA and the PHILIPPINES, opposed by BOLIVIA and the DOMINICAN REPUBLIC, proposed taking note of these areas when developing and implementing renewable energy policies. Delegates agreed to consider biodiversity components for conservation and sustainable use when planning and implementing renewable energy activities.

BOLIVIA expressed concerns on the proposed definition of geo-engineering, requesting to note that the exclusion of carbon capture and storage cannot be interpreted as an acceptance of such activities, but accepted to note the concern in the meeting report.

Following a report from the Friends of the Chair group on REDD+, Chair Hufler proposed alerting the COP Presidency of continuing divergence on safeguards, for consideration during the ongoing ministerial consultations.

WORKING GROUP II

FINANCIAL MECHANISM: Review of guidance to the financial mechanism: Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.22). Proposed amendments to the annexed consolidated guidance were withdrawn following an explanation that the wording reflected previous COP decisions. Delegates adopted the draft decision with minor amendments to refer to the strategic plan 2011-2020 throughout.

Assessment of funds needed for the sixth GEF replenishment: Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.23). Regarding the annexed TORs for the assessment, CHINA proposed that experts be contracted from developing countries, ensuring regional balance; and, supported by the PHILIPPINES, that the assessment of funding needs take into account the strategic plan 2011-2020. The draft decision was adopted as amended.

Preparation of the fourth review of the effectiveness of the financial mechanism: Delegates considered a draft decision (UNEP/CBD/COP/10/WG.2/CRP.24). Regarding the annexed TORs, the EU, SWITZERLAND, UKRAINE and JAPAN requested that the review draw on information from "all" parties, whereas the AFRICAN GROUP requested specific reference to developing countries, including LDCs and SIDS, with the PHILIPPINES adding the "most environmentally vulnerable" countries. The RUSSIAN FEDERATION proposed, and delegates agreed, to list those countries along with countries with economies in transition and developed countries. The draft decision was adopted as amended.

SBSTTA EFFECTIVENESS: Delegates addressed a draft decision (UNEP/CBD/COP/10/WG.2/CRP.25). On the implications of IPBES for SBSTTA, MEXICO proposed that IPBES be responsive to CBD needs, thereby strengthening SBSTTA, in consistency with prior decisions. On requesting SBSTTA to focus on scientific and technical aspects of the strategic plan and the MYPOW, CANADA suggested referring to SBSTTA's work under the authority of, and in accordance with, guidance from the COP and upon its request. The decision was adopted as amended.

STRATEGIC PLAN: Following discussions in a contact group focusing on the mission and the target related to Article 8(j), delegates discussed a draft decision (UNEP/CBD/COP/10/WG.2/CRP.26) in the Working Group. Contact group Co-Chair Fazel reported on agreement on the decision text, with the exception of one provision on adequate financial resources for implementation, which remained in brackets pending parallel discussions. Regarding the annexed strategic plan, he noted the group had reached agreement on 12 headline targets. He reported that a small group on the mission had reached agreement on the body of the provision, but the chapeau contained options referring to actions “to halt” or “towards halting” biodiversity loss with “by 2020” also remaining in brackets.

Draft decision: On an operative paragraph referring to the use of NBSAPs to mainstream biodiversity, CHINA asked to remove a reference to national accounts, but following requests by the EU, PALAU and the AFRICAN GROUP to retain it, agreed to retain it with the qualification “as appropriate.” The IIFB, supported by PARAGUAY and GABON, requested inviting parties to take note of UNDRIP in implementing the strategic plan, with NEW ZEALAND adding “as appropriate and in accordance with national legislation,” to which delegates agreed.

Delegates then debated a bracketed provision inviting parties, the GEF and others to provide adequate financial support for the strategic plan implementation, and calling for effective implementation of developed countries’ financial commitments. The EU, supported by SWITZERLAND, requested to keep the provision bracketed, pending discussions on financial issues. The AFRICAN GROUP, CHINA and several developing countries asked to remove the brackets, with MEXICO and BRAZIL pointing out that the proposed wording was the same in previous COP decisions. BRAZIL proposed removing brackets and having a separate bracketed provision on the GEF. LIBERIA stated that absent agreement on financing, there was no need to discuss the strategic plan. SOUTH AFRICA and MEXICO stressed that discussions on the strategic plan should inform discussions on resource mobilization and financial resources, and not *vice versa*. The EU pointed out that the level of available resources should determine priorities for the strategic plan, and that the provision should be left pending. Noting disagreement on this critical issue, Co-Chair Luna suspended the meeting.

When discussions resumed, the EU, supported by NEW ZEALAND and others, agreed to Brazil’s proposal to remove reference to GEF and lift the brackets from the paragraph. The EU proposed, and delegates agreed to, an additional provision requesting the GEF to provide adequate, timely and predictable financial support to eligible countries to enable the strategic plan implementation.

Strategic Plan 2011-2020: CANADA, supported by BRAZIL, proposed specifying that the strategic plan constitutes a “flexible” framework.

Mission: The EU, with AUSTRALIA, the PACIFIC ISLANDS, SWITZERLAND and NORWAY, called for a strong political message supporting the option “to halt by 2020” biodiversity loss. BRAZIL, CHINA, the AFRICAN GROUP, ECUADOR, INDIA and others supported the option “towards halting” the loss of biodiversity “by 2020.” While supporting the latter, MALAYSIA and MEXICO indicated flexibility to consider “to halt” without including a deadline.

Regarding the reference to adequate financial resources in the mission, NEW ZEALAND, supported by the EU and SWITZERLAND, and opposed by BRAZIL and the AFRICAN GROUP, proposed replacing “provide” with “mobilize” financial resources.

Headline targets: Delegates approved the first four targets, all under the heading to address the underlying causes of biodiversity loss by mainstreaming biodiversity, with the inclusion of “as appropriate” after the reference to national accounting in the target on integrating biodiversity values into development and poverty reduction strategies.

Regarding the fifth target, BRAZIL, supported by the AFRICAN GROUP and SWITZERLAND, proposed compromise language that: by 2020 the rate of loss of all natural habitats, including forests, is at least halved and, where feasible, brought close to zero, and degradation and fragmentation is significantly reduced. The EU stressed the need to highlight forests, opposed by the PACIFIC ISLANDS, MALAYSIA, COLOMBIA and SOUTH AFRICA. Co-Chair Luna invited informal discussions on the issue.

INFORMAL CONSULTATIVE GROUP ON ABS

In the morning, ICG Co-Chair Hodges informed delegates that consultations on utilization and derivatives, and bilateral meetings on compliance are ongoing.

TK: Small group Chair Janet Lowe (New Zealand) reported agreement on: a preambular reference “noting” UNDRIP, which Canada accepted following consultations with their capital; and a preambular reference to the unique circumstances where TK associated with genetic resources, which may be oral or documented or in other forms, is held in countries. She said pending issues included: sharing of the benefits arising from the utilization of genetic resources and/or TK associated with genetic resources held by ILCs, with the communities concerned (article 4(1) *bis*), on which Canada was still consulting; different options referring to requiring ILCs’ PIC or approval and involvement for access to their genetic resources (article 5(1) *bis*); and publicly available TK (article 9(5)). The IIFB expressed concern regarding their exclusion from negotiations on TK.

In the afternoon, following further consultations, Chair Lowe reported on emerging consensus on article 5(1) *bis*, to state that, in accordance with domestic law, parties shall take measures, as appropriate, with the aim of ensuring that the PIC or approval and involvement of ILCs is obtained for access to genetic resources, where they have the established right to grant access to such resources. She noted that one group is still consulting. The IIFB stressed their concern with reference to “established” rights.

In the evening, compliance small group Co-Chair Shikongo reported on bilateral meetings with parties and regions, highlighting that there was room for compromise in parties’ instructions, but that they needed clear instructions on the search for compromise. Noting that the situation was “sobering” but there was still a “good chance” to finalize the protocol, ICG Co-Chair Hodges suggested continued consultations on compliance, publicly available TK, and utilization and derivatives; and convening a legal drafting group in the evening.

The REPUBLIC OF KOREA noted that parties have diverging interpretations on whether certain issues would fall under the ICG’s mandate. The LIKE-MINDED ASIA-PACIFIC stressed that some parties use diverging interpretations to avoid addressing biopiracy.

ACCESS: Consultations were held on outstanding issues, including: equal treatment in applications (article 5(2)(a) *bis*); subjecting approval of all applications to EIA (article 5(1) *ter*); and a provision on parties providing for appropriate administrative or judicial appeals procedures (article 5(2)(g)).

COP DECISION: At lunchtime, the small group conducted a first reading of the work plan for the protocol’s intergovernmental committee, including issues for consideration at its first and second meetings, focusing, among others, on

budgetary issues and a reference to the modalities for the establishment of an ABS ombudsperson office. Delegates then discussed outstanding items, including the meeting schedule, officials of the intergovernmental committee and requests to the Secretariat to make available guidelines and model contractual clauses to the CHM.

In the afternoon, the ICG reviewed the draft decision. The EU noted that the budget group decided that the core budget will cover one meeting of the intergovernmental committee, and the second one should be covered by voluntary contributions, requesting bracketing references to such meetings until discussions on the budget conclude.

CONTACT GROUPS AND INFORMALS

BIOFUELS: The Friends of the Chair group met throughout the day. Delegates agreed on language for the decision on IAS, to be referenced in the preamble of the decision on biofuels, on applying the precautionary approach to the introduction, establishment and spread of IAS for agricultural and biomass production, including biofuel feedstock and for carbon sequestration, following the CBD guiding principles on IAS.

Delegates then discussed future action by the Secretariat, agreeing to delete reference to a “toolkit” and instead request the Secretariat to analyze and disseminate information on tools for voluntary use to assess direct and indirect impacts of biofuel production and use on biodiversity and related socioeconomic conditions. Delegates also agreed to request the Secretariat to “contribute to and assist with” the ongoing work of relevant partner organizations and processes in relation to the production and use of biofuels and biomass for energy production, with several qualifiers.

MARINE BIODIVERSITY: The Friends of the Chair group considered a revised Chair’s text. On text calling for minimizing the specific and cumulative detrimental impacts of human activities on marine biodiversity, delegates agreed to reference biotechnology, rather than bioprospecting. Delegates discussed at length a “funding omnibus” proposal by a developing country, dealing with the role of GEF and other funding sources. Drawing attention to a 40% increase in funding for MPAs during the GEF’s fourth replenishment, a GEF representative reported on “positive internal informal communication” on funding regional workshops on identifying EBSAs prior to SBSTTA 15.

ARTICLE 8(J): Code of ethical conduct: The group agreed to clarify that the code should not be interpreted as altering domestic laws, treaties or other constructive arrangements; and in turn to unbracket numerous references to “lands and waters traditionally used and occupied by ILCs.”

Regarding a provision on access to traditional resources, delegates agreed to delete a reference regarding determination of traditional resource regimes by ILCs according to their customary laws; but retain a reference to traditional resource rights being collective in nature, with the specification that they may also include “other,” instead of “individual” interests. On a provision that biodiversity-related activities ought not to cause removal of ILCs, a developed country requested to refer to removal from “their communities” or “their lands and waters,” and delegates eventually agreed to refer to “their lands and waters or lands and waters traditionally used or occupied, as applicable.” Regarding a provision on restitution and compensation, a developed country proposed subjecting it to domestic legislation, and indigenous representatives requested to add reference to international legal obligations, which was supported by a developing country regional group with the addition of “as applicable.” The revised draft code will be presented for approval by WG II.

Article 8(j) MYPOW: On the theme for in-depth dialogue at Article 8(j) WG 7, delegates could not agree on climate change, preferred by indigenous representatives. They eventually agreed on ecosystem management, ecosystem services and protected areas.

FINANCIAL ISSUES: Strategy for resource mobilization: The contact group addressed a draft proposal from a Friends of the Co-Chairs group, focusing on bracketed text. On involving key stakeholders in national implementation, delegates debated specific reference to business or the private sector, and eventually agreed to delete reference to specific stakeholders. On the strategy’s indicator on resources mobilized from the removal of incentives harmful to biodiversity, delegates qualified reference to innovative financial mechanisms by stating “that are consistent and in harmony with the Convention and other international obligations, taking into account national social and economic conditions.”

On initiatives supplementary to the financial mechanism, a developing country proposed that they should be in accordance with the CBD objectives and not imply commodification of biodiversity. Many developed countries opposed reference to commodification, and delegates agreed to refer instead to the intrinsic value of biodiversity, in accordance with the objectives of the Convention and the ABS protocol, the latter reference remaining in brackets. Discussions continued into the night.

IN THE CORRIDORS

Linkages between the strategic plan and financial resources led to a “Mexican standoff” on Wednesday: negotiations on the strategic plan were held up by quarrels over references to financial resources, strongly opposed by those expected to provide them; whereas the decision on the resource mobilization strategy was stalled by disagreement over the role of “innovative financial mechanisms,” which some interpreted as an attempt by donors to absolve themselves from the responsibility to finance the strategic plan. Some explained that the TEEB study is changing the terms of this “old” game, with donors welcoming the opportunity to explore the role of the private sector in sponsoring biodiversity conservation. Developing countries fear that this would lead to a deterioration of already scarce public funding: “they think that opening the door to companies will solve all problems,” one delegate exclaimed sarcastically.

The standoff on financing went largely unnoticed in the ABS universe, where the atmosphere also resembled a high-noon shootout. When a number of developed country delegates did not show up for a late-night meeting on utilization, reportedly because they were not “ready” to engage on the issue, some were ready to capitulate. Others speculated, however, that delegates were using the opportunity to prepare inputs for the ministerial consultations on ABS to be held on Thursday, which, according to one, “may or may not be useful, depending on whether ministers grasp what is at stake here.” Pointing to the substantive progress that has been achieved over the last week, another delegate contemplated that “if the key issues are resolved, we can do the rest in ten minutes.” Stifling a yawn, he added “most ABS negotiators have been traveling non-stop for two years to negotiate this protocol, they want to get this done and get their lives back.” The question is whether “consensus by exhaustion” will serve the purpose of ABS and CBD implementation.