

UN BIODIVERSITY CONFERENCE HIGHLIGHTS: WEDNESDAY, 14 DECEMBER 2016

On Wednesday, 14 December, WG I heard reports from contact groups and addressed draft decisions under the Cartagena Protocol on: the roster of experts; cooperation with other conventions; the Biosafety Clearing-House (BCH); socioeconomic considerations; and third assessment and review. WG I further addressed draft decisions under the Nagoya Protocol on: cooperation with other conventions; the ABS Clearing-House; and the financial mechanism. WG II addressed a draft decision on ecologically or biologically significant marine areas (EBSAs). Contact groups and Friends of the Chair groups met throughout the day to address: Article 8(j); risk assessment of living modified organisms (LMOs); mainstreaming; synergies; capacity building; the financial mechanism; and sequence information on genetic resources.

WORKING GROUP I

ROSTER OF EXPERTS (CP): WG I approved the draft decision on the roster of biosafety experts, with an amendment to include reference to synthetic biology experts.

COOPERATION WITH OTHER CONVENTIONS (CP): Delegates held a lengthy discussion on whether to make reference to the Aarhus Convention, and specific regional and national entities cooperating with the Convention and the Cartagena Protocol. They finally agreed to specifically mention all cooperation held in the last intersessional period. The draft decision was adopted with this and other minor amendments.

COOPERATION WITH OTHER CONVENTIONS (NP): On language “welcoming” the WHO study on pathogen-sharing and public health implications from the Nagoya Protocol’s implementation, MALAYSIA, supported by NAMIBIA and MAURITANIA, and opposed by the EU and NORWAY, suggested “noting” the initiative, which was agreed.

Delegates debated a request to the Secretariat to share information with the WHO on Nagoya Protocol’s implementation, in particular Article 8(b) on special considerations for cases of present or imminent emergencies that threaten or damage human animal or plant health. NAMIBIA proposed reference to “national” implementation of the Protocol; cautioned against limiting information to Article 8(b); and, with BRAZIL, suggested additional language on access to affordable treatments in developing countries. MEXICO, with the EU, recommended that information to be shared with WHO should be based on national reports. Following consultations, a compromise was reached to request the

Secretariat to share with WHO relevant information on national implementation of the Nagoya Protocol, including its Article 8(b), provided by parties in their national reports.

On a study to identify what constitutes a specialized international ABS instrument under the Nagoya Protocol, SWITZERLAND, with NORWAY, proposed that specialized ABS instruments can be identified at the national level. NAMIBIA and BRAZIL opposed, and suggested that the study be transmitted to NP COP-MOP 3, for consideration of criteria to ensure that, if such an instrument is recognized, its present and future activities are supportive of, and not run counter to, the CBD and Nagoya Protocol objectives. CANADA proposed gathering views from parties and others on criteria. Following informal consultations, delegates agreed to request a study on criteria and a possible process for recognizing a specialized ABS agreement, for consideration by the SBI and NP COP-MOP 3. The provision was kept bracketed pending discussions in other groups.

CAPACITY BUILDING: Delegates heard a report from the contact group on capacity building, noting continued discussions on capacity building under the Convention, including on: prioritizing capacity-building activities; reaching agreement on the global priority activities; and identifying activities that the Secretariat could play a role in.

ABS CLEARING-HOUSE (NP): On a draft decision, discussions revolved around reference to internationally recognized certificates of compliance. After lengthy discussions, delegates agreed that these certificates serve as evidence that genetic resources and the associated TK have been accessed in compliance with PIC and that mutually agreed terms (MAT) have been established, in order to enhance legal certainty. The draft decision was approved with this and other minor amendments.

RESOURCE MOBILIZATION AND THE FINANCIAL MECHANISM (CBD, CP, NP): Delegates heard an update on contact group discussions, including: progress on resource mobilization, and agreement on the terms of reference for the fifth review of the effectiveness of the financial mechanism (Annex III); and continued discussions on the consolidated guidance to the financial mechanism (Annex I) and selected elements of advice received from biodiversity-related conventions (Annex II).

BCH (CP): Delegates agreed to: delete reference to work towards ways to share relevant information between the FAO and OECD databases and the BCH; and add language, proposed by the Republic of Korea, to encourage collaboration among focal points at regional and subregional levels. Delegates further agreed to request the Secretariat to continue making improvements to the BCH “with

a view to facilitating the submission of information and processes for validation by the respective BCH focal points,” as suggested by Paraguay. The draft decision was approved as amended.

SOCIOECONOMIC CONSIDERATIONS (CP): On a draft decision extending the AHTEG mandate, delegates agreed to include IPLCs as observers and ensure their full and effective participation. The draft decision was approved as amended.

THIRD ASSESSMENT AND REVIEW (CP): On a draft decision, delegates debated merging a provision on further capacity-building activities with one focusing on the short-term capacity-building plan, as well as adding reference to capacity building for IPLCs and gender balance. The EU, opposed by PARAGUAY and BRAZIL, proposed to refer to the impacts of LMOs on IPLCs. The items remained bracketed, pending discussions in the capacity-building contact group.

FINANCIAL MECHANISM (NP): Delegates did not reach agreement on retaining or deleting detailed elements for COP 13 to guide GEF 7 regarding the number of countries that have adopted measures on implementing ABS.

WORKING GROUP II

MARINE AND COASTAL BIODIVERSITY: EBSAs: Delegates considered bracketed paragraphs in a draft decision, on practical options for enhancing scientific methodologies and approaches for the description of areas meeting the EBSA criteria, and on establishment of an informal advisory group for EBSAs, respectively. The REPUBLIC OF KOREA, COSTA RICA, the RUSSIAN FEDERATION, MOROCCO, CANADA, PAKISTAN, EGYPT, SOUTH AFRICA, CHILE and CHINA supported retaining these paragraphs, with the EU, ICELAND and NORWAY suggesting minor amendments. BRAZIL and ARGENTINA opposed lifting the brackets.

The REPUBLIC OF KOREA, supported by many, recommended requesting the Secretariat to organize an expert workshop, including on ways and means to ensure scientific credibility of the EBSA process, such as scientific peer review, and make available the workshop’s report for peer review by parties. The RUSSIAN FEDERATION proposed that the workshop also develop options, for cases both within and beyond national jurisdiction, regarding procedures within the Convention to modify the description of areas meeting the EBSA criteria and to describe new areas. The EU, with ICELAND, opposed by many, proposed text “reaffirming that the description of a new area meeting the EBSA criteria, or modification of the description to an existing area under national jurisdiction, which is to be included in the repository or information-sharing mechanism is a matter for the coastal state concerned.”

On national exercises to describe areas meeting the EBSA criteria or other relevant compatible and complementary nationally or intergovernmentally agreed scientific criteria, the EU proposed inviting parties to provide any additional information on national exercises to the Secretariat to be included in the repository or information-sharing mechanism. The REPUBLIC OF KOREA, TURKEY, CHINA and QATAR, opposed the EU proposal. The RUSSIAN FEDERATION opposed reference to the “repository.” Discussions continue in a Friends of the Chair group.

CONTACT GROUPS

ARTICLE 8(J): Delegates considered a revised draft decision and voluntary guidelines on mechanisms for PIC and benefit-sharing from TK use. On the guidelines, delegates debated whether to refer to: PIC or free PIC subject to national circumstances, or approval and involvement. Negotiations continued on: the understanding of free PIC; procedural and substantive aspects of the consent process to access TK; and reporting and preventing unlawful appropriation. Discussions continued in the evening.

MAINSTREAMING: A small group under the contact group on mainstreaming agreed to remove reference to the term “ecological intensification” and keep the elements of such concept in the text. Delegates further agreed on encouraging sustainable agricultural production, that may include increases in productivity, based on the sustainable management of ecosystem services and functions, diversification of agriculture, agro-ecological approaches and organic farming, through the enhanced use of a diverse range of well-adapted crops and livestock. Delegates also agreed on promoting development, transfer, use and scaling up of technological innovation and TK, as well as innovative tools and strategies that are sustainable and biodiversity-friendly. Consultations on this text continued in the mainstreaming contact group, which also considered, *inter alia*: sustainable consumption and production; illegal logging; law enforcement; trade rules; and fisheries. Discussions continued in the evening.

SEQUENCE INFORMATION ON GENETIC RESOURCES: Held jointly under the contact groups on synthetic biology and on the global multilateral benefit-sharing mechanism under the Nagoya Protocol, the group discussed a non-paper, including two separate draft decisions. Participants discussed the terminology used, with some parties opting for “digital sequence information on genetic resources,” stemming from the relevant SBSTTA recommendation; others tabling “genetic information” or “information arising from genetic resources”; and yet others suggesting a footnote explaining that a discussion on the terminology will take place in the relevant expert group. On preambular language, they agreed on “noting the rapid advances in research and development regarding the use of digital sequence information on genetic resources, and therefore recognizing the importance of addressing this matter in the context of the CBD in a timely manner.” Delegates also discussed a paragraph on considering, at COP 14, the implications of the use of sequence information on genetic resources for fair and equitable benefit-sharing arising from genetic resource utilization, with suggestions to consider “potential” implications with regard to all three objectives of the Convention. Discussions continued into the night, including on an invitation to parties and others to submit views, for a compilation and analysis to be prepared by the Secretariat, and a meeting of a regionally balanced expert group to convene and submit its recommendations for SBSTTA consideration, prior to COP 14 and NP COP-MOP 3.

IN THE CORRIDORS

With the end of the meeting rapidly approaching, “the success of the UN Biodiversity Conference depends on putting together the pieces of the puzzle,” one participant exclaimed, pointing to the interlinkages among the still outstanding items of transfers of genetic information, synthetic biology, and risk assessment of LMOs. While identifying the key pieces became easier, the bigger picture remained blurred. “What is the difference between digital sequence information on genetic resources and information arising from genetic resources? And what are the implications for benefit-sharing and livelihoods?” a restless delegate wondered. “No matter the terminology, synthetic biology techniques can reproduce genetic material, making physical access unnecessary, so benefit-sharing becomes a whole different ball game,” a seasoned ABS negotiator responded. A biosafety expert, on the other hand, was more concerned about the uncertainties around the environmental impacts of synthetic biology and the rapid pace of unregulated developments. “Risk assessment and management are required for LMOs, shouldn’t they be a requirement for synbio processes too?” she worried, hinting at the rumored impasse in the contact group on risk assessment. Other participants remained optimistic that COP 13 could succeed in reaching agreement on intersessional work to lay the groundwork for an informed decision by COP 14.