

UN BIODIVERSITY CONFERENCE HIGHLIGHTS: THURSDAY, 15 DECEMBER 2016

On Thursday morning, 15 December, WG I addressed draft decisions on: financial resources and mechanism under the Convention; financial mechanism, and cooperation under the Nagoya Protocol; public awareness, resource mobilization, and compliance under the Cartagena Protocol; and capacity building under the Protocols. It approved without discussion a draft decision on financial mechanism under the Cartagena Protocol. WG II considered draft decisions on ecologically or biologically significant marine areas (EBSAs) and synthetic biology; and approved without amendments a draft decision on guidelines for the sixth national reports. Contact groups and Friends of the Chair groups met throughout the day to address: transboundary movements of LMOs; Article 8(j); capacity building; digital sequence information on genetic resources; EBSAs; synergies; financial mechanism; a global multilateral benefit-sharing mechanism under the Nagoya Protocol; risk assessment of LMOs; and the budget.

WORKING GROUP I

FINANCIAL MECHANISM (NP): Regarding elements for inclusion in the framework of programme priorities for GEF 7, delegates agreed to a proposal by Malawi to include measures for mutual implementation with other relevant international agreements, coordination in transboundary genetic resources and associated traditional knowledge, and procedures to issue internationally recognized certificates of compliance.

PUBLIC AWARENESS, EDUCATION AND PARTICIPATION (CP): TANZANIA and the EU requested making a series of requests to the Secretariat subject to financial resources. Regarding the annexed priority activities and areas for the programme of work, delegates agreed, *inter alia*, to: include reference to regional nodes in the BCH, upon a proposal by India; consistently use the term IPLCs, upon suggestions by Guatemala and Bolivia; delete reference to development and use of training materials and other training activities, as supported by Brazil, Paraguay, Costa Rica and the EU, and opposed by Switzerland and Gabon; and delete specific examples regarding strengthening biosafety education and advancing tools and procedures for access to information, proposed by Brazil.

RESOURCE MOBILIZATION (CP): Delegates approved a draft decision with minor amendments, agreeing to insert in the WG I report reference to parties who are centers of origin for their contribution to food security, with regard to receiving capacity building and technical support, as requested by Peru.

COMPLIANCE (CP): BRAZIL, supported by IRAN and PAKISTAN, opposed the Compliance Committee's recommendation regarding a caution to the Marshall Islands. CHINA and other developing countries said the Committee's mandate is to facilitate and support compliance, not punish. COLOMBIA stressed that the Committee's rules were followed and all options exhausted. The EU proposed to soften the language, and BRAZIL asked not to single out a country. Delegates agreed to anonymized language, noting with regret that one party has not submitted any reports to date, urging it to submit and encouraging it to reach out for support.

WORKING GROUP II

EBSAs: Delegates agreed to an EU proposal requesting the Secretariat, in collaboration with others, including IPLCs, to use the training manual on the use of TK in the application of EBSA criteria in organizing training material "as appropriate and subject to financial resources." Chair Qwathkana referred outstanding paragraphs and the annexes, including practical options for further enhancing scientific methodologies and approaches, as well as the terms of reference for an informal advisory group on EBSAs, to a Friends of the Chair group. TURKEY announced a reservation to the entire draft decision.

SYNTHETIC BIOLOGY: AUSTRALIA, NEW ZEALAND and CANADA, opposed by EL SALVADOR, suggested deleting text on applying the precautionary approach when considering the release of gene drives until thorough risk assessments are performed. BRAZIL, opposed by EGYPT, INDIA and others, proposed referring to the application of the precautionary approach "when addressing threats of significant reduction or loss of biodiversity posed by organisms, components and products resulting from synthetic biology, including gene drives, in accordance with domestic legislation and other relevant international obligations." NAMIBIA emphasized the serious threats arising from synthetic biology as the "antithesis of biodiversity," calling for a decision at COP 13.

On the AHTEG terms of reference, AUSTRALIA, with CANADA, NEW ZEALAND and the EU, and opposed by EL SALVADOR, BOLIVIA, CUBA, INDIA and URUGUAY, requested deleting a task on further analyzing the importance of sciences for life, including IPLCs' knowledge, experience and

perspectives, to compare and better understand the potential benefits and adverse effects of synthetic biology. The EU, supported by TURKEY, AUSTRALIA and CANADA, suggested recognizing the importance of IPLCs' knowledge, rather than including the item in the AHTEG's mandate. Cautioning against assuming that IPLCs' representation in the AHTEG is sufficient, UGANDA called also for IPLCs' submissions to the AHTEG.

SOUTH AFRICA, opposed by the EU, EL SALVADOR, NORWAY and MALAYSIA, supported a task to "work towards an operational definition of synthetic biology comprising of inclusion and exclusion criteria using all relevant information, based on scientific and peer-reviewed studies." Discussions continue in a contact group.

CONTACT GROUPS

ARTICLE 8(J): Delegates discussed whether the guidelines on national legislation on PIC and benefit-sharing should explain the possible content of community protocols, with an indigenous representative emphasizing the community protocols' importance in establishing IPLC expectations for the benefit-sharing process, including by reference to community history for proportionality in MAT. On benefit-sharing, a party proposed to refer merely to its monetary and non-monetary dimensions. Delegates agreed to considering incentives to promote the use of, rather than compliance with, the guidelines in relation to benefit-sharing from access to or use of TK. A regional group opposed applying the guidelines to TK associated with genetic resources under the Nagoya Protocol, and requested bracketing the whole text. A developing country opposed reference to PIC as a continuous process and questioned reference to "PIC or free PIC, depending on national circumstances." Several countries expressed disappointment about limited progress on this expected main COP 13 outcome for IPLCs.

DIGITAL SEQUENCE INFORMATION: Delegates addressed outstanding items on COP and NP COP-MOP 2 draft decisions, and agreed, *inter alia*, to note that: digital sequence information on genetic resources is a cross-cutting issue that "may" concern the three CBD objectives in the COP draft decision, and the objective of the Nagoya Protocol in the COP/MOP 2 draft decision. They also agreed to: consider any potential implications of the use of digital sequence information on genetic resources for the aforementioned objectives; and commission a fact-finding and scoping study to clarify terminology and concepts, and to assess the extent, terms and conditions of use of digital sequence information on genetic resources.

EBSAs: Delegates continued to discuss two bracketed paragraphs and respective annexes on practical options for further enhancing scientific methodologies and approaches of the scientific and technical exercises for the description of areas meeting the EBSA criteria, and on the establishment of an EBSA informal advisory group and its respective terms of reference. Delegates debated, *inter alia*, text on: convening a workshop aimed at ensuring scientific credibility and transparency of the EBSA process, and for the development of options regarding procedures to modify and describe new EBSAs; and the description of EBSAs within and beyond national jurisdiction. Discussions continued in the evening.

SYNERGIES: Delegates addressed a draft decision with annexes on: options for enhancing synergies among the biodiversity-related conventions at the national level; and a roadmap for enhancing these synergies at the international level from 2017-2020. Discussions focused on establishing a network to provide advice on further prioritization of actions and their implementation, through identification and involvement of relevant experts. Some

parties requested further consultations within the Convention on identifying internal priorities before reaching out to other conventions. Others disagreed, calling for a party-led open informal group to coordinate and advance action. Delegates also discussed the nature and benefits of the network. Discussions continued in the evening.

FINANCIAL MECHANISM: Discussion focused on a request to the GEF to launch a process to expand its direct access modality to allow participation of more national agencies from developing countries to build its own experience of national entities' accreditation, furthering the experience of the Adaptation Fund and the Green Climate Fund. Discussions continued in the evening.

MULTILATERAL BENEFIT-SHARING MECHANISM (NP ARTICLE 10): On a draft decision, delegates debated preambular reference to "the sovereign right of States over their genetic resources and, accordingly, that the bilateral approach to ABS should be followed whenever possible." While some developed country delegates supported the reference and reaffirmed the predominantly bilateral approach of the Protocol, developing countries stressed that states can follow any approach in exercising their sovereign rights, similar to the approach of the ITPGR or the WHO PIP Framework. Discussions continued on the preamble, as well as on operative paragraphs on submission of information, commissioning a study on ABS practices in *ex situ* collections, and convening a regionally balanced expert group.

RISK ASSESSMENT OF LMOs: Delegates addressed a draft decision, which proposed, in regard to future work, to close the current AHTEG and request the Secretariat to collect information for further guidance on specific issues. Delegates agreed to seek information from parties on: their needs and priorities; proposals on criteria including the technical justification that may facilitate the selection of topics for the development of further guidance; and views on perceived gaps in existing guidance materials. Further proposals addressed: continuing the online forum to provide views on perceived gaps through moderated discussions; and requesting the Secretariat to compile views from these processes. Many countries opposed the suggestion to have a liaison group assisting in this task. Following clarification by the Secretariat, delegates seemed to favor referring issues to SBSTTA before consideration at COP-MOP 8. Discussions continued into the evening.

IN THE CORRIDORS

Two days before the end of the UN Biodiversity Conference, the jury is still out on whether running a trinity of COP and COP-MOP meetings increased synergies within the CBD family. Most consider that the Biosafety Protocol is the process most impacted by the new setting, as in the past the Cartagena COP-MOP quietly preceded or succeeded the COP, bringing together a smaller group of technical negotiators. This time, instead, according to many observers, biosafety discussions became more politicized. One delegate pointed with genuine concern to the continued contention surrounding guidance on risk assessment, recalling that many parties rely on technical support on such a central element of the Protocol implementation. "Some developing countries, however," a well-informed participant opined, "may consider such guidance a reflection of certain developed countries' viewpoint on the matter." Leaving the venue on Thursday evening, one delegate wondered whether the idea of party-led informal group meetings to help with synergies among biodiversity-related conventions may also help integration within the CBD processes, or whether these are just inevitable growing pains of concurrent meetings.