



COP/MOP-2 HIGHLIGHTS: WEDNESDAY, 1 JUNE 2005

Delegates to the second 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-2) convened in plenary and two working group sessions. A morning plenary considered conference room papers (CRPs) on cooperation with other organizations, and liability and redress. Working Group I (WG-I) discussed CRPs on: the Biosafety Clearing-House (BCH); risk assessment and risk management; handling, transport, packaging and identification (HTPI); and other scientific and technical issues. Working Group II (WG-II) considered CRPs on: notification; capacity building, including the roster of experts; and public awareness and participation. A contact group discussed documentation for living modified organisms for food, feed or processing (LMO-FFPs).

PLENARY

COP/MOP-2 President Sothinathan Sinna Goundar, Deputy Minister of Natural Resources and Environment of Malaysia, opened the meeting and noted that the rules of procedure of the Compliance Committee will be referred to a Friends of the Chair group including participants from all regions and chaired by Jane Bulmer (UK). WG-I Chair Birthe Ivars (Norway) and WG-II Chair Orlando Santos (Cuba) reported on progress in their respective working groups.

COP/MOP-2 President Goundar then presented a CRP on cooperation with other organizations, conventions and initiatives. NEW ZEALAND, BRAZIL, ARGENTINA, AUSTRALIA and the US requested more time for consideration. The Netherlands, on behalf of the EU and BULGARIA, proposed encouraging the development of a memorandum of understanding with the Aarhus Convention. BRAZIL, CHINA, AUSTRALIA and the US expressed concern about emphasizing a regional convention. SWITZERLAND added a reference to the International Plant Protection Convention and CHILE to the International Animal Health Organization.

COP/MOP-2 President Goundar presented a CRP on liability and redress, which was supported by the EU and COLOMBIA. NEW ZEALAND requested time for consideration and, with BRAZIL, AUSTRALIA and PERU, called for quoting the exact language of Protocol Article 27 to note that COP/MOP shall "endeavor to" complete the process within four years. COP/MOP-2 President Goundar said plenary will consider amended draft decisions on Friday. ARGENTINA drew attention to procedures making it difficult for observer governments to intervene.

WORKING GROUP I

BIOSAFETY CLEARING-HOUSE: WG-I Chair Ivars introduced a CRP on the BCH. On the preamble, EGYPT proposed an amendment to welcome the continuing efforts of the GEF to expand its support on capacity building. On capacity building to meet the needs of developing countries as well as centres of origin, the EU and MEXICO debated reference to countries that are centres of origin and, following informal consultations, they agreed on text addressing the needs of developing countries as well as those of countries with limited capacity that are centers of origin and genetic diversity. WG-I approved the CRP as amended.

RISK ASSESSMENT AND RISK MANAGEMENT: WG-I Chair Ivars presented a CRP on risk assessment and management. The EU said discussion forums may be an inadequate means for developing common approaches. NEW ZEALAND proposed organizing regional capacity-building workshops in collaboration with relevant international organizations, and COTE D'IVOIRE suggested inviting non-Parties. Many delegations requested extending the timeline for submitting views, with BRAZIL suggesting basing future discussion on the interim national reports rather than on submissions.

IRAN, the BAHAMAS, BELIZE, UGANDA, CAMEROON and SYRIA supported an EU proposal to convene an *ad hoc* technical expert group (AHTEG) on risk assessment prior to COP/MOP-3, stressing this does not prejudice discussions on establishing a permanent subsidiary body. JAPAN asked to examine the AHTEG terms of reference provided by the EU, concerned they may influence discussions on a permanent subsidiary body. IRAN proposed reference to regionally balanced composition of the AHTEG.

Raising concerns about workload, BRAZIL, SENEGAL and ARGENTINA opposed convening an AHTEG prior to COP/MOP-3. WG-I Chair Ivars established a Friends of the Chair group to resolve outstanding issues and report to WG-I on Thursday.

HTPI: Documentation for LMOs destined for contained use or for intentional introduction into the environment (Article 18.2(b) and (c)): In the morning, WG-I Chair Ivars introduced a CRP on the issue. The EU suggested referring to Protocol Article 20.3 (information available to the BCH) in its entirety. The EU also proposed urging Parties and inviting governments to take "necessary" rather than "further" measures to ensure compliance with Article 18.2(b) and (c). BRAZIL, INDIA and NEW ZEALAND requested time to consider the proposed amendments.



In the afternoon, BRAZIL opposed the EU's proposal regarding "necessary" measures, and cautioned against requiring Parties to implement measures beyond their current capacity. After informal consultations, delegates agreed to urge Parties to take necessary measures, taking into account their specific capabilities. WG-I approved the CRP as amended.

OTHER SCIENTIFIC AND TECHNICAL ISSUES: WG-I Chair Ivars introduced a CRP with elements on: obligations and rights of transit States; exchange of information on biosafety research; and exemptions from the advance informed agreement (AIA) procedure. On exchange of information, the EU proposed deleting a request to ensure that the Biosafety Information Resource Centre accommodates information requests. The EU and MALAYSIA supported deleting the section on exemptions from the AIA procedure. WG-I approved the CRP as amended.

WORKING GROUP II

NOTIFICATION: WG-II Chair Santos presented a revised CRP on options for implementing Article 8 (Notification), including bracketed language on the rights of a Party of transit. NEW ZEALAND, supported by BRAZIL and AUSTRALIA, requested deleting a recommendation to Parties to consider elements on notification, including enforcement measures, use of language determined by the Party of import, and rights of a Party of transit. ARGENTINA noted that language on notification regarding transit contradicts the AIA procedure, which does not apply to LMOs in transit. Following CUBA's proposal, INDIA, KENYA, the EU, SWITZERLAND and others favored retaining elements on notification, encompassing the right of a Party of transit to regulate transport of LMOs through its territory, including requiring notification in writing to its competent national authority, as required by its regulations. Following informal consultations, delegates agreed to a proposal by WG-II Chair Santos to acknowledge that the right of a Party of transit may include "communication" in writing rather than "notification," to avoid reproducing terms of AIA procedure. The CRP was approved as amended.

CAPACITY BUILDING: WG-II Chair Santos presented a CRP on the status of capacity-building activities. On measures to address capacity-building needs and priorities, ZAMBIA called for assistance to conduct independent research. ALGERIA emphasized assistance in policy formulation and development of legislation. TURKEY suggested specific reference to development and implementation of national biosafety frameworks. The GEF proposed language on sustainability of capacity building by incorporating follow-up actions into national capacity-building plans.

On the review of the action plan, AUSTRALIA proposed that the Executive Secretary prepare a background paper on the basis of submissions received not only to describe, but also to measure the effectiveness of, progress in implementing the action plan. The EU suggested, and delegates agreed, that the paper address progress in, and effectiveness of, the action plan's implementation.

On the annexed terms of reference for review of the action plan, AUSTRALIA called for an additional information element to facilitate the review, addressing the effectiveness of capacity-building measures. The EU suggested that an overview of progress made in implementing the action plan also address the effectiveness of implementation. WG-II approved the CRP as amended. WG-II also approved a CRP on the roster of experts with minor amendments.

PUBLIC AWARENESS AND PARTICIPATION: WG-II Chair Santos introduced a CRP on public awareness and participation. Regarding an invitation to Parties to explore and maximize cooperation with the Aarhus Convention, BRAZIL, supported by NEW ZEALAND, INDIA, AUSTRALIA and ARGENTINA, suggested inviting cooperation through the frameworks provided by related national and international

instruments, in particular the Aarhus Convention. SOUTH AFRICA suggested reminding Parties to inform the BCH about public awareness programmes. WG-II approved the CRP as amended.

CONTACT GROUP ON DOCUMENTATION FOR LMO-FFPS

The contact group met briefly over lunch to discuss procedural issues. Co-Chair François Pythoud (Switzerland) called for the contact group to focus on the scope of application of "contain" and "may contain" language.

In the afternoon, Pythoud introduced a Co-Chairs' text, including references stating that documentation accompanying transboundary movements of LMO-FFPs either state that the shipment contains LMOs, when it is known what LMOs are contained, or state which LMOs the shipment may contain, when it is presumed to contain LMOs.

Many delegations opposed the "when it is known" and "when it is presumed" language for differentiating the application of "contain" and "may contain," arguing that exporters should not be allowed to claim that they are unaware of the LMOs in a shipment. Delegates also debated the scope of the mandate to develop detailed requirements for LMO-FFP documentation, proposing many alternative texts. Some stressed that the requirements should be flexible and the least restrictive possible, and others that requiring full identification of LMOs is not beyond the Protocol.

In the evening, the contact group resumed deliberations based on a proposal to clearly state that the shipment contains LMOs, and, when the shipment contains a mixture of LMO-FFPs, clearly state that the shipment contains LMOs that may include one or more of a list of LMOs. Several countries were concerned that, under such a proposal, exporters could list all approved LMOs. Delegates then discussed several proposed reformulations, and a Friends of the Co-Chairs group was established to draft compromise text.

Co-Chair Pythoud presented the group's outcome, which retains two bracketed options requesting that documentation clearly state: when a shipment contains a mixture of LMO-FFPs, that the shipment may contain LMOs and, in this case, specify which LMOs have been used to constitute the mixture; or that the shipment may contain one or more of the LMOs of the commodity in question that are in commercial production in the country of export and are approved in the country of import.

Delegates then discussed details of the documentation requirements, the adoption of thresholds, the development of criteria for sampling and detection techniques, and the inclusion of information on cost-benefit analyses in submissions to COP/MOP-4 on experience gained with the use of documentation. Delegates agreed on ensuring the use of a commercial invoice, or an annex to a commercial invoice, or a stand-alone document, or other document required or utilized by existing documentation systems, or documentation as required by domestic regulatory frameworks. Delegates negotiated until midnight.

IN THE CORRIDORS

As the issue of notification and transit State rights was ironed out, delegates expect an early conclusion to WG-II's agenda on Thursday morning, and a mass migration, in the afternoon, to the more contentious discussions of WG-I on risk assessment and, needless to say, documentation requirements for LMO-FFPs. COP/MOP-2 lawyer-types are also becoming increasingly eager for updates on the Compliance Committee's rules of procedure, and almost regret that the issue has been taken up in a small, closed group. The Friends of the Chair on compliance met briefly on Wednesday, in a relaxed atmosphere according to some, and will reconvene early Thursday morning to get down to brass tacks.