

UN BIODIVERSITY CONFERENCE HIGHLIGHTS: FRIDAY, 16 DECEMBER 2016

On Friday, 16 December, delegates addressed draft decisions on: unintentional transboundary movements, transit, risk assessment and management of LMOs, and assessment and review under the Cartagena Protocol; capacity building under the Convention and the Protocols; the financial mechanism; cooperation with other conventions; mainstreaming; synthetic biology; guidelines on PIC and benefit-sharing under Article 8(j); and ecologically or biologically significant marine areas (EBSAs). Following agreement in the Friends of the Chair group, two draft decisions were approved on establishing a process for the consideration of digital sequence information on genetic resources in the next biennium under the Convention and the Nagoya Protocol. A contact group on the financial mechanism and the budget group met throughout the day. WG deliberations and informal consultations continued into the night.

WORKING GROUP I

UNINTENTIONAL TRANSBOUNDARY MOVEMENTS

(CP): On a draft decision requesting the Secretariat to finalize the training manual and make it available to COP-MOP 9 with a view to establishing a process for its regular updating, BRAZIL, COLOMBIA, IRAN and PARAGUAY emphasized the need for comprehensive review and adoption by COP-MOP before publication. Consensus was reached on language stating that the process will be performed with a view to the training manual's potential approval before its official, final publication. It was also agreed that the meeting's report will include several parties' concerns about publication of documents by the Secretariat before adoption, and will note that interventions stressed the need to refrain from such publications. Regarding the definitions, language was added encouraging parties to make use of the operational definitions of the terms "unintentional transboundary movement" and "illegal transboundary movement," when completing their national reports. In addition, a footnote was added, to indicate that the definitions supersede any previous draft versions, including those proposed by the Compliance Committee. BOLIVIA, MOLDOVA, MAURITANIA and TANZANIA requested reopening the annexed definitions, questioning their consistency with the Protocol. After the Secretariat recalled the text of Cartagena Protocol Article 17 (unintentional transboundary movements and emergency measures), delegates agreed to the compromise language contained in the annex.

TRANSIT AND CONTAINED USE: Regarding decision language encouraging parties to provide to the BCH their laws, regulations and decisions, BRAZIL, with IRAN, asked to replace

the reference to "decisions" with "guidelines." BRAZIL and IRAN, opposed by the EU, COLOMBIA, the GAMBIA and SWITZERLAND, proposed to delete a provision requesting the Compliance Committee to assess if submitted decisions are in accordance with the Protocol. NEW ZEALAND proposed and delegates agreed to instead request the Compliance Committee to provide guidance on what information may be submitted to the BCH when a decision is taken.

RISK ASSESSMENT AND RISK MANAGEMENT

(CP): Delegates heard a report from the contact group, noting that consensus was reached on the draft decision with the exception of three outstanding paragraphs. On bracketed text on "acknowledging" the work of the AHTEG, having completed its mandate, as well as the online forum, MEXICO, with the EU, NORWAY, SWITZERLAND, NEW ZEALAND, BRAZIL, MAURITANIA and UGANDA suggested removing the brackets, with many noting it represents compromise language. Regarding language on the AHTEG voluntary guidance on risk assessments on LMOs, delegates debated whether to endorse, welcome, acknowledge or take note of it. BRAZIL, COLOMBIA, COSTA RICA and PARAGUAY preferred "taking note of" the guidance, given that it was not substantively considered by the COP-MOP. The EU, MAURITANIA and UGANDA supported "endorsing" the guidance, with MOLDOVA pointing to positive experience using the guidance in the CEE region. Many indicated readiness to "welcome" or "acknowledge" the guidance as compromise language. All options remained in brackets. Delegates agreed to "acknowledge" that other guidance documents and national approaches can also assist in conducting risk assessments. The draft decision was approved with remaining brackets.

CAPACITY BUILDING (CBD): On a draft decision on capacity building, technical and scientific cooperation, technology transfer and the CHM, ARGENTINA, supported by BRAZIL, IRAN, COLOMBIA and CAMEROON, proposed requesting the Secretariat to support, facilitate or coordinate the implementation of the activities contained in the annex. The EU and NORWAY opposed introducing new text at this stage. After lengthy deliberations, delegates agreed to the proposal, adding reference to "other partners, as appropriate." The EU with AUSTRALIA, opposed by BRAZIL, ARGENTINA, UGANDA and CAMEROON, suggested subjecting the activities to the availability of financial resources.

On bracketed options to "endorse," "adopt" or "take note of" the short-term action plan to enhance and support capacity building, the EU, SWITZERLAND, AUSTRALIA, CANADA and JAPAN suggested "taking note of" it, while ARGENTINA, UGANDA, SOUTH AFRICA, BRAZIL, GUATEMALA, MEXICO, TANZANIA and COLOMBIA preferred "endorsing" it. The draft decision was approved with the options remaining in brackets.

CAPACITY BUILDING (CP): Following a request by Norway, delegates agreed to make the annexed capacity-building activities subject to availability of resources. The draft decision was approved with this and other minor amendments.

COMPLIANCE (CP): Delegates approved the draft decision, following agreement to lift the brackets around a preambular paragraph welcoming the activities undertaken by the Compliance Committee and taking note of its recommendations.

FINANCIAL MECHANISM (CBD): Delegates approved with minor amendments the compromise draft decision agreed in the contact group, and the annex on the four-year framework of programme priorities for GEF-7. They approved annex III containing the terms of reference for the fifth review of the effectiveness of the financial mechanism, deleting references to “countries that are most environmentally vulnerable” in the sections on methodology and criteria.

COOPERATION WITH OTHER CONVENTIONS (NP): Delegates agreed to request the Secretariat to continue to engage with relevant ongoing processes and policy debates, including in WHO, WIPO, CGRFA, ITPGRFA and others, as appropriate, to collect information on current discussions on the relationship of the use of digital sequence information on genetic resources and ABS arising out of the utilization of genetic resources, for inclusion in the compilation of views referred in the decisions on digital sequence. NAMIBIA requested, and delegates agreed to, a footnote explaining that the term “digital sequence information on genetic resources” is subject to further discussion.

WORKING GROUP II

BIODIVERSITY MAINSTREAMING: Delegates heard a report on contact group deliberations, indicating agreement on a draft decision, with the exception of bracketed paragraphs on forest certification schemes and cross-sectoral mainstreaming. EGYPT, COLOMBIA and others supported retaining the paragraph on making use of voluntary sustainability standards and/or certification schemes, considering the specificities of developing countries. SWITZERLAND and NORWAY suggested deleting specific reference to “multilateral trade rules,” noting the remaining reference to “international obligations.” BRAZIL opposed reference to “public procurement,” and agreed on compromise language on encouraging the integration of biodiversity considerations into procurement policies. The paragraph was retained with these and other minor amendments. On further work, EGYPT proposed, and delegates agreed, that COP 14 should “consider,” rather than “address,” mainstreaming into energy and mining, infrastructure, manufacturing, and health. Delegates approved the draft decision with other minor amendments.

GUIDELINES ON PIC AND BENEFIT-SHARING: Risa Smith (Canada), Co-Chair of the Article 8(j) contact group, supported by UGANDA and opposed by many, proposed to title the guidelines Mo’otz kuxtal voluntary guidelines “for accessing and providing benefits from” TK relevant for conservation and sustainable use. After lengthy discussions, delegates agreed on the short title “Mo’otz kuxtal voluntary guidelines,” subtitled as voluntary guidelines for the development of mechanisms, legislation or other appropriate initiatives to ensure PIC or free PIC, or approval and involvement, depending on national circumstances, for accessing TK, the fair and equitable sharing of benefits arising from the use and application of TK relevant for conservation and sustainable use and for reporting and preventing unlawful appropriation.

On bracketed language in the annexed guidelines, on the meaning of “consent or approval,” CANADA, supported by GUATEMALA, QATAR, the EU and NORWAY, proposed, and delegates agreed to, deleting “may” before “include the right not to grant consent.” NORWAY, supported by BRAZIL but opposed by the UGANDA and GUATEMALA, proposed deleting a reference to “in accordance with national legislation.” Delegates agreed to keep the reference.

On the possible content of community protocols, CAMEROON, supported by BRAZIL, TANZANIA and SOUTH AFRICA but opposed by the EU, called for deleting “biological resources.” The reference was bracketed. CAMEROON, supported by BRAZIL, TANZANIA and UGANDA, proposed deleting a paragraph stating that IPLCs may wish to include special measures in their community protocols or other procedures for encouraging non-commercial research, participatory research and joint research for conservation and sustainable use. The IIFB emphasized that consent should be based on customary law and objected to references to “in accordance with national legislation.” Following a walk out by IPLC representatives, informal consultations were led by the COP Presidency.

EBSAs: Delegates discussed bracketed language in a revised draft decision discussed in the EBSAs Friends of the Chair group. BRAZIL recommended clarifying that the practical options for further enhancing scientific methodologies for the description of areas meeting the EBSA criteria are voluntary, in the title of the respective annex. She also proposed removing “as appropriate” from the text concerning the consultation with parties on enhancing the EBSA repository and information-sharing mechanism in areas within national jurisdiction. Delegates agreed to these amendments. BRAZIL also accepted retaining the request to the Secretariat to facilitate implementation of these options. The RUSSIAN FEDERATION and the EU supported, while BRAZIL opposed, establishment of the informal advisory group on EBSAs, and consultations continued into the night.

SYNTHETIC BIOLOGY: Delegates agreed to delete all references to digital information, in light of separate decisions on this issue. Following informal consultations, BOLIVIA proposed, and delegates agreed, to remove from the AHTEG terms of reference language on IPLC knowledge, and insert in the draft decision language on “inviting parties and others to submit to the Secretariat information and supporting documentation on IPLC knowledge, experience and perspectives in the context of living in harmony with nature, for comparison and better understanding of the potential benefits and adverse effects of synthetic biology.” Delegates also agreed on compromise text on requesting the Secretariat to facilitate, in collaboration with relevant research institutions and organizations, capacity building and support to developing countries on updating and adapting risk assessments related to organisms, components and products of synthetic biology.

IN THE CORRIDORS

With only one day left, delegates tackled the most controversial issues, with some wondering how much substance has been lost, inside, outside and beyond brackets. Debate continued to rage on the status of the guidance on risk assessment for LMOs. Similarly, resolution of outstanding items regarding gene drives in the draft decision on synthetic biology and future work on EBSAs was left to late night negotiations. Meanwhile, the highlight of the day was the walk out of IPLC representatives over the “lack of any value,” as some put it, of the guidelines on PIC and benefit-sharing. “Guidelines on prior informed consent cannot possibly be concluded without the consent of indigenous peoples,” one participant remarked. Another commented on “the irony of including so many references to the primacy of national legislation, when the text is supposed to guide exactly development of national legislation,” pondering whether having a set of watered-down guidelines is better than having no guidelines at all. As informal consultations continued on the way forward, an optimist hoped that “a balanced outcome is still within reach, somewhere between the lines.”

ENB SUMMARY AND ANALYSIS: The *Earth Negotiations Bulletin* summary and analysis of the UN Biodiversity Conference will be available on Tuesday, 20 December 2016, online at: <http://www.iisd.ca/biodiv/cop13/enb/>