



# Earth Negotiations Bulletin

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## CBD COP-4 HIGHLIGHTS MONDAY 11 MAY, 1998

On the sixth day of the Fourth Meeting of the Conference of the Parties (COP-4) of the Convention on Biological Diversity (CBD), delegates continued to convene in two Working Groups. Working Group I completed discussion on implementation of Article 8(j) and began discussion on measures to promote and advance the distribution of benefits from biotechnology, as well as access to and the fair and equitable sharing of genetic resources. Working Group II resumed discussions on financial mechanisms, and moved on to implementation of the Convention. Throughout the day, delegates also met in eight contact groups and one Friends of the Chair group.

### WORKING GROUP I

On Monday, WG-I continued its discussion of the implementation of Article 8(j). WG-I supported the development of an intersessional work process or group with the full participation of indigenous and local communities, but varied as to its form.

MEXICO, CHILE, PERU, BRAZIL and others favored an intersessional *ad hoc* working group with representatives appointed by indigenous and local communities. NEW ZEALAND stressed that the intersessional processes be "appropriate" and proposed a small, tightly focused "*ad hoc* expert panel," with geographical and gender balance, whereby the experts would be nominated by Parties and indigenous and local communities and report to the COP via the Subsidiary Body for Scientific, Technical and Technological Advice (SBSTTA). CANADA stressed the working group should meet in conjunction with SBSTTA to create synergies, conserve financial resources and ensure participation of indigenous groups. COLOMBIA, SWEDEN, VENEZUELA, FRANCE and SLOVENIA, on behalf of the Central and Eastern European Countries, shared their experiences and encouraged regional implementation of Article 8(j) and related issues. The US, JAPAN, CANADA, BRAZIL and others encouraged the development of case studies on implementation.

NORWAY, SWEDEN, DENMARK, AUSTRALIA, BRAZIL and others said that several elements highlighted in the Madrid report should be referred to other fora such as the FAO, WTO, WIPO and the UN Commission on Human Rights, to avoid overlap. NEW ZEALAND, CANADA and JAPAN stressed that the working group not go beyond the scope of the Convention. The US, AUSTRALIA, NIGERIA and others said the work programme should be addressed in consideration of other related articles.

ETHIOPIA, on behalf of the Africa Group, implored the group to examine the legal rights of indigenous and local communities, as well as IPR and the linkages and conflicts between the CBD and TRIPS.

The MARSHALL ISLANDS, on behalf of the Pacific Island Countries, supported by ETHIOPIA, the INTERNATIONAL ALLIANCE OF INDIGENOUS AND TRIBAL PEOPLE OF TROPICAL FORESTS and others stressed the need for a mechanism to control patents and ensure prior informed consent (PIC).

INDIA proposed a clearing-house mechanism (CHM) to maintain a database of patents and other IPR, which would add transparency and enable Parties to examine IPR.

The US said that a work programme should take into consideration different groups' views with respect to their knowledge, and agreed with JAPAN that national differences should be respected. The US also said the promotion of such knowledge should take place with the approval and involvement of local and indigenous communities. ITALY said further work must be done to stimulate participation from local communities.

CANADA and the INDIGENOUS PEOPLES' BIODIVERSITY NETWORK emphasized that efforts to implement Article 8(j) should fully recognize the role of indigenous women in preserving biodiversity.

SPAIN, the MARSHALL ISLANDS, CANADA and others supported inclusion of NGOs in contact groups. A contact group chaired by Vince McBride (New Zealand) was established to define the purpose, mandate and the financial considerations for establishing a working group.

WG-1, under the new Chairship of Elaine Fisher (Jamaica), next discussed measures to promote and advance the distribution of benefits from biotechnology ( UNEP/CBD/COP/4/21, UNEP/CBD/COP/4/22, UNEP/CBD/COP/4/23, UNEP/CBD/COP/4/23/ Corr.2, UNEP/CBD/COP/4/23/Corr.3, and UNEP/CBD/COP/4/ Inf.7).

The UK, on behalf of the EU, recognized: the multiplicity of benefits arising from the utilization of genetic resources; taking a regional and multilateral approach when genetic resources come from more than one country; protection of IPR and the crucial role the WTO agreements play; and the importance of the private sector in creating benefits. The EU, DENMARK, GERMANY and others highlighted the importance of building confidence between providers and users of genetic resources. CANADA cautioned against simplified categorization of countries as "providers" or "users."

COLOMBIA stressed distribution of benefits of *ex-situ* resources, as well as Farmer's Rights and consolidation of biodiversity inventories. DENMARK advocated: directing benefits to provider countries; providing incentives for sustainable use; ensuring PIC in cases of export and use of genetic resources; and, with KENYA, making information available through the clearing-house mechanism (CHM). He stressed that knowledge, not just resources, be considered with respect to benefit sharing.

The PHILIPPINES, the DEMOCRATIC REPUBLIC OF THE CONGO, SAMOA, on behalf of the Pacific Island Countries, and INDIA called for the formulation of national access legislation, including enforcement and monitoring. The PHILIPPINES said access legislation should include capacity building mechanisms; protection of traditional knowledge; an effective international implementation mechanism; and, with UGANDA, PIC of states of origin and local and indigenous communities.

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SWITZERLAND, supported by FRANCE, proposed establishing a working group to create an international code of conduct, containing minimum standards for provision and use of genetic resources. AUSTRALIA agreed and called for a proposed work plan for the meetings. She also hoped Parties would consider options for benefit sharing when providing guidance to the GEF.

ZIMBABWE, on behalf of the Africa Group, RUSSIA, GERMANY and other delegations supported the development of guidelines for benefit sharing. ETHIOPIA stressed that the CBD, not national laws of importing countries, should determine benefit sharing. NORWAY opposed patenting life, and stressed benefit sharing within countries as well as between countries. SAMOA stressed technology transfers, including biotechnology, and recommended an agency to promote PIC multilaterally.

ARGENTINA called for regulation of PIC at the national level. UGANDA called for, *inter alia*, economic valuation of genetic resources and development of indigenous knowledge and technologies. The REPUBLIC OF KOREA underlined taking an inventory of the current legislative and regulatory frameworks on access and the identification of existing incentive measures and benefit sharing initiatives.

### WORKING GROUP II

Working Group II finished discussion of financial mechanisms. INDONESIA, for the G-77/CHINA, criticized: reductions in ODA; the effects of market forces on socioeconomic development; and inadequate observance of review guidelines. He supported channeling more financial resources through GEF. NEPAL criticized inequities in distribution of funds.

On incentive measures for implementing the Convention (UNEP/CBD/COP/4/18), the EU and NEW ZEALAND called for consideration of incentive measures in other fora, such as the OECD.

AUSTRALIA and the EU stressed removal of adverse incentive measures. MOROCCO, supported by the IVORY COAST, warned of long-term problems in implementing incentive measures and called for information exchange and assessment of experiences. The IVORY COAST noted possible adverse impacts of economic incentives on other areas and that economic tools, ecosystem knowledge, and working procedures are inadequate for costing biodiversity.

ZIMBABWE, on behalf of the Africa Group, called for consideration of the underlying causes of biodiversity loss and, supported by UGANDA, MALI and others, recommended that SBSTTA undertake a 3-5 year work programme to develop incentive measures, with support from the GEF and others.

KENYA called for incentive measures and for consultative processes for developing guidelines. The IVORY COAST called for more research, information dissemination and capacity building before including incentives into guidelines. MALAWI called for a specific decision on capacity building in all sectors. COLOMBIA stressed: that SBSTTA must decide on inclusion of incentives in national reports; appropriate support; and further CBD action on incentive measures to be analyzed during discussion on the *modus operandi*.

On public education (UNEP/CBD/COP/4/19), the EU welcomed involvement of all groups in CBD implementation and called for implementation of local Agenda 21s, development of guidelines, and exchange of experience through the CHM, UNESCO and the IUCN. UNCTAD outlined its facilitating role, particularly in biotrade, and called for public participation. BIRDLIFE INTERNATIONAL encouraged inter-agreement cooperation, particularly with Ramsar. MALI emphasized public involvement in decision-making wherever human activity has impact. The DEMOCRATIC REPUBLIC OF THE CONGO and AUSTRALIA called for UNESCO to develop educational

programmes through GEF funding. NEW ZEALAND stressed education programmes that develop a conservation ethic. KENYA called for a results-oriented approach to capacity building.

While MOZAMBIQUE noted the importance of information dissemination, particularly through the internet, ZAMBIA called for traditional methods of disseminating information to rural populations. ZIMBABWE called for GEF funding to support this and for links between education and incentives in local communities.

UNESCO, the UN taskmaster for Chapter 36 of Agenda 21, called for: stock-taking on global actions; an exchange network; prioritization of young people's needs; and strengthening of cooperation between UN agencies and NGOs. MOROCCO stressed education of decision-makers and primary users of biodiversity and called for a regional ecosystemic approach on public awareness.

On impact assessment and minimizing adverse effects (UNEP/CBD/COP/4/20), the EU opposed a new programme and proposed, *inter alia*: capacity building; training programmes; linking websites; support though SBSTTA; and a "help desk" for assistance. NEW ZEALAND stressed the importance of cumulative impact assessment.

INDIA, with AUSTRALIA, supported SBSTTA development of guidelines. The US stressed gathering information on national-level guidelines before developing international guidelines.

MOZAMBIQUE called for taxonomic analysis as part of an environmental impact assessment. MOROCCO noted its lack of taxonomic and other specialists. SWITZERLAND supported consideration of socioeconomic aspects.

### CONTACT GROUPS

Contact Groups were convened throughout the day to prepare consolidated text on: inland waters, marine and coastal biodiversity, SBSTTA, agrobiodiversity, forests, administration and budget, *modus operandi*/institutional matters, financial mechanisms and implementation of Article 8(j).

The contact group on financial mechanisms discussed a Chairman's Text draft decision, which calls for an independent consultant to assess the GEF. The group adjourned to allow incorporation of text reflecting that the GEF's effectiveness has been adequately identified and can now be communicated and monitored appropriately.

The Contact Group on *modus operandi*/institutional matters discussed the COP, SBSTTA, the role of the Bureau and the longer-term work programme. Most delegates supported: a biennial COP and annual SBSTTA meetings; enhanced participation and transparency at the regional level; earlier preparation for meetings; a ten year rolling work programme; and inclusion of alien species, sustainable tourism and taxonomy in the work programme. Most delegates opposed proliferation of subsidiary bodies and an augmented Bureau.

The contact group on Inland Waters concluded a consensus document for the work programme. The Contact Group on implementation of Article 8(j) met for preliminary discussions on the establishment of an intersessional work process or group. Contact groups on administration and budget, SBSTTA, marine and coastal biodiversity, and the Friends of the Chair group on agrobiodiversity are continuing work on draft decisions.

### IN THE CORRIDORS

While holding a Ministerial Roundtable in conjunction with the COP was a good idea, many questioned if it had stymied the work at hand. One delegate noted that the challenge for this week is to put the pieces of the "jigsaw puzzle" of contact groups together in time to see the picture completed.

### THINGS TO LOOK FOR TODAY

WG-I: WG-I will reconvene at 10:00 am to continue discussion of benefit sharing and access to genetic resources.

WG-II: WG-II will continue to work in contact groups.