

## COP/MOP-3 HIGHLIGHTS: THURSDAY, 16 MARCH 2006

Delegates to the third Meeting of the Parties to the Cartagena Protocol on Biosafety (COP/MOP-3) met on Thursday in working group and contact group sessions. Working Group I (WG-I) considered draft decisions on subsidiary bodies and living modified organisms (LMOs) in transit, and adopted its report. It also briefly considered detailed requirements for documentation and identification of living modified organisms for food, feed or processing (Article 18.2(a)). Negotiations on this issue continued in a Friends of the Co-Chairs group throughout the day and into the night. Working Group II (WG-II) considered draft decisions on compliance and the financial mechanism, and adopted its report. A contact group on budget also met throughout the day.

### WORKING GROUP I

**SUBSIDIARY BODIES:** WG-I Chair Ivars introduced a draft decision on subsidiary bodies (UNEP/CBD/BS/COP-MOP/3/WG.1/CRP.6), which was adopted without amendment.

#### OTHER SCIENTIFIC AND TECHNICAL ISSUES:

**Transit:** WG-I Chair Ivars introduced a draft decision on parties of transit (UNEP/CBD/BS/COP-MOP/3/WG.1/CRP.5). The EU, CAMEROON, JAPAN and BELIZE called for deleting an operational paragraph noting that transit parties do not assume obligations of the party of export, explaining it was premature considering the invitation to receive views and experience on the rights and/or obligations of transit parties. NEW ZEALAND and BRAZIL opposed, with NEW ZEALAND noting that it was important to clarify transit party obligations. UGANDA proposed adding an operational reference to the rights of transit parties to regulate the transport of LMOs through their territories.

NEW ZEALAND also opposed an EU proposal to delete a preambular reference to existing definitions of transit at the international level, and stressed in particular the relevance of the definition of transit in the context of the World Trade Organization's General Agreement on Tariffs and Trade.

WG-I Chair Ivars established a small Friends of the Chair group to continue discussions, and compromise was reached to: in the preambular text, note that definitions of transit exist in various multilateral agreements at the international level and recognize that trade and environmental agreements should be mutually supportive; and in the operative text, invite countries and organizations to provide views and experience on the

rights and/or obligations of transit parties, including on whether parties acting only as transit parties comply with exporting party obligations under the Protocol.

**REPORT OF WG-I:** Delegates adopted the WG-I report (UNEP/CBD/BS/COP-MOP/3/WG.1/L.1) with minor amendments.

**ARTICLE 18.2(a):** The Friends of the Co-Chairs group on documentation requirements for LMOs for food, feed or processing (LMO-FFPs) met throughout the day. During a brief evening session of WG-I, contact group Co-Chair Pythoud reported on progress achieved in the Friends of the Co-Chairs group. He said significant progress has been achieved on language regarding documentation requirements for LMO-FFPs. He added that consultations on a transitional period for application of the documentation requirements are still ongoing, and the group would continue discussions on the basis of a compromise proposal submitted by the Co-Chairs. WG-I Chair Ivars urged the Friends of the Co-Chairs group to work until consensus is achieved and to report to WG-I on Friday morning. Negotiations in the Friends of the Co-Chairs group continued into the night.

### WORKING GROUP II

**COMPLIANCE:** WG-II Chair Rey Santos introduced a draft decision on compliance (UNEP/CBD/BS/COP-MOP/3/WG.2/CRP.6). On the Compliance Committee's rule of procedure regarding voting, BRAZIL and NEW ZEALAND proposed retaining the existing brackets to maintain the consensus rule, while AFRICA urged their removal to allow for qualified majority voting as a last resort. The EU proposed considering voting procedures in the context of Article 35 (Assessment and Review). After consulting informally, delegates did not reach agreement. They agreed, however, to consider this issue in the context of Article 35. Delegates adopted the decision with these and other minor amendments, with the Chair noting that he will lead informal consultations on the issue of voting procedures prior to the plenary in an effort to remove brackets from the decision.

**FINANCIAL MECHANISM:** WG-II Chair Rey Santos introduced a draft decision on the financial mechanism (UNEP/CBD/BS/COP-MOP/3/WG.2/CRP.5/Rev.1). On the preamble, COLOMBIA suggested deleting references to the CBD Conference of the Parties (COP) not having provided guidance to the Global Environment Facility (GEF) on the development of the resource allocation framework (RAF) as there had been no COP meeting during that period. SOUTH AFRICA said the

text merely stated the fact that the CBD had not given guidance to GEF to implement the RAF. ZAMBIA requested clarifications on the RAF's origin. The GEF explained that it originated as a condition set out by donors as part of the 2002 third GEF replenishment, and agreed upon by the GEF Council in 2005, adding that all CBD parties are represented in the GEF Council.

The EU opposed a proposal by PERU to consider the establishment of a special fund for biosafety while EL SALVADOR, SOUTH AFRICA and COLOMBIA were willing to discuss the issue. After informal consultations, PERU agreed to delete the relevant paragraph.

SOUTH AFRICA proposed, and delegates agreed, to replace language regarding the need establish "basic capacity" to implement the Protocol with "at least base-level of" capacity. Delegates also agreed to new wording proposed by the EU and COLOMBIA, replacing a reference to funding for "infrastructure," with references to post-graduate education, biosafety-related laboratories and relevant equipment. Delegates adopted the decision with these and other minor amendments.

**REPORT OF WG-II:** Delegates adopted the WG-II report (UNEP/CBD/BS/COP-MOP/3/WG.2/L.1) with minor amendments.

#### **CONTACT GROUP ON BUDGET**

Many participants sought clarifications from the Secretariat on budget lines regarding travel costs, consultants and subcontracts, translations of the Biosafety Clearing-House website, working reserve capital, general expenses and UNEP's programme support charge. A participant pointed out that crucial issues to be addressed were whether or not to increase the budget, and to what extent it should be shared with the CBD. The Secretariat presented a comparison of working capital reserves of various UN conventions, and delegates agreed on a reserve of 5% of the 2007-2008 budget. Deliberations will continue on these issues.

#### **IN THE CORRIDORS**

When arriving on Thursday morning, delegates were greeted at the gates of ExpoTrade by a vivid demonstration of Brazilian farmers opposing retention of "may contain" language in Article 18.2(a). They were not alone in expecting the issue to be resolved on Thursday as several civil society groups

were seen stressing the importance of "contain" language. Nevertheless, negotiations on the issue stayed within the Friends of the Co-Chairs group throughout the day and, by late afternoon, it appeared that delegates still disagreed on two crucial issues: the Brazilian proposal to set a target for phasing-out the "may contain" provision by 2010; and whether, under certain conditions, an LMO-FFP shipment might "at last" be accompanied by documentation stating it "contains" LMOs.

In the evening, the Friends of the Co-Chairs were "promoted": initially tasked with dealing only with the most controversial issues of documentation requirements, transitional period and adventitious presence; the group's mandate was expanded to considering the entire draft decision on Article 18.2(a). This led some participants to express relief at the prospect of waking up to a consensus outcome, or at the least being well-rested for an arduous final day of negotiations. Indeed, a number of participants expressed concerns about the group's closed-door policy bringing to mind the WTO "green rooms," and warned that this may lead certain parties to re-open any potential compromise on Friday. Others however were more pragmatic, confident that these intense negotiations required such privacy, and were optimistic that after spending the day in the dark they would be rewarded with a successful outcome in the morning.

Little information, even taking into account the report from the contact group Co-Chair, was allowed to trickle out of the restricted meetings. Yet several with their ears close to the ground reported that the sharpest reservations were not voiced only, as had been expected, by New Zealand who broke consensus at the last COP/MOP, but also came from some Latin American countries. A few speculated that this may have prompted the afternoon's informal visit to COP/MOP-3 by Marina da Silva, Brazil's Minister of the Environment, and saw her appearance as a signal of Brazil's commitment to reach out to its "friends" and broker a consensus agreement.

**ENB SUMMARY AND ANALYSIS:** The *Earth Negotiations Bulletin* summary and analysis of COP/MOP-3 will be available on Monday, 20 March 2006, online at: <http://www.iisd.ca/biodiv/bs-copmop3/>, and at the eighth Conference of the Parties to the Convention on Biological Diversity.

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